

San Francisco Bay Area Rapid Transit District

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



BOARD MEETING AGENDA

**The Board Meeting will be held in person in the BART Board Room, 2150
Webster Street, 1st Floor,
Oakland, CA 94612 with an option for public participation via teleconference.
Thursday, March 23, 2023**

9:00 AM

BART Board Room, 2150 Webster Street, 1st Floor, Oakland, CA 94612.

Zoom Link: <https://us06web.zoom.us/j/82479453325>

Board of Directors

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

BOARD MEETING AGENDA

March 23, 2023

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, March 23, 2023, in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612.

Please note that this meeting will be held in person in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612 with an option for public participation via teleconference. Face masks are strongly recommended on BART property, including the BART Board Room.

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

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

You may attend the Board Meeting in person or join the Board Meeting via Zoom by calling 833-548-0282 and entering access code 824 7945 3325; logging in to Zoom.com and entering access code 824 7945 3325; or typing the following Zoom link into your web browser:
<https://us06web.zoom.us/j/82479453325>

Members of the public may address the Board of Directors regarding any matter on this agenda. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

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 March 22, 2023, in order to be included in the record.
- 2) Complete a “Request to Address the Board of Directors” form (available at the entrance to the Board Room) and give it to the District Secretary before the Item is considered by the Board.
- 3) Call 833-548-0282, enter access code 824 7945 3325, 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 824 7945 3325, and use the raise hand feature; or join the Board Meeting via the Zoom link (<https://us06web.zoom.us/j/82479453325>) 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.

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

BART provides services/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 generally 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 at 510-464-6083.

April B. A. Quintanilla
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER
 - A. Roll Call.
 - B. Pledge of Allegiance.
 - C. Introduction of Special Guests.
2. REPORT OF THE BOARD PRESIDENT
3. BOARD COMMITTEE REPORTS

(An opportunity for Committee Chairpersons to report out on the activities of Board Committees that have met since the last Board Meeting.)

4. CONSENT CALENDAR

- A. Approval of the Minutes of the Meeting of January 12, 2023.
Board requested to authorize.

Attachments: [Approval of the Minutes of the Meeting of January 12, 2023](#)

- B. Resolution of Local Support to Apply to the Metropolitan Transportation Commission for One Bay Area Grant Cycle 3 (OBAG 3) Funds.
Board requested to adopt.

Attachments: [Resolution of Local Support to Apply to the Metropolitan Transportation Commission - EDD](#)
[Resolution of Local Support to Apply to the Metropolitan Transportation Commission - Resolution](#)

- C. Resolution Authorizing the Metropolitan Transportation Commission's Encumbrance of State Transit Assistance Funds for Implementation of the Transit Transformation Action Plan.

Board requested to adopt.

Attachments: [Resolution Authorizing the Metropolitan Transportation Commission's Encumbrance - EDD](#)
[Resolution Authorizing the Metropolitan Transportation Commission's Encumbrance - Resolution](#)

- D. Renewal of Software License Agreement No. 79HP-120 with TriTech Software Systems, for Dispatch and Records Management Software Support.

Board requested to authorize.

Attachments: [Renewal of Software License Agreement No. 79HP-120 with TriTech Software Systems - EDD](#)

- E. Sole Source Procurement with CORYS for Software Upgrades and Enhancements for the Train Simulators.

Board requested to authorize. (TWO-THIRDS VOTE REQUIRED)

Attachments: [Sole Source Procurement with CORYS for Software Upgrades and Enhancements for the Train Simulators - EDD](#)

- F. (CONTINUED from October 13, 2022 Board Meeting)
Award of Agreement No. 6M3566 with Impec Group, Inc., for Graffiti Removal Services Districtwide.

Board requested to authorize.

Attachments: [Award of Agreement No. 6M3566 with Impec Group, Inc., for Graffiti Removal Services Districtwide - EDD](#)

- G. Sole Source Procurement with NSH USA Stanray for Equipment and Services to Overhaul Automatic Controls for Wheel Truing Machines at the Richmond and Daly City Yards.

Board requested to authorize. (TWO-THIRDS VOTE REQUIRED)

Attachments: [Sole Source Procurement with NSH USA Stanray for Equipment and Services - EDD](#)

- H. Award of Invitation for Bid No. 9116, Contact Rail Assembly Parts.
Board requested to authorize.

Attachments: [Award of Invitation for Bid No. 9116, Contact Rail Assembly Parts - EDD](#)

- I. Change Orders to Contract No. 15CQ-120, Oakland Shops Geometry Vehicle Storage and Spur Track.
Board requested to authorize.

Attachments: [Change Orders to Contract No. 15CQ-120, Oakland Shops Geometry Vehicle Storage and Spur Track - EDD](#)

- J. Single Source Procurement with Alstom Signaling Operations, LLC for Vital Processor Interlocking Train Control Parts.
Board requested to authorize. (TWO-THIRDS VOTE REQUIRED)

Attachments: [Single Source Procurement with Alstom Signaling Operations, LLC for Vital Processor Interlocking Train Control Parts - EDD](#)

- K. BART's Annual Surveillance Report - 2022.
Board requested to authorize.

Attachments: [BART's Annual Surveillance Report – 2022 - EDD](#)
[BART's Annual Surveillance Report – 2022 - Report](#)

- L. Recruitment and Relocation Expenses for Chief Transportation Officer.
Board requested to authorize.

Attachments: [Recruitment and Relocation Expenses for Chief Transportation Officer - EDD](#)

5. GENERAL MANAGER'S REPORT

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

6. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda. Public comment is limited to three (3) minutes per person.)

7. ADMINISTRATION ITEMS

Director Dufty, Chairperson

NO ITEMS.

8. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

- A. Procurement of Fare Collection Equipment by Competitive Negotiation - Contract No. 47CJ-230A, Procurement of Fare Gates.

For information.

Attachments: [Procurement of Fare Collection Equipment by Competitive Negotiation - EDD](#)
[Procurement of Fare Collection Equipment by Competitive Negotiation - Presentation](#)

- B. Quarterly Service Performance Review - Second Quarter Fiscal Year 2023.

For information.

Attachments: [Quarterly Service Performance Review – Second Quarter Fiscal Year 2023 - Memo](#)
[Quarterly Service Performance Review – Second Quarter Fiscal Year 2023 - Presentation](#)

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

Director Saltzman, Chairperson

- A. Senate Bill 827 (Glazer) - BART Office of the Inspector General.
Board requested to authorize.

Attachments: [Senate Bill 827 \(Glazer\) – BART Office of the Inspector General - GM Memo](#)
[Senate Bill 827 \(Glazer\) – BART Office of the Inspector General - GM Bill Text](#)
[Senate Bill 827 \(Glazer\) – BART Office of the Inspector General - GM Analysis and Recommendation](#)
[Senate Bill 827 \(Glazer\) – BART Office of the Inspector General - GM Presentation](#)
[Senate Bill 827 \(Glazer\) – BART Office of the Inspector General - OIG Memo](#)
[Senate Bill 827 \(Glazer\) – BART Office of the Inspector General - OIG Presentation](#)

10. BOARD MATTERS

- A. Resolution to Assign Board Members to Unrepresented Areas for Informal Representation as Needed Due to Redistricting (President Li's Request).
Board requested to adopt.

Attachments: [Resolution to Assign Board Members to Unrepresented Areas for Informal Representation as Needed Due to Redistricting - Resolution](#)

- B. Board Member Reports.

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

- C. Roll Call for Introductions.

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

- D. In Memoriam.

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

11. CLOSED SESSION

A. PUBLIC EMPLOYMENT

Title: Inspector General

Government Code Section: 54957

B. CONFERENCE WITH LABOR NEGOTIATORS

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

Employee Organizations: (1) BART Police Officers' Association; (2) BART
Police Managers' Association

Government Code Section: 54957.6

12. OPEN SESSION

A. Announcements from Closed Session, if any.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

2150 Webster Street, P.O. Box 12688, Oakland, CA 94612-2688

Board of Directors
Minutes of the 1,924th Meeting
January 12, 2023

A regular meeting of the Board of Directors was held on January 12, 2023, convening at 9:03 a.m., via teleconference and in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California, 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 Li presided; April B. A. Quintanilla, District Secretary.

Directors Present in Oakland: Directors Ames, Foley, Raburn, Saltzman, Simon, and Li.

