

San Francisco Bay Area Rapid Transit District

2150 Webster Street, P. O. Box 12688, Oakland, CA 94604-2688



BOARD MEETING AGENDA

Thursday, June 9, 2022

9:00 AM

via Teleconference Only. Zoom Link: <https://us06web.zoom.us/j/86077487448>

Board of Directors

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
2150 Webster Street, P. O. Box 12688, Oakland, CA 94604-2688

BOARD MEETING AGENDA

June 9, 2022

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, June 9, 2022.

Please note, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361, public participation for this meeting will be via teleconference only.

You may watch the Board Meeting live or archived at <https://bart.gov/boardtv>

Presentation materials will be available via Legistar at <https://bart.legistar.com>

You may also join the Board Meeting via Zoom by calling 1-669-900-6833 and entering access code 860 7748 7448; logging in to Zoom.com and entering access code 860 7748 7448; or typing the following Zoom link into your web browser:

<https://us06web.zoom.us/j/86077487448>

If you wish to make a public comment:

- 1) Submit written comments via email to board.meeting@bart.gov, using “public comment” as the subject line. Your comment will be provided to the Board and will become a permanent part of the file. Please submit your comments as far in advance as possible. Emailed comments must be received before 4:00 p.m. on June 8, 2022, in order to be included in the record.
- 2) Call 1-669-900-6833, enter access code 860 7748 7448, dial *9 to raise your hand when you wish to speak, and dial *6 to unmute when you are requested to speak; log in to Zoom.com, enter access code 860 7748 7448, and use the raise hand feature; or join the Board Meeting via the Zoom link (<https://us06web.zoom.us/j/86077487448>) and use the raise hand feature.

Public comment is limited to three (3) minutes per person.

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.

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>).

Meeting notices and agendas are available at bart.legistar.com; via email (<https://cloud.info.bart.gov/signup>); or via regular mail upon request submitted to the District Secretary.

Complete agenda packets (in PDF format) are available for review at 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 2150 Webster Street, 10th Floor, Oakland, CA 94612; or telephone 510-464-6083.

Regular Meeting of the

BOARD OF DIRECTORS

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

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.

2. REPORT OF THE BOARD PRESIDENT3. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of May 12, 2022. Board requested to authorize.

Attachments: [Approval of Minutes of the Meeting of May 12, 2022](#)

- B. Resolution to Continue Virtual Meetings During the Pandemic. Board requested to adopt.

Attachments: [Resolution to Continue Virtual Meetings During the Pandemic - Resolution](#)

- C. BART Police Citizen Review Board Reappointments. Board requested to ratify.

Attachments: [BART Police Citizen Review Board Reappointments - Memo](#)

- D. Transit Security Advisory Committee Appointment and Reappointments. Board requested to ratify.

Attachments: [Transit Security Advisory Committee Appointment and Reappointments - Memo](#)

- E. Award of Agreement No. 6M4788 with ConvergeOne, as the Official National Association of State Procurement Officials (NASPO) Provider, for Data Domain Backup Hardware and Software Upgrade and Platform Support Services.

Board requested to authorize.

Attachments: [Award of Agreement No. 6M4788 with ConvergeOne - EDD](#)

- F. Amendment to Agreement No. 6M4711, with CityHealth Urgent Care, a Medical Corporation, for Extension of Term and Increase in Funding for COVID-19 Testing Services. Board requested to authorize.

Attachments: [Amendment to Agreement No. 6M4711, with CityHealth Urgent Care - EDD](#)

- G. Authority to Execute Contracts for On-Call Advertising Media Purchases. Board requested to authorize.

Attachments: [Authority to Execute Contracts for On-Call Advertising Media Purchases - EDD](#)

- H. Fiscal Year 2023 Quality of Life Initiatives: Amendment to Agreements for Elevator Attendants and Homeless Outreach. Board requested to authorize.

Attachments: [Fiscal Year 2023 Quality of Life Initiatives Amendment to Agreements - EDD](#)

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. Public comment is limited to three (3) minutes per person.)

5. GENERAL MANAGER'S REPORT

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

6. CONTROLLER/TREASURER'S REPORT

- A. Quarterly Report of the Controller/Treasurer for the Periods Ending December 31, 2021 and March 31, 2022. For information.

Attachments: [Quarterly Report of the Controller-Treasurer for the Periods Ending December 31, 2021 and March 31, 2022 - Memo](#)
[Quarterly Report of the Controller-Treasurer for the Periods Ending December 31, 2021 and March 31, 2022 - Presentation](#)

7. ADMINISTRATION ITEMS

Director Simon, Chairperson

- A. Resolution Approving Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget. Board requested to adopt.

Attachments: [Resolution Approving Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget - EDD](#)
[Resolution Approving Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget - Resolution](#)
[Resolution Approving Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget - Presentation](#)

- B. Fiscal Year 2022 Third Quarter Financial Report. For information.

Attachments: [Fiscal Year 2022 Third Quarter Financial Report - Memo](#)

- C. Award of Agreement No. 6M4782 with Claremont EAP Powered by Uprise Health, for Comprehensive Employee Assistance Program (EAP). Board requested to authorize.

Attachments: [Award of Agreement No. 6M4782 with Claremont EAP - EDD](#)

8. ENGINEERING AND OPERATIONS ITEMS

Director Dufty, Chairperson

NO ITEMS.

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

Director Foley, Chairperson

- A. State Legislative Update and Legislation for Consideration. Board requested to authorize.

Attachments: [State Legislative Update and Legislation for Consideration - Memo](#)
[State Legislative Update and Legislation for Consideration - Bill Packet](#)
[State Legislative Update and Legislation for Consideration - Presentation](#)

- B. Ashby and North Berkeley BART Station Transit-Oriented Development (TOD). Board requested to authorize.

- i. Approval of City of Berkeley and BART Joint Vision and Priorities for TOD for Ashby and North Berkeley BART Stations.
- ii. Approval of Replacement Parking Maximum.
- iii. Authorization of Memorandum of Agreement with the City of Berkeley for Ashby and North Berkeley TOD.

Attachments: [Ashby and North Berkeley BART Station Transit-Oriented Development - EDD](#)
[Ashby and North Berkeley BART Station Transit-Oriented Development - Joint Vision and Priorities - Redline](#)
[Ashby and North Berkeley BART Station Transit-Oriented Development - Original Draft Joint Vision and Priorities](#)
[Ashby and North Berkeley BART Station Transit-Oriented Development - Memorandum of Agreement](#)
[Ashby and North Berkeley BART Station Transit-Oriented Development - Presentation](#)

- C. Lake Merritt Station Area Projects. For information.

- i. Transit-Oriented Development Update.
- ii. BART Police Headquarters Relocation Process Update.

Attachments: [Lake Merritt Station Area Projects - Memo](#)
[Lake Merritt Station Area Projects - Presentation](#)

- D. Celebrating 50 Years of Service. For information.

- i. Program Overview.
- ii. Next Steps for BART Headquarters (BHQ) Retail Space.

Attachments: [Celebrating 50 Years of Service - Memo](#)
[Celebrating 50 Years of Service - Presentation](#)

10. BOARD MATTERS

A. Board Member Reports.

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

B. Roll Call for Introductions.

(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)

C. In Memoriam.

(An opportunity for Board members to introduce individuals to be commemorated.)

11. CLOSED SESSION

A. CONFERENCE WITH LABOR NEGOTIATORS:

Designated Representatives: Robert Powers, General Manager; Michael Jones, Deputy General Manager; and David Coleman, Interim Director of Labor Relations

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. CONFERENCE WITH REAL PROPERTY NEGOTIATORS:

Property: Properties Located at 51 9th Street and 107 8th Street, Oakland, CA 94607 (near Lake Merritt Station)

District Negotiators: Abigail Thorne-Lyman, Director, Real Estate & Property Development, and Val Menotti, Chief Planning & Development Officer

Negotiating Parties: StradaCal, LLC, East Bay Asian Local Development Corporation LLC, and San Francisco Bay Area Rapid Transit District/Economic & Planning Systems

Under Negotiation: Price and Terms

Government Code Section: 54956.8

12. OPEN SESSION

A. Announcement from Closed Session, if any.

April B. A. Quintanilla
Acting District Secretary

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
2150 Webster Street, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,908th Meeting
May 12, 2022

A regular meeting of the Board of Directors was held on May 12, 2022, convening at 9:00 a.m., via teleconference, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361. President Saltzman presided; April B. A. Quintanilla, Acting District Secretary.

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

Absent: None. Directors Allen, Li, and Simon entered the Meeting later.

President Saltzman gave instructions regarding Public Comment.

Vice President Li entered the Meeting

Director Simon entered the Meeting.

President Saltzman gave opening remarks and, under the Report of the Board President, commented that the Board meeting on May 26, 2022, would be an evening Board meeting and that the Board Meeting on June 23, 2022, would be an in-station, morning meeting at the El Cerrito Del Norte Station.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of April 14, 2022.
2. Resolution to Continue Virtual Meetings During the Pandemic.
3. Extension of the Letter of Agreement for the Ridership Incentive Program for San Francisco International Airport (SFO)-Badged Employees Program.
4. Award of Invitation for Bid No. 9106, For the Procurement of Aggregate Material.
5. Single Source Procurement with Ruf Avatech AG for Spare Parts.
6. Single Source Procurement with ABB Inc. for Spare Parts.
7. Extension of 19th Street Oakland Bike Station Cooperative Agreement and Lease.
8. Change Order to Agreement No. 6M6151 with eLock Technologies, LLC.
9. Property Exchange Agreement with Millbrae Adrian Science Park, LLC at Millbrae BART Station and Grant Easements to the City of Millbrae.

Director Dufty made the following motions as a unit. Director McPartland seconded the motions.

1. That the Minutes of the Meeting of April 14, 2022, be approved.
2. That Resolution No. 5516, In the Matter of Re-Authorizing the District's legislative and subordinate legislative bodies to utilize the provisions enacted by Assembly Bill (AB) 361 to meet remotely with teleconferenced meetings during a re-proclaimed emergency as authorized by law in accordance with Government Code Section 54953(e) and other applicable provisions of the Ralph M. Brown Act for an additional period of thirty (30) days from the adoption of this Resolution, be adopted.
3. That the General Manager be authorized to extend the Letter Agreement for Ridership Incentive Program for SFO Airport-Badged Employees Program extension, including the two one-year options to extend.
4. That the General Manager be authorized to award Invitation for Bid (IFB) No. 9106 to Green Dream International LLC in the amount of \$1,876,714.13, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedure.

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

5. That the Board finds, pursuant to Public Contract Code Section 20227, that Ruf Avatech AG is the single source supplier for the procurement of spare parts for the District's Diesel Multiple Unit (DMU) Passenger Information System ("PIS"); and that the General Manager be authorized to enter into direct negotiations with Ruf Avatech AG to execute an agreement for spare parts for an amount not-to-exceed \$407,365.00 including all taxes.
6. That the Board finds, pursuant to Public Contract Code Section 20227, that ABB is the single source supplier for ABB power converters, battery chargers and power modules; and that the General Manager be authorized to enter direct negotiations with ABB to execute an agreement for the supply of spare converters, power modules and maintenance training for the DMU vehicle propulsion system in an amount no-to-exceed \$979,705.80 including all taxes.
7. That the General Manager or his designee be authorized to execute three-year extensions to (1) the cooperative agreement with the City of Oakland for the 19th Street Oakland Bike Station and (2) the commercial lease extension in the amount of \$330,936.00 with 19th & Broadway LLC for the space housing the 19th Street Oakland Bike Station at 1775 Broadway.
8. That the Board authorized the General Manager or his designee to execute a change order to Agreement 6M6151 with eLock Technologies in an amount not to exceed \$215,812.00 to add mobile app-based access functionality to one BikeLink bike station kiosk and all of the District's older on-demand BikeLink lockers, and perform hardware security upgrades to some of BART's older BikeLink eLockers.
9. That (1) the General Manager or his designee be authorized, subject to approval by the Federal Transit Agency, to enter into a land exchange agreement with Millbrae Adrian Science Park, LLC; (2) the General Manager or his designee be authorized to grant right-of-way easements to the City of Millbrae; and (3) the General Manager or his designee be authorized to execute such documents and agreements as are necessary to effectuate the foregoing motions.

President Saltzman called for Public Comment on the Consent Calendar. Aleta Dupree and Alejandra (Alex) Villa addressed the Board.

The motions brought by Director Dufty and seconded by Director McPartland carried by unanimous roll call vote with the required two-thirds vote regarding Item 3-C, Extension of the Letter of Agreement for the Ridership Incentive Program for San Francisco International Airport (SFO)-Badged Employees Program; Item 3-E, Single Source Procurement with Ruf Avatech AG for Spare Parts; and Item 3-F, Single Source Procurement with ABB Inc. for Spare Parts. Ayes: 8 – Directors Ames, Dufty, Foley, Li, McPartland, Raburn, Simon, and Saltzman. Noes: 0. Absent: 1 – Director Allen.

Director Dufty requested that when staff is assigned a task concerning an issue raised by a member of the public, an email be sent to all of the Directors apprising of the resolution after follow-up.

Director Raburn expressed appreciation for Alejandra (Alex) Villa's comments and commented on his requests for reactivating parking fees.

President Saltzman called for general Public Comment.

Aleta Dupree addressed the Board.

Director Allen entered the Meeting.

Richard Gallo addressed the Board.

President Saltzman called for the General Manager's Report. Robert Powers, General Manager, reported on staff's meeting with Amit Bose, Federal Railroad Administrator of the Federal Railroad Administration (FRA); and commented on Maintenance and Engineering maintenance activities, the upcoming 2022 Equity Awards in San Francisco, BART's support of Bay to Breakers, closure of the Civic Center canopy for approximately six months, BART's first-ever short story contest in celebration of BART's 50th Anniversary, Asian American/Pacific Islander (AAPI) heritage month, BART's partnership with East Bay Bike on a Bartable Sweep Stakes, and ridership. Edgardo Alvarez, Chief of Police, reported that the BART Police Department had 290 applicants derived from efforts to attract more Police Officer candidates.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Foley inquired about the number of vacancies that exist within the BART Police Department.

President Saltzman inquired about the mask compliance enforcement throughout the system.

Director Simon commented that she has witnessed both sworn officers and staff walking through the stations asking riders to wear masks, as well as, compliance with the mask requirement; and commented on the updates to the screens at the Embarcadero Station.

Director Simon, Chairperson of the Administration Committee, brought the matter of Regional Institutional and Employer Pass Pilot before the Board. Michael Eiseman, Director of Financial Planning, presented the item.

The following individuals addressed the Board:

Aleta Dupree
Tawney Warren
Cyrus Hall
Tiffany Rodriguez

The item was discussed, with the following highlights:

Director Raburn commented on the rollout of the previous Gator Pass and making the program available to colleges and airports and inquired about Clipper® supporting smartphone apps.

Director Dufty inquired about including public housing residents in the program; suggested that staff engage public housing officials in a discussion about the program; and request that staff inform Congresswoman Jackie Speier of the efforts being put forth.

Director Ames commented on the exclusion of community colleges without a transit pass program from the policy development and adding community colleges that do not have a transit pass; and inquired whether staff had evaluated a program similar to the City and County of San Francisco's multiuse pass that includes Muni, BART and bus rides.

Director Foley thanked staff for their hard work on the program; expressed support for the program; and inquired about the timeline for the final adoption of the program.

Director McPartland expressed his appreciation for staff's work and support for the program.

Vice President Li thanked staff for their involvement with this program; expressed support for the program; and commented on the need for more awareness initiated from the Metropolitan Transportation Commission (MTC) to ensure that other institutions are aware of and apply for funding to develop their own transit passes.

President Saltzman expressed excitement about the inclusion of the University of California, Berkeley in the program.

Annie Koruga addressed the Board.

Director Simon brought the matter of Rail Service Plan, Fiscal Year 2023 and Fiscal Year 2024 Operating Budget Sources and Uses before the Board. Shane Edwards, Interim Assistant General Manager, Operations; John McCormick, Director of Operations Planning; Christopher Simi, Director of Budgets; and Mike Eiseman, Director of Financial Planning, presented the item.

The following individuals addressed the Board:

Aleta Dupree
Sal Cruz
Jesse Hunt
Vallery Lancey

The item was discussed, with the following highlights:

Director Dufty expressed concern about the number of Train Controller trainees who successfully become Train Controllers; inquired about how retention can be improved and how BART can attract stronger candidates; recommended retaining retired Train Controllers to mentor and assist; and commented that BART should look at other ways to improve retention.

Director Raburn commented on the presented data, which suggested that BART does not have the personnel to deliver service; recommended re-evaluating each of the positions needed and considering wages and bonuses, given inflation in the Bay Area and the competitive labor market; and inquired whether any of the projects pushed out to 2028 could be moved up.

Director Ames expressed concern about the union's assessment that there are significant challenges with staffing of critical positions; and commented that perhaps BART could not focus on improving service levels but instead focus on retention, hiring, and retaining employees.

Director Foley commented on concern about the length of the hiring process, retention issues, and potential impacts on service and staff; inquired whether BART has a hiring timeline goal or metric, whether BART has continuous recruitment for positions that have either high turnover or greater need, and which transit agencies, if any, have had a fare increase amidst the pandemic or within the past two years.

Director Allen inquired if the proposed Fiscal Year 2023 budget assumes any of the service expansion items as shown in the presentation; expressed concern about the state of BART's workforce and the recent turnover; suggested that BART should be turning focus away from service expansion, new programs and initiatives and redirecting focus towards resolving internal issues; and commented on the workforce management process over the last two years, the impact of the District Retirement Incentive program (DRIP), and the imprudence of continuing to increase BART's budget based on a projected increase in ridership when the District is experiencing critical issues in the labor force at all levels.

Vice President Li commented on weekend ridership numbers; suggested that the District should be focused on increasing ridership, as the Bay Area needs this; and requested that the General Manager present initiatives to address the staffing issues at the next Board Meeting.

President Saltzman recommended that the Labor Negotiations Review Special Committee convene to have an in-depth discussion about the issues that were raised and bring the discussion to the Board at a future Board Meeting; commented that many transit agencies in the Bay Area and across the country are experiencing hiring issues and cannot restore service due to being understaffed; and suggested first considering what is best for BART riders and how BART serves them in an effort to encourage people to return to BART.

Director Simon brought the matter of Fiscal Year 2023 Capital Program and Project Update before the Board. Sylvia Lamb, Acting Chief Maintenance and Engineering Officer, and Priya Mathur, Director of Funding Strategy presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

President Saltzman commented on the importance of all of the capital work being performed, the lack of Board input in the Capital Project prioritization framework, disappointment about the entire process, and the need for a Board process to determine priorities, as there is a lot of money being spent on projects; and suggested that BART refrain from communicating that the priorities presented are the priorities until the Board has determined which projects are priority projects.

Director Ames echoed President Saltzman's comments regarding prioritization and details of BART projects and inquired about projects for operations within the Capital Program and the list of projects that were submitted to the MTC in February.

Director Allen expressed satisfaction with BART's process and concept to determine priorities; and suggested that the project information be reported quarterly and reconciled annually considering the total budget that has accrued, new projects added during the year, and projects in progress and that the project information be added to BART's annual report as a supplementary data page.

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

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

President Saltzman brought the matter of Board Discussion Regarding Logistics for Future Public Meetings (e.g. hybrid, teleconferencing, in-person) before the Board. President Saltzman presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Allen expressed that the Board should return to the Board room as soon as possible, as there is value in the Board being there and allowing the public back into the Board room; and suggested that the public should continue to be able to participate remotely; and noted that committee meetings should remain virtual.

Director McPartland commented on virtual participants' inability to visually appear before the Board and suggested that they be permitted to do so.

Director Simon suggested that the Board should be physically present at Board Meetings in solidarity with the workforce and expressed support for the virtual option as well.

Director Simon exited the Meeting.

Director Foley expressed support for returning to in-person Board Meetings on July 28th and noted that the return needs to be based on the Bay Area COVID-19 metrics; expressed agreement with Director Allen's suggestion to continue virtual committee meetings, as the virtual format renders greater participation and support for virtual public attendance and public comment for all meetings going forward; and commented on requiring face masks and vaccination for in-person meetings, and allowing individuals to opt-out of attending in-person if these requirements are not implemented.

Director Raburn commented on the hybrid Capital Corridor Joint Powers Authority Board Meeting and the increased burden on staff due to the hybrid format, the limited staff in the District Secretary's Office, and insisting that advisory committee presenters are physically in the room and that the public has the option of being physically present to hear the presentation and not be dependent upon failing technologies.

Vice President Li expressed support for returning to in-person meetings as long as it is safe to do so; commented on keeping public participation fully virtual for at least the first meeting; and noted that regarding the mask requirement, the Board cannot pass anything additional beyond the County Department of Health level.

President Saltzman suggested that the Board strongly urge every Board member to attend the meetings in person unless there is a particular reason that they cannot attend; noted that staff would be presenting in person; and advised that she will work with the District Secretary's Office and the General Manager to develop a specific plan for July and send a memo the Board about the plan.

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

Director Raburn reported that he had attended the Fruitvale Job Workshop and the BART Police Citizen Review Board meeting and requested that staff delay the presentation of the Specialized or Military Equipment Ordinance to the Board to allow the BART Police Citizen Review Board to review the draft Military Equipment Use Policy report and report back to the Board.

Director Ames reported that she had attended the Stroll and Roll event in Niles Canyon and that she would be attending the pedestrian/bike bridge celebration with the Fremont community.

Director Foley reported that he had attended the Santa Clara Valley Transportation Authority (SCVTA) Board Meeting, the Contra Costa Mayors Conference, and the Special Personnel Review Special Committee meeting.

Director McPartland requested that the Meeting be adjourned in honor of Mickey Gannon, United States Navy Master Chief and Pearl Harbor survivor.

President Saltzman requested that the Meeting be adjourned in honor of Norman Mineta, United States Secretary of Transportation.

President Saltzman announced that the Board would enter into closed session under Item 10-A (Public Employee Performance Evaluation) 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 12:46 p.m.

The Board reconvened in closed session at 1:02 p.m.

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

Absent: Director Simon.

The Board Meeting recessed at approximately 2:07 p.m.

The Board reconvened in open session at 2:10 p.m.

President Saltzman announced that the Board had concluded its closed session under Item 10-A and that there was no announcement to be made.

The Meeting adjourned in honor of Mickey Gannon and Norman Mineta at 2:10 p.m.

April B. A. Quintanilla
Acting District Secretary

In the Matter of Re-Authorizing
the District's legislative and subordinate
legislative bodies to utilize the provisions
enacted by AB 361 to meet remotely
with teleconferenced meetings
during a re-proclaimed emergency as
authorized by law in accordance with
Government Code Section 54953(e)
and other applicable provisions of the
Ralph M. Brown Act for an additional
period of thirty (30) days from the adoption
of this Resolution. _____ /

Resolution No. _____

WHEREAS, the San Francisco Bay Area Rapid Transit District is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the San Francisco Bay Area Rapid Transit District's legislative and subordinate legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the District's boundaries, caused by natural, technological or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the Board of Directors previously adopted a Resolution, Number 5516 on May 12, 2022, finding that the requisite conditions exist for the legislative and subordinate legislative bodies of the San Francisco Bay Area Rapid Transit District to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

WHEREAS, emergency conditions persist in the District, specifically; and

WHEREAS, social distancing best practices are still necessary and appropriate to prevent an imminent risk to the health and safety of public meeting; and

WHEREAS, the Board of Directors does hereby find that the continuing State of Emergency and conditions causing imminent risk to attendees has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to affirm a local emergency exists and re-ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the legislative and subordinate legislative bodies of the San Francisco Bay Area Rapid Transit District shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, all best practices to ensure access of the public to the District's remote meetings have been, and will continue to be faithfully observed during this extension period of this local emergency.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Affirmation that Local Emergency Persists. The Board of Directors hereby considers the conditions of the state of emergency in the District and proclaims that a local emergency persists throughout the District, and social distancing measures recommended by the Center for Disease Control and modifications to public meeting laws that advance best practices still appear to be necessary and appropriate to safeguard the public's health and safety, and are therefore continued and maintained.

Section 3. Re-ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The General Manager, District Secretary, legislative and subordinate legislative bodies of the San Francisco Bay Area Rapid Transit District are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) thirty (30) days from the adoption of this resolution, or (ii) such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the San Francisco Bay Area Rapid Transit District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Directors of the San Francisco Bay Area Rapid Transit District, this _____ day of _____, 20____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: June 3, 2022

FROM: Acting District Secretary

SUBJECT: BART Police Citizen Review Board (BPCRB) Reappointments

In accordance with Chapter 2-02 of the BART Citizen Oversight Model (Model), those members of the BPCRB appointed by Directors from Districts 1, 3, 5, 7, and 9, as well as the Public-At-Large member, shall have their terms of service expire on June 30, 2022.

According to Chapter 2-07(K) of the Model, the District Secretary's Office will facilitate the application process for seats on the BPCRB and coordinate the selection process with the Board of Directors (Board). All appointments of new members, or reappointments of currently-seated members, shall be for two-year terms.

Based on our communication with the Board, we expect that the BPCRB Representatives for Districts 1, 3, 5, 7, and 9 and the Public-At-Large member will be reappointed, and each of those BPCRB appointees has indicated acceptance of such reappointment. All new appointments or reappointments of currently-seated members, if ratified by the Board, will be officially installed as members of the BPCRB for a term of two years, beginning on July 1, 2022.

A draft motion is provided below and, if adopted by the Board, the reappointment of the BPCRB Representatives for Districts 1, 3, 5, 7, and 9 and the Public-At-Large member will be ratified.

Please contact Mag Tatum at (510) 464-6089 or mtatum@bart.gov or me at (510) 464-6082 or aandra2@bart.gov if you have any questions about this matter.

Thank you.

April B. A. Quintanilla

April B. A. Quintanilla

DRAFT MOTION:

That the Board of Directors ratifies the reappointment of the following members for a term of two (2) years, beginning on July 1, 2022, and expiring on June 30, 2024:

Pedro Babiak, District 1
William White, District 3
Todd Davis, District 5
Christina Gomez, District 7
George Perezvelez, District 9
Erin Armstrong, Public-At-Large

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: June 3, 2022

FROM: Acting District Secretary

SUBJECT: Transit Security Advisory Committee Appointment and Reappointments

The District Secretary's Office (DSO) facilitated the recruitment process for the Transit Security Advisory Committee (TSAC) and coordinated the selection process for two (2) vacant seats and three (3) seats with terms that will expire on June 30, 2022. The nominations will be submitted to the Board of Directors (Board) for appointment/reappointment at the June 9, 2022, Board Meeting.

The two (2) vacant seats are for one (1) Public-At-Large Representative and one (1) Alternate. The DSO facilitated recruitment for all vacant seats and received one application (attached) for the Public-At-Large Representative seat. No applications were received for the vacant Alternate seat.

The three (3) seats with terms that will expire on June 30, 2022, are for Public-At-Large Representatives and an Alternate. Based on our communication with the Board and currently-seated TSAC appointees, we expect that two (2) of the currently-seated TSAC appointees will be reappointed, as only two appointees have indicated acceptance of such reappointment.

All appointments of new members, or reappointments of currently-seated members, shall be for two-year terms.

The potential process for selection of TSAC members for the Public-At-Large Representative and Alternate seats is as follows:

- I. A motion may be made to accomplish the following:
 - a) Appoint Omar Farmer to fill a Public-At-Large Representative seat;
 - b) Reappoint Tiffany Lacsado as a Public-At-Large Representative;
 - c) Reappoint Randall Glock as a Public-At-Large Representative – Alternate; and
 - d) Direct the District Secretary's Office to continuously recruit for the remaining Public-At-Large Representative (1) and Alternate (1) seat vacancies.

- II. When appointing or reappointing nominees to the TSAC, the Board may consider the following requirements outlined in the TSAC by-laws:

“Qualifications for the Public-at-Large Representatives: There shall be three (3) or four (4) Public-at-Large Representatives, preferably users of the BART system and all alternates are strongly encouraged to attend all meetings. Alternates are not eligible to vote unless filling in for an appointed member that is absent. An alternate is designated by the TSAC Chairperson. Staff will notify TSAC alternates that attendance will be needed for the next meeting.”

We have attached additional Advisory Committee Requirements for your reference.

- III. All new appointments or reappointments of currently-seated members, will be officially installed as members of the TSAC for a term of two years, beginning on July 1, 2022.

A draft motion is provided below and if adopted by the Board, the appointment and reappointment of the TSAC Public-At-Large and Public-At-Large – Alternate nominees will be ratified.

Please contact Mag Tatum at (510) 464-6089 or mtatum@bart.gov or me at (510) 464-6082 or aandra2@bart.gov if you have any questions about this matter.

Thank you.

April B. A. Quintanilla

April B. A. Quintanilla

DRAFT MOTION:

That the Board of Directors (a) ratifies the appointment and reappointment of the following nominees for a term of two (2) years, beginning on July 1, 2022, and expiring on June 30, 2024:

Omar Farmer, Public-At-Large Representative
Tiffany Lacsado, Public-At-Large Representative
Randall Glock, Public-At-Large – Alternate; and

(b) Directs the District Secretary’s Office to continuously recruit for the remaining Public-At-Large Representative (1) and Alternate (1) seat vacancies.

Advisory Committee Requirements

The advisory committee members and alternates are appointed by the Board. At least one of the committee members must have experience working with individuals with psychiatric or other disabilities, one committee member must have experience as a youth advocate, and one committee member must have law enforcement experience as a sworn peace officer. **Two total alternates** shall be appointed by the Board with no more than **one alternate per category**. All alternates are strongly encouraged to attend all meetings. Alternates are not eligible to vote unless filling in for an appointed member that is absent. An alternate is designated by the TSAC Chairperson. Staff will notify TSAC alternates that attendance will be needed for the next meeting.

The advisory committee reports directly to the Board. Meetings are generally held once per month, and service on the TSAC is voluntary. Volunteer members of this committee will:

1. Provide recommendations regarding the type and extent of training that should be undertaken by individuals with responsibility for issuance and enforcement of prohibition orders, with particular emphasis on training designed to assist those individuals in identifying and interacting with persons who are homeless or who have psychiatric or other disabilities.
2. Identify services and programs to which persons who are homeless or who have psychiatric, developmental, or other disabilities may be referred by transit district enforcement personnel prior to or in conjunction with issuance of a prohibition order.
3. Review appeals to prohibition orders.
4. Compile an annual report to be submitted to the State Legislature.
5. Participate in community outreach.

All TSAC members must be fair-minded and objective with a demonstrated commitment to community service. Appointees to the TSAC are subject to a background check and committee members must not have any felony convictions. Members serving on the TSAC are not required to be U.S. citizens.



APPLICATION FOR APPOINTMENT TO THE TRANSIT SECURITY ADVISORY COMMITTEE TWO OPEN SEAT - ALTERNATE VACANCY THREE OPEN SEAT - Public at Large VACANCY

The Transit Security Advisory Committee (TSAC) for the San Francisco Bay Area Rapid Transit District (BART) is the citizen and community oversight committee that works to ensure Assembly Bill 716 (Dickinson) is implemented as the Legislature intended. The Legislature further adopted AB 730 (Quirk) that repealed the sunset provision of law, making the law permanent.

See attachment: "Prohibition Policy to Protect Riders and Employees" for further details on the law.

The oversight group, comprised of at least five citizens, and no greater than seven citizens, serves as a volunteer review body for the implementation of BART's prohibition policy. Drawing from their private and public sector experiences, the committee brings a diverse set of skills to the review and execution of the prohibition policy.

The TSAC is dedicated to finding solutions to problems which impact the safety of BART, its riders and employees. Along with other public safety initiatives, the District will continue to work to address passenger misconduct through the BART prohibition policy allowed by AB 716 and report results to the State Legislature on an annual basis.

Advisory Committee Requirements

The advisory committee members and alternates are appointed by the BART Board of Directors. At least one of the committee members must have experience working with individuals with psychiatric or other disabilities, one must have experience as a youth advocate, and at least one advisory committee member must have law enforcement experience as a sworn peace officer.

The advisory committee reports directly to the BART Board of Directors. Meetings are generally held once per month, and service on the TSAC is voluntary. As a volunteer member of this committee you will:

- 1) Provide recommendations regarding the type and extent of training that should be undertaken by individuals with responsibility for issuance and enforcement of prohibition orders, with particular emphasis on training designed to assist those individuals in identifying and interacting with persons who are homeless or who have psychiatric or other disabilities.
- 2) Identify services and programs which persons who are homeless or who have psychiatric, developmental, or other disabilities may be referred by transit district enforcement personnel prior to or in conjunction with issuance of a prohibition order.
- 3) Review appeals to prohibition orders.
- 4) Compile an annual report to the State Legislature.

5) Participate in community outreach.

All TSAC members must be fair-minded and objective with demonstrated commitment to community service. Appointees to the TSAC are subject to a background check and must not have any felony convictions. Members serving on the TSAC are not required to be U.S. citizens.

It is important that you complete all parts of the application. If your application is incomplete or does not clearly show the experience and/or training required, your application may not be accepted.

The application process will include two phases:

PHASE 1 – Application and Recommendation Review

All applications will be reviewed for all Membership Representation requirements and qualifications, letters of recommendation, and any supplemental documents.

PHASE 2 – BART Board of Directors Appointment

Selected candidates will be invited to appear before the Board of Directors to briefly explain their interest in serving on the committee, followed by a Board vote.

Tentative Board Date: Thursday, June 9, 2022, at 9:00 A.M. (PST)

I. Personal Information

Please consider my application for the following representation(s) on the TSAC:

Select a Representation: Check the Box <input checked="" type="checkbox"/>	<input type="checkbox"/> Mental Health/Disabilities: Must possess experience working with individuals with psychiatric, developmental, or other disabilities.		
	<input type="checkbox"/> Youth Advocate: Must possess experience as a youth advocate within the region of the BART system.		
	<input type="checkbox"/> Law Enforcement Must possess experience as a sworn peace officer within the region of the BART system.		
	<input checked="" type="checkbox"/> Public at Large Preferably users of the BART system.		
	<input type="checkbox"/> Alternate		
First, Last Name:	Omar Farmer	Home/Mailing Address:	[REDACTED]
City & Zip:	Oakland 94610	County:	Alameda
Main Phone:	[REDACTED]	Alternate Phone:	[REDACTED]
Email Address:	[REDACTED]	Occupation:	Entrepreneur

II. **Recommendation Contact Information** (must provide **two** recommendations)

Please provide the contact information for the individuals recommending your appointment and attach their letters of recommendation to this application.

First Name:	Angela	Last Name:	Davis
Mailing Address	/	City & Zip:	San Francisco /
Phone:	[REDACTED]	Email Address:	[REDACTED]
First Name:	Shikira	Last Name:	Porter
Mailing Address	/	City & Zip:	Oakland / CA
Phone:	[REDACTED] -	Email Address:	[REDACTED]

III. **Personal Statement of Interest**

Briefly explain your interest in serving on the TSAC. Please feel free to attach an additional page.

Additional pages attached

IV. **Qualifications and Experience**

What qualifications/assets do you have that make you a strong candidate for service on the TSAC? Please feel free to attach a resume or an additional page.

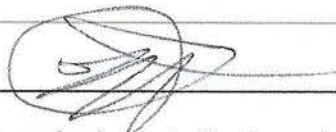
Additional pages attached

V. **Organizations/Group Membership**

List any organizations or groups that you belong to or are involved with that you believe bear relevance to your candidacy for service on the TSAC:

Organization Name:	Bay Area Racial Justice Network	Position:	Leadership Council Member
Organization Name:	Public Safety & Services Violence Prevention Commission	Position:	District 2 Commissioner
Organization Name:	Alameda County Veterans Affairs Commission	Position:	District 5 Commissioner
Organization Name:		Position:	
Organization Name:		Position:	

Applicant Signature: _____



Date: 27 May 2022

Return this form and relevant attachments to the BART Office of the District Secretary:

2150 Webster Street, 10th Floor, Oakland, CA 94612 or email to
TransitSecurityAdvisory@bart.gov. Feel free to call (510) 464-6089 with any questions.

Final Filing Date - Application Deadline Tuesday, May 31, 2022, at 5:00 P.M. (PST)

Thank you for your interest in serving on the Transit Security Advisory Committee (TSAC).

III. TSAC personal interest statement:

Being born and raised in San Francisco and currently living as a resident of Oakland, I've been a life-long BART rider. Having experienced my share of public safety issues as a passenger it would be my pleasure to serve on this advisory council. As a member of Oakland's Reimagining Public Safety Task Force from 2020-to 2021, I researched, proposed, and got approved multiple potential city ordinances, and other recommendations that will lead to improvements to public safety Oakland-wide. One of my goals when drafting those recommendations was to ensure they were implemented in an appropriate and effective way. Similar to the process by which the TSAC is evaluating the implementation of Assembly Bills 716 and 730.

One of my goals when making these recommendations was to prevent excessive force, specifically for incidents involving youth, developmentally impaired residents, and members of protected classes, including those with potential mental health/disabilities. Many of my recommendations through the Reimagining Public Safety process focused on de-escalation and safety rather than on tactics that are proven to be counterproductive and/or ones that incite the type of violent response, public safety agencies seek to deter. If given the opportunity to make recommendations to the BART board of directors, I'll be able to provide the type of thoughtful and insightful feedback that would work to keep both BART employees safe, as well as any potential violators who are within the grounds of a BART facility.

IV. TSAC Qualifications:

As a veteran, I've spent an extensive amount of time working successfully in group settings with vets who suffer from PTSD. This demonstrates some of my experience at being fair-minded and objective while working with folks who suffer from mental health disabilities. During my career as a Surface Warfare Officer in the Navy I was also a: Lead Law Enforcement Officer and an Anti-Terrorism and Force Protection Officer, during an Operation Enduring and Operation Iraqi Freedom deployment. During this tour of duty, I was charged with keeping service members safe while conducting operations in a combat theater. These experiences could help the TSAC with better evaluating situations involving BART PD to better keep BART facilities and employees safe. In those roles and others, my ability to act objectively and constructively was very well regarded. These skills could prove to be invaluable concerning insight into incidents involving BART PD and/or employees who are enforcing provisions of AB's 716 and 730.

Subsequent to those roles, I served as an Emergency Management Officer where I worked extensively at improving public safety at a base overseas while working closely with local PD, base MP's, and other stakeholders. While creating and running security and mass casualty drills to learn how to better protect the base and its residents, we also trained first responders on how to respond to a myriad of incidents. Some of which may be similar in scope to incidents BART employees or riders encounter. I also helped re-organize and renovate the base emergency operations center while training other officers on how to conduct command and control during scenario-based incidents and trained them on how to help generate safe outcomes. BART PD may also have similar situations where lessons learned from these experiences are helpful.

Since I resigned my commission and pursued civilian opportunities, I've worked as a youth organizer, president, and co-founder of a PTA at my daughter's elementary school, as well as a youth football coach at

City College of San Francisco. This puts into context my experience with working with youth and making sure their input is included. With students and youth making up a large portion of BART's customer base, it would be helpful to have someone not only adept at listening and being able to put their ideas into practice, but as someone who used BART extensively as a youth and now as an adult, I can provide feedback from both perspectives. Before I was a parent, I volunteered to create a youth tutoring and mentoring program at a Dept of Defense High School overseas, because I saw a need for it. As a result, it was successful at getting all of their youth off of academic probation, which explains more of my experience in working successfully with youth.

In 2016 I also co-created a neighborhood group to address rampant discrimination and racial profiling on Nextdoor. In that capacity, I spearheaded several community workshops for several years which worked to educate my community on the harmful impacts of that type of rhetoric. Due to its success, executives from Nextdoor heard about what I had been doing and recruited me to be a Community Mediator on their Neighborhood Operations Team. After joining the team I became known as a go-to person who was very successful and turning around toxic customers online. At one point a group of moderators from Texas who I had resolved several online issues for, hired me to fly to Texas and conduct training for their neighborhood group and another who they had several disputes with. The training was a huge success and we resolved all of their issues. Soon after Nextdoor transitioned me to only handle complaints and reports concerning racial profiling and discrimination online. This role involved resolving cases and disputes with Nextdoor members nationwide. While interfacing with these customers, I was responsible for always staying objective, as well as calm and collected, which I excelled at. After leaving Nextdoor earlier this year I left the company with over 1,500 perfect customer service ratings, including ones being from members who participated in discriminatory or racist rhetoric online, which demonstrates my ability to act objectively as required by members of the TSAC.

After being a finalist for Oakland's Police Commission in 2020, I worked effectively as a community volunteer with the Command Staff of the Oakland Police Department (OPD) where I participated on multiple Police Commission ad hoc committees where we revised or created 3 new departmental policies involving OPD's use of their: Armored Vehicles, Dedicated Arrest Teams, and the first in the nation Armed but Unresponsive policy in response to the Joshua Pawlik incident. Joshua Pawlik was a homeless man who suffered from mental illness and was inappropriately killed by OPD in 2018. Myself and another community member co-led the creation of a community petition that was successful at campaigning for the creation of a resolution to replace OPD's paramilitary BearCat armored vehicle with a more innocuous one in March of 2021 by showing OPD and the Police Commission the benefit of doing so despite a lot of initial pushback, which they ultimately agreed to do.

As a member of Oakland's Reimagining Public Safety Task Force, I served on both the Legal & Policy and Organization & Culture Advisory Boards and did a significant amount of research at evaluating OPD's internal culture which may be relatable to BART PD experiences. I've also provided several solutions in order to resolve their 20-year federal oversight issue. I also continue to work as an ad hoc member for the Oakland Police Commission and recently finished being a part of their Community Policing and Electronic Device policy committees.

In November of this year, I was appointed by Oakland City Council President Fortunato Bas to be Oakland's District 2 representative for the city of Oakland's Public Safety and Services Violence Prevention Oversight

Commission (aka SSOC) where we advise the City Council on public safety matters concerning Measure Z, Oakland Fire, OPD, and the Dept of Violence Prevention. Our primary goals are overseeing tax proceeds raised by Measure Z, which can only be used to pay for costs or expenses, related to or arising from, efforts to achieve the following outcomes:

- Reduction in homicides, robberies, burglaries, and gun-related violence
- Improved police and fire 911 response times
- Investments in violence intervention and prevention strategies that provide support for at-risk youth and young adults to interrupt cycles of violence and recidivism.

In April I was named chair of their strategic planning ad hoc committee. Combined, all of these experiences have helped prepare me for this opportunity and I hope to receive your highest consideration.

December 10, 2021

Bay Area Rapid Transit
300 Lakeside Drive, 23rd Floor
Oakland, CA 94612

Re: Recommendation Letter for Omar Farmer's Appointment to the Transit Security Advisory Committee

Dear BART Board of Directors,

I'm writing to recommend Omar Farmer to the BART Transit Security Advisory Committee.

I met Mr. Farmer a few years ago during an online conference with the CEO and Executive Staff of the online startup Nextdoor. Nextdoor had invited a few community-based organization to an important discussion regarding the perception of profiling on their platform. Nextdoor is touted as a vehicle for people living in discreet neighborhoods to connect online and check on safety in their immediate surroundings. Many of the online Nextdoor forums are led by everyday neighbors termed team leads. Since modern research suggest all people are susceptible to bias, particularly when accessing potential threat, Nextdoor struggled with reports of racial profiling.

To ensure community bias didn't unfairly target specific groups of people, Mr. Farmer was hired by Nextdoor to assist them in rooting out this bias.

What impresses me about Mr. Farmer is his ability to work with law enforcement respectfully and understand their role in community justice. Mr. Farmer is steadfast in ensuring local authorities are up to date in community policing and serving communities of color.

Mr. Farmer's tenacity for social justice has led him to change local policy with the help of his grassroots organization. In addition, he has authored Bias by Proxy laws to prevent the abuse of emergency calls to police that are rooted in bias. Recently, Mr. Farmer has tutored himself in the complexities of Hate Crime Laws and statutes to find ways to prevent them.

Knowing Mr. Farmer makes me appreciate our common bonds as veteran knowing that our military service has prepared us for team building, mission focus and balance in all our endeavors. These are qualities that make for a good Transit Security Advisory Committee member.

Therefore, I strongly recommend Mr. Omar Farmer be appointed to the Transit Security Advisory Committee.

Sincerely,

Angela R. Jenkins

January 7th, 2022

To, Bart Transit Security Advisory Committee, Interview Panel

It is with great pleasure and confidence that I recommend Omar Farmer for the Bart Transit Security Advisory Committee.

Omar and I have begun working together over 8 years ago when his newly formed community group parented with my newly formed community group. Oakland Neighbors Inspiring Trust (Omar) and Neighbors for Racial Justice (Shikira) quickly noticed that our neighborhood goals were similar in that public safety efforts must include that of people of color going to work, taking a walk, standing for a bit without being harassed or questioned by neighbors. Together our groups planned events and conversations that allowed neighbors to dream into a different public safety model that included the safety, peace and dignity of *all*.

In addition to doing work where he lives and breathes, Omar committed 6 months to developing and revising policies for Oakland's Police Commission: Armed and Unresponsive Persons, Dedicated Arrest Teams, and Militarized Equipment Ad Hoc Committees. In this committee he helped to develop new policy that disrupts the terrifying use of Oakland Police Department's use of their paramilitary, tank-style vehicle (BearCat) on communities, especially those that are Black/brown and low resourced.

As of November 2nd, 2021, Omar was appointed by Oakland's mayor and City Councilmembers and sworn in to serve on Oakland's Public Safety and Services Violence Prevention Oversight Commission (aka SSOC). This committee is tasked in overseeing the proper administration of revenue collection, spending and the implementation of the programs funded through Measure Z (Public Safety and Services Violence Prevention Act revenue).

Working in partnership with Omar over the years, I trust and believe his skills from both his dedication to the city of Oakland as well as his plethora of leadership as a former Naval Officer will serve as a dynamic addition to the TSAC. Omar's background has supported honing critical skills such as identifying/prioritizing unjust issues; developing/implementing strong program policies; holding a lens that is fair, balanced, respectful; understanding

community aspirations/concerns; defining measures of progress/results and most importantly bringing the group to consensus when divided.

Also compelling , is Omar's commitment to doing his own internal equity work to hold himself accountable to deepening and strengthening his understanding of bias, racist, anti-Black systems and structures. In turn, this ongoing inquiry serves to benefit and serve communities most impacted by safety enforcement.

As a social worker for families who are unhoused, community partner and friend to Omar, I highly recommend him for this position with TSAC.

Please feel free to contact me with any questions or concerns.

Shikira Porter





EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="float: right; border: 1px solid black; padding: 2px;"> <small>DocuSigned by:</small> <i>Michael Jones</i> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/4/2021 6/1/2022		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Monina Salonga Dept: CIO Administration <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Monina Salonga</i> <small>230636236DDC46F...</small> </div> Signature/Date: <div style="text-align: right;">5/31/2022</div>	General Counsel <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Jeanne Belan</i> <small>F8FD7B3A73E74E8...</small> </div> Signature/Date: <div style="text-align: right;">5/31/2022 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Chris Gan</i> <small>EE11C8CEEEA04FD...</small> </div> Signature/Date: <div style="text-align: right;">5/31/2022 []</div>	District Secretary <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Pamela Herhold</i> <small>3BB24D65B8724F5...</small> </div> Signature/Date: <div style="text-align: right;">[]</div>	BARC <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Pamela Herhold</i> <small>3BB24D65B8724F5...</small> </div> Signature/Date: <div style="text-align: right;">5/31/2022 []</div>

Agreement No. 6M4788 with ConvergeOne for Data Domain Backup Hardware and Software Upgrade and Support Services

PURPOSE:

To request that the Board authorize the General Manager to negotiate and execute a five (5) year agreement with ConvergeOne in an amount not to exceed \$216,495.85 for the upgrade of Data Domain hardware and software platform and support services.

DISCUSSION:

Data Domain is a storage system that the District uses to perform backup of our Database for our critical Enterprise Applications. Data Domain provides protection to our data and minimizes any risk of data loss. It enables the District to recover data from backup which is essential for business continuity. The Data Domain hardware and software upgrade solution will provide future data storage capacity and support services from Data Domain experts to assist staff.

This purchase is being made through the National Association of State Procurement Officials, (NASPO) cooperative purchasing program approved by the Board in 2016 under Minnesota Master Agreement No. MNWNC-108, Computer Equipment Master Agreement; California Participating Addendum No. 7-15-70-34-003 with DELL MARKETING, L.P. ConvergeOne is an authorized reseller under this Agreement.

NASPO ValuePoint (formerly WSCA-NASPO) is a unified, nationally focused cooperative aggregating the demand of all 50 states, the District of Columbia and the organized US territories, their political subdivisions, and other eligible entities.

Because the State of California is a partner in this cooperative agreement, its local agencies, and districts, including BART are authorized by California Public Contract Code section 10298 to purchase items from the suppliers' awarded contracts by the NASPO ValuePoint Cooperative without further competitive bidding, pursuant to a Master Agreement and a California Participating Addendum.

Pursuant to the District's Non-Federal Small Business Program, the District conducted an analysis and determined that there are no certified Small Businesses (SB) certified by the California Department of General Services capable of providing the goods and services in this scope of work. Therefore, the Small Business Program does not apply to this NASPO ValuePoint agreement.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 5.5% for Minority Business Enterprises (MBEs) and 2.8% for Women Business Enterprises (WBEs). Vendor ConvergeOne, Inc. 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.

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

CAPITAL FISCAL IMPACT:

Funding in the amount of \$216,495.85 to negotiate and execute a five (5) year agreement with ConvergeOne is included in the total project budget for FMS# 65FB000 – Enterprise Business Applications.

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:

PRIOR/AVAILABLE FUNDING	
BART CAPITAL ALLOCATIONS – SPENT	\$9,305,662
BART CAPITAL ALLOCATIONS – REMAINING	\$1,691,338
TOTAL	\$10,997,000

As of May 10, 2022, \$10,997,000 is the total budget for this project. BART has expended \$9,305,661.96, committed \$877,183.76, and reserved \$211,634.38 to date. This action will commit \$216,495.85, leaving an available fund balance of \$386,024.05 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:

Decline to authorize the Agreement through the NASPO program and seek alternative independent proposals by the District. The District would incur substantial delays if it were to procure such services on its own.

RECOMMENDATION:

Approve the following motion:

MOTION:

The General Manager or his designee is authorized to negotiate and execute a NASPO ValuePoint computer equipment agreement with ConvergeOne in an amount not to exceed \$216,495.85 for the upgrade of Data Domain hardware and software platform support services.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Michael Jones</i> 47000790F2D7463... </div>		GENERAL MANAGER ACTION REQ'D: Execute an amendment to Agreement No. 6M4711- City Health Urgent Care		
DATE: 5/27/2022 6/1/2022		BOARD INITIATED ITEM: No		
Originator/Prepared by: Antoinette Conteh Dept: Talent Acquisition <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Antoinette Conteh</i> 5E135B77C9CF4CB... </div> Signature/Date: 5/31/2022	General Counsel <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Jana Belan</i> F8FD7B3A73E74E8... </div> 5/31/2022 <div style="text-align: right;">[]</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Chris Gan</i> EE11C8CEEEA04FD... </div> 5/31/2022 <div style="text-align: right;">[]</div>	District Secretary <div style="text-align: right;">[]</div>	BARC <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Pamela Herhold</i> 3BB24D65B8724F5... </div> 5/31/2022 <div style="text-align: right;">[]</div>

Amendment - Agreement No. 6M4711 - City Health Urgent Care

PURPOSE:

To obtain Board authorization for the General Manager to execute an amendment to Agreement No. 6M4711 with City Health Urgent Care to extend the term of the Agreement to December 31, 2022, and increase the funding from \$1,200,000 to \$1,500,000 for COVID testing services.

DISCUSSION:

Agreement No. 6M4711 was originally scheduled to expire on June 30, 2021, and was then extended to June 30, 2022. Additional time and funds are needed while the Request for Proposal (RFP) process is being completed. As we go through the RFP process to procure these services it is essential for the safety of our employees and patrons to continue to provide COVID testing when needed. Therefore, staff is seeking to extend the current Agreement until December 31, 2022, and to add \$300,000 to the Agreement.

FISCAL IMPACT:

The additional amount for COVID testing is not to exceed \$300,000. Funds are included in the operating budget, Cost Center number 0502420, Account 681300 Professional and Technical Services. This action is not anticipated to have any fiscal impact on unprogrammed District reserves in the current Fiscal year. Funds for this extension are included in the proposed operating budget for FY23 and FY24.

ALTERNATIVES:

To not increase funding would limit testing availability and disrupt the District's ability to promptly test employees who are identified as close contacts and are part of an Outbreak, which could cause a significant risk to the health and safety of BART employees and the community we serve.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to execute an amendment to Agreement No. 6M4711, with City Health Urgent Care for COVID testing services to extend the term of the Agreement to December 31, 2022, and to increase funding by \$300,000 for a total not-to-exceed amount of \$1,500,000.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		DocuSigned by: <i>Michael Jones</i> 47000790F2D7463...		GENERAL MANAGER ACTION REQ'D:	
DATE: 5/24/2022		6/1/2022		BOARD INITIATED ITEM: No	
Originator/Prepared by: David Martindale Dept: Marketing & Research Admin DocuSigned by: <i>David Martindale</i> C1C76C9650DF465... Signature/Date: 5/31/2022		General Counsel DocuSigned by: <i>Jana Belan</i> F8FD7B3A73E74E8... 5/31/2022 []		Controller/Treasurer DocuSigned by: <i>Chris Gan</i> EE11C8CEEEA04FD... 5/31/2022 []	
				District Secretary []	
				BARC DocuSigned by: <i>Pamela Herhold</i> 3BB24D65B8724F5... 5/31/2022 []	

Authority to Make Advertising Media Purchases in Excess of \$100,000 per Vendor per Fiscal Year

PURPOSE:

To request Board authority to set up on-call contracts with media companies to help inform the public about ridership-building campaigns, track closures, HR recruiting campaigns and other BART initiatives as needed. This is not a request for additional funding, but simply authority to use budgets already in place to purchase media when necessary. This is not a new request, but an extension of a program that was approved in 2017 and is expiring at the end of this Fiscal Year.

DISCUSSION:

Due to the consolidation of the Bay Area Media market, only a handful of vendors own the majority of radio stations in the area. Since payments for radio advertising time are made to media groups, not individual stations, it is often difficult to stay under the \$100,000 annual limit on the GM's authority to enter services agreements when it is necessary to convey important messages to the public, e.g., ridership-building campaigns, track closures, HR recruiting campaigns and other BART initiatives throughout the year.

In-line with current advertising best-practices, BART has also begun to use web, social media, mobile and streaming radio advertising, with Zero Co. and Pandora as the two primary vendors used so far to be included in the on-call contracts.

There are multiple weeks of scheduled track work each year through FY 2027, many of which will be funded by Measure RR, and will require public notification of track closures,

bus bridges and other information about the work. We also plan to continue Marketing campaigns to build post-pandemic ridership. Additionally, the Marketing Department places ads for other BART departments (BPD, HR, OCR, Planning). To support advertising across BART departments requires exceeding the annual limit to individual vendors.

The above-mentioned media outlets are not the only ones BART uses, but are the only outlets impacted by the \$100,000 limit on the GM's authority to enter service agreements that need to be addressed at this time. BART routinely advertises on multiple Spanish radio stations and in several non-English newspapers (Spanish, Chinese, Vietnamese, Korean, East Indian, etc.), Chinese language TV and other smaller media outlets (Oakland Post, Bay Area Reporter, League of Women Voters Monitor and many others). These vendors do not have the level of consolidation we've seen in the radio or online advertising markets and/or have lower reach and rates and have not exceeded the \$100,000 threshold.

The Marketing Department always negotiates for competitive advertising rates and has been successful in reducing costs by not paying the 15% commission typically charged by ad agencies because it places the buys or uses a buyer who charges an hourly rate rather than taking commissions. Additionally, Marketing is cost conscious in its media buying, and declines to purchase ads through certain outlets when rates are too high. Authorizing an increased spending limit will allow flexibility to take advantage of special rates when they arise.

FISCAL IMPACT:

This is not a request for more funding, but simply authority to use budgets from capital projects, the Marketing Department and other BART departments already in place.

Funds for the initial costs are included in the adopted operating budget for FY 23. Funds for subsequent fiscal years will be requested as part of the Marketing Department's budget and budgets from other departments and capital projects.

Advertising spending will not exceed \$1.4 million per Fiscal Year for each Fiscal Year through FY28.

ALTERNATIVES:

No action and the existing program will lapse. Then the standard limit on the GM's authority of up to \$100,000 per vendor, per year will resume. Advertising of BART initiatives will be limited.

RECOMMENDATION:

Authorize on-call contracts for media buying with vendors to include but not be limited to iHeart Media, Bonneville International, Cumulus, Audacy, Pandora and Zero Co. for FY23 through FY28 with funds coming from existing project, Marketing and other BART department budgets not to exceed \$1.4 million per fiscal year.

Allow additional media vendors to be added as needed, but within the overall annual cap of \$1.4 million, to provide the District with negotiating flexibility to obtain good value as the media market continues to evolve over the next several years.

MOTION:

Authorize the General Manager to execute on-call contracts for media buying with vendors to include but not be limited to iHeart Media, Bonneville International, Cumulus, Audacy, Pandora and Zero Co. for FY23 through FY28 with funds coming from existing project, Marketing and other BART department budgets not to exceed \$1.4 million per fiscal year.

Allow additional media vendors to be added as needed, but within the overall annual cap of \$1.4 million, to provide the District with negotiating flexibility to obtain good value as the media market continues to evolve over the next several years.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="float: right; border: 1px solid black; padding: 2px;"> <small>DocuSigned by:</small> <i>Michael Jones</i> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/11/2022 6/1/2022		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Daniel Cooperman Dept: General Manager <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Daniel Cooperman</i> <small>F66DB62C3C8D4CD...</small> </div> Signature/Date: 6/1/2022	General Counsel <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Jana Belan</i> <small>F8FD7B3A73E74E8...</small> </div> Signature/Date: 6/1/2022 <div style="text-align: right;">[]</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Chris Gan</i> <small>EE11C8CEEEA04FD...</small> </div> Signature/Date: 6/1/2022 <div style="text-align: right;">[]</div>	District Secretary <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Shane Edwards</i> <small>8128A2EB2F014F3...</small> </div> Signature/Date: 6/1/2022 <div style="text-align: right;">[]</div>	BARC <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Shane Edwards</i> <small>8128A2EB2F014F3...</small> </div> Signature/Date: 6/1/2022 <div style="text-align: right;">[]</div>

FY23 Quality of Life Initiatives Agreements for Elevator Attendants and Homeless Outreach

PURPOSE:

To obtain Board authorization for the General Manager to enter into negotiations with the organizations and agencies listed below for certain specified services:

1. Urban Alchemy, for Elevator Attendants at the Civic Center/UN Plaza, Powell Street, Montgomery, and Embarcadero stations for a sum not to exceed \$3,000,000 in FY23. As this program will provide a joint benefit to both BART and the San Francisco Municipal Transportation Agency (SFMTA), BART will enter into a separate reimbursement agreement with SFMTA for 50% of the actual costs for these services. Additionally, staff has submitted a grant application to the San Francisco County Transportation Authority (SFCTA) for a Lifeline Transportation Program (SF LTP) Cycle 2 Application that would provide funding in the amount of \$1,035,626. This grant, if awarded, would be available after the beginning of FY23 and would decrease the overall cost to BART and SFMTA by 35%.
2. Contra Costa Health Services (CCHS) for a Homeless Outreach Team in Contra Costa County, with a not to exceed cost of \$242,000 in FY23.

DISCUSSION:

The BART system continues to see a significant presence of unsheltered individuals in addition to individuals experiencing mental health crisis. This is consistent with the experience of cities and counties throughout the BART service area.

After taking a pause from conducting Point-in-Time (PIT) Counts of the population of people experiencing homelessness due to COVID-19, each of the five counties that BART serves conducted their PIT counts in February 2022. Preliminary results were released in mid-May 2022, and every county covered by BART with the exception of San Francisco showed an increase in their homeless population. San Francisco's data showed a 3% decrease in overall homeless population. While the PIT count shows overall growth in homelessness, it does not fully capture the ongoing struggle the Bay Area is facing in regards to untreated mental illness and substance abuse which continues to plague BART's ridership.

BART's biennial Customer Satisfaction survey continues to show that our riders expect the District to address these larger societal issues that plague the greater Bay Area. In response, BART has undertaken a comprehensive Quality of Life campaign, which includes Elevator Attendants, Restroom Attendants, Pit Stop restrooms, and Homeless Outreach Services, in addition to our new Progressive Policing and Community Engagement unit. While there has been an increased level of participation from our partner cities and counties, these societal issues are prevalent throughout the Bay Area and are often the result of policies and actions over which BART has little to no control.

This action allows the General Manager to negotiate and execute amendments to existing contracts in order to allow BART to continue to address quality of life issues across the BART service area.

Elevator Attendant Program

The Elevator Attendant Program was originally launched on April 30, 2018 and has been amended and renewed each subsequent year to address sanitation and safety issues in street and platform elevators in the four downtown San Francisco BART/SFMTA stations during operating hours. Attendants greet customers, operate the elevator, collect data on the number of users and their demographics, and deter inappropriate behavior in the elevator.

The current contract is with Urban Alchemy. Urban Alchemy has demonstrated the capability to provide high quality attendant services in addition to their current portfolio across San Francisco. In addition, the use of Urban Alchemy advances an important public policy objective to provide job training, employment, and workforce development opportunities to formerly incarcerated, at-risk, individuals who are eligible to work but face barriers to employment.

Contra Costa County Homeless Outreach

While the overall homelessness population is smaller in Contra Costa County than in San

Francisco or Alameda County, it has risen dramatically in recent years. BART has partnered with CCHS since January 2019 to address end-of-line station homelessness. Since that time, their scope has shifted to increase their focus on encampments under and near BART's right-of-way as that has presented larger issues for the District over the past two years. The Coordinated Outreach Referral and Engagement (CORE) team consists of two individuals who work 40 hours per week to engage individuals experiencing homelessness on BART property and under aerial tracks and connect them to available services in Contra Costa County.

FISCAL IMPACT:

The Quality of Life programs described above are funded in the current fiscal year and are included in the FY23 and FY24 operating budget. Funding is included in department 1102491, account 681300. This action is not anticipated to have any fiscal impact on unprogrammed District reserves in the current Fiscal Year.

The price for both Contra Costa Health Services and the Elevator Attendant Program are projected to decrease in FY23. The District will spend \$11,000 less for CCHS than in FY22, while the overall cost for the Elevator Attendant program is projected to decrease by \$300,000.

ALTERNATIVES:

The alternative is to not authorize one or more of these Agreements or to limit the duration.

RECOMMENDATION:

It is recommended that the Board adopt the following motion

MOTION:

The Board authorizes the General Manager to extend existing agreements with the listed agencies for the specified services:

1. Urban Alchemy for elevator attendants at Civic Center/UN Plaza, Powell Street, Montgomery, and Embarcadero BART/ San Francisco Municipal Transportation Agency (SFMTA) stations. In FY23 not to exceed \$3,000,000. BART will enter into a separate reimbursement agreement with SFMTA for 50% of actual costs for these services.
2. Contra Costa Health Services (CCHS) for one dedicated Homeless Outreach Team in Contra Costa County. In FY23 not to exceed \$242,000 for assistance at end of the line stations and encampment resolutions.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

INTER-OFFICE COMMUNICATION

TO: Board of Directors

Date: June 3, 2022

FROM: Interim Controller-Treasurer

SUBJECT: QUARTERLY REPORT OF THE CONTROLLER-TREASURER

Attached is the Quarterly Report of the Controller-Treasurer for the quarters ending December 31, 2021 and March 31, 2022 which will be presented to the Board on June 9, 2021.

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



Chris Gan



Quarterly Report of the Controller-Treasurer Periods Ending 12/31/2021 and 03/31/2022



BART Board of Directors
June 9, 2022

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

- The District currently provides benefits to employees which include, but are not limited to:
 - **Retirement Pension Plan** managed by the California Public Employee Retirement System (CalPERS) and funded by contributions from the District and its employees. CalPERS is the largest pension plan in the United States with assets of approximately \$400 billion.
 - ✓ The District established a Section 115 Trust for prefunding the District's pension obligation on February 5, 2020.
 - **Retiree Medical Benefits** coverage funded by a Trust established by the District in 2005.
 - a. Invested in a combination of stocks, bonds, REIT & cash,
 - b. Benchmark 6.5%,
 - c. Quarterly Report to the Unions
 - **Survivor Benefits** of active and retired employees funded by the employees (\$15/month).
 - ✓ The Trust was established on May 18, 2020.
 - **Life Insurance** for retired employees.
 - The District also accrues liabilities through Property & Casualty insurance and workers compensation claims and maintains the required reserves related to its self-funded insurance programs for worker's compensation and general liability based on an annual actuarial study.

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Summary of Trust Assets for Post Employment Benefits Held by the District

Quarterly Change

	Net Assets September 30, 2021	Contributions	Expenses	Gain (Loss)	Net Assets December 31, 2021	Inception to-date Return
Retiree Health Benefit Trust	\$ 503,636,504	\$ 10,623,846	\$ (7,545,937)	\$ 26,172,139	\$ 532,886,552	8.0%
Section 115 Pension Trust	30,268,073	-	-	(138,871)	30,129,202	1.0%
Survivors Benefit Trust	10,570,524	200,035	(108,005)	555,123	11,217,677	21.5%
Total	<u>\$ 544,475,101</u>	<u>\$ 10,823,881</u>	<u>\$ (7,653,942)</u>	<u>\$ 26,588,391</u>	<u>\$ 574,233,431</u>	
	Net Assets December 31, 2021	Contributions	Expenses	Gain (Loss)	Net Assets March 31, 2022	Inception to-date Return
Retiree Health Benefit Trust	\$ 532,886,552	\$ 9,106,154	\$ (7,492,489)	\$ (28,558,733)	\$ 505,941,484	7.5%
Section 115 Pension Trust	30,129,202	-	-	(1,440,911)	28,688,291	* -1.4%
Survivors Benefit Trust	11,217,677	197,988	(110,040)	(587,868)	10,717,757	12.7%
Total	<u>\$ 574,233,431</u>	<u>\$ 9,304,142</u>	<u>\$ (7,602,529)</u>	<u>\$ (30,587,512)</u>	<u>\$ 545,347,532</u>	

* Excludes \$5,000,000 allocation for fiscal year 2022 through March 31, 2022 that have not yet been remitted to the Trust.

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Funding Summary of Pension, Retiree Health & Other Post-Employment Benefits

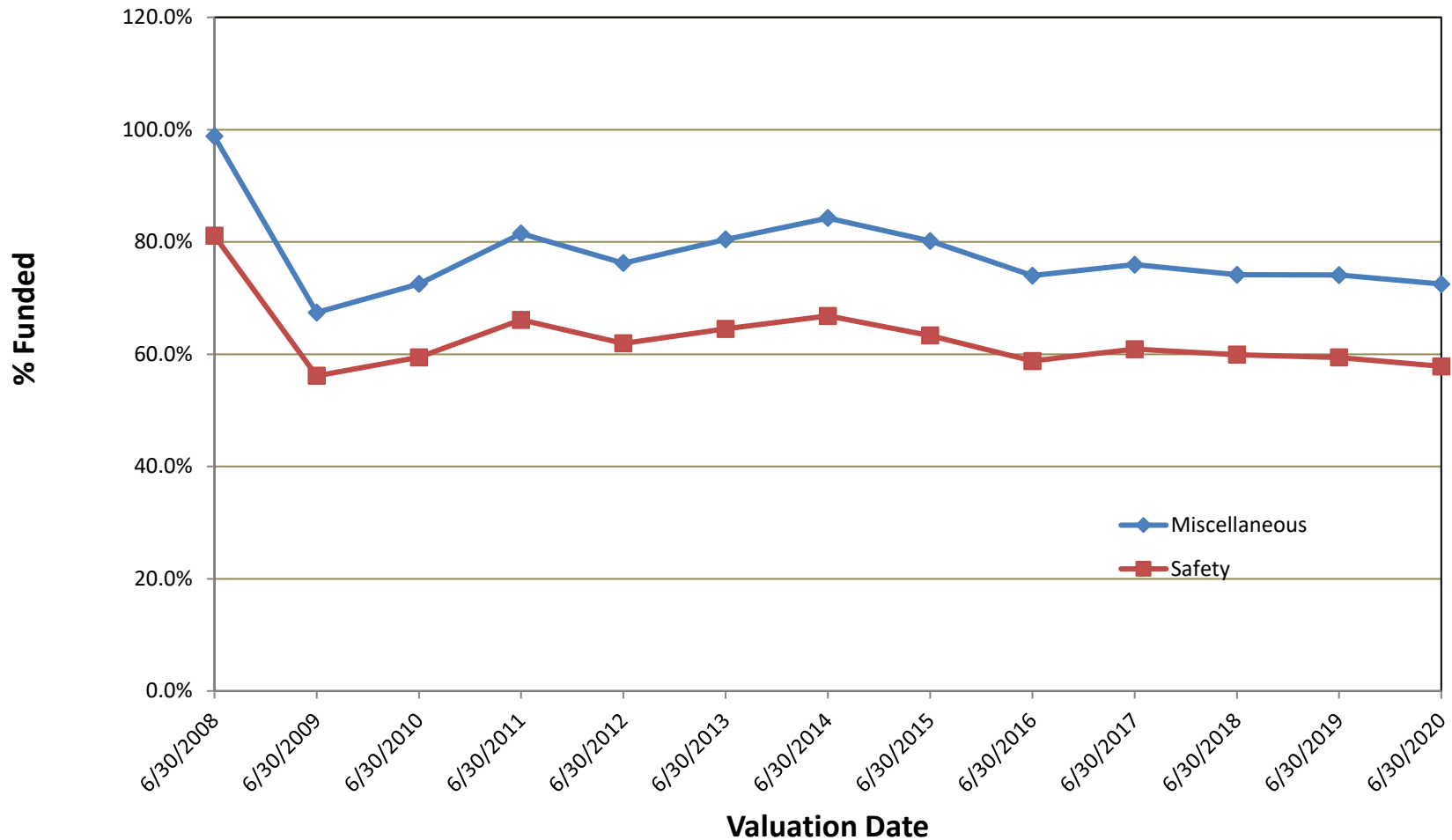
	<u>Report Date</u>	<u>Market Value of Assets</u>	<u>Total Liability</u>	<u>Unfunded Liability</u>	<u>% Funded</u>
Retirement Pension with CALPERS					
Miscellaneous Employees	6/30/2020	\$ 2,001,179,865	\$ 2,759,872,021	\$ 758,692,156	72.5%
Safety Employees	6/30/2020	\$ 236,885,370	\$ 409,469,083	\$ 172,583,713	57.9%
Section 115 Pension Trust **	3/31/2022	<u>\$ 28,688,291</u>	<u></u>	<u>\$ (28,688,291)</u>	
Total - Retirement Pension		<u>\$ 2,266,753,526</u>	<u>\$ 3,169,341,104</u>	<u>\$ 902,587,578</u>	
Retiree Health Benefits					
	6/30/2021	\$ 501,321,000	\$ 632,402,000	\$ 131,081,000	79.3%
Other Post Employment Benefits					
Life Insurance	6/30/2021	\$ -	\$ 41,943,000	\$ 41,943,000	0.0%
Survivors Benefits	6/30/2020	\$ 8,676,000	\$ 21,014,000	\$ 12,338,000	41.3%

** Balance of Section 115 Pension Trust for prefunding of the District's pension obligation; this excludes \$5,000,000 allocated in Fiscal Year 2022 through March 31, 2022 that have not yet been remitted to the Trust.

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

CALPERS Pension Plan Funding Progress

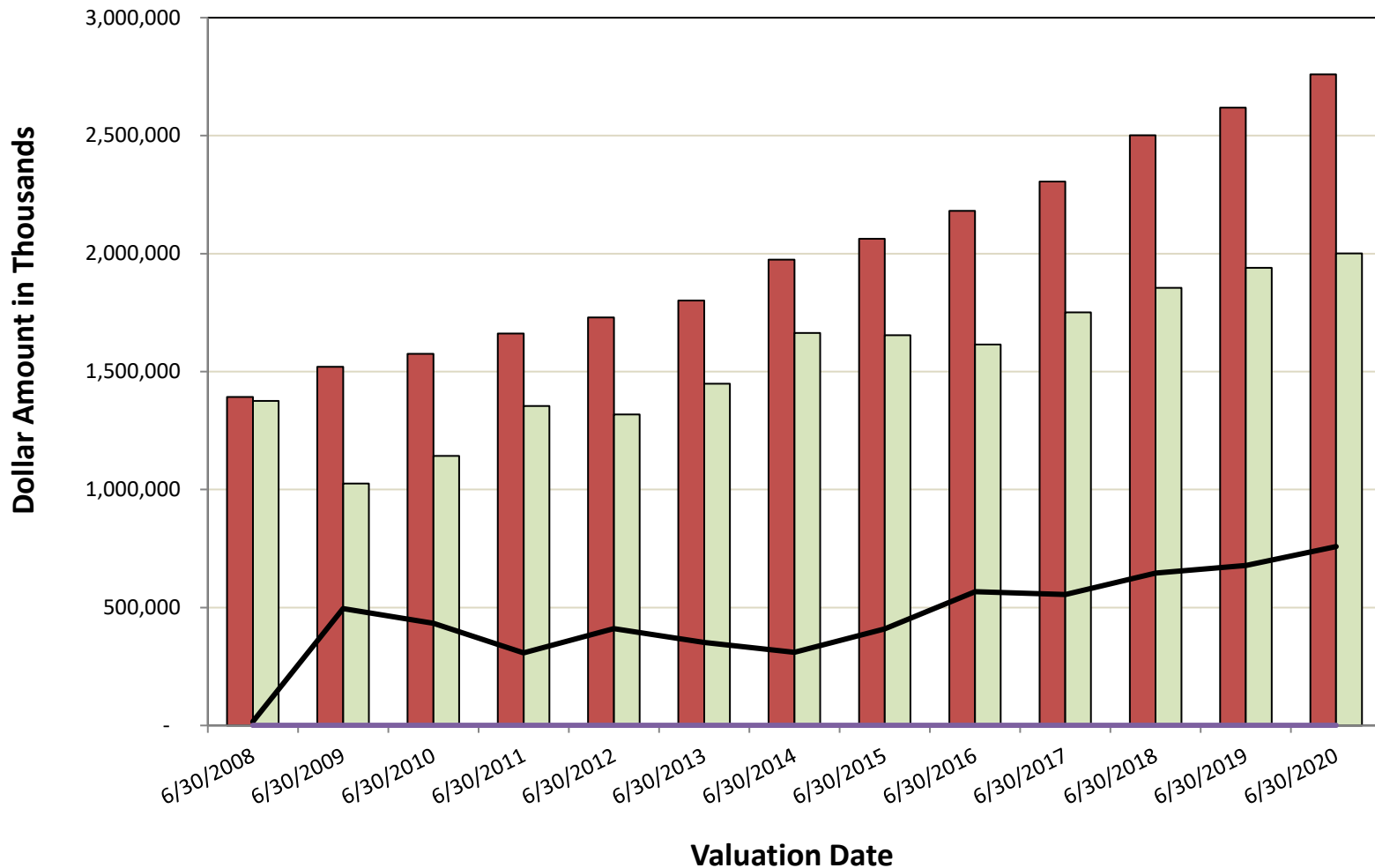


Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

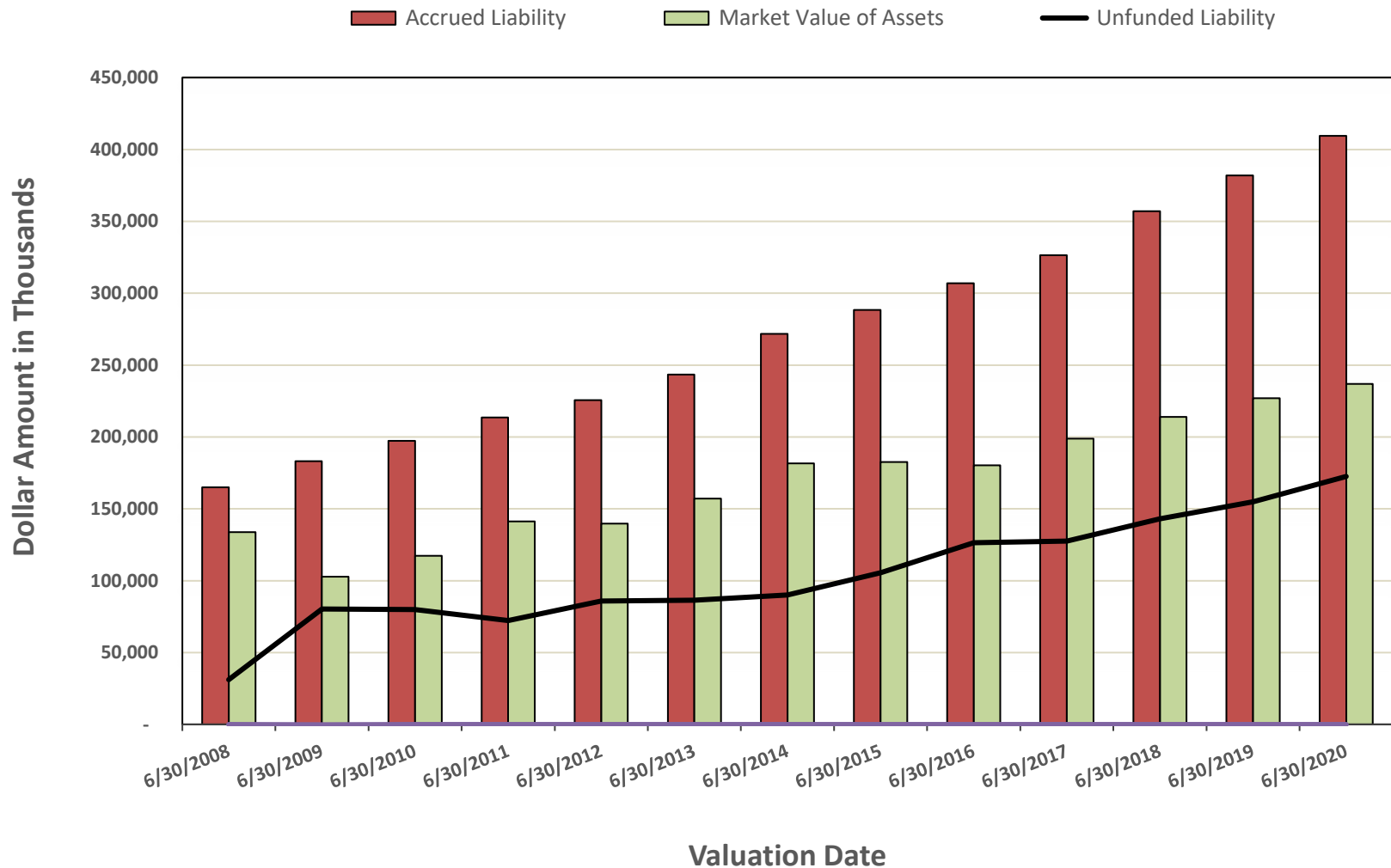
CALPERS Miscellaneous Pension Plan Funding Progress

Accrued Liability Market Value of Assets Unfunded Liability



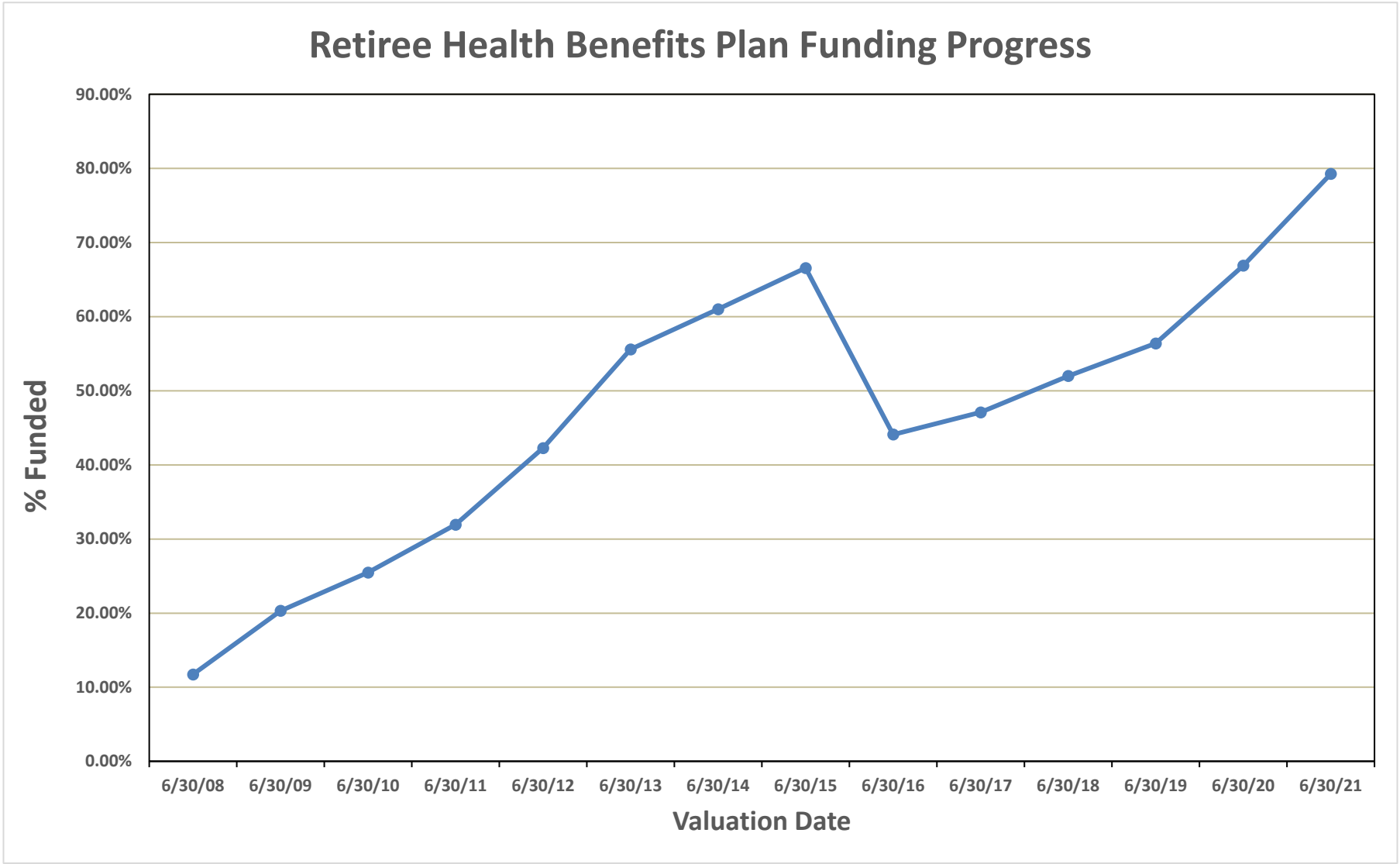
Quarterly Report of the Controller-Treasurer Periods Ending 12/31/2021 and 03/31/2022

CALPERS Safety Pension Plan Funding Progress



Quarterly Report of the Controller-Treasurer
Periods Ending 12/31/2021 and 03/31/2022

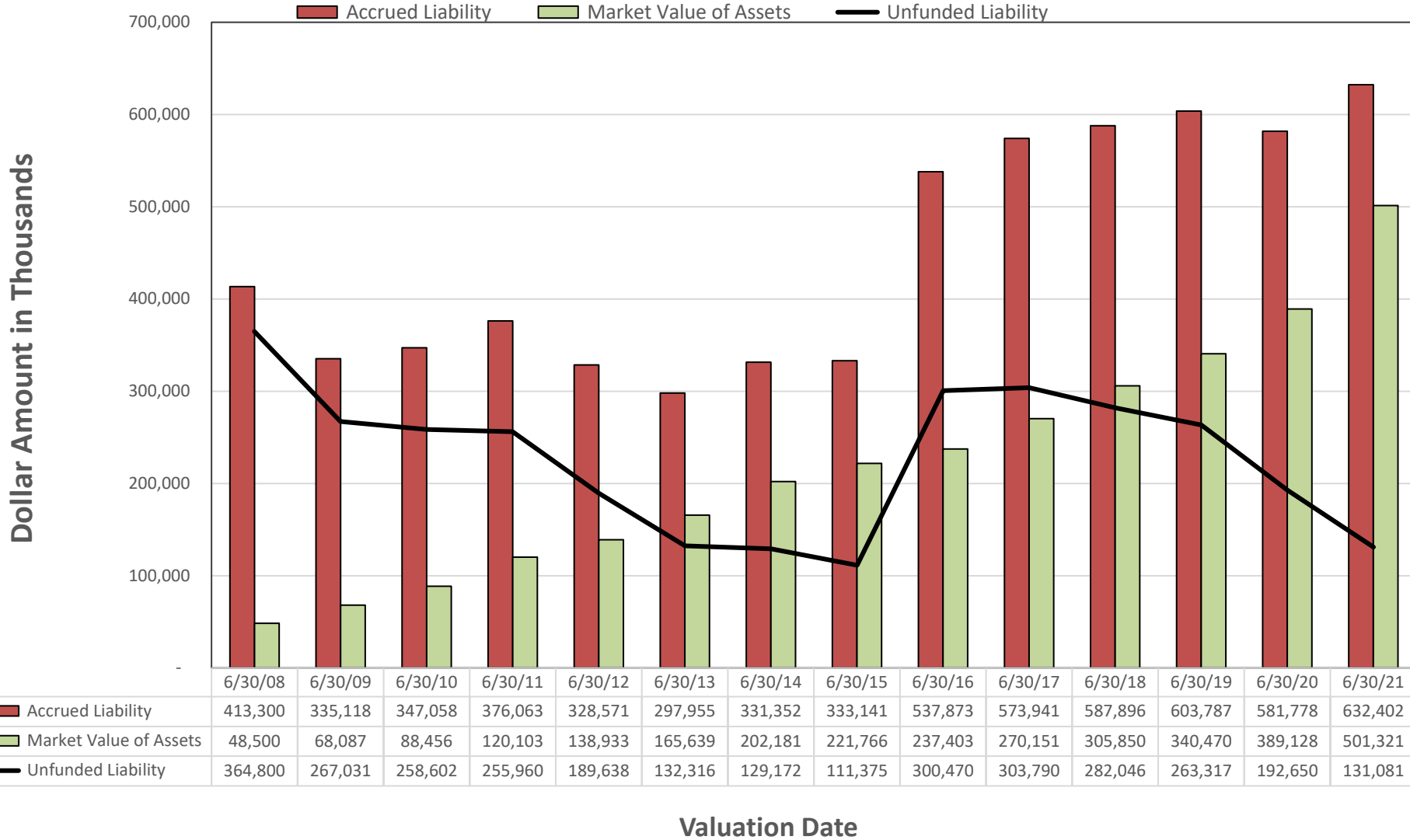
Retiree Health Benefits Plan Funding Progress



Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Funding Progress Retiree Health Benefits Plan



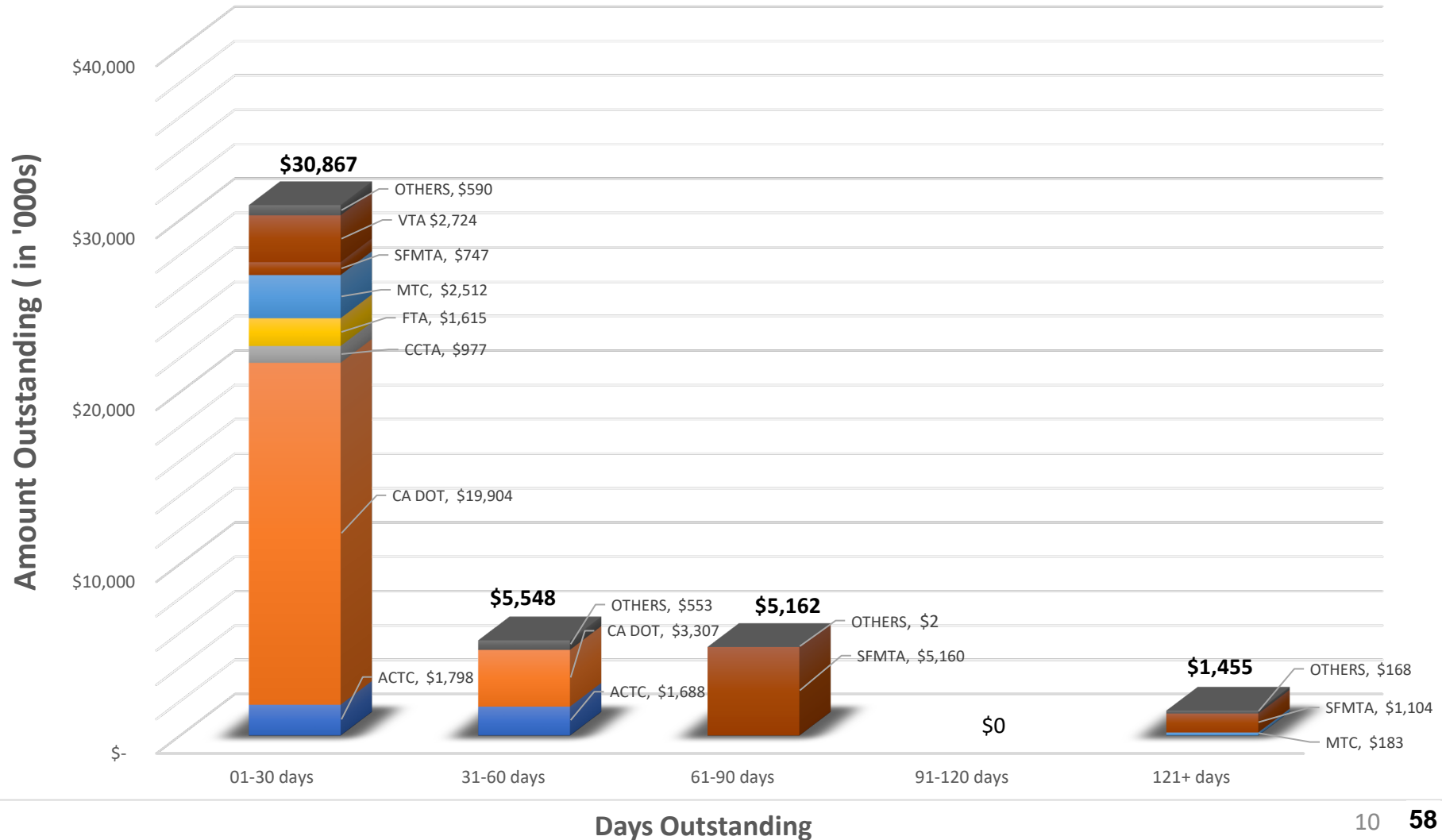
Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Accounts Receivable

- The status of receivables from our funding partners is shown in the chart below. The amount outstanding is \$43,031,672 as of March 31, 2022.

Outstanding Billed Grants Receivable as of March 31, 2022



Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Cash and Investments

Shown below are the composition of the District's cash and investments for the General Fund and Working Capital Fund as of the end of the quarter.

	<u>12/31/2021</u>	<u>% Allocation</u>	<u>3/31/2022</u>	<u>% Allocation</u>
Cash on hand and Cash In Bank	\$ 296,739,961	39%	\$ 159,192,315	20%
CD & Interest Checking	81,195,983	11%	21,206,128	3%
Government Securities	284,560,000 *	37%	510,275,000**	64%
Mutual Fund - Bond Fund	30,129,202	4%	28,688,291	4%
Local Agency Investment Fund	74,999,193	10%	75,058,097	9%
Total Cash Investments	<u>\$ 767,624,339</u>	<u>100%</u>	<u>\$ 794,419,831</u>	<u>100%</u>

* Invested in U.S. Treasury and Federal Home Loan Bank Discount Notes

** Invested in U.S. Treasury

- Weighted average return on our Investments in Government Securities were .06% (12/31/2021) and .43% (03/31/2022) compared to .05% reported in previous quarter. The weighted average maturity (WAM) of our Investment portfolio is 73 days. The yield on Local Agency Investment Fund for the quarter 12/31/2021 is .23% and for quarter 03/31/2022 is .32%.

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Breakdown of Cash and Investments

	December 31, 2021			March 31, 2022		
	General Fund	Capital Fund	Total	General Fund	Capital Fund	Total
Restricted	\$ 23,145,799	\$ 29,825,038	\$ 52,970,837	\$ 20,774,382	\$ 28,948,613	\$ 49,722,995
Unrestricted	\$ 440,915,684	\$ 273,737,818	\$ 714,653,502	\$ 458,231,036	\$ 286,465,800	\$ 744,696,836
	<u>\$ 464,061,483</u>	<u>\$ 303,562,856</u>	<u>\$ 767,624,339</u>	<u>\$ 479,005,418</u>	<u>\$ 315,414,413</u>	<u>\$ 794,419,831</u>
Allocated		\$ 246,261,539			\$ 253,737,867	
Scheduled to be Allocated		\$ 57,301,317			\$ 61,676,546	
Total		<u>\$ 303,562,856</u>			<u>\$ 315,414,413</u>	

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Summary of Outstanding Bonds

	<u>Authorized</u>	<u>Issued</u>	<u>Outstanding Balance</u>	<u>Annual Debt Service</u>	<u>Property Tax Assessments</u> *
Sales Tax Revenue Bonds **		\$ 984,260,000	\$ 657,520,000	\$ 57,167,323	
Measure AA General Obligation Bonds	\$ 980,000,000	\$ 980,000,000	\$ 655,180,000	\$ 54,655,594	\$2.50/\$100,000
Measure RR General Obligation Bonds	\$ 3,500,000,000	\$ 1,360,000,000	\$ 1,179,660,000	\$ 54,626,500	\$3.50/\$100,000
Total		<u><u>\$ 3,324,260,000</u></u>	<u><u>\$ 2,492,360,000</u></u>	<u><u>\$ 166,449,417</u></u>	

* Effective November 2021 after taking into consideration balances of cash on hand available for debt service.

** Sales Tax Revenue Bonds with outstanding balances.

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Operating and Other Reserves

Quarterly Changes

		October - December 2021			January - March 2022		
		September 30, 2021	Additions	Usage	Additions	Usage	March 31, 2022
Operating Reserve	(1)	\$ 53,708,182	\$ -	\$ -	\$ -	\$ -	\$ 53,708,182
Insurance Calamity Reserve	(2)	9,000,000	-	-	-	-	9,000,000
Operating Reserve - Economic Uncertainty							-
General Reserve for Economic Uncertainty	(3)	25,345,543					25,345,543
From Federal Assistance - CRRSAA	(3)	206,822,640	42,013,189	(39,221,039)		(89,560,386)	120,054,404
From Federal Assistance - ARP	(3)		74,010,950	-	106,446,719	-	180,457,669
Operating Reserve - Fiscal Stability - Pension	(4)	30,268,073		(138,871)	5,000,000	(1,440,911)	33,688,291
Operating Reserve - Low Carbon Fuel Standards Credits	(5)	18,498,668	-	-	-	-	18,498,668
Working Capital Reserve Fund	(6)	83,869,753	7,514	-	33,972	-	83,911,239
Operating Reserve - eBART Operations	(7)	5,390,000	-	-	-	-	5,390,000
Total		<u>\$ 432,902,859</u>	<u>\$ 116,031,653</u>	<u>\$ (39,359,910)</u>	<u>\$ 111,480,691</u>	<u>\$ (91,001,297)</u>	<u>\$ 530,053,997</u>

Quarterly Report of the Controller-Treasurer

Periods Ending 12/31/2021 and 03/31/2022

Fiscal Year-To-Date Changes

		July 2021 - March 31, 2022			
		June 30, 2021	Additions	Usage	March 31, 2022
Operating Reserve	(1)	\$ 53,708,182	\$ -	\$ -	\$ 53,708,182
Insurance Calamity Reserve	(2)	9,000,000	-	-	9,000,000
Operating Reserve - Economic Uncertainty			-	-	-
General Reserve for Economic Uncertainty	(3)	25,345,543	-	-	25,345,543
From Federal Assistance - CRRSAA	(3)	169,512,957	167,285,855	(216,744,408)	120,054,404
From Federal Assistance - ARP	(3)		180,457,669	-	180,457,669
Operating Reserve - Fiscal Stability - Pension	(4)	30,256,998	5,000,000	(1,568,707)	33,688,291
Operating Reserve - Low Carbon Fuel Standards Credits	(5)	18,498,668	-	-	18,498,668
Working Capital Reserve Fund	(6)	83,865,700	45,539	-	83,911,239
Operating Reserve - eBART Operations	(7)	5,390,000	-	-	5,390,000
Total		<u>\$ 395,578,048</u>	<u>\$ 352,789,063</u>	<u>\$ (218,313,115)</u>	<u>\$ 530,053,997</u>

- (1) Cumulative balance of operating reserves per "Financial Stability Policy" approved by the Board.
- (2) This reserve was set aside in the 1960s to cover catastrophic losses associated with District property damage, public liability and workers' compensation claims.
- (3) Operating reserve set aside due to uncertain economic conditions.
- (4) Amount set aside in FY18, FY19, FY20, FY21, and FY22 for pension contribution or for prefunding of the District's pension obligation. A Section 115 Pension Trust has been created for this reserve.
- (5) Portion of proceeds from sale of Low Carbon Fuel Standards credits sold set aside to support operations per "Low Carbon Fuel Standard Policy" approved by the Board in July 2017.
- (6) Working capital fund.
- (7) FY21 year end operating allocation for eBART non-labor operating cost.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		DocuSigned by: <i>Michael Jones</i> 47000790F2D7463...		GENERAL MANAGER ACTION REQ'D:	
DATE: 5/31/2022		6/2/2022		BOARD INITIATED ITEM: Yes	
Originator/Prepared by: Katherine Alagar Dept: Operating Budgets DocuSigned by: <i>Katherine Alagar</i> 697EB8AE6F87469... Signature/Date: 6/1/2022		General Counsel DocuSigned by: <i>Jeanne Belan</i> F8FD7B3A73E74E8... 6/1/2022 []		Controller/Treasurer DocuSigned by: <i>Chris Gan</i> EE11C8CEEEA04FD... 6/1/2022 []	
				District Secretary []	
				BARC DocuSigned by: <i>Pamela Herhold</i> 3BB24D65B8724F5... 6/1/2022 []	

Two Year Annual Budget Resolution for Fiscal Year 2023 and Fiscal Year 2024

PURPOSE:

Authorize adoption of the Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget Resolution (Budget Resolution).

DISCUSSION:

Approval by the Board of Directors is required for the Fiscal Year 2023 and Fiscal Year 2024 (FY23 & FY24) operating and FY23 capital budgets. The total proposed FY23 operating and capital budget is \$2.5 billion (B). The FY23 & FY24 operating budget is balanced, with \$1.02B and \$1.07B in FY23 and FY24, respectively. The FY23 capital/reimbursable budget totals \$1.49B.

The proposed FY23 & FY24 budgets are summarized in Attachments 1, 2, and 3. Attachments 1 and 2 summarize operating and capital sources and uses. Attachment 3 summarizes operating budget changes beginning in FY23, including: restroom attendants; restroom rehabilitation projects; proposed increases in staffing and expenses to support expanded rail service; replacement of BART Police Department vehicles and equipment; and restoration of the Sustainability allocation.

The budget includes an adjustment to increase the FY23 budgeted vacancy rate of full-time equivalent (FTEs) positions from 3.14% to 10%, better reflecting the District's recent actuals, which for FY22 were 12%. As the District increases its focus on hiring over the coming months, the goal is to lower the actual vacancy rate to the budgeted level and then continue to decrease. In FY24, the budgeted vacancy rate decreases from 10% to 7.5%.

The proposed initiatives and technical changes were reviewed in the Sources and Uses

presentations to the Board of Directors on May 12, 2022, as well as at a public hearing on May 26, 2022.

FY23 & FY24 Operating Budget

The FY23 & FY24 operating budget continues to be highly constrained by reduced operating revenues stemming from the effects of the COVID-19 pandemic. These financial challenges are exacerbated by aging infrastructure, continued expectations to address quality of life issues, and increased operating expense.

The proposed Operating Budget authorizes FY23 and FY24 expenditures of \$1.02B and \$1.07B, respectively, while funding 3,485.4 FTEs in FY23 and 3,497.9 FTEs in FY24.

Operating revenues in the FY23 revenue budget are \$59.7 million (M) higher than the adopted FY22 budget. The revenue budget projects \$255M of operating revenue in FY23 and \$320M in FY24. This includes \$222M of rail passenger revenue in FY23 and \$283M in FY24. Financial assistance is budgeted at \$449M in FY23 and \$474M in FY24. This includes \$299M of sales tax, \$58M of property tax, \$33M of VTA Financial Assistance, and \$23M of State Transit Assistance in FY23. American Rescue Plan (ARP) Assistance Emergency Funding of \$314M in FY23 and \$273M in FY24 balances the budget. BART's single largest revenue source is no longer fare revenue; one-time federal emergency assistance (projected to be fully exhausted in FY26) and sales tax are BART's two largest revenue sources in FY23 and FY24.

FY23 Capital & Reimbursable Budget

The Capital/Reimbursable Budget proposes FY23 expenditures of \$1.49B and funds 1,134.9 FTEs. The \$57M increase from the Preliminary Budget is due to ongoing refinement and timing sequencing of multi-year funded capital projects. The FY23 Capital/Reimbursable Budget is 5% greater than the \$1.42B FY22 budget.

The largest capital investments in FY23 include rail car procurement (\$518M), Measure RR Program (\$539M), and Core Capacity Program (\$274M).

Attachment 2 categorizes the FY23 expenditures by Capital Improvement Program (CIP). The largest share of investment by CIP is System Reinvestment, representing \$738M, 49% of the overall FY23 Capital Budget. System Reinvestment includes replacement of rail cars (\$446M), reinvestment in track and structures (\$98M), and reinvestment in traction power (\$92M). The Capital Budget also includes Service and Capacity Enhancement \$591M (40%), Earthquake Safety \$69M (5%), Safety and Security \$21M (1%), System Expansion \$66M (4%), and reimbursable expenses at \$8M (0.6%).

In November 2016, the passage of Measure RR provided the capital program with a

substantial source of support and authorized issuance of up to \$3.5B in general obligation bonds to fund certain capital improvements. Measure RR has become more prominent in the mix of federal, regional, and local funds. Measure RR funding makes up \$539M (36%) of FY23 capital sources and will continue to support investment in traction power, track replacement, structural rehabilitation, station access, and station modernization.

Typically, the ongoing commitment of BART operating funds is an essential component of the capital program, particularly in delivering major capital projects such as rail car procurement and the Core Capacity Program. Other capital activities dependent on BART operating allocations are local match for grants, grant-ineligible projects and initiatives, routine but necessary capitalized maintenance projects, emergent safety and security projects, and equipment and inventory.

The FY23 budget will provide funds and local matching amounts needed to leverage federal capital funding, restore the Sustainability allocation suspended in FY22, rehabilitate four underground restrooms, and purchase vehicle and equipment. The result is an investment in state of good repair, vehicle procurement, information technology, and infrastructure.

Most capital fund sources and grants are restricted to certain projects and/or activities as a condition of award. The FY23 Capital Budget contains contributions of federal funds matched to prior year capital allocations for state of good repair capital investment. Proceeds from the Earthquake Safety Program general obligation bond are dedicated exclusively to the Earthquake Safety Program. Additionally, there are smaller, defined purpose grants that are limited to specific projects.

FY23 & FY24 Budget Resolution

Staff recommends approval of the attached Resolution to adopt the Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget. As in previous years, the Budget Resolution includes authorizations that allow the General Manager or the General Manager's designee to apply to different bodies for grant funds (including, but not limited to, Transportation Development Act, State Transit Assistance, Bridge Toll, Federal Emergency Management Agency, and Federal Transit Administration). It also includes authorizations that allow the General Manager or the General Manager's designee to execute agreements that may require payments to regional partner governments and agencies. The Budget Resolution incorporates provisions referring to the SFO Extension and Silicon Valley extension service plans.

For FY23 and FY24, the budget includes BART's Low Carbon Fuel Standard (LCFS) policy, adopted July 27, 2017, which directs a portion of LCFS revenues toward sustainability-related projects.

The Budget Resolution language includes the General Manager's permanent position

authorization of 100 positions in each fiscal year. This provides the flexibility necessary to meet operational needs as they arise over the course of the fiscal year.

Exhibit A (attached) to the Budget Resolution summarizes operating and capital budget totals. Exhibit B reflects current hourly pay rates or base pay ranges, as applicable, and management incentive pay, if any, for non-represented employees.

FISCAL IMPACT:

The proposed Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget is balanced. It may be revised as conditions and actuals change over the course of the fiscal year.

ALTERNATIVES:

Do not adopt the budget or adopt a budget that differs from what has been presented to the Board of Directors. Rules of the Board of Directors require that the budget be adopted prior to June 30; adoption of the Budget Resolution by June 30 is required to authorize expenditures in FY23.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The Board adopts the attached Resolution in the matter of approving the Annual Budget for the San Francisco Bay Area Rapid Transit District and authorizes expenditures for the fiscal years July 1, 2022 to June 30, 2023 and July 1, 2023 to July 30, 2024.

Attachment 1
FY23 and FY24 District Operating Budget
Sources and Uses Detail

	FY23 Preliminary Budget	FY23 Adopted Budget	Delta from Preliminary Budget	FY24 Preliminary Budget	FY24 Adopted Budget	Delta from Preliminary Budget
Rail Passenger Revenue	\$ 221,738,334	222,125,035	386,701	282,095,187	283,010,838	915,650
ADA Passenger Revenue	488,339	488,339	-	494,443	494,443	-
Parking Revenue	13,107,361	13,107,361	-	14,322,169	14,322,169	-
Other Operating Revenue	19,445,279	19,445,279	-	22,573,120	22,573,120	-
Subtotal - Operating Revenue	254,779,314	255,166,015	386,701	319,484,919	320,400,569	915,650
Sales Tax Proceeds	298,959,010	298,959,010	-	306,613,345	306,613,345	-
Property Tax Proceeds	57,986,737	57,986,737	-	61,176,007	61,176,007	-
SFO Ext Financial Assistance	-	-	-	-	-	-
MTA Financial Assistance	34,284,908	32,662,603	(1,622,305)	33,391,033	31,207,427	(2,183,606)
MTC Financial Assistance Clipper Start	214,313	287,092	72,779	333,488	438,091	104,603
Local & Other Assistance	6,876,071	9,112,691	2,236,620	6,983,645	9,261,223	2,277,578
State Transit Assistance	22,748,170	22,748,170	-	38,608,082	38,608,082	-
Low Carbon Transit Operations Program	10,258,949	10,258,949	-	10,258,949	10,258,949	-
Low Carbon Fuel Standard Program	16,629,838	16,629,838	-	16,414,398	16,414,398	-
Subtotal - Financial Assistance	447,957,996	448,645,090	687,095	473,778,948	473,977,522	198,574
TOTAL - OPERATING SOURCES	702,737,310	703,811,105	1,073,795	793,263,866	794,378,091	1,114,225
Labor & Benefits	646,753,203	632,196,786	(14,556,417)	659,892,464	649,020,661	(10,871,803)
ADA Paratransit	16,701,033	16,701,033	-	19,550,041	19,550,041	-
Purchased Transportation	12,721,457	12,721,457	-	12,957,287	12,957,287	-
Power	52,699,910	52,699,910	-	54,380,454	54,380,454	-
Other Non-Labor	144,334,848	145,670,207	1,335,359	143,982,972	144,390,612	407,640
Subtotal - Operating Expense	873,210,451	859,989,393	(13,221,058)	890,763,218	880,299,055	(10,464,163)
Bond Debt Service	59,919,129	59,919,129	-	60,131,289	60,131,289	-
Allocation - Capital Rehabilitation	44,636,387	46,486,387	1,850,000	45,327,114	45,315,114	(12,000)
Allocation - Priority Capital Programs	33,000,000	33,000,000	-	64,000,000	64,000,000	-
Allocation - Other	1,636,232	1,636,232	-	1,668,957	1,668,957	-
Allocation - Sustainability from LCFS	8,809,883	6,375,125	(2,434,758)	8,680,620	6,375,125	(2,305,495)
Allocation - Pension	10,000,000	10,000,000	-	10,000,000	10,000,000	-
Allocations	98,082,502	97,497,744	(584,758)	129,676,690	127,359,196	(2,317,495)
Subtotal - Debt Service & Allocations	158,001,631	157,416,873	(584,758)	189,807,979	187,490,485	(2,317,495)
TOTAL - USES	1,031,212,082	1,017,406,266	(13,805,816)	1,080,571,197	1,067,789,540	(12,781,658)
Net Result Before Federal Emergency Assistance	\$ (328,474,772)	\$ (313,595,161)	\$ 14,879,611	\$ (287,307,331)	\$ (273,411,449)	\$ 13,895,882
Federal Emergency Assistance	328,474,772	313,595,161	(14,879,611)	287,307,331	273,411,449	(13,895,882)
NET RESULT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Average Weekday Trips	185,000	180,000	(5,000)	230,000	225,000	(5,000)
Total Ridership	52,734,000	52,950,000	216,000	65,521,000	65,794,000	273,000
Rail Farebox Recovery Ratio	25%	26%		32%	32%	
Operating Ratio	29%	30%		36%	36%	

Attachment 2

FY23 Capital & Reimbursable Budget Headcount and Planned Expenditures Program Summary by Category

Program Category	FY23 Headcount*	FY23 Planned Expenditures
System Reinvestment		
Mainline	275.8	\$ 195,749,342
Rolling Stock	86.2	\$ 445,889,055
Stations	59.5	\$ 51,652,096
Controls & Communications	51.7	\$ 25,363,171
Facilities	21.3	\$ 19,477,300
Work Equipment	0.3	\$ 143,531
Total System Reinvestment	494.9	\$ 738,274,494
Service & Capacity Enhancement		
Mainline	113.3	\$ 155,678,736
Rolling Stock	17.7	\$ 71,974,804
Stations	69.4	\$ 95,074,053
Controls & Communications	164.3	\$ 194,349,382
Facilities	56.3	\$ 72,075,875
Work Equipment	1.5	\$ 2,172,127
Total Service and Capacity Enhancement	422.5	\$ 591,324,977
Safety & Security	29.5	\$ 20,969,335
Earthquake Safety	45.3	\$ 69,430,799
System Expansion	52.2	\$ 65,816,874
SUBTOTAL CAPITAL	1,044.4	\$ 1,485,816,480
Capitol Corridor**	23.0	\$ 5,048,278
Reimbursable***	19.5	\$ 3,342,621
SUBTOTAL REIMBURSABLE	42.5	\$ 8,390,899
Cost Allocation Plan	48.0	
TOTAL CAPITAL & REIMBURSEABLE	1,134.9	\$ 1,494,207,379

* Total authorized permanent positions.

** All expenses for the Capitol Corridor service to be reimbursed as allocated to the Capital corridor Joint Powers Board in the Annual State Budget Act.

*** Positions fully reimbursed by Muni, Caltrans, and others for BART staff expenses incurred in performing services for the organizations.

Attachment 3**FY23 Operating and Capital Budget Initiatives/Changes (General Fund)**

OPERATING		FTEs	Labor	Non-Labor	Total
Quality of Life	Restroom Attendants at 4 stations	-	\$ -	\$ 1,400,000	\$ 1,400,000
Increased Service*	Station Agents	6.5	831,126	-	831,126
	Train Operators	6.0	767,193	-	767,193
	Title VI - Interpretive Services, Policy Outreach	-	-	409,000	409,000
OPERATING TOTAL		12.5	1,598,319	1,809,000	3,407,319
CAPITAL					Total
Quality of Life	FY22 and FY23 Rehabilitation of 4 Underground Restrooms	-	-	1,850,000	1,850,000
	Restore Sustainability Allocation	-	-	6,375,125	6,375,125
	BPD Vehicles and Equipment	-	-	600,000	600,000
CAPITAL TOTAL		-	-	8,825,125	8,825,125
Total Change		12.5	\$ 1,598,319	\$10,634,125	\$ 12,232,444

*Service increase added a total of 13 Station Agents and 12 Train Operators budgeted Jan 1, 2023 start = 12.5 FTEs in FY23 and 25 FTEs in FY24

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

**In the matter of approving
The Annual Budget for the
San Francisco Bay Area Rapid
Transit District and authorizing
Expenditures for the Fiscal Year
July 1, 2022, to June 30, 2023,
and Fiscal Year July 1, 2023,
to June 30, 2024**

Resolution No. _____

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District published notices on May 3, May 6, May 11, May 13, May 19, and May 20, 2022, in newspapers of general circulation in the County of San Francisco, the County of Contra Costa, the County of Alameda, and the County of San Mateo of its intention to adopt a Two Year Annual Budget for the Fiscal Years July 1, 2022, to June 30, 2023 and July 1, 2023 to June 30, 2024; and

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District desires to adopt a Two Year Annual Budget for the Fiscal Years July 1, 2022, to June 30, 2023 and July 1, 2023 to June 30, 2024; and

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District is required by Public Utilities Code Section 28767 to determine and create, by resolution, such number and character of positions as are necessary to properly carry out the functions of the District; and

WHEREAS, the Transportation Development Act (TDA), Public Utilities Code §99200, et seq., provides for the disbursement of funds from the Local Transportation Fund of the Counties of Alameda and Contra Costa for use by eligible claimants for the purpose of operating assistance; and

WHEREAS, the State Transit Assistance (STA) fund makes funds available pursuant to Public Utilities Code Section 99313.6 for allocation to eligible applicants to support approved transit projects; and

WHEREAS, as attested to by opinions of the Office of the General Counsel, the San Francisco Bay Area Rapid Transit District is an eligible applicant for Net Toll Revenues and MTC Rail Extension Reserve bridge toll revenues pursuant to Section 30892 of the Streets and Highways Code; and is an eligible claimant for TDA and STA funds pursuant to Public Utilities Code Section 99260; and

WHEREAS, the agreement between the San Francisco Bay Area Rapid Transit District and San Mateo County Transit District, dated April 27, 2007, states that the San Francisco Bay

Area Rapid Transit District will provide service on the San Francisco Airport (SFO) extension in a manner consistent with BART's system-wide operating policies; and

WHEREAS, the agreement between the San Francisco Bay Area Rapid Transit District and Santa Clara Valley Transportation Authority, dated May 22, 2020, states that the San Francisco Bay Area Rapid Transit District will provide service on the Silicon Valley Extension in a manner consistent with BART's system-wide operating policies; and

WHEREAS, the Federal Emergency Management Agency (FEMA) or its designee makes reimbursement funds available pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.); and

WHEREAS, the Regional Institutional and Employer Pass Pilot program was presented to the Board of Directors on May 12, 2022, in a presentation entitled 22-190 Regional Institutional and Employer Pass Pilot; and

WHEREAS, the system-wide operating plan for Fiscal Year 2023 and Fiscal Year 2024 was presented to the Board of Directors on May 12, 2022, in a presentation entitled "Rail Service Plan, Fiscal Year 2023 and Fiscal Year 2024 Operating Budget Sources and Uses"; and

NOW, THEREFORE, BE IT RESOLVED that the attached Annual Budget (marked Exhibit A and incorporated herein as though set forth at length) is hereby adopted; and

BE IT FURTHER RESOLVED that, subject to the resolved clauses, said Annual Budget includes appropriations of monies expected to be available in the General Fund, Capital Funds including Construction Funds and existing and anticipated Federal, State and local grants, for expenditures in the amounts and for the purposes set forth in said budget; and

BE IT FURTHER RESOLVED that, subject to the resolved clauses, said Annual Budget includes a delayed fare increase consistent with Board Resolution 5405 ("New Fare Rates and Charges: Series 3, 2022-2026, Productivity-Adjusted Inflation-Based Fare Increase Program") adopted June 13, 2019; and

BE IT FURTHER RESOLVED that, subject to the resolved clauses, said Annual Budget includes participation in the Regional Institutional and Employer Pass Pilot program; and

BE IT FURTHER RESOLVED that the General Manager is authorized to enter into services agreements (including professional, technical, maintenance and repair agreements) and lease or license agreements for District use of real property, facilities, equipment and software provided that:

- (1) The General Manager shall first determine that the work or services concerned, in the amounts authorized in a service agreement, cannot satisfactorily be performed by the officers or employees of the District;
- (2) Agreements that are let by public bidding, service, lease, and license agreements, and amendments thereto, between \$25,000 and \$100,000, shall be reported bi-monthly to the Board of Directors;

- (3) Prior authorization by the Board of Directors is required when:
 - a. The agreement, and amendments thereto, total in the aggregate \$100,000 or more in the fiscal year; or
 - b. Amendments total in the aggregate \$100,000 or more in any subsequent fiscal year;
- (4) The General Counsel is authorized to enter into services agreements in amounts up to \$100,000 with special counsel not previously designated by the Board without prior notice to the Board where the General Counsel determines that such immediate action is necessary to protect the legal interests of the District. Any such agreement shall be reported by the General Counsel to the Board within the calendar month thereafter; and
- (5) The General Manager's authority to take immediate remedial measures, as defined in Section 20224 of the California Public Contract Code, and as authorized in Resolution No. 4834 shall remain unchanged; and

BE IT FURTHER RESOLVED that the General Manager is authorized to exchange District goods and services for goods and services from others of approximately equal or greater value; and

BE IT FURTHER RESOLVED that all disbursements resulting from the exercise of authority granted to the General Manager pursuant to this resolution shall be reported to the Board of Directors in the District's quarterly financial report; and

BE IT FURTHER RESOLVED THAT that the General Manager is authorized to waive minor irregularities in bid documents prior to recommending contract awards to the Board; and

BE IT FURTHER RESOLVED that the General Manager or the General Manager's designee is authorized to execute and file a Bridge Toll Application, a TDA Application and an STA Application along with necessary supporting documents, with the Metropolitan Transportation Commission for allocation of bridge toll revenues, TDA and STA funds in FY2023 and FY2024; and

BE IT FURTHER RESOLVED that the General Manager or the General Manager's designee is authorized to execute and file a reimbursement claim with FEMA or its designee for expenses incurred in FY2023 and FY2024; and

BE IT FURTHER RESOLVED that the General Manager or the General Manager's designee is authorized to execute and file an application to the FTA for allocation of Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) funding in FY2023 and FY2024; and

BE IT FURTHER RESOLVED that the General Manager or the General Manager's designee is authorized to execute and file an application to the FTA for allocation of American Rescue Plan Act (ARP) funding in FY2023 and FY2024; and

BE IT FURTHER RESOLVED that the San Francisco Bay Area Rapid Transit District's system-wide operating policies shall be generally as set forth in the May 12, 2022, presentation entitled "Rail Service Plan, Fiscal Year 2023 and Fiscal Year 2024 Operating Budget Sources and Uses", subject to such adjustments that staff determines necessary to operate the service in the public's interest; and

BE IT FURTHER RESOLVED that the General Manager or the General Manager's designee is authorized to execute agreements with regional transit operators to provide or receive transfer payments, such transfer payments being paid or received by the District to facilitate the coordination of transit service and to furnish incentives for providing of enhanced transfer services between San Francisco Bay Area Rapid Transit District and other operators' operations; and

BE IT FURTHER RESOLVED that the General Manager is authorized to make expenditures and incur liabilities against said funds within the limits set forth in said budget and the provisions of this Resolution, and to act on behalf of the District in connection with contracts arising thereunder, by following the procedures provided by law, and by Board of Directors' Resolutions and Board Rules, except that no contractual obligation shall be assumed by the District in excess of its ability to pay, and provided further that all expenditures shall be in conformance with statutory and other restrictions placed on the use of said funds; and

BE IT FURTHER RESOLVED that the General Manager is authorized to exceed Board Appointed Department/Executive Office budgets by more than ten percent (10%) ten (10) days after written notice of this intended action has been mailed to the Board of Directors, provided that the Total Net Operating Expense line item set forth in "Exhibit A" is not exceeded and such action is consistent with Board Rule 5-1.4 and provided further that the General Manager will prepare and send to the Board, a summary of Department budgets within approximately 30 days after the adoption of this budget; and

BE IT FURTHER RESOLVED that the General Manager is authorized to exceed the foregoing ten percent limitation for emergency expenditures which are made in accordance with Resolution No. 4834 and Public Contract Code Section 20224; and

BE IT FURTHER RESOLVED that the General Manager is authorized to act on behalf of the District, and to make expenditures and incur liabilities against all funds of the District as provided for in contracts which have been authorized by the Board of Directors of the District and that the Board's authorizations of such contracts also include the necessary appropriations for such contracts and change orders authorized by Rules approved by the Board, subject, however, to compliance with such specific appropriation resolutions as may be adopted by the Board from time to time; and

BE IT FURTHER RESOLVED that the General Manager or the General Manager's designee is authorized to issue free or discounted promotional rides in FY2023 and FY2024 for purposes of building ridership on the system, consistent with ridership development guidelines; and

BE IT FURTHER RESOLVED that effective July 1, 2022:

- (1) The total number of permanent full and permanent part-time positions (“full time equivalent”) as of July 1, 2022, budgeted for the District shall be 4,572.31 in FY2023 and 4,590.15 in FY2024 (a part-time position is counted as 0.625 positions). Additional permanent positions are authorized, as required, not to exceed 100 positions;
- (2) The character and salary ranges of such positions, including officers appointed by the Board pursuant to Public Utilities Code Section 28811 shall be as set forth in the agreements entered into with Service Employees’ International Union, Local 1021, Amalgamated Transit Union, Local 1555, American Federation of State and County Municipal Employees, Local 3993, the BART Police Officers Association and the BART Police Managers Association as to the employees represented thereby, and with other Bargaining Units for employees that may later be represented thereby, and for all other employees as set forth in the attached “Exhibit B”, incorporated herein as though set forth at length. The employment benefits for non-represented employees shall be administered by the General Manager in accordance with Board Rule 4-1.2;
- (3) The General Manager is authorized to make future adjustments to the Professional/Management Salary Ranges (“Exhibit B”) for non-represented employees in accordance with applicable provisions of the Compensation Manual, which reflects the District policy and practice to evaluate such ranges on an annual basis and to establish the mid-points of the pay ranges for positions so that they approximate the 75th percentile of the average of salaries paid for similar jobs in the labor market and to promptly advise the Board of any and all such range adjustments. The General Manager is directed to initiate the annual review by October of each year; and
- (4) The District Secretary shall ensure that an amendment to Exhibit B be prepared to reflect any adjustment to the hourly wage rates or professional/management pay bands as provided above or any adjustment to the Board appointed officers' salaries as a result of merit adjustments or scheduled increases provided in such officers' employment agreements that take effect during the fiscal year. The District Secretary shall attach any such amendment to Exhibit B as an addendum to this resolution; and

BE IT FURTHER RESOLVED that the General Manager or the General Manager's designee shall post all grant applications online to the public as they are submitted, except those that if made public would compromise the security of the system.

###

EXHIBIT A
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
ANNUAL BUDGET - FY23 and FY24

<u>FUND SOURCES</u>	<u>FY23</u>		<u>FY24</u>	
FUND SOURCES FOR NET OPERATING EXPENSE BUDGET, DEBT SERVICE AND CAPITAL ALLOCATIONS				
Operating Revenue	\$	255,166,015	\$	320,400,569
Sales Tax		298,959,010		306,613,345
Property Tax		57,986,737		61,176,007
MTA Financial Assistance		32,662,603		31,207,427
MTC Financial Assistance Clipper Start		287,092		438,091
Local & Other Assistance		9,112,691		9,261,223
State Transit Assistance		22,748,170		38,608,082
Low Carbon Transit Operations Program		10,258,949		10,258,949
Low Carbon Fuel Standard Program		16,629,838		16,414,398
Subtotal Operating Sources		703,811,105		794,378,091
Federal Emergency Assistance		313,595,161		273,411,449
Subtotal – Emergency Assistance		313,595,161		273,411,449
Total Operating Sources		1,017,406,266		1,067,789,540
FUND SOURCE FOR CAPITAL BUDGET				
Capital Funds - Cash Flow FY23 ⁽²⁾	\$	1,494,207,379	\$	1,494,207,379
TOTAL ESTIMATED FUND SOURCES	\$	2,511,613,644	\$	2,561,996,919
<u>FUND USES</u>				
FUND USES FOR NET OPERATING EXPENSE BUDGET, DEBT SERVICE AND CAPITAL ALLOCATIONS				
Net Labor Expense ⁽¹⁾	\$	632,196,786	\$	649,020,661
Non-Labor Expense		227,792,607		231,278,394
Total Net Operating Expense	\$	859,989,393	\$	880,299,055
Revenue Bond Debt Service		59,919,129		60,131,289
Allocation to Capital - Rehabilitation		46,486,387		45,315,114
Allocation to Capital - Priority Capital Programs		33,000,000		64,000,000
Allocation to Capital - Other		1,636,232		1,668,957
Allocation - Sustainability from LCFS		6,375,125		6,375,125
Allocation - Pension		10,000,000		10,000,000
Total Operating Uses	\$	1,017,406,266	\$	1,067,789,540
FUND USES FOR CAPITAL BUDGET				
Capital Funds - Cash Flow FY23 ⁽²⁾	\$	1,494,207,379	\$	1,494,207,379
TOTAL ESTIMATED FUND USES	\$	2,511,613,644	\$	2,561,996,919
NET FINANCIAL RESULT (DEFICIT)		-		-

⁽¹⁾ Total Authorized Permanent Positions as of 07/01/22 = 4,572.316, as of 07/01/23 = 4,590.150

⁽²⁾ The FY24 Capital Budget is a rollover of the FY23 Budget and will be updated as part of the FY24 Capital Budget Process

EXHIBIT B

**CHARACTER, BASE SALARIES, PAY BANDS, HOURLY WAGE RATES,
AND MANAGEMENT INCENTIVE PAY OF MANAGEMENT AND
NON-REPRESENTED CLASSIFICATIONS**

CHARACTER OF POSITION/PAYROLL CLASSIFICATION TITLE						
HOURLY WAGE RANGE						
CLERICAL & HOURLY	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
ADMINISTRATIVE TECHNICIAN	\$34.1362	\$35.6154	\$36.9864	\$38.3930	\$39.8363	\$40.3902
PARALEGAL	\$40.6341	\$42.3978	\$44.0311	\$45.7088	\$47.4300	\$48.0842
P/T SURVEY TAKER (SINGLE RATE)	\$39.1091					
ENGINEER INTERN	\$22.5000					

NOTE: The clerical rates are effective 06/30/2021, no rate increases in FY23.

PROFESSIONAL/MANAGEMENT PAY BANDS

PAY BAND	MINIMUM	MIDPOINT	MAXIMUM
15	\$196,636	\$245,795	\$297,904
14	178,760	223,450	270,821
13	162,509	203,136	246,201
12	147,736	184,669	223,819
11	138,071	172,588	209,177
10	129,038	161,297	195,493
9	120,596	150,745	182,703
8	112,707	140,883	170,751
7	105,333	131,667	159,580
6	98,442	123,053	149,140
5	92,002	115,003	139,383
4	85,983	107,479	130,265
3	80,358	100,448	121,743
2	75,101	93,877	113,778
1	69,769	87,735	105,701

NOTE: The professional/ management pay bands were effective 6/30/2019.