Directors Present via Teleconference: Directors Allen and McPartland.

Absent: None. Director Dufty entered the Meeting later.

President Li brought the matter of Report of the Board President before the Board. President Li gave remarks regarding the New Year, the BART Board Workshop in February, BART Committee appointments, and the 2023 Board Meeting Schedule.

The following individuals addressed the Board:

Aleta Dupree
Saul Cruz
Andrew Klein

Director Dufty entered the Meeting in Oakland.

President Li announced that there were no reports under Item 3, Board Committee Reports.

President Li brought the matter of Resolution Commending Amy Worth, Former City Councilmember, City of Orinda, before the Board.

Directors Saltzman, Simon, Raburn, Foley, and Li commended former Councilmember Worth's work and leadership and expressed gratitude for former Councilmember Worth's partnership with the District.

Aleta Dupree addressed the Board.

Director Foley moved that Resolution No. 5549, Resolution Commending Amy R. Worth, be adopted. Director Saltzman seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li. Noes: 0
Former Councilmember Worth addressed the Board.

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President Li brought the matter of Resolution Commending Therese McMillan, Executive Director, Metropolitan Transportation Commission and Association of Bay Area Governments before the Board.

Directors Li, Saltzman, Dufty, Raburn, Ames, and Simon commended Executive Director McMillan's work, experience, and leadership and expressed gratitude for former Councilmember McMillan's dedication to serving the public transit industry.

Aleta Dupree addressed the Board.

Director Dufty moved that Resolution No. 5550, Resolution Commending Therese McMillan, be adopted. Director Simon seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li. Noes: 0

Executive Director McMillan addressed the Board.

A photograph of the Board Members, BART staff, former Councilmember Worth, and Executive Director McMillan was taken.

Consent Calendar items brought before the Board were:

1. Resolution to Continue Virtual Meetings During the Pandemic.
2. 2023 Organization of Committees and Special Appointments.
3. Submission of Title VI Triennial Report to the Federal Transit Administration.
4. Rescind Original Authorization to Award and Reject All Bids for Contract No. 15CQ-211, Procurement of Direct Fixation Fastener Assemblies.
5. Award of Agreement No. 6M3619 with G.A. Higgins Inc. and Agreement No. 6M3620 with Elite Maintenance Inc., for Systemwide Parking Lot Sweeping Services.
6. Authorization to Enter into a First Amendment to the Lease for 150 California Street in San Francisco, CA.

Director Saltzman made the following motions as a unit. Director Simon seconded the motions.

1. That Resolution No. 5551, 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.
2. That the Board of Directors ratifies the proposed Organization of Committees and Special Appointments for 2023 (attached).
3. That the Board of Directors approves the District's Title VI Civil Rights Program 2022 Triennial Update.

4. That the Board authorizes the General Manager to rescind the original authorization to award, reject all Bids for Contract No. 15CQ-211, Procurement of Director Fixation Fastener Assemblies, and re-advertise the Solicitation.
5. That the General Manager be authorized to award Agreement No. 6M3619 to G. A. Higgins Inc. to provide Systemwide Parking Lot Sweeping Services Zone 1 in an amount not to exceed \$1,024,425.24 and Agreement No. 6M3620 to Elite Maintenance Inc. to provide Systemwide Parking Lot Sweeping Services Zone 2 in an amount not to exceed \$1,539,008.94, each for a base term of three (3) years, pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedures; and that the General Manager also be authorized to exercise up to two (2) one-year options for Agreement No. 63619 for \$357,107.18 and up to two (2) one-year options for Agreement No. 6M3620 and \$564,297.54 and \$564,297.54 for a maximum term of five (5) years per Agreement.
6. That the General Manager or his designee be authorized to: (1) execute a First Amendment to Lease with PFF OFF 150 California Street, LP for 2,921 square feet of office space at 150 California Street, San Francisco for a three-year term, with a two-year option, and (2) to exercise said option if he or his designee determines it is in the District's best interest to do so.

Director Raburn requested that Item 5-C, Submission of Title VI Triennial Report to the Federal Transit Administration, be removed from the Consent Calendar.

In response to Director Raburn's request to remove Item 5-C from the Consent Calendar, Director Saltzman made the following motions as a unit. Director Raburn seconded the motions, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li. Noes: 0.

1. That Resolution No. 5551, 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.
2. That the Board of Directors ratifies the proposed Organization of Committees and Special Appointments for 2023 (attached). (The ratified Organization of Committees and Special Appointments for 2023 is attached and hereby made a part of these Minutes.)
3. That the Board authorizes the General Manager to rescind the original authorization to award, reject all Bids for Contract No. 15CQ-211, Procurement of Director Fixation Fastener Assemblies, and re-advertise the Solicitation.
4. That the General Manager be authorized to award Agreement No. 6M3619 to G. A. Higgins Inc. to provide Systemwide Parking Lot Sweeping Services Zone 1 in an amount not to exceed \$1,024,425.24 and Agreement No. 6M3620 to Elite Maintenance Inc. to provide Systemwide Parking Lot Sweeping Services Zone 2 in an amount not to exceed \$1,539,008.94, each for a base term of three (3) years, pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedures; and that the General Manager also be authorized

to exercise up to two (2) one-year options for Agreement No. 63619 for \$357,107.18 and up to two (2) one-year options for Agreement No. 6M3620 and \$564,297.54 and \$564,297.54 for a maximum term of five (5) years per Agreement.

5. That the General Manager or his designee be authorized to: (1) execute a First Amendment to Lease with PFF OFF 150 California Street, LP for 2,921 square feet of office space at 150 California Street, San Francisco for a three-year term, with a two-year option, and (2) to exercise said option if he or his designee determines it is in the District's best interest to do so.

Director Raburn commented on Item 5-C, Submission of Title VI Triennial Report to the Federal Transit Administration, noting the size of the report and the Fleet of the Future and possible related inequities; and requested that staff establish a goal of equitable deployment of the Fleet of the Future cars.

Director Raburn moved that the Board of Directors approves the District's Title VI Civil Rights Program 2022 Triennial Update. Director Dufty seconded the motion, which carried by unanimous vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li. Noes: 0.

President Li called for the General Manager's Report. Robert Powers, General Manager, reported on the 19th Street Ribbon Cutting Event; BART's support of Suicide Prevention and implementing updated posters systemwide; the retirement of Paula Fraser, Assistant Chief Transportation Officer; the BART Safety, Reliability and Traffic Relief Program (Measure RR) Safe Routes to School Project; recent cybersecurity events and the District's responsive action (Travis Engstrom, Director of Technology, assisted with the report); and the effects of the recent inclement weather on train service, ridership, and the trains (Shane Edwards, Assistant General Manager, Operations, assisted with the report).

The item was discussed, with following highlights:

Director Raburn recognized and thanked staff for their work to address the weather-related issues that arose in the system to keep service running safely.

Director President Foley commented on providing more effective communication to riders in advance of service issues, in addition to communication with the Board, and adding more ten-car trains to service schedules.

Director Ames commented on flooding at the South Hayward and Union City BART stations and seeking grant funding to address emergencies.

President Li expressed gratitude to the Office of the Chief Information Officer (OCIO) for addressing the cybersecurity incident and requested that staff provide an update on the protocol to communicate with riders and the general public about cancellations and major events.

Aleta Dupree addressed the Board.

President Li called for general Public Comment. The following individuals addressed the Board:

Andrew Klein
Aleta Dupree
Ryan Chang
Clarence Fisher
Steven Rehfeld

Director Saltzman, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Metropolitan Transportation Commission (MTC) Update on Regional Network Management before the Board. Val Menotti, Chief Planning and Development Officer; Therese McMillan, MTC Executive Director; and Alex Bachmann, MTC Deputy Executive Director, presented the item.

Senator Scott Weiner addressed the Board regarding Item 10-A, Strategic Action Plan to Address Homelessness.

Aleta Dupree and Clarence Fisher addressed the Board.

The item was discussed, with the following highlights:

Director Ames requested information about state and public funding for Regional Network Management.

President Li requested information about a funding strategy related to Regional Network Management.

Director Raburn commented on the importance of fare integration.

Director Saltzman inquired about the process for Committee Member selection and the funding sources for support staff and requested that presentations be user-friendly for anyone who may review them.