MANAGEMENT INCENTIVE PAY (ANNUAL) Amount

Assistant General Manager - Operations	\$4,800
Assistant General Manager - External Affairs	\$4,800
Assistant General Manager - Administration	\$4,800
Assistant General Manager - Technology/CIC	\$4,800
Assistant General Manager - Design & Construction	\$4,800
Assistant General Manager - Performance & Budget	\$4,800
Deputy General Manager	\$4,800
Managing Director - Capitol Corridor	\$4,800
Police Chief	\$4,800
Deputy Police Chief	10%

Due to the unique nature of these jobs as executive management employees reporting directly to the General Manager, these classifications are eligible to receive Management Incentive Pay of \$4,800 annually (26 equal pay period installments of \$184.61).

Due to the unique nature of the job as first level management over Police Lieutenants, the Deputy Police Chief classification is eligible to receive Deputy Police Chief Management Incentive Pay in the amount of 10% of the regular base pay rate.

BOARD APPOINTED OFFICERS' ANNUAL SALARIES

	Base Salaries	Effective
DISTRICT SECRETARY*	\$220,307.33	7/1/2022
CONTROLLER-TREASURER*	\$279,829.28	7/1/2022
GENERAL COUNSEL	\$309,391.56	7/1/2022
GENERAL MANAGER	\$396,210.03	7/1/2022
INDEPENDENT POLICE AUDITOR	\$210,730.48	7/1/2022
INSPECTOR GENERAL	\$210,968.98	7/1/2022

* Board Appointed Officer positions currently vacant, listed latest base salary

Note: No rate increases in FY23.



Fiscal Year 2023 and Fiscal Year 2024 Two-Year Annual Budget Adoption

BART Board of Directors

June 9, 2022

FY23 & FY24 Annual Budget – Executive Summary

In FY23 & FY24, BART will continue to deliver reliable, safe, frequent service with a focus on ridership experience

BART is also focused on extending the fiscal runway

- Underspending in FY22 will result reduced federal emergency assistance need, extending the runway

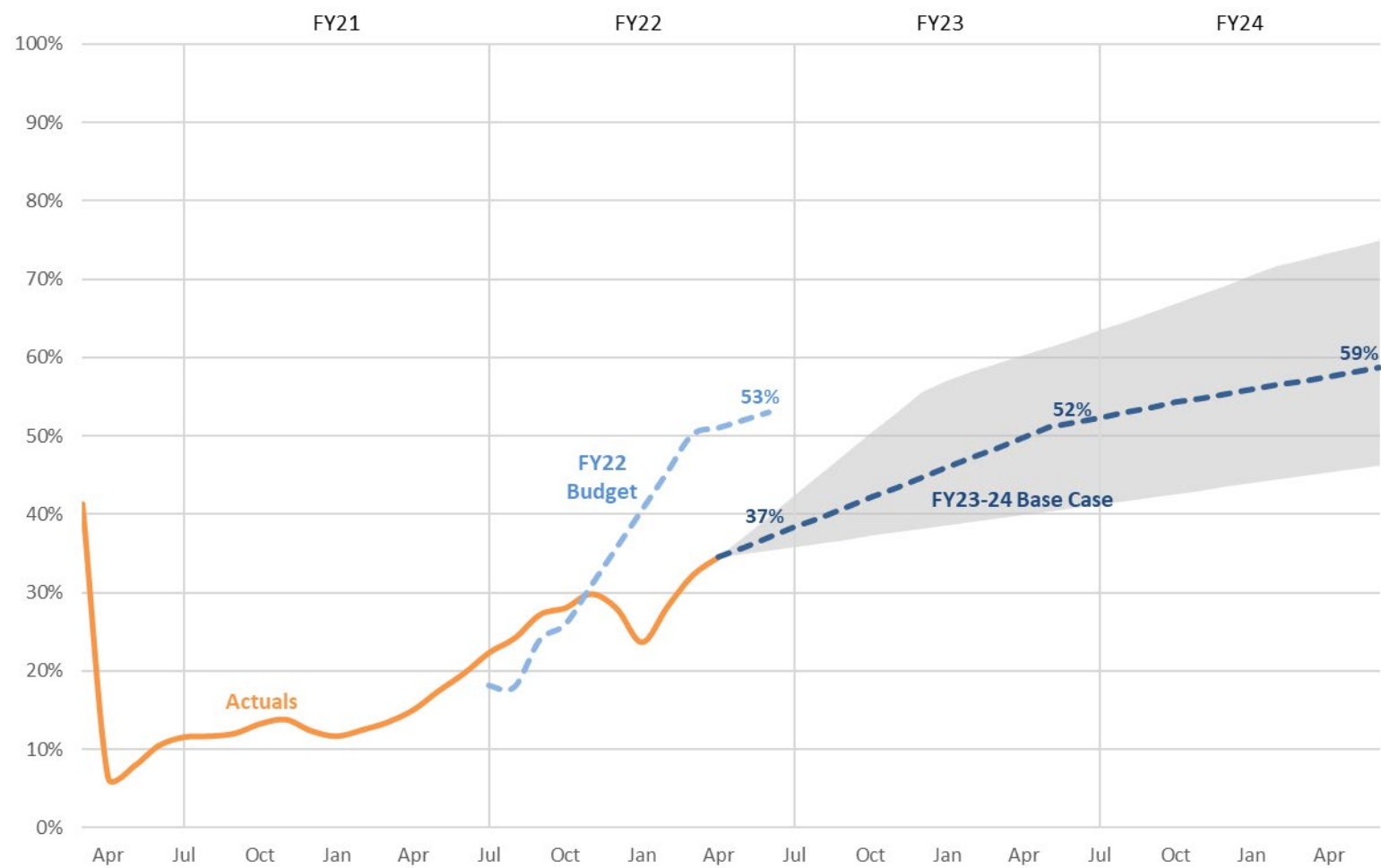
The budget includes a less than CPI fare increase of 3.4% effective July 1, 2022 per Board policy

- Projected to generate ~\$15M in revenue over FY23 & FY24

The FY23 & FY24 Operating Budget includes several budget process improvements:

- Efforts to reduce budget to actuals variance, notably by reflecting industry-wide and regional hiring challenges
- BART's first two-year budget

FY23 & FY24 Ridership Outlook



Assumes average weekday ridership of:

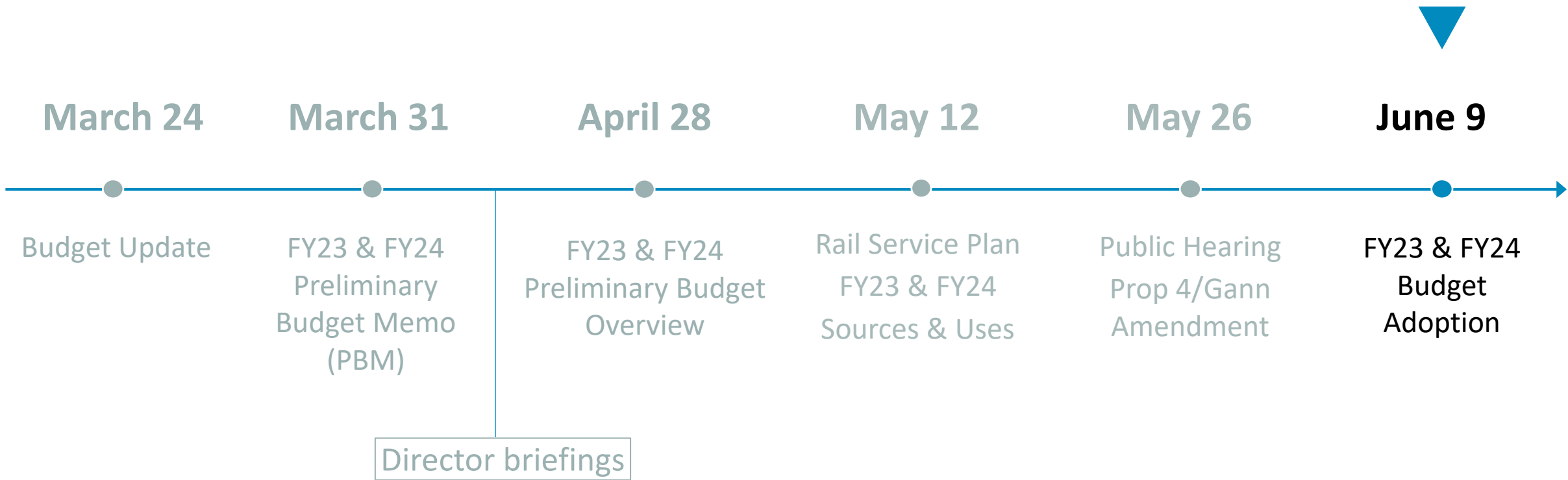
- ~140,000 by end of FY22
- ~210,000 by end of FY23
- ~240,000 by end of FY24

FY23 & FY24 Net Result & Federal Emergency Assistance Need

Federal Assistance Need					Prelim to Proposed				Prelim to Proposed	
(\$Millions)	FY22 Adopted	FY22 Forecast	FY23 Prelim	FY23 Proposed	\$	%	FY24 Prelim	FY24 Proposed	\$	%
Operating Revenue	195.7	164.2	254.8	255.2	0.4	0%	319.5	320.4	0.9	0%
Financial Assistance	437.3	487.3	448.0	448.6	0.7	0%	473.8	474.0	0.2	0%
<i>Total Traditional Sources</i>	<i>633.0</i>	<i>651.5</i>	<i>702.7</i>	<i>703.8</i>	<i>1.1</i>	<i>0%</i>	<i>793.3</i>	<i>794.4</i>	<i>1.1</i>	<i>0%</i>
Operating Expense	859.6	775.0	873.2	860.0	(13.2)	-2%	890.8	880.3	(10.5)	-1%
Debt Service & Allocations	159.1	160.6	158.0	157.4	(0.6)	0%	189.8	187.5	(2.3)	-1%
<i>Total Uses</i>	<i>1,018.7</i>	<i>935.6</i>	<i>1,031.2</i>	<i>1,017.4</i>	<i>(13.8)</i>	<i>-1%</i>	<i>1,080.6</i>	<i>1,067.8</i>	<i>(12.8)</i>	<i>-1%</i>
Net Result Before Federal Emergency Assistance	(385.7)	(284.1)	(328.5)	(313.6)	14.9	-5%	(287.3)	(273.4)	13.9	-5%
Federal Emergency Funding	385.7	284.1	328.5	313.6	(14.9)	-5%	287.3	273.4	(13.9)	-5%

- ~\$315M of emergency federal assistance expected to remain after FY24
- Fiscal runway now projected to end in mid-FY26

Timeline and Next Steps



Motion

- Board is requested to adopt the Resolution in the matter of approving the Annual Budget for the San Francisco Bay Area Rapid Transit District and authorizes expenditures for the fiscal years July 1, 2022 to June 30, 2023 and July 1, 2023 to July 30, 2024.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: June 3, 2022

FROM: General Manager

SUBJECT: FY22 Third Quarter Financial Report (QFR)

The FY22 Third Quarter Financial Report (January – March 2022) is attached. Additional explanatory detail is provided in this memo and a one-page ridership summary is shown on the last page of this package.

The District's net operating result was balanced through the third quarter. On an operating basis, the District collected \$216.7M less in revenues than it spent. The gap was made up with the use of federal funds allocated through the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA). These funds allow the District to show a balanced net result at the end of the third quarter.

Ridership

Ridership totaled 8.1M exits in the third quarter of FY22, 37% under budget. This was more than double the same period a year ago, but 72% below the same period in FY19, prior to the pandemic. Average weekday ridership during the third quarter was 105,896 exits, 39% below budget, 122% higher than a year ago, and 74% below FY19. Over the first three quarters, ridership totaled 23.9M exits, 13% below budget.

Third quarter FY22 ridership was slightly lower than the previous quarter, as concerns about the COVID Omicron variant manifested sharply at the end of December and beginning of January. Ridership grew steadily for the remainder of the quarter, reaching early-December levels of ridership in mid-March.

Operating Revenue

Operating Revenue was \$14.1 (11.2%) below budget through the third quarter of FY22.

Net Passenger Revenue was \$13.2M (12.6%) below budget YTD, driven largely by the Omicron surge in late December. **Parking Revenue** was \$1.9M (30.7%) favorable, as parking demand increased during Q3 despite a drop in ridership. **Other Operating Revenue** was \$2.8M (19.2%) below budget. Sub-items of note include Advertising Revenue (\$0.6M below budget due to lower-than expected advertising sales), Traffic Fines and Forfeitures (\$0.6M below budget due to low parking enforcement levels), Fiber Optics Revenue (\$0.4M below budget), and several smaller, miscellaneous sources.

Financial Assistance

Sales Tax revenue was \$31.0M (15.4%) favorable through the third quarter. This positive result was driven by robust retail sales and a pandemic-induced shift from spending on services, which do not generate sales tax, to durable goods, which do. Preliminary state data indicates that sales tax revenue continues to be above budget and BART's sales tax revenues are expected to end the year substantially above budget.

Property Tax revenue was \$1.6M (5.4%) favorable. **State Transit Assistance** was \$8.4M (59.1%) unfavorable due to timing of payments. However, both sources of financial assistance are expected to end the year above budget.

SFO Extension Financial Assistance was \$7.8M (34.7%) above budget expectations. By policy, this line item is funded by the SFO reserve account, and is forecast to be exhausted by the end of FY22. The YTD variance is due to a larger-than-forecast balance in the SFO reserve account at the start of FY22.

Other Assistance was \$1.0M (3.8%) favorable. Through March, Low Carbon Fuel Standard (LCFS) credit sales were \$4.4M unfavorable due to recent softness in market pricing. This was offset by above-budget revenues from several federal grant sources (\$3.8M), Low Carbon Transit Operations Program (\$1.1M), and several smaller funding sources.

Federal Emergency Assistance, which comprises both CRRSAA and the American Rescue Plan (ARP), is used to offset operating deficits. Through the first three quarters of the fiscal year, federal emergency assistance use was \$216.7M, \$74.7M below budgeted levels. This variance represents the sum of all variances compared to budget described in this memo.

Operating Uses

Total Operating Expense was \$55.4M (8.6%) below budget through the third quarter of FY22.

Wages, Benefits & Other Labor was \$77.4M (12.7%) below budget through the third quarter, driven by a higher-than-expected vacancy rate, with 584 (13.0%) operating and capital positions vacant at the end of Q3. This favorability was slightly offset by \$4.1M of unbudgeted California Supplemental Paid Sick Leave (SPSL) use for COVID-19 related reasons. **Total Overtime** was \$21.8M (59.9%) unfavorable to budget through the third quarter on a gross basis, though on a net basis, this variance was offset by \$18.9M of capital-funded overtime; the net result to the operating budget was \$2.9M unfavorable. All but one major department with a significant overtime budget is under budget three quarters of the way through the fiscal year. The exception is Rolling Stock & Shops, which has required a larger-than-anticipated reliance on overtime to maintain older rolling stock during increased service levels, as well as to perform enhanced cleaning of cars despite significant vacancies. **Capital Labor Reimbursements** totaled \$106.4M through the same period, \$35.7M (25.1%) unfavorable to budget; this continues to be driven by higher-than-expected capital vacancy rates. **Other Reimbursements** were \$1.1M unfavorable.

Non-labor was below budget through the third quarter by \$17.6M (11.4%). Electric Power was \$1.0M unfavorable due to an increase in energy supply and transmission costs, which have shown signs of persistent escalation throughout the fiscal year. **Other Non-Labor** was \$18.7M favorable to budget, with most of the variance in Professional Fees, followed by Material Usage, Rental Expense, and Miscellaneous Expense. Professional Fees were \$8.1M better than budget due to efforts to reduce spending across the District as well as timing of invoices. Material Usage was \$4.3M favorable due to timing of material purchases and procurement delays. Rental Expense was \$2.9M favorable mostly due to lower-than-expected end of lease expenses for the District's former office space at 300 Lakeside Drive. Miscellaneous Expense was \$2.7M lower than budget, primarily due to lower bank card and Clipper fees associated with lower ridership, fewer vandalism repairs, and printing costs. Other Utilities was \$1.2M favorable while Repairs and Maintenance was \$0.5M unfavorable.

Debt Service and Allocations

Debt Service is on budget. Other Capital Allocations is slightly over budget from two operating to capital allocations that were budgeted in Non-Labor expenses.

FY22 Year -End Forecast

The attached report includes a year-end forecast, which is provided to show how staff expect actuals for the remainder of the fiscal year to perform against budget. Though the District required \$74.7M less federal assistance than expected and the positive variance is increased to \$101.6M in the year-end forecast, the outlook remains challenging with an estimated need of \$284.1M to close the gap.

Overall revenue variance is positive compared to budget, but contains two largely offsetting factors. First, the effects of the Omicron variant depressed ridership and associated fare revenue; a weaker recovery forecast in these areas created a large negative variance from budget (\$32.3M) in the first three quarters of the fiscal year. This variance is offset by strong performance in sales tax and State Transit Assistance, which are projected to surpass budget by \$35.6M and \$7.8M, respectively.

On the expense side, savings were generated primarily by vacancies and non-labor seasonality effects (invoices generally come in later in the fiscal year). Though over the course of the year, vacancies will be filled and purchasing activities generally increase, overall expenses are projected to finish the year \$83.1M below budget.

At this time, staff estimate a current year estimated operating deficit of \$284.1M, which will be closed with Federal Emergency Assistance. The current estimate is an \$101.6M improvement over the \$385.7M included in the FY22 adopted budget; this difference will be used to offset future deficits. Staff will continue ongoing work to manage expenses and build ridership in order to extend the fiscal runway.

If you have any questions about this report, please contact Pamela Herhold, Assistant General Manager, Performance and Budget, at (510) 464-6168 or pherhol@bart.gov.

DocuSigned by:

Michael Jones

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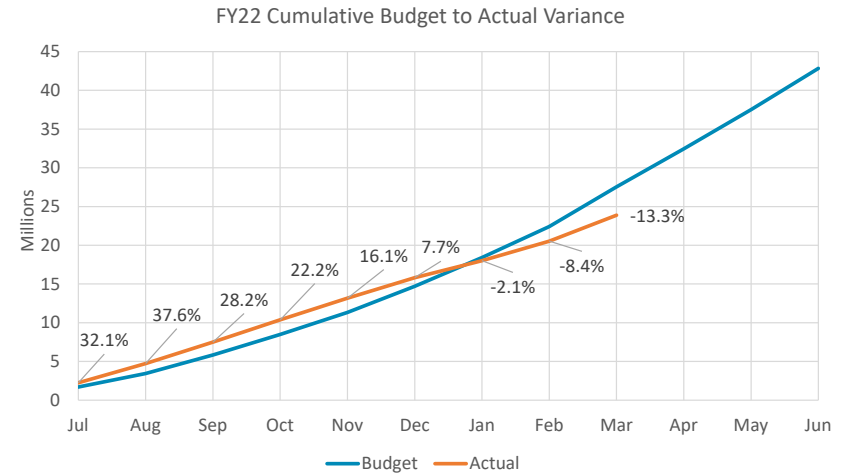
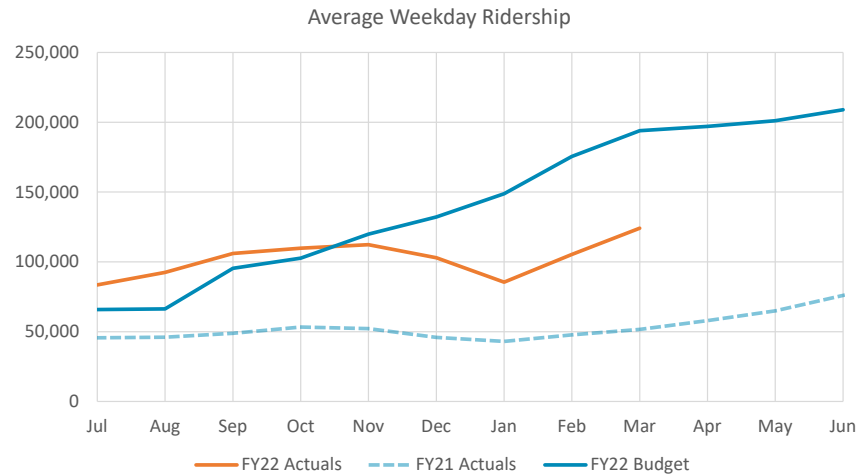
Robert M. Powers

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

Bay Area Rapid Transit District
Quarterly Financial Report - Third Quarter FY22

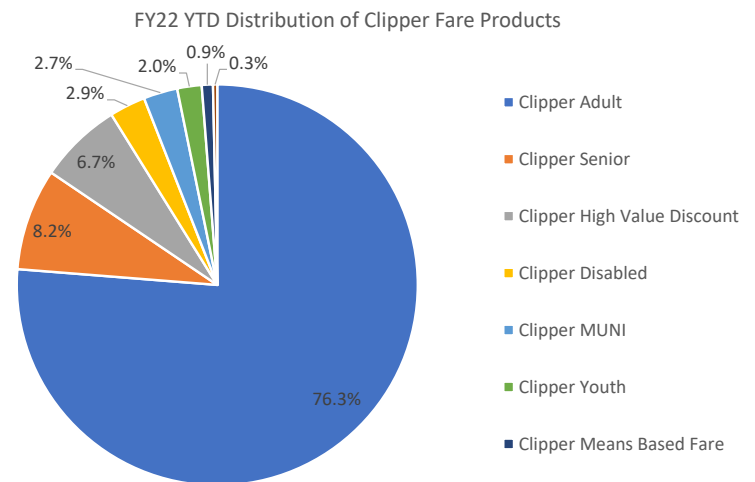
(\$ Millions)	Q1 Actuals	Q2 Actuals	Q3 Actuals	Q3 Budget	Q3 Variance	YTD Actuals	YTD Budget	YTD Variance	YTD % Variance	Year-End Forecast	Annual Budget	Annual Variance
<u>Operating Revenue</u>												
Net Passenger Revenue	25.2	34.0	32.1	51.0	(18.9)	91.3	104.4	(13.2)	-12.6%	134.0	166.4	(32.3)
Parking Revenue	3.0	2.4	2.7	2.5	0.3	8.1	6.2	1.9	30.7%	11.0	9.4	1.6
Other Operating Revenue	5.5	4.8	1.5	4.8	(3.3)	11.8	14.6	(2.8)	-19.2%	16.9	19.8	(2.8)
Total Net Operating Revenue	33.7	41.2	36.3	58.2	(21.9)	111.2	125.3	(14.1)	-11.2%	162.0	195.5	(33.6)
<u>Non-Operating Revenue</u>												
Interest and Investment Income	0.4	(0.0)	(1.1)	0.0	(1.1)	(0.7)	0.1	(0.8)	-846.4%	(0.6)	0.1	(0.8)
<u>Financial Assistance</u>												
Sales Tax	78.0	75.0	79.9	69.0	10.9	232.9	201.9	31.0	15.4%	297.3	261.7	35.6
Property Tax	2.8	26.6	2.8	3.1	(0.2)	32.1	30.5	1.6	5.4%	56.4	54.5	1.9
State Transit Assistance	0.0	0.0	5.8	7.1	(1.3)	5.8	14.2	(8.4)	-59.1%	36.2	28.4	7.8
VTA Financial Assistance	9.5	9.5	9.5	8.8	0.7	28.6	26.4	2.2	8.4%	38.1	35.2	2.9
SFO Ext Financial Assistance	11.4	11.6	7.4	-	7.4	30.4	22.6	7.8	34.7%	30.4	22.6	7.8
Other Assistance	7.6	7.8	11.8	8.8	3.0	27.1	26.1	1.0	3.8%	31.7	35.0	(3.2)
Total Financial Assistance	109.3	130.5	117.2	96.7	20.5	357.0	321.7	35.3	11.0%	490.2	437.3	52.8
Total Sources	143.4	171.7	152.5	155.0	(2.5)	467.6	447.1	20.5	4.6%	651.5	633.0	18.5
<u>Operating Expense</u>												
Wages, Benefits, Other Labor	176.6	174.0	179.6	204.1	24.4	530.2	607.6	77.4	12.7%	691.4	806.5	115.1
Total Overtime	18.4	19.6	20.1	12.1	(7.9)	58.1	36.3	(21.8)	-59.9%	79.7	48.4	(31.2)
Capital Reimbursements - Wages & Fringe	(36.9)	(35.6)	(33.9)	(46.7)	(12.8)	(106.4)	(142.1)	(35.7)	-25.1%	(149.4)	(189.3)	(39.8)
Capital Reimbursements - OT	(6.0)	(6.3)	(6.6)	-	6.6	(18.9)	-	18.9	-	(26.7)	-	26.7
Other Reimbursements	(3.7)	(4.0)	(3.3)	(4.0)	(0.7)	(11.0)	(12.0)	(1.1)	-8.8%	(15.5)	(16.0)	(0.5)
Electric Power	12.6	11.7	12.0	11.2	(0.8)	36.3	35.2	(1.0)	-2.9%	48.1	48.9	0.9
Purchased Transportation	6.5	6.6	6.6	6.6	(0.0)	19.7	19.8	0.0	0.2%	21.1	26.3	5.3
Other Non Labor	22.9	29.1	28.9	31.3	2.4	80.9	99.5	18.6	18.7%	126.4	134.6	8.2
Total Operating Expense	190.3	195.2	203.4	214.6	11.2	588.9	644.3	55.4	8.6%	775.0	859.6	84.6
<u>Non-Operating Expense</u>												
Int Exp ROU Leases GASB 87	0.1	0.6	0.4	-	(0.4)	1.1	-	(1.1)	-	-	-	-
<u>Debt Service and Allocations</u>												
Debt Service	14.2	14.2	14.2	14.3	0.1	42.7	42.9	0.2	0.4%	57.2	57.2	-
Capital and Other Allocations	26.3	0.5	21.1	23.0	1.9	47.9	46.4	(1.5)	-3.3%	93.4	91.9	(1.5)
Pension Allocations	0.0	(0.1)	3.6	5.0	1.4	3.4	5.0	1.6	-31.4%	10.0	10.0	-
GASB 87 Adj. Offset	0.4	0.4	(0.7)	-	0.7	0.2	-	(0.2)	-	-	-	-
Total Debt Service and Allocations	40.9	15.1	38.3	42.3	4.0	94.2	94.2	(0.0)	0.0%	160.6	159.1	(1.5)
Total Uses	231.4	210.9	242.0	256.9	14.9	684.3	738.6	54.2	7.3%	935.6	1,018.7	83.1
Net Result Before Financial Assistance	(88.0)	(39.2)	(89.6)	(101.9)		(216.7)	(291.5)	74.7	25.6%	(284.1)	(385.7)	101.6
Federal Assistance Applied	88.0	39.2	89.6	101.9		216.7	295.0	78.3		284.1	385.7	
Net Result	-	-	-	-	-	-	3.5	(3.5)	-100.0%	-	(0.0)	0.0
Operating Result (Deficit)	(156.7)	(154.0)	(167.1)	(156.4)	(10.7)	(477.7)	(519.1)	41.3	8.0%	(613.0)	(664.0)	(51.0)
System Operating Ratio	17.7%	21.1%	17.9%	27.1%	-9.3%	18.9%	19.4%	-0.6%		20.9%	22.7%	-1.8%
Rail Cost / Passenger Mile (\$)	1.624	1.506	1.647	1.066	(0.582)	1.591	1.497	(0.093)			1.446	

FY22 YTD (Jul - Mar) Ridership Stats



Exits	Actual FY21 YTD	Budget FY22 YTD	Actual FY22 YTD
Weekday	48,268	122,152	102,727
Saturday	25,841	64,464	63,769
Sunday	18,605	45,663	43,197
Total	10,938,264	27,540,282	23,881,303

FY22 YTD Actual vs.	
FY21 YTD Actual	FY22 YTD Budget
212.8%	84.1%
246.8%	98.9%
232.2%	94.6%
218.3%	86.7%





EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Michael Jones</i> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D: Authorize award of Agreement No 6M4782 to Uprise Health for comprehensive Employee Assistance Program (EAP)		
DATE: 5/25/2022 6/1/2022		BOARD INITIATED ITEM: No		
Originator/Prepared by: Reggie Smith Dept: Substance Abuse Program <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Reggie Smith</i> <small>F351BF872A7E43D...</small> </div> Signature/Date: <div style="text-align: right;">5/31/2022</div>	General Counsel <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Jana Belan</i> <small>F8FD7B3A73E74E8...</small> </div> <div style="text-align: right;">5/31/2022 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Chris Gan</i> <small>EE11C8CEEEA04FD...</small> </div> <div style="text-align: right;">6/1/2022 []</div>	District Secretary <div style="text-align: right;">[]</div>	BARC <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Pamela Herhold</i> <small>3BB24D65B8724F5...</small> </div> <div style="text-align: right;">6/1/2022 []</div>

AUTHORIZE AWARD OF AGREEMENT NO. 6M4782 EMPLOYEE ASSISTANCE PROGRAM SERVICES

PURPOSE:

To obtain Board authorization for the General Manager to award Agreement No. 6M4782 to Claremont EAP powered by Uprise Health to provide a comprehensive Employee Assistance Program (EAP) to BART employees and their families as well as substance abuse services for BART employees only. The term of the Agreement will be for a base period of five years with two (2) options to extend for an additional one-year period.

DISCUSSION:

The District has provided Employee Assistance Program (EAP) services to employees and their families since 1984. EAP services include counseling for employees and/or family members experiencing mental health, stress, family discord, elder/childcare issues, legal, financial or workplace difficulties and substance abuse issues. The EAP also provides Substance Abuse Professional services for safety-sensitive employees who have violated the federal alcohol and drug program requirements (49 CFR Part 40 and 655).

The District's last RFP for EAP services was issued on August 29, 2014 and the agreement was awarded to Claremont Behavioral Services, Inc. who currently provides these services to the District. This existing agreement expires on July 31, 2022.

An Advance Notice to Proposers was issued on March 2, 2022 to nine (9) potential proposers from a vendor list of known consultants in the field and ninety-one (91) small businesses. The Request for Proposals (RFP) was advertised in ten (10) newspapers during the month of March. A Pre-Proposal Meeting was conducted on March 17, 2022 with four

(4) companies attending. One (1) proposal was received on April 19, 2022 from Claremont EAP powered by Uprise Health.

The District's Selection Committee, chaired by Contract Administration, consisted of representation from Human Resources, Police, Transportation, Amalgamated Transit Union (ATU), the Office of Civil Rights, and AC Transit. The Selection Committee determined that Claremont EAP powered by Uprise Health's proposal met the minimum technical requirements and was responsive to the Scope of Work contained in the RFP. An interview was conducted with the Proposer on May 23, 2022.

The Selection Committee opened and reviewed the price proposal which indicated a proposal price of \$3,852,914.56 for a base 5 years and 2 option years. The quantities of services are based on the District's past utilization patterns over the last seven years; therefore the quoted pricing is considered to be fair and reasonable. During the pandemic, the need for EAP and mental health services has experienced a significant increase in the utilization of services.

Claremont Behavioral Health Inc. has had over 27 years of experience in providing EAP services to the District. Uprise Health purchased Claremont Behavioral Health Inc. in 2021 and brings over 30 years of experience providing EAP services to a diverse employer base throughout the United States.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services (DGS). It was determined that there were no certified Small Businesses certified by the DGS among the responsive Bidders and, therefore, the Small Business Prime Preference is not applicable.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Agreement are 8.4% for Minority Business Enterprises ("MBEs") and 5.7% for Women Business Enterprises ("WBEs"). Claremont EAP powered by Uprise Health committed to 1.38% MBE and 1.03% WBE participation. Claremont EAP powered by Uprise Health did not meet either the MBE or WBE Availability Percentages; therefore, Claremont EAP powered by Uprise Health was requested to provide the Office of Civil Rights with supporting documentation to determine if it had discriminated on the basis of race, national origin, color, gender or ethnicity. Based on the review of the information submitted by Claremont EAP powered by Uprise Health, the Office of Civil Rights found no evidence of discrimination.

The Office of General Counsel will approve the Agreement as to form.

FISCAL IMPACT:

This agreement will provide EAP services, including substance abuse rehabilitation program

AUTHORIZE AWARD OF AGREEMENT NO. 6M4782 EMPLOYEE ASSISTANCE PROGRAM SERVICES

services, for the base period of five (5) years with two (2) options to extend for an additional one-year period each. The total anticipated cost for the seven years (7) year period will not exceed \$4,500,000 with an annual impact of approximately \$643,000. Funds for the initial costs are included in the proposed operating budget for FY 23 and FY 24. Funds for subsequent fiscal years will be requested as part of the Human Resource's total budget.

The department number under the Substance Abuse Program is 0502428.

<i>FY 2023</i>	<i>\$643,000.00</i>	<i>Base Year 1 (8/1/22-7/31/23)</i>
<i>FY 2024</i>	<i>\$643,000.00</i>	<i>Base Year 2 (8/1/23-7/31/24)</i>
<i>FY 2025</i>	<i>\$643,000.00</i>	<i>Base Year 3 (8/1/24-7/31/25)</i>
<i>FY 2026</i>	<i>\$643,000.00</i>	<i>Base Year 4 (8/1/25-7/31/26)</i>
<i>FY 2027</i>	<i>\$643,000.00</i>	<i>Base Year 5 (8/1/26-7/31/27)</i>
<i>FY 2028</i>	<i>\$643,000.00</i>	<i>Option Year 1 (8/1/27-7/31/28)</i>
<i>FY 2029</i>	<i>\$642,000.00</i>	<i>Option Year 2 (8/1/28-7/31/29)</i>

ALTERNATIVE:

Not entering into an agreement with Claremont EAP powered by Uprise Health at this time and issuing another Request for Proposal to procure another firm to perform the needed services would not result in additional proposals due to the direct contact staff had to qualified firms to confirm receipt of the RFP and wide media distribution concerning the solicitation of proposals.

RECOMMENDATION:

Adopt the following motion.

MOTION:

The General Manager is authorized to award Agreement No. 6M4782 to Claremont EAP powered by Uprise Health for comprehensive Employee Assistance Program (EAP) services for BART employees and their families as well as substance abuse services for BART employees only, for a base period of five (5) years with two (2) options to extend for an additional one-year period each, for a total amount not to exceed \$4,500,000.00

AUTHORIZE AWARD OF AGREEMENT NO. 6M4782 EMPLOYEE ASSISTANCE PROGRAM SERVICES

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: June 3, 2022

FROM: General Manager

SUBJECT: State Legislative Update and Legislation for Consideration

At the June 9, 2022, Board of Directors meeting, staff will provide a state legislative update and present legislation for your consideration. The bills for consideration have a nexus to BART policies or programs and align with the Board's adopted Legislative Advocacy Program for 2022.

Attached are staff's analyses and text for each bill. Following the staff presentation, a request will be made of the Board to consider passing the draft motion shown below.

STATE LEGISLATIVE UPDATE

SB 917 (Becker) Seamless Transit Transformation Act
Current Position: Support if Amended

SB 1488 (Glazer) Office of the BART Inspector General
Current Position: Oppose Unless Amended

LEGISLATION FOR CONSIDERATION AND SUPPORT

AB 1621 (Gipson) Firearms: Unserialized Firearms

AB 2011 (Wicks) Affordable Housing and High Road Jobs Act of 2022

SB 1161 (Min) Transit Operators: Street Harassment Plans

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

DocuSigned by:
Michael Jones
47000790F2D7463...

Robert M. Powers

Attachments

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

DRAFT MOTIONS:

The Board of Directors supports AB 1621, AB 2011, and SB 1161.

SB 917 (Becker) – Staff Update**TITLE:** Seamless Transit Transformation Act**AUTHOR:** Becker (D-Menlo Park)**SPONSORS:** Bay Area Council, Seamless Bay Area, TransForm**CURRENT POSITION:** Support if Amended

BACKGROUND/UPDATE: SB 917 would enact the Seamless Transit Transformation Act to improve coordination and integration among the 27 transit operators in the Bay Area. On March 24, 2022, the BART Board adopted a Support if Amended position on SB 917 and authorized staff to pursue an outlined set of amendments with the author’s office. Since that time, BART staff, in collaboration with Bay Area transit operators and the Metropolitan Transportation Commission (MTC), have worked with the author’s office on bill amendments, which went into print on April 18. A summary of the amendments is provided below in addition to language that is aligned with amendments authorized by the Board.

New Definitions

Amendments define the following terms:

- “Cable car service” means the historic cable car system operated by the San Francisco Municipal Transportation Agency.
- “Local transit service” means bus and light rail transit service within or adjacent to a transit agency’s defined service area within the region, excluding bus services that cross a toll bridge over San Francisco Bay.
- “Regional transit service” means all heavy rail, commuter rail, ferry, or express bus services, as designated by a transit agency, and bus services that cross a toll bridge over San Francisco Bay. Regional transit service does not include intercity passenger rail or services operated by the San Joaquin Regional Rail Commission.

Connected Network Plan

- Amendments remove MTC’s consultation with the “region’s transit agencies” and replace it with a “regional transit coordinating council,” (RTCC) as defined in statute.
- MTC in consultation with the RTCC shall develop a Connected Network Plan (the Plan) on or before March 31, 2024, depending on an appropriation in the State Budget or the availability of private nonstate funding. In the absence of additional funding, MTC shall complete the Plan by December 31, 2025. These amendments address concerns with the previous deadline of December 31, 2023.
- Language regarding potential governance, institutional, or legislative changes to support the Plan was removed to acknowledge work within the current Transit Network Management Business Case.
- Amendments also specify the Plan shall establish a transit priority network, which is aligned with amendments proposed by transit agencies and MTC.

Integrated Transit Fare Structure

- Amendments require MTC, in consultation with the RTCC, to annually review the integrated transit fare structure for necessary updates and implementation.
- Amendments specify the integrated transit fare structure shall include no-cost local transit service transfers and reduced-cost regional transit service transfers, regardless of whether transfers are between the same transit agency or multiple transit agencies except if the transfer is to a cable car service.
- New language would task MTC in consultation with the RTCC to develop an estimate, by March 31, 2024, of the financial impact associated with implementing the following fare integration policies:

- A common fare structure for regional transit services by which trips involving one or more regional transit services are priced equivalently
- A multiagency pass, which may include a cap, offering rides to local and regional transit services on a daily or monthly basis for one set price, except for paratransit service.
- If funding is secured, either policy described above shall be implemented on a three-year pilot basis. For the common fare structure, MTC is required to develop a draft and present at a public meeting at least 30 days before its adoption. The timing of when the policy shall take effect shall be determined by the commission in consultation with the RTCC.
- Transit operators and MTC intend to continue working with the author on language within this section to address questions and concerns related to fare-setting authority, agency governance, funding for such programs, and potential fiscal impacts to agencies resulting from an integrated fare structure.

Regional Transit Mapping and Wayfinding

- Amendments delay MTC's development of a comprehensive, standardized regional transit mapping and wayfinding system to July 1, 2025, one year later than previously proposed.
- Amendments clarify that, in the process of developing a mapping and wayfinding system, the manner in which transit agency branding is permitted shall be identified and nothing shall prevent an agency from displaying their own map on a temporary basis if the regional system is unavailable or otherwise cannot address a need due to unforeseen circumstances.
- Amendments clarify that on or after January 1, 2026, any new investments to mapping and wayfinding, including replacement and upgrades, adhere to the standards developed, unless MTC adopts an alternate deployment timeline.
- Overall, the revised language in this section is aligned with amendments proposed by transit agencies and MTC.

Real Time Transit Data/Open Data Standards

- Amendments delay deadline for MTC to establish open data standards by seven months to July 1, 2023. Transit agencies and MTC requested the deadline for agencies to comply with set standards be revised to consideration feasibility and existing resources.
- Amendments allow agencies to not disclose vehicle location information if they can otherwise comply with providing arrival/departure information. The previous requirement to provide real-time rail vehicle locations represented significant security concerns for BART.
- Amendments also clarify that nothing shall preclude transit agencies from using real-time data for their own purposes if data is also shared with MTC. Language is consistent with amendments sought by the District.

Compliance with Act and Withholding State Transit Assistance (STA) Funds

- Consistent with requests made by transit agencies and MTC, the new language softens the enforcement of the provisions related to the integrated transit fare structure, regional transit mapping and wayfinding, and real time transit/open data standards. If an agency does not comply, MTC shall notify the agency of what steps are needed to comply. If the agency cannot comply due to a lack of funding, the agency shall submit a request for additional funding or for an exemption from requirements. If either request is rejected, the agency shall not receive a portion of its STA funds; however, withheld funds will be restored upon demonstration of compliance.

CONTINUED AREAS OF CONCERN: While the amendments published on April 18 allay many of the District's initial concerns, there remain worries regarding the bill's integrated fare structure requirements. Public transit agencies have a fiduciary responsibility to use their resources (locally derived revenue, fares, operating assistance, etc.) to deliver essential transportation service. This responsibility extends to each

agency's policy-making board, which is charged with setting fares and policies that support equitable transit service.

The bill would require MTC to adopt an integrated transit fare structure by December 31, 2023, to become effective July 1, 2024. It also specifies that a common fare structure for regional transit service and a multiagency pass be implemented as three-year pilot programs if sufficient funding is secured by MTC or agencies; the estimate of the funding needed for the pilot programs is required to be completed by MTC, in consultation with the RTCC, on or before March 31, 2024. A common regional fare structure performed well in the Fare Coordination and Integration Study, however the Fare Integration Task Force identified this as an area needing further study and evaluation. Factors a common fare structure must consider include the transfer of locally sourced funds between agencies, funding to offset agency revenue impacts, each agency board's fare setting authority, and a new governance structure. It is unclear the role agency boards would have in developing either of the proposed pilot programs, and the timing of such work should be informed by the ongoing work of the Fare Integration Task Force.

Under the pilot programs, BART's fare-setting authority would also shift to MTC. While we understand the process of development and adoption would include operator input through the RTCC, this body is not well defined in statute, and there is no formal role for transit agency governing boards in approving or rejecting proposals. It is also unclear what authority BART would retain to make any fares changes during the pilot that may be necessary to help fund the District's operating and/or capital budgets.

The proposed changes further create an accountability gap between those setting fares and those providing service. One example of this is that all federally funded transit agencies are required to conduct a Title VI Fare Equity Analysis to evaluate the impacts of any fare change on both minority and low-income populations. Under the current bill, MTC would be setting fare policies for the region, but agencies would be the ones required to conduct outreach as part of an equity analysis. The bill is silent to these requirements, and it is unclear how each agency's analysis would be considered in any fare changes decided by MTC.

Finally, the identification of additional funding to implement the bill requirements is critical. MTC has already committed some one-time funds to help implement elements of the bill, but there is not yet sufficient, annual funding identified to sustain the fare integration work or other efforts over time. This will likely require a future ballot measure or statewide legislation to increase transit operating funding.

Initial conversations with the author's office proposed removing language on an integrated fare structure and replacing it with language for MTC and transit operators to report to the Legislature on progress regarding elements of the Fare Coordination and Integration Task Force vision statement. Since there is a desire by the sponsors to see such elements included within the bill, transit operators and MTC are continuing conversations with the author's office regarding amendments with the goal of striking a balance between regional integration and preservation of transit boards' fare-setting authority.

KNOWN SUPPORT/OPPOSITION: Support: Bay Area Council (co-sponsor), Seamless Bay Area (co-sponsor), TransForm (co-sponsor), 350 Bay Area Action, 350 Silicon Valley, 50 Acterra Action for A Healthy Planet, Alameda County Democratic Central Committee, Arc Alternative and Renewable Construction LLC, Association for Commuter Transportation, California YIMBY, Center for Independent Living, INC., City of Half Moon Bay, City of Oakland, City of San Mateo, Climate Reality Project: Silicon Valley, East Bay for Everyone, East Bay Housing Organizations, East Bay Transit Riders Union, Elders Climate Action, NorCal and SoCal Chapters, Friends of Caltrain, Friends of Smart, Generation Housing, Greenbelt Alliance, Housing Leadership Council of San Mateo County, Joint Venture Silicon Valley, Menlo Spark, Metropolitan Transportation Commission, North Bay Leadership Council, Pacifica Climate Committee, San Francisco League of Conservation Voters, SF.CITI, Silicon Valley Chamber Coalition, Silicon Valley Youth Climate Action, Spur, Sustainable Marin, Sustainable Silicon Valley, Walk San Francisco, Wellstone Democratic Renewal Club, Youth Leadership Institute San Mateo

Opposition: None on file.

STATUS: Passed and the Senate Floor (31-3) on May 23. In the Assembly, referred to the Committee on Transportation.

AMENDED IN SENATE APRIL 18, 2022

SENATE BILL

No. 917

Introduced by Senator Becker

(Principal coauthor: Assembly Member Quirk)

(Coauthors: Senators Dodd and Wiener)

(Coauthors: Assembly Members Lee, Levine, Mullin, and Ting)

February 3, 2022

An act to amend Section 66502 of, and to add Sections 66513.5, 66516.1, 66516.7, and 66516.8 to, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 917, as amended, Becker. Seamless Transit Transformation Act.

Existing law creates the Metropolitan Transportation Commission, as a local area planning agency and not as a part of the executive branch of the state government, to provide comprehensive regional transportation planning for the region comprised of the City and County of San Francisco and the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma.

This bill would require the commission to develop and adopt a Connected Network Plan, adopt an integrated transit fare structure, develop a comprehensive, standardized regional transit mapping and wayfinding system, develop an implementation and maintenance strategy and funding plan, and establish open data standards, as specified. The bill would require the region's transit agencies, as defined, to comply with those established integrated fare structure, regional transit mapping and wayfinding system, implementation and maintenance strategy and funding plan, and open data standards, as provided.

Under existing law, moneys in the ~~Transportation Planning and Development Account~~ and Public Transportation Account are continuously appropriated to the Controller for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of the State Transit Assistance Program. Existing law requires the Controller to allocate those moneys to those entities based on population and qualifying revenue, as specified.

~~This bill would make any of the region's transit agencies ineligible for an allocation of those moneys~~ *require the Metropolitan Transportation Commission to notify a transit agency if the commission determines that the transit agency is out of compliance with the integrated fare structure, regional transit mapping and wayfinding system, implementation and maintenance strategy and funding plan, or open data standards described above. above, and would require the commission to indicate what steps are needed to comply. If a transit agency does not comply with the compliance parameters set by the commission or if the commission rejects the transit agency's request for additional funding or for an exemption, the bill would make that transit agency ineligible to receive a portion of those moneys in an amount to be determined by the commission. The bill would require a transit agency to regain access to any withheld funds upon demonstration of compliance.*

To the extent that this bill would mandate that a transit agency establish a new program or provide a higher level of service as part of an existing program, *and by imposing additional duties on the Metropolitan Transportation Commission*, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Seamless Transit Transformation Act.

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) Transit connectivity and integration in the nine-county San
5 Francisco Bay area has been a longstanding challenge. Legislative
6 efforts to mandate and incentivize coordination between dozens
7 of disparate transit agencies date back to 1996 and earlier.

8 (b) Low-income residents, many of whom have experienced
9 displacement and have long commutes requiring many transfers,
10 are among the most adversely affected by the fragmentation,
11 experiencing a significant financial burden from needing to pay
12 multiple separate transit fares or being forced into costly vehicle
13 ownership.

14 (c) As of 2017, only 5 percent of all trips in the San Francisco
15 Bay area were made using transit. Per-capita transit ridership in
16 the region decreased 12 percent between 1991 and 2016. “Plan
17 Bay Area 2050,” prepared by the Metropolitan Transportation
18 Commission, has identified that to achieve climate, equity, and
19 economic goals, the share of commuters who travel by transit must
20 increase from 13 percent in 2015 to at least 20 percent by 2050.

21 (d) The COVID-19 pandemic has led to further ridership
22 declines, due to both dramatic shifts in travel patterns and
23 significant transit service cuts across the region. As the region
24 emerges from the pandemic, transit ridership is recovering much
25 more slowly than the economy as a whole; as of November 2021,
26 transit ridership had recovered to just 40 percent of pre-COVID
27 levels, while traffic on a majority of bay area bridges exceeded 90
28 percent of pre-COVID levels.

29 (e) In response to the COVID-19 pandemic, in May 2020, the
30 Metropolitan Transportation Commission convened a 32-member
31 Blue Ribbon Transit Recovery Task Force composed of transit
32 agency managers, advocates, and elected officials, to coordinate
33 transit recovery efforts and identify reforms that would position
34 the bay area’s transit system to emerge from the pandemic stronger
35 and more connected than before and to help recover and grow
36 transit ridership.

37 (f) In July 2021, the task force unanimously approved the Bay
38 Area Transit Transformation Action Plan, which included 27

SB 917

— 4 —

1 actions to increase ridership and improve fares and payment,
 2 customer access to information, transit network management,
 3 accessibility, and funding.

4 (g) In November 2021, the region's Fare Integration Task Force,
 5 co-led by Bay Area transit agencies and the Metropolitan
 6 Transportation Commission, unanimously adopted a policy vision
 7 statement supporting the advancement of key fare integration
 8 policies, including deployment of an all-agency transit pass,
 9 reduced cost transfers, and a common fare structure for regional
 10 transit services.

11 (h) Although the Legislature has generally authorized the
 12 Metropolitan Transportation Commission to set rules and
 13 regulations related to transit fare coordination and transit
 14 connectivity, to ensure that the recommendations emerging from
 15 the Bay Area Transit Transformation Action Plan are implemented
 16 by the region's transit agencies in a timely manner and for the
 17 benefit of current and future transit riders, this act is necessary.

18 SEC. 3. Section 66502 of the Government Code is amended
 19 to read:

20 66502. (a) There is hereby created, as a local area planning
 21 agency and not as a part of the executive branch of the state
 22 government, the Metropolitan Transportation Commission to
 23 provide comprehensive regional transportation planning for the
 24 region comprised of the City and County of San Francisco and the
 25 Counties of Alameda, Contra Costa, Marin, Napa, San Mateo,
 26 Santa Clara, Solano, and Sonoma.

27 (b) For purposes of this title, the following definitions apply:

28 (1) *"Cable car service" means the historic cable car system*
 29 *operated by the San Francisco Municipal Transportation Agency.*

30 ~~(1)~~

31 (2) "Commission" means the Metropolitan Transportation
 32 Commission.

33 ~~(2)~~

34 (3) "Region" means the region described in subdivision (a).

35 (4) *"Local transit service" means bus and light rail transit*
 36 *service within or adjacent to a transit agency's defined service*
 37 *area within the region, excluding bus services that cross a toll*
 38 *bridge over San Francisco Bay.*

39 (5) *"Regional transit service" means all heavy rail, commuter*
 40 *rail, ferry, or express bus services, as designated by a transit*

1 *agency, and bus services that cross a toll bridge over San*
 2 *Francisco Bay. Regional transit service does not include intercity*
 3 *passenger rail or services operated by the San Joaquin Regional*
 4 *Rail Commission.*

5 ~~(3)~~

6 (6) “Transit agency” means a public agency that meets all of
 7 the following requirements:

8 (A) The public agency provides surface transportation service
 9 to the general public, complementary paratransit service to persons
 10 with disabilities as required pursuant to Section 12143 of Title 42
 11 of the United States Code, or similar transportation service to
 12 people with disabilities or the elderly.

13 (B) The public agency operates the service described in
 14 subparagraph (A) by bus, rail, ferry, or other conveyance on a
 15 fixed route, demand response, or otherwise regularly available
 16 basis.

17 (C) The public agency generally charges a fare for the service
 18 described in subparagraph (A).

19 SEC. 4. Section 66513.5 is added to the Government Code, to
 20 read:

21 66513.5. (a) The commission, in consultation with the region’s
 22 ~~transit agencies, regional transit coordinating council established~~
 23 ~~pursuant to Section 29142.4 of the Public Utilities Code, shall~~
 24 ~~develop and adopt a Connected Network Plan on or before~~
 25 ~~December 31, 2023. Plan. Subject to appropriation in the annual~~
 26 ~~Budget Act or the availability of private nonstate funding for this~~
 27 ~~purpose, the commission shall complete the Connected Network~~
 28 ~~Plan on or before March 31, 2024. In the absence of an~~
 29 ~~appropriation in the annual Budget Act or funding made available~~
 30 ~~by a private nonstate source, the commission shall complete the~~
 31 ~~Connected Network Plan by December 31, 2025.~~

32 (b) The Connected Network Plan shall do all of the following:

33 (1) Be consistent with the State Rail Plan required pursuant to
 34 Section 14036 and California Transportation Plan updated pursuant
 35 to Section 65071.

36 (2) Identify connected network transit corridors and hubs of
 37 regional significance across the region.

38 (3) *Establish a transit priority network for the region that*
 39 *identifies corridors that will most benefit from improvements that*

1 *support fast and reliable transit service that avoids conflict with*
 2 *traffic congestion.*

3 ~~(3)~~

4 (4) Identify service-level standards for different parts of the
 5 network to optimize access across the region, particularly for
 6 low-income and transit-dependent populations, corresponding to
 7 different density and land use conditions, including by doing both
 8 of the following:

9 (A) Identifying target travel times between key transit hubs,
 10 service frequencies, and operating hours for weekdays, Saturdays,
 11 and Sundays.

12 (B) Quantifying access to jobs, housing, and ~~other achievable~~
 13 ~~opportunities~~; *major regional amenities, including, but not limited*
 14 *to, educational institutions, medical facilities, and major*
 15 *recreational destinations.*

16 ~~(4)~~

17 (5) Identify operating and capital funding needs associated with
 18 the Connected Network Plan.

19 ~~(5) Identify potential governance, institutional, or legislative~~
 20 ~~changes that would support the Connected Network Plan.~~

21 SEC. 5. Section 66516.1 is added to the Government Code, to
 22 read:

23 66516.1. (a) (1) Consistent with Section 66516, on or before
 24 December 31, 2023, the commission shall adopt an integrated
 25 transit fare structure that will become effective on or before July
 26 1, 2024. The integrated transit fare structure shall be developed in
 27 consultation with the regional transit coordinating council
 28 established pursuant to Section 29142.4 of the Public Utilities
 29 Code.

30 (2) The commission, in consultation with the ~~region's transit~~
 31 ~~agencies~~; *regional transit coordinating council described in*
 32 *paragraph (1), shall annually review the integrated transit fare*
 33 *structure to determine if updates are necessary; necessary, and*
 34 *shall make updates based on the review and consultation.*

35 (3) Each of the region's transit agencies shall comply with the
 36 integrated transit fare structure.

37 (b) The integrated fare structure shall include all of the
 38 following:

39 (1) ~~No-cost local-local and local-regional~~ *local transit service*
 40 *transfers and reduced-cost regional transit service* transfers,

1 regardless of whether transfers are between the same transit agency
2 or multiple transit agencies, *except if the transfer is to*
3 *a cable car service. In the case of a transfer to a cable car service,*
4 *the San Francisco Municipal Transportation Agency may*
5 *determine the appropriate transfer fare policy.*

6 ~~(2) A common fare structure for regional services by which~~
7 ~~trips involving one or more regional services are priced~~
8 ~~equivalently.~~

9 ~~(3)~~

10 (2) Common transfer rules for local fares, such as means for
11 validation.

12 ~~(4)~~

13 (3) Common definitions for adults, youth, seniors, persons with
14 disabilities, and other categories.

15 ~~(5) A multi-agency pass, which may include a cap, that allows~~
16 ~~access to all services provided by the region's transit agencies on~~
17 ~~a daily or monthly basis for one set price.~~

18 ~~(6) A simplified system for local transit fares across the region,~~
19 ~~whereby the differences in local transit fares are minimized and~~
20 ~~intersecting local transit services have the same fares.~~

21 (c) *On or before March 31, 2024, the commission, in*
22 *consultation with the regional transit coordinating council*
23 *described in subdivision (a), shall develop an estimate of the*
24 *anticipated annual financial impact associated with implementing*
25 *each of the following policies:*

26 (1) *A common fare structure for regional transit services by*
27 *which trips involving one or more regional transit services are*
28 *priced equivalently.*

29 (2) *A multiagency pass, which may include a cap, that allows*
30 *access to local transit services and regional transit services*
31 *provided by the region's transit agencies on a daily or monthly*
32 *basis for one set price, except for paratransit service as required*
33 *by Section 37.121 of Title 49 of the Code of Federal Regulations.*

34 (d) *If the commission or transit agencies secure sufficient*
35 *additional funding to offset the annual net cost based on the*
36 *financial impact estimate prepared pursuant to subdivision (c) to*
37 *implement a multiagency pass, as described in paragraph (2) of*
38 *subdivision (c), over a three-year period, that policy shall be*
39 *incorporated into the integrated regional fare structure and*
40 *implemented on a pilot basis for three years.*

1 *(e) If the commission or transit agencies secure sufficient*
2 *additional funding to offset the ongoing annual net cost based on*
3 *the financial impact estimate prepared pursuant to subdivision (c)*
4 *to implement a common fare structure for regional transit services*
5 *as described in paragraph (1) of subdivision (c), over a three-year*
6 *period, that policy shall be incorporated into the integrated*
7 *regional fare structure and be implemented on a pilot basis for*
8 *three years. The commission shall develop this common fare*
9 *structure for regional transit services in consultation with the*
10 *regional transit coordinating council described in subdivision (a)*
11 *and shall present a draft of the policy at a public meeting at least*
12 *30 days before its adoption. The timing of when the policy shall*
13 *take effect shall be determined by the commission in consultation*
14 *with the regional transit coordinating council described in*
15 *subdivision (a).*

16 ~~(e)~~

17 *(f) On or before October 1 of each year, each of the region's*
18 *transit agencies shall notify the commission of any proposed*
19 *change to its fares in order to facilitate the alignment of fare*
20 *policies across the region's transit agencies in the integrated transit*
21 *fare structure for the following year. The commission shall*
22 *disseminate that information to all of the region's transit agencies.*

23 ~~(d) Consistent with Section 99314.7 of the Public Utilities Code,~~
24 ~~if the commission determines that one of the region's transit~~
25 ~~agencies is out of compliance with the integrated fare structure~~
26 ~~described in subdivision (a), then that transit agency shall not be~~
27 ~~eligible to receive funds pursuant to Section 99313 or 99314 of~~
28 ~~the Public Utilities Code.~~

29 *(g) Transit agencies shall make every effort to comply with the*
30 *requirements of this section without affecting transit service levels.*
31 *If the commission determines that one of the region's transit*
32 *agencies is out of compliance with the integrated fare structure*
33 *described in subdivision (a), then the commission shall first notify*
34 *the transit agency of noncompliance, and indicate what steps are*
35 *needed to comply. If a transit agency is unable to comply due to*
36 *a lack of funding, the transit agency shall submit a request for*
37 *additional funding or for an exemption from the requirements of*
38 *this section to the commission for approval. If the agency does not*
39 *comply with the compliance parameters set by the commission or*
40 *if the commission rejects the transit agency's request for additional*

1 *funding or for an exemption, that transit agency shall not be*
 2 *eligible to receive a portion of funds pursuant to Section 99313*
 3 *or 99314 of the Public Utilities Code in an amount to be*
 4 *determined by the commission. The transit agency shall regain*
 5 *access to any withheld funds upon demonstration of compliance.*

6 ~~(e)~~

7 *(h) This section does not prohibit a transit agency from offering*
 8 *free transit or discounted transit fares for the categories of riders*
 9 *described in paragraph (3) of subdivision (b).*

10 SEC. 6. Section 66516.7 is added to the Government Code, to
 11 read:

12 66516.7. (a) The Legislature finds and declares both of the
 13 following:

14 (1) The lack of a universal regional transit map and common
 15 wayfinding format at transit stops and stations in the region adds
 16 to the fragmented experience transit riders encounter, especially
 17 when planning a trip across multiple transit agencies.

18 (2) Research has shown that the way transit lines and stations
 19 are displayed on maps strongly influences how travelers use the
 20 system.

21 (b) (1) The commission, in consultation with the ~~region's transit~~
 22 ~~agencies~~, *regional transit coordinating council established*
 23 *pursuant to Section 29142.4 of the Public Utilities Code*, shall, on
 24 or before July 1, ~~2024~~, 2025, do both of the following:

25 (A) Develop a comprehensive, standardized regional transit
 26 mapping and wayfinding system, including *standards and*
 27 *resources to display information on print, digital, and interactive*
 28 *media*, ~~common branding for regional transit service branding,~~
 29 ~~and a shared digital mapping platform. Standards and resources~~
 30 ~~shall be developed to display this information on print, digital, and~~
 31 ~~interactive media.~~ The system shall identify the standards that are
 32 required and the standards that allow for ~~customization.~~
 33 *customization, including the manner in which existing transit*
 34 *agency branding may be permitted. The system shall assess and*
 35 *identify standards required for wayfinding information to be*
 36 *accessible and usable by people with disabilities.*

37 (B) Develop an implementation and maintenance strategy and
 38 funding plan to deploy the comprehensive, standardized regional
 39 transit mapping and wayfinding system. The commission may
 40 adopt a phased deployment of the system.

~~(2) Each~~ Any new investments to mapping and wayfinding, including replacement and upgrades, made by any of the region's transit agencies shall ~~implement and comply with the comprehensive,~~ adhere to the standardized regional transit mapping and wayfinding system and implementation and maintenance strategy and funding plan developed pursuant to this subdivision.

(c) Each of the region's transit agencies shall use only the ~~comprehensive,~~ standardized regional transit mapping and wayfinding system ~~by July 1, 2025, for all new mapping and wayfinding investments, including replacements and upgrades, made on or after January 1, 2026,~~ unless the commission adopts a schedule that sets out an alternate deployment timeline.

(d) In consultation with the regional transit coordinating council described in subdivision (b), the commission shall update the standardized regional transit mapping and wayfinding system and implementation and maintenance strategy and funding plan, as needed.

(e) Nothing in this section shall prevent a transit agency from displaying their own map on a temporary basis if the regional transit mapping and wayfinding system is unavailable or incapable of addressing the need due to unforeseen circumstances.

~~(d) If~~

(f) Transit agencies shall make every effort to comply with the requirements of this section without affecting existing service levels. If the commission determines that one of the region's transit agencies is out of compliance with subdivision (b), then ~~that transit agency shall not be eligible to receive funds pursuant to Section 99313 or 99314 of the Public Utilities Code.~~ the commission shall first notify the transit agency of noncompliance, and indicate what steps are needed to comply. If a transit agency is unable to comply due to a lack of funding, the transit agency shall submit a request for additional funding or for an exemption from the requirements of this section to the commission for approval. If the agency does not comply with the compliance parameters set by the commission or if the commission rejects the transit agency's request for additional funding or for an exemption, that transit agency shall not be eligible to receive a portion of funds pursuant to Section 99313 or 99314 of the Public Utilities Code in an amount to be determined by the commission. The transit agency shall regain access to any withheld funds upon demonstration of compliance.

1 SEC. 7. Section 66516.8 is added to the Government Code, to
2 read:

3 66516.8. (a) The Legislature finds and declares all of the
4 following:

5 (1) Studies have shown that travelers view the wait time at a
6 transit stop as the most inconvenient part of the transit journey
7 experience.

8 (2) Despite best efforts by the region's transit agencies to adhere
9 to their published schedules, the conditions on the roadway,
10 including congestion and other unplanned delays, create
11 unpredictability for on-time arrivals.