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

Director Foley, Chairperson of the Engineering and Operations Committee, brought the matter of the Strategic Action Plan to Address Homelessness. Daniel Cooperman, Senior Manager of Social Services Partnerships, Ja'Son Scott, Deputy Police Chief, and Shane Reiss, Senior Police Officer, presented the item.

Jason Toro, Chief Program Officer of La Familia, and James Lancaster, BART Supervisor of Crisis Intervention and Outreach Program, addressed the Board.

The item was discussed, with the following highlights:

Director Dufty commented on positive progress with addressing homelessness issues related to BART and community involvement in the strategic plan.

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Director Simon commented on the importance of collaborating with other community agencies to address homelessness issues; commended BART police for their service, especially with social issues; and inquired about collaboration with other stakeholders to address social issues that eventually lead the homeless population into the BART transit system.

President Li expressed support for the Strategic Homeless Action Plan and requested that staff provide data related to the plan.

Director Ames commented on collecting data to support creation of a non-profit organization and providing social services.

Director Allen commented on the lack of social services; inquired whether BART records the service contacts made with the target populations and staffing; requested that staff provide budget information regarding progressive policing; and commented that BART should utilize what has been established to address any social services or issues and focus more on transit operational issues.

Director Saltzman expressed support for a non-profit organization and addressing the homelessness issues.

Director Foley commented on the large scale of social issues and the need to collaborate with other partners at the county, state, and federal levels.

Director Dufty, Chairperson of the Administration Committee, brought the matter of Update on Racial Equity Initiatives before the Board. Maceo Wiggins, Director of the Office of Civil Rights; Joseph Towner, Manager of Program Planning Support; and Javieree Pruitt-Hill, Senior Administrative Analyst, presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Dufty commented on the importance of the work of the Office of Civil Rights.

Director Simon commented on her personal experiences with racism, inequality, and inequity and the importance of creating a workplace where individuals are seen, heard, and respected.

Director Allen exited the Meeting.

Director Foley commended the increased awareness of diversity in politics, the workplace, and the community.

President Li expressed her support for the Racial Equity Initiatives.

Director McPartland commended staff's work on promoting racial equity.

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

Directors Saltzman and Simon requested that the Meeting be adjourned in honor of Quentin Williams, Connecticut State Representative.

President Li expressed condolences on the passing of Quentin Williams.

Director Foley thanked Information Technology (IT) staff for their assistance; reported that he had attended the Contra Costa County Transportation Authority Board meeting, a meeting with the new Chief Executive Officer (CEO) of Tri-Delta Transit, and meetings with the Concord City Council regarding the Concord Naval Weapons Station term sheet and the North Concord/Martinez BART Station.

Director Dufty inquired about the purchase of vehicles of the progressive policing program.

Director Raburn reported that he had continued to follow the election transitions; attended the Hayward Area Recreation and Park District Board meeting; and celebrated with the new City of Oakland Mayor, Sheng Thao.

President Li called for Public Comment on the Closed Session items, Items 12-A (Conference with Legal Counsel – Existing Litigation) and 12-B (Public Employment). No comments were received.

President Li announced that the Board would enter into closed session under Items 12-A and 12-B 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 1:18 p.m.

The Board reconvened in closed session at 1:24 p.m.

Directors Present in Oakland: Directors Dufty, Foley, Raburn, Saltzman, and Li.

Directors Present via Teleconference: Directors Allen and McPartland.

Absent: None. Directors Ames and Simon entered the Meeting later.

Director Ames entered the Meeting in Oakland.

Director Simon entered the Meeting in Oakland.

Director Simon exited the Meeting.

The Board Meeting recessed at approximately 2:25 p.m.

The Board reconvened in open session at 2:26 p.m.

Directors Present in Oakland: Directors Ames, Dufty, and Li.

Directors Present via Teleconference: None.

Absent: Directors Allen, Foley, McPartland, Raburn, Saltzman, and Simon.

President Li announced that the Board had concluded its closed session under Items 12-A and 12-B and that there were no announcements to be made.

The Meeting adjourned at 2:26 p.m. in honor of Quentin Williams.

April B. A. Quintanilla
District Secretary

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

STANDING COMMITTEES

ADMINISTRATION**	
Bevan Dufty	Chairperson
Robert Raburn	Vice Chairperson
Debora Allen	

ENGINEERING & OPERATIONS**	
Mark Foley	Chairperson
Lateefah Simon	Vice Chairperson
Robert Raburn	

PLANNING, PUBLIC AFFAIRS, ACCESS & LEGISLATION**	
Rebecca Saltzman	Chairperson
John McPartland	Vice Chairperson
Elizabeth Ames	

AUDIT**	
Bevan Dufty	Chairperson
Mark Foley	Vice Chairperson
Debora Allen	

SPECIAL COMMITTEES

LABOR NEGOTIATIONS REVIEW**	
Lateefah Simon	Chairperson
Mark Foley	Vice Chairperson
Janice Li	

PERSONNEL REVIEW**	
Janice Li	Chairperson
Rebecca Saltzman	Vice Chairperson
Mark Foley	

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY PARTNERSHIP**	
Elizabeth Ames	
Robert Raburn	
Janice Li	
Bevan Dufty	
John McPartland	Alternate

AD HOC COMMITTEE

FINANCIAL STRUCTURE**	
Lateefah Simon	Chairperson
Rebecca Saltzman	Vice Chairperson
Debora Allen	
Bevan Dufty	

**Brown Act Committee, subject to public meeting requirements

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

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

Ratified 01/12/2023

SPECIAL APPOINTMENTS - LIAISON

CONTRA COSTA TRANSPORTATION AUTHORITY**	
Mark Foley	Primary
Debora Allen	Alternate

PARATRANSIT SERVICE REVIEW ADVISORY COMMITTEE	
Lateefah Simon	
Robert Raburn	

SAN FRANCISCO TRANSPORTATION AUTHORITY**	
Janice Li	Primary
Bevan Dufty	Alternate

SPECIAL APPOINTMENTS - EXTERNAL

ALAMEDA COUNTY TRANSPORTATION COMMISSION**	
Rebecca Saltzman	Primary
John McPartland	Alternate

ALTERNATE REPRESENTATIVE TO THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION BOARD OF DIRECTORS	
Lateefah Simon	

BART AND AC TRANSIT COORDINATION COMMITTEE**	
Robert Raburn	Co-Chairperson
Rebecca Saltzman	
John McPartland	

CAPITOL CORRIDOR JOINT POWERS BOARD***	
John McPartland	Alameda
Robert Raburn	Alameda
Debora Allen	Contra Costa
Rebecca Saltzman	Contra Costa
Bevan Dufty	San Francisco
Janice Li	San Francisco

DIRIDON STATION AREA JOINT POLICY ADVISORY BOARD***	
Robert Raburn	

INNOVATE 680 POLICY ADVISORY COMMITTEE**	
Debora Allen	

THE OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE OVERSIGHT BOARD ***	
Janice Li	

PLEASANT HILL BART STATION LEASING AUTHORITY BOARD OF DIRECTORS***	
Debora Allen	
Mark Foley	

TRI-VALLEY – SAN JOAQUIN REGIONAL RAIL AUTHORITY***	
John McPartland	

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE**	
Rebecca Saltzman	Primary
Mark Foley	Alternate

**Brown Act Committee, subject to public meeting requirements

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

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Ratified 01/12/2023



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: Approve and forward to Board of Directors		
DATE: 3/8/2023 3/15/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Rob Jaques Dept: Grants & Funding Advocacy <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Rob Jaques</i> E26F20BB2BBA4D2... </div> Signature/Date: <div style="text-align: right;">3/14/2023</div>	General Counsel <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Jana Belan</i> F8FD7B3A73E74E8... </div> <div style="text-align: right;">3/14/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Todd Morgan</i> 701F6C4C0ABE4A8... </div> <div style="text-align: right;">3/14/2023 []</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> <div style="text-align: right;">3/15/2023 []</div>

RESOLUTION OF LOCAL SUPPORT TO APPLY TO MTC FOR OBAG 3 FUNDS

PURPOSE:

To request that the Board of Directors adopt a Resolution of Local Support for OBAG 3 funds for the Elevator Modernization Project, Phase 1.3.

DISCUSSION:

In June 2022, BART applied to the San Francisco County Transportation Authority (SFCTA) for One Bay Area Grant Cycle 3 (OBAG 3) funding for the Elevator Modernization Project, Phase 1.3 (the Project). In September 2022, SFCTA recommended to the Metropolitan Transportation Commission (MTC) that the project be programmed \$13.3 million in requested funds, which MTC took action to approve in January 2023. The OBAG 3 program requires a Resolution of Local Support authorizing BART to apply to MTC for the discretionary funding and to commit to implement the project before funds can be obligated.

The project will modernize eight elevators at five stations in San Francisco along the M-line: Embarcadero, Montgomery Street, Powell Street, Civic Center/UN Plaza, and Glen Park Stations. Over the last several years, BART has been working to accomplish several critical elevator improvements. These improvements include replacing flooring in all passenger elevators throughout the system to make them safer and easier to clean, upgrading protective material at the sides of the elevators to prevent liquid from flowing under the sub-floor and damaging elevator equipment and causing odor, and replacing all elevator emergency call boxes.

The Project location includes all four downtown shared BART/Muni Stations and Glen Park Station. The downtown stations are some of the busiest stations of the BART system as

they are in the heart of the City's shopping, hotel, restaurants, and employment areas. The project will increase the reliability of the elevators and improve the look and feel of the station and elevators. These improvements will improve customers' experience as they navigate the station to and/or from desired destinations. These improvements will be especially beneficial to community members with mobility limitations that rely on gaining access to the transportation system and traversing the station levels using an elevator.

FISCAL IMPACT:

Approval of this Resolution of Local Support for MTC Discretionary Funding is required for the District to receive the \$13.3 million in OBAG 3 funding for the Project. MTC requires a minimum local match of 11.47% for these funds. The combination of other grants and BART funds account for 69%, which exceeds the requirement. BART will leverage the following other funding to deliver the project:

- \$1.29 million Proposition K funds administered by SFCTA
- \$3.44 million Proposition AA funds administered by SFCTA
- \$8.43 million funding from San Francisco Municipal Transportation Agency (SFMTA)
- \$2.81 million Federal Transit Administration (FTA) Section 5337 State of Good Repair Formula Program Funds
- \$3.29 million BART funding, including \$1.5 million of Measure RR.

The total Project cost is estimated at \$42.9 million. This action will have no fiscal impact on unprogrammed District Reserves.

ALTERNATIVES:

Do not approve the Resolution of Local Support. BART would not be able to access the \$13.3 million in OBAG 3 funding.

RECOMMENDATION:

Adopt the following motion.

MOTION:

The BART Board of Directors approves the attached Resolution of Local Support for \$13.3 million of OBAG 3 funds for the Elevator Modernization Project, Phase 1.3.

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

**In the Matter of Adoption of a
Resolution of Local Support for the
One Bay Area Grant Program, Cycle 3
for the BART Elevator Modernization
Project, Phase 1.3**

Resolution No. _____

**Authorizing the filing of an application for funding assigned to MTC and
committing any necessary matching funds and stating assurance to complete the project**

WHEREAS, the San Francisco Bay Area Rapid Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$13,300,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Elevator Modernization Project, Phase 1.3 (herein referred to as PROJECT) for the One Bay Area Grant Program, Cycle 3 (herein referred to as PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY

FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and
- in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and
- in the case of a highway project, the PROJECT will comply with MTC Resolution No. 4104, which sets forth MTC's Traffic Operations System (TOS) Policy to install and activate TOS elements on new major freeway projects; and
- in the case of an RTIP project, state law requires PROJECT be included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and

WHEREAS, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to APPLICANT making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and be it further

RESOLVED that APPLICANT will provide any required matching funds; and be it further

RESOLVED that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

RESOLVED that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be it further

RESOLVED that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it further

RESOLVED that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and be it further

RESOLVED that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it further

RESOLVED that, in the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and be it further

RESOLVED that, in the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and be it further

RESOLVED that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and be it further

RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

Adopted: _____



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: No		
DATE: 3/13/2023 3/15/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Lisa Raffetto Dept: Financial Planning <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Lisa Raffetto</i> <small>CD29EF887A794D4...</small> </div> Signature/Date: <div style="text-align: right;">3/14/2023</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> <div style="text-align: right;">3/14/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> <div style="text-align: right;">3/14/2023 []</div>	District Secretary <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> <div style="text-align: right;">3/14/2023 []</div>

Resolution authorizing MTC's encumbrance of STA funds for implementation of the Transit Transformation Action Plan

PURPOSE:

To obtain Board authorization to encumber Revenue-based State Transit Assistance funds in exchange for American Rescue Plan funding to support implementing the Regional Transit Transformation Action Plan.

DISCUSSION:

In 2020, the general managers of Bay Area transit agencies, including BART, participated in the Metropolitan Transportation Commission (MTC)-convened Blue Ribbon Transit Recovery Task Force to respond to the disruption in transit service and transit ridership caused by the COVID-19 pandemic. After in-depth study and stakeholder engagement, the Task Force developed and endorsed the Regional Transit Transformation Action Plan (Action Plan) in July 2021, which identifies near-term actions needed to achieve a more connected, efficient, and user-focused mobility network across the Bay Area and beyond.

To fund the Action Plan, MTC approved an American Rescue Plan (ARP) funding distribution policy in MTC Resolution No. 4481, which identified that a minimum of \$85 million in ARP funds “should support the implementation of certain recommendations from the Blue Ribbon Transit Recovery Task Force”. To best position Bay Area transit operators to compete for additional FTA discretionary financial assistance, MTC distributed the reserved \$85 million in ARP funds to transit operators, including BART, and in return transit operators agreed to collectively provide an equivalent amount in alternate near-term revenue

sources to implement the Action Plan and recommendations from the Task Force. To that end, BART agreed and MTC has programmed \$30,908,967 of the \$85 million in the ARP originally intended to support the implementation of the Action Plan to BART. BART will fulfill a portion of its obligation to provide \$30,908,967 to MTC by providing \$30,057,637 of BART's Revenue-based State Transit Assistance (STA). MTC will facilitate the transfer of the remaining \$851,330 balance of the funding commitment through the FY 2022-23 Fund Estimate, MTC Resolution No. 4504 and/or the Transit Capital Priority Program, MTC Resolution No. 4510, or successor resolutions.

MTC has allocated \$51,166,528 to BART in FY 2022-23 Revenue-based STA through the FY 2022-23 Fund Estimate, MTC Resolution No. 4504 in conformance with PUC Sections 99312.2 and 99314.3. BART desires to fulfill its funding commitment to implement the Action Plan by directly encumbering \$30,057,637 in FY 2022-23 and FY 2023-24 Revenue-based STA to MTC, or \$15,028,818.50 per year.

FISCAL IMPACT:

There is no fiscal impact; this approval of this Motion allows BART to exchange STA funding for ARP funding. This action is not anticipated to have any impact on unprogrammed District reserves.

ALTERNATIVES:

Do not approve the following motion, which would limit BART's financial flexibility.

RECOMMENDATION:

Approval of the following Motion.

MOTION:

The BART Board of Directors approves encumbrance of \$30,057,637 in Revenue-based State Transit Assistance (STA) to MTC to support implementation of MTC implementation of the Action Plan.

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

**In the Matter of Authorizing MTC's
Encumbrance of Revenue-Based State Transit
Assistance Funds to Support Implementation
of the Transit Transformation Action Plan**

Resolution No. _____

WHEREAS, MTC convened the Blue Ribbon Transit Recovery Task Force (Task Force) to respond to the disruption in transit service and transit ridership as a result of the COVID-19 pandemic; and

WHEREAS, the San Francisco Bay Area Rapid Transit District (BART or the District) had a representative on the Blue Ribbon Transit Recovery Task Force (Task Force) convened by the Metropolitan Transportation Commission (MTC); and

WHEREAS, the Task Force developed and endorsed the Transit Transformation Action Plan (Action Plan) in July 2021; and

WHEREAS, the Action Plan identifies near-term actions needed to achieve a more connected, efficient, and user-focused mobility network across the Bay Area and beyond; and

WHEREAS, the American Rescue Plan Act of 2021 (ARP) (H.R. 1319) was signed into law in response to the nationwide Coronavirus pandemic and provides supplemental appropriations for Emergency Transit Operations Assistance through the Federal Transit Administration (FTA) Section 5307 Urbanized Area and Section 5311 Rural Area formula programs; and