12 (3) The development of technology enabling real-time transit
13 information, including arrival and departure predictions, vehicle
14 locations, occupancy, and service alerts, has created an opportunity
15 for the region's transit agencies to alleviate the wait-time
16 frustrations and provide riders with other useful trip information.

17 (4) Transit riders should have access to consistent and uniform
18 real-time information across all transit services in the region.

19 (b) (1) On or before ~~January~~ July 1, 2023, the commission shall
20 establish open data standards, in consultation with the regional
21 transit coordinating council established pursuant to Section 29142.4
22 of the Public Utilities Code, that are aligned with, but may exceed,
23 any data standards adopted by the state to provide real-time transit
24 vehicle location, arrival and departure *times and* predictions, and
25 service alerts data to transit ~~riders~~. *riders, and shall assist in the*
26 *analysis of transit service to improve service quality. A transit*
27 *agency may elect not to disclose vehicle location information if it*
28 *can otherwise comply with the open data standards related to*
29 *providing arrival and departure times and predictions. The*
30 *commission shall update the open data standards, in consultation*
31 *with the regional transit coordinating council described in this*
32 *paragraph, as needed.*

33 (2) *The standards shall enable the provision of real-time arrival*
34 *data and follow generally accepted accessibility standards.*

35 ~~(2)~~

36 (3) Each of the region's transit agencies shall comply with the
37 standards established pursuant to this ~~subdivision~~. *subdivision and*
38 *shall share their data with the commission in a format that is*
39 *compatible with the standards.*

(c) The commission shall coordinate the activities of the region's transit agencies pursuant to subdivision (b), ~~serve as the region's point of contact for data development and dissemination~~ disseminate data collected pursuant to this section to third parties, and develop an implementation and funding plan for deployment of real-time information.

(d) *Nothing in this section shall preclude transit agencies from using real-time data that they collect for any purpose, such as in the development of a transit agency's own mobile application or powering real-time arrival or departure information on their internet website, as long as the data are also shared with the commission.*

(e) *Nothing in this section shall preclude transit agencies from sharing real-time data directly with third parties, as long as the data are also shared with the commission.*

~~(d) If~~

(f) *Transit agencies shall make every effort to comply with the requirements of this section without affecting transit service levels. If the commission determines that one of the region's transit agencies is out of compliance with subdivision (b), then that transit agency shall not be eligible to receive funds pursuant to Section 99313 or 99314 of the Public Utilities Code. the commission shall first notify the transit agency of noncompliance, and indicate what steps are needed to comply. If a transit agency is unable to comply due to a lack of funding, the transit agency shall submit a request for additional funding or for an exemption from the requirements of this section to the commission for approval. If the transit agency does not comply with the compliance parameters set by the commission or if the commission rejects the transit agency's request for more funding or for an exemption, that transit agency shall not be eligible to receive a portion of funds pursuant to Section 99313 or 99314 of the Public Utilities Code in an amount to be determined by the commission. The transit agency shall regain access to any withheld funds upon demonstration of compliance.*

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O

SB 1488 (Glazer) - Staff Update**TITLE:** San Francisco Bay Area Rapid Transit District: Office of the BART Inspector General**AUTHOR:** Glazer (D-Orinda)**SPONSORS:** N/A**CURRENT POSITION:** Oppose Unless Amended

UPDATE: On April 14, 2022, the BART Board adopted an Oppose Unless Amended position on SB 1488, which grants additional duties and responsibilities to the Office of the BART Inspector General (OIG). The Board directed staff to work with the OIG and author's office on amendments to address the District's concerns in several key areas. Since that time, BART staff, the OIG, and author's office have met to discuss proposed language and have generally agreed on amendments for the following provisions.

Definition of Abuse

SB 1488 would add "abuse" to the OIG's mission of investigating fraud, waste, or abuse within BART's programs and operations. An amendment to include a definition of "fraud, waste, and abuse" has been agreed to and is aligned with the definition used by other local, city, county, or public agency auditors/controllers.

Conflicts with Existing Audit/Oversight Offices

Regarding the OIG's expanded duties and responsibilities, BART sought amendments to clearly define the purview of the OIG as to not conflict with existing audit/oversight offices of the District. Agreed upon language states the OIG shall not interfere with the original jurisdiction nor unduly influence or undermine the independence of the Office of Civil Rights or the Office of the Independent Police Auditor. In addition, the OIG shall not investigate individual complaints prior to the appropriate officer/entity having an opportunity to review and make a determination pursuant to their lawful charge.

Access to Confidential Records

SB 1488 would grant the OIG access to confidential records or property that are obtained in connection with any audit, investigation, or review. BART pursued amendments that would restrict the OIG's access to information that is protected under statute, a specific District policy, or otherwise considered privilege. Agreed upon language removes the requirement that a law specifically refers to the Inspector General (IG) for information to be exempt from disclosure.

Implementation of Subpoena Authority

SB 1488 would grant the OIG authority to issue subpoenas as part of any audit, investigation, or review. BART requested language to clarify how subpoenas would be issued and enforced. Agreed upon language specifies the superior court in the county in which an interview is held has jurisdiction to compel the attendance of witnesses, the making of oral or written sworn statements, and the production of records or other property, as required by any subpoena issued by the OIG. Further, if any witness refuses to attend, testify, or produce records/property required by the subpoena, the OIG may petition the superior court for an order compelling the person to attend and answer questions under penalty of perjury or produce the records required.

Reporting Duties of the General Manager or Board Officer

BART sought amendments to revise the nature and frequency of reports the General Manager shall submit to the OIG. Language requiring the General Manager respond to findings and recommendations made by OIG within 10 business days will be replaced with a requirement that the General Manager or Board Appointed Officer respond within a reasonable amount of time, not to exceed 30 days. The requirement that the General Manager shall provide quarterly updates to the OIG regarding the status of implementing outstanding recommendations will also be removed.

OIG Hiring and Procurement Activities

BART requested amendments to remove the OIG's authority to appoint staff and clarify the office shall follow the District's policies, procedures, and practices regarding hiring and procurement. Current agreed upon language specifies that that in carrying out hiring and procurement activities, the OIG shall adhere to all applicable federal, state, and local laws, as verified by the appropriate District entities responsible for hiring and procurement.

Separate Records System

The bill would allow the OIG to establish a system of maintaining records that is outside of the District's computer network and not accessible by other parts of the District. Agreed upon language specifies the OIG shall initially coordinate with the Office of Technology to determine the appropriate policies, procedures, licensing, and equipment necessary to establish a separate email and records system.

The amendments described above were not in print at the time of this publication. BART staff anticipate amendments will be submitted by the author in the coming weeks and considered during the bill's Assembly policy committee hearings which must occur before July 1.

Areas in which staff will continue discussions with the OIG and author include:

Removal of the IG from Office

BART is pursuing amendments that would remove the IG only for "good cause" and restore original language that states the IG shall be removed by a two-thirds vote of the Board *or* a finding that the IG has violated a federal or state law/regulation, local ordinance, or ethics policy. Further discussions with the OIG and author will focus on an appropriate standard for removal to ensure the IG is not removed for disagreements or reasons related to audits or investigations conducted by the office.

Access to Employees

BART is pursuing amendments to clarify that when meeting with any represented employee to complete an audit, investigation, or review, the OIG shall comply with the rights afforded to employees under current collective bargaining agreements. The OIG and author have expressed concerns with this language because future collective bargaining agreements, which are negotiated between management and BART's labor unions, could undermine the authorities granted to the office.

KNOWN SUPPORT/OPPOSITION: Support: Association of Local Government Auditors

Opposition: California Conference Board of Amalgamated Transit Union

STATUS: Passed the Senate Floor (37-0) on May 24. In the Assembly, referred to the Committees on Transportation and Judiciary.

AMENDED IN SENATE MARCH 16, 2022

SENATE BILL

No. 1488

Introduced by Senator Glazer

February 18, 2022

An act to amend ~~Section 1650 of the Vehicle Code, relating to vehicles. Sections 28840, 28841, and 28844 of, to add Sections 28841.2, 28841.4, and 28841.6 to, and to repeal Section 28845 of, the Public Utilities Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as amended, Glazer. ~~Department of Motor Vehicles. San Francisco Bay Area Rapid Transit District: Office of the BART Inspector General.~~

Existing law establishes the San Francisco Bay Area Rapid Transit District (BART), governed by a board of directors, with specified powers and duties relative to the construction and operation of a rapid transit system. Existing law also establishes the independent Office of the BART Inspector General within BART and requires the BART Inspector General to be appointed to serve an initial 4-year term by the Governor from a list of 3 nominees submitted by the board. Existing law requires the Inspector General to be removed from office by the board of directors, subject to the approval of the Governor, under certain circumstances. Existing law specifies the duties and responsibilities of the Inspector General including, among others, conducting, supervising, and coordinating audits and investigations relating to the district's programs and operations.

This bill would revise the duties and responsibilities of the Inspector General by, among other things, requiring the Inspector General to engage in fraud prevention activities and provide recommendations to

strengthen internal controls that will prevent or detect fraud, waste, or abuse. The bill would revise the manner in which the Inspector General is required to be removed from office.

The bill would provide that the Inspector General shall have the independence necessary to conduct all of its audits and investigations in conformity with specified standards. To ensure the confidentiality of its work from the district, the bill would authorize the Office of the BART Inspector General to establish a system for maintaining records that is outside of the district's computer network and not accessible by the district. The bill would authorize the Inspector General to appoint, employ, evaluate, and remove assistants, employees, and personnel, and to prescribe their duties, scope of authority, and qualifications, as specified.

The bill would provide the Inspector General with access and authority to examine all records, files, documents, accounts, reports, correspondence, or other property of the district and external entities that perform work for the district, and to meet with any employee or officer of the district or a contractor of the district as necessary to complete an audit or investigation. The bill would prohibit an employee or officer of the district or a contractor of the district from engaging in specified activities in connection with an audit, investigation, or review conducted by the Inspector General. The bill would authorize the Inspector General to issue subpoenas for the attendance of witnesses and the production of records, files, documents, accounts, reports, correspondence, or other property, or for the making of oral or written sworn statements, in any interview conducted as part of an audit, investigation, or review.

Existing law requires the board of directors of BART to appoint a general manager who is responsible, subject to the direction and control of the board, for the acquisition, construction, maintenance, and operation of the facilities of the district and also for the administration of the business affairs of the district.

This bill would require the general manager to respond to all findings and recommendations made by the Office of the BART Inspector General within 10 business days of receiving a request to respond from the Inspector General, as specified. The bill would require the general manager to provide quarterly updates to the office regarding the status of implementing each outstanding recommendation from the Inspector General.

By creating new duties for a local agency, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law establishes the Department of Motor Vehicles and sets forth the powers and duties of the department. Existing law places the department under the control of a civil executive officer known as the Director of Motor Vehicles, and requires the director to administer and enforce the provisions of the Vehicle Code relating to the department.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 28840 of the Public Utilities Code is
2 amended to read:

3 28840. (a) There is hereby created in the district an
4 independent Office of the BART Inspector General to ensure that
5 the district makes effective use of bridge toll revenue and other
6 revenue and operates efficiently, effectively, and in compliance
7 with applicable federal and state laws.

8 (b) (1) The board shall nominate three persons to the Governor
9 who shall appoint one of the three persons nominated by the board
10 to serve as the BART Inspector General for an initial four-year
11 term. The board shall have the option to renew the term at will.
12 The BART Inspector General shall be removed from office by the
13 board, board during a term, subject to approval of the Governor,
14 and only if either both of the following occur:

15 (A) A two-thirds majority of the members of the board votes
16 for removal.

17 (B) The Inspector General violates a federal or state law or
18 regulation, a local ordinance, or a policy or practice of the authority

1 relative to ethical practices, including, but not limited to, the
2 acceptance of gifts or contributions.

3 (2) The reasons for removal of the Inspector General shall be
4 stated in writing and shall include the basis for removal. The
5 document stating the reasons for dismissal shall be deemed a public
6 document and posted on the district's ~~Internet Web site.~~ *internet*
7 *website.*

8 ~~(e) Within one year of the operative date of this article, the board~~
9 ~~shall nominate three persons to serve as the first BART Inspector~~
10 ~~General to be appointed pursuant to subdivision (b).~~

11 *(c) The office shall have the independence necessary to conduct*
12 *all of its audits in conformity with the Government Auditing*
13 *Standards, published by the Comptroller General of the United*
14 *States, and its investigations in conformity with the Principles and*
15 *Standards for Offices of Inspector General, published by the*
16 *Association of Inspectors General. This independence includes*
17 *being free from impairments from the district that may restrict the*
18 *office's ability to conduct independent and objective audits or*
19 *investigations and issue reports based on the results.*

20 *(d) For purposes of this article, "office" means the Office of*
21 *the BART Inspector General.*

22 *SEC. 2. Section 28841 of the Public Utilities Code is amended*
23 *to read:*

24 28841. The duties and responsibilities of the BART Inspector
25 General shall include, but are not limited to, all of the following:

26 (a) To examine the operating practices of the district to identify
27 fraud, waste, *or abuse*, and opportunities for efficiencies in the
28 administration of programs and operations.

29 (b) To ensure the BART administration, the board of directors,
30 and the public are fully informed of ~~his or her~~ *the Inspector*
31 *General's* findings and recommendations.

32 (c) To identify opportunities to improve the data used to
33 determine project resource allocations.

34 (d) To conduct, supervise, and coordinate audits and
35 investigations relating to the district's programs and operations,
36 including, but not limited to, toll-funded ~~programs.~~ *programs, in*
37 *compliance with the government auditing standards and principles*
38 *and standards for offices of inspector general described in Section*
39 *28840, as applicable.*

(e) To identify best practices in the delivery of capital ~~projects~~ *projects, programs, and operations*, and recommend policies to enable the district to adopt these practices when practicable.

(f) To recommend policies promoting efficiency in the administration of programs and operations.

(g) To review and recommend best practices that the district should follow to maintain positive and productive relations with its employees and the collective bargaining units representing those employees.

(h) *To engage in fraud prevention activities, including reviewing policies, procedures, and transactions to identify internal control weaknesses that can lead to fraud.*

(i) *To provide recommendations to strengthen internal controls that will prevent or detect fraud, waste, or abuse.*

(j) *To provide training to district employees about what fraud is and how to prevent and report it.*

SEC. 3. Section 28841.2 is added to the Public Utilities Code, to read:

28841.2. (a) *The BART Inspector General shall have access and authority to examine all records, files, documents, accounts, reports, correspondence, or other property of the district and external entities that perform work for the district. The Inspector General may enter any district office or facility and access, examine, and reproduce during regular business hours all records, files, documents, accounts, reports, vouchers, correspondence files, and all other records for any audit or investigation. Any officer or employee of the district or entity having these records or property in their possession, under their control, or otherwise having access to them, shall permit access to, and examination and reproduction of, the records or property upon the request of the Inspector General or the Inspector General's authorized representative.*

(b) *The BART Inspector General may gain access to confidential records or property that are obtained in connection with any audit, investigation, or review conducted pursuant to subdivision (a) unless a law specifically refers to and precludes the Inspector General from accessing, examining, and reproducing any record or property pursuant to subdivision (a). Information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the Inspector General are subject to any*

1 *limitations on release of the information or documents as may*
2 *apply to an employee or officer of the district or external entity*
3 *subject to this article that provided the information or documents.*
4 *Providing confidential information pursuant to this section,*
5 *including, but not limited to, confidential information that is subject*
6 *to a privilege, shall not constitute a waiver of that privilege.*

7 *(c) (1) The BART Inspector General shall have access to and*
8 *authority to meet with any employee or officer of the district or a*
9 *contractor of the district as necessary to complete an audit,*
10 *investigation, or review.*

11 *(2) An employee or officer of the district or a contractor of the*
12 *district shall not interfere with, act with intent to deceive or*
13 *defraud, or obstruct the Inspector General in the performance of*
14 *an audit, investigation, or review conducted pursuant to this article.*

15 *(3) An employee or officer of the district or a contractor of the*
16 *district shall not manipulate, correct, alter, or change records,*
17 *documents, accounts, reports, or correspondence before or during*
18 *any audit, investigation, or review conducted pursuant to this*
19 *article.*

20 *(4) An employee or officer of the district or a contractor of the*
21 *district shall not distribute, reproduce, release, or fail to safeguard*
22 *confidential draft documents exchanged between the Inspector*
23 *General and the entity subject to the audit, investigation, or review*
24 *conducted pursuant to this article without the Inspector General's*
25 *express permission.*

26 *(d) The BART Inspector General, or their designee, may issue*
27 *subpoenas for the attendance of witnesses and the production of*
28 *records, files, documents, accounts, reports, correspondence, or*
29 *other property, or for the making of oral or written sworn*
30 *statements, in any interview conducted as part of an audit,*
31 *investigation, or review. Any subpoena issued under this article*
32 *may be served by any person authorized to serve process of any*
33 *court of record or by any person designated for that purpose by*
34 *the Inspector General or their designee.*

35 *SEC. 4. Section 28841.4 is added to the Public Utilities Code,*
36 *to read:*

37 *28841.4. (a) The general manager shall respond to all findings*
38 *and recommendations made by the office within 10 business days*
39 *of receiving a request to respond from the BART Inspector General.*

1 ***(b) The general manager shall include all of the following in a***
2 ***response to a request to respond to the BART Inspector General's***
3 ***findings and recommendations:***

4 ***(1) Factual documentation to support any disagreement with***
5 ***any findings.***

6 ***(2) A corrective action plan for each recommendation, including***
7 ***a timeline for when the recommendation will be implemented.***

8 ***(3) If the general manager disagrees with a recommendation,***
9 ***a reason for the disagreement and a proposal of an alternate means***
10 ***of correcting the underlying deficiency.***

11 ***(c) The general manager shall provide quarterly updates to the***
12 ***office regarding the status of implementing each outstanding***
13 ***recommendation. The status shall explain the work that has been***
14 ***done to implement the recommendation, and if not yet completed,***
15 ***the reason and the expected date for completion.***

16 ***(d) The office shall have sole authority to do both of the***
17 ***following:***

18 ***(1) Determine if the general manager's proposed and***
19 ***implemented corrective actions satisfy the underlying issues***
20 ***identified in the BART Inspector General's recommendations.***

21 ***(2) Determine the accuracy of reports to be published by the***
22 ***office.***

23 ***SEC. 5. Section 28841.6 is added to the Public Utilities Code,***
24 ***to read:***

25 ***28841.6. (a) The BART Inspector General may appoint,***
26 ***employ, evaluate, and remove assistants, employees, and personnel***
27 ***as deemed necessary for the efficient and effective administration***
28 ***of the affairs of the office and may prescribe their duties, scope of***
29 ***authority, and qualifications. An employee of the office shall be***
30 ***excluded from the definition of an employee for purposes of***
31 ***representation by an employee organization as defined in Section***
32 ***28848.***

33 ***(b) The office may obtain the services of qualified consultants,***
34 ***investigators, or other professional experts necessary to perform***
35 ***its work, including obtaining independent counsel if the BART***
36 ***Inspector General identifies a conflict of interest or threat to the***
37 ***office's independence.***

38 ***SEC. 6. Section 28844 of the Public Utilities Code, as amended***
39 ***by Section 404 of Chapter 615 of the Statutes of 2021, is amended***
40 ***to read:***

1 28844. (a) Any investigatory file compiled by the BART
2 Inspector General is an investigatory file compiled by a local law
3 enforcement agency subject to disclosure pursuant to Article 1
4 (commencing with Section 7923.600) of Chapter 1 of Part 5 of
5 Division 10 of Title 1 of the Government Code.

6 (b) *To ensure the confidentiality of its work from the other parts*
7 *of the district, including emails, the office may establish a system*
8 *for maintaining records that is outside of the district's computer*
9 *network and not accessible by the other parts of the district.*

10 SEC. 7. *Section 28845 of the Public Utilities Code is repealed.*

11 ~~28845. This article shall become operative upon an affirmative~~
12 ~~vote of the residents of the City and County of San Francisco and~~
13 ~~the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo,~~
14 ~~Santa Clara, Solano, and Sonoma to increase tolls pursuant to~~
15 ~~Section 30923 of the Streets and Highways Code on the bridges~~
16 ~~described in Section 30910 of the Streets and Highways Code.~~

17 SEC. 8. *If the Commission on State Mandates determines that*
18 *this act contains costs mandated by the state, reimbursement to*
19 *local agencies and school districts for those costs shall be made*
20 *pursuant to Part 7 (commencing with Section 17500) of Division*
21 *4 of Title 2 of the Government Code.*

22 SECTION 1. ~~Section 1650 of the Vehicle Code is amended to~~
23 ~~read:~~

24 ~~1650. The director shall administer and enforce the provisions~~
25 ~~of this code that relate to the department.~~

AB 1621 (Gipson) Analysis and Recommendation

TITLE: Firearms: Unserialized Firearms

AUTHORS: Gipson (D-Carson), Muratsuchi (D-Torrance), Ting (D-San Francisco)

SPONSORS: N/A

RECOMMENDATION: Support

BACKGROUND: Law enforcement officials across the state have reported increases in the number of unserialized self-assembled firearms (ghost guns). San Francisco has reported a 38% increase in ghost guns recovered in homicide cases from 2019 to 2020. In Los Angeles, law enforcement officials reported the number of ghost guns seized increased by 400% from 2017 and had double from 2020 to 2021 alone. The proliferation of firearms built from precursor parts in a growing public safety concern and has hampered law enforcement in investigating firearm crimes.

PURPOSE: AB 1621 amends a Penal Code definition of “firearm” to include a firearm precursor part and amends the definition of “firearm precursor part” to mean any forging, casting, extrusion, machined body, or other similar article which can be readily converted to be used as the frame or receiver of a firearm or that is marketed as such. Most criminal and regulatory provisions related to the possession, sale, and transfer of a firearm would apply to a firearm precursor part. The bill also prohibits a person from possessing or manufacturing a firearm precursor part without authorization and prohibits any person or entity from manufacturing, assembling, or knowingly facilitating the manufacture or assembly of an unserialized or unmarked firearm.

DISTRICT IMPACT: Ghost guns are a growing public safety concern in California and across the country. Ghost guns have been used in a wide variety of crimes in California including homicides, robberies, school shootings, mass shootings, violence against law enforcement officers, and domestic violence. Police in San Francisco, Oakland and other large cities have recorded a spike in ghost gun seizures over the past few years. BART has also seen an increase in the number of ghost guns confiscated by District police officers. In 2021, 18% of firearms seized by BART Police were ghost guns compared to 16% in 2020. For the current year, ghost guns have accounted for 21% of all firearms confiscated to date. Several cities in the Bay Area including San Francisco, San Jose, and Berkeley have also taken steps to pass legislation banning the sale of ghost guns and the parts or kits used to assemble them.

The Board has previously supported ghost gun legislation, including AB 1057 (Chapter 682, Statutes of 2021), which defined a firearm, for the purposes of specified gun violence and domestic violence restraining orders, to include a frame or receiver of the weapon or a firearm precursor part.

KNOWN SUPPORT/OPPOSITION: Support includes the Brady Campaign, Everytown for Gun Safety Action Fund, Friends Committee on Legislation of California, March for Our Lives Action Funds, Moms Demand Action for Gun Sense in America, and Students Demand Action for Gun Sense in America.

Opposition includes the California Rifle and Pistol Association and Gun Owners of California.

STATUS: Passed the Assembly Floor (63-0) on May 25. In the Senate, referred to the Committee on Public Safety.

AMENDED IN ASSEMBLY MARCH 24, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1621

**Introduced by Assembly Member ~~Gipson~~ Members *Gipson, Muratsuchi, and Ting*
(Coauthor: Assembly Member *Santiago*)**

January 10, 2022

An act to amend Sections 16520, 16531, 18010, 23910, 23920, 23925, 27530, 29180, 29182, and 30420 of, to add Sections 16515, 16517, 17305, and 29185 to, to repeal Sections 16532, 29181, 30405, 30406, 30412, and 30414 of, to repeal Articles 2 (commencing with Section 30442), 3 (commencing with Section 30470), and 4 (commencing with Section 30485) of Chapter 1.5 of Division 10 of Title 4 of Part 6 of, and to repeal and add Section 30400 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1621, as amended, Gipson. Firearms: unserialized firearms.

(1) Existing law defines a firearm precursor part as a component of a firearm that is necessary to build or assemble a firearm and is either an unfinished handgun frame or a specified unfinished receiver, receiver tube, or receiver flat. Under existing law, commencing July 1, 2022, a firearm precursor part is required to be sold through a licensed firearm precursor part vendor, as specified.

This bill would redefine a firearm precursor part as any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once

completed, assembled or converted. This bill would extend the definition of a firearm to include a firearm precursor part for the purposes of most criminal and regulatory provisions related to the possession, sale, and transfer of a firearm, including provisions which do not apply to a frame or receiver under existing law. The bill would repeal provisions relating to the sale of firearm precursor parts through a licensed precursor part vendor, and would prohibit the sale, transfer, or possession of an unserialized firearm precursor part, except as specified.

(2) Existing law requires a person that is manufacturing a firearm or assembling a firearm from unserialized components, to apply to the Department of Justice for a unique mark of identification and to affix that mark to the firearm, as specified.

This bill would repeal those provisions and instead prohibit a person from manufacturing or assembling an unserialized firearm. The bill would require any person in possession of an unserialized firearm to apply to the department for a unique mark of identification and to affix that mark to the firearm before July 1, 2023. The bill would explicitly prohibit the possession or transfer of a firearm without a serial number or mark of identification. The bill would authorize a new resident of the state to, within 60 days after arrival in the state, request a unique mark or identification for any unserialized firearm that is otherwise valid to possess in the state. The bill would also prohibit the possession, sale, or transfer of specified firearms manufacturing equipment, with exceptions for specified entities, including the Armed Forces of the United States, the National Guard, and law enforcement, as specified. The bill would declare its provisions to be severable.

(3) This bill would authorize the Department of Justice to adopt emergency regulations to carry out its provisions. The bill would make other conforming, technical, and nonsubstantive changes. By creating new crimes expanding the application of numerous crimes, this bill would impose a state-mandated local program.

~~Existing~~

(4) Existing law prohibits possession of a firearm without a serial number. Existing law prohibits possession of a firearm that has had the serial number altered, removed, or obliterated. Existing law defines a firearm to include the frame or receiver.

Existing law requires any person in the business of manufacturing firearms, as specified, to be licensed. Existing law requires a person, other than a manufacturer, who assembles a firearm to apply to the

Department of Justice for a serial number and to affix that number to the firearm, as specified.

This bill would make certain findings and declarations ~~and would express the intent of the Legislature to enact legislation~~ relating to unserialized firearms.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares the following:*

2 (a) *The proliferation of unserialized ghost guns built from*
3 *firearm precursor parts has caused enormous harm and suffering,*
4 *hampered the ability of law enforcement to trace crime guns and*
5 *investigate firearm trafficking and other crimes, and dangerously*
6 *undermined the effectiveness of laws and protections critical to*
7 *the health, safety, and well-being of Californians.*

8 (1) *Like completed frames and receivers, the sole function of*
9 *firearm precursor parts is to be used to assemble a weapon*
10 *designed and capable of ending human life. Sellers and*
11 *manufacturers of firearm precursor parts frequently market these*
12 *products by emphasizing the fact that they are sold without*
13 *traceable serial numbers and are otherwise significantly less*
14 *regulated than firearms or completed frames or receivers.*

15 (2) *Law enforcement officials from cities across California have*
16 *reported massive increases in the number of unserialized*
17 *self-assembled ghost guns recovered from homicide cases and*
18 *other crimes in recent years.*

19 (3) *For instance, law enforcement officials in San Francisco*
20 *reported that 44 percent of guns recovered in San Francisco*
21 *homicide cases in 2020 were unserialized ghost guns, compared*
22 *with 6 percent in 2019. Law enforcement officials in San Diego*
23 *reported recovering 360 ghost guns in just the first nine months*
24 *of 2021, more than four times as many as the department recovered*

1 in all of 2019. According to an October 2021 report by the Los
2 Angeles Police Department, the number of ghost guns seized by
3 the department increased 400 percent since 2017 and more than
4 doubled from 2020 to 2021 alone; the report concluded that “the
5 current trend shows these figures will continue to grow
6 exponentially” and that “ghost guns are an epidemic not only in
7 Los Angeles, but nationwide.” In August 2021, the Los Angeles
8 Police Department reported that ghost guns accounted for 33
9 percent of all guns recovered by the department in its investigations
10 of suspected criminal activity.

11 (4) Community violence intervention professionals have also
12 warned that the proliferation of ghost guns in vulnerable
13 communities has intensified in recent years and contributed to a
14 surge in gun deaths disproportionately impacting young people.

15 (5) Whatever legitimate interest and enjoyment unlicensed
16 firearm manufacturers have in assembling firearms from firearm
17 precursor parts, as opposed to completed frames or receivers, has
18 been substantially outweighed by the devastating violent harms
19 Californians have suffered as a result of the alarming proliferation
20 of unserialized ghost guns across the state. These unfinished, less
21 regulated products built from firearm precursor parts have become
22 a leading source of crime guns, including firearms built by people
23 such as minors who cannot legally possess or acquire firearms in
24 our state, as well as individuals seeking to conceal their
25 involvement in firearm trafficking and other crimes.

26 (6) The Legislature enacted AB 879 in 2019 to address this
27 growing threat and bring needed accountability, transparency,
28 and regulation to the sale and transfer of firearm precursor parts.
29 Some key provisions of that legislation will become effective on
30 July 1, 2022, including provisions ensuring that firearm precursor
31 parts are sold in person through licensed sellers, pursuant to
32 California background check and sale record requirements.

33 (7) Tragic events have continued to make clear that a more
34 comprehensive response is needed now to protect public health
35 and safety by ensuring that firearm precursor parts are regulated
36 to the same extent as completed frames or receivers.

37 (8) Further reform is necessary, for instance, to halt the sale of
38 unserialized firearm precursor parts in California, and to ensure
39 that individuals purchasing firearm precursor parts undergo a
40 full background check of all relevant records available to the

1 *Department of Justice when conducting background checks related*
2 *to the purchase of a firearm or completed frame or receiver,*
3 *including records available through the National Instant Criminal*
4 *Background Check System. Further reform is also necessary to*
5 *ensure that firearm precursor parts are sold in accordance with*
6 *other gun safety laws applicable to the sale, manufacture, or*
7 *possession of completed frames and receivers, such as the waiting*
8 *period requirement, and to expressly prohibit the sale or transfer*
9 *of ownership of firearms assembled or manufactured by people*
10 *and entities that do not have a license to manufacture firearms.*

11 *(9) The Legislature seeks to protect public health and safety by*
12 *halting the sale of firearm precursor parts in California until and*
13 *unless such unfinished parts are regulated as firearms or frames*
14 *under federal law and required, accordingly, to be serialized by*
15 *federally licensed firearm manufacturers, importers, or other*
16 *authorized federal firearms licensees.*

17 *(10) This act will authorize unlicensed individuals to continue*
18 *to assemble or manufacture firearms for personal use from*
19 *completed frames and receivers, which are subject to critical*
20 *California and federal gun safety laws. This act will also authorize*
21 *unlicensed individuals to assemble or manufacture firearms from*
22 *firearm precursor parts if and when such parts are treated as*
23 *firearms or frames under federal law, and required to be serialized*
24 *accordingly.*

25 *SEC. 2. Section 16515 is added to the Penal Code, to read:*

26 *16515. "Federal licensee authorized to serialize firearms"*
27 *means a person, firm, corporation, or other entity that holds any*
28 *valid federal firearms license that authorizes the person, firm,*
29 *corporation, or other entity to imprint serial numbers onto firearms*
30 *pursuant to Chapter 44 (commencing with Section 921) of Title*
31 *18 of the United States Code and regulations issued pursuant*
32 *thereto.*

33 *SEC. 3. Section 16517 is added to the Penal Code, to read:*

34 *16517. "Federally licensed manufacturer or importer" means*
35 *a person, firm, corporation, or other entity that holds a valid*
36 *license to manufacture or import firearms issued pursuant to*
37 *Chapter 44 (commencing with Section 921) of Title 18 of the United*
38 *States Code and regulations issued pursuant thereto.*

39 *SEC. 4. Section 16520 of the Penal Code, as added by Section*
40 *3 of Chapter 682 of the Statutes of 2021, is amended to read:*

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1 16520. (a) As used in this part, “firearm” means a device,
 2 designed to be used as a weapon, from which is expelled through
 3 a barrel, a projectile by the force of an explosion or other form of
 4 combustion.

5 (b) As used in the following provisions, “firearm” includes the
 6 frame or receiver of the ~~weapon~~; *weapon, and includes a firearm*
 7 *precursor part:*

8 (1) *Section 136.1.*

9 (2) *Section 646.91.*

10 (3) *Sections 16515 and 16517.*

11 ~~(1)~~

12 (4) *Section 16550.*

13 ~~(2)~~

14 (5) *Section 16730.*

15 ~~(3)~~

16 (6) *Section 16960.*

17 ~~(4)~~

18 (7) *Section 16990.*

19 ~~(5)~~

20 (8) *Section 17070.*

21 ~~(6)~~

22 (9) *Section 17310.*

23 ~~(7)~~

24 (10) *Sections 18100 to 18205, 18500, inclusive.*

25 (11) *Section 23900 to 23925, inclusive.*

26 ~~(8)~~

27 (12) *Sections 26500 to 26588, 26590, inclusive.*

28 ~~(9)~~

29 (13) *Sections 26600 to 27140, inclusive.*

30 ~~(10)~~

31 (14) *Sections 27400 to 28000, 27200 to 28490, inclusive.*

32 ~~(11) Section 28100.~~

33 ~~(12) Sections 28400 to 28415, inclusive.~~

34 ~~(13)~~

35 (15) *Sections 29010 to 29150, inclusive.*

36 ~~(14) Section 29180.~~

37 (16) *Section 29185.*

38 ~~(15)~~

39 (17) *Sections 29610 to 29750, inclusive.*

40 ~~(16)~~

- 1 (18) Sections 29800 to 29905, inclusive.
- 2 ~~(17)~~
- 3 (19) Sections 30150 to 30165, inclusive.
- 4 ~~(18)~~
- 5 (20) Section 31615.
- 6 ~~(19)~~
- 7 (21) Sections ~~31705~~ 31700 to 31830, inclusive.
- 8 ~~(20)~~
- 9 (22) Sections 34355 to 34370, inclusive.
- 10 (23) *Sections 527.6 to 527.9, inclusive, of the Code of Civil*
- 11 *Procedure.*
- 12 ~~(21)~~
- 13 (24) Sections ~~8100, 8101, and 8103~~ 8100 to 8108, inclusive, of
- 14 the Welfare and Institutions Code.
- 15 (25) *Section 15657.03 of the Welfare and Institutions Code.*
- 16 (c) As used in the following provisions, “firearm” also includes
- 17 a rocket, rocket propelled projectile launcher, or similar device
- 18 containing an explosive or incendiary material, whether or not the
- 19 device is designed for emergency or distress signaling purposes:
- 20 (1) Section 16750.
- 21 (2) Subdivision (b) of Section 16840.
- 22 (3) Section 25400.
- 23 (4) Sections 25850 to 26025, inclusive.
- 24 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 25 (6) Sections 26035 to 26055, inclusive.
- 26 (d) As used in the following provisions, “firearm” does not
- 27 include an unloaded antique firearm:
- 28 (1) Section 16730.
- 29 (2) Section 16550.
- 30 (3) Section 16960.
- 31 (4) Section 17310.
- 32 (5) Chapter 6 (commencing with Section 26350) of Division 5
- 33 of Title 4.
- 34 (6) Chapter 7 (commencing with Section 26400) of Division 5
- 35 of Title 4.
- 36 (7) Sections 26500 to 26588, inclusive.
- 37 (8) Sections 26700 to 26915, inclusive.
- 38 (9) Section 27510.
- 39 (10) Section 27530.
- 40 (11) Section 27540.

1 (12) Section 27545.

2 (13) Sections 27555 to 27585, inclusive.

3 (14) Sections 29010 to 29150, inclusive.

4 (15) Section 25135.

5 (16) Section 29180.

6 (e) As used in Sections 34005 and 34010, “firearm” does not
7 include a destructive device.

8 (f) As used in Sections 17280 and 24680, “firearm” has the
9 same meaning as in Section 922 of Title 18 of the United States
10 Code.

11 (g) As used in Sections ~~29010 to 29150~~, *29180 to 29184*,
12 inclusive, “firearm” includes the ~~unfinished~~ frame or receiver of
13 a ~~weapon that can be readily converted to the functional condition~~
14 ~~of a finished frame or receiver.~~ *weapon.*

15 (h) ~~As used in Sections 18100 to 18205, inclusive, “firearm”~~
16 ~~includes a firearm precursor part. “Firearm precursor part” has the~~
17 ~~same meaning as in subdivision (a) of Section 16531.~~

18 (i) ~~This section shall become operative on July 1, 2022.~~

19 *SEC. 5. Section 16531 of the Penal Code is amended to read:*

20 16531. (a) As used in this part, “firearm precursor part” means
21 ~~a component of a firearm that is necessary to build or assemble a~~
22 ~~firearm and is described in either of the following categories: any~~
23 ~~forging, casting, printing, extrusion, machined body or similar~~
24 ~~article that has reached a stage in manufacture where it may~~
25 ~~readily be completed, assembled or converted to be used as the~~
26 ~~frame or receiver of a functional firearm, or that is marketed or~~
27 ~~sold to the public to become or be used as the frame or receiver~~
28 ~~of a functional firearm once completed, assembled or converted.~~

29 (1) ~~An unfinished receiver, including both a single part receiver~~
30 ~~and a multiple part receiver, such as a receiver in an AR-10 or~~
31 ~~AR-15-style firearm. An unfinished receiver includes a receiver~~
32 ~~tube, a molded or shaped polymer frame or receiver, a metallic~~
33 ~~casting, a metallic forging, and a receiver flat, such as a~~
34 ~~Kalashnikov-style weapons system, Kalashnikov-style receiver~~
35 ~~channel, or a Browning-style receiver side plate.~~

36 (2) ~~An unfinished handgun frame.~~

37 (b) The Department of Justice, consistent with this section, shall
38 provide written guidance and pictorial diagrams demonstrating
39 ~~each category~~ *examples* of firearm precursor ~~part~~ *specified in*
40 ~~subdivision (a).~~ *parts.*

(c) Firearm parts that can only be used on antique firearms, as defined in subdivision (c) of Section 16170, are not firearm precursor parts.

(d) ~~A firearm precursor part is not a firearm or the frame or receiver thereof.~~ A firearm precursor part that is attached or affixed to a firearm is not subject to the requirements of Chapter 1.5 (commencing with Section 30400) of Division 10 of Title 4 of Part 6 or Section 18010.

SEC. 6. Section 16532 of the Penal Code is repealed.

~~16532. (a) As used in this part, "firearm precursor part vendor" means a person, firm, corporation, or other business enterprise that holds a valid firearm precursor part vendor license issued pursuant to Section 30485.~~

~~(b) Commencing April 1, 2022, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, and a licensed ammunition vendor shall automatically be deemed a licensed firearm precursor part vendor, if the dealer and licensed ammunition vendor comply with the requirements of Article 2 (commencing with Section 30300) and Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4.~~

SEC. 7. Section 17305 is added to the Penal Code, to read:

17305. "Unserialized firearm precursor part" means a firearm precursor part that is not required by federal law to be imprinted with a serial number and is not imprinted with such a serial number.

SEC. 8. Section 18010 of the Penal Code is amended to read:

18010. (a) The Attorney General, a district attorney, or a city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any item that constitutes a nuisance under any of the following provisions:

- (1) Section 19290, relating to metal handgrenades.
- (2) Section 20390, relating to an air gauge knife.
- (3) Section 20490, relating to a belt buckle knife.
- (4) Section 20590, relating to a cane sword.
- (5) Section 20690, relating to a lipstick case knife.
- (6) Section 20790, relating to a shobi-zue.
- (7) Section 20990, relating to a writing pen knife.
- (8) Section 21190, relating to a ballistic knife.
- (9) Section 21890, relating to metal knuckles.

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(10) Section 22290, relating to a leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot.

(11) Section 22490, relating to a shuriken.

(12) Section 24390, relating to a camouflaging firearm container.

(13) Section 24490, relating to a cane gun.

(14) Section 24590, relating to a firearm not immediately recognizable as a firearm.

(15) Section 24690, relating to an undetectable firearm.

(16) Section 24790, relating to a wallet gun.

(17) Section 30290, relating to flechette dart ammunition and to a bullet with an explosive agent.

(18) Section 31590, relating to an unconventional pistol.

(19) Section 32390, relating to a large-capacity magazine.

(20) Section 32990, relating to a multiburst trigger activator.

(21) Section 33290, relating to a short-barreled rifle or a short-barreled shotgun.

(22) Section 33690, relating to a zip gun.

(b) The weapons described in subdivision (a) shall be subject to confiscation and summary destruction whenever found within the state.

(c) The weapons described in subdivision (a) shall be destroyed in the same manner described in Section 18005, except that upon the certification of a judge or of the district attorney that the ends of justice will be served thereby, the weapon shall be preserved until the necessity for its use ceases.

(d) (1) ~~Commencing July 1, 2022, the~~ The Attorney General, a district attorney, or a city attorney may bring an action to enjoin the importation into the state or sale of any firearm precursor part that is *unlawfully* imported into this state or sold within this state in violation of Article 1 (commencing with Section 30400), Article 2 (commencing with Section 30442), Article 3 (commencing with Section 30470), and Article 4 (commencing with Section 30485) of Chapter 1.5 of Division 10 of Title 4: *state*.

(2) ~~Commencing July 1, 2022, Any~~ Any firearm precursor parts that are *unlawfully* imported in this state or sold within this state in violation of Article 1 (commencing with Section 30400), Article 2 (commencing with Section 30442), Article 3 (commencing with Section 30470), and Article 4 (commencing with Section 30485)

1 of Chapter 1.5 of Division 10 of Title 4 are a nuisance and are
2 subject to confiscation and destruction pursuant to Section 18005.

3 *SEC. 9. Section 23910 of the Penal Code is amended to read:*

4 23910. The Department of Justice, upon request, may assign
5 a distinguishing number or mark of identification to any firearm
6 whenever the firearm lacks a manufacturer's number or other mark
7 of identification. Whenever the manufacturer's number or other
8 mark of identification or a distinguishing number or mark assigned
9 by the department has been destroyed or obliterated, the
10 Department of Justice, upon request, ~~shall~~ *may* assign a
11 distinguishing number or mark of identification to any firearm in
12 accordance with Section 29182.

13 *SEC. 10. Section 23920 of the Penal Code is amended to read:*

14 23920. (a) Except as provided in Section 23925, any person
15 who, with knowledge of any change, alteration, removal, or
16 obliteration described in this section, buys, receives, disposes of,
17 sells, offers for sale, or has in possession any pistol, revolver, or
18 other firearm that has had the name of the maker or model, or the
19 manufacturer's number or other mark of identification, including
20 any distinguishing number or mark assigned by the Department
21 of Justice, changed, altered, removed, or obliterated, is guilty of
22 a misdemeanor.

23 (b) *Except as provided in Section 23925, any person who*
24 *knowingly possesses or imports into the state any firearm that does*
25 *not have a valid serial number or mark of identification is guilty*
26 *of a misdemeanor.*

27 (c) *As used in this section, "valid serial number or mark of*
28 *identification" means any of the following:*

29 (1) *A serial number imprinted by a federal licensee authorized*
30 *to serialize firearms.*

31 (2) *A serial number or mark of identification issued by the*
32 *California Department of Justice pursuant to Section 23910 or*
33 *29180.*

34 (3) *A serial number or other mark of identification that was*
35 *issued pursuant to the laws of another state to a resident of that*
36 *state, if the Department of Justice determines, in any manner and*
37 *at the department's discretion, that the laws and processes for*
38 *issuing firearm serial numbers in that state include adequate*
39 *provisions for public safety. The department shall provide*

1 *information listing any those states on the internet website for the*
2 *Bureau of Firearms.*

3 *SEC. 11. Section 23925 of the Penal Code is amended to read:*
4 23925. (a) Section 23920 does not apply to any of the
5 following:

6 ~~(a)~~

7 (1) The acquisition or possession of a firearm described in
8 Section 23920 by any member of the military forces of this state
9 or of the United States, while on duty and acting within the scope
10 and course of employment.

11 ~~(b)~~

12 (2) The acquisition or possession of a firearm described in
13 Section 23920 by any peace officer described in Chapter 4.5
14 (commencing with Section 830) of Title 3 of Part 2, while on duty
15 and acting within the scope and course of employment.

16 ~~(c)~~

17 (3) The acquisition or possession of a firearm described in
18 Section 23920 by any employee of a forensic laboratory, while on
19 duty and acting within the scope and course of employment.

20 ~~(d)~~

21 (4) The possession and disposition of a firearm described in
22 Section 23920 by a person who meets all of the following:

23 ~~(1)~~

24 (A) The person is not prohibited by state or federal law from
25 possessing, receiving, owning, or purchasing a firearm.

26 ~~(2)~~

27 (B) The person possessed the firearm no longer than was
28 necessary to deliver it to a law enforcement agency for that
29 agency's disposition according to law.

30 ~~(3)~~

31 (C) If the person is transporting the firearm, the person is
32 transporting it to a law enforcement agency in order to deliver it
33 to the agency for the agency's disposition according to law.

34 ~~(4)~~

35 (D) If the person is transporting the firearm to a law enforcement
36 agency, the person has given prior notice to the agency that the
37 person is transporting the firearm to that agency for the agency's
38 disposition according to law.

39 ~~(5)~~

1 (E) The firearm is transported in a locked container as defined
2 in Section 16850.

3 (b) Subdivision (b) of Section 23920 does not apply to any of
4 the following:

5 (1) The possession of a firearm that was made or assembled
6 prior to December 16, 1968 and is not a handgun.

7 (2) The possession of a firearm that has been entered, before
8 July 1, 2018, into the centralized registry set forth in Section 11106,
9 as being owned by a specific individual or entity, if that firearm
10 has assigned to it a distinguishing number or mark of identification
11 because the department accepted entry of that firearm into the
12 centralized registry.

13 (3) The possession of a firearm that is a curio or relic, or an
14 antique firearm, as those terms are defined in Section 479.11 of
15 Title 27 of the Code of Federal Regulations.

16 (4) The possession of a firearm by a federally licensed firearms
17 manufacturer or importer, or any other federal licensee authorized
18 to serialize firearms.

19 (5) The possession of a firearm by a person who, before July 1,
20 2023, has applied in good faith to the Department of Justice for
21 a unique serial number or mark of identification, pursuant to
22 Section 29180, and fully complies with the provisions of that
23 section, including imprinting the serial number or mark of
24 identification onto the firearm within 10 days after receiving the
25 serial number or mark of identification from the department.

26 (6) (A) The possession of a firearm by a new resident who
27 applies for a unique serial number or other mark of identification
28 from the Department of Justice within 60 days after arrival in the
29 state, for any firearm the resident wishes to legally possess in the
30 state that does not have a valid serial number or mark of
31 identification.

32 (B) The good faith effort by a new resident to apply for a unique
33 serial number or other mark of identification after the expiration
34 of the 60-day period specified in this paragraph, or any other
35 person's good faith effort to apply for a unique serial number or
36 mark of identification for a firearm that does not have a valid
37 serial number or other mark of identification, shall not constitute
38 probable cause for a violation of Section 23920.

39 (C) It is the intent of the Legislature to ensure that firearms
40 possessed in the state have a valid serial number or mark of

1 *identification and to authorize penalties for violating that*
 2 *requirement, while encouraging instead of deterring people who*
 3 *are in possession of unserialized firearms to make good faith efforts*
 4 *to bring those firearms into compliance with the law.*

5 *SEC. 12. Section 27530 of the Penal Code is amended to read:*

6 27530. (a) No person shall sell or otherwise transfer ownership
 7 ~~in a handgun unless the firearm bears either:~~ *of a firearm that is*
 8 *not imprinted with a valid serial number or mark of identification*
 9 *as defined in Section 23920.*

10 ~~(a) The name of the manufacturer, the manufacturer's make or~~
 11 ~~model, and a manufacturer's serial number assigned to that firearm.~~

12 ~~(b) The identification number or mark assigned to the firearm~~
 13 ~~by the Department of Justice pursuant to Section 23910.~~

14 *(b) This section does not apply to either of the following:*

15 *(1) A firearm made or assembled prior to December 16, 1968,*
 16 *that is not a handgun.*

17 *(2) A firearm that is a curio or relic, or an antique firearm, as*
 18 *those terms are defined in Section 479.11 of Title 27 of the Code*
 19 *of Federal Regulations.*

20 *SEC. 13. Section 29180 of the Penal Code is amended to read:*

21 29180. (a) For purposes of this chapter, "manufacturing" or
 22 "assembling" a firearm means to fabricate or construct a firearm,
 23 or to fit together the component parts of a firearm to construct a
 24 firearm.

25 ~~(b) Commencing July 1, 2018, prior to manufacturing or~~
 26 ~~assembling a firearm, a person manufacturing or assembling the~~
 27 ~~firearm shall do all of the following:~~

28 ~~(1) Apply to the Department of Justice for a unique serial~~
 29 ~~number or other mark of identification pursuant to Section 29182.~~

30 ~~(2) (A) Within 10 days of manufacturing or assembling a~~
 31 ~~firearm in accordance with paragraph (1), the unique serial number~~
 32 ~~or other mark of identification provided by the department shall~~
 33 ~~be engraved or permanently affixed to the firearm in a manner that~~
 34 ~~meets or exceeds the requirements imposed on licensed importers~~
 35 ~~and licensed manufacturers of firearms pursuant to subsection (i)~~
 36 ~~of Section 923 of Title 18 of the United States Code and regulations~~
 37 ~~issued pursuant thereto.~~

38 ~~(B) If the firearm is manufactured or assembled from polymer~~
 39 ~~plastic, 3.7 ounces of material type 17-4 PH stainless steel shall~~
 40 ~~be embedded within the plastic upon fabrication or construction~~

1 with the unique serial number engraved or otherwise permanently
2 affixed in a manner that meets or exceeds the requirements imposed
3 on licensed importers and licensed manufacturers of firearms
4 pursuant to subsection (i) of Section 923 of Title 18 of the United
5 States Code and regulations issued pursuant thereto.

6 (3)

7 (b) After the serial number provided by the department is
8 engraved or otherwise permanently affixed to the firearm, the
9 assembling a firearm, a person shall notify the department of that
10 fact in a manner and within a time period specified by the
11 department, and with sufficient information to identify the owner
12 of the firearm, the unique serial number or mark of identification
13 provided by the department, serial number of the frame or receiver,
14 and a description of the firearm in a manner prescribed by the
15 department.

16 (e) By January 1, 2019, any person who, as of July 1, 2018,
17 owns a firearm that does not bear a serial number assigned to it
18 pursuant to either Section 23910 or Chapter 44 (commencing with
19 Section 921) of Part 1 of Title 18 of the United States Code and
20 the regulations issued pursuant thereto, shall do all of the following:

21 (c) Any person who owns a firearm or firearm precursor part
22 that does not bear a valid serial number or mark of identification,
23 as defined in Section 23920, shall be deemed to be in compliance
24 with subdivision (b) of Section 23920 if they, by no later than July
25 1, 2023, do all of the following:

26 (1) Apply to the Department of Justice for a unique serial
27 number or other mark of identification pursuant to Section 29182.

28 (2) Within 10 days of receiving a unique serial number or other
29 mark of identification from the department, the unique serial
30 number or other mark of identification provided by the department
31 shall be engraved *engrave* or permanently affixed *affix that serial*
32 *number or mark of identification* to the firearm in accordance with
33 regulations prescribed by the department pursuant to Section 29182
34 and in a manner that meets or exceeds the requirements imposed
35 on licensed importers and licensed manufacturers of firearms
36 pursuant to subsection (i) of Section 923 of Title 18 of the United
37 States Code and regulations issued pursuant thereto. *If the firearm*
38 *is manufactured or assembled from polymer plastic, 3.7 ounces*
39 *of material type 17-4 PH stainless steel shall be embedded within*
40 *the plastic upon fabrication or construction.*

(3) After the serial number provided by the department is engraved or otherwise permanently affixed to the firearm, ~~the person shall~~ notify the department of that fact in a manner and within a time period specified by the department and with sufficient information to identify the owner of the firearm, the unique serial number or mark of identification provided by the department, and the firearm in a manner prescribed by the department.

~~(d) (1) The sale or transfer of ownership of a firearm manufactured or assembled pursuant to this section is prohibited. No person, other than a federally licensed manufacturer or importer, shall sell or transfer ownership of a firearm in this state that is manufactured or assembled by that person, except by operation of law.~~

(2) Paragraph (1) does not apply to the transfer, surrender, or sale of a firearm to a law enforcement agency.

(3) Any firearms confiscated by law enforcement that do not bear an engraved serial number or other mark of identification pursuant to subdivision (b) or (c), or a firearm surrendered, transferred, or sold to a law enforcement agency pursuant to paragraph (2) shall be destroyed as provided in Section 18005.

(4) Sections 26500 and 27545, and subdivision (a) of Section 31615, do not apply to the transfer, sale, or surrender of firearms to a law enforcement agency pursuant to paragraph (2).

~~(e) A new resident to the state shall apply for a unique serial number or other mark of identification pursuant to Section 29182 within 60 days of arrival for any firearm the resident wishes to possess in the state that the resident previously manufactured or assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification.~~

~~(f)~~

(e) A person, corporation, or firm shall not knowingly allow, facilitate, aid, or abet the manufacture or assembling of a firearm pursuant to this section by a person who is within any of the classes identified by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(f) A person, corporation, or firm shall not knowingly manufacture or assemble, or knowingly cause, allow, facilitate, aid, or abet the manufacture or assembling of a firearm that is not

1 *imprinted with a valid serial number or mark of identification as*
2 *defined in Section 23920.*

3 (g) If the firearm is a handgun, a violation of this section is
4 punishable by imprisonment in a county jail not to exceed one
5 year, or by a fine not to exceed one thousand dollars (\$1,000), or
6 by both that fine and imprisonment. For all other firearms, a
7 violation of this section is punishable by imprisonment in a county
8 jail not to exceed six months, or by a fine not to exceed one
9 thousand dollars (\$1,000), or by both that fine and imprisonment.
10 Each firearm found to be in violation of this section constitutes a
11 distinct and separate offense. This section does not preclude
12 prosecution under any other law providing for a greater penalty.

13 *SEC. 14. Section 29181 of the Penal Code is repealed.*

14 ~~29181. Section 29180 does not apply to or affect any of the~~
15 ~~following:~~

16 ~~(a) A firearm that has a serial number assigned to it pursuant to~~
17 ~~either Section 23910 or Chapter 44 (commencing with Section~~
18 ~~921) of Part 1 of Title 18 of the United States Code and the~~
19 ~~regulations issued pursuant thereto.~~

20 ~~(b) A firearm made or assembled prior to December 16, 1968,~~
21 ~~that is not a handgun.~~

22 ~~(c) A firearm which was entered into the centralized registry~~
23 ~~set forth in Section 11106 prior to July 1, 2018, as being owned~~
24 ~~by a specific individual or entity if that firearm has assigned to it~~
25 ~~a distinguishing number or mark of identification because the~~
26 ~~department accepted entry of that firearm into the centralized~~
27 ~~registry.~~

28 ~~(d) A firearm that has a serial number assigned to it pursuant~~
29 ~~to Chapter 53 of Title 26 of the United States Code and the~~
30 ~~regulations issued pursuant thereto.~~

31 ~~(e) A firearm that is a curio or relic, or an antique firearm, as~~
32 ~~those terms are defined in Section 479.11 of Title 27 of the Code~~
33 ~~of Federal Regulations.~~

34 *SEC. 15. Section 29182 of the Penal Code is amended to read:*

35 ~~29182. (a) (1) The Department of Justice shall accept~~
36 ~~applications from, and shall grant applications in the form of serial~~
37 ~~numbers pursuant to Section 23910 to, persons who wish to~~
38 ~~manufacture or assemble firearms pursuant to subdivision (b) of~~
39 ~~Section 29180.~~

40 (2)

1 29182. (a) The Department of Justice ~~shall~~ *may* accept
 2 applications from, and ~~shall~~ *may* grant applications in the form of
 3 serial numbers pursuant to Section 23910 to, persons who wish to
 4 own a firearm ~~described in subdivision (c) of or firearm precursor~~
 5 *part that does not have a valid serial number or mark of*
 6 *identification as defined in Section 29180. 23920.*

7 (b) An application made pursuant to subdivision (a) shall only
 8 be granted by the department if the applicant does all of the
 9 following:

10 (1) For each transaction, completes a firearms eligibility check
 11 pursuant to Section 28220 demonstrating that the applicant is not
 12 prohibited by state or federal law from possessing, receiving,
 13 owning, or purchasing a firearm.

14 (2) ~~(A) Presents proof of age and identity as specified in Section~~
 15 ~~16400. Except as provided in subparagraph (B), the applicant shall~~
 16 ~~be 16400 demonstrating that person is 21 years of age or older to~~
 17 ~~obtain a unique serial number or mark of identification for a~~
 18 ~~firearm. older.~~

19 ~~(B) The department shall grant an application to an applicant~~
 20 ~~who is at least 18 years of age, but less than 21 years of age, for a~~
 21 ~~serial number for a firearm that is not a handgun, if that application~~
 22 ~~is made before February 1, 2019.~~

23 (3) Provides a description of the firearm that ~~he or she~~ *the*
 24 *applicant* owns or intends to manufacture or assemble, in a manner
 25 prescribed by the department.

26 (4) Has a valid firearm safety ~~certificate or handgun safety~~
 27 ~~certificate.~~

28 (c) The department shall inform applicants who are denied an
 29 application of the reasons for the denial in writing.

30 (d) All applications shall be granted or denied within 15 calendar
 31 days of the receipt of the application by the department.

32 (e) (1) This chapter does not authorize a person to manufacture,
 33 assemble, or possess a weapon prohibited under Section 16590,
 34 an assault weapon as defined in Section 30510 or 30515, a
 35 machinegun as defined in Section 16880, a .50 BMG rifle as
 36 defined in Section 30530, or a destructive device as defined in
 37 Section 16460.

38 (2) This chapter does not authorize a person, on or after July 1,
 39 2018, to manufacture or assemble an unsafe handgun, as defined
 40 in Section 31910.

1 (f) A new resident to the state shall be deemed to be in
2 compliance with subdivision (b) of Section 23920 if, within 60
3 days after arriving in the state, they apply for a unique serial
4 number or other mark of identification pursuant this section for
5 any firearm that they wish to legally possess in the state and that
6 does not have a unique serial number or other mark of
7 identification.

8 (f)

9 (g) The department shall adopt regulations to administer this
10 chapter.

11 SEC. 16. Section 29185 is added to the Penal Code, to read:

12 29185. (a) It is unlawful to sell, offer to sell, or transfer a
13 computer numerical control (CNC) milling machine in this state
14 that has the sole or primary function of manufacturing firearms
15 to any person other than a federally licensed firearms manufacturer
16 or importer.

17 (b) It is unlawful for any person in this state other than a
18 federally licensed firearms manufacturer or importer to possess,
19 purchase, or receive a CNC milling machine that has the sole or
20 primary function of manufacturing firearms.

21 (c) This section does not apply to:

22 (1) A person who is engaged in the business of selling
23 manufacturing equipment to a federally licensed firearms
24 manufacturer or importer who possesses a CNC milling machine
25 with the intent to sell or transfer the CNC milling machine to a
26 federally licensed firearms manufacturer or importer.

27 (2) A common carrier licensed under state law, or a motor
28 carrier, air carrier or carrier affiliated with an air carrier through
29 common controlling interest that is subject to Title 49 of the United
30 States Code, or an authorized agent of any such carrier, when
31 acting in the course and scope of duties incident to the receipt,
32 processing, transportation, or delivery of property.

33 (3) Any member of the Armed Forces of the United States or
34 the National Guard, while on duty and acting within the scope and
35 course of employment, or any law enforcement agency or forensic
36 laboratory.

37 SEC. 17. Section 30400 of the Penal Code is repealed.

38 30400. (a) Commencing July 1, 2022, a person, corporation,
39 or dealer who does either of the following shall be punished by
40 imprisonment in a county jail for a term not to exceed six months,

1 or by a fine not to exceed one thousand dollars (\$1,000), or by
2 both the imprisonment and fine.

3 (1) ~~Sells a firearm precursor part to a person under 21 years of~~
4 ~~age.~~

5 (2) ~~Supplies, delivers, or gives possession of a firearm precursor~~
6 ~~part to a minor who the person, corporation, or dealer knows, or~~
7 ~~using reasonable care should have known, is prohibited from~~
8 ~~possessing a firearm or ammunition at that time pursuant to Chapter~~
9 ~~1 (commencing with Section 29610) of Division 9.~~

10 (b) ~~Proof that a person, corporation, or dealer, or their agent or~~
11 ~~employee, demanded, was shown, and acted in reasonable reliance~~
12 ~~upon, bona fide evidence of the age of majority and identity shall~~
13 ~~be a defense to any criminal prosecution under this section.~~

14 (c) ~~The provisions of this section are cumulative and do not~~
15 ~~restrict the application of any other law. However, an act or~~
16 ~~omission punishable in different ways by this section and another~~
17 ~~provision of law shall not be punished under more than one~~
18 ~~provision.~~

19 *SEC. 18. Section 30400 is added to the Penal Code, to read:*

20 *30400. Except as provided in Section 30420, it shall be*
21 *unlawful for a person to do either of the following:*

22 (a) *Sell, offer to sell, or transfer ownership of an unserialized*
23 *firearm precursor part in this state to a person that is not either*
24 *of the following:*

25 (1) *A federally licensed firearms manufacturer or importer.*

26 (2) *A federal licensee authorized to serialize firearms.*

27 (b) *Purchase or receive an unserialized firearm precursor part*
28 *in this state unless the person is either of the following:*

29 (1) *A federally licensed firearms manufacturer or importer.*

30 (2) *A federal licensee authorized to serialize firearms.*

31 *SEC. 19. Section 30405 of the Penal Code is repealed.*

32 *30405. (a) (1) Commencing July 1, 2022, a person prohibited*
33 *from owning or possessing a firearm under Chapter 2 (commencing*
34 *with Section 29800) or Chapter 3 (commencing with Section*
35 *29900) of Division 9 of this title, or Section 8100 or 8103 of the*
36 *Welfare and Institutions Code, shall not own, possess, or have*
37 *under custody or control a firearm precursor part.*

38 (2) ~~A violation of this subdivision is punishable by imprisonment~~
39 ~~in a county jail not to exceed one year, by a fine not to exceed one~~
40 ~~thousand dollars (\$1,000), or by both that fine and imprisonment.~~

1 ~~(b) A violation of subdivision (a) does not occur if all of the~~
2 ~~following conditions are met:~~

3 ~~(1) The person found a firearm precursor part or took the firearm~~
4 ~~precursor part from a person who was committing a crime against~~
5 ~~the person who found or took the firearm precursor part.~~

6 ~~(2) The person possessed the firearm precursor part no longer~~
7 ~~than was necessary to deliver or transport the firearm precursor~~
8 ~~part to a law enforcement agency for that agency's disposition~~
9 ~~according to law.~~

10 ~~(3) The person is prohibited from possessing any firearm~~
11 ~~precursor part solely because that person is prohibited from owning~~
12 ~~or possessing a firearm by virtue of Chapter 2 (commencing with~~
13 ~~Section 29800) of Division 9.~~

14 ~~(c) Upon the trial for violating subdivision (a), the trier of fact~~
15 ~~shall determine whether the defendant is eligible for the exemption~~
16 ~~created by subdivision (b). The defendant has the burden of proving~~
17 ~~by a preponderance of the evidence that the defendant is within~~
18 ~~the scope of the exemption provided by subdivision (b).~~

19 ~~(d) The provisions of this section are cumulative and do not~~
20 ~~restrict the application of any other law. However, an act or~~
21 ~~omission punishable in different ways by this section and another~~
22 ~~provision of law shall not be punished under more than one~~
23 ~~provision.~~

24 *SEC. 20. Section 30406 of the Penal Code is repealed.*

25 ~~30406. (a) Commencing July 1, 2022, a person, corporation,~~
26 ~~firm, or other business enterprise who supplies, delivers, sells, or~~
27 ~~gives possession or control of a firearm precursor part to anybody~~
28 ~~who that person knows or using reasonable care should know is~~
29 ~~prohibited from owning, possessing, or having under custody or~~
30 ~~control a firearm precursor part is guilty of a misdemeanor,~~
31 ~~punishable by imprisonment in a county jail not exceeding one~~
32 ~~year, or a fine not exceeding one thousand dollars (\$1,000), or by~~
33 ~~both that fine and imprisonment.~~

34 ~~(b) Commencing July 1, 2022, a person, corporation, firm, or~~
35 ~~other business enterprise that supplies, delivers, sells, or gives~~
36 ~~possession or control of a firearm precursor part to a person whom~~
37 ~~the person, corporation, firm, or other business enterprise knows~~
38 ~~or has cause to believe is not the actual purchaser or transferee of~~
39 ~~the firearm precursor part, with knowledge or cause to believe that~~
40 ~~the firearm precursor part is to be subsequently sold or transferred~~

1 to a person who is prohibited from owning, possessing, or having
2 under custody or control a firearm precursor part is guilty of a
3 misdemeanor, punishable by imprisonment in a county jail not
4 exceeding one year, or a fine not exceeding one thousand dollars
5 (\$1,000), or by both that fine and imprisonment.