WHEREAS, MTC approved an ARP funding distribution policy in MTC Resolution No. 4481, which identified that a minimum of \$85 million in ARP funds “should support the implementation of certain recommendations from the Blue Ribbon Transit Recovery Task Force”; and

WHEREAS, to best position Bay Area transit operators to compete for additional FTA discretionary financial assistance, MTC distributed the reserved \$85 million in ARP funds to transit operators, including BART, and in return transit operators agreed to collectively provide an equivalent amount in alternate near-term revenue sources to implement the Action Plan and recommendations from the Task Force; and

WHEREAS, MTC has programmed \$30,908,967 of the \$85 million in ARP originally intended to support the implementation of the Action Plan to BART; and

WHEREAS, BART has agreed to provide \$30,908,967 to MTC in alternative near-term funding to support implementation of the Action Plan; and

WHEREAS, BART will fulfill a portion of its obligation to provide \$30,908,967 to MTC by providing \$30,057,637 of BART's Revenue-based State Transit Assistance (STA); and

WHEREAS, MTC is the implementing agency for the Action Plan; and

WHEREAS, MTC will facilitate the transfer of the balance of the funding commitment through the FY 2022-23 Fund Estimate, MTC Resolution No. 4504 and/or the Transit Capital Priority Program, MTC Resolution No. 4510, or successor resolutions, as the case may be; and

WHEREAS, MTC has allocated \$51,166,528 to BART in FY 2022-23 Revenue-based STA through the FY 2022-23 Fund Estimate, MTC Resolution No. 4504 in conformance with PUC Sections 99312.2 and 99314.3; and

WHEREAS, BART desires to fulfill its funding commitment to implement the Action Plan by directly encumbering \$30,057,637 in FY 2022-23 and FY 2023-24 Revenue-based STA to MTC, or \$15,028,818.50 per year;

Now therefore be it

RESOLVED, that BART requests that MTC encumber \$30,057,637 in Revenue-based State Transit Assistance (STA) to MTC to support implementation of the Action Plan; and be it further

RESOLVED, that encumbrance of \$30,057,637 in Revenue-based STA will allow for the disbursement and payment of \$30,057,637 to MTC to implement the Action Plan.



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: 1/18/2023 3/15/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Johanna Montilla Dept: Telecommunications Program <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Travis Engstrom</i> <small>DA1FD220BBD5468...</small> </div> Signature/Date: 3/15/2023	General Counsel <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Jeanne Belan</i> <small>F8FD7B3A73E74E8...</small> </div> Signature/Date: 3/15/2023	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> Signature/Date: 3/15/2023	District Secretary 	BARC <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Pamela Herhold</i> <small>3BB24D65B8724F5...</small> </div> Signature/Date: 3/15/2023

Software License Renewal: BART Police Department, 911 Dispatch System

PURPOSE:

To request Board authorization for the General Manager to extend the software license support contract 79HP-120 for five (5) years with TriTech Software Systems in an amount not to exceed \$1,872,464.94.

DISCUSSION:

In 2009, the District initiated a project to upgrade the BART Police Department's (BPD's) 911 Computer Aided Dispatch (CAD) software suite under a series of projects funded primarily by the Department of Homeland Security and jointly referred to as BART's Critical Infrastructure Hardening Program.

The resulting platform of Computer Aided 911 Dispatch software, Police Records Management software, and Mobile Police Data Systems software has been in use by BPD since 2013 as the primary tool for responding to calls for service, dispatching officers, and creating police reports.

In 2013, after a competitive procurement, the Board authorized a contract with TriTech Software Systems for software implementation and support. The contract included two (2) years of implementation and five (5) years of software support. The support expired in 2020, and the contract was extended in 2020 for three (3) years, expiring in April 2023.

The District is now seeking Board authorization to extend our existing software support agreement for an additional five (5) years. The proposed five (5) year software support agreement will provide the District with continued software support for the BART Police Department's existing Dispatch and Records Management Systems.

Pursuant to the District's Non-Federal Small Business Program, the District conducted an analysis and determined that there are no certified Small Businesses certified by the California Department of General Services available for proposing this Agreement. Therefore, no Small Business Prime Preference was set for this Agreement.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Agreement are 5.5% for MBEs and 2.8% for WBEs. TriTech Software Systems 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.

FISCAL IMPACT:

The proposed agreement is for a five (5) year contract at a total cost of \$1,872,464.94.

Payment for this contract will be made from the District's General fund and expenses will be allocated over the life of the agreement to the Office of the Chief Information Officer operating budget (Dept 0504463, Account 681355) as follows:

Proposed Funding	
FY23	\$371,091.07
FY24	\$370,067.65
FY25	\$372,757.73
FY26	\$375,145.61
FY27	\$383,402.88
Total	\$1,872,464.94
<i>*Funding is expected to begin 4/18/2023.</i>	

\$340,360 in funding is included in the Adopted FY23 and FY24 budgets. The increase of \$30,731 is unbudgeted and will be included in the FY24 and FY25 Preliminary Budget, which is subject to Board approval.

This action is not anticipated to have any Fiscal Impact on un-programmed District Reserves

in the current Fiscal Year.

ALTERNATIVES:

Decline to extend the Agreement and seek alternative proposals. TriTech Software Systems is the sole developer and seller of the TriTech Public Safety software system. There are no other vendors, developers, or resellers capable of offering 24x7 software support, upgrades, patches or related services. Because of the proprietary nature of the software, it would be cost prohibitive for another service provider to be trained by TriTech. This would result in a much higher cost and have a negative impact on police response to calls for service.

RECOMMENDATION:

It is recommended that the Board approve the following motion:

MOTION:

The General Manager or his designee is authorized to extend the software license support contract 79HP-120 for an additional five (5) years with TriTech Software Systems in an amount not to exceed \$1,872,464.94 for dispatch and records management software support.



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: 12/16/2019 3/15/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Sam Le Dept: Transportation <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <small>AB9838B3A59244E...</small> </div> Signature/Date: <div style="text-align: right;">3/14/2023</div>	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> <div style="text-align: right;">3/14/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> <div style="text-align: right;">3/14/2023 []</div>	District Secretary <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> <div style="text-align: right;">3/14/2023 []</div>

Train Simulator Upgrades

PURPOSE:

To request Board authorization to negotiate and execute a five (5) year sole source agreement with CORYS in the amount not to exceed \$902,090.00 to purchase major software updates and other needed enhancements in accordance with Public Contract Code Section 20227. Two-thirds vote required.

DISCUSSION:

The Transportation Department holds Train Operator classes at its training facility located in the Hayward Yard, and uses a CORYS Train Simulator System. This system mirrors what a Train Operator will see in an actual train cab. The simulator was installed in December of 2016, as part of the Fleet of the Future Project. Since then, the system has been used extensively by the training department, for both New Car Training and Train Operator certification classes.

The simulator has markedly improved the amount of time students can practice operating a District train. For example, trainee's mainline practice has increased from nine (9) hours to forty (40) hours. The most notable improvement is seen on the first days a newly certified train operator is out on a mainline - a drop of more than eighty percent (80%) in delays related to new operators in their early days of operations.

In December 2019, CORYS completed the simulator project, providing needed improvement to the system. The training department worked with CORYS to make the simulators more closely mirror mainline operations at BART. However, the original computer

generated imagery (CGI) did not have all BART's trackage, approximately 75%, and does not have the extension to Berryessa (SVBX). This limits the training department's ability to create the most accurate simulations possible.

This Procurement is for the following:

1. Equipment for Cab and Desk Simulators (\$192,750.00):

The procurement involves the replacement and purchase of specialized computers configured and installed with proprietary CORYS software and Microsoft Windows 11 operating system software to support each of the cab and desk simulators. This consists of computers for 13 desk train simulators (12 desk simulators and 1 spare simulator), and 11 cab simulators (7 cab simulators, 3 instructor stations, and 1 spare).

2. CGI Upgrades (\$365,880):

The upgrades include A thru E.

- Upgrade A - Modify Emergency Exits (\$26,260.00)
 - Changes appearance of simulated Transbay Tube Emergency Exits.
- Upgrade B - eBART Transfer Platform Options (\$35,460.00)
 - Will add the Antioch transfer platform, and the Level 1 upgrade will allow for the simulations to include a moving E-BART train.
- Upgrade C - Blue Line Extension - Dublin/Pleasanton (\$89,200.00)
 - Will provide the rest of the Blue Line to Dublin, allowing the simulations to include the mainline activities specific to that location.
- Upgrade D - Green Line Extension - Fremont (\$85,650.00)
 - Will extend Green Line to Fremont, and as a bonus, has 8 transfer tracks in the Hayward Yard. With the additional tracks that connect North and South Transfers, simulations can be added that replicate operations from that Yard.
- Upgrade E - Green Line Extension - Berryessa (\$129,310.00)
 - Berryessa extension, which will include Warm Springs, and will allow simulations to include those locations.
 - Upgrade D is needed to install Upgrade E.

3. Simulator Enhancements (\$45,010.00):

There are 3 Simulator Enhancements that are additions to the current system - Play List, Computer Based Learning, and Remote Instructor Tablet.

- Play List feature will allow simulations to be launched in sequence, such as a train being misrouted at key points along the line, or a train turning back mid-route.
- Computer Based Learning, which allows test questions to be generated while a train is traversing the system, such as, what is the next station, interlocking or gate.
- Remote Instructor Tablets allows the instructor to coach and interact with the student in or near the simulator.

4. Simulator Maintenance Service (\$298,450.00):

Following the original warranty period, BART entered into a maintenance agreement with CORYS to support the simulator system. CORYS has provided critical troubleshooting, overnight drop ship of parts, replenishment of on-hand spares, and certain requested updates.

Pursuant to Public Contract Code Section 20227, the Board may direct the purchase of any supply, equipment, or material without observance of competitive bidding upon a finding by two-thirds of all members of the Board that there is only a single source of procurement and that the purchase is for the sole purpose of duplicating or replacing equipment currently in use. Here, the proposed purchase of upgrades and enhancements from CORYS is intended to replace and supplement portions of the desk simulators already in place at the Hayward Yard, in order to provide a seamless training experience for District staff. Thus, this purchase is a permissible single source purchase under Section 20227.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights reviewed the scope of work for this Sole Source procurement and determined that there were no LSB subcontracting opportunities; therefore, no LSB prime preference was set for this procurement.

Vendor CORYS 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.

FISCAL IMPACT:

The EDD proposes a total cost of \$902,090.00.

Funds will be budgeted using Operating to Capital Allocation for years FY23 and part of FY24 in the Transportation operating budget (Cost Center #0805763 - Transportation Operations Support and Review, Account 681300 - Professional & Technical Services) as follows:

Proposed Funding:

FY23	\$45,010.00	Simulator Enhancement	FY23 Operating to Capital Allocation
FY24	\$92,750.00	Equipment for Cab/Desk Simulators	FY24 Operating to Capital Allocation
	\$365,880.00	CGI Upgrades	FY24 Operating to Capital Allocation
	<u>\$54,480.00</u>	Maintenance costs	Operating
	\$612,110.00		
FY25	\$56,420.00	Maintenance costs	Operating
FY26	\$59,520.00	Maintenance costs	Operating
FY27	\$62,790.00	Maintenance costs	Operating
FY28	\$66,240.00	Maintenance costs	Operating
Total	\$902,090.00		

Funding for Simulator Enhancement in FY23 will be coming from FY23 Operating to Capital Allocation. Funding for subsequent years will be included in the proposed annual operating budget and Operating to Capital Allocation, which is subject to Board approval.

Fiscal Year 2025 through 2028 is funding for annual maintenance service.

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

ALTERNATIVES:

Holding a competitive bidding process will generate long lead times, thus jeopardizing the training program on an already aging and outdated system, not optimizing or delaying the user experience for train operators, and not meeting the schedule demands.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

Pursuant to Public Contract Code Section 20227, the District finds that CORYS is the single source of supply for the replacement and duplication of train desk simulators in use throughout the District.

To that end, the General Manager is authorized to negotiate and execute a five (5) year agreement with CORYS in an amount not to exceed \$902,090.00 to procure software upgrades, and enhancements for the train simulators.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="float: right; text-align: right;"> <small>DocuSigned by:</small> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D: No		
DATE: 9/14/2022 10/5/2022		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Adam Elsibai Dept: M&E Acquisition Support <small>DocuSigned by:</small> <small>E8465F291889471...</small> Signature/Date: <div style="text-align: right;">9/30/2022</div>	General Counsel <small>DocuSigned by:</small> <small>F8FD7B3A73E74E8...</small> <div style="text-align: right;">9/30/2022 []</div>	Controller/Treasurer <small>DocuSigned by:</small> <small>EE11C8CEEEA04FD...</small> <div style="text-align: right;">9/30/2022 []</div>	District Secretary <div style="text-align: right;">[]</div>	BARC <small>DocuSigned by:</small> <small>8128A2EB2F014F3...</small> <div style="text-align: right;">9/30/2022 []</div>

Award of Agreement No. 6M3566 for on-call graffiti removal - Systemwide

PURPOSE:

To authorize the General Manager to award Agreement No. 6M3566 to furnish all labor, material, and equipment needed to provide systematic inspection and removal of graffiti for all District stations and facilities to Impec Group, Inc. of Santa Clara, California.

DISCUSSION:

Graffiti removal services are required to maintain the BART assets that are subject to vandalism, such as passenger stations, parking garages, signage, intermodal structures, and maintenance shops. The services proposed under this Agreement will be provided on an as-needed basis for a base term of three (3) years, with options to renew for two (2) additional one (1) year periods.

An electronic copy of the Request for Proposal ("RFP") was posted to the District's Procurement Portal on May 26, 2022, and distributed to all registered vendors and all known potential proposers. This included thirty-nine (39) prospective firms and two hundred fifty-eight (258) certified Small Businesses. The RFP was also advertised in ten (10) local publications on June 1, 2022. The RFP was eventually downloaded by twenty-two (22) interested firms. A pre-proposal meeting was held on June 16, 2022, with eight (8) prospective firms in attendance. On July 12, 2022, the District received three (3) proposals.

	PROPOSER
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CONTRACT TERM	IMPEC GROUP	AIM TO PLEASE JANITORIAL SERVICES	PUMA POWER WASH
BASE TERM (3 Years)	\$2,419,065.00	\$3,987,000.00	\$4,523,400.00
OPTION Year 1	\$886,991.90	\$1,419,000.00	\$1,507,800.00
OPTION Year 2	\$886,991.90	\$1,419,000.00	\$1,507,800.00
TOTAL (5 Years)	\$4,193,048.80	\$6,825,000.00	\$7,539,000.00

The proposals were evaluated by a Source Selection Committee composed of representatives from Maintenance & Engineering, Office of Civil Rights, and Contract Administration. One firm submitted a technical proposal that did not meet the minimum technical requirements rendering their submittal non-responsive. The other two (2) firms, Impec Group and Puma Power Wash submitted responsive proposals.

Based on the advertised RFP's evaluation criteria, the Committee determined that the proposal submitted by Impec Group is the lowest priced technically acceptable proposal. Examination of the proposer's business experience and financial capabilities has resulted in a determination that the proposer is responsible and that the \$4,193,048.80 total price submitted by Impec Group is fair and reasonable based on adequate price competition.

Staff's cost estimate of \$4,294,458 confirms the lowest bid is fair and reasonable.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Agreement for Small Businesses certified by the California Department of General Services. The apparent low Proposer, Impec Group, is not a certified Small Business and, therefore, is not eligible for the 5% Small Business Prime Preference. The apparent second low Proposer, Puma Power Wash, is a certified Small Business, making it eligible for the 5% Small Business Prime Preference for this Agreement for evaluation purposes. After review by the Office of Civil Rights, and application of the 5% Small Business Prime Preferences, Impec Group remains the lowest responsive Proposer.

Pursuant to the District's Non-Discrimination for Subcontracting Program, the Availability Percentages for this Agreement are 5.5% for Minority Business Enterprises ("MBE") and 2.8% for Women Business Enterprises ("WBE"s). Impec Group 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.

FISCAL IMPACT:

District expenditures for this contract are estimated as follows:

Proposed Budget	
FY23	\$806,355.00
FY24	\$806,355.00
FY25	\$806,355.00
FY26	\$886,991.90
FY27	\$886,991.90
TOTAL	\$4,193,048.80

This agreement is funded through the Operating Budget, in Department #0805781 (System Service Administration), Account #680210. This agreement will replace an expiring agreement for the same services, which was awarded in FY18. That agreement had a total 5-year value of \$3,643,541; the proposed agreement will represent a \$549,507.80 total cost increase over 5 years. This increase is attributable to labor and material costs increases that have occurred since an agreement for this work was last awarded in 2018.