6 (e) ~~The provisions of this section are cumulative and do not~~
7 ~~restrict the application of any other law. However, an act or~~
8 ~~omission punishable in different ways by this section and another~~
9 ~~provision of law shall not be punished under more than one~~
10 ~~provision.~~

11 *SEC. 21. Section 30412 of the Penal Code is repealed.*

12 30412. (a) (1) ~~Commencing July 1, 2022, the sale of a firearm~~
13 ~~precursor part by any party shall be conducted by or processed~~
14 ~~through a licensed firearm precursor part vendor.~~

15 (2) ~~When neither party to a firearm precursor part sale is a~~
16 ~~licensed firearm precursor part vendor, the seller shall deliver the~~
17 ~~firearm precursor part to a vendor to process the transaction. The~~
18 ~~firearm precursor part vendor shall promptly and properly deliver~~
19 ~~the firearm precursor part to the purchaser, if the sale is not~~
20 ~~prohibited, as if the firearm precursor part were the vendor's own~~
21 ~~merchandise. If the firearm precursor part vendor cannot deliver~~
22 ~~the firearm precursor part to the purchaser, the vendor shall~~
23 ~~forthwith return the firearm precursor part to the seller after the~~
24 ~~seller has their background checked by the department. The firearm~~
25 ~~precursor part vendor may charge the purchaser an administrative~~
26 ~~fee to process the transaction, in an amount to be set by the~~
27 ~~Department of Justice, in addition to any applicable fees that may~~
28 ~~be charged pursuant to the provisions of this title.~~

29 (b) ~~Commencing July 1, 2022, the sale, delivery, or transfer of~~
30 ~~ownership of a firearm precursor part by any party may only occur~~
31 ~~in a face-to-face transaction with the seller, deliverer, or transferor.~~
32 ~~A firearm precursor part may be purchased or acquired over the~~
33 ~~internet or through other means of remote ordering if a licensed~~
34 ~~firearm precursor part vendor initially receives the firearm~~
35 ~~precursor part and processes the transaction in compliance with~~
36 ~~this section and Article 2 (commencing with Section 30442).~~

37 (c) ~~Subdivisions (a) and (b) shall not apply to the sale, delivery,~~
38 ~~or transfer of a firearm precursor part to any of the following:~~

39 (1) ~~An authorized law enforcement representative of a city,~~
40 ~~county, city and county, or state or federal government, if the sale,~~

1 delivery, or transfer is for exclusive use by that governmental
2 agency and, prior to the sale, delivery, or transfer of the firearm
3 precursor part, written authorization from the head of the agency
4 employing the purchaser or transferee is obtained, identifying the
5 employee as an individual authorized to conduct the transaction,
6 and authorizing the transaction for the exclusive use of the agency
7 employing the individual.

8 (2) ~~A sworn peace officer, as defined in Chapter 4.5~~
9 ~~(commencing with Section 830) of Title 3 of Part 2, or sworn~~
10 ~~federal law enforcement officer, who is authorized to carry a~~
11 ~~firearm in the course and scope of the officer's duties.~~

12 (3) ~~An importer or manufacturer of ammunition or firearms~~
13 ~~who is licensed to engage in business pursuant to Chapter 44~~
14 ~~(commencing with Section 921) of Title 18 of the United States~~
15 ~~Code and the regulations issued pursuant thereto.~~

16 (4) ~~A person who is on the centralized list of exempted federal~~
17 ~~firearms licensees maintained by the Department of Justice~~
18 ~~pursuant to Article 6 (commencing with Section 28450) of Chapter~~
19 ~~6 of Division 6.~~

20 (5) ~~A person whose licensed premises are outside this state and~~
21 ~~who is licensed as a dealer or collector of firearms pursuant to~~
22 ~~Chapter 44 (commencing with Section 921) of Title 18 of the~~
23 ~~United States Code and the regulations issued pursuant thereto.~~

24 (6) ~~A person who is licensed as a collector of firearms pursuant~~
25 ~~to Chapter 44 (commencing with Section 921) of Title 18 of the~~
26 ~~United States Code and the regulations issued pursuant thereto;~~
27 ~~whose licensed premises are within this state, and who has a current~~
28 ~~certificate of eligibility issued by the Department of Justice~~
29 ~~pursuant to Section 26710.~~

30 (7) ~~A firearm precursor part vendor.~~

31 (8) ~~An authorized representative of a city, county, city and~~
32 ~~county, or state or federal government, if the firearm precursor~~
33 ~~part is obtained as part of an authorized, voluntary program in~~
34 ~~which the governmental entity is buying or receiving firearm~~
35 ~~precursor parts from private individuals.~~

36 (d) ~~Any firearm precursor part acquired pursuant to paragraph~~
37 ~~(8) of subdivision (c) shall be disposed of pursuant to the applicable~~
38 ~~provisions of Sections 18000, 18005, and 34000.~~

39 (e) ~~A violation of this section is a misdemeanor.~~

~~(f) The provisions of this section are cumulative and do not restrict the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.~~

SEC. 22. Section 30414 of the Penal Code is repealed.

~~30414. (a) Commencing July 1, 2022, a resident of this state shall not bring or transport into this state a firearm precursor part that they purchased or otherwise obtained from outside of this state unless they first had that firearm precursor part delivered to a licensed firearm precursor part vendor for delivery to that resident pursuant to the procedures set forth in Section 30412.~~

~~(b) Subdivision (a) does not apply to any of the following:~~

~~(1) A firearm precursor part vendor.~~

~~(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer who is authorized to carry a firearm in the course and scope of the officer's duties.~~

~~(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.~~

~~(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6.~~

~~(5) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.~~

~~(6) A licensed common carrier or an authorized agent or employee of a licensed common carrier, when acting in the course and scope of duties incident to the delivery of or receipt of that firearm in accordance with federal law.~~

~~(c) A violation of this section is a misdemeanor.~~

~~(d) The provisions of this section are cumulative and do not restrict the application of any other law. However, an act or omission punishable in different ways by this section and another~~

1 ~~provision of law shall not be punished under more than one~~
2 ~~provision.~~

3 *SEC. 23. Section 30420 of the Penal Code is amended to read:*

4 30420. This article does not apply to ~~or affect the sale to,~~
5 ~~purchase by, possession of, or use of a firearm precursor part by~~
6 ~~any any of the following persons:~~

7 (a) A member of the ~~United States Armed Forces, Armed Forces~~
8 ~~of the United States~~ or the National Guard, while on duty and
9 acting within the scope and course of employment, or any ~~police~~
10 ~~law enforcement agency or forensic laboratory or any person who~~
11 ~~is the holder of a valid permit issued pursuant to Article 3~~
12 ~~(commencing with Section 18900) of Chapter 1 of Division 5 of~~
13 ~~Title 2: laboratory.~~

14 (b) A common carrier licensed under state law, or a motor
15 carrier, air carrier or carrier affiliated with an air carrier through
16 common controlling interest that is subject to Title 49 of the United
17 States Code, or an authorized agent of any such carrier, when
18 acting in the course and scope of duties incident to the receipt,
19 processing, transportation, or delivery of property.

20 (c) An authorized representative of a city, county, city and
21 county, or state or federal government that receives an unserialized
22 firearm precursor part as part of an authorized, voluntary program
23 in which the governmental entity is buying or receiving firearms
24 or firearm precursor parts from private individuals.

25 *SEC. 24. Article 2 (commencing with Section 30442) of Chapter*
26 *1.5 of Division 10 of Title 4 of Part 6 of the Penal Code is repealed.*

27 *SEC. 25. Article 3 (commencing with Section 30470) of Chapter*
28 *1.5 of Division 10 of Title 4 of Part 6 of the Penal Code is repealed.*

29 *SEC. 26. Article 4 (commencing with Section 30485) of Chapter*
30 *1.5 of Division 10 of Title 4 of Part 6 of the Penal Code is repealed.*

31 *SEC. 27. The Department of Justice is authorized to adopt*
32 *emergency regulations to implement this Act.*

33 *SEC. 28. The provisions of this act are severable. If any*
34 *provision of this act or its application is held invalid, that invalidity*
35 *shall not affect other provisions or applications that can be given*
36 *effect without the invalid provision or application.*

37 *SEC. 29. No reimbursement is required by this act pursuant*
38 *to Section 6 of Article XIII B of the California Constitution because*
39 *the only costs that may be incurred by a local agency or school*
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

6 SECTION 1. The Legislature finds and declares the following:

7 ~~(a) With rising homicides, the President of the United States~~
8 ~~has urged Congress to take action to end the gun violence epidemic.~~

9 ~~(b) During the pandemic, cities across the country have~~
10 ~~experienced record-setting homicide numbers.~~

11 ~~(c) The City of Los Angeles recorded over 352 homicides in~~
12 ~~2021, and Chicago, Illinois, recorded over 756, with increases of~~
13 ~~12 percent and 4 percent over the prior year, respectively. In~~
14 ~~Houston, Texas, homicides increased 18 percent from 2020.~~

15 ~~(d) The nation's capital recorded over 200 homicides in 2021,~~
16 ~~the highest number since 2004. Officers there have taken more~~
17 ~~than 2,000 guns off the street and, as the city works to curb gun~~
18 ~~violence, there is growing concern over ghost guns, which are sold~~
19 ~~as parts and then assembled by the customer.~~

20 ~~(e) A commercially manufactured firearm is made by a licensed~~
21 ~~company and then sold by a licensed firearms dealer. All~~
22 ~~commercially manufactured firearms sold in the United States are~~
23 ~~required to have a serial numbers etched or engraved on the frame~~
24 ~~or receiver.~~

25 ~~(f) Conversely, a ghost gun is manufactured from components~~
26 ~~that can be assembled at the home of the purchaser. There is~~
27 ~~generally no requirement to pass a background check to obtain the~~
28 ~~components of a ghost gun. These parts are sold online as kits that~~
29 ~~include an "80 percent receiver," meaning that the frame or receiver~~
30 ~~is 80-percent complete, and the buyers must complete the final 20~~
31 ~~percent themselves.~~

32 ~~(g) A key selling point for many buyers is that a ghost gun does~~
33 ~~not have a serial number, that law enforcement agencies can use~~
34 ~~to trace the gun from the manufacturer to the dealer and then to~~
35 ~~any subsequent purchaser. Under current rules, the Bureau of~~
36 ~~Alcohol, Tobacco, Firearms and Explosives does not treat these~~
37 ~~unfinished receivers as traditional firearms.~~

38 ~~(h) States including California, Connecticut, Delaware, Hawaii,~~
39 ~~Nevada, New Jersey, New York, Rhode Island, Virginia, and~~
40 ~~Washington, and the District of Columbia, have enacted laws to~~

1 ~~at least partially address the problem of unserialized firearms, but~~
2 ~~many states have left them completely unregulated.~~

3 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~
4 ~~to further prohibit unserialized firearms in the state.~~

5

6

7 **REVISIONS:**

8 **Heading—Line 3.**

9

O

AB 2011 (Wicks) Analysis and Recommendation

TITLE: Affordable Housing and High Road Jobs Act of 2022

AUTHORS: Wicks (D-Oakland), Bloom (D-Santa Monica), Grayson (D-Concord), Quirk-Silva (D-Fullerton), Villapudua (D-Stockton)

SPONSORS: California Conference of Carpenters, California Housing Consortium

RECOMMENDATION: Support

BACKGROUND: California is in the midst of a housing crisis. According to the author and bill sponsors, only 24% of households can afford to purchase a median priced single-family home – 50% less than the national average and 33% less than at the start of the pandemic. A major cause of the housing crisis is the mismatch between the need for housing and the available supply. The Statewide Housing Plan adopted by the California Department of Housing and Community Development (HCD) earlier this year, determined that, to address this mismatch, over the next eight years, California needs to produce approximately 2.5 million units of housing, of which one million would need to be affordable for lower income households. This represents more than double the number of units planned for, much less built, over the last eight years and would require production of over 300,000 units a year. AB 2011 is intended to build upon recent efforts by the state to facilitate the construction of more affordable housing.

PURPOSE: AB 2011 establishes the Affordable Housing and High Road Jobs Act of 2022 (the Act), to create a ministerial, streamlined “by right” approval process for 100% affordable housing in commercial zones, defined as areas zoned for office, retail or parking. The “by right” process would also apply to mixed-income housing (where at least 15% of units are affordable for lower income households) along commercial corridors, defined as a road that is not a freeway with a right-of-way between 70 and 150 feet wide. These commercial corridors are typically the location of strip retail centers and parking lots.

The ministerial, streamlined process would not apply to areas under specific plans adopted before January 1, 2024, with a notice of determination issued before January 1, 2022. Developments must also meet various standards relating to location, objective design standards, and affordability. Any development proponent of a project approved under these provisions must agree to pay construction workers at least the prevailing wage rate for the type of work and geographic area. For projects of 50 or more units, health benefits are required to be provided for workers, and all contractors must either participate in a state-approved apprenticeship program or request the dispatch of apprentices from a program.

DISTRICT IMPACT: AB 2011 would require housing to be “by right” if it conforms to the specified provisions regarding zoning, use, affordability, location, design and labor standards. In being “by right,” projects would not be subject to a local government's discretionary approval process and would be exempt from the California Environmental Quality Act (CEQA). Local governments would be able to apply objective standards and design review processes as long as they do not conflict with the provisions in the bill and do not preclude the development of housing.

While initial staff analysis has determined the bill may not directly impact transit-oriented development projects on BART property, it could spur new development on currently underutilized land and along existing thoroughfares. For example, the bill includes certain density standards for projects built under its “by right” provisions. One of these standards is that a project built within one-half mile of a major transit stop in a metropolitan area have a density of at least 80 units per acre. The bill also seeks to prioritize infill development, which would reduce commutes, increase transit use, and encourage non-vehicular modes of transportation.

SUPPORT/OPPOSITION: Support includes: various Carpenters union locals, other non-carpenter building trades union locals, AARP, Abundant Housing LA Affirmed Housing, All Home, Bay Area Council, Burbank Housing Development Corporation, California Apartment Association, California Association of Local Housing Finance Agencies, California Coalition for Rural Housing, California Community Builders, California Housing Partnership, California YIMBY, City of San Mateo, CivicWell Council of Infill Builders, Destination: Home, East Bay Asian Local Development Corporation, Fieldstead and Company, Generation Housing, Greenbelt Alliance, Housing Action Coalition, Housing California, Making Housing and Community Happen, Mercy Housing California, MidPen Housing Corporation, Non Profit Housing Association of Northern California, Northern California Carpenters Regional Council, Richmond Community Foundation, San Diego Housing Federation, San Francisco Bay Area Planning and Urban Research Association, San Francisco Housing Development Corporation, Satellite Affordable Housing Associates, Silicon Valley Community Foundation, Southern California Association of Nonprofit Housing, SV@Home Action Fund, The Kennedy Commission, The Pacific Companies, The Two Hundred, United Lutheran Church of Oakland, United Ways of California, USA Properties, Fund Ventura County Clergy and Laity United for Economic Justice

Opposition: State Building & Construction Trades Council; Cities of Laguna Beach, Mission Viejo and Rancho Santa Margarita, California State Association of Electrical Workers, California State Pipe Trades Council, Western States Council Sheet Metal, Air, Rail and Transportation

STATUS: Passed the Assembly Floor (48-11) on May 23; In the Senate, referred to the Committees on Housing, Governance and Finance, and Environmental Quality.

AMENDED IN ASSEMBLY MAY 11, 2022

AMENDED IN ASSEMBLY APRIL 18, 2022

AMENDED IN ASSEMBLY MARCH 24, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2011

**Introduced by Assembly Members Wicks, Bloom, Grayson,
Quirk-Silva, and Villapudua**

(Principal coauthor: Senator Wiener)

**(Coauthors: Assembly Members Berman, Mike Fong, Reyes, and
~~Robert Rivas~~) *Robert Rivas, and Blanca Rubio***

February 14, 2022

An act to add Chapter 4.1 (commencing with Section 65912.100) to Division 1 of Title 7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2011, as amended, Wicks. Affordable Housing and High Road Jobs Act of 2022.

The Planning and Zoning Law authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies specified objective planning standards.

This bill would make certain housing developments that meet specified affordability and site criteria and objective development standards a use by right within a zone where office, retail, or parking are a principally permitted use, and would subject these development projects to one of 2 streamlined, ministerial review processes. The bill would require a development proponent for a housing development

AB 2011

— 2 —

project approved pursuant to the streamlined, ministerial review process to require, in contracts with construction contractors, that certain wage and labor standards will be met, including that all construction workers shall be paid at least the general prevailing rate of wages, as specified. The bill would require a development proponent to certify to the local government that those standards will be met in project construction. By expanding the crime of perjury, the bill would impose a state-mandated local program. ~~The~~

This bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages. The bill would require a development proponent for a development of 50 or more housing units to require construction contractors to participate in an apprenticeship program or request dispatch of apprentices from a state-approved apprenticeship program, and to make specified health care expenditures for construction craft employees. The bill would require the development proponent to certify compliance with those requirements to the local government and to report monthly to the local government that they are in compliance with those requirements. The bill would subject the development proponent and the construction contractors and subcontractors to specified civil penalties for failing to comply with those requirements, and would require the penalty funds to be deposited in the State Public Works Enforcement Fund. The bill would prohibit a local government from imposing any requirement, including increased fees, on the basis that the project is eligible to receive ministerial or streamlined approval. Because the bill would impose new duties on local governments, the bill would impose a state-mandated local program.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

The approval process established by this bill would be ministerial in nature, thereby exempting the approval of development projects subject to that approval process from CEQA.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4.1 (commencing with Section
2 65912.100) is added to Division 1 of Title 7 of the Government
3 Code, to read:

4
5 CHAPTER 4.1. AFFORDABLE HOUSING AND HIGH ROAD JOBS
6 ACT OF 2022
7

8 Article 1. General Provisions
9

10 65912.100. This chapter shall be known and cited as the
11 Affordable Housing and High Road Jobs Act of 2022.

12 65912.101. For purposes of this chapter, the following terms
13 have the following meanings:

14 (a) "Commercial corridor" means a highway, as defined in
15 Section 360 of the Vehicle Code, that is not a freeway, as defined
16 in Section 332 of the Vehicle Code, and that has a right-of-way,
17 as defined in Section 525 of the Vehicle Code, of at least 70 and
18 not greater than 150 feet.

19 (b) "Development proponent" means a developer who submits
20 a housing development project application to a local government
21 under the streamlined, ministerial review process pursuant to this
22 chapter.

(c) “Health care expenditures” include contributions under Sections 501(c) or (d) or 401(a) of the Internal Revenue Code and payments toward “medical care” as defined under Section 213(d)(1) of the Internal Revenue Code.

(d) “Industrial use” means utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. “Industrial use” does not include power substations or utility conveyances such as power lines, broadband wires, and pipes.

(e) “Local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(f) “Major transit stop” has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(g) “Side street” means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 25 and fewer than 70 feet.

(h) “Single-family property” means a property with a single residential dwelling unit. For purposes of this chapter, a residential dwelling unit does not include accessory dwelling units, as defined in Section 65852.2, or junior accessory dwelling units, as defined in Section 65852.22.

(i) “*Specific plan*” means a plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3.

(j)

(j) “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

65912.102. The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this chapter. Any guidelines or terms adopted pursuant to this section are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

65912.103. *For purposes of establishing the total number of units in a development under this chapter, a development project includes both of the following:*

(a) *All projects developed on a site, regardless of when those developments occur.*

Article 2. Affordable Housing Developments in Commercial Zones

Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(f) For a site within a specific plan area, the site satisfies both of the following conditions:

(1) The specific plan applicable to the site was adopted on or before January 1, 2024, and a notice of preparation was issued before January 1, 2022, pursuant to the requirements of Sections 21080.4 and 21092 of the Public Resources Code.

(2) The specific plan applicable to the site allows residential use on the site.

65912.112. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the development proposal meets all of the following affordability criteria:

(a) One hundred percent of the units within the development project, excluding managers' units, shall be dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable cost, as defined by Section 50052.5, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.

(b) The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

65912.113. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the development proposal meets all of the following objective development standards:

(a) The development shall be a multifamily housing project and at least 67 percent of the square footage of the new construction associated with the project shall be designated for residential use.

(b) The residential density for the development will meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in paragraph (3) of subdivision (c) of Section 65583.2.

1 (c) The development will meet the following objective zoning
2 standards, objective subdivision standards, and objective design
3 review standards:

4 (1) The applicable standards shall be those for the zone that
5 allows residential use at a greater density between the following:

6 (A) The existing zoning designation for the parcel.

7 (B) The closest parcel that allows residential use at a density
8 that meets the requirements of subdivision (b).

9 (2) The applicable standards shall be those in effect at the time
10 that the development is submitted to the local government pursuant
11 to this article.

12 (3) The applicable standards shall not preclude any additional
13 density or any other concessions, incentives, or waivers of
14 development standards granted pursuant to the Density Bonus Law
15 in Section 65915.

16 (d) For purposes of this section, “objective zoning standards,”
17 “objective subdivision standards,” and “objective design review
18 standards” mean standards that involve no personal or subjective
19 judgment by a public official and are uniformly verifiable by
20 reference to an external and uniform benchmark or criterion
21 available and knowable by both the development applicant or
22 proponent and the public official before submittal. These standards
23 may be embodied in alternative objective land use specifications
24 adopted by a city or county, and may include, but are not limited
25 to, housing overlay zones, specific plans, inclusionary zoning
26 ordinances, and density bonus ordinances, subject to the following:

27 (1) A development shall be deemed consistent with the objective
28 zoning standards related to housing density, as applicable, if the
29 density proposed is compliant with the maximum density allowed
30 within that land use designation, notwithstanding any specified
31 maximum unit allocation that may result in fewer units of housing
32 being permitted.

33 (2) In the event that objective zoning, general plan, subdivision,
34 or design review standards are mutually inconsistent, a
35 development shall be deemed consistent with the objective zoning
36 and subdivision standards pursuant to this section if the
37 development is consistent with the standards set forth in the general
38 plan.

39 65912.114. (a) If the local government determines that the
40 proposed development is in conflict with any of the objective

1 planning standards specified in this article, it shall provide the
2 development proponent written documentation of which standard
3 or standards the development conflicts with, and an explanation
4 for the reason or reasons the development conflicts with that
5 standard or standards, within the following timeframes:

6 (1) Within 60 days of submittal of the development proposal to
7 the local government if the development contains 150 or fewer
8 housing units.

9 (2) Within 90 days of submittal of the development proposal to
10 the local government if the development contains more than 150
11 housing units.

12 (b) If the local government fails to provide the required
13 documentation pursuant to subdivision (a), the development shall
14 be deemed to satisfy the required objective planning standards.

15 (c) For purposes of this section, a development is consistent
16 with the objective planning standards if there is substantial
17 evidence that would allow a reasonable person to conclude that
18 the development is consistent with the objective planning standards.

19 (d) The determination of whether a proposed project submitted
20 pursuant to this section is or is not in conflict with the objective
21 planning standards is not a “project” as defined in Section 21065
22 of the Public Resources Code.

23 (e) Design review of the development may be conducted by the
24 local government’s planning commission or any equivalent board
25 or commission responsible for review and approval of development
26 projects, or the city council or board of supervisors, as appropriate.
27 That design review shall be objective and be strictly focused on
28 assessing compliance with criteria required for streamlined,
29 ministerial review of projects, as well as any reasonable objective
30 design standards published and adopted by ordinance or resolution
31 by a local jurisdiction before submittal of the development to the
32 local government, and shall be broadly applicable to developments
33 within the jurisdiction. That design review shall be completed as
34 follows and shall not in any way inhibit, chill, or preclude the
35 ministerial approval provided by this section or its effect, as
36 applicable:

37 (1) Within 90 days of submittal of the development proposal to
38 the local government pursuant to this section if the development
39 contains 150 or fewer housing units.

(2) Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.

(f) The local government shall ensure that the project satisfies the requirements specified in subdivision (d) of Section 66300, regardless of whether the development is within or not within an affected city or within or not within an affected county.

(g) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(h) A local government's approval of a development pursuant to this section shall, notwithstanding any other law, be subject to the expiration timeframes specified in subdivision (f) of Section 65913.4.

(i) Any proposed modifications to a development project approved pursuant to this section shall be undertaken pursuant to subdivision (g) of Section 65913.4.

(j) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined, ministerial review pursuant to this section.

(k) A local government shall issue a subsequent permit required for a development approved under this section pursuant to paragraph (2) of subdivision (h) of Section 65913.4.

(l) A public improvement that is necessary to implement a development that is approved pursuant to this section shall be undertaken pursuant to paragraph (3) of subdivision (h) of Section 65913.4.

Article 3. Mixed-Income Housing Developments Along Commercial Corridors

65912.120. Notwithstanding any inconsistent provision of a local government's general plan, specific plan, zoning ordinance, or regulation, a housing development shall be a use by right within

1 a zone where office, retail, or parking are a principally permitted
2 use and shall be subject to streamlined, ministerial review pursuant
3 to Section 65912.124 if the proposed housing development satisfies
4 all of the requirements in Sections 65912.121, 65912.122, and
5 65912.123.

6 65912.121. A development project shall not be subject to the
7 streamlined, ministerial review process provided by Section
8 65912.124 unless the development project is on a site that satisfies
9 all of the following criteria:

10 (a) It is located on a legal parcel or parcels that meet either of
11 the following:

12 (1) It is within a city where the city boundaries include some
13 portion of either an urbanized area or urban cluster, as designated
14 by the United States Census Bureau.

15 (2) It is in an unincorporated area, and the legal parcel or parcels
16 are wholly within the boundaries of an urbanized area or urban
17 cluster, as designated by the United States Census Bureau.

18 (b) The project site abuts a commercial corridor.

19 (c) The project site has a frontage along the commercial corridor
20 of a minimum of 50 feet.

21 (d) The site is not greater than 20 acres.

22 (e) At least 75 percent of the perimeter of the site adjoins parcels
23 that are developed with urban uses. For purposes of this
24 subdivision, parcels that are only separated by a street or highway
25 shall be considered to be adjoined.

26 (f) It is not adjacent to any site where more than ~~two-thirds~~
27 *one-third* of the square footage on the site is dedicated to industrial
28 use.

29 (g) The parcel satisfies the requirements specified in
30 subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision
31 (a) of Section 65913.4.

32 (h) The development is not located on a site where any of the
33 following apply:

34 (1) The development would require the demolition of the
35 following types of housing:

36 (A) Housing that is subject to a recorded covenant, ordinance,
37 or law that restricts rents to levels affordable to persons and
38 families of moderate, low, or very low income.

39 (B) Housing that is subject to any form of rent or price control
40 through a public entity's valid exercise of its police power.

1 (C) Housing that has been occupied by tenants within the past
2 10 years, excluding any manager's units.

3 (2) The site was previously used for housing that was occupied
4 by tenants, excluding any manager's units, that was demolished
5 within 10 years before the development proponent submits an
6 application under this article.

7 (3) The development would require the demolition of a historic
8 structure that was placed on a national, state, or local historic
9 register.

10 (4) The property contains housing units that are occupied by
11 tenants, and units at the property are, or were, subsequently offered
12 for sale to the general public by the subdivider or subsequent owner
13 of the property.

14 (i) The development shall not be upon an existing parcel of land
15 or site that is governed under the Mobilehome Residency Law
16 (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2
17 of Division 2 of the Civil Code), the Recreational Vehicle Park
18 Occupancy Law (Chapter 2.6 (commencing with Section 799.20)
19 of Title 2 of Part 2 of Division 2 of the Civil Code), the
20 Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)
21 of Division 13 of the Health and Safety Code), or the Special
22 Occupancy Parks Act (Part 2.3 (commencing with Section 18860)
23 of Division 13 of the Health and Safety Code).

24 (j) *For a site within a specific plan area, the site satisfies both*
25 *of the following conditions:*

26 (1) *The specific plan applicable to the site was adopted on or*
27 *before January 1, 2024, and a notice of preparation was issued*
28 *before January 1, 2022, pursuant to the requirements of Sections*
29 *21080.4 and 21092 of the Public Resources Code.*

30 (2) *The specific plan applicable to the site allows residential*
31 *use on the site.*

32 65912.122. A development project shall not be subject to the
33 streamlined, ministerial review process provided by Section
34 65912.124 unless the development project meets all of the
35 following affordability criteria:

36 (a) A rental housing development shall have a recorded deed
37 restriction that ensures, at a minimum, that for a period of 55 years,
38 15 percent of the units shall be set at an affordable rent, as defined
39 in Section 50053 of the Health and Safety Code, to lower income

1 households, as defined in Section 50079.5 of the Health and Safety
2 Code.

3 (b) An owner-occupied housing development shall have a
4 recorded deed restriction that ensures, at a minimum, either of the
5 following affordability criteria for a period of 45 years:

6 (1) Thirty percent of the units must be offered at an affordable
7 housing cost, as defined in Section 50052.5 of the Health and
8 Safety Code, to moderate-income households, as defined in Section
9 50093 of the Health and Safety Code.

10 (2) Fifteen percent of the units must be offered at an affordable
11 housing cost, as defined in Section 50052.5 of the Health and
12 Safety Code, to lower income households, as defined in Section
13 50079.5 of the Health and Safety Code.

14 (c) If the amount of affordable housing required by a local
15 inclusionary housing ordinance exceeds that of this section, then
16 the project shall abide by the local inclusionary housing ordinance.

17 65912.123. A development project shall not be subject to the
18 streamlined, ministerial review process provided by Section
19 65912.124 unless the development project meets all of the
20 following objective development standards:

21 (a) The development shall be a multifamily housing project and
22 at least 67 percent of the square footage of the new construction
23 associated with the project is designated for residential use.

24 (b) The residential density for the development shall be
25 determined as follows:

26 (1) In a metropolitan jurisdiction, as determined pursuant to
27 subdivisions (d) and (e) of Section 65853.2, the residential density
28 for the development shall meet or exceed the greater of the
29 following:

30 (A) The residential density allowed on the parcel by the local
31 government.

32 (B) *For sites of less than one acre in size, 30 units per acre.*

33 ~~(B)~~

34 (C) *For sites of one acre in size or greater located on a*
35 *commercial corridor of less than 100 feet in width, 40 units per*
36 *acre.*

37 ~~(C)~~

38 (D) *For sites of one acre in size or greater located on a*
39 *commercial corridor of 100 feet in width or greater, 60 units per*
40 *acre.*

- 1 ~~(D)~~
2 (E) Notwithstanding subparagraph ~~(B) or (C)~~, (C) or (D), for
3 sites within one-half mile of a major transit stop, 80 units per acre.
4 (2) In a jurisdiction that is not a metropolitan jurisdiction, as
5 determined pursuant to subdivisions (d) and (e) of Section 65853.2,
6 the residential density for the development shall meet or exceed
7 the greater of the following:
8 (A) The residential density allowed on the parcel by the local
9 government.
10 (B) *For sites of less than one acre in size, 20 units per acre.*
11 ~~(B)~~
12 (C) *For sites of one acre in size or greater located on a*
13 *commercial corridor of less than 100 feet in width, 30 units per*
14 *acre.*
15 ~~(C)~~
16 (D) *For sites of one acre in size or greater located on a*
17 *commercial corridor of 100 feet in width or greater, 50 units per*
18 *acre.*
19 ~~(D)~~
20 (E) Notwithstanding paragraphs ~~(2) and (3)~~, subparagraph (C)
21 *or (D)*, for sites within one-half mile of a major transit stop, 70
22 units per acre.
23 (c) The height limit applicable to the housing development shall
24 be the greater of the following:
25 (1) The height allowed on the parcel by the local government.
26 (2) For sites on a commercial corridor of less than 100 feet in
27 width, 35 feet.
28 (3) For sites on a commercial corridor of ~~44~~ 100 feet in width
29 or greater, 45 feet.
30 (4) Notwithstanding paragraphs (2) and (3), for sites within
31 one-half mile of a major transit stop, 65 feet.
32 (d) The property meets the following setback standards:
33 (1) For the portion of the property that fronts a commercial
34 corridor, the following shall occur:
35 (A) No setbacks shall be required.
36 (B) All parking must be set back at least 25 feet.
37 (C) On the ground floor, the development must abut within 10
38 feet of the property line for at least 80 percent of the frontage.

(2) For the portion of the property that fronts a side street, the development must abut within 10 feet of the property line for at least 60 percent of the frontage.

(3) When the property line of a development site abuts a single-family property, the following shall occur:

(A) The ground floor of the development project shall be set back at 10 feet from the single-family property. The amount required to be set back may be decreased by the local government.

(B) Starting with the third floor of the property, each subsequent floor of the development project shall be stepped back from the single-family property in an amount equal to five feet multiplied by the floor number. For purposes of this paragraph, the ground floor counts as the first floor. The amount required to be stepped back may be decreased by the local government.

(4) When the property line of a development site abuts a property that is not a single-family property, starting with the third floor of the property, each subsequent floor of the development project shall be stepped back from the other property in an amount equal to five feet multiplied by the floor number. For purposes of this paragraph, the ground floor counts as the first floor. The amount required to be stepped back may be decreased by the local government.

(e) No parking shall be required, except that this article shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development to provide bicycle parking, electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this article did not apply.

(f) Other objective zoning standards, objective subdivision standards, and objective design review standards as follows:

(1) The applicable standards shall be those for the closest zone in the city, county, or city and county that allows residential use at the residential density determined pursuant to subdivision (b). If no zone exists that allows the residential density determined pursuant to subdivision (b), the applicable standards shall be those for the zone that allows the greatest density within the city, county, or city and county.

1 (2) The applicable standards shall be those in effect at the time
2 that the development is submitted to the local government pursuant
3 to this article.

4 (3) The applicable standards shall not preclude any additional
5 density requirements or any other concessions, incentives, or
6 waivers of development standards granted pursuant to the Density
7 Bonus Law in Section 65915.

8 (4) For purposes of this section, “objective zoning standards,”
9 “objective subdivision standards,” and “objective design review
10 standards” mean standards that involve no personal or subjective
11 judgment by a public official and are uniformly verifiable by
12 reference to an external and uniform benchmark or criterion
13 available and knowable by both the development applicant or
14 proponent and the public official before submittal. These standards
15 may be embodied in alternative objective land use specifications
16 adopted by a city or county, and may include, but are not limited
17 to, housing overlay zones, specific plans, inclusionary zoning
18 ordinances, and density bonus ordinances. In the event that
19 objective zoning, general plan, subdivision, or design review
20 standards are mutually inconsistent, a development shall be deemed
21 consistent with the objective zoning and subdivision standards
22 pursuant to this subdivision if the development is consistent with
23 the standards set forth in the general plan.

24 65912.124. (a) If the local government determines that the
25 proposed housing development is in conflict with any of the
26 objective planning standards specified in this article, it shall provide
27 the development proponent written documentation of which
28 standard or standards the development conflicts with, and an
29 explanation for the reason or reasons the development conflicts
30 with that standard or standards, within the following timeframes:

31 (1) Within 60 days of submittal of the development proposal to
32 the local government if the development contains 150 or fewer
33 housing units.

34 (2) Within 90 days of submittal of the development proposal to
35 the local government if the development contains more than 150
36 housing units.

37 (b) If the local government fails to provide the required
38 documentation pursuant to subdivision (a), the development shall
39 be deemed to satisfy the required objective planning standards.

1 (c) For purposes of this section, a development is consistent
2 with the objective planning standards if there is substantial
3 evidence that would allow a reasonable person to conclude that
4 the development is consistent with the objective planning standards.

5 (d) The determination of whether a proposed project submitted
6 pursuant to this section is or is not in conflict with the objective
7 planning standards is not a “project” as defined in Section 21065
8 of the Public Resources Code.

9 (e) Design review of the development may be conducted by the
10 local government’s planning commission or any equivalent board
11 or commission responsible for review and approval of development
12 projects, or the city council or board of supervisors, as appropriate.
13 That design review shall be objective and be strictly focused on
14 assessing compliance with criteria required for streamlined,
15 ministerial review of projects, as well as any reasonable objective
16 design standards published and adopted by ordinance or resolution
17 by a local jurisdiction before submittal of the development to the
18 local government, and shall be broadly applicable to developments
19 within the jurisdiction. That design review shall be completed as
20 follows and shall not in any way inhibit, chill, or preclude the
21 ministerial approval provided by this section or its effect, as
22 applicable:

23 (1) Within 90 days of submittal of the development proposal to
24 the local government pursuant to this section if the development
25 contains 150 or fewer housing units.

26 (2) Within 180 days of submittal of the development proposal
27 to the local government pursuant to this section if the development
28 contains more than 150 housing units.

29 (f) The local government shall ensure that the project satisfies
30 the requirements specified in subdivision (d) of Section 66300,
31 regardless of whether the development is within or not within an
32 affected city or within or not within an affected county.

33 (g) If the development is consistent with all objective
34 subdivision standards in the local subdivision ordinance, an
35 application for a subdivision pursuant to the Subdivision Map Act
36 (Division 2 (commencing with Section 66410)) shall be exempt
37 from the requirements of the California Environmental Quality
38 Act (Division 13 (commencing with Section 21000) of the Public
39 Resources Code).

(h) A local government's approval of a development pursuant to this section shall, notwithstanding any other law, be subject to the expiration timeframes specified in subdivision (f) of Section 65913.4.

(i) Any proposed modifications to a development project approved pursuant to this section shall be undertaken pursuant to subdivision (g) of Section 65913.4.

(j) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined, ministerial review pursuant to this section.

(k) A local government shall issue a subsequent permit required for a development approved under this section pursuant to paragraph (2) of subdivision (h) of Section 65913.4.

(l) A public improvement that is necessary to implement a development that is approved pursuant to this section shall be undertaken pursuant to paragraph (3) of subdivision (h) of Section 65913.4.

Article 4. Labor Standards

65912.130. ~~(a) A proponent of a~~ A development project approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) shall ~~require~~ *meet all of the following labor standards:*

(a) The development proponent shall require in contracts with construction contractors, and shall certify to the local government, that the standards specified in this section will be met in project construction.

(b) A development that is not in its entirety a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) shall be subject to all of the following:

(1) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to

1 Sections 1773 and 1773.9 of the Labor Code, except that
2 apprentices registered in programs approved by the Chief of the
3 Division of Apprenticeship Standards may be paid at least the
4 applicable apprentice prevailing rate.

5 (2) The development proponent shall ensure that the prevailing
6 wage requirement is included in all contracts for the performance
7 of the work for those portions of the development that are not a
8 public work.

9 (3) All contractors and subcontractors for those portions of the
10 development that are not a public work shall comply with both of
11 the following:

12 (A) Pay to all construction workers employed in the execution
13 of the work at least the general prevailing rate of per diem wages,
14 except that apprentices registered in programs approved by the
15 Chief of the Division of Apprenticeship Standards may be paid at
16 least the applicable apprentice prevailing rate.

17 (B) Maintain and verify payroll records pursuant to Section
18 1776 of the Labor Code and make those records available for
19 inspection and copying as provided in that section. This
20 subparagraph does not apply if all contractors and subcontractors
21 performing work on the development are subject to a project labor
22 agreement that requires the payment of prevailing wages to all
23 construction workers employed in the execution of the development
24 and provides for enforcement of that obligation through an
25 arbitration procedure. For purposes of this subparagraph, “project
26 labor agreement” has the same meaning as set forth in paragraph
27 (1) of subdivision (b) of Section 2500 of the Public Contract Code.

28 (c) (1) The obligation of the contractors and subcontractors to
29 pay prevailing wages pursuant to this section may be enforced by
30 ~~the~~ any of the following:

31 (A) The Labor Commissioner through the issuance of a civil
32 wage and penalty assessment pursuant to Section 1741 of the Labor
33 Code, which may be reviewed pursuant to Section 1742 of the
34 Labor Code, within 18 months after the completion of the
35 development.

36 (B) An underpaid worker through an administrative complaint
37 or civil action.

38 (C) A joint labor-management committee through a civil action
39 under Section 1771.2 of the Labor Code.

1 (2) If a civil wage and penalty assessment is issued pursuant to
2 this section, the contractor, subcontractor, and surety on a bond or
3 bonds issued to secure the payment of wages covered by the
4 assessment shall be liable for liquidated damages pursuant to
5 Section 1742.1 of the Labor Code.

6 (3) This subdivision does not apply if all contractors and
7 subcontractors performing work on the development are subject
8 to a project labor agreement that requires the payment of prevailing
9 wages to all construction workers employed in the execution of
10 the development and provides for enforcement of that obligation
11 through an arbitration procedure. For purposes of this subdivision,
12 “project labor agreement” has the same meaning as set forth in
13 paragraph (1) of subdivision (b) of Section 2500 of the Public
14 Contract Code.

15 (d) Notwithstanding subdivision (c) of Section 1773.1 of the
16 Labor Code, the requirement that employer payments not reduce
17 the obligation to pay the hourly straight time or overtime wages
18 found to be prevailing does not apply to those portions of
19 development that are not a public work if otherwise provided in a
20 bona fide collective bargaining agreement covering the worker.

21 (e) The requirement of this section to pay at least the general
22 prevailing rate of per diem wages does not preclude use of an
23 alternative workweek schedule adopted pursuant to Section 511
24 or 514 of the Labor Code.

25 65912.131. ~~(a) For~~ *In addition to the requirements of Section*
26 *65912.130*, a development of 50 or more housing units approved
27 by a local government pursuant to Article 2 (commencing with
28 Section 65912.110) or Article 3 (commencing with Section
29 ~~65912.120~~), the development proponent ~~65912.120~~) shall require
30 *meet all of the following labor standards:*

31 *(a) The development proponent shall require* in contracts with
32 construction contractors and shall certify to the local government
33 that each contractor of any tier who will employ construction craft
34 employees or will let subcontracts for at least 1,000 hours shall
35 satisfy the requirements in subdivisions (b) and (c). A construction
36 contractor is deemed in compliance with subdivisions (b) and (c)
37 if it is signatory to a valid collective bargaining agreement that
38 requires utilization of registered apprentices and expenditures on
39 health care for employees and dependents.

(b) A contractor with construction craft employees shall either participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code, or request the dispatch of apprentices from a state-approved apprenticeship program under the terms and conditions set forth in Section 1777.5 of the Labor Code. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this subdivision.

(c) Each contractor with construction craft employees shall make health care expenditures for each employee in an amount per hour worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum level plan for two ~~40-year-old~~ *40-year-old* adults and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this subdivision. Qualifying expenditures shall be credited toward compliance with prevailing wage payment requirements set forth in Section 65912.102.

(d) (1) The development proponent shall provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with subdivisions (b) and (c). The reports shall be considered public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be open to public inspection.

(2) A development proponent that fails to provide the monthly report shall be subject to a civil penalty for each month for which the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of ten thousand dollars (\$10,000). Any contractor or subcontractor that fails to comply with subdivision (b) or (c) shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of subdivision (b) or (c).

(3) Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments specified in Section 1741 of the Labor Code, and may be reviewed pursuant

1 to Section 1742 of the Labor Code. Penalties shall be deposited in
2 the State Public Works Enforcement Fund established pursuant to
3 Section 1771.3 of the Labor Code.

4 (e) Each construction contractor shall maintain and verify payroll
5 records pursuant to Section 1776 of the Labor Code. Each
6 construction contractor shall submit payroll records directly to the
7 Labor Commissioner at least monthly in a format prescribed by
8 the Labor Commissioner in accordance with subparagraph (A) of
9 paragraph (3) of subdivision (a) of Section 1771.4 of the Labor
10 Code. The records shall include a statement of fringe benefits.
11 Upon request by a joint labor-management cooperation committee
12 established pursuant to the Federal Labor Management Cooperation
13 Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided
14 pursuant to subdivision (e) of Section 1776 of the Labor Code.

15 (f) All construction contractors shall report any change in
16 apprenticeship program participation or health care expenditures
17 to the local government within 10 business days, and shall reflect
18 those changes on the monthly report. The reports shall be
19 considered public records pursuant to the California Public Records
20 Act (Division 10 (commencing with Section 7920.000) of Title 1)
21 and shall be open to public inspection.

22 (g) A joint labor-management cooperation committee established
23 pursuant to the Federal Labor Management Cooperation Act of
24 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a
25 construction contractor for failure to make health care expenditures
26 pursuant to subdivision (c) in accordance with Section 218.7 or
27 218.8 of the Labor Code.

28 29 Article 5. Severability 30

31 65912.140. The provisions of this chapter are severable. If any
32 portion, section, subdivision, paragraph, clause, sentence, phrase,
33 word, or application of this chapter is for any reason held to be
34 invalid by a decision of any court of competent jurisdiction, that
35 decision shall not affect the validity of the remaining portions of
36 this chapter. The people of the State of California hereby declare
37 that they would have adopted this chapter and each and every
38 portion, section, subdivision, paragraph, clause, sentence, phrase,
39 word, and application not declared invalid or unconstitutional
40 without regard to whether any other portion of this chapter or

1 application thereof would be subsequently declared invalid. In
 2 particular, the provisions of Section 65912.130 and the provisions
 3 of Section 65912.131 are distinct and severable from one another,
 4 and the provisions of subdivision (c) of Section 65912.131
 5 concerning health care expenditure are distinct and severable from
 6 the remaining provisions of Article 4 (commencing with Section
 7 65912.131). If Section 65912.130 is held invalid, the requirements
 8 of Section 65912.131 shall stand alone and vice versa. If any
 9 portion of Section 65912.131 is held invalid, the remaining
 10 provisions of this article shall continue in effect with the exception
 11 of subdivision (g) of Section 65912.131. *this chapter. However,*
 12 *Article 4 (commencing with Section 65912.130) is a material and*
 13 *integral part of this chapter and is not severable. If any provision*
 14 *of Article 4 (commencing with Section 65912.130) or its*
 15 *application, exclusive of those included in subdivision (c) of Section*
 16 *65912.131, is held invalid, this entire chapter shall be null and*
 17 *void.*

18 SEC. 2. No reimbursement is required by this act pursuant to
 19 Section 6 of Article XIII B of the California Constitution for certain
 20 costs that may be incurred by a local agency or school district
 21 because, in that regard, this act creates a new crime or infraction,
 22 eliminates a crime or infraction, or changes the penalty for a crime
 23 or infraction, within the meaning of Section 17556 of the
 24 Government Code, or changes the definition of a crime within the
 25 meaning of Section 6 of Article XIII B of the California
 26 Constitution.

27 However, if the Commission on State Mandates determines that
 28 this act contains other costs mandated by the state, reimbursement
 29 to local agencies and school districts for those costs shall be made
 30 pursuant to Part 7 (commencing with Section 17500) of Division
 31 4 of Title 2 of the Government Code.

SB 1161 (Min) Analysis and Recommendation

TITLE: Transit Operators: Street Harrassment Plans

AUTHOR: Senator Min (D-Irvine)

SPONSORS: Stop AAPI Hate, Los Angeles County Metropolitan Transportation Authority

RECOMMENDATION: Support

BACKGROUND: The Unruh Civil Rights Act requires public agencies, including transit districts, to provide persons full and equal accommodations, advantages, facilities, privileges, or services regardless of sex, race, color, religion, disability, medical condition, sexual orientation, citizenship, etc. Despite this legal protection, women and other vulnerable communities are often unable to access public transit safely due to street harassment, which can include unwanted sexual and racialized comments and slurs, whistling, leering, and other intimidating actions. SB 1161 seeks to ensure all public transit riders travel safely and free from street harassment.

PURPOSE: SB 1161 would require California’s ten largest transit operators, identified as those with the highest unlinked passenger trips in 2019, to collect survey data by June 30, 2024, for the purpose of developing a plan to reduce street harassment experienced by its riders.

By June 30, 2023, the University of California Institute of Transportation Studies shall develop and make available to operators a draft survey in order to standardize the data collected. The survey shall include questions asking for demographic information and information regarding a rider’s experience with safety while waiting at public transit stops and riding public transit. A transit operator may, but is not required to, use the survey and may ask additional questions if so desired.

By June 30, 2025, transit operators would be required to develop and begin implementing a plan to reduce the street harassment experienced by its riders, based on the data collected through the survey. The plan, may include system safety audits; increasing the presence of non-law enforcement transit staff; improving physical infrastructure of vehicles, stations and stops; improving the frequency and reliability of service; training transit staff on how the law and agency policies may require them to report and respond to incidents of street harassment; and conducting educational campaigns regarding street harassment. In addition, operators shall develop the plan in consultation with riders at heightened risk of experiencing street harassment which may include women, non-English speaking, and LGBTQ+ riders.

By January 1, 2027, the California State Transportation Agency (CalSTA) shall produce and submit a report to the Legislature and Governor summarizing the survey data, the plans developed by transit operators, and the actions taken by operators to reduce street harassment.

If an agency has collected survey data within five years prior to the mandated completion date, they are deemed to have met the survey requirements. Additionally, a transit agency may meet the bill’s requirements if it has taken action on a plan to reduce street harassment on or after January 1, 2018.

DISTRICT IMPACT: Preliminary analysis by the California Transit Association (CTA), identifies the ten transit operators subject to the bill as being the Los Angeles Metropolitan Transportation Authority (LA Metro), San Francisco Municipal Transportation Agency, BART, San Diego Metropolitan Transit System, AC Transit, Orange County Transportation Authority, Long Beach Transit, Santa Clara Valley Transportation Authority, Sacramento Regional Transit, and the Los Angeles Department of Transportation.

According to the bill sponsors, the legislation is modeled on work that BART and LA Metro have undertaken to address gender-based violence and sexual harassment. At BART, this includes the launch of the Not One

More Girl Campaign in April 2021 to engage local girls and gender expansive youth about their experiences on BART and develop cultural strategies to prevent, interrupt, and address gender-based harassment and violence on transit. With ongoing work for the Not One More Girl Campaign and initiatives led by BART's Progressive Policing and Community Engagement Bureau, staff believe that BART is already fulfilling requirements within the bill to reduce street harassment on our system.

To meet the bill's survey requirements, BART would likely need to adjust questions on current passenger surveys. The cost for changing survey infrastructure is estimated to be in the low five figures. The bill's sponsors are advocating for a one-time state budget request that would provide funding to assist impacted agencies in implementing the bill's requirements. At this time, conversations are still ongoing with Senate Budget & Fiscal Review Committee staff regarding a budget appropriation.

CTA has also been leading conversations between operators, the author's office, and advocates on amendments. A round of amendments published on April 6 incorporated feedback from operators and alleviated most agency concerns around implementation of a plan, namely by extending deadlines. CTA is currently working with the author, advocates, and operators on additional amendments to further ease implementation by enabling more flexibility as to the specific content of the questions that agencies would be required to include in their surveys.

KNOWN SUPPORT/OPPOSITION: Support includes: Stop AAPI Hate Coalition (co-sponsor), Los Angeles County Metropolitan Transportation Authority (co-sponsor), AAPI Equity Alliance, ACLU California Action, African Advocacy Network, Alliance for Girls, API Forward Movement, Asian American Pacific Islander Coalition of the North Bay, Asian Americans in Action, Asian Pacific American Dispute Resolution Center, Asian Pacific American Women Lawyers Alliance, Asian Pacific Community Fund, AYPAL: Building API Community Power, California Chamber of Commerce, California Commission on Asian and Pacific Islander American Affairs, California Healthy Nail Salon Collaborative, Cambodia Town INC., Center for Asian Americans in Action, Center for Asian Americans United for Self Empowerment, Chinese Culture Center of San Francisco, Chinese for Affirmative Action, Chinese Progressive Association, City of La Mesa, Community Legal Services in East Palo Alto, Consumers for Auto Reliability & Safety, Contigo Communications, Council on American-Islamic Relations, California, Empowering Pacific Islander Communities, Equal Justice Society, Food Empowerment Project, Heart of Los Angeles, Hmong Innovating Politics, Inland Empire Immigrant Youth Collective, Japantown Task Force, Korean American Center, Korean American Coalition - Los Angeles, Korean Community Center of the East Bay, LA Raza Community Resource Center, Macla/Movimiento De Arte Y Cultura Latino Americana, Mayor of Los Angeles, Eric Garcetti, National Pacific Islander Education Network, North East Medical Services, OCA - Sacramento Chapter, Pacific Asian Counseling Services, People Organizing to Demand Environmental & Economic Rights, San Francisco Transit Riders, Self-Help for the Elderly, Silicon Valley Asian Pacific American Democratic Club, Soma Pilipinas, South Asian Network, Southeast Asian Development Center, Thai Community Development Center, Tranzito, UC San Diego Triton Lobby Corps, Wu Yee Children's Services, Youth Against Hate

Opposition: None on file.

STATUS: Passed the Senate Floor (39-0) on May 22. In the Assembly, pending referral to committee.

AMENDED IN SENATE MAY 2, 2022

AMENDED IN SENATE APRIL 6, 2022

AMENDED IN SENATE MARCH 17, 2022

SENATE BILL

No. 1161

Introduced by Senator Min
(Coauthor: Senator Rubio)
(Coauthor: Assembly Member Santiago)

February 17, 2022

An act to add Section 99177 to the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Min. Transit operators: street harassment plans.

Existing law creates various transit districts throughout the state, with specified powers and duties relative to providing public transit service. Existing law provides various provisions applicable to all public transit and transit districts.

This bill would require the University of California Institute of Transportation Studies to, on or before June 30, 2023, develop and make available to transit operators, as defined, a survey for the purpose of promoting consistency in the collection of specified survey data. The bill would require transit operators to, on or before June 30, 2025, develop and implement a plan to reduce the street harassment experienced by its riders, as specified, and to consider the safety concerns and needs of riders impacted by street harassment when planning, designing, and operating their systems. The bill would require transit operators to, on or before June 30, 2024, collect survey data for

the purpose of informing the plan. The bill would require the plan to be developed in consultation with certain riders, and would require those transit operators to conduct outreach in multiple languages in order to reach ~~limited-English-proficient~~ *limited-English-proficient* persons impacted by street harassment, as specified. The bill would authorize these plans to include changes to policies, design, operations, or other aspects of transit systems, as specified. The bill would require the Transportation Agency to, on or before January 1, 2027, produce and submit a report containing certain information related to the implementation of these provisions to the Legislature and the Governor. To the extent the bill imposes additional duties on a local agency, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Public transportation ensures that each person may enjoy
- 4 the freedom of movement. Providing a safe journey for women
- 5 and other vulnerable communities will increase ridership
- 6 throughout the public transit system.
- 7 (b) The State of California would benefit from an expanded
- 8 concept of ridership safety. Transit operators must go beyond their
- 9 traditional definition that refers exclusively to physical
- 10 infrastructure and prevention of bodily injury to riders, cyclists,
- 11 and pedestrians. An expanded understanding of safety is necessary.
- 12 Safety is not merely the freedom from harm but also the freedom
- 13 to move by fully accessing public transit without street harassment.
- 14 (c) Street harassment on public transit diminishes ridership
- 15 growth, undermines riders' safety, hurts all riders, and can reinforce

1 social inequality and economic hardship throughout a rider's
2 lifetime.

3 (d) Women and girls, particularly those of color and those in
4 the LGBTQ+ communities, are often the targets of street
5 harassment on public transit. Such harassment includes unwanted
6 sexual and racialized comments and slurs, whistling, leering, and
7 other intimidating actions. According to a 2019 statewide study
8 by the University of California, San Diego Center on Gender
9 Equity and Health, 77 percent of women experience sexual
10 harassment in a public space, including 29 percent on mass transit.
11 Furthermore, women who identify as lesbian or bisexual are more
12 likely to report experiencing sexual harassment than straight
13 women.

14 (e) A 2019 bay area study by Alliance for Girls found that girls,
15 including transgender girls, cisgender girls, and nonconforming
16 youth, in the Cities of San Francisco, San Jose, and Oakland
17 expressed feeling unsafe on public transportation due to the daily
18 harassment they experience on buses and trains on their way to
19 and from school.

20 (f) According to a 2019 report by Los Angeles Metro Rail, safety
21 is the primary barrier to riding transit for women. Fear of
22 harassment leads to behavioral adjustments and precautions by
23 women riders, including leaving a bus or train mid-trip to avoid
24 harassment, avoiding travel in the evening, avoiding certain settings
25 such as crowded buses, and not walking alone.

26 (g) Low-income women face even greater barriers to movement,
27 including safety concerns, poor walking environments, lower
28 access to driver's licenses, and transit inefficiencies such as long
29 travel times and infrequent service. Unlike more affluent women,
30 low-income women have fewer private transportation options.

31 (h) Women of color on public transit experience even more
32 threats to their safety. According to the Los Angeles Department
33 of Transportation, women of color report feeling more unsafe on
34 public transportation than women who identify as white.

35 (i) Data collected by the Stop AAPI Hate coalition finds that
36 nearly 40 percent of the nationwide acts of hate against Asian
37 Americans and Pacific Islanders happen in California, and hate
38 incidents involving women make up nearly two-thirds of all reports
39 in the state. Most of these hate incidents involve verbal harassment
40 and occur in public spaces, including public transit.

(j) Despite more violations to their safety on public transit, women of color are also more dependent on public transit. According to the Center for American Progress, women of color experience a persistent gender wage gap in conjunction with racial bias in the workplace, which leaves them perpetually underpaid. Without the economic means for private transportation options, women of color are more likely to be dependent on public transportation.

(k) Riders significantly underreport instances of street harassment. Research published by the University of California, Los Angeles Lewis Center for Regional Policy Studies finds that only 10 percent of people who experienced or observed sexual harassment on transit reported the incident. Research collected by the Mineta Transportation Institute at San Jose State University finds that street harassment is underreported globally as women are often embarrassed and reluctant to report when public culture puts the blame on the victims of harassment.

(l) The Legislature affirms that protecting transit riders' safety, providing transit journeys free from street harassment, and ensuring equal access to transportation are public policy priorities.

(m) Public transit operators can increase ridership on their systems by ensuring all riders travel safely and free from street harassment. When riders feel safe waiting at transit stops and riding transit, they will increasingly use public transit. In turn, the growing ridership enables the public transit system to thrive.

SEC. 2. Section 99177 is added to the Public Utilities Code, immediately following Section 99176, to read:

99177. (a) For the purpose of this section, the following definitions apply:

(1) "Institute" means the University of California Institute of Transportation Studies.

(2) "Street harassment" means words, gestures, or actions directed at a specific person in a public place, without the consent of that person, because of a characteristic listed or defined in Section 11135 of the Government Code, that the person experiences as intimidating, alarming, terrorizing, or threatening to their safety. For the purposes of this section, street harassment because of age shall include any chronological age.

(3) "Survey data" means information regarding public transit riders and their experiences using public transit, including, but not

1 limited to, demographic information about riders and information
2 about their experiences with safety, including, but not limited to,
3 street harassment.

4 (4) “Transit operator” means the 10 transit operators, as defined
5 in Section 99210, with the most unlinked passenger trips in 2019
6 in the state, according to the National Transit Database.

7 (b) (1) On or before June 30, 2023, the institute shall develop
8 and make available to transit operators a survey for the purpose
9 of promoting consistency in the collection of survey data pursuant
10 to subdivision (c).

11 (2) The survey shall include questions asking for the following
12 information:

13 (A) Demographic information regarding riders, including their
14 race, ethnicity, religion, age, disability, income, primary language,
15 sex, gender, gender identity, gender expression, and sexual
16 orientation.

17 (B) Information regarding a rider’s experiences with safety
18 while waiting at public transit stops and riding public transit,
19 including:

20 (i) Whether a rider experiences street harassment.

21 (ii) The frequency with which a rider experiences street
22 harassment.

23 (iii) The type of street harassment experienced by a rider.

24 (iv) The actual or perceived characteristics that serve as the
25 basis for street harassment experienced by a rider.

26 (v) Where and when a rider experiences street harassment,
27 including on what mode of transit.

28 (vi) Whether a rider experiencing street harassment is alone or
29 accompanied by others.

30 (vii) Whether a rider experiencing street harassment reports the
31 incident, and, if so, to whom and the response received.

32 (viii) The impact of street harassment on a rider, including
33 whether and how they change their use of transit.

34 (ix) A rider’s perceptions of safety while using transit.

35 (3) In developing the survey, the institute shall consider existing
36 efforts by a transit operator to collect survey data and how a transit
37 operator may use or update available survey data instead of
38 collecting new survey data.

39 (c) On or before June 30, 2024, a transit operator shall collect
40 survey data for the purpose of informing the plan required by

subdivision (d) to reduce the street harassment experienced by its riders. The transit operator shall also conduct focus groups with subpopulations of riders who are underrepresented in surveys and impacted by street harassment. The transit operator shall collect, at a minimum, the information described in paragraph (2) of subdivision (b), provided that any such information collected in the five years before the effective date of this section shall be deemed to have been collected pursuant to this subdivision. The transit operator may, but is not required to, use the survey developed and made available by the institute, and may ask additional questions beyond the questions included in the survey.

(d) (1) On or before June 30, 2025, a transit operator shall do both of the following:

(A) Develop and begin implementing a plan to reduce the street harassment experienced by its riders. The plan shall be based on, and informed by, the survey data collected pursuant to subdivision (c). The plan shall be developed in consultation with riders, as set forth in subdivision (e), and relevant local governments or private enterprises with ownership and jurisdiction over portions of the transit system, such as bus shelters.

(B) Consider the safety concerns and needs of riders impacted by street harassment when planning, designing, and operating its system.

(2) The plan may, but need not, include changes to policies, design, operations, or other aspects of transit systems under the jurisdiction of the transit operator or relevant local government or private entity, such as all of the following:

(A) Performing safety audits of transit systems or parts thereof that consider the experiences of riders by gender.

(B) Developing a rubric, questionnaire, or other tool to analyze and understand the impacts of prospective changes to transit system policies, design, or operations on riders by gender or other characteristics such as socioeconomic status.

(C) Increasing the presence of transit staff who are not transit police or other law enforcement.