The Adopted FY23 & FY24 Operating Budget anticipated an increase in the cost of this service, so this agreement will not generate a variance compared to budgeted levels in the Adopted FY23 & FY24 Operating Budget. Funding for the final three (3) years of this agreement is included in the District's projections.

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

ALTERNATIVES:

To not award this Agreement would leave the District facilities without graffiti removal services.

RECOMMENDATION:

On the basis of analysis and evaluation by Staff, it is recommended that the Board adopt the following motion.

MOTION:

The General Manager is authorized to award Agreement No. 6M3566, in the not-to-exceed amount of \$4,193,048.80, to furnish all labor, material, and equipment to provide systematic inspection and removal of graffiti for all District stations and facilities to Impec Group ("Impec") of Santa Clara, California, subject to compliance with the District's protest procedures.



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: 12/19/2022 3/15/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Michael Gerbracht Dept: Strategic Engineering <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Michael Gerbracht</i> <small>09289FE4E24436...</small> </div> Signature/Date: 3/14/2023	General Counsel <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Jana Belan</i> <small>F8FD7B3A73E74E8...</small> </div> Signature/Date: 3/14/2023	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> Signature/Date: 3/14/2023	District Secretary <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Shane Edwards</i> <small>8128A2EB2F014F3...</small> </div> Signature/Date: 3/14/2023	BARC <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <small>DocuSigned by:</small> <i>Shane Edwards</i> <small>8128A2EB2F014F3...</small> </div> Signature/Date: 3/14/2023

Overhaul of Wheel Truing Machines at Richmond and Daly City Yards

PURPOSE:

To obtain Board Authorization, in accordance with Public Contract Code Section 20227, to negotiate and execute a sole source Contract with NSH USA Stanray (previously Simmons Machine Tool Corp.) for Equipment and Services to overhaul automatic controls for Wheel Truing Machines (WTM) at the Richmond Yard and Daly City Yards, two thirds vote required.

DISCUSSION:

This procurement is for the overhaul of two (2) wheel truing machines, one (1) at Richmond Yard and one (1) at Daly City Yard. The equipment is essential to the maintenance of revenue vehicles as the existing controls are outdated and frequently shut down unexpectedly due to the age of the equipment. The procurement contract will replace the existing automatic controls with new modern equipment and make other repairs. The control stations will be overhauled with new compact Windows 10 based computers, new programable logic controllers, new hardware, and new user interfaces. The work will take approximately one year.

The Wheel Truing Machines are critical to BART operations. Without them, defective wheels cannot be reprofiled and railcars must remain out of service until the defective conditions can be corrected. If the machines are not updated properly and shut down, BART Rolling Stock and Shops will be required to perform an axle changeout and remove the wheel from the axle and press on a new one. With the machines operating properly, wheels can be trued

easily on the railcars.

It has been determined by staff that an overhaul of these machines will not only extend their life but will also upgrade their functionality in order to support changing technologies. The overhaul can only be done by the original equipment manufacturer (OEM) who can upgrade the equipment in the most effective, time efficient, and safest way.

Location	Bid Price/Estimate	Total Including Bond, Services, and Tax
Daly City Yard	\$270,479.00	\$ 273,979.00
Richmond Yard	\$259,812.00	\$ 263,312.00
Total for both locations	\$530,291.00	\$537,291.00
Engineer's Estimate (Two Sites)	\$600,000.00	\$608,000.00
Grand total with reserve (e.g. spare parts, freight)	\$44,000.00	\$652,000.00

Pursuant to Public Contract Code Section 20227, the Board may direct the purchase of any supply, equipment, or material without observance of competitive bidding upon a finding by two-thirds of all members of the Board that there is only a single source of procurement and that the purchase is for the sole purpose of duplicating or replacing equipment currently in use. In addition, Federal Transit Administration (FTA) Circular 4220.1F, Chapter VI, subparagraph 3.i(1)(b) states that a recipient of FTA funding can make a sole source award under certain circumstances, including "Unique or Innovative Concepts" or where "Patents, Copyrights, or Restricted Data Rights" would preclude competitive award to the recipient.

Here, the parts and services to overhaul the NSH USA Wheel Truing Machines are not available from another source because as the OEM, NSH USA is the only supplier that has the knowledge and expertise to perform the upgrade and replacement of the District's WTM controls. Because such equipment is proprietary to NSH USA, "Restricted Data Rights" would preclude competitive award to a firm other than NSH USA. Thus, a single source/sole source procurement from NSH USA would be justified under Section 20227 and the FTA Circular.

Pursuant to the District's Disadvantaged Business Enterprise ("DBE") Program, the Office of Civil Rights reviewed the scope of work for this Sole Source procurement and determined that there were no DBE subcontracting opportunities; therefore, no DBE participation goal was set for this procurement.

The Office of General Counsel will approve the Contract as to form. The Procurement Department will review the Contract to confirm compliance with the District's procurement standards.

FISCAL IMPACT:

Funding in the amount of \$652,000 for award of Contract No 15HB-203 is included in the total project budget for the Wheel Truing Machine Overhaul, Project Number 15HB003.

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

Fund	Fund Description	Source	Amount
3614	FTA 5337 CA-2022-200-00 SGR	FEDERAL	800,000
8536	FY 2022 Operating Cap Allocation	INTERNAL	200,000
		Total	\$1,000,000

As of November 22, 2022, \$1,000,000 is the total budget for this project. BART has expended \$0 committed \$0 and reserved \$0 to date. This action will commit \$652,000 leaving an available fund balance of \$348,000 in the fund sources for this project.

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

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

ALTERNATIVES:

The Board may elect not to authorize the procurement. In such a case, the District would have to solicit for this equipment in an advertised procurement. Choosing not to proceed with the current procurement will result in reduced and untimely maintenance, which may affect the reliability of the system and cause train delays impacting revenue service.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

Pursuant to California Public Contract Code Section 20227, the Board of Directors finds

that NSH USA Stanray is the sole source supplier for the purchase of Equipment and Services to overhaul the District's NSH USA Wheel Truing Machines at the Richmond and Daly City yards. The Board authorizes the General Manager to negotiate and execute a Sole Source Contract with NSH USA Stanray for an amount not to exceed \$652,000.

Two thirds vote required.



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: Approve and Send to Board		
DATE: 3/3/2023 3/15/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Linda Lee Dept: Strategic Engineering <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Linda Lee</i> <small>9FA454A5AF83469...</small> </div> Signature/Date: <div style="text-align: right;">3/13/2023</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> <div style="text-align: right;">3/13/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> <div style="text-align: right;">3/13/2023 []</div>	District Secretary <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> <div style="text-align: right;">3/13/2023 []</div>

Authorize the General Manager to Award Invitation for Bid No. 9116 for Contact Rail Assembly Parts

PURPOSE:

To request Board Authorization to Award Invitation for Bid (IFB) No. 9116 to Conductix, Inc., of Omaha, Nebraska, in the amount of \$1,800,033 (includes all applicable taxes) for the purchase of contact rail assembly parts.

DISCUSSION:

This Contract is for the procurement of contact rail assembly parts to be installed as part of the K Line Interlocking Replacement Project (Project). The Project will remove and replace the existing contact rail assembly parts that were installed as part of the initial BART system construction in the 1960s and 1970s. The existing infrastructure is showing signs of significant wear and needs replacement. This work will help ensure the long-term safety and reliability of the system and support increasing ridership.

A notice requesting Bids was published on September 15, 2022. On the same day, this solicitation was uploaded onto the BART Vendor Portal. Correspondence was sent to six (6) prospective bidders inviting them to view the solicitation on the Vendor Portal. A total of twelve (12) prospective Bidders downloaded the solicitation. Bids were opened on January 31, 2023, and two (2) Bids were received.

BIDDER	Unit Price	GRAND TOTAL (Includes all applicable taxes)
Conductix, Inc.	\$1,632,683	\$1,800,033
LB Foster	\$3,104,672	\$3,422,901
Engineer's Estimate	\$1,877.390	\$2,069,822

After review by District staff, the lowest Bid submitted by Conductix, Inc., was deemed responsive to the solicitation. Furthermore, a review of Conductix, Inc.'s license, business experience, and financial capabilities has resulted in a determination that Conductix, Inc. is a responsible Bidder. Staff has also determined that Conductix, Inc.'s total Bid price of \$1,800,033 is fair and reasonable based on the Engineer's Estimate.