(D) Improving the physical infrastructure of transit vehicles, stations, and stops to increase the safety and perception of safety for riders.

(E) Improving the frequency, timing, and reliability of service.

1 (F) Training transit staff about when and how the law or transit
2 policies require them to respond to and report incidents of street
3 harassment.

4 (G) Conducting educational and awareness raising campaigns
5 regarding street harassment.

6 (3) A transit operator may meet the requirements of this
7 subdivision if it has taken action on or after January 1, 2018, that
8 otherwise meets the requirements of this subdivision.

9 (e) A transit operator shall develop and implement the plan
10 required pursuant to subdivision (d) in consultation with riders.
11 These riders shall include subpopulations of riders at increased or
12 disproportionate risk of experiencing street harassment, which
13 may include, but not be limited to, women riders, ~~non-English~~
14 ~~speaking non-English-speaking~~ riders, and LGBTQ+ riders. In
15 consulting with riders, a transit operator shall conduct outreach in
16 multiple languages to reach ~~limited-English-proficient~~
17 *limited-English-proficient* riders impacted by street harassment.
18 The languages may be determined by survey data or by the top
19 non-English languages used by ~~limited-English-proficient~~
20 *limited-English-proficient* persons in the community served by the
21 transit operator according to the most recent American Community
22 Survey by the United States Census Bureau.

23 (f) (1) On or before January 1, 2027, the Transportation Agency
24 shall produce and submit a report to the Legislature and the
25 Governor that shall include, but is not limited to, all of the
26 following information regarding a transit operator:

27 (A) A summary of the survey data collected by a transit operator
28 pursuant to subdivision (c).

29 (B) A description of the plan developed by a transit operator
30 pursuant to subdivision (d) and any actions taken to implement
31 the plan, including the transit operator's efforts to engage riders
32 pursuant to subdivision (e).

33 (C) An evaluation of actions taken by a transit operator to reduce
34 the street harassment experienced by its riders, including, but not
35 limited to, both of the following:

36 (i) The effectiveness of the plan in reducing the street harassment
37 experienced by riders, improving the safety of public transit, and
38 increasing ridership on public transit.

39 (ii) Any additional unmet needs faced by the transit operator in
40 reducing street harassment on its system.

SB 1161

— 8 —

1 (2) (A) The requirement for submitting a report imposed under
2 paragraph (1) is inoperative on January 1, 2031, pursuant to Section
3 10231.5 of the Government Code.

4 (B) A report to be submitted pursuant to paragraph (1) shall be
5 submitted in compliance with Section 9795 of the Government
6 Code.

7 (g) A transit operator shall provide the information described
8 in paragraph (1) of subdivision (f) to the Transportation Agency.

9 (h) Nothing in this section shall be construed to create new or
10 additional liability for a transit operator for failing to respond to
11 an incident of street harassment.

12 (i) Nothing in this section shall be construed to require a transit
13 operator to develop or implement the plan where the transit
14 operator does not already have jurisdiction to develop or implement
15 the plan.

16 SEC. 3. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.

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State Legislative Update and Legislation for Consideration

BART Board of Directors
June 9, 2022

State Legislative Update

Fiscal Year (FY) 2022-23 Budget

- Joint Legislative Budget Agreement released on June 1.
 - Includes \$10.9B transportation package over four years and placeholder language related to appropriation of Proposition 1A funds for High Speed Rail.
 - Rejects the Governor's \$750M fare free proposal.
- Legislature must approve a Budget by June 15 and Governor must sign it by June 30.

Legislative Calendar At-a-Glance

- May 27 - House of origin deadline
- June 30 – Last day for Legislature to place a measure on the November ballot
- July 1 – Policy committee deadline and beginning of Summer Recess until August 1
- August 12 – Last day for Appropriations Committees to meet
- August 31 – Last day for each house to pass bills; Legislature adjourns
- September 30 – Last day for Governor to sign or veto bills

Update on Priority Legislation

SB 917 (Becker) Seamless Transit Transformation Act Current Position - Support if Amended

Summary of Amendments from April 18:

- Revise implementation deadlines associated with a Connected Network Plan, regional mapping and wayfinding system, and real time transit information/open data standards.
- Establish a transit priority network within the region's Connected Network Plan.
- Recast the multi-agency pass and common regional fare structure as three-year pilot programs to be implemented only if sufficient funding is secured.
- Clarify transit agency adherence to future mapping and wayfinding system and permitted use of transit agency branding.
- Clarify that nothing shall preclude agencies from using or sharing real-time data collected.
- Soften provisions related to the withholding of State Transit Assistance (STA) funds; among other changes, a transit agency found by MTC not in compliance with requirements of the bill would be allowed to request additional funding or an exemption, and any withheld funds would be restored once an agency comes into compliance.

Update on Priority Legislation

SB 917 (Becker) Seamless Transit Transformation Act **Current Position - Support if Amended**

Continued Areas of Concern

- Approval by transit agency governing boards is not defined within the development and adoption of an integrated fare structure.
- Regional transit coordinating council is ill-defined. Council *may* include transit agency representation, but no formal role in approving or rejecting proposals is described.
- Under the proposed three-year pilot for a common regional fare structure, BART's fare setting authority is shifted to the Metropolitan Transportation Commission.
- Accountability gap created between the fare setting entity and agencies providing service.
- Sufficient annual funding has not been identified to sustain the fare integration work or other efforts over time.

Update on Priority Legislation

SB 1488 (Glazer) Office of the BART Inspector General (OIG)

Current Position - Oppose Unless Amended

General agreement with the OIG and author's office on:

- A definition of “abuse” consistent with public agency auditors/controllers.
- Original jurisdiction of the OIG as to not interfere, unduly influence, or undermine the independence of the Office of Civil Rights or the Office of the Independent Police Auditor.
- Access to confidential records and exemptions from disclosure.
- Implementation and enforcement of subpoena authority.
- Reporting requirements of the General Manager or Board Appointed Officer.
- OIG's adherence to all applicable laws regarding hiring and procurement activities.
- Coordination with the District on establishment of a separate system for maintaining emails and records.

Discussions continue regarding:

- Standard for removal of the Inspector General.
- OIG procedures for interviewing employees in compliance with their current rights.

State Legislation to *SUPPORT*

AB 1621 (Gipson) – Firearms: unserialized firearms

- Revises the Penal Code definition of a “firearm” and “firearm precursor part” to include unserialized parts and kits that can be readily converted into ghost guns.
- Prohibits a person from possessing or manufacturing a firearm precursor part without authorization.

AB 2011 (Wicks) – Affordable Housing and High Road Jobs Act of 2022

- Would make certain housing developments that meet specified affordability, site criteria, and objective design standards a use “by right” within an area currently zoned for office, retail, or parking as well as along “commercial corridors,” defined as non-freeway roads between 70 and 150 feet wide.
- A development proponent of a project approved must agree to pay construction workers prevailing wage and meet other labor standards.

State Legislation to *SUPPORT*(Continued)

SB 1161 (Min) – Transit operations: street harassment plans

- Requires, by June 20, 2023, the University of California Institute of Transportation Studies to develop a survey for specified transit operators to collect data on street harassment experienced by riders.
- Requires transit operators to collect survey data, by June 30, 2024, for the purpose of informing a plan to reduce street harassment.
- Requires transit operators to, on or before June 30, 2025, develop and implement a plan to reduce the street harassment and to consider the safety concerns and needs of impacted riders when planning, designing, and operating their systems.
- Plan shall be developed in consultation with certain groups including women, non-English speaking riders, and LGBTQ+ riders. Outreach shall also be conducted in multiple languages.
- A transit operator may meet some of the bill's requirements if it has acted on a plan to reduce street harassment on or after January 1, 2018.
- Requires a report to the Legislature and Governor by January 1, 2027.

Additional State Legislation of Interest (for information only)

AB 1919 (Holden) – Youth Transit Pass Pilot Program

Establishes the Youth Transit Pass Pilot Program to provide free transit passes for individuals under the age of 25. Grant funds could be used to develop and advertise free youth transit pass programs as well as to cover the costs of providing free transit services and of administering the program.

AB 1938 (Friedman) – Transit and Intercity Rail Recovery Task Force

Creates a statewide Transit and Intercity Rail Recovery Task Force to make recommendations to the Legislature on how to grow transit and intercity rail ridership and improve transit and intercity rail operations for users of those services.

AB 2357 (Ting) – Surplus land

Makes procedural changes to noticing provisions that apply to "surplus land" and "exempt surplus land" disposed of by local agencies subject to the Surplus Lands Act.

ACA 14 (Wicks) – Homelessness and affordable housing

Amends the Constitution to require that five percent of General Fund revenues, each year for the next ten years, be placed in a new fund to support affordable housing, fund housing and services to prevent and end homelessness, and support homeownership opportunities for low and moderate-income households.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="float: right; border: 1px solid black; padding: 2px;"> DocuSigned by: <i>Michael Jones</i> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/26/2022 6/3/2022		BOARD INITIATED ITEM: No		
Originator/Prepared by: Shannon Dodge Dept: Real Estate & Prop Development <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Shannon Dodge</i> <small>DF8053A2E0974A7...</small> </div> Signature/Date: <div style="text-align: right;">6/1/2022</div>	General Counsel <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Jana Belan</i> <small>F8FD7B3A73E74E8...</small> </div> <div style="text-align: right;">6/2/2022 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Chris Gan</i> <small>EE11C8CEEEA04FD...</small> </div> <div style="text-align: right;">6/1/2022 []</div>	District Secretary <div style="text-align: right;">[]</div>	BARC <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Carl Holmes</i> <small>2243E3B49EA349E...</small> </div> <div style="text-align: right;">6/3/2022 []</div>

Ashby & North Berkeley Transit-Oriented Development (TOD)

PURPOSE:

To obtain Board authorization or approval for the following actions needed to advance transit-oriented development on BART property at the Ashby and North Berkeley BART Stations:

- 1) Approval of City of Berkeley - BART Joint Vision & Priorities for TOD at both Stations
- 2) Approval of maximum BART rider parking at each Station, and
- 3) Authorize the General Manager or his designee to execute a Memorandum of Agreement with the City of Berkeley relating to the advancement of transit-oriented development at both Stations.

DISCUSSION:

Background

In mid-2018, BART and the City of Berkeley began conversations around advancing development of the properties at the Ashby and North Berkeley BART Stations (the “Stations” or the “Berkeley Stations”). On March 6, 2020, following unanimous authorization by the BART Board and Berkeley City Council, BART and the City of Berkeley (“City”) executed a Memorandum of Understanding (“MOU”) to collaborate on development at the properties described below. The parties aimed to advance rezoning of the properties, establish a shared vision and priorities for development there, and agree to the steps needed to prepare for developer solicitation. The milestones envisioned in the MOU

have largely either been completed or are anticipated to be completed within the next month.

Station Property Context

Ashby. The Ashby Station is located under Adeline Street in South Berkeley and has two developable parcels currently used as parking lots, comprising approximately 535 rider parking spaces. These two parcels are referred to as the West Lot (between Adeline St. and Martin Luther King Jr. Way) consisting of approximately 4.4 acres, and the East Lot (adjacent to Tremont St. and Woolsey St.) consisting of approximately 1.9 acres. Based on a series of agreements beginning at the time of BART's original construction, the City retains an option to purchase the air rights over the West Lot.

The Berkeley Flea Market ("Flea Market") has been operating in the West Lot for decades. To deliver on the City's and BART's housing goals for Ashby, the Flea Market must be relocated, with the expectation that its future location will be in close proximity to the Station as stated in the attached City - BART Joint Vision & Priorities. BART, the City, and Flea Market representatives are working with a consultant to analyze the needs and preferences of the Flea Market and potential alternative locations that are consistent with BART's operational requirements.

North Berkeley. The North Berkeley Station sits on approximately 8.1 acres in northwest Berkeley and has four developable parcels currently used as parking lots which will, after the completion of BART's Active Access Improvement project in 2023, comprise approximately 620 rider parking spaces. There are also approximately 80 spaces in two auxiliary parking lots which are not being considered for development at this time due to BART infrastructure limitations.

City - BART Joint Vision and Priorities

The 2020 MOU called for the City to convene a BART Community Advisory Group ("CAG"). The CAG met eight times throughout 2020 and 2021 to provide input into a vision for TOD on the properties. The resulting document, attached here as Exhibit 1, is the *City - BART Joint Vision and Priorities for TOD for Ashby and North Berkeley BART Stations* ("Joint Vision and Priorities"). The goal of this document is to provide a concise statement of the City's and BART's shared, high-level expectations for future development of both the Ashby and North Berkeley BART properties. Pursuant to the 2020 MOU, this *Joint Vision and Priorities* document will be incorporated into future Request(s) for Qualifications ("RFQs") for development of both the Ashby and North Berkeley Station areas. The *Joint Vision and Priorities* will help guide the process from developer selection through project construction.

The *Joint Vision and Priorities* builds on: 1) the City's and BART's adopted plans, policies, and regulations; 2) input from the CAG and community process; and 3) additional analysis undertaken by the consultant team supporting the planning process. The *Joint Vision and Priorities* is organized around five key topics: Affordable Housing, Public and Civic Space, Land Use, Building Form, and Station Access. Each topic includes an overall vision statement, followed by shared priorities for both Station areas, and additional priorities specific to each individual Station, if applicable.

Station Access and Recommended Parking Maximums

Policy Background. The Station Access Policy, adopted by the BART Board in 2016, identifies station access types based on specific characteristics of each station. Ashby and North Berkeley Stations are designated as “Urban with Parking” stations, at which two-thirds of riders get to the station without needing to park. According to BART's TOD Policy, BART should strive for no to limited parking when building TOD at “Urban” or “Urban with Parking” stations.

Berkeley - El Cerrito Corridor Access Plan (“Corridor Plan”). In total, roughly 2,500 new affordable and market rate homes are anticipated at the two Berkeley stations and nearby El Cerrito Plaza Station. BART has undertaken a corridor-wide approach to access planning for these stations. This allows for a more comprehensive analysis of the subregional bike, pedestrian, and transit networks needed to bring people to one of these three stations as well as the Downtown Berkeley Station. Through this planning, BART has conducted extensive outreach with the multiple communities surrounding the stations, including in-person and virtual community meetings, open houses and office hours, boards and commissions, and BART advisory task forces.

Parking Maximums. To expedite the delivery of TOD and affordable housing, interested developers require greater certainty about BART's operational needs for its property, and the main potential needs are parking and access for riders. The BART Board voted in October 2021 to approve a range of 0-250 spaces at El Cerrito Plaza. BART staff has completed analysis utilizing the same methodology for the Berkeley Stations, and recommends that the on-site commuter parking not exceed 85 spaces at Ashby, and 200 spaces at North Berkeley (120 spaces in the main lot and 80 spaces in the auxiliary lots).

Access Enhancements. The Corridor Plan is also identifying a range of strategies to enable riders to shift from driving and parking to the covered stations, to other modes of access or the use of off-site parking. Selected TOD developers will be required to fund a more detailed station access plan to identify and prioritize improvements in the immediate area. The recommendations from the Corridor Plan will be available in mid-2022, and the developer-funded access plans will be completed early in the development process.

Other Next Steps. The exact amount of BART parking to be included in the TODs will be refined based on design, community benefits, and funding considerations. BART staff will work with the selected developers to accommodate BART parking. Assuming that negotiations regarding each project are fruitful and are sufficiently advanced, the BART Board will be asked to approve the TOD projects, including the amount of BART rider parking and priority station access investments.

Memorandum of Agreement

With most milestones in the 2020 MOU accomplished, City and BART Staff have negotiated a follow-up agreement, the *Memorandum of Agreement re North Berkeley and Ashby Transit-Oriented Developments* (the “MOA”). The proposed MOA clarifies activities and timelines, and identifies the parties’ respective roles and responsibilities, in order to further advance TOD at the Stations through the entitlement phase. While the City has a process for zoning and entitlements, and BART has a process for development of its properties, this MOA identifies how these processes will work together.

The major terms of the proposed agreement include:

- Development Activities Timeline. The City and BART have agreed on outside dates by which the parties will complete major tasks, such as BART initiating and completing developer selection for each Station.
- Phasing & Funding for Affordable Housing for North Berkeley. In April 2021, City Council approved a reservation of \$53 million in City affordable housing funds so that at least 35% of the housing units proposed at each of the Stations would be restricted as affordable housing (which is consistent with BART policy). The MOA sets out conditions and mechanisms for an eligible developer selected by BART for North Berkeley to access these affordable housing funds, subject to discretionary action by City Council.
- AB 2923 Streamlining & Objective Design Standards. Selected developers are expected to invoke streamlining of entitlement approvals available to certain projects under Assembly Bill 2923 (Chiu, 2018). Projects would then be subject only to ministerial review for conformance with objective design standards. Using grant funding obtained by BART, the City intends to develop and adopt objective design standards to facilitate this streamlining for eligible TOD projects at both Stations. Consistent with the *AB 2923 Development Principles* adopted by the BART Board in August 2020, BART will have a role in enforcing the objective design standards under certain conditions, provided that the City zones for the highest and most feasible use for the properties in June 2022. The City Council is at this time scheduled to act on zoning that BART staff has determined meets this definition, and which would conform to AB 2923 zoning

standards.

- Developer Selection Process for North Berkeley. Due to the City's reservation of \$53 million in City affordable housing funds and progress toward rezoning the sites in alignment with AB 2923, the MOA states that the developer evaluation committee will consist of an equal number of BART and City representatives, rather than having a majority of BART representatives as is typical. The BART Board retains the sole authority to determine whether, and with whom, BART will enter into an Exclusive Negotiating Agreement (ENA) relating to potential future TOD at North Berkeley.
- Minimum Requirements for the North Berkeley Project. The *Joint Vision and Priorities* establishes both minimum expectations for development as well as aspirational goals. To reinforce the significance of this document, the City and BART have established in the MOA a set of minimum requirements to which the developer must adhere, many of which are derived from the *Joint Vision and Priorities* and other City and BART Board-adopted requirements. The MOA establishes mechanisms by which BART, the City, or both will reinforce these minimum requirements.
- Ashby Timeline. Outstanding issues remain to be addressed before the Ashby developer solicitation can be released in early 2023. These include the City's option to purchase the air rights over the west parking lot, the identification of a new permanent location for the Berkeley Flea Market, and the potential reconfiguration of the Adeline Street right-of-way adjacent to the station. The MOA lays out a timeline for resolution of these issues in a timely manner. Should the stated dates not be met, BART may re-prioritize its TOD work plan and advance a different developer solicitation elsewhere in the BART system in 2023.

If the Board and the City Council provide the necessary authorizations, City and BART staff will finalize and execute the MOA. The Office of the General Counsel will approve the MOA as to form.

FISCAL IMPACT:

There is no fiscal impact on unprogrammed District reserves in the current Fiscal Year from the proposed action. As development advances there may be fiscal impacts that the Board will consider in future actions, which may include both development revenues to BART as well as infrastructure costs. The MOA establishes that the cost to BART, if any, of operating and maintaining new public and civic space will be minimized.

ALTERNATIVES:

1. Do not approve the proposed *City - BART Joint Vision and Priorities for TOD for Ashby and North Berkeley BART Stations*
2. Approve maximum on-site BART rider parking levels different than the staff

recommendation of 85 spaces at Ashby and 200 spaces at North Berkeley

3. Do not authorize execution of a *Memorandum of Agreement re North Berkeley and Ashby Transit-Oriented Developments* with the City of Berkeley

These alternative actions would result in a potential missed opportunity to advance two TODs, improve access, and bring new riders and revenue to the District.

RECOMMENDATION:

Adopt the following motion.

MOTION:

The BART Board of Directors:

1. Approves the *City - BART Joint Vision and Priorities for TOD for Ashby and North Berkeley BART Stations* attached hereto as Exhibit 1
2. Approves the BART rider parking maximums of 85 spaces at Ashby and 200 spaces at North Berkeley
3. Authorizes the General Manager or his designee to execute the *Memorandum of Agreement re North Berkeley and Ashby Transit-Oriented Developments*.

Joint Vision & Priorities for Transit-Oriented Development for Ashby and North Berkeley BART Stations

Background

The December 10, 2019 Memorandum of Understanding (MOU) between BART and the City of Berkeley calls for the City and BART, with input from the City's Community Advisory Group (CAG) to establish a "joint vision and priorities" document. The goal of this document is to provide a concise statement of the City and BART's shared, high-level expectations for future development of both the Ashby and North Berkeley BART properties.

Per the MOU, this "joint vision and priorities" document will be incorporated into future Request(s) for Qualifications (RFQs) for development of both the Ashby and North Berkeley Station development, and will help guide the process from developer selection through project construction. This City-BART Joint Vision and Priorities document was one of three key outcomes of the CAG process for both North Berkeley and Ashby BART development (along with updated zoning consistent with AB 2923, and the RFQs for developers).

[This once-in-a-generation opportunity to create vibrant new neighborhoods for Berkeley merits elevated, world-class design for built and landscaped elements, including affordable housing.](#)

Affordable Housing

VISION

New housing at a variety of income levels at both the Ashby and North Berkeley BART Stations will address the City's housing crisis, stem the displacement of residents—especially of the African American community in Berkeley—and support more equitable access to housing for lower-income families and individuals. New housing must also be created quickly to reflect the urgency of the climate and affordability crises, capturing the inherent environmental and equity benefits of walkable, affordable transit-oriented housing in Berkeley's most transit-rich areas. North Berkeley and Ashby will provide a new model for delivering affordable housing in neighborhoods that are rich in infrastructure and strategically located to make regional transit, economic opportunity, and community amenities more broadly and equitably accessible.

Shared Priorities

- A. **Housing Priorities.** Maximize the number of new homes, and especially permanently affordable, deed-restricted homes. We anticipate a range of 500-1200 units at each station with a variety of unit sizes including units appropriate for multi-generational families/households.

- B. **Urgency.** Deliver new housing, including affordable units, within 10 years, by 2031, to reflect the urgency of the climate, affordability, and housing crises.
- C. **Affordable Housing Goal.** The City and BART will strive to maximize the number of permanently affordable, deed-restricted housing units within the funding that can be identified.
1. Affordable housing may be developed in multiple phases over a number of years.
 2. The amount of affordable housing which can be provided at each site within the 10-year time frame will depend on many outside factors including the availability of state and federal housing resources.
 3. At a minimum, at least 35% of the new units at each site will be restricted affordable housing. It is anticipated that each site could achieve at least 50% affordable housing, subject to the timely availability of financing.
 4. The City and BART will work together to support selected developers in proactively assembling affordable housing subsidies in order to exceed the 35% minimum.
 5. If both sites are able to provide at least 50% affordable housing in a way that is financially feasible, and if additional funding becomes available, the priority for that additional funding would be to maximize the number of affordable units at Ashby station in recognition of the ongoing threat of displacement to the historic community of South Berkeley.
- D. **Income Targets:** At least 35% of new housing at each site must be affordable to households earning an average of up to 60% of Area Median Income (AMI). Of that, at least 20% (or 7% of total units at each site) must be affordable to Extremely Low-income households, those earning up to 30% of AMI. Additional affordable units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted with households with incomes up to 120% of AMI, consistent with the more specific direction provided in the City-BART Memorandum of Agreement.
- E. **Sequencing.** Affordable housing should be built prior to, or along with, any market rate housing.
- F. **Displacement Prevention.** Affordable housing should provide a preference for residents of Berkeley who are facing displacement, or who have been displaced from Berkeley in the past due to economic or discriminatory reasons.
- G. **Developer Selection.** In the developer selection process, prioritize a nonprofit master developer or a partnership between a private developer and one or more community-based organizations who have experience showing accountability towards equity goals in the City of Berkeley.
- H. **Developer Accountability.** The selected developers must have a demonstrated commitment and feasible plans to produce affordable housing and be accountable for

making affordability the first priority. Selecting a developer who merely pledges a best effort to provide affordable units would not be sufficient.

- I. **Funding.** BART and the City of Berkeley should proactively seek new, innovative funding solutions to help achieve two truly visionary, equitable, and sustainable projects.
- J. **Clustering and Integration.** Affordable units may be clustered into one or more 100% affordable housing buildings on the BART sites but must be designed in a way that integrates with the larger project and shares [comparable](#) design standards and quality.
- K. **Inclusive Housing Design.** The selected developer will prioritize affordable housing for renters with various needs, including but not limited to families, people with physical or mental disabilities, and formerly homeless people.

Priorities for Ashby

- A. **Adeline Corridor Affordable Housing Goal.** Consistent with the Adeline Corridor Specific Plan, the City and BART should strive for a goal of 100% deed-restricted affordable housing, prioritizing extremely low, very-low and low-income affordable housing.
- B. **Residents with Disabilities.** Ashby BART should be developed in a way that prioritizes the inclusion of residents with disabilities, who are likely to benefit from proximity to the Ed Roberts Campus, [specifically as part of the development of the East Parking Lot at Ashby Station.](#)
- C. **South Berkeley Preference.** To address past and current displacement, the development should provide a preference to applicants who either currently live in South Berkeley or have been displaced from the community. This preference must be implemented in a way which is consistent with the City's Fair Housing goals and federal law.

Public and Civic Space

VISION

New public and civic space at both Ashby and North Berkeley BART will provide a community anchor, open space amenity, and memorable neighborhood gathering space that is accessible to all. It will be available for programmed community uses and activities, as well as for informal, unprogrammed public use by residents, visitors, and transit riders alike. New public space will [maximize greenery \(to the extent feasible\)](#) and enhance the ability of all community members to walk, roll, and take transit, supporting better station access and healthy, climate-friendly active transportation. North Berkeley will be a nexus of active transportation centered along a major new connection of the Ohlone Greenway.

Ashby will be anchored by a market and oriented along a street built for people and multiple modes of transportation.

Shared Priorities

- A. **Maintenance Costs.** New civic space should be maintained by the developer/lessee to minimize the ongoing cost of operations and maintenance to BART and the City.
- B. **New Public Space.** Pursue new public space design in a way that delivers on the vision while maximizing the number of on-site affordable housing units.
- C. **Station Access.** Design the public realm to support priorities in the Access section of this document.

Priorities for Ashby

- A. **Hub for African American Life.** Reinforce South Berkeley's historic role as a hub for African American culture and life in the Bay Area.
- B. **Flea Market.** Provide a permanent, viable home for the Berkeley Community Flea Market – offering supportive amenities such as public restrooms, limited office/storage space, electrical and water access and weather protection - in a prominent location.
- C. **Stakeholder Input.** Public space will be designed with input from the Flea Market, Lorin Business Association, neighborhood residents, representatives from the disability community, and other neighborhood stakeholders. Facilities for the Flea Market will be designed in collaboration with the vendors and Community Services United.
- D. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place. Flea Market and/or other public activities may occur on some or all of this portion of Adeline Street.
- E. **Green Space.** Expand the availability of green space for the neighborhood.

Priorities for North Berkeley

- A. **Ohlone Greenway Connection.** The development should include a landscaped (as feasible given BART operational needs) protected bikeway that connects the disjointed ends of the Ohlone Greenway to each other and to BART, providing a primary access route and orientation of the development that enables a prioritized pedestrian and bicycle connection from approximately the southeast corner of the site to the northwest corner of the site and across the streets.
- B. **Public Space Use.** Public space should provide opportunities for both active and passive public use, with strong connections to the station entrance, the Ohlone Greenway, or other public spaces and pedestrian facilities.

- C. **Street Design.** The design of surrounding streets should be considered as a strategy to accommodate public space needs, increase the tree canopy, and improve safety for pedestrians and bicycles. Explore the feasibility of reducing the width and number of traffic lanes in adjacent streets to their original (pre-BART) condition, aligning curbs with adjacent blocks in a manner that builds upon and is consistent with the City and BART's recent Complete Streets and roadway improvement projects in the area. Streets may retain their current width where there is some functional use for the extra space, such as bike lanes and cycle tracks that previously did not exist, and there may be bulb-outs at intersections. Perimeter sidewalks should consider generous pedestrian space and tree canopy.

Land Use

VISION

Land uses at Ashby and North Berkeley Stations will serve community needs; provide significant amounts of new housing; complement neighborhood businesses, services, and institutions; create a welcoming environment for all; support BART ridership; and improve quality of life for current and future residents. Ground-floor residential and non-residential uses should be pedestrian-oriented and contribute positively to public space and the pedestrian experience.

Shared Priorities

- A. **Overall Mix of Uses.** At both stations, the predominant use will be transit-oriented housing and transit uses, complemented by fully accessible public, green, and recreation space (including for all ages and abilities) and appropriate non-residential uses. Additional priorities for these uses are found in the Affordable Housing, Public and Civic Space, and Station Access and Parking Management sections of this document.
- B. **Non-residential Spaces.** Curate and program any non-residential spaces to provide interest and character, encourage community gathering, support social interactions, and provide unique neighborhood activities and services. Any non-residential uses should be customized to meet the unique needs of each station and neighborhood.

Priorities for Ashby

- A. **Role of Non-residential Uses.** Non-residential uses at Ashby should reinforce the area's historic role as a center of neighborhood commerce, cultural expression, social connection, and economic empowerment.
- B. **Non-Residential Active Frontages.** Non-residential uses should have active frontages oriented towards Adeline Street, Ashby Avenue, and the future Flea Market public space. Ground-floor uses should activate public space and complement the Flea Market, while promoting everyday activities when the Flea Market isn't occurring.

- C. **Prioritized Non-residential Uses.** The following types of potential non-residential uses should be prioritized, though not all are anticipated to be present in any one development project¹:
1. The Berkeley Flea Market, and indoor or outdoor spaces related to the Flea Market
 2. Businesses and organizations that reinforce the neighborhood's historic role as a center of Black culture and identity
 3. Businesses, organizations, or services that are oriented towards, or provide economic opportunity for people in the neighborhood or their descendants who were involuntarily displaced, interned, or historically disenfranchised on the basis of race
 4. New uses that expand and complement the role and mission of the Ed Roberts Campus and empower those living with disabilities
 5. Spaces for cultural activities, performance, display, community activities, or other uses and amenities that support the area's role as an arts and culture district.

Priorities for North Berkeley

- A. **Role of Non-residential Uses.** Non-residential uses such as retail, services, or indoor community spaces are anticipated to have a limited role at North Berkeley.
- B. **Non-residential Active Frontages.** Non-residential uses that do occur should be oriented with active frontages towards the station entry or other interior areas and/or Sacramento Street.
- C. **Respect Neighborhood Needs.** Non-residential uses that do occur should be focused towards meeting neighborhood needs and complementing the existing range of businesses and services already available nearby.
- D. **Potential Non-Residential Uses.** Non-residential uses may include the following²:
1. Uses that help reduce the need for driving in North Berkeley, such as commuter-focused amenities, childcare, community services, or satellite locations for existing community businesses or organizations
 2. Small-scale walkable retail or café type uses
 3. Space for activities, gatherings, or events.

¹ Specific permitted and prohibited uses for Ashby Station will be identified in the zoning code.

² Specific permitted and prohibited uses for North Berkeley Station will be identified in the zoning code.

Building Form

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New buildings at Ashby and North Berkeley Stations will be beautiful, creatively designed, well-proportioned, create visual and physical connections with the neighborhood through its architectural design and contribute positively to the physical fabric and long-term quality of life of the neighborhood. They will provide elements that neighborhood residents currently enjoy – such as natural light, air, direct outdoor access, variety, quirkiness, walkability, and sociability – in a denser, transit-oriented format that supports BART ridership. Buildings should exhibit a level of architectural diversity that expresses the social, racial, economic, and design diversity that is desired at both stations. Ground-floor spaces and building frontages should activate public space, while providing a sense of place and character to the stations and the surrounding neighborhood.

Shared Priorities

- A. **Height Variation.** AB 2923 does not permit the City's zoning controls to restrict building height below seven stories on the station sites. The City and BART will support variations in building height and form at both stations. It is anticipated that some buildings and some portions of buildings will be shorter than the maximum height in keeping with good urban design practice.
- B. **Context.** Building design should consider the scale and character of the surrounding built environment.
- C. **Location and Orientation.** Locate and design new buildings to enhance public spaces while mitigating impacts on existing neighbors through site orientation, setbacks, lines of sight between buildings, landscape and topography.
- D. **Equitable Design Quality.** Design affordable housing units in a way that integrates with the larger project and shares comparable design standards and quality.
- E. **Small Blocks.** Prioritize site designs with smaller blocks and building footprints instead of larger blocks.
- F. **Architectural Variety.** Design buildings to provide visual interest with variation in height, scale, massing, rooflines, materials, and architectural elements.
- G. **Building Scale.** Provide regular breaks in building forms, as well as both horizontal and vertical detail to respond to the existing neighborhood context and character, particularly at the edges of the site. Provide adequate perimeter space for pedestrian volume and tree canopy/vegetation.
- H. **Unit Diversity.** Encourage building forms that allow a diversity of unit sizes, types, and configurations.

- I. **Sunlight.** Seek to configure buildings and include design strategies that allow sunlight to reach public spaces, and design outdoor spaces, outdoor seating and active retail frontages, if provided, to maximize southern, western, and/or eastern exposure.
- J. **Outward-facing Entrances.** For ground-floor housing units, encourage outward-facing entrances with a range of design treatments and access strategies. These could include stoops, front doors, courtyard and forecourt entrances, ramped or at-grade universally accessible entries, outward-facing and visually permeable lobby entrances, and transition spaces from private frontages to public spaces.
- K. **Ground-floor Non-residential Frontages.** For ground-floor non-residential uses, provide frequent windows and doors, visual connection between indoors and outdoors, frontage onto public space, direct access to the pedestrian circulation network, and activation strategies such as outdoor seating, dining, display spaces, public art, and architectural detailing.
- L. **Universal Accessibility.** Preference [for](#) building designs with universally accessible units and elevator redundancy to promote accessibility for seniors and those with disabilities.
- M. **BART Entrances.** Ensure that BART entrances are featured prominently and integrated into the overall site plan.
- N. **Integrated Green Space.** Integrate gardens, courtyards, roof terraces, trees, native landscaping, and other green spaces into building architecture and site design.

Priorities for Ashby

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards Adeline Street and Ashby Avenue on the west parking lot parcel, and towards the rear of the Ed Roberts Campus on the east parking lot parcel.
- B. **Active Frontages.** Connect new buildings to Adeline Street and Ashby Avenue with direct pedestrian access, minimal setbacks, and active frontages to complement the existing active uses across the street.
- C. **Site Design.** Ensure that building form, scale, and the overall site plan provide sufficient space for the Flea Market and other civic and community uses.

Priorities for North Berkeley

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards the Ohlone Greenway and the center of the site and towards Sacramento Street.
- B. **Massing Breaks and Step-downs.** Provide massing breaks, step-downs in height, and frequent pedestrian building entrances along Delaware Street, Acton Street, and Virginia Street, with building forms and frontages that create a residential character and scale.

- C. **Active Frontages.** Prioritize active frontages, public space programming, and car-free activities along the Ohlone Greenway.

Station Access

Vision

Station access investments in and around the stations will enhance community vibrancy, safety, equity, and health while improving the quality of the public space and pedestrian experience, both within and beyond the station areas. Priority access investments are those that encourage people to walk, bike, roll, ride transit, and use shared micro-mobility options, while still providing flexibility for changing technologies and trends. Access investments will be distributed equitably to improve the experience for people of all ages, all abilities, and all income levels getting to and moving through the stations.

Shared Priorities

- A. **Housing and Community Benefits.** Favor affordable housing and other community benefits over BART rider parking and TOD resident parking in any physical or financial decision-making.
- B. **Non-Automobile Access.** Increase the share of BART riders who access the stations via modes other than driving alone and parking. Prioritize access improvements in the surrounding neighborhoods and within the station areas that offer safe, comfortable, affordable, cost-effective alternatives for all BART customers, particularly those with mobility challenges. Future access planning should consider the rapid evolution for mobility trends and technologies and consider the adaptability of the station access plans to future foreseeable and unforeseeable mobility patterns and their ability to handle ridership growth without running into capacity constraints.
- C. **Equitable Access.** Provide safe and secure station access options for people of all ages, abilities, races and ethnicities, genders, and income levels.
- D. **Parking Options.** Minimize the need for new structured on-site BART customer parking by maximizing the use of available parking capacity along the corridor (such as Center Street parking garage, shared parking with the TOD or with other sites, and on-street parking management around site perimeters).
- E. **Transportation Demand Management.** Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce the vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions by residents, visitors, and employees by 20% by complying with BART's Transportation Demand Management program.
- F. **Parking and Traffic Impacts.** Limit the impacts of parking and driving on residents of the developments and surrounding neighborhoods (such as noise, air quality, GHG, and

collisions) through transportation demand management, multi-modal circulation and access planning, infrastructure improvements, parking management, and other best practices.

- G. **Market Rate Pricing for Parking.** Explore parking pricing that is better aligned with market demand as a possible strategy to promote BART rider and on-street parking availability, with consideration of the impacts of parking pricing on low-income residents and BART riders.
- H. **Prioritize Curb Space.** Buses and shuttles will be located to prioritize people with disabilities, active loading of passengers (over waiting vehicles), services available to the public, and the number of people transferring to BART. Different types of passenger loading zones will be incorporated for quick pick-ups and drop-offs, those that need to wait for their passenger, accessible loading areas, ride apps and taxis.
- I. **Wayfinding and Signage.** Provide clear, accessible, adaptable station access signage and wayfinding to facilitate how people get to/from and through the station area consistent with the Metropolitan Transportation Commission's standards.
- J. Strive to locate BART-related drop-off zones on-site and connections to transit on site or on 4-lane corridors.

Priorities for Ashby

- A. **Pedestrian & Bicycle Connections.** Provide high-quality, safe pedestrian and bicycle connections to and through the site, including an off-street protected bicycle facility extending along Adeline Street, at least between Ashby Avenue and the intersection with MLK Way, with the potential to extend further through related Adeline improvement efforts.
- B. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place.

Priorities for North Berkeley

- A. **Adjacent Streets.** Consider the role and design of adjacent streets – including Sacramento Street, Delaware Street, Virginia Street, and Acton Street – in multi-modal access planning for the North Berkeley Station.
- B. **Commuter Parking Priority.** Where parking would be provided, maximize parking for commuters over parking for residential and/or potential community, non-profit, or retail uses.

Joint Vision & Priorities for Transit-Oriented Development for Ashby and North Berkeley BART Stations

Background

The December 10, 2019 Memorandum of Understanding (MOU) between BART and the City of Berkeley calls for the City and BART, with input from the City's Community Advisory Group (CAG) to establish a "joint vision and priorities" document. The goal of this document is to provide a concise statement of the City and BART's shared, high-level expectations for future development of both the Ashby and North Berkeley BART properties.

Per the MOU, this "joint vision and priorities" document will be incorporated into future Request(s) for Qualifications (RFQs) for development of both the Ashby and North Berkeley Station development, and will help guide the process from developer selection through project construction. This City-BART Joint Vision and Priorities document was one of three key outcomes of the CAG process for both North Berkeley and Ashby BART development (along with updated zoning consistent with AB 2923, and the RFQs for developers).

[This once-in-a-generation opportunity to create vibrant new neighborhoods for Berkeley merits elevated, world-class design for built and landscaped elements, including affordable housing.](#)

Affordable Housing

VISION

New housing at a variety of income levels at both the Ashby and North Berkeley BART Stations will address the City's housing crisis, stem the displacement of residents—especially of the African American community in Berkeley—and support more equitable access to housing for lower-income families and individuals. New housing must also be created quickly to reflect the urgency of the climate and affordability crises, capturing the inherent environmental and equity benefits of walkable, affordable transit-oriented housing in Berkeley's most transit-rich areas. North Berkeley and Ashby will provide a new model for delivering affordable housing in neighborhoods that are rich in infrastructure and strategically located to make regional transit, economic opportunity, and community amenities more broadly and equitably accessible.

Shared Priorities

- A. **Housing Priorities.** Maximize the number of new homes, and especially permanently affordable, deed-restricted homes. We anticipate a range of 500-1200 units at each station with a variety of unit sizes including units appropriate for multi-generational families/households.

- B. **Urgency.** Deliver new housing, including affordable units, within 10 years, by 2031, to reflect the urgency of the climate, affordability, and housing crises.
- C. **Affordable Housing Goal.** The City and BART will strive to maximize the number of permanently affordable, deed-restricted housing units within the funding that can be identified.
1. Affordable housing may be developed in multiple phases over a number of years.
 2. The amount of affordable housing which can be provided at each site within the 10-year time frame will depend on many outside factors including the availability of state and federal housing resources.
 3. At a minimum, at least 35% of the new units at each site will be restricted affordable housing. It is anticipated that each site could achieve at least 50% affordable housing, subject to the timely availability of financing.
 4. The City and BART will work together to support selected developers in proactively assembling affordable housing subsidies in order to exceed the 35% minimum.
 5. If both sites are able to provide at least 50% affordable housing in a way that is financially feasible, and if additional funding becomes available, the priority for that additional funding would be to maximize the number of affordable units at Ashby station in recognition of the ongoing threat of displacement to the historic community of South Berkeley.
- D. **Income Targets:** At least 35% of new housing at each site must be affordable to households earning an average of up to 60% of Area Median Income (AMI). Of that, at least 20% (or 7% of total units at each site) must be affordable to Extremely Low-income households, those earning up to 30% of AMI. Additional affordable units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted with households with incomes up to 120% of AMI, consistent with the more specific direction provided in the City-BART Memorandum of Agreement.
- E. **Sequencing.** Affordable housing should be built prior to, or along with, any market rate housing.
- F. **Displacement Prevention.** Affordable housing should provide a preference for residents of Berkeley who are facing displacement, or who have been displaced from Berkeley in the past due to economic or discriminatory reasons.
- G. **Developer Selection.** In the developer selection process, prioritize a nonprofit master developer or a partnership between a private developer and one or more community-based organizations who have experience showing accountability towards equity goals in the City of Berkeley.
- H. **Developer Accountability.** The selected developers must have a demonstrated commitment and feasible plans to produce affordable housing and be accountable for

making affordability the first priority. Selecting a developer who merely pledges a best effort to provide affordable units would not be sufficient.

- I. **Funding.** BART and the City of Berkeley should proactively seek new, innovative funding solutions to help achieve two truly visionary, equitable, and sustainable projects.
- J. **Clustering and Integration.** Affordable units may be clustered into one or more 100% affordable housing buildings on the BART sites but must be designed in a way that integrates with the larger project and shares [comparable](#) design standards and quality.
- K. **Inclusive Housing Design.** The selected developer will prioritize affordable housing for renters with various needs, including but not limited to families, people with physical or mental disabilities, and formerly homeless people.

Priorities for Ashby

- A. **Adeline Corridor Affordable Housing Goal.** Consistent with the Adeline Corridor Specific Plan, the City and BART should strive for a goal of 100% deed-restricted affordable housing, prioritizing extremely low, very-low and low-income affordable housing.
- B. **Residents with Disabilities.** Ashby BART should be developed in a way that prioritizes the inclusion of residents with disabilities, who are likely to benefit from proximity to the Ed Roberts Campus, [specifically as part of the development of the East Parking Lot at Ashby Station.](#)
- C. **South Berkeley Preference.** To address past and current displacement, the development should provide a preference to applicants who either currently live in South Berkeley or have been displaced from the community. This preference must be implemented in a way which is consistent with the City's Fair Housing goals and federal law.

Public and Civic Space

VISION

New public and civic space at both Ashby and North Berkeley BART will provide a community anchor, open space amenity, and memorable neighborhood gathering space that is accessible to all. It will be available for programmed community uses and activities, as well as for informal, unprogrammed public use by residents, visitors, and transit riders alike. New public space will [maximize greenery \(to the extent feasible\)](#) and enhance the ability of all community members to walk, roll, and take transit, supporting better station access and healthy, climate-friendly active transportation. North Berkeley will be a nexus of active transportation centered along a major new connection of the Ohlone Greenway.

Ashby will be anchored by a market and oriented along a street built for people and multiple modes of transportation.

Shared Priorities

- A. **Maintenance Costs.** New civic space should be maintained by the developer/lessee to minimize the ongoing cost of operations and maintenance to BART and the City.
- B. **New Public Space.** Pursue new public space design in a way that delivers on the vision while maximizing the number of on-site affordable housing units.
- C. **Station Access.** Design the public realm to support priorities in the Access section of this document.

Priorities for Ashby

- A. **Hub for African American Life.** Reinforce South Berkeley's historic role as a hub for African American culture and life in the Bay Area.
- B. **Flea Market.** Provide a permanent, viable home for the Berkeley Community Flea Market – offering supportive amenities such as public restrooms, limited office/storage space, electrical and water access and weather protection - in a prominent location.
- C. **Stakeholder Input.** Public space will be designed with input from the Flea Market, Lorin Business Association, neighborhood residents, representatives from the disability community, and other neighborhood stakeholders. Facilities for the Flea Market will be designed in collaboration with the vendors and Community Services United.
- D. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place. Flea Market and/or other public activities may occur on some or all of this portion of Adeline Street.
- E. **Green Space.** Expand the availability of green space for the neighborhood.

Priorities for North Berkeley

- A. **Ohlone Greenway Connection.** The development should include a landscaped (as feasible given BART operational needs) protected bikeway that connects the disjointed ends of the Ohlone Greenway to each other and to BART, providing a primary access route and orientation of the development that enables a prioritized pedestrian and bicycle connection from approximately the southeast corner of the site to the northwest corner of the site and across the streets.
- B. **Public Space Use.** Public space should provide opportunities for both active and passive public use, with strong connections to the station entrance, the Ohlone Greenway, or other public spaces and pedestrian facilities.

- C. **Street Design.** The design of surrounding streets should be considered as a strategy to accommodate public space needs, increase the tree canopy, and improve safety for pedestrians and bicycles. Explore the feasibility of reducing the width and number of traffic lanes in adjacent streets to their original (pre-BART) condition, aligning curbs with adjacent blocks in a manner that builds upon and is consistent with the City and BART's recent Complete Streets and roadway improvement projects in the area. Streets may retain their current width where there is some functional use for the extra space, such as bike lanes and cycle tracks that previously did not exist, and there may be bulb-outs at intersections. Perimeter sidewalks should consider generous pedestrian space and tree canopy.

Land Use

VISION

Land uses at Ashby and North Berkeley Stations will serve community needs; provide significant amounts of new housing; complement neighborhood businesses, services, and institutions; create a welcoming environment for all; support BART ridership; and improve quality of life for current and future residents. Ground-floor residential and non-residential uses should be pedestrian-oriented and contribute positively to public space and the pedestrian experience.

Shared Priorities

- A. **Overall Mix of Uses.** At both stations, the predominant use will be transit-oriented housing and transit uses, complemented by fully accessible public, green, and recreation space (including for all ages and abilities) and appropriate non-residential uses. Additional priorities for these uses are found in the Affordable Housing, Public and Civic Space, and Station Access and Parking Management sections of this document.
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Joint Vision & Priorities for Transit-Oriented Development for Ashby and North Berkeley BART Stations

November 2021

Background

The December 10, 2019 Memorandum of Understanding (MOU) between BART and the City of Berkeley calls for the City and BART, with input from the City's Community Advisory Group (CAG) to establish a "joint vision and priorities" document. The goal of this document is to provide a concise statement of the City and BART's shared, high-level expectations for future development of both the Ashby and North Berkeley BART properties.

Per the MOU, this "joint vision and priorities" document will be incorporated into future Request(s) for Qualifications (RFQs) for development of both the Ashby and North Berkeley Station development, and will help guide the process from developer selection through project construction. This City-BART Joint Vision and Priorities document will be one of three key outcomes of the CAG process for both North Berkeley and Ashby BART development (along with updated zoning consistent with AB 2923, and the RFQs for developers).

Affordable Housing

VISION

New housing at a variety of income levels at both the Ashby and North Berkeley BART Stations will address the City's housing crisis, stem the displacement of residents—especially of the African American community in Berkeley—and support more equitable access to housing for lower-income families and individuals. New housing must also be created quickly to reflect the urgency of the climate crisis, capturing the inherent environmental benefits of walkable, transit-oriented housing in Berkeley's most transit-rich areas. North Berkeley and Ashby will provide a new model for delivering affordable housing in neighborhoods that are rich in infrastructure and strategically located to make regional transit, economic opportunity, and community amenities more broadly and equitably accessible.

Shared Priorities

- A. **Housing Priorities.** Maximize the number of new homes, and especially permanently affordable, deed-restricted homes. We anticipate a range of 500-1200 units at each station with a variety of unit sizes.
- B. **Urgency.** Deliver new housing within 10 years, by 2031, to reflect the urgency of the climate and housing crises.

- C. **Affordable Housing Goal.** The City and BART will strive to maximize the number of permanently affordable, deed-restricted housing units within the funding that can be identified.
1. Affordable housing may be developed in multiple phases over a number of years.
 2. The amount of affordable housing which can be provided at each site within the 10-year time frame will depend on many outside factors including the availability of state and federal housing resources.
 3. At a minimum, at least 35% of the new units at each site will be restricted affordable housing. It is anticipated that each site could achieve at least 50% affordable housing, subject to the timely availability of financing.
 4. The City and BART will work together to support selected developers in proactively assembling affordable housing subsidies in order to exceed the minimum.
 5. If both sites are able to provide at least 50% affordable housing in a way that is financially feasible, and if additional funding becomes available, the priority for that additional funding would be to maximize the number of affordable units at Ashby station in recognition of the ongoing threat of displacement to the historic community of South Berkeley.
- D. **Income Targets:** At least 35% of new housing at each site must be affordable to households earning an average of up to 60% of Area Median Income (AMI). Of that, at least 20% (or 7% of total units at each site) must be affordable to Extremely Low-income households, those earning up to 30% of AMI. Additional affordable units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted with households with incomes up to 120% of AMI.
- E. **Sequencing.** Affordable housing should be built prior to, or along with, any market rate housing.
- F. **Displacement Prevention.** Affordable housing should provide a preference for residents of Berkeley who are facing displacement, or who have been displaced from Berkeley in the past due to economic or discriminatory reasons.
- G. **Developer Selection.** In the developer selection process, prioritize a nonprofit master developer or a partnership between a private developer and one or more community-based organizations who have experience showing accountability towards equity goals in the City of Berkeley.
- H. **Developer Accountability.** The selected developers must have a demonstrated commitment and feasible plans to produce affordable housing and be willing to be held accountable for making affordability the first priority. Selecting a developer who merely pledges a best effort to provide affordable units would not be sufficient.

- I. **Funding.** BART and the City of Berkeley should proactively seek new, innovative funding solutions to help achieve two truly visionary, equitable, and sustainable projects.
- J. **Clustering and Integration.** Affordable units may be clustered into one or more 100% affordable housing buildings on the BART sites but must be designed in a way that integrates with the larger project and shares the same design standards and quality.
- K. **Inclusive Housing Design.** The selected developer will prioritize affordable housing for renters with various needs, including but not limited to families, people with physical or mental disabilities, and formerly homeless people.

Priorities for Ashby

- A. **Adeline Corridor Affordable Housing Goal.** Consistent with the Adeline Corridor Specific Plan, the City and BART should strive for a goal of 100% deed-restricted affordable housing, prioritizing extremely low, very-low and low-income affordable housing.
- B. **Residents with Disabilities.** Ashby BART should be developed in a way that prioritizes the inclusion of residents with disabilities, who are likely to benefit from proximity to the Ed Roberts Campus.
- C. **South Berkeley Preference.** To address past and current displacement, the development should provide a preference to applicants who either currently live in South Berkeley or have been displaced from the community. This preference must be implemented in a way which is consistent with the City's Fair Housing goals and federal law.

Public and Civic Space

VISION

New public and civic space at both Ashby and North Berkeley BART will provide a community anchor, open space amenity, and memorable neighborhood gathering space that is accessible to all. It will be available for programmed community uses and activities, as well as for informal, unprogrammed public use by residents, visitors, and transit riders alike. New public space will enhance the ability of all community members to walk, roll, and take transit, supporting better station access and healthy, climate-friendly active transportation. North Berkeley will be a nexus of active transportation centered along a major new connection of the Ohlone Greenway. Ashby will be anchored by a market and oriented along a street built for people and multiple modes of transportation.

Shared Priorities

- A. **Maintenance Costs.** New civic space should be designed in a way that minimizes the ongoing cost of operations and maintenance to BART and the City.

- B. **New Public Space.** Pursue new public space design in a way that delivers on the vision while maximizing the number of on-site affordable housing units.
- C. **Station Access.** Design the public realm to support priorities in the Access section of this document.

Priorities for Ashby

- A. **Hub for African American Life.** Reinforce South Berkeley's historic role as a hub for African American culture and life in the Bay Area.
- B. **Flea Market.** Provide a permanent, viable home for the Berkeley Community Flea Market – offering supportive amenities such as public restrooms, limited office/storage space, electrical and water access and weather protection - in a prominent location.
- C. **Stakeholder Input.** Public space will be designed with input from the Flea Market, Lorin Business Association, neighborhood residents, representatives from the disability community, and other neighborhood stakeholders. Facilities for the Flea Market will be designed in collaboration with the vendors and Community Services United.
- D. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place. Flea Market and/or other public activities may occur on some or all of this portion of Adeline Street.
- E. **Green Space.** Expand the availability of green space for the neighborhood.

Priorities for North Berkeley

- A. **Ohlone Greenway Connection.** The development should include a protected bikeway that connects the disjointed ends of the Ohlone Greenway to each other and to BART, providing a primary access route and orientation of the development that enables a prioritized pedestrian and bicycle connection from approximately the southeast corner of the site to the northwest corner of the site and across the streets.
- B. **Public Space Use.** Public space should provide opportunities for both active and passive public use, with strong connections to the station entrance, the Ohlone Greenway, or other public spaces and pedestrian facilities.

- C. **Street Design.** The design of surrounding streets should be considered as a strategy to accommodate public space needs, and improve safety for pedestrians and bicycles. Explore the feasibility of reducing the width and number of traffic lanes in adjacent streets to their original (pre-BART) condition, aligning curbs with adjacent blocks in a manner that builds upon and is consistent with the City and BART's recent Complete Streets and roadway improvement projects in the area. Streets may retain their current width where there is some functional use for the extra space, such as bike lanes and cycle tracks that previously did not exist, and there may be bulb-outs at intersections.

Land Use

VISION

Land uses at Ashby and North Berkeley Stations will serve community needs; provide significant amounts of new housing; complement neighborhood businesses, services, and institutions; create a welcoming environment for all; support BART ridership; and improve quality of life for current and future residents. Ground-floor uses should be pedestrian-oriented and contribute positively to public space and the pedestrian experience.

Shared Priorities

- A. **Overall Mix of Uses.** At both stations, the predominant use will be transit-oriented housing and transit uses, complemented by public space and appropriate non-residential uses. Additional priorities for these uses are found in the Affordable Housing, Public and Civic Space, and Station Access and Parking Management sections of this document.
- B. **Non-residential Spaces.** Curate and program any non-residential spaces to provide interest and character, encourage community gathering, support social interactions, and provide unique neighborhood activities and services. Any non-residential uses should be customized to meet the unique needs of each station and neighborhood.

Priorities for Ashby

- A. **Role of Non-residential Uses.** Non-residential uses at Ashby should reinforce the area's historic role as a center of neighborhood commerce, cultural expression, social connection, and economic empowerment.
- B. **Non-Residential Active Frontages.** Non-residential uses should have active frontages oriented towards Adeline Street, Ashby Avenue, and the future Flea Market public space. Ground-floor uses should activate public space and complement the Flea Market, while promoting everyday activities when the Flea Market isn't occurring.

- C. **Prioritized Non-residential Uses.** The following types of potential non-residential uses should be prioritized, though not all are anticipated to be present in any one development project¹:
1. The Berkeley Flea Market, and indoor or outdoor spaces related to the Flea Market
 2. Businesses and organizations that reinforce the neighborhood's historic role as a center of Black culture and identity
 3. Businesses, organizations, or services that are oriented towards, or provide economic opportunity for people in the neighborhood or their descendants who were involuntarily displaced, interned, or historically disenfranchised on the basis of race
 4. New uses that expand and complement the role and mission of the Ed Roberts Campus and empower those living with disabilities
 5. Spaces for cultural activities, performance, display, community activities, or other uses and amenities that support the area's role as an arts and culture district.

Priorities for North Berkeley

- A. **Role of Non-residential Uses.** Non-residential uses such as retail, services, or indoor community spaces is anticipated to have a limited role at North Berkeley.
- B. **Non-residential Active Frontages.** Non-residential uses that do occur should be oriented with active frontages towards the station entry and/or Sacramento Street.
- C. **Respect Neighborhood Needs.** Non-residential uses that do occur should be focused towards meeting neighborhood needs and complementing the existing range of businesses and services already available nearby.
- D. **Potential Non-Residential Uses.** Non-residential uses may include the following²:
1. Uses that help reduce the need for driving in North Berkeley, such as commuter-focused amenities, childcare, community services, or satellite locations for existing community businesses or organizations
 2. Small-scale walkable retail or café type uses
 3. Space for activities, gatherings, or events.

¹ Specific permitted and prohibited uses for Ashby Station will be identified in the zoning code.

² Specific permitted and prohibited uses for North Berkeley Station will be identified in the zoning code.

Building Form

VISION

New buildings at Ashby and North Berkeley Stations will be beautiful, creatively designed, well-proportioned, create visual and physical connections with the neighborhood through its architectural design and contribute positively to the physical fabric and long-term quality of life of the neighborhood. They will provide elements that neighborhood residents currently enjoy – such as natural light, air, direct outdoor access, variety, quirkiness, walkability, and sociability – in a denser, transit-oriented format that supports BART ridership. Buildings should exhibit a level of architectural diversity that expresses the social, racial, economic, and design diversity that is desired at both stations. Ground-floor spaces and building frontages should activate public space, while providing a sense of place and character to the stations and the surrounding neighborhood.

Shared Priorities

- A. **Height Variation.** AB 2923 does not permit the City's zoning controls to restrict building height below seven stories on the station sites. The City and BART will support variations in building height and form at both stations. It is anticipated that some buildings and some portions of buildings will be shorter than the maximum height in keeping with good urban design practice.
- B. **Context.** Building design should consider the scale and character of the surrounding built environment.
- C. **Location and Orientation.** Locate and design new buildings to enhance public spaces while mitigating impacts on existing neighbors through site orientation, setbacks, lines of sight between buildings, landscape and topography.
- D. **Equitable Design Quality.** Design affordable housing units in a way that integrates with the larger project and shares the same design standards and quality.
- E. **Small Blocks.** Prioritize site designs with smaller blocks and building footprints instead of larger blocks.
- F. **Architectural Variety.** Design buildings to provide visual interest with variation in height, scale, massing, rooflines, materials, and architectural styles.
- G. **Building Scale.** Provide regular breaks in building forms, as well as both horizontal and vertical detail to respond to the existing neighborhood context and character, particularly at the edges of the site.

- H. **Unit Diversity.** Encourage building forms that allow a diversity of unit sizes, types, and configurations.
- I. **Sunlight.** Seek to configure buildings and include design strategies that allow sunlight to reach public spaces, and design outdoor spaces, outdoor seating and active retail frontages, if provided, to maximize southern, western, and/or eastern exposure.
- J. **Outward-facing Entrances.** For ground-floor housing units, encourage outward-facing entrances with a range of design treatments and access strategies. These could include stoops, front doors, courtyard and forecourt entrances, ramped or at-grade universally accessible entries, outward-facing and visually permeable lobby entrances, and transition spaces from private frontages to public spaces.
- K. **Ground-floor Non-residential Frontages.** For ground-floor non-residential uses, provide frequent windows and doors, visual connection between indoors and outdoors, frontage onto public space, direct access to the pedestrian circulation network, and activation strategies such as outdoor seating, dining, display spaces, public art, and architectural detailing.
- L. **Universal Accessibility.** Preference building designs with universally accessible units and elevator redundancy to promote accessibility for seniors and those with disabilities.
- M. **BART Entrances.** Ensure that BART entrances are featured prominently and integrated into the overall site plan.
- N. **Integrated Green Space.** Integrate gardens, courtyards, roof terraces, trees, native landscaping, and other green spaces into building architecture and site design.

Priorities for Ashby

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards Adeline Street and Ashby Avenue on the west parking lot parcel, and towards the rear of the Ed Roberts Campus on the east parking lot parcel.
- B. **Active Frontages.** Connect new buildings to Adeline Street and Ashby Avenue with direct pedestrian access, minimal setbacks, and active frontages to complement the existing active uses across the street.
- C. **Site Design.** Ensure that building form, scale, and the overall site plan provide sufficient space for the Flea Market and other civic and community uses.

Priorities for North Berkeley

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards the Ohlone Greenway and the center of the site, as well as towards Sacramento Street.
- B. **Massing Breaks and Step-downs.** Provide massing breaks, step-downs in height, and frequent pedestrian building entrances along Delaware Street, Acton Street, and Virginia Street, with building forms and frontages that create a residential character and scale.
- C. **Active Frontages.** Prioritize active frontages, public space programming, and car-free activities along the Ohlone Greenway.

Station Access

Vision

Station access investments in and around the stations will enhance community vibrancy, safety, equity, and health while improving the quality of the public space and pedestrian experience, both within and beyond the station areas. Priority access investments are those that encourage people to walk, bike, roll, ride transit, and use shared micro-mobility options, while still providing flexibility for changing technologies and trends. Access investments will be distributed equitably to improve the experience for people of all ages, all abilities, and all income levels getting to and moving through the stations.

Shared Priorities

- A. **Housing and Community Benefits.** Favor affordable housing and other community benefits over BART rider parking and TOD resident parking in any physical or financial decision-making.
- B. **Non-Automobile Access.** Increase the share of BART riders who access the stations via modes other than driving alone and parking. Prioritize access improvements in the surrounding neighborhoods and within the station areas that offer safe, comfortable, affordable, cost-effective alternatives for all BART customers, particularly those with mobility challenges. Future access planning should consider the rapid evolution for mobility trends and technologies and consider the adaptability of the station access plans to future foreseeable and unforeseeable mobility patterns and their ability to handle ridership growth without running into capacity constraints.
- C. **Equitable Access.** Provide safe and secure station access options for people of all ages, abilities, races and ethnicities, genders, and income levels.

- D. **Parking Options.** Minimize the need for new structured on-site BART customer parking by maximizing the use of available parking capacity along the corridor (such as Center Street parking garage, shared parking with the TOD or with other sites, and on-street parking management).
- E. **Transportation Demand Management.** Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce the vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions by residents, visitors, and employees by 20% by complying with BART's Transportation Demand Management program.
- F. **Parking and Traffic Impacts.** Limit the impacts of parking and driving on residents of the developments and surrounding neighborhoods (such as noise, air quality, GHG, and collisions) through transportation demand management, multi-modal circulation and access planning, infrastructure improvements, parking management, and other best practices.
- G. **Market Rate Pricing for Parking.** Explore parking pricing that is better aligned with market demand as a possible strategy to promote BART rider and on-street parking availability, with consideration of the impacts of parking pricing on low income residents and BART riders.
- H. **Prioritize Curb Space.** Buses and shuttles will be located to prioritize people with disabilities, active loading of passengers (over waiting vehicles), services available to the public, and the number of people transferring to BART. Different types of passenger loading zones will be incorporated for quick pick-ups and drop-offs, those that need to wait for their passenger, accessible loading areas, ride apps and taxis.
- I. **Wayfinding and Signage.** Provide clear, accessible, adaptable station access signage and wayfinding to facilitate how people get to/from and through the station area consistent with the Metropolitan Transportation Commission's standards.

Priorities for Ashby

- A. **Pedestrian & Bicycle Connections.** Provide high-quality, safe pedestrian and bicycle connections to and through the site, including an off-street protected bicycle facility extending along Adeline Street, at least between Ashby Avenue and the intersection with MLK Way, with the potential to extend further through related Adeline improvement efforts.
- B. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place..

Priorities for North Berkeley

- A. **Adjacent Streets.** Consider the role and design of adjacent streets – including Sacramento Street, Delaware Street, Virginia Street, and Acton Street – in multi-modal access planning for the North Berkeley Station.
- B. **Commuter Parking Priority.** Where parking would be provided, maximize parking for commuters over parking for residential and/or potential community, non-profit, or retail uses.

DRAFT

MEMORANDUM OF AGREEMENT RE NORTH BERKELEY AND ASHBY TRANSIT-ORIENTED DEVELOPMENTS

This Memorandum of Agreement (“**MOA**”) is entered into on this 29th day of June, 2022, by and between the San Francisco Bay Area Rapid Transit District (“**BART**”) and the City of Berkeley (“**City**”) (collectively the “**Parties**”) to cooperatively pursue transit-oriented development (“**TOD**” or “**the Projects**”) at the North Berkeley and Ashby BART stations. This MOA is made in furtherance of the Memorandum of Understanding between BART and City, signed on March 3, 2020 (“**MOU**”, attached hereto as Exhibit A), and the Joint Vision and Priorities Document approved by the City on June 2, 2022 and by BART on June 9, 2022 (“**JVP**,” attached hereto as Exhibit B), which addressed TOD projects at the North Berkeley and Ashby BART Stations. These projects are individually referred to respectively as the “**North Berkeley Project**” and “**Ashby Project**,” and collectively as the “**Projects**.” This MOA primarily addresses the North Berkeley Project. The Parties anticipate amending this MOA to address additional issues specific to the Ashby BART Project.

This MOA is not intended to cover all issues that may arise between BART and the City with respect to the Projects, but is intended to provide the Parties and potential developers a basic understanding as to how the Project negotiation and entitlement processes will proceed; the objectives and minimum requirements for the Projects in terms of design, affordability, and infrastructure; and the anticipated City and BART contributions to the Projects.

RECITALS

- A. In 2020, the Parties entered into the MOU to identify their shared vision and priorities for development of TODs at the North Berkeley and Ashby BART stations, to provide clarity on the process and timelines for pursuing development, and to begin to identify the roles and responsibilities of the City and BART in that process. Among other things, the MOU called on the City to establish a Community Advisory Group, reserve funding to support affordable housing development at the sites, and to adopt zoning for the sites consistent with AB 2923.
- B. On April 27, 2021, the Berkeley City Council unanimously adopted Resolution 69,833-N.S. which, in part, provisionally reserves \$53 million of City-controlled funds as the subsidy needed to achieve 35% affordable housing at the Ashby and

North Berkeley BART sites, allows for a portion of the funding to be considered for predevelopment, and directs the Berkeley City Manager ("**City Manager**") to investigate a new bond measure that could fund housing and/or housing related infrastructure needs at the two BART Stations and in the Adeline Corridor, or in the City as a whole, and to establish a timeline and community process for said bond measure, with a goal of maximizing affordable housing (up to 100%) at either or both sites.

- C. On June 28th, 2022 the Berkeley City Council adopted a new Chapter 23.202.150 in its Zoning Ordinance, as part of the City of Berkeley Municipal Code, adding a "Residential - BART Mixed Use (R-BMU)" zoning district, as well as additional conforming amendments to the General Plan and other sections of the Municipal Code in order to ensure that the provisions are comprehensively and consistently incorporated into its Zoning Ordinance, to govern development at the North Berkeley and Ashby BART stations.
- D. On June 9, 2022, the BART Board approved the JVP and on June 2, 2022, the Berkeley City Council approved the JVP with Resolution _____. The JVP expresses the City and BART's shared, high-level expectations for future development of both the Ashby and North Berkeley BART Stations. This document will be incorporated into BART's future Requests for Qualifications ("**RFQs**") for development of the Ashby and North Berkeley Station development, and will help guide the process from developer selection through project construction. Further negotiations will occur pertaining to the potential solicitation at the Ashby BART Station.
- E. With the above milestones completed, the purpose of this MOA is to clarify the processes that BART and/or the City will pursue from this date forward in seeking to realize construction of the North Berkeley Project, as well as to set out certain agreements with respect to the Ashby Project.
- F. As part of the work funded by a San Francisco Foundation Breakthrough Grant ("Equitable Black Berkeley"), the City of Berkeley is contracting with Creative Development Partners to support an innovative reparative approach to financing with a goal of increasing affordable housing, and supporting BART and the City to meet the goals of the JVP developed with input from the City's Community Advisory Group (CAG).
- G. Outstanding issues remain to be addressed prior to advancing development of the Ashby Project, including, but not limited to, ensuring a new permanent location

for the Berkeley Flea Market can be provided, the City's option to acquire air rights for the Western Parking Lot, the potential reconfiguration of Adeline Street, the design and funding of station infrastructure, and the role of BART and the City in the developer solicitation process. It is anticipated that an amendment to this MOA, as well as completion of related agreements and documentation, will be needed in order to advance solicitation of a developer for the Ashby Project.

MUTUAL AGREEMENT OF THE PARTIES

I. Relationship to MOU

- A. This MOA amends and expands upon the MOU (Exhibit A) between the Parties to reflect changes in the anticipated project schedule and encompass topics not addressed in the MOU. The MOU remains in effect and its terms are only changed to the extent specifically noted in this MOA, or where provisions of this MOA are in direct conflict with provisions in the MOU, in which case the provisions of this MOA shall prevail. Terms of the MOU that are not in conflict with this MOA shall remain in effect.

II. Timeline for the Projects

- A. The Summary Table below reflects activities for the Projects anticipated to take place after the date of this MOA. It supersedes the Activities and Timelines Summary Table in section III of the MOU. BART and the City agree that the milestones and associated dates may be revised upon mutual written agreement of the City Manager or her designee and of the BART General Manager ("**General Manager**") or his designee. If the Parties do not complete an activity or a milestone by the date provided for said activity or milestone, and if the parties cannot identify a mutually acceptable later date for completion of the activity or milestone, then either Party may, upon 30 days' written notice to the other Party, terminate this agreement as it applies to the Station to which the activity or milestone relates.

B. Activities and Timelines Summary Table

Activity	Lead Party	Milestone	Outside Date
1. Developer(s) Solicitation – North Berkeley Project	BART	RFQ Release for North Berkeley Project and Notice of Funding Availability for City Predevelopment Funding	July 1, 2022

2. Developer(s) Selection – North Berkeley Project	BART Board of Directors	Identified development team (selected by a panel with equal City and BART representation), with demonstrated capacity (as outlined in the RFQ), to complete affordable housing projects representing at least 35% of anticipated housing for the entire site. If the milestone is not met, the City may rescind the \$500k in predevelopment funding available through the RFQ.	June 30, 2023
3. Execution of an Exclusive Negotiating Agreement (“ENA”) – North Berkeley Project	BART	ENA signed with Developer	No later than 9 months after Developer selection
4. City Affordable Housing Funding - Predevelopment Funding – Both Projects	City	Council award of predevelopment funds (if requested) to Developer	No later than 60 days after Developer Selection for each respective Station
5. Adoption of Objective Design Standards – Both Projects	City	Objective Design Standards adopted by City Council	No later than 9 months after ENA execution for each respective Station assuming both parties meet the terms outlined in Section IV.F below
6. Affordable Housing Strategy – Both Projects	City	Identify additional funding streams, if any and finalize City affordable housing funding plan	June 30, 2023

7. City Application - Both Projects	Development team	Development team must submit a complete application for a Master Development Permit, or for at least one affordable housing building's entitlements/permit	No sooner than 9 months and no later than 3 years from execution of ENA for each respective Station
8. Project Financing	Development team	For each affordable housing project, development team must secure complete project financing. If this milestone is not met, the City may rescind the development funding reservation for that project.	December 31, 2031

III. Phasing and Funding for Affordable Housing for the North Berkeley Project

The Parties will strive to deliver new housing within 10 years to reflect the urgency of the climate and housing crises, acknowledging that housing, including affordable housing, may be developed in multiple phases over a number of years.

The Parties have committed to working together proactively to maximize the number of affordable, deed-restricted housing units at the North Berkeley site, dependent on timely identification of sufficient funding and balanced with other JVP goals and BART infrastructure needs. The RFQ, ENA and other transaction documents will reflect the following agreement as a requirement: At a minimum, the North Berkeley Project shall include regulated affordable units comprising at least 35% of the new housing units to be developed at the site, inclusive of any bonus units granted as part of a density bonus application, at the affordability levels in the JVP, as described below. Affordability restrictions shall run for the duration of the ground lease(s) for all affordable housing components of the Project, which leases shall have a minimum duration of 65 years, and for any extensions thereto. In addition to the terms of said ground leases, the affordability restrictions will be enforceable by the City pursuant to regulatory agreements between the City and the developer(s).

Affordability Levels in the JVP:

- 1) At least 35% of new housing must be affordable to households earning an average of up to 60% of Area Median Income (“**AMI**”).
- 2) At least 20% of the required 35% affordable units must be affordable to households earning no more than 30% of AMI (“Extremely Low Income” or “ELI”, and

- 3) Additional affordable units aside from the ELI units should prioritize low income (80% of AMI) and very low income (50% of AMI) households but may include some housing restricted to households with moderate incomes (up to 120% of AMI), provided that the moderate-income units have rents that are still below market and shall not include City subsidy.

While the aforementioned goals are established in the JVP and the City and BART have policies regarding affordable housing requirements, any project receiving the City's Housing Trust Fund ("HTF") funding must meet the HTF Guidelines¹, which require that 40% of any City subsidized units be affordable to households earning up to 60% of AMI, and an additional 20% of City subsidized units to be affordable to households earning up to 30% of AMI. BART's TOD policy also provides a priority for affordable units that serve very low income (<50% AMI), low income (51-80% AMI) and/or transit-dependent populations.

A. BART Land Discount.

In order to facilitate the provision of deeply affordable housing, BART will provide the selected developer with a discount on land costs. In keeping with BART's *Framework for Financial Return from Affordable Housing*, higher levels of discount will be available to projects that provide more units at lower income levels. BART shall require the selected developer for the North Berkeley Project to utilize this land discount solely for the benefit of the affordable components of this Project. For the avoidance of doubt, the Parties acknowledge that this Section III.A applies to the North Berkeley Project only. The City and BART will address the BART discount on land costs for the Ashby Project at a later time.

B. City Funding

The City will make available a total of \$53 million in affordable housing funds, including up to \$4 million in predevelopment funds, for the Projects, and allocate funding to the Projects subject to each project's compliance with the Objective Design Standards (consistent with conditions in Section IV below), affordability requirements, project milestones (including without limitation the milestones noted in Section II.B above), and other requirements to be set forth in the funding agreements between the City and developer.

City will work to ensure an equitable distribution of City subsidy funding. It is anticipated that up to 50% of the City subsidy funds will be invested at the North Berkeley Project. However, if differences in timing of the Projects, the availability of outside subsidy, planned affordability levels or other factors result in a greater need for funding at one site than the other, the City may, in consultation with BART, choose to

¹ <https://www.cityofberkeley.info/ContentDisplay.aspx?id=6532>

allocate the funding differently. A minimum of \$20 million in City subsidy funds will be available to be invested at the North Berkeley Project, subject to Council approval of an HTF Program application. City acknowledges that the Minimum Requirements for housing affordability may not be achievable without this allocation.

The anticipated sources of City funding are as follows:

- 1) **Measure O Funding:** The City has reserved \$40 million in Measure O funding. It is the City's intention to invest up to \$20 million of these funds in the North Berkeley Project unless a different funding allocation is determined as noted above.
- 2) **Affordable Housing Mitigation Fees:** In addition, the City has reserved \$13 million in additional funding for the North Berkeley and Ashby sites from future Affordable Housing Mitigation Fee revenue, or from an alternative source of funding to be identified by the City by June 30, 2023, inclusive of any funds invested in predevelopment. It is the City's intention to invest up to 50% of this total (\$6.5 million) at the North Berkeley site.
- 3) **Potential Future Bond Measure:** The City Manager is investigating a new bond measure, as described above in Recital B, which if passed by the voters could provide additional City funds to increase the provision of affordable housing within the projects.

C. Predevelopment Funding.

As authorized by City Council, the City will reserve up to \$2 million in predevelopment funding for the North Berkeley site from its HTF to enable nonprofit affordable housing developers to undertake predevelopment expenses. The predevelopment funding described in this Section III.C will only be available to nonprofit affordable housing developers, but shall be available whether the nonprofit is the lead developer or a member of a development team. In the event that there is a joint venture, the City will review the joint venture operating agreement and organization chart for the sole purpose of confirming the roles and relationship of the venture partners and the period of time the joint venture will be in force. The predevelopment funding will be made available in two phases:

1. **Phase 1 predevelopment funding** is available during the RFQ process to support a non-profit developer to fund early predevelopment costs. The RFQ will jointly serve as an application for this Phase I predevelopment funding from the City. Following developer selection by the BART Board of Directors, the City will consider approval of up to \$500,000 total for eligible non-profit developers requesting this funding. Disbursement of the Phase 1 predevelopment funding will be conditioned upon execution of an ENA, the terms of which are consistent with the requirements of this MOA.

2. **Phase 2 project-specific predevelopment funding** consistent with the HTF Guidelines and implementing procedures, including site planning, infrastructure planning, access planning, engineering, architecture and financing expenses (but excluding land acquisition costs). Following the submittal of an affordable housing proposal and financing plan (including a project pro forma), an eligible developer may then request the remaining predevelopment funds (up to \$1.5 million), which the City will recommend the Council approve if it determines the developer's proposal and financing plan are feasible and meet funding agreement conditions. Disbursement of the Phase 2 predevelopment funding will be conditioned upon execution of an ENA, the terms of which are consistent with the requirements of this MOA.

City predevelopment funding will, via the mechanism of the Predevelopment Loan Agreement between the City and the developer, be secured by the work products created by the developer, which shall become the property of the City if the developer defaults. As to other shared costs, predevelopment funding may be used to pay for no more than the pro-rata share attributable to the portion of the project restricted to serving tenants with incomes up to 120% of AMI plus any associated manager's units based on net rentable square footage. For Phase 1, the pro rata share will be determined based on the percentage of housing up to 120% AMI per the selected developer's preliminary development concept. Phase 2 can only fund predevelopment costs that are directly tied to a standalone 100% affordable development.

The Parties will work together to ensure that the submittal requirements and selection process provide an opportunity for the City to evaluate potential applications for eligibility for predevelopment and development subsidy from the City's HTF and Measure O bond proceeds prior to selection. The City agrees to accept the executed ENA as proof of site control for purposes of committing predevelopment funds. The terms and conditions for disbursement of City predevelopment funds will be established in a Predevelopment Loan Agreement between the City and the developer/borrower.

The Predevelopment Loan Agreement may require that developer reimburse the City for disbursed predevelopment loan funds if entitlement milestones are not met per Section II Table B., or if the proposed project is inconsistent with any Objective Design Standards then in force, or other terms and conditions of the Predevelopment Loan Agreement.

D. Development Funding for the Projects

The Parties expect funding for affordable housing development to come from City subsidies (Measure O and HTF), a developer contribution associated with any market rate

development, and other sources. The affordable housing developer will be responsible for identifying and leveraging available funding sources, including state and federal funding programs.

BART and the City require that development submittals in response to the developer solicitations include a preliminary development concept. This shall include a preliminary phased development timeline, the desired dates for receiving and drawing on funding commitments from the City, and the anticipated completion of affordable housing. The phased development timeline will include concurrency requirements to ensure that affordable units are constructed prior to or concurrently with any market-rate housing component. No market rate housing will receive its notice to proceed until an affordable housing project receives its notice to proceed. In the event there are multiple phases of market rate or affordable housing, the phasing plan shall be approved to ensure consistency with the JVP goal of affordable housing being built along with market rate housing.

The City will award development subsidy loan funds remaining after the award of any predevelopment funding based on detailed proposals provided by the selected affordable housing developer. The final commitment of development funding reserved for the North Berkeley site will be awarded based on compliance with the Objective Design Standards – Provided the Objective Design Standards satisfy the requirements in Section IV - and the City’s HTF Guidelines and the terms and conditions of the funding agreement described below.

The City’s development funds shall be subject to the terms of a funding agreement with the affordable housing project developer and shall be contingent on compliance with the Minimum Requirements, attached hereto as Exhibit C, as well as the requirements set forth in the funding agreement, including the following:

- 1) The project must comply with EIR mitigation measures and relevant City of Berkeley standard conditions of approval.
- 2) The project must abide by any applicable requirements to give preference for residents of Berkeley who are facing displacement (or who have been displaced from Berkeley in the past due to economic or discriminatory reasons).
- 3) The development team must comply with project-labor provisions required of City of Berkeley projects.
- 4) The development team must comply with the City’s local hire policies (Community Workforce Agreement, First Source), and submit a plan for compliance that is acceptable to the City, including additional measures the team will include to increase local hire outcomes.

The award of City development funds will be conditioned upon entitlement and construction milestones established in the reservation resolution and funding agreement adopted by City Council, consistent with the approved application for funding. The City Council may grant the City Manager authority to extend timelines within established parameters.

The City's contribution of affordable housing funding cannot be used to fund the units required by the City's inclusionary requirements and shall be applied towards any affordable housing units in excess of the City's inclusionary requirements at the time of entitlement. The developer of any market rate component of the project must comply with the inclusionary requirement without City subsidy and will be expected to demonstrate how they are satisfying the City's inclusionary requirements.

E. Performance Milestones.

The City's commitment to the use of funds for North Berkeley site is conditioned on the milestones shown in Section II. Table B. If either BART or the development team fails to meet the milestones in Table B, as may be extended as provided herein, the City would then have the option to release the site's portion of the reserved funds for use in other affordable housing projects elsewhere in the city.

F. Revised Affordable Housing Strategy for the Projects

The City of Berkeley will pursue its best efforts to secure additional local affordable housing subsidy to increase the proportion of affordable housing provided at the Projects, whether through the issuance of another voter-approved affordable housing bond and/or other financing mechanisms.

As referenced above in Table II. B, Activity 6, the City reserves the right to, by June 30, 2023, identify additional funding streams to increase the total affordable housing proportion for the Projects to be higher than 35% of units.

IV. AB 2923 Streamlining, Objective Design Standards and JVP for the Projects

- A. Entitlement Streamlining.** Public Utilities Code section 29010.7(b), codified by the adoption of AB 2923, establishes that TOD projects at BART stations that meet certain minimum requirements will be eligible for streamlining pursuant to Government Code section 65913.4., codified by the adoption of Senate Bill 35 ("**SB 35**"). To minimize entitlement risk, reduce project costs and accelerate the entitlement phase of development, the Parties intend that the developers of the Projects shall have the ability

to utilize any state laws providing for entitlement streamlining mechanisms included but not limited to AB 2923 and SB 35, to the extent a Project qualifies for streamlined review, such that project entitlements are ministerial and not subject to discretionary review.

- B. Community Input and Objective Design Standards.** In recognition of the City's significant contribution of funding for the Projects' affordable housing component, the Parties desire to maintain the ability for the City and community to provide effective input as to the character of development proposed at the Projects. The Parties agree that the primary vehicles for City and community input have been the newly adopted section 23.202.150 of the City's Zoning Code and the newly adopted JVP, and additional community input will occur in developing the Objective Design Standards ("ODS"), as addressed in Section V.C, below. The Parties understand and agree that under AB 2923 and SB 35, a development application that qualifies for streamlined review is subject to ODS that have been duly adopted by the City prior to the submittal of the development application consistent with the timeline shown in section II.B, and that such ODS are enforceable as permit conditions by the City, provided the ODS are compliant with conditions in this Section IV.
- C. Development of Objective Design Standards.** BART will fund, and has retained, a consultant, to be directed by the City, to work with both Parties and community stakeholders to create a set of ODS and bring them to the City Council for adoption. ODS will be created separately for the North Berkeley and Ashby stations, and the process will be generally timed to coincide with developer selection of each Station as referenced in Section II.B above. The Berkeley community, BART, and the selected Developer will be given the opportunity to provide input into the Objective Design Standards to ensure the resulting document is consistent with what can feasibly be developed at each station and aligned with the intent of the JVP.
- D. Objective Design Standards Review and Approval.** Once a complete draft of Objective Design Standards has been prepared for each site, City staff will bring the draft to the Planning Commission for recommendation and to the City Council for adoption by ordinance. Prior to Planning Commission review, the City will provide BART an opportunity for final review and comment on the final draft of the Objective Design Standards.
- E. Requirements for Objective Design Standards.** The Parties agree that the intent of the Objective Design Standards is to allow the City, the community, BART, and the developer to have a strong voice in the design quality of the development at both stations. The Parties further agree that the Objective Design Standards shall be consistent with the

Zoning and with state law, including but not limited to SB 35, and that they shall be consistent with the sections of the JVP addressing the physical form of the Projects to the extent feasible.

The Objective Design Standards process will include 1) a circulation/access framework, prepared with input from the City and BART; 2) a preliminary set of objective design standards, prepared with input from the City and BART; and 3) a final set of objective design standards completed with additional input from community stakeholders and the selected developer. Main topics in the Objective Design Standards may include but are not limited to:

- Station functionality
- Public realm improvements
- Building form and massing
- Building façade design
- Building placement (i.e. transitions in height/scale)
- Open space and landscape

- F. **Requirement to Comply.** BART’s AB 2923 Development Principles, adopted by the BART Board of Directors in August 2020, states that *“if a jurisdiction shares BART’s commitment to regional climate, housing, and equity goals – as evidenced by zoning BART property for the highest feasible density, use and height – BART commits to encouraging consistency with that jurisdiction’s objective design standards in its development agreements.”*

Consistent with the Development Principles, BART agrees that a zoning of a minimum of 75 units per acre and at least 7 stories in height satisfies the Development Principles of this policy. BART agrees to enforce the City’s Objective Design Standards through its ENA and other real estate agreements, provided that the resulting ODS are consistent with applicable state law, including but not limited to SB 35, and with all other requirements for the ODS established by this MOA, and so long as they do not diminish the zoning envelope by more than ten percent (10%) below what AB 2923 heights and floor-area-ratio would allow, as calculated based on the maximum square footage that could be built with a reasonable circulation framework and open space provided, utilizing the methodology attached hereto as Exhibit D.

In addition, BART shall, in its ENA, require the developer to make good faith efforts to cooperate with the City in the development of Objective Design Standards so that they can be brought forward for review and approval. In the event the City cannot adopt the ODS within 9 months of execution of the ENA due to occurrences or circumstances beyond the City's reasonable control, including but not limited to, acts of God, fire,

strikes or other labor disturbances, riots, civil commotion, war, sabotage, pandemic, failure of the developer to make good faith efforts to cooperate with the City in the development of the Objective Design Standards, or any other cause similar to those herein specified which cannot be controlled by the City, then the City Manager and General Manager may agree to extend the deadline for adoption of the ODS to a mutually agreeable, later date.

V. Developer Selection Process for North Berkeley Project

- A. General.** To solicit developers or developer teams for the North Berkeley site, BART will issue an RFQ. BART will work closely with the City to draft the RFQ and to evaluate respondents (as outlined in the sections below) and make the developer selection. The City will work with BART to incorporate the eligibility criteria outlined in the HTF Guidelines into the RFQ, to ensure the selected developer team is qualified to deliver on the goal of providing at least 35% affordable housing at the site. The RFQ will also describe the Minimum Project Requirements defined in Exhibit C.

The RFQs will be intended to solicit interested developers or developer teams and to evaluate their experience, ability to successfully deliver a project, general project concept and financial wherewithal. Respondents requesting City funding will be required to provide additional information on the affordable housing projects including a financing plan and pro forma.

- B. Selection Committee.** A selection committee will be formed by BART staff, consisting of six or eight members, divided equally between City and BART representatives as identified by each respective party.
- C. Evaluation Process.** Initial responses will be evaluated by the selection committee and a shortlist of up to four teams will be created. Shortlisted teams will be asked to present at a community townhall and may be asked to submit supplemental materials. After the townhall (referenced below in section F) has taken place, shortlisted firms will be interviewed by the selection committee and then the committee will score the teams and present a recommended selection to the General Manager and City Manager. If the General Manager and City Manager are not both in agreement with the recommendation of the selection committee, the Parties agree to meet and confer in good faith to reach agreement, but the General Manager retains sole discretion to make a recommendation to the BART Board of Directors. The City Manager retains sole discretion to make a recommendation to the full Berkeley City Council on the City's predevelopment and development funding award.

- D. Predevelopment Funding.** The submittals received in response to the RFQ will also serve as applications for affordable housing predevelopment funds from the City, although developer teams comprised solely of one or more for-profit development companies shall not be eligible for such funding, in keeping with City policy. Following developer selection by BART Board of Directors, City staff will bring the selected team's application for predevelopment funding of up to \$500k to the City Council for approval. The selected developer team may apply for an additional \$1.5 million in City predevelopment funds for specific affordable housing projects proposed at the North Berkeley BART site.
- E. Selection Criteria.** The selection criteria have been derived from the JVP, as well as applicable policies of BART, the City of Berkeley's HTF Guidelines and affordable housing funding policies. Proposals will be evaluated based on depth and quantity of affordable units, among other criteria. The selected development team's responses must demonstrate a commitment to affordable housing, and feasible plans to produce it at these sites. The selected team must have a track record in the production of affordable housing and will need to demonstrate their capacity to deliver on the goal to develop at least 35% affordable housing at the North Berkeley site. The RFQ will emphasize that the development team will be held accountable for making affordability the first priority.
- F. Public Involvement in Selection Process.** Shortlisted firms will be asked to present their qualifications at an online or in-person townhall hosted jointly by the City and BART, open to the general public. Community members who attend will be offered the opportunity to give structured feedback on a number of aspects of the presentations, but will not be asked to rank or score the respondents overall. This feedback will be assembled by BART and City staff or consultants and transmitted to the selection committee.

VI. BART/City Cooperation on the Projects

- A. Commitment to Cooperate.** BART and the City agree that the development of the Projects is both a shared opportunity and a shared responsibility, and commit to working collaboratively throughout the development process.
- B. Project Funding.** BART and City will proactively work with developers to secure grants (state, federal) and financing for the Projects, which is necessary to realize the public benefits described in this MOA. BART will take priority on use of Infrastructure Infill Grant Program ("**IIG**") funding for station access infrastructure. Any available IIG funding not needed for station access costs will be made available for affordable housing infrastructure. BART will source funding for BART ridership replacement

parking, and City will support a joint application for IIG funding for this purpose if no other funding sources are available.

- C. **Parking Strategy.** The City will take the lead, working with BART, to identify ways to mitigate impacts of spillover parking, including possible developer requirements. The City will determine its new on-street parking strategy surrounding the Projects by November 1, 2022. The City will implement this plan no later than execution of BART's first ground lease with developer.

VII. **Timeline for Ashby Project and Related Agreements**

Development of a TOD project at the Ashby Station will require resolution of a number of items specific to that site, including, without limitation, the City's option to acquire air rights for the Western Parking Lot, identification of a new location for Berkeley Community Flea Market, the potential reconfiguration of Adeline Street, the design and funding of station infrastructure, affordable housing requirements, and the role of the City in the RFQ, potential RFP and ENA process. The Parties have been working to resolve these items and will make a good faith effort to complete the aforementioned items by the dates provided below. BART and the City agree that the milestones and associated dates may be revised upon mutual written agreement of the City Manager or her designee and of the BART General Manager ("**General Manager**") or his designee.

The Parties will incorporate the dates below as part of an amended MOA to be negotiated by the Parties. It is understood that if the Parties are unable to reach resolution on the aforementioned items, and these dates are not met, BART reserves its right to reprioritize its transit-oriented development work plan and advance a different developer solicitation elsewhere in its system in early 2023.

Notwithstanding the foregoing or anything to the contrary contained herein, if the Parties are unable to reach resolution on the aforementioned items or to agree to an amended MOA as contemplated in the first paragraph of this Section VII, this MOA shall continue in full force with respect to those provisions that relate to the North Berkeley Project.

Milestone	Date
Agreement on nature of solicitation and its content for Ashby TOD Project	September 30, 2022
Agreement on process for issuance of Ashby solicitation including schedule, City's role in evaluation, evaluation criteria	
Clear milestones for Equitable Black Berkeley process and agreement on its relationship to RFQ	
Amended MOA for Ashby project to be Approved by City Council and BART Board	November 1, 2022
Resolution of City option for air rights at Ashby BART West lot, and City Council action.	
Agreement on new Flea Market location by City Council which may include some portion of the Adeline right of way to be used for a Flea Market; City Council agreement on roadway reconfiguration for Adeline Street	
Execution of agreements related to air rights	November 30, 2022
Release of Ashby Solicitation (contingent on meeting above milestones)	March 31, 2023
Finalize City affordable housing funding plan including % and level of affordable housing at Ashby	June 30, 2023
City Council adoption of Objective Design Standards for Ashby TOD	No later than 9 months after ENA assuming both parties meet the terms outlined in Section IV.F above
Development Team for Ashby must submit a complete application for a Master Development Permit, or for at least one affordable housing building's entitlements	No later than three years of execution of the ENA
Development team for Ashby must secure complete project financing for affordable housing components	December 31, 2031

VIII. Continuing Community Participation.

After its final meeting on December 6, 2021, the Community Advisory Group (“CAG”) has completed its intended function. The Parties agree to continue community participation in the development of the BART stations in a mutually agreed upon framework.

IX. Miscellaneous

Notwithstanding any provision herein to the contrary, nothing in this MOA shall be construed as limiting the discretionary decision-making authority of the City or BART. No party shall be liable for, or shall be entitled to, any monetary damages for breach of this MOA, and each party expressly waives its rights to damages. There are no intended third-party beneficiaries of this MOA, and no third party shall have any enforcement or other rights under this MOA against City or BART.

CITY OF BERKELEY

DEE WILLIAMS-RIDLEY
CITY MANAGER

JESSE ARREGUÍN
MAYOR

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

ROBERT M. POWERS
GENERAL MANAGER

Exhibit A

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into on this 3rd day of March, 2020, by and between the San Francisco Bay Area Rapid Transit District (“BART”) and the City of Berkeley (“City”) to cooperatively pursue transit oriented development (“TOD”) and the implementation of Assembly Bill 2923 (“AB 2923”) at the Ashby and North Berkeley BART Stations.

RECITALS

- A. BART and the City both acknowledge that the region faces a shortage of affordable homes and a climate crisis that requires a significant reduction in vehicle miles traveled; and
- B. BART and the City have adopted District- and City-wide policies that prioritize creating affordable homes and reducing greenhouse gas emissions; and
- C. Publicly-owned land at the Ashby and North Berkeley BART stations provides a rare opportunity to create more homes, including below-market-rate affordable homes, in a manner that reduces residents’ reliance on driving; and
- D. State law AB 2923 (AB 2923, Stats. 2018, Chp. 1000) requires BART to adopt TOD zoning standards for BART-owned property surrounding its stations and requires that the City’s local zoning conform with TOD zoning standards by July 1, 2022; and
- E. BART and the City are committed to enabling multiple opportunities for community input and engagement that inform site master planning and zoning; and
- F. The purpose of this agreement is to:
 - 1. Identify a shared vision and priorities for development for BART and the City, and set forth steps needed to pursue this vision and priorities;
 - 2. Clarify the processes that BART and/or the City will pursue to address the activities and timelines outlined below in Section III; and
 - 3. Provide greater clarity for all parties, including BART, the City, and members of the public, on the currently-planned steps, timelines, and the Parties’ roles and responsibilities needed in seeking to commence construction of TOD on BART-owned property at both the Ashby and North Berkeley BART Stations.

Exhibit A

MUTUAL UNDERSTANDING OF THE PARTIES

I. Framework for Development at Ashby and North Berkeley BART Stations

- A. Goals and objectives for TOD have been established for Ashby and North Berkeley BART stations by the City through two separate processes. Similarly, BART has adopted policies and performance targets guiding its TOD program as a whole. These documents will inform the Parties' respective goals and objectives with regard to TOD at the Ashby Station and North Berkeley Station.
- B. The Draft Adeline Corridor Specific Plan (published in May 2019) sets forth a vision, policies and objectives for the Ashby BART Station area. Specifically, Policy 3.7 of the Plan, shown in Exhibit 1, includes seven objectives relating to affordable housing, public space, development parameters, public art, pedestrian and bicycle connections, transportation and demand management and community engagement. The final adopted plan objectives shall be incorporated into this exhibit when available.
- C. On May 9, 2019, the Berkeley City Council unanimously approved the City's goals and objectives for North Berkeley BART development, which are shown in Exhibit 2. The City's goals focus on community input, station access, affordability, livability and environmental sustainability.
- D. The City of Berkeley's General Plan Policy LU-32 — Ashby BART Station states:

Encourage affordable housing or mixed-use development including housing on the air rights above the Ashby BART station and parking lot west of Adeline Street.

- A. Consider a joint City/BART development plan for the Ashby BART site to encourage and ensure appropriate development design, density, and parking to accommodate the BART station and transit-oriented development. Development at the Ashby BART station should include multi-family, transit-oriented housing and ground-floor commercial space. If feasible, at least 50% of the housing units should be affordable to low- and very-low-income households. (*Also see Housing Policy T-18.*)
 - B. Consider revising the zoning for the site to reduce the on-site parking requirements for new housing above the BART station. (*Also see Transportation Policy T-16.*)
- E. In 2016, the BART Board adopted three policies which set overall goals for BART's transit-oriented development (TOD) program:
 - 1. A TOD Policy (Exhibit 3), setting the goals of creating complete communities, advancing sustainable communities, increasing ridership, capturing the value of transit,

Exhibit A

enhancing transportation choice, and increasing affordability with a district-wide affordability target of 35%.

2. An Affordable Housing Policy, which requires a 20% affordable housing minimum for its projects, and favors projects with the greatest depth and quantity of affordable housing (Exhibit 4).
 3. A Station Access Policy (Exhibit 5) to guide access practices and investments through 2025. The policy is designed to support the broader livability goals of the Bay Area, reinforce sustainable communities, increase the share of BART passengers walking and biking to the stations, and enable riders to get to and from stations safely, comfortably, affordably, and cost-effectively.
- F. Together these documents, as well as further engagement of community stakeholders and additional collaboration and activities as set forth in this MOU, lay the groundwork for future development at the Ashby and North Berkeley BART Stations.

Exhibit A

II. Scope of Agreement

A. This MOU applies to development of the following properties, henceforth known as the “BART Properties”:

1. Ashby BART Western Parking Lot: Bounded by Ashby Ave, Adeline St, and Martin Luther King Jr Way. Site is owned by BART, with an option to the City to retain the air rights above 10 feet;
2. Ashby BART Eastern Parking Lot: Located on the east side of the station, behind the Ed Roberts campus, which is owned by BART; and
3. North Berkeley BART Main Parking Lot: Bounded by Sacramento, Delaware, Acton and Virginia Streets. Site is owned by BART.

B. In order to ensure that development of the BART Properties is, to the extent possible, consistent with the vision and priorities established by the City and BART, during the TOD planning process outlined in this MOU there will be an opportunity to consider infrastructure enhancements to other areas that are owned by BART or the City. These may include the following (henceforth known as “Surrounding Areas”):

1. North Berkeley BART: auxiliary parking lots owned by BART, and areas owned by the City that abut the Ohlone Greenway;
2. Other public infrastructure (e.g., streets, crosswalks, bicycle paths, on-street parking, stormwater and sewer infrastructure) within a one-mile radius of the BART Properties; and
3. Proposed changes to access and circulation at each Station would be identified through the Station Access Study described in Section III.F of this MOU, as well as through the development master plan or entitlement process. Any such changes would therefore be subject to public review and comment, and to approval by the Parties.

Exhibit A

III. Activities and Timelines

Activities and Timelines – Summary Table

Activity	Lead Party	Milestone	Date
1. Community Advisory Process and other community engagement activities	City	Establish a Community Advisory Group to inform site zoning and to facilitate community input on site master planning and zoning	Initiate December 2019
2. Zoning for Ashby and North Berkeley BART Stations	City	<ul style="list-style-type: none"> a. Zoning alternatives proposed b. Draft CEQA document released c. Planning Commission and community review d. Planning Commission approval e. Council zoning approval 	Complete by June 2021
3. BART AB 2923 Guidance Document	BART	<ul style="list-style-type: none"> a. Draft Guidance b. Final Guidance 	<ul style="list-style-type: none"> a. February 2020 b. July 2020
4. City Affordable Housing Funding	City	Decision on set-aside of City funding for affordable housing to Ashby and North Berkeley Stations	December 2020 (pending further definition of zoning and site capacity)
5. Developer Solicitation(s)	BART	Decision on timeline to initiate solicitation of developer(s) (as part of BART's 10-Year TOD Work Plan)	July 1, 2020
6. Station Access Studies	BART	Station Access Studies Completed	Timeline dependent upon Developer solicitation(s) for each station

Exhibit A

A. Community Advisory Process and other Community Engagement Activities

1. Pursuant to the Draft Adeline Corridor Specific Plan (Policy 3.7) and the North Berkeley BART Development Goals and Objectives adopted by the City Council on May 9, 2019, an advisory group consisting of members of the community will be created for the purposes of providing input:
 - a. To the City Planning Commission as it considers zoning standards that will be consistent with the City's obligations under AB 2923 for the Ashby and North Berkeley BART station areas; and
 - b. To the City and BART as the Parties establish a joint vision and priorities document ("Joint Vision and Priorities") that will be incorporated in eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART Properties.
2. The City will be responsible for the selection and all logistics and funding for the Community Advisory Process.
3. Contingent on availability of funding, the City will also organize public participation design charrettes that inform predictable form-based design standards that BART will incorporate into guidelines for future development of the BART properties.
4. BART will support the City's efforts by participating in meetings, presenting information, as necessary, and considering input arising from the Community Advisory Process as part of its larger community engagement for AB 2923, TOD and station access studies in the City.

B. **Zoning Ashby and North Berkeley BART Stations.** As required by AB 2923, the City will pursue rezoning of developable, BART-owned property within ½-mile of the Ashby and North Berkeley Stations. The City will be responsible for all logistics and funding required for these rezoning efforts. As the agency responsible for local zoning regulations, the City will work in good faith with BART to coordinate the City's rezoning efforts with BART's development of AB 2923 guidance.

C. **BART AB 2923 Guidance.** BART and the City understand that AB 2923 requires further clarification related to height, floor-area-ratio, density, bicycle parking minimums, automobile parking minimums and maximums. To address these points of clarification, BART will publish a guidance document offering all affected local jurisdictions information on AB 2923. As the

Exhibit A

agency responsible for determining whether local zoning conforms to state law, BART will be responsible for all logistics and funding required for the AB 2923 guidance document. The guidance document will provide guidance on TOD zoning standards for all local jurisdictions as those jurisdictions seek to comply with their obligations under AB 2923.

D. City Affordable Housing Funding Decision

1. The voters of Berkeley recently established three important new sources of funding to support the creation and preservation of affordable housing, keep vulnerable people housed, and rehouse the homeless:
 - a. Measure O provides for issuance of \$135 million in bonds to fund capital expenditures for a variety of types of affordable housing;
 - b. Measure P established a real estate transfer tax on the most expensive one-third of real estate sales with a stated intent to rehouse the homeless and fund the services they need to remain housed; and
 - c. Measure U1 increased the gross receipts tax on most residential rental properties with a stated intent to fund affordable housing and protect Berkeley residents from homelessness.
2. The above measures establish advisory panels which advise the City Council as it makes determinations regarding the allocation of these and other affordable housing monies (such as City Housing Trust Fund resources) and related resources such as public land and inclusionary units.
3. The City will set-aside appropriate funding, including development fees and other above-mentioned sources, to support deed-restricted affordable housing at a range of income levels to meet BART and the City's affordable housing goals at the Ashby and North Berkeley BART Stations (as referenced in Section I).

E. Developer Solicitation(s)

1. Consistent with its standard practice, BART will issue Requests for Qualifications ("RFQ"), Requests for Proposals ("RFP") or both to initiate the process of identifying and recommending potential developers of the BART Properties to the BART Board of Directors. The committee(s) established to evaluate RFQ/RFP submissions will include City Representatives and BART staff as well as an independent financial consultant, who

Exhibit A

will evaluate the capabilities of each proposer to deliver the project. The criteria used to select the developer(s) with whom to negotiate will be based on the BART Station Development Joint Vision and Priorities that will take into account community input as outlined in Section III.A.

2. For the Ashby BART Western Parking Lot, which is owned by BART with an option to the City to retain the air rights above 10 feet, and assuming that the City exercises said option, the City and BART will enter into a separate agreement detailing how they will share decision-making authority in the developer solicitation processes.
3. The evaluation committee's role is to make a recommendation to the BART Board of Directors regarding the developer(s) with whom BART will negotiate for the development of TOD. The BART Board of Directors has the sole discretion and authority to determine whether, and with whom, BART will enter into an exclusive negotiating agreement ("ENA") relating to potential TOD development on the BART Properties. It is anticipated that, among other things, the ENA will require the developer to advance the proposed project through the City's entitlement process, lead or participate in a community engagement process, fund a Station Access Study for BART (see below), pay BART an option fee in exchange for exclusive negotiating rights, and reimburse BART for its expenses, including engineering review, outside legal fees, and outside consultant expenses.

F. Station Access Study

1. Per the draft policies in the Adeline Corridor Plan, Council-adopted goals and objectives for development of the North Berkeley BART property, BART's TOD Policy, and the requirements of AB 2923, a Station Access Study must be prepared prior to development of the BART Properties that identifies sustainable access options for both the Ashby and North Berkeley BART Stations in light of potential changes to the BART Properties and surrounding areas resulting from TOD. AB 2923 added Section 29010.6(h) to the California Public Utility Code, which requires BART—with respect to any station where BART commuter parking is reduced as a result of a TOD project on land where TOD zoning standards apply—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station.
2. The Station Access Studies will evaluate a range of access options that support BART's goals to increase the share of BART patrons who access the stations via modes other than the private automobile, and that maximize the potential number of homes

Exhibit A

(including homes restricted to low, very low, and extremely low-income households) on site. In exploring alternatives to parking, the Studies will evaluate whether and how to offer viable, multimodal access to BART for the station catchment areas, and how to ensure that TOD and associated improvements result in an overall increase in the number of people who use the BART Stations. The Studies will identify infrastructure needs on and near BART's property to improve access for riders using all modes, including pedestrians, bicyclists, community members with access and functional needs, shared mobility users, and patrons using public and private transportation.

3. BART will be responsible for all logistics required for the Station Access Studies. BART will fund these Studies in advance, but may require reimbursement for the Studies from a developer or developers pursuant to an ENA with said developer(s). Findings from the Ashby and North Berkeley BART station access studies will be presented to the community.

IV. Zoning and Solicitation Process; Retention of Decision-making Authority by City and BART

- A. To demonstrate its commitment to advancing development at BART property, and in consideration for its inclusion as a high priority in BART's 10-year work plan for development, the City will: 1) complete rezoning of the properties by June 2021, and 2) make a decision by the end of December 2020 to set-aside funding sufficient to assure BART, in its sole discretion, that at least 35% of the housing units proposed to be constructed at the BART Properties would be deed-restricted to low, very low and/or extremely low affordable housing. The City recognizes that meeting this level of affordability will require significant local, state, and federal subsidy. The Planning Commission has a target date of December 2020 to review zoning alternatives as a show of progress towards completion of zoning by June 2021.
- B. To support the City's zoning process, BART agrees to provide guidance that will be applicable to North Berkeley Station and all other stations in the BART system to which AB 2923 applies. BART will work with the City of Berkeley to explore possible approaches to conformance with AB 2923 zoning standards in the context of the built form characteristics of a surrounding lower density neighborhood. The City will consult with BART regarding zoning alternatives for the North Berkeley Station that conform with AB 2923 zoning standards.
- C. It is understood that both BART and the City desire for more work to be completed in support of zoning, such as site master planning or objective design guidelines. At the time of this MOU, the City and BART are actively working to identify additional resources to accelerate this work.

EXHIBIT B
AS ADOPTED BY BERKELEY CITY COUNCIL ON JUNE 2, 2022

**Joint Vision & Priorities for Transit-Oriented Development
for Ashby and North Berkeley BART Stations**

Background

The December 10, 2019 Memorandum of Understanding (MOU) between BART and the City of Berkeley calls for the City and BART, with input from the City's Community Advisory Group (CAG) to establish a "joint vision and priorities" document. The goal of this document is to provide a concise statement of the City and BART's shared, high-level expectations for future development of both the Ashby and North Berkeley BART properties.

Per the MOU, this "joint vision and priorities" document will be incorporated into future Request(s) for Qualifications (RFQs) for development of both the Ashby and North Berkeley Station development, and will help guide the process from developer selection through project construction. This City-BART Joint Vision and Priorities document was one of three key outcomes of the CAG process for both North Berkeley and Ashby BART development (along with updated zoning consistent with AB 2923, and the RFQs for developers).

[This once-in-a-generation opportunity to create vibrant new neighborhoods for Berkeley merits elevated, world-class design for built and landscaped elements, including affordable housing.](#)

Affordable Housing

VISION

New housing at a variety of income levels at both the Ashby and North Berkeley BART Stations will address the City's housing crisis, stem the displacement of residents—especially of the African American community in Berkeley—and support more equitable access to housing for lower-income families and individuals. New housing must also be created quickly to reflect the urgency of the climate and affordability crises, capturing the inherent environmental and equity benefits of walkable, affordable transit-oriented housing in Berkeley's most transit-rich areas. North Berkeley and Ashby will provide a new model for delivering affordable housing in neighborhoods that are rich in infrastructure and strategically located to make regional transit, economic opportunity, and community amenities more broadly and equitably accessible.

Shared Priorities

- A. **Housing Priorities.** Maximize the number of new homes, and especially permanently affordable, deed-restricted homes. We anticipate a range of 500-1200 units at each station with a variety of unit sizes including units appropriate for multi-generational families/households.

EXHIBIT B
AS ADOPTED BY BERKELEY CITY COUNCIL ON JUNE 2, 2022

- B. **Urgency.** Deliver new housing, including affordable units, within 10 years, by 2031, to reflect the urgency of the climate, affordability, and housing crises.
- C. **Affordable Housing Goal.** The City and BART will strive to maximize the number of permanently affordable, deed-restricted housing units within the funding that can be identified.
1. Affordable housing may be developed in multiple phases over a number of years.
 2. The amount of affordable housing which can be provided at each site within the 10-year time frame will depend on many outside factors including the availability of state and federal housing resources.
 3. At a minimum, at least 35% of the new units at each site will be restricted affordable housing. It is anticipated that each site could achieve at least 50% affordable housing, subject to the timely availability of financing.
 4. The City and BART will work together to support selected developers in proactively assembling affordable housing subsidies in order to exceed the 35% minimum.
 5. If both sites are able to provide at least 50% affordable housing in a way that is financially feasible, and if additional funding becomes available, the priority for that additional funding would be to maximize the number of affordable units at Ashby station in recognition of the ongoing threat of displacement to the historic community of South Berkeley.
- D. **Income Targets:** At least 35% of new housing at each site must be affordable to households earning an average of up to 60% of Area Median Income (AMI). Of that, at least 20% (or 7% of total units at each site) must be affordable to Extremely Low-income households, those earning up to 30% of AMI. Additional affordable units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted with households with incomes up to 120% of AMI, consistent with the more specific direction provided in the City-BART Memorandum of Agreement.
- E. **Sequencing.** Affordable housing should be built prior to, or along with, any market rate housing.
- F. **Displacement Prevention.** Affordable housing should provide a preference for residents of Berkeley who are facing displacement, or who have been displaced from Berkeley in the past due to economic or discriminatory reasons.
- G. **Developer Selection.** In the developer selection process, prioritize a nonprofit master developer or a partnership between a private developer and one or more community-based organizations who have experience showing accountability towards equity goals in the City of Berkeley.

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- H. **Developer Accountability.** The selected developers must have a demonstrated commitment and feasible plans to produce affordable housing and be accountable for making affordability the first priority. Selecting a developer who merely pledges a best effort to provide affordable units would not be sufficient.
- I. **Funding.** BART and the City of Berkeley should proactively seek new, innovative funding solutions to help achieve two truly visionary, equitable, and sustainable projects.
- J. **Clustering and Integration.** Affordable units may be clustered into one or more 100% affordable housing buildings on the BART sites but must be designed in a way that integrates with the larger project and shares [comparable](#) design standards and quality.
- K. **Inclusive Housing Design.** The selected developer will prioritize affordable housing for renters with various needs, including but not limited to families, people with physical or mental disabilities, and formerly homeless people.

Priorities for Ashby

- A. **Adeline Corridor Affordable Housing Goal.** Consistent with the Adeline Corridor Specific Plan, the City and BART should strive for a goal of 100% deed-restricted affordable housing, prioritizing extremely low, very-low and low-income affordable housing.
- B. **Residents with Disabilities.** Ashby BART should be developed in a way that prioritizes the inclusion of residents with disabilities, who are likely to benefit from proximity to the Ed Roberts Campus, [specifically as part of the development of the East Parking Lot at Ashby Station.](#)
- C. **South Berkeley Preference.** To address past and current displacement, the development should provide a preference to applicants who either currently live in South Berkeley or have been displaced from the community. This preference must be implemented in a way which is consistent with the City's Fair Housing goals and federal law.

Public and Civic Space

VISION

New public and civic space at both Ashby and North Berkeley BART will provide a community anchor, open space amenity, and memorable neighborhood gathering space that is accessible to all. It will be available for programmed community uses and activities, as well as for informal, unprogrammed public use by residents, visitors, and transit riders alike. New public space will [maximize greenery \(to the extent feasible\)](#) and enhance the ability of all community members to walk, roll, and take transit, supporting better station access and healthy, climate-friendly active transportation. North Berkeley will be a nexus of

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active transportation centered along a major new connection of the Ohlone Greenway. Ashby will be anchored by a market and oriented along a street built for people and multiple modes of transportation.

Shared Priorities

- A. **Maintenance Costs.** New civic space should be maintained by the developer/lessee to minimize the ongoing cost of operations and maintenance to BART and the City.
- B. **New Public Space.** Pursue new public space design in a way that delivers on the vision while maximizing the number of on-site affordable housing units.
- C. **Station Access.** Design the public realm to support priorities in the Access section of this document.

Priorities for Ashby

- A. **Hub for African American Life.** Reinforce South Berkeley's historic role as a hub for African American culture and life in the Bay Area.
- B. **Flea Market.** Provide a permanent, viable home for the Berkeley Community Flea Market – offering supportive amenities such as public restrooms, limited office/storage space, electrical and water access and weather protection - in a prominent location.
- C. **Stakeholder Input.** Public space will be designed with input from the Flea Market, Lorin Business Association, neighborhood residents, representatives from the disability community, and other neighborhood stakeholders. Facilities for the Flea Market will be designed in collaboration with the vendors and Community Services United.
- D. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place. Flea Market and/or other public activities may occur on some or all of this portion of Adeline Street.
- E. **Green Space.** Expand the availability of green space for the neighborhood.

Priorities for North Berkeley

- A. **Ohlone Greenway Connection.** The development should include a landscaped (as feasible given BART operational needs) protected bikeway that connects the disjointed ends of the Ohlone Greenway to each other and to BART, providing a primary access route and orientation of the development that enables a prioritized pedestrian and bicycle connection from approximately the southeast corner of the site to the northwest corner of the site and across the streets.
- B. **Public Space Use.** Public space should provide opportunities for both active and passive public use, with strong connections to the station entrance, the Ohlone Greenway, or other public spaces and pedestrian facilities.

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- C. **Street Design.** The design of surrounding streets should be considered as a strategy to accommodate public space needs, increase the tree canopy, and improve safety for pedestrians and bicycles. Explore the feasibility of reducing the width and number of traffic lanes in adjacent streets to their original (pre-BART) condition, aligning curbs with adjacent blocks in a manner that builds upon and is consistent with the City and BART's recent Complete Streets and roadway improvement projects in the area. Streets may retain their current width where there is some functional use for the extra space, such as bike lanes and cycle tracks that previously did not exist, and there may be bulb-outs at intersections. Perimeter sidewalks should consider generous pedestrian space and tree canopy.

Land Use

VISION

Land uses at Ashby and North Berkeley Stations will serve community needs; provide significant amounts of new housing; complement neighborhood businesses, services, and institutions; create a welcoming environment for all; support BART ridership; and improve quality of life for current and future residents. Ground-floor residential and non-residential uses should be pedestrian-oriented and contribute positively to public space and the pedestrian experience.

Shared Priorities

- A. **Overall Mix of Uses.** At both stations, the predominant use will be transit-oriented housing and transit uses, complemented by fully accessible public, green, and recreation space (including for all ages and abilities) and appropriate non-residential uses. Additional priorities for these uses are found in the Affordable Housing, Public and Civic Space, and Station Access and Parking Management sections of this document.
- B. **Non-residential Spaces.** Curate and program any non-residential spaces to provide interest and character, encourage community gathering, support social interactions, and provide unique neighborhood activities and services. Any non-residential uses should be customized to meet the unique needs of each station and neighborhood.

Priorities for Ashby

- A. **Role of Non-residential Uses.** Non-residential uses at Ashby should reinforce the area's historic role as a center of neighborhood commerce, cultural expression, social connection, and economic empowerment.
- B. **Non-Residential Active Frontages.** Non-residential uses should have active frontages oriented towards Adeline Street, Ashby Avenue, and the future Flea Market public space. Ground-floor uses should activate public space and complement the Flea Market, while promoting everyday activities when the Flea Market isn't occurring.

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- C. **Prioritized Non-residential Uses.** The following types of potential non-residential uses should be prioritized, though not all are anticipated to be present in any one development project¹:
1. The Berkeley Flea Market, and indoor or outdoor spaces related to the Flea Market
 2. Businesses and organizations that reinforce the neighborhood's historic role as a center of Black culture and identity
 3. Businesses, organizations, or services that are oriented towards, or provide economic opportunity for people in the neighborhood or their descendants who were involuntarily displaced, interned, or historically disenfranchised on the basis of race
 4. New uses that expand and complement the role and mission of the Ed Roberts Campus and empower those living with disabilities
 5. Spaces for cultural activities, performance, display, community activities, or other uses and amenities that support the area's role as an arts and culture district.

Priorities for North Berkeley

- A. **Role of Non-residential Uses.** Non-residential uses such as retail, services, or indoor community spaces are anticipated to have a limited role at North Berkeley.
- B. **Non-residential Active Frontages.** Non-residential uses that do occur should be oriented with active frontages towards the station entry or other interior areas and/or Sacramento Street.
- C. **Respect Neighborhood Needs.** Non-residential uses that do occur should be focused towards meeting neighborhood needs and complementing the existing range of businesses and services already available nearby.
- D. **Potential Non-Residential Uses.** Non-residential uses may include the following²:
1. Uses that help reduce the need for driving in North Berkeley, such as commuter-focused amenities, childcare, community services, or satellite locations for existing community businesses or organizations
 2. Small-scale walkable retail or café type uses
 3. Space for activities, gatherings, or events.

¹ Specific permitted and prohibited uses for Ashby Station will be identified in the zoning code.

² Specific permitted and prohibited uses for North Berkeley Station will be identified in the zoning code.

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Building Form

VISION

New buildings at Ashby and North Berkeley Stations will be beautiful, creatively designed, well-proportioned, create visual and physical connections with the neighborhood through its architectural design and contribute positively to the physical fabric and long-term quality of life of the neighborhood. They will provide elements that neighborhood residents currently enjoy – such as natural light, air, direct outdoor access, variety, quirkiness, walkability, and sociability – in a denser, transit-oriented format that supports BART ridership. Buildings should exhibit a level of architectural diversity that expresses the social, racial, economic, and design diversity that is desired at both stations. Ground-floor spaces and building frontages should activate public space, while providing a sense of place and character to the stations and the surrounding neighborhood.

Shared Priorities

- A. **Height Variation.** AB 2923 does not permit the City's zoning controls to restrict building height below seven stories on the station sites. The City and BART will support variations in building height and form at both stations. It is anticipated that some buildings and some portions of buildings will be shorter than the maximum height in keeping with good urban design practice.
- B. **Context.** Building design should consider the scale and character of the surrounding built environment.
- C. **Location and Orientation.** Locate and design new buildings to enhance public spaces while mitigating impacts on existing neighbors through site orientation, setbacks, lines of sight between buildings, landscape and topography.
- D. **Equitable Design Quality.** Design affordable housing units in a way that integrates with the larger project and shares comparable design standards and quality.
- E. **Small Blocks.** Prioritize site designs with smaller blocks and building footprints instead of larger blocks.
- F. **Architectural Variety.** Design buildings to provide visual interest with variation in height, scale, massing, rooflines, materials, and architectural elements.
- G. **Building Scale.** Provide regular breaks in building forms, as well as both horizontal and vertical detail to respond to the existing neighborhood context and character, particularly at the edges of the site. Provide adequate perimeter space for pedestrian volume and tree canopy/vegetation.
- H. **Unit Diversity.** Encourage building forms that allow a diversity of unit sizes, types, and configurations.

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- I. **Sunlight.** Seek to configure buildings and include design strategies that allow sunlight to reach public spaces, and design outdoor spaces, outdoor seating and active retail frontages, if provided, to maximize southern, western, and/or eastern exposure.
- J. **Outward-facing Entrances.** For ground-floor housing units, encourage outward-facing entrances with a range of design treatments and access strategies. These could include stoops, front doors, courtyard and forecourt entrances, ramped or at-grade universally accessible entries, outward-facing and visually permeable lobby entrances, and transition spaces from private frontages to public spaces.
- K. **Ground-floor Non-residential Frontages.** For ground-floor non-residential uses, provide frequent windows and doors, visual connection between indoors and outdoors, frontage onto public space, direct access to the pedestrian circulation network, and activation strategies such as outdoor seating, dining, display spaces, public art, and architectural detailing.
- L. **Universal Accessibility.** Preference [for](#) building designs with universally accessible units and elevator redundancy to promote accessibility for seniors and those with disabilities.
- M. **BART Entrances.** Ensure that BART entrances are featured prominently and integrated into the overall site plan.
- N. **Integrated Green Space.** Integrate gardens, courtyards, roof terraces, trees, native landscaping, and other green spaces into building architecture and site design.

Priorities for Ashby

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards Adeline Street and Ashby Avenue on the west parking lot parcel, and towards the rear of the Ed Roberts Campus on the east parking lot parcel.
- B. **Active Frontages.** Connect new buildings to Adeline Street and Ashby Avenue with direct pedestrian access, minimal setbacks, and active frontages to complement the existing active uses across the street.
- C. **Site Design.** Ensure that building form, scale, and the overall site plan provide sufficient space for the Flea Market and other civic and community uses.

Priorities for North Berkeley

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards the Ohlone Greenway and the center of the site and towards Sacramento Street.
- B. **Massing Breaks and Step-downs.** Provide massing breaks, step-downs in height, and frequent pedestrian building entrances along Delaware Street, Acton Street, and Virginia Street, with building forms and frontages that create a residential character and scale.

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- C. **Active Frontages.** Prioritize active frontages, public space programming, and car-free activities along the Ohlone Greenway.

Station Access

Vision

Station access investments in and around the stations will enhance community vibrancy, safety, equity, and health while improving the quality of the public space and pedestrian experience, both within and beyond the station areas. Priority access investments are those that encourage people to walk, bike, roll, ride transit, and use shared micro-mobility options, while still providing flexibility for changing technologies and trends. Access investments will be distributed equitably to improve the experience for people of all ages, all abilities, and all income levels getting to and moving through the stations.

Shared Priorities

- A. **Housing and Community Benefits.** Favor affordable housing and other community benefits over BART rider parking and TOD resident parking in any physical or financial decision-making.
- B. **Non-Automobile Access.** Increase the share of BART riders who access the stations via modes other than driving alone and parking. Prioritize access improvements in the surrounding neighborhoods and within the station areas that offer safe, comfortable, affordable, cost-effective alternatives for all BART customers, particularly those with mobility challenges. Future access planning should consider the rapid evolution for mobility trends and technologies and consider the adaptability of the station access plans to future foreseeable and unforeseeable mobility patterns and their ability to handle ridership growth without running into capacity constraints.
- C. **Equitable Access.** Provide safe and secure station access options for people of all ages, abilities, races and ethnicities, genders, and income levels.
- D. **Parking Options.** Minimize the need for new structured on-site BART customer parking by maximizing the use of available parking capacity along the corridor (such as Center Street parking garage, shared parking with the TOD or with other sites, and on-street parking management around site perimeters).
- E. **Transportation Demand Management.** Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce the vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions by residents, visitors, and employees by 20% by complying with BART's Transportation Demand Management program.

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- F. **Parking and Traffic Impacts.** Limit the impacts of parking and driving on residents of the developments and surrounding neighborhoods (such as noise, air quality, GHG, and collisions) through transportation demand management, multi-modal circulation and access planning, infrastructure improvements, parking management, and other best practices.
- G. **Market Rate Pricing for Parking.** Explore parking pricing that is better aligned with market demand as a possible strategy to promote BART rider and on-street parking availability, with consideration of the impacts of parking pricing on low-income residents and BART riders.
- H. **Prioritize Curb Space.** Buses and shuttles will be located to prioritize people with disabilities, active loading of passengers (over waiting vehicles), services available to the public, and the number of people transferring to BART. Different types of passenger loading zones will be incorporated for quick pick-ups and drop-offs, those that need to wait for their passenger, accessible loading areas, ride apps and taxis.
- I. **Wayfinding and Signage.** Provide clear, accessible, adaptable station access signage and wayfinding to facilitate how people get to/from and through the station area consistent with the Metropolitan Transportation Commission's standards.
- J. Strive to locate BART-related drop-off zones on-site and connections to transit on site or on 4-lane corridors.

Priorities for Ashby

- A. **Pedestrian & Bicycle Connections.** Provide high-quality, safe pedestrian and bicycle connections to and through the site, including an off-street protected bicycle facility extending along Adeline Street, at least between Ashby Avenue and the intersection with MLK Way, with the potential to extend further through related Adeline improvement efforts.
- B. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place.

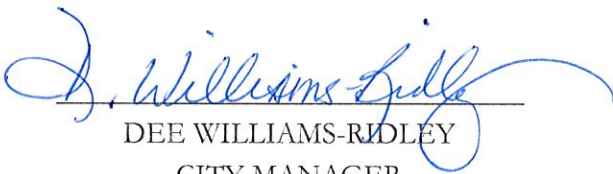
Priorities for North Berkeley

- A. **Adjacent Streets.** Consider the role and design of adjacent streets – including Sacramento Street, Delaware Street, Virginia Street, and Acton Street – in multi-modal access planning for the North Berkeley Station.
- B. **Commuter Parking Priority.** Where parking would be provided, maximize parking for commuters over parking for residential and/or potential community, non-profit, or retail uses.

Exhibit A

- D. The City and BART will meet in December 2020 to review the City's efforts undertaken pursuant to Section III.B and III.D, in order to:
1. Determine whether the City has approved a set-aside of sufficient funding to meet the 35% affordable housing minimum for each station as described in Section IV.A;
 2. Negotiate possible additional City participation in the solicitation processes; and
 3. Agree upon the timing of the developer solicitations for the BART Properties in December 2020.
- E. If the zoning for the Ashby and North Berkeley Stations and the set-aside of City affordable housing funds occurs after the dates indicated for those actions in the timeline in Section IV.A above, BART may re-evaluate the inclusion of these stations in its 10-year work plan. Likewise, if BART does not proceed with developer solicitations for the BART Properties as determined in Section III.D, the City may reallocate affordable housing funding to other projects.
- F. Notwithstanding any other provision in this MOU, nothing herein shall be construed to limit or restrict the discretionary decision-making authority of the City or of BART. The Parties acknowledge that any reference to a project or proposed project in this MOU or in any document that may be created in connection with this MOU does not constitute a Project or Project approval by either Party as those terms are defined in CEQA and discussed in *Save Tara v. City of West Hollywood*, 45 Cal. 4th 116 (2008).

CITY OF BERKELEY

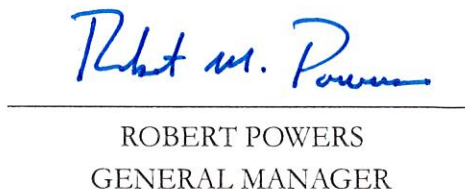


DEE WILLIAMS-RIDLEY
CITY MANAGER



JESSE ARREGUÍN
MAYOR

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT



ROBERT POWERS
GENERAL MANAGER

Exhibit C: Minimum Project Requirements for the North Berkeley ProjectHousing

- The residential program for the Project should include at least 1,000 bedrooms with a variety of unit sizes.
- At least 35% of the new housing units to be developed at the North Berkeley Project, inclusive of units built to satisfy the City's inclusionary requirement and any units that may be added as a result of a density bonus, shall be affordable or Below Market Rate (BMR) for the duration of BART's ground lease(s) for all affordable housing components of the Project, which leases shall have a minimum duration of 65 years, and for any extensions thereto. In addition to the terms of said ground leases, the affordability restrictions will be enforceable by the City pursuant to regulatory agreements between the City and the developer(s), in accordance with the income targets identified in the JVP as follows:
 - At least 35% of new housing must be affordable to households earning an average of up to 60% of Area Median Income ("AMI").
 - At least 20% of the required 35% affordable units must be affordable to Extremely Low-Income ("ELI") households, those earning up to 30% of AMI.
 - Of the required 35% affordable units, additional affordable units aside from the ELI units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted to households with moderate incomes (up to 120% of AMI), provided that the moderate-income units have rents that are still below market and shall not include City subsidy.
 - While the aforementioned goals are established in the JVP and the City and BART have policies regarding affordable housing requirements, any project receiving the City's Housing Trust Fund ("HTF") funding must meet the HTF Guidelines, which require that 40% of any City subsidized units be affordable to households earning up to 60% of AMI, and an additional 20% of City subsidized units to be affordable to households earning up to 30% of AMI. BART's TOD policy also provides a priority for affordable units that serve very low income (<50% AMI), low income (51-80% AMI) and/or transit-dependent populations.
- Affordable units shall be constructed prior to or concurrently with any market-rate housing component. No market rate housing will receive its notice to proceed until an affordable housing project gets its notice to proceed. In the event there are multiple phases of market rate or affordable housing, the phasing plan shall be approved to ensure consistency with the JVP goal of affordable housing being built along with market rate housing.
- Affordable units may be clustered into one or more 100% affordable housing buildings on the Property but must be designed in a way that integrates with the larger project and shares the comparable design standards and quality.

Public & Civic Space

- The cost, if any, to BART and the City of operating and maintaining the new civic space must be minimized.
- The project must provide a connection to the Ohlone Greenway.
- Station access improvements must provide options for people of all ages, abilities, races and ethnicities, genders and income levels.
- Neither the City nor BART will be responsible for maintenance of roads and pathways created on the parcels to facilitate the project. **The developer or lessee will assume this cost.**

Station Access & Parking

- Affordable housing and other community benefits will be prioritized over on-site BART rider parking and TOD resident parking. The BART Board will establish a maximum amount of on-site BART rider parking for each station.
- Consistent with current Berkeley Municipal Code, project residents will not be able to secure residential parking permits (“RPP”) for City streets, to prioritize new residents utilizing more sustainable transportation options and address concerns from nearby residents about parking spillover.

Additional Minimum Requirements

- The project must comply with all relevant applicable BART and City policies and ordinances to the extent allowable by law. BART’s relevant policies can be found at www.bart.gov/TOD and currently include its Transit-Oriented Development Policy, Affordable Housing Policy, AB 2923 Development Principles, Project Stabilization Agreement Policy for Transit-Oriented Development, and Labor Peace Agreement Policy for Transit-Oriented Development Hotel Operations.
- Developers must show a feasible path to obtaining entitlements by January 1, 2025, and to completion of construction by 2031, and must make best efforts to meet those deadlines.

Exhibit D: Methodology for Establishing Developer Requirement to Comply with Objective Design Standards

BART will require the developer to comply with City's future Objective Design Standards ("ODS") for the North Berkeley BART site utilizing its real estate agreements, provided:

1. The City's adopted zoning for the Project, as it relates to AB 2923, allows a minimum of 75 units per acre, at least 80 feet, and at least 7 stories in height;
2. The ODS will be adopted by the City of Berkeley for the BART property within 9 months of ENA execution as provided for in the MOA
3. The ODS are consistent with the City's Zoning Ordinance;
4. The ODS are consistent with state law including but not limited to SB 35 and, as it relates to parking standards, AB 2923; and
5. The gross square footage allowable under the ODS ("ODS Capacity") is not less than 90% of the baseline square footage allowable under AB 2923 floor to area ratio (FAR) ("AB 2923 Baseline Capacity"), as specified below.

Net Developable Area

Both the ODS Capacity and AB 2923 Baseline Capacity will utilize the same net developable area in their calculations. This is defined as the gross site area of the North Berkeley BART Project, exclusive of the auxiliary lots, and exclusive of surface areas utilized for public site circulation, public civic space, and BART infrastructure. The Net Developable Area will be determined based on the following methodology:

- The Selected Developer's preliminary development concept shall establish the initial concept for the net developable area.
- Within 30 calendar days of ENA execution, both BART and City staff shall provide comments to one another on changes required to ensure the net developable area is compatible with BART and City operational and fire/life safety needs.
- Within 45 calendar days of ENA execution, BART and City staff shall meet to combine their respective comments into a single set of changes to be submitted to the developer. If BART and City staff cannot resolve any conflicts between their comments within this time, the City's Planning Director and BART's Chief Planning & Development Officer shall confer to address any disputes.
- The Selected Developer shall have 30 additional calendar days after receipt of the combined BART and City comments to incorporate them into the final net developable area. Both BART and the City must mutually agree that the Selected Developer has addressed all comments. If the Selected Developer believes that comments would result in an inability to deliver a feasible development, the Selected Developer must notify BART and the City within 15 calendar days of receiving the combined BART and City comments so that the City and BART can confer to resolve any issues.
- The final Net Developable Area shall be used solely for the purposes of calculating AB 2923 Baseline Capacity and ODS Capacity, and shall not bind BART, the City or the Selected Developer in any way to this concept for their final project.

AB 2923 Baseline Capacity

The AB 2923 Baseline Capacity shall be calculated by multiplying the net developable area by 4.2, which is the minimum floor area ratio for Urban Neighborhood/City Center projects required by AB 2923.

FINAL DRAFT 5/25/22

ODS Capacity

The ODS Capacity shall be determined by calculating the gross square footage that is allowable on the Net Developable Area under the R-BMU zoning and under the ODS, accounting for square footage that is lost due to required setbacks, stepbacks, massing breaks, or other required features (e.g. fire and life safety requirements). This determination shall be made by a design professional such as a member of the American Institute of Certified Planners (AICP) or licensed architect, to be selected by mutual agreement of BART and the City.

Timing for Determining ODS Capacity

The ODS Capacity must be calculated prior to public release of the final draft ODS, to ensure that there will be transparency to the community about whether BART will require the developer to comply with the ODS.

Other Conditions

BART will not require developer compliance with any increase in parking requirements above the 0.5 spaces per unit required in AB 2923, but will require compliance related to height and massing provided above conditions are met. Square footage for parking will not count towards the ODS Capacity or Baseline Capacity Calculations.

Both Baseline and ODS Capacity will be calculated for the entirety of the Project, and not individual buildings or blocks.



Ashby and North Berkeley Transit-Oriented Development (TOD)

BART Board Presentation

June 9, 2022



TOD Planning in Berkeley

Proposed Board Actions

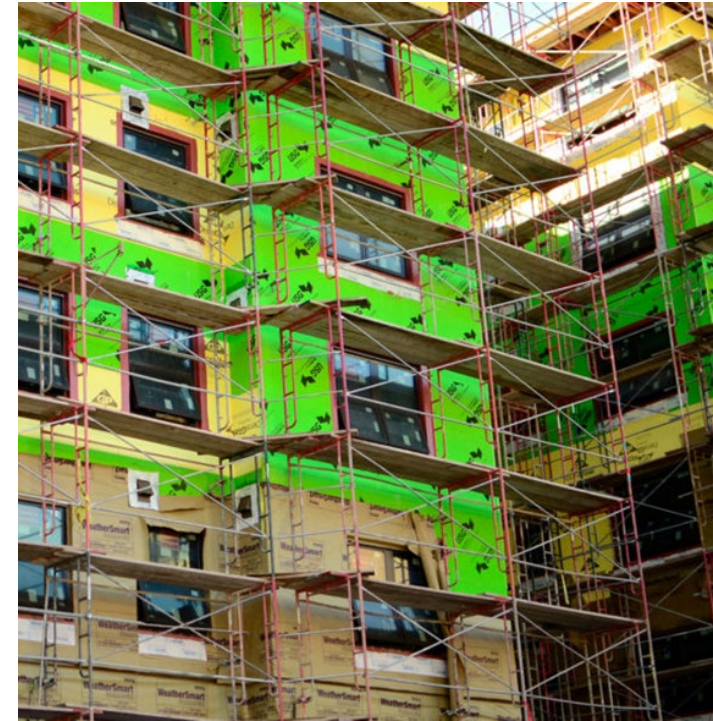
1. Approve *City-BART Joint Vision & Priorities for Transit-Oriented Development for Ashby & North Berkeley*
2. Approve BART rider parking maximum of 85 spaces at Ashby and 200 spaces at North Berkeley
3. Approve new *City-BART Memorandum of Agreement*



Photo: Mithun Architects

1. City/BART Joint Vision & Priorities– City Council Revisions

- Emphasize greenery and generous sidewalks
- Clarify open space will be maintained by developer
- Prioritize housing for people with disabilities on Ashby east lot
- Consider housing for multigenerational families
- Strive to locate BART rider drop-off zones onsite and on 4-lane streets at site perimeters
- Clarify affordable housing goal
- Specify affordable & market-rate housing should meet comparable design standards



TOD Planning in Berkeley

2. Recommended On-Site BART Rider parking maximums

- Staff recommends BART rider parking maximums for Board approval to be included the developer solicitations:

Ashby
Maximum of 85
spaces*

North Berkeley
Maximum of 200 spaces
(including 80 spaces in
auxiliary lots)*

- As TOD design advances, the mix of on-and off-site access improvements, including parking will be identified

* Accessible parking will be provided consistent with American Disabilities Act requirements

3. New City-BART Memorandum of Agreement: Overview

Purpose

To clarify future collaboration between City and BART to advance TOD at North Berkeley, as well as to set out certain Ashby-related agreements

Major Topics

1. Development Activities Timeline
2. Phasing & Funding for Affordable Housing
3. AB 2923 Streamlining & Objective Design Standards
4. Developer Selection Process for North Berkeley
5. Minimum Requirements for TOD at North Berkeley
6. Ashby Timeline



Photo: Caelie Frampton

3. New City-BART Memorandum of Agreement

Developer Selection for North Berkeley

- BART and City will have equal representation on developer evaluation committee
- GM will consult with City Manager before recommending a developer to BART Board

Funding for Affordable Housing

- City has set aside \$53M for both stations; a minimum of \$20M will be for North Berkeley
- Following Board ENA authorization, City will award initial pre-development funds (\$500k) to eligible developer, with City Council approval

In historic vote, Berkeley puts \$53M toward affordable housing at BART

It is the single largest investment in affordable housing Berkeley has made, the mayor said Tuesday night.



Source: Berkeleyside, April 2021

3. New City-BART MOA: Objective Design Standards

AB 2923 / SB 35 Entitlements Streamlining

- Developers may use streamlining provisions of state law
- Ministerial (staff-level) review only

Objective Design Standards (ODS)

- Goal: Provide clear expectations for City's ministerial review of TOD at Ashby and North Berkeley
- ODS will be developed for each station with community input, for Council adoption
- City cannot enforce standards that infringe on AB 2923 zoning standards – e.g. height, floor area ratio
- Under agreed conditions, BART will require that TOD projects conform to City's adopted ODS



Photo: Van Meter Williams Pollack

3. New City-BART MOA: Ashby Outstanding Issues

A. Flea Market

- Extensive community outreach to Flea Market (ongoing)
- Exploring relocation options

B. Adeline Street Design

- Right of Way
- Infrastructure

C. City option to purchase air rights



Developer Solicitation (2023):
BART will seek one developer team for
Ashby, both the East & West parking lots

TOD Planning in Berkeley

Next steps: 2022 - 2023

- **Jun 28:** Council action zoning
- **Jul 2022:** BART issues RFQ for North Berkeley
- **Oct 2022:** Deadline for City to act on Adeline Corridor, Flea Market, Air Rights Issue
- **Dec 2022:** North Berkeley Developer Selection to Board
- **Early 2023:** Ashby Solicitation
- **Mid 2023:** Ashby Developer Selection to Board
- **Late 2023:** Objective Design Standards to Council for Action

TOD Planning in Berkeley

Motion

The BART Board of Directors:

1. Approves the *City - BART Joint Vision and Priorities for TOD for Ashby and North Berkeley BART Stations* attached hereto as Exhibit 1
2. Approves the BART rider parking maximums of 85 spaces at Ashby and 200 spaces at North Berkeley
3. Authorizes the General Manager or his designee to execute the *Memorandum of Agreement re North Berkeley and Ashby Transit-Oriented Developments*.

Appendix

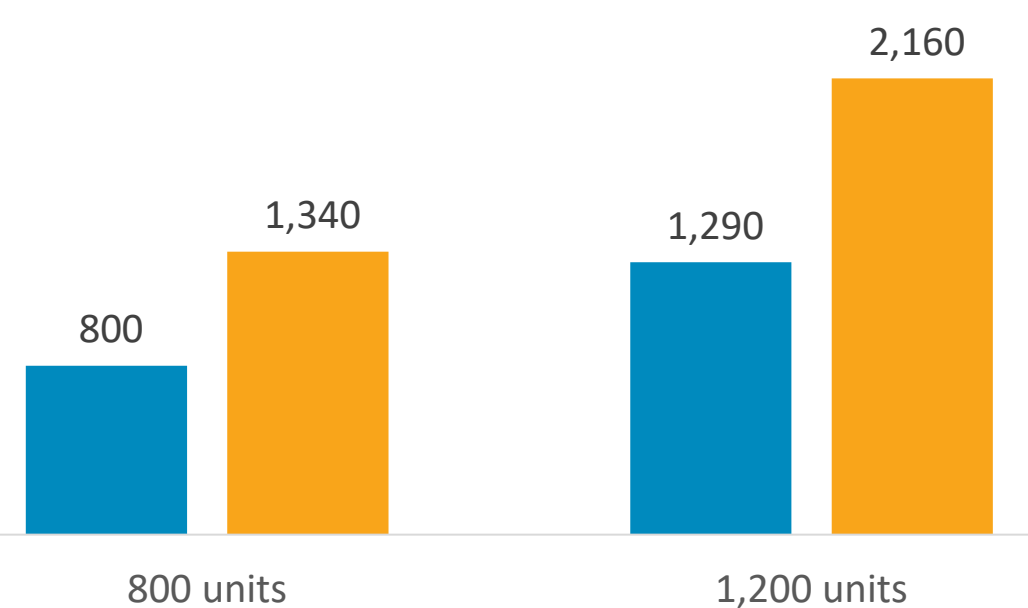
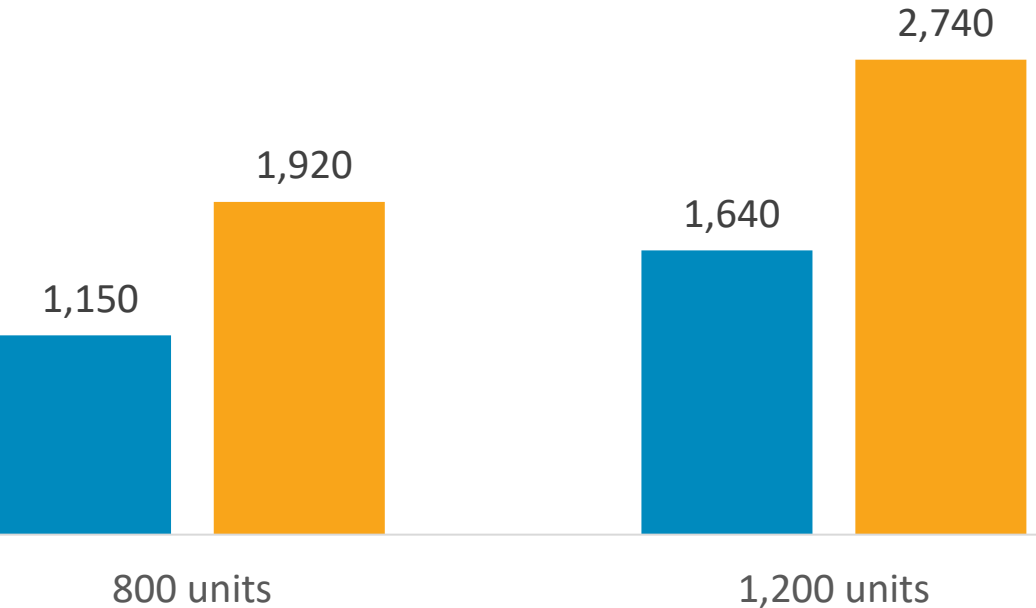
Preliminary Daily Net Ridership for Berkeley TODs*

Ashby TOD Daily Net Ridership
w/ 85 parking spaces

North Berkeley TOD Daily Net Ridership
w/ 200 parking spaces

■ Daily Net Ridership (Low) ■ Daily Net Ridership (High)

■ Daily Net Ridership (Low) ■ Daily Net Ridership (High)



* High ridership assumes 2019 Ridership (Pre-COVID) and Low ridership assumes a remote work factor (60% of Pre-COVID).

* Ridership numbers assume more commercial space developed at Ashby

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: June 3, 2022

FROM: Robert M. Powers, General Manager

SUBJECT: Lake Merritt BART Station Area Projects

At the June 6 Board meeting, staff intends to provide an information update on two related projects in the Lake Merritt BART Station Area:

- Lake Merritt Transit-Oriented Development Update
- BART Police Headquarters Relocation Process Update

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

DocuSigned by:

Michael Jones

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Robert Powers

Lake Merritt BART Transit-Oriented Development Update

BART Board of Directors
June 9, 2022



History

December 2014: The Lake Merritt Station Area Plan Adopted

May 2018: Request For Proposals Released

September 2018: Request For Proposals Awarded to Strada /East Bay Asian Local Development Corporation (EBALDC)

January 2019: Entered into Exclusive Negotiating Agreement (ENA) with Developers Strada/EBALDC

February 2020: Submitted Preliminary Design Plans (PDP)

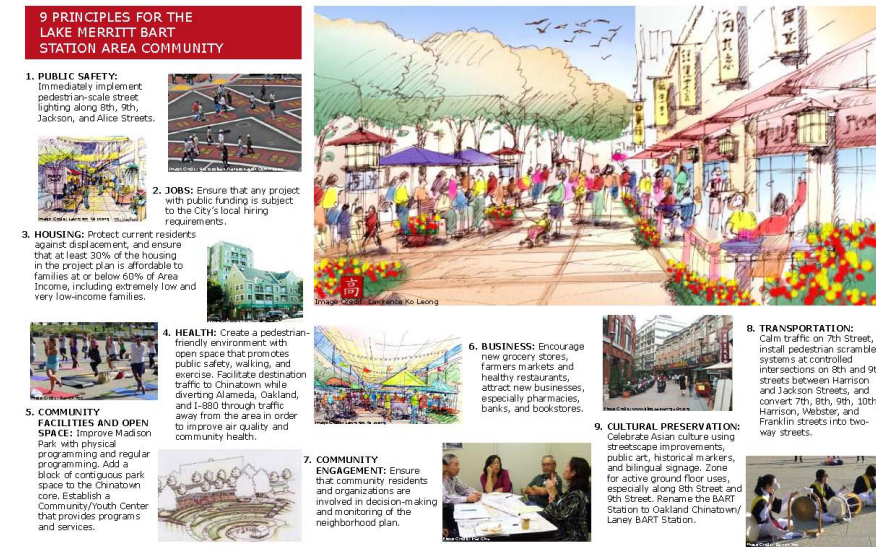
October 2020: Station Access Study Completed

November 2020: BART Board Authorizes ENA Extension for 1 year w/ 6-month option

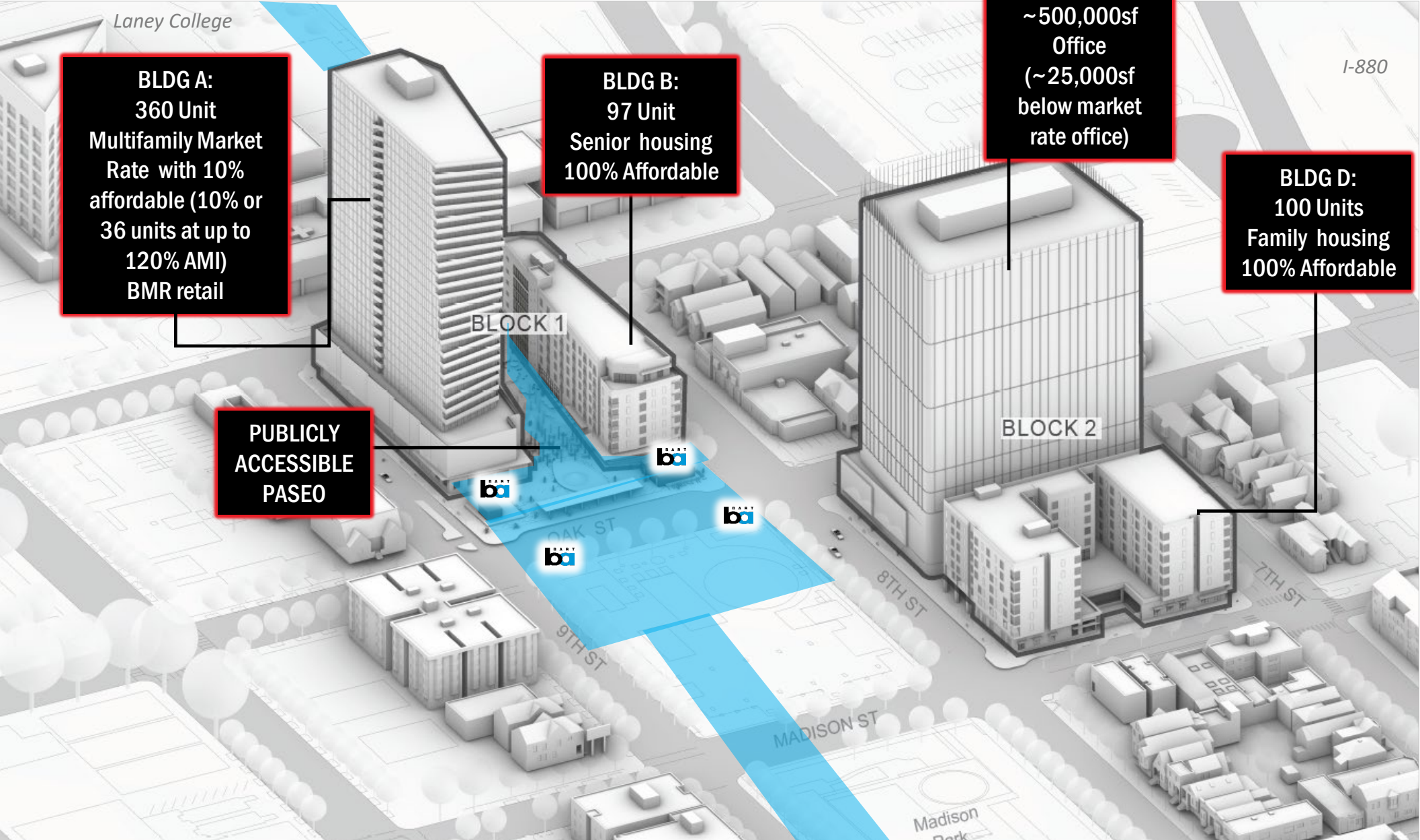
May 2021: Preliminary Development Plan City & BART's Approval (including CEQA)

March 2022: 6-month ENA extension option executed

May 2022: Final Development Plan for Senior Affordable Housing Under Review



Lake Merritt TOD Project



STRADA

 EAST BAY ASIAN LOCAL
DEVELOPMENT CORPORATION
BUILDING HEALTHY, VIBRANT AND SAFE NEIGHBORHOODS

 **50** YEARS
1972-2022

Paseo Improvements



TRANSIT



BIKE SHARE



BART STATION



BIKE PARKING



MODE TRANSFER AND
WAITING AREAS

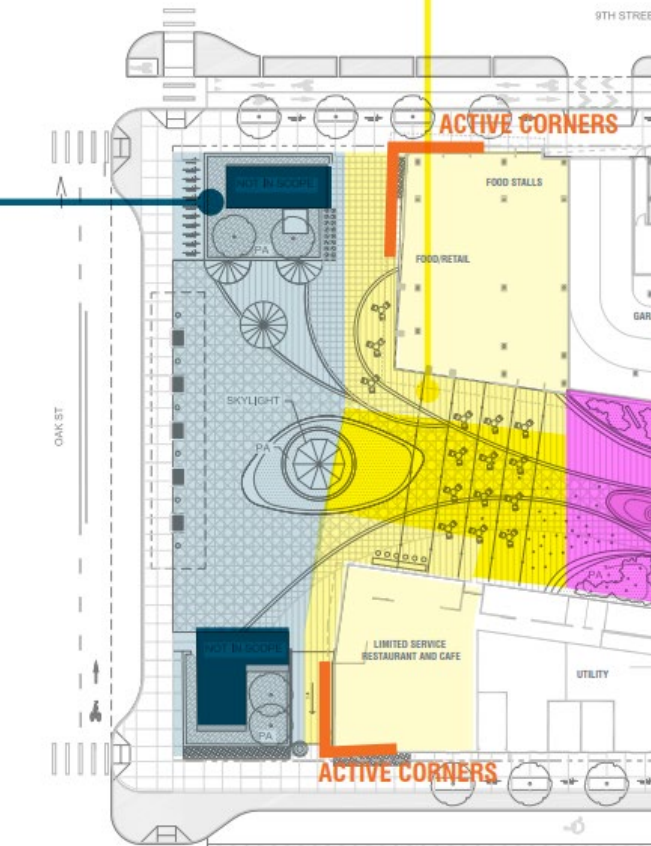
DINING



OUTDOOR DINING



FOOD COURT



Engagement

Community Outreach Events

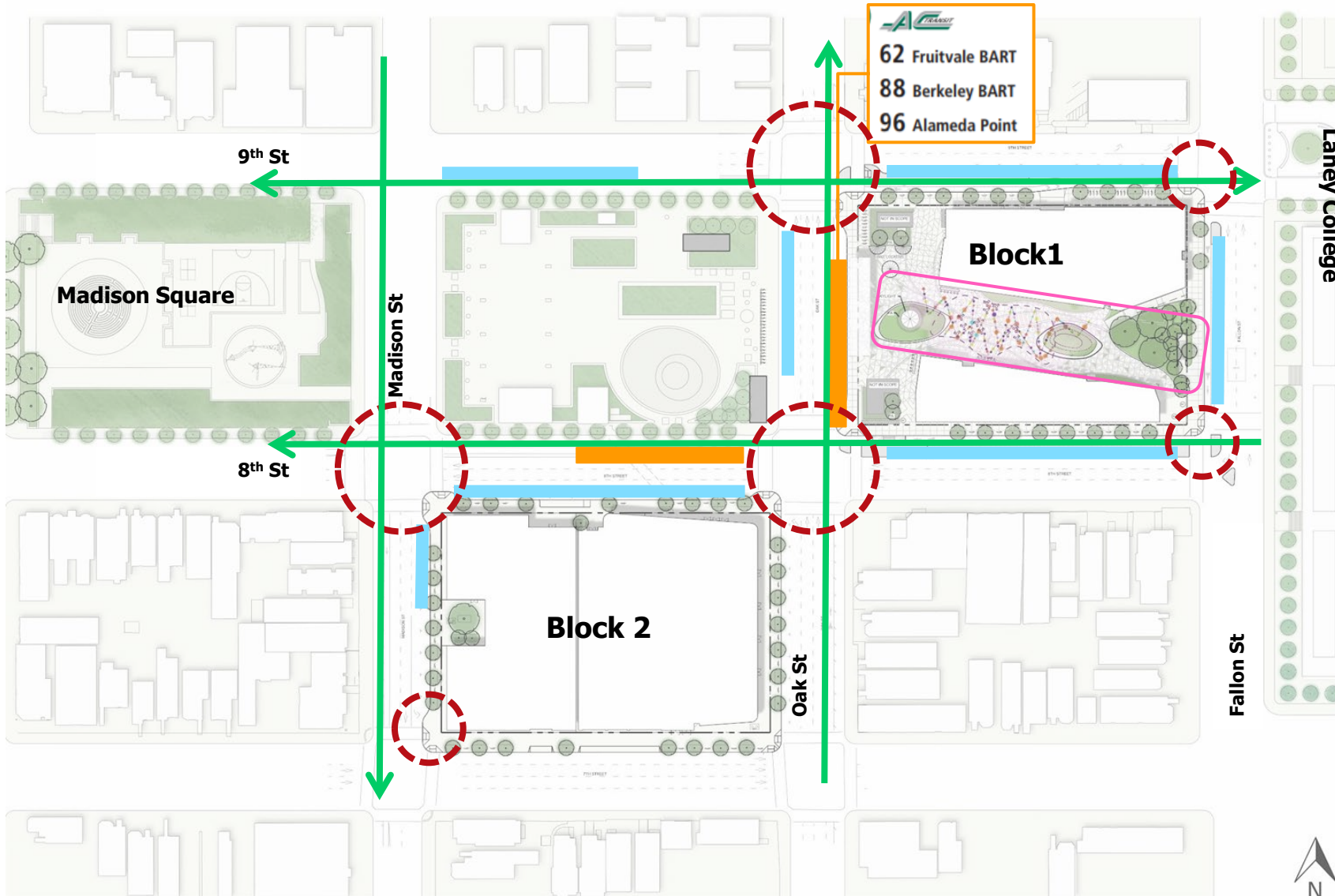
- Active community outreach from 2009 to 2022, including:
 - Over 25 outreach events
 - Community survey: 1,110 responses
 - 20 stakeholder meetings
 - 2 online outreach events during the pandemic

Key Stakeholders

- Oakland Chinatown Coalition
- Oakland Museum of California (OMCA)
- Laney College Facilities Committee
- Oakland Heritage Alliance (OHA)
- Oakland Chinatown Chamber of Commerce
- Asian Health Services (AHS)



Proposed Access Improvements



- **Intersections** with bulbouts
- Widened **sidewalks**
- Potential **transit** access improvements (e.g. additional layover zone, a bus bulbout, and a new bus shelter)
- **Passenger loading** zones
- Improved **bike** facilities
- Bike and scooter **parking**
- **No** replacement parking

Grants

- **Secured:**

- **January 2022:** \$24.4 MM Affordable Housing & Sustainable Communities (AHSC) Award for Building B Affordable Housing, BART, and OakDOT

- **Pending/Planned:**

- **January 2022:** Oakland City Notice of Funding Opportunity (NOFA) application submitted for Building B
- **March 2022:** Transit & Intercity Rail Capital Program (TIRCP) application submitted to California State Transportation Agency (CalSTA) (BART-led)
- **June 2022:**
 - Alameda County Transportation Commission (ACTC) 2024 Comprehensive Investment Plan (CIP) (BART-led)
 - CA HCD “SuperNOFA”/Infill Infrastructure Grant (IIG) Program (Developer-led)
 - Transformative Climate Communities Planning Grant for Chinatown Area (Developer-led, BART Co-Applicant)

Exclusive Negotiating Agreement Extension Milestones

Milestone	Schedule	Status	Notes
Preliminary City Approvals & CEQA Approval	2Q 2021	COMPLETED	
Submit Affordable Housing & Sustainable Communities Application	4Q 2020	COMPLETED	
Submit Infill Infrastructure Grant Application	3Q 2021	PENDING	Unsuccessful 1st Time, 2nd Attempt 1Q 2023
Submit City Housing Funding Application	3Q 2021	COMPLETED	City award expected Q4 2022
NEPA Kickoff	3Q 2021	PENDING	Initiated upon receipt of federal HUD funds
Lease Option for Board Approval	3Q 2021	2Q 2023	Postponed Until FDP Submitted
Final City Approvals Submission (one building)	4Q 2021	COMPLETED	
Submit Measure BB CIP Application	4Q 2021	1Q 2023	ACTC Schedule
Final City Approval	1Q 2022	4Q 2022 (Tent)	Submitted on Time, City Schedule Delayed
Execute Lease Option Agreement	1Q 2022	Pending Board Approval	

Next Steps

- **May/June 2022:** Tentative Final Development Plan (FDP) Approval – Building B Affordable Senior + Horizontal (Access/Public Space Improvements)
- **July 2022 + Onward:** Affordable Housing Financing Applications; Advanced/pre-Building Permit Design (Building B)
- **September 2022:** Current Exclusive Negotiating Agreement ends. Possible BART Board Action.
- **Phase I:**
 - Late 2023: Start Construction (Building B – Affordable Senior). Estimated Building A FDP Approval.
 - 2024: Start Construction (Building A – Market Rate Tower)
 - Mid 2025: End Construction (Building B)
 - 2026: End Construction (Building A); Full Block 1 Build Out
- **Phase II:**
 - 2026 (at earliest): Start Construction Building C (Office) and Building D (Affordable Family)
 - 2028 (at earliest): End Construction Building C and/or Building D





BART Police Administrative HQ

Relocation Planning Update



BART PD Administrative HQ Relocation

Project Goals

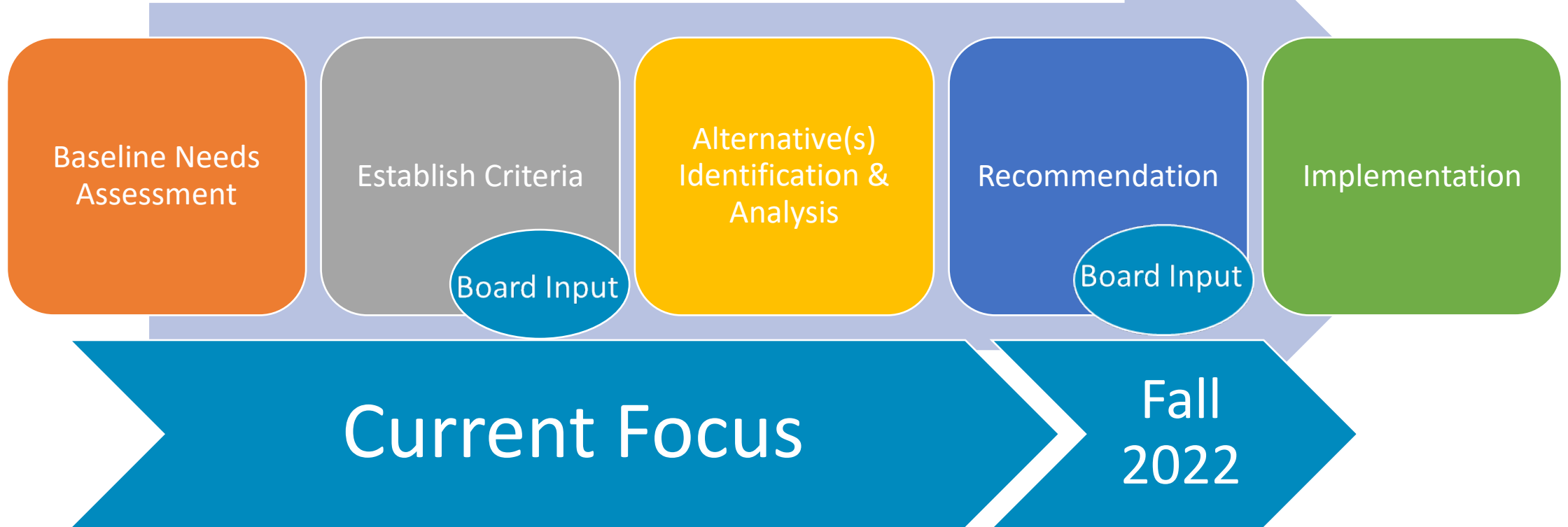
- Timely delivery of a replacement facility
- Opportunity to create an **efficient & sustainable** BPD HQ of the **future**
- Provide a modern facility to **attract and retain officers & staff**
- Secure a visible and accessible location to **provide essential service** to the public



Alignment with BART's Strategic Plan Framework & Goals

- **Environment** – Regional sustainability
- **Safety** – Premier safety culture for workers, riders & public
- **Workforce** – Invest in our current & future employees

Overall Relocation Strategy



Relocation planning process is a transparent and collaborative effort to build consensus on requirements for the new facility.

Current BPD Administrative HQ - MET

Occupied Space: 55,000 sf

Approx. 180 officers & staff report to the facility

- MET & portion of Lake Merritt Administrative Building
- Exterior parking at MET, leased lot & along public streets
- Houses both the Administrative HQ & Zone 1 Patrol

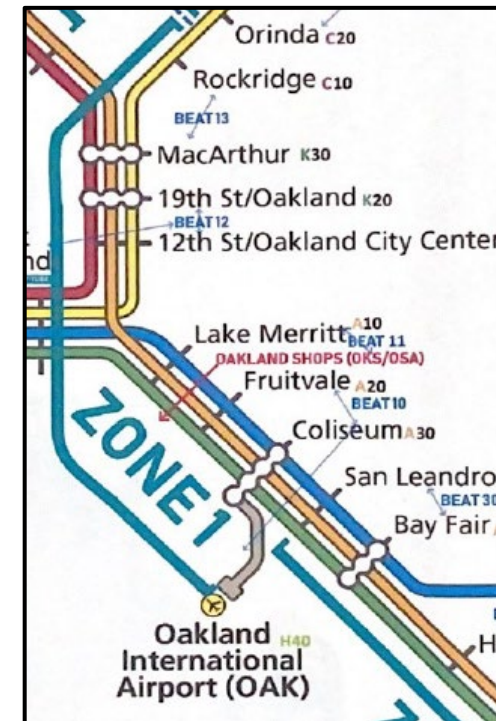


Current BPD Administrative HQ – MET

- Chief of Police
 - Internal Affairs
- Support Services Bureau
 - Dispatch Center, Investigations, Employee services, Records, Warrants & Evidence
- Operations Bureau
 - Watch Commanders, Traffic & Parking
- Personnel & Training
 - Training, background investigations
- Progressive Policing & Community Engagement Bureau
 - Crisis Intervention, Progressive Policing, Ambassadors, Community outreach, Chaplains & Explorers

Zone 1 Patrol

- Patrol Division for Oakland core stations:
 - Rockridge, MacArthur, 19th , 12th, Lake Merritt, Fruitvale, Coliseum & OAK Airport Extension
 - 4 Sergeants & 25 Officers (current)



General Search Criteria Informed by Needs Assessment

A) Availability

- Site Alternative(s) that allow for a timely vacancy of the MET (target 2025)

B) Proximity

- BART Station to provide access for staff, officers and public
- Major freeway –within 0.5 miles or 3 mins. drive time to on/off ramp
- Centrality within BART System
 - Reasonable travel time to BART Headquarters & Emergency Operations Center (EOC)
 - Ease of access throughout System for officers & staff (CIS, CSO, Ambassadors & fare inspectors)



General Search Criteria Informed by Needs Assessment

C) Physical Attributes

- Parcel to accommodate structure, parking & external storage needs
 - Anticipate Department growth & impact on future facility size
 - Secured parking requirement of 60-100 cars (65,000- 75,000 sf)
 - Modernized practices to make a more efficient use of space
- Structure that meets Essential Service Facility parameters*
 - Capable of providing essential services to the public after a disaster
 - Informs decision to Buy, Build or Lease – must meet standard

	Current	2031
Occupied building interior (sf)	55,000	65,000-75,000

*Essential Services Buildings Seismic Safety Act of 1986

Needs Assessment Outcome & Search Criteria

Physical Attributes – Specialized Needs beyond general office space

- Dispatch
- Tactical Training
- Internal Affairs
- Evidence Storage
- Video Recovery
- Armory & Range Master workshop
- Locker rooms
- Community Room/Auditorium
- Secure & Publicly Accessible Lobby

Search Criteria Summary Matrix

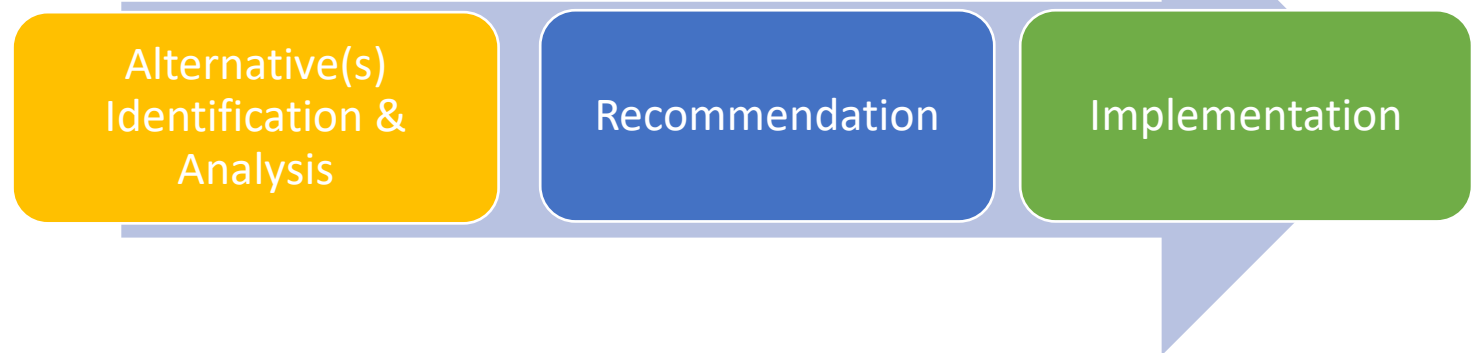
Site Criteria	Factors of Consideration
<input type="checkbox"/> Available for build-out & occupancy	<ul style="list-style-type: none"> ▪ Can be made ready for occupancy in 2025 ▪ Impact of “re-use” of an existing BART owned property
<input type="checkbox"/> Proximity	<ul style="list-style-type: none"> ▪ BART Station accessible ▪ Ease of freeway access ▪ Travel time to BART BHQ ▪ Split Zone 1 Patrol from BPD Administrative Facility for a broader search area
<input type="checkbox"/> Appropriately sized if we Build, Buy or Lease	<ul style="list-style-type: none"> ▪ Parcel to accommodate 65-75K sf facility ▪ Plus 65K-75K sf+ of parking & storage
<input type="checkbox"/> Meets physical safety standards	<ul style="list-style-type: none"> ▪ Essential Service Facility standard ▪ Maintain CALEA Accreditation
<input type="checkbox"/> Community Factors	<ul style="list-style-type: none"> • Partnership with nearby community • Safety of staff & visitors

BART PD Administrative HQ Relocation

Next Steps

- ✓ Inventory & Analysis of existing BART properties for possible repurpose
- ✓ Conduct site tours of other modernized Police Facilities
- ✓ Physical analysis of Site Alternatives
- ✓ Analyze options to: Build, Buy or Lease

Returning to Board with an Update in Fall 2022



BART Police Department Administrative HQ Relocation

Appendix: Images of Current Specialized BART PD Facilities

BPD Specialized Occupancies

Evidence Storage



Includes paper records, temperature-controlled units, bulky items & bikes, various personal effects, drugs, weapons and liquids. Location where public can retrieve personal property that was confiscated or recovered by BPD.

BPD Specialized Occupancies

Video Recovery



Live monitoring of BART facilities and ability for instant playback, use during investigations, recovery of video evidence.

BPD Specialized Occupancies

Tactical Training



CALEA - Alcove w/ lockers to provide separation of space between real and training weapons

Currently used for physical training (mats & padding for walls), classroom learning & virtual simulation

BPD Specialized Occupancies

Locker room



Currently located in METG, dry. No restroom facility or showers available for officers or staff within the locker rooms. Officer's transport uniforms and other gear via suitcases that cannot be left outside in vehicles and require storage during their shift.

Thank You



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: June 3, 2022

FROM: Robert M. Powers, General Manager

SUBJECT: Celebrating 50 Years of Service Update

At the June 9 Board meeting, staff will provide an information update on the activities for Celebrating 50 Years of Service, including the use of retail space at the ground floor of BART's headquarters at 2150 Webster Street in Oakland.

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

DocuSigned by:
Michael Jones
47000790F2D7463...

Robert Powers

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



Celebrating 50 Years of Service

BART Board of Directors

June 9, 2022

50TH ANNIVERSARY COMMITTEE



- Labor Unions
- Operations
- Maintenance & Engineering
- BART Police
- Administration
- Budgets
- Office of Civil Rights
- Station Area Planning
- System Safety
- Art Program
- Customer Services
- Communications
- Marketing & Research

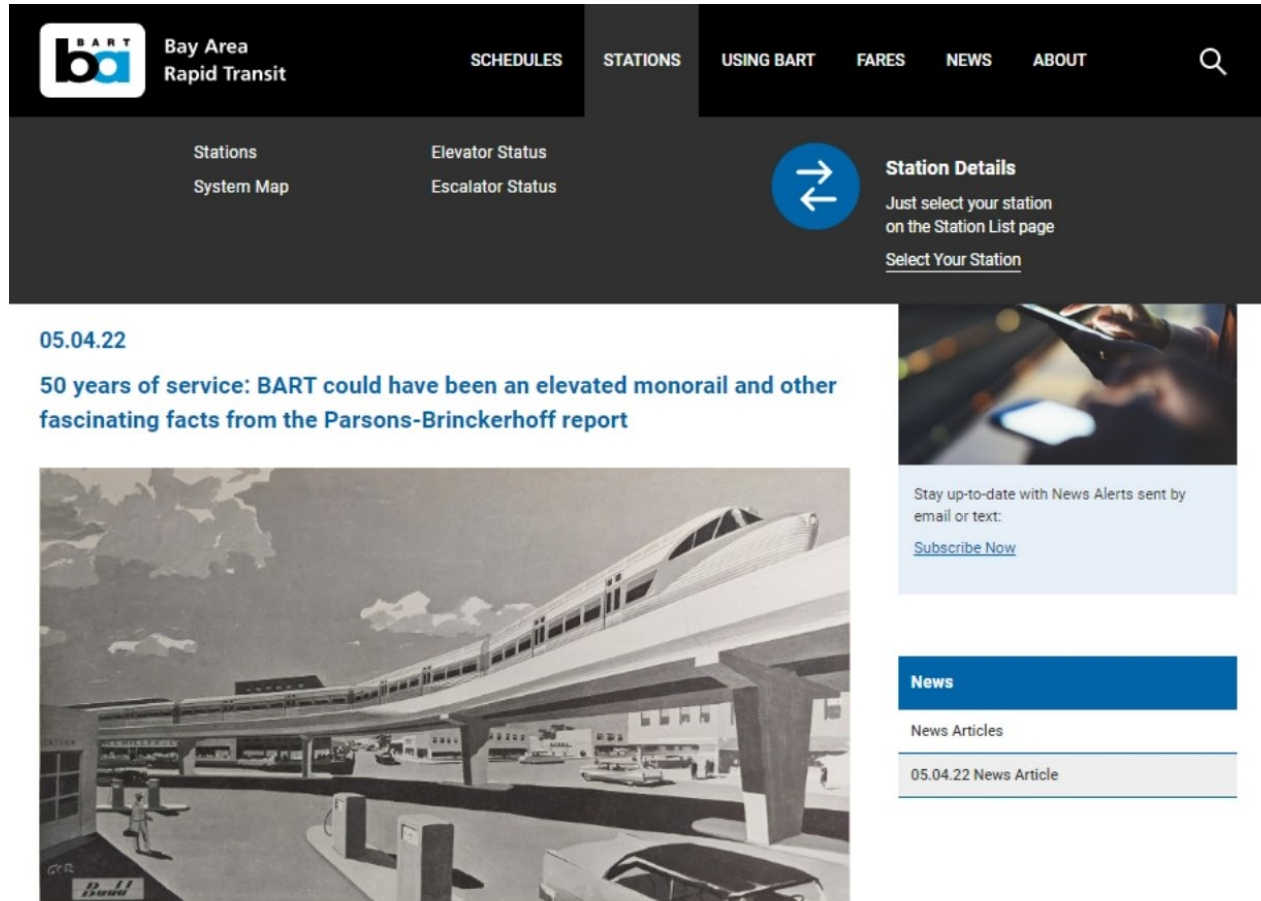
CELEBRATION TIMELINE



HAPPENING NOW

- 50th merchandise now on sale railgoods.com
- Other merch in the works:
 - Legacy car number plates
 - BART map through the years posters

CELEBRATION TIMELINE



05.04.22

50 years of service: BART could have been an elevated monorail and other fascinating facts from the Parsons-Brinckerhoff report

Stay up-to-date with News Alerts sent by email or text:
[Subscribe Now](#)

News

News Articles

05.04.22 News Article

A rendering of a "basic supported system" train from the Parsons-Brinckerhoff report of 1956.

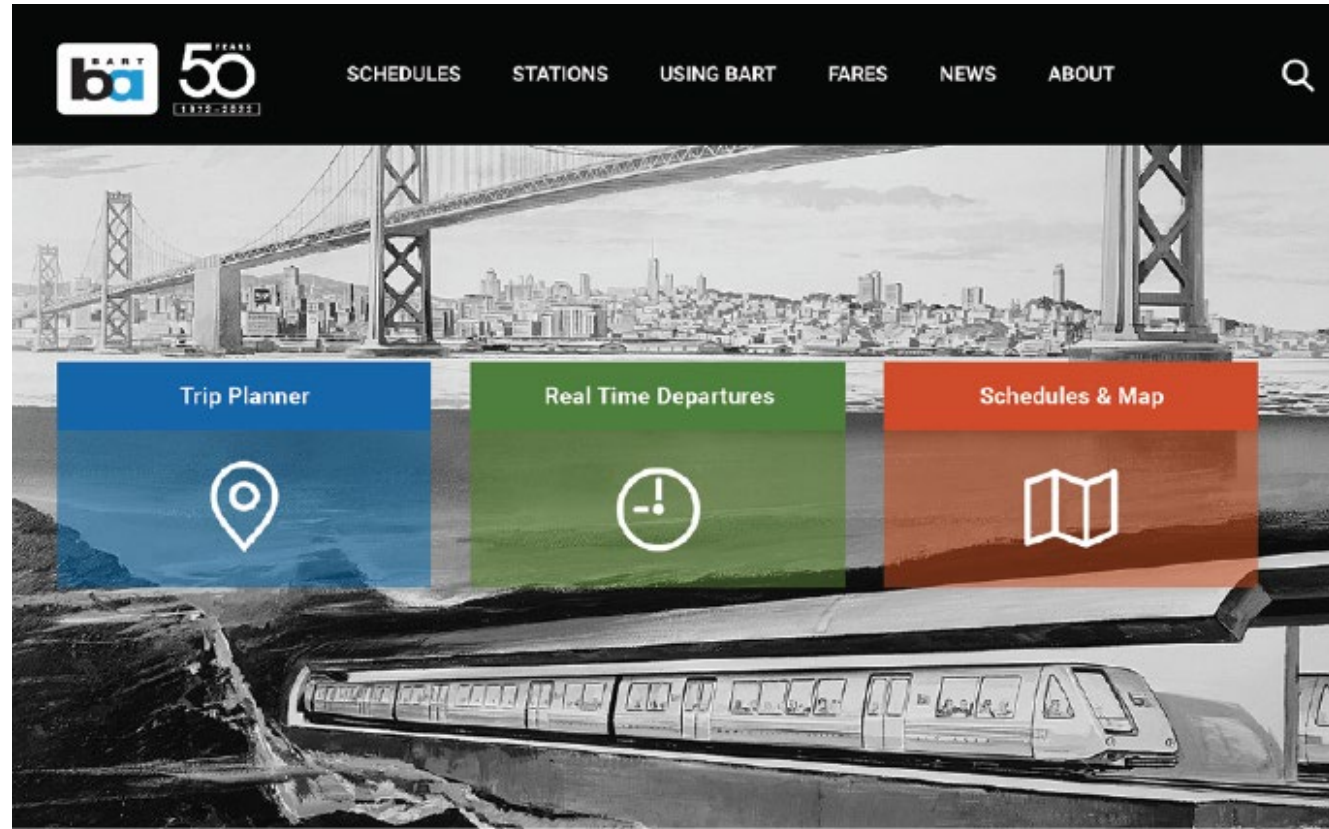
HAPPENING NOW

- Stories on social media & public/ internal websites & BHQ lobby & floor digital screens

CELEBRATION TIMELINE

JUNE 2022

- bart.gov/50years now live with microsite launching August 15
 - Historical documents
 - Photo archive
 - Video archive
 - Special features
 - Calendar of events



CELEBRATION TIMELINE

JUNE 2022

- “BART Lines” short fiction contest
- Authors living across BART’s five counties
- Runs June 1-30th or until 400 entries
- 30 stories selected
- Finalists announced week of Sept. 5
- Stories available in dispensers Sept. 12



CELEBRATION TIMELINE

JUNE 2022

- “50 Years Proud; 50 years BART”
- Stories on social, web & employee websites BHQ digital screens
- BARTmobile in SF Pride Parade



SF Pride, June 30, 2019



CELEBRATION TIMELINE

JULY 2022

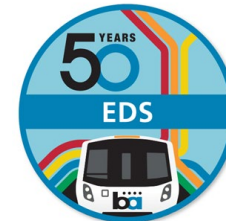
- Commemorative pins for employees, retirees & dignitaries



CELEBRATION TIMELINE

JULY 2022

- Commemorative patches for employee uniforms



CELEBRATION TIMELINE



JULY 2022

- 50th emblems stickers begin appearing on train car windows

CELEBRATION TIMELINE

JULY 2022

Employee and Retiree Engagement Event:

- **Looking Back: Tales from the Track**
- A moderated panel discussion highlighting the major milestones of BART's 50-year history with a focus on the stories of the employees behind them. Followed by an open Q&A.



CELEBRATION TIMELINE

50 years BART. 50% off.

Get 50% off all published BART fares all September using Clipper! Including 50% off already discounted fares.

Offer good 9/1/22–9/30/22.

Already discounted fares include: Youth, Senior, RTC, Clipper START, and the Gator Pass.

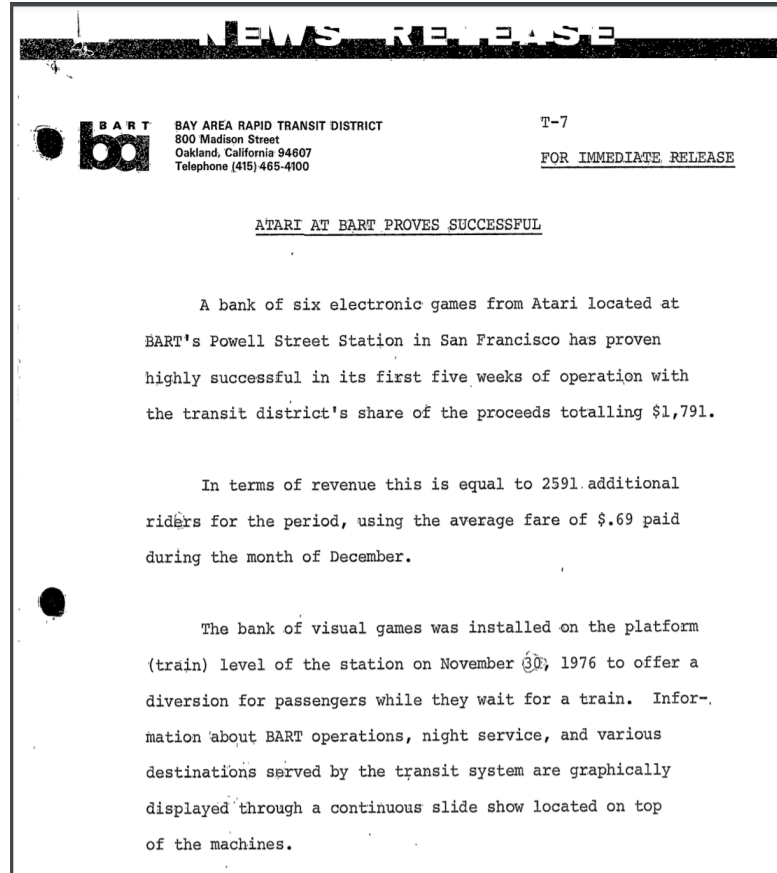
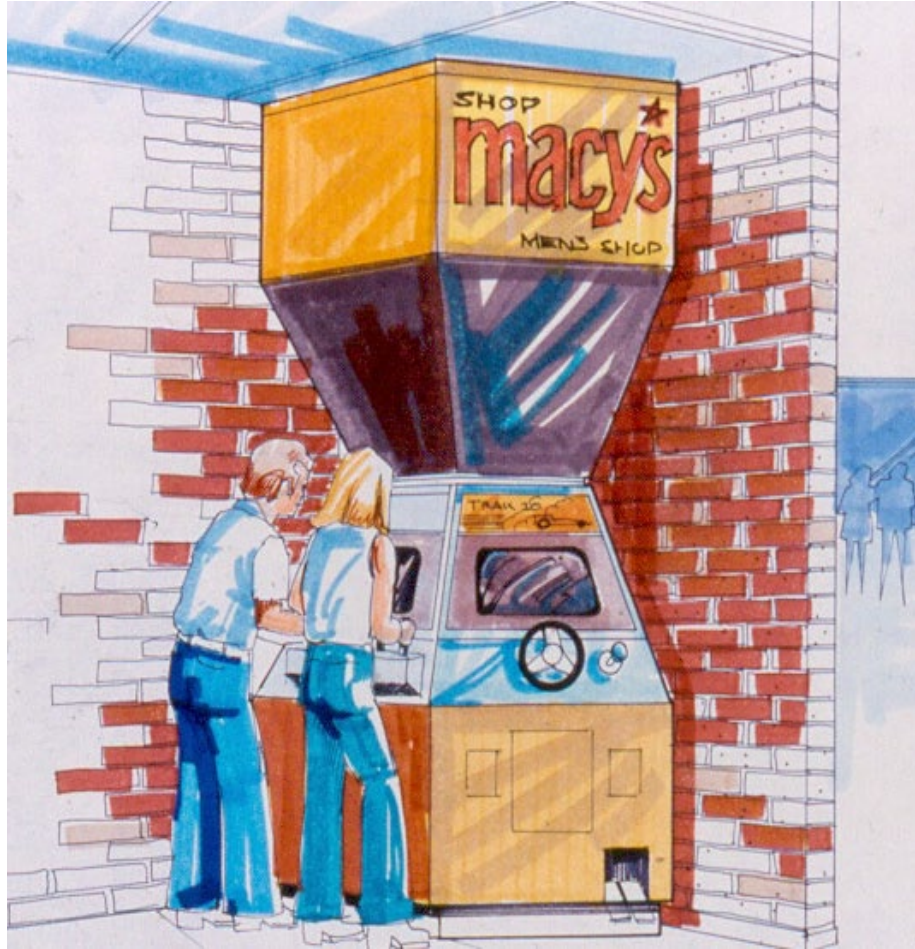


SEPTEMBER 2022

50% off fare promotion

- 50% off Clipper Fares for the entire month of September

CELEBRATION TIMELINE



SEPTEMBER 2022

- Arcade games at Powell St.

CELEBRATION TIMELINE

SEPTEMBER 2022

Sound Tracks Music Series

- El Cerrito del Norte Station Plaza w/Food Trucks
- Optional: Downtown Berkeley



CELEBRATION TIMELINE



SAVE THE DATE

BART 50th Anniversary Celebration

BART is turning 50 years old and we'd love for you to celebrate our big day with us.

On Saturday, September 10, 2022 from 11am–4pm, join us at the Lake Merritt BART Station and Plaza for a family fun experience with lots of prizes!

The event is free to the public. Mark your calendar, we look forward to seeing you there!



50 YEARS

50th Anniversary Celebration
Lake Merritt BART Station and Plaza
Saturday, Sept. 10, 2022
11:00am–4:00pm

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

SEPTEMBER 2022

Save the Date!

“50th Birthday Party & Family Fun Festival”

- September 10, 2022
- 11 am – 4 pm
- Lake Merritt Station
- Two locations:
 - Platform/Concourse
 - Plaza

CELEBRATION TIMELINE

SEPTEMBER 10, 2022, EVENT

- Plaza Level
 - Family Fun Festival
 - 1992 time capsule opening & burying of 2022 capsule
 - Food trucks, music, games, prizes, movie tent
 - BART info booths
 - Photobooth with BART train cab cutout
 - BARTmobile
 - Hands-on activities for youth



CELEBRATION TIMELINE

SEPTEMBER 2022

Train & Concourse Level

- “BART thru Time”
- Station walls, floors, etc. will be completely decked out in BART historical photos and other artifacts



CELEBRATION TIMELINE

OCTOBER 2022

- “Sound Tracks”
- Glen Park Station Plaza
- In conjunction with Litquake, SF’s annual literary festival also featuring short fiction finalists

A promotional poster for the 'Sound Tracks' outdoor music series. The top half features a blurred background image of a person playing a red electric guitar. The text 'Sound Tracks' is in a large, white, sans-serif font, with 'outdoor music series' in a smaller font below it. The bottom half of the poster has a solid magenta background. It contains the text 'Come enjoy a free open-air musical performance on a BART Plaza near you!' in white. To the right of this text are two logos: the BART logo (with 'ba' in a stylized font) and a '50 YEARS 1972-2022' anniversary logo.

Sound Tracks
outdoor music series

Come enjoy a free open-air musical performance on a BART Plaza near you!

BART
ba

50 YEARS
1972-2022

CELEBRATION TIMELINE

NOVEMBER 2022

Employee and Retiree Engagement Event: **Looking Forward: BART to the Future**

- A panel discussion focusing on how BART is laying the tracks for the next 50 years and envisioning BART in the future. Followed by an open Q&A.



CELEBRATION TIMELINE



NOVEMBER & DECEMBER

- BARTable holidays promotions
- More limited-edition holiday merch goes on sale



BART Headquarters Ground Floor Space



BART Headquarters Ground Floor Space

The Opportunities: Proximity to transit, active retail areas on W Grand, Broadway, and 5,000+ new housing units in Downtown Oakland since 2017 (many just north of BART HQ); 13.5m square feet office

The Challenges: High retail vacancy (~14%), low profile location, space is not ready for occupancy, many workers not yet back in Downtown Oakland

The Plan: Shared space:

- 1) Customer Service & RailGoods Store as anchor use.
- 2) BART 50th Anniversary display and pop-up retail to activate in interim



BART Headquarters Ground Floor Space - Next Steps

- Space vacated by BHQ Construction office
- BART seeking City of Oakland approval for interim BART 50th Anniversary celebration display (2 months)
- Beginning design for permanent occupancy by Customer Service and Rail Goods
- Real Estate exploring options for complementary pop-up retail