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

CAPITAL FISCAL IMPACT:

Funding in the amount of \$1,800,033 for IFB No. 9116 is included in the total project budget for 15CQ008 – K Line Interlocking Replacement Project.

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

Proposed Funding	
F/G 802A - 2017 Measure RR GOB	\$536,640
F/G 802B - 2019 Measure RR GOB	6,004,901
F/G 802C - 2020 Measure RR GOB	4,801,510
F/G 802D - 2020 Measure RR GOB	120,832,036
TOTAL	\$132,175,087

As of February 24, 2023, \$132,175,087 is the total budget for this project. BART has expended \$13,053,278, committed \$3,245,664, and reserved \$9,135,071 to date. This action will commit \$1,800,033, leaving an available fund balance of \$104,941,041 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.

ALTERNATIVE:

The Board may elect to reject the Bid and re-advertise the work of this Contract. There is no assurance that re-advertising will increase the number of bidders or result in any lower Bids. Failure to proceed with the Contract would delay the interlocking replacement, which may affect the reliability of the system and cause train delays.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award IFB No. 9116 for the procurement of contact rail assembly parts to Conductix, Inc., of Omaha, Nebraska for the amount of \$1,800,033 (includes all applicable taxes), pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="float: right; text-align: right;"> <small>DocuSigned by:</small> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D: Approve and Send to Board		
DATE: 2/23/2022 3/15/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Reeg Dept: Strategic Engineering <div style="text-align: right;"> <small>DocuSigned by:</small> <small>70FAF7450BBS47E...</small> </div> Signature/Date: <div style="text-align: right;">3/13/2023</div>	General Counsel <div style="text-align: right;"> <small>DocuSigned by:</small> <small>F8FD7B3A73E74E8...</small> </div> Signature/Date: <div style="text-align: right;">3/13/2023 []</div>	Controller/Treasurer <div style="text-align: right;"> <small>DocuSigned by:</small> <small>701F6C4C0ABE4A8...</small> </div> Signature/Date: <div style="text-align: right;">3/13/2023 []</div>	District Secretary <div style="text-align: right;">[]</div>	BARC <div style="text-align: right;"> <small>DocuSigned by:</small> <small>8128A2EB2F014F3...</small> </div> Signature/Date: <div style="text-align: right;">3/13/2023 []</div>

Authorize the General Manager to Execute Change Orders to Contract No. 15CQ-120, Oakland Shops Geometry Vehicle Storage and Spur Track

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Orders to Contract No. 15CQ-120 Oakland Shops Geometry Vehicle Storage and Spur Track, in an amount not to exceed \$651,859.

DISCUSSION:

On May 28, 2020, the Board of Directors authorized the General Manager to award Contract No. 15CQ-120, Oakland Shops Geometry Vehicle Storage and Spur Track, to DMZ Builders, of Concord, in the amount of \$6,435,000. This Contract scope was for constructing a storage shed with an inspection pit to house BART's new state of the art rail geometry inspection vehicle (Geocar). It also renovated the Oakland Shops parking lot with new underground utilities, surface drainage, pavement, and striping.

Pursuant to Board Rule 5-2.3, Change Orders involving expenditures greater than 10% of the original contract price or \$200,000 require Board approval. Change orders totaling \$776,397 have been executed utilizing bid item allowances. Change orders totaling \$614,653 have been executed utilizing the General Manager's change order authority of 10% over the original Contract Price. Project staff has identified four change orders totaling \$651,859 that will exceed 10% of the original Contract Price.

These totals are summarized below:

Summary	Amount	% of Base Bid
Total Base Bid Amount	\$6,435,000.00	
Base Bid Allowance Change Orders	\$776,397	12%
Contingency Change Orders	\$614,653	10%
Potential Change Orders	\$651,859	10%
Forecast Contract Amount	\$7,701,512	

Following are the summary reasons for the pending change orders:

Change Order No.	Anticipated Cost	Work
No. 33	\$ 248,822	For added underground power and communications raceway work.
No. 35	\$ 118,426	For revised paving limits and striping at the Oakland Shops.
No. 38	\$ 89,730	For additions and modifications to the site's drainage system.
No. 49	\$ 194,881	For investigation of unknown existing communications and power cables.

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

FISCAL IMPACT:

Funding in the not to exceed amount of \$651,859 for the pending Change Orders to Contract 15CQ-120 Oakland Shops Geometry Vehicle Storage and Spur Track is included in the budget for project 15CQ007 Oakland Yard Tracks Project.

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

Proposed Funding

2017 Series A Measure RR GOB #1	\$219,721
2019 Series B Measure RR GOB #2	\$441,987
2020 Series C Measure RR GOB #3	\$8,875,063
2022 Series D Measure RR GOB #4	\$4,453,882
TOTAL	\$13,990,653

As of February 08, 2023, \$13,990,653 is the total budget for this project. BART has expended \$11,168,029 committed \$603,378 and reserved \$174,867 to date. This action will commit \$651,859, leaving an available fund balance of \$1,392,520 in these fund sources for this Project.

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

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

ALTERNATIVES:

The Board could decline to proceed with the Change Orders, however, this could result in claims against the District.

RECOMMENDATION:

It is recommended that the Board approve the Motion:

MOTION:

The General Manager is authorized to execute Change Orders to Contract No. 15CQ-120 Oakland Shops Geometry Vehicle Storage and Spur Track, in an amount not to exceed \$651,859.



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: Authorize use of \$2.050M in Operating Funds to Procure Train Control Parts		
DATE: 12/5/2022 3/17/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: David Murphy Dept: Maintenance and Engineering <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>David Murphy</i> <small>965FCFB85375476...</small> </div> Signature/Date: <div style="text-align: right;">3/15/2023</div>	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> <div style="text-align: right;">3/15/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> <div style="text-align: right;">3/16/2023 []</div>	District Secretary <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> <div style="text-align: right;">3/16/2023 []</div>

Train Control Vital Interlocking Processor Spare Parts

PURPOSE:

To seek Board authorization to negotiate and enter into a single source procurement, pursuant to Public Contract Code Section 20227, with Alstom Signaling Operations, LLC for the purchase of remaining end-of-life Vital Processor Interlocking (VPI) train control parts in an amount not to exceed \$2,050,000. Two-thirds vote required.

DISCUSSION:

On September 8, 2022 Alstom informed Train Control Engineering that it will be moving their VPI train control parts from retired status to discontinued status and that, at some point within the next 6 to 12 months, it would no longer take any new orders for these parts. VPI parts are critical to the District's train control system as they are present in approximately 80 percent of its train control sites and serve to control train movements through interlockings and into stations. Other railroad properties around the world that rely on Alstom's VPI parts are now in a similar predicament and they too will be pursuing the limited number of VPI parts available for sale.

Without these parts, the ability of the Train Control Maintenance and Train Control Engineering departments to maintain the District's train control system in its current configuration could be significantly impacted. The total estimated cost to purchase the currently identified 158 VPI parts to support Train Control Maintenance's efforts to maintain the existing train control system until it is replaced by a communications-based train control system is \$2,050,000.

Public Contract Code Section 20227 authorizes the District to make a single source purchase of equipment upon a finding that the proposed supplier is the single source of supply for the duplication or replacement of equipment in use throughout the District. In addition, Federal Transit Administration (FTA) Circular 4220.1F, states that a recipient of FTA funding can make a sole source award under certain circumstances, including "Unique or Innovative Concepts" or where "Patents, Copyrights, or Restricted Data Rights" would preclude competitive award to the recipient. Here, Alstom is the manufacturer and only supplier of the VPI parts proposed for purchase for the duplication and replacement of VPI parts that are in use throughout the District. Because such equipment is proprietary to Alstom, "Restricted Data Rights" would preclude competitive award to a firm other than Alstom. Thus, Alstom is the single source of supply/sole source supplier under Section 20227 and the FTA Circular.

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

The Office of the General Counsel will approve as to form any agreement with Alstom.

FISCAL IMPACT:

Funding in the not to exceed amount of \$2,050,000 for the award of Base Contract number to be determined to Alstom Signaling Corporation, LLC is included in the budget for project 20LL008 Train Control Vital Interlocking (VPI) Spare Parts.

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

Proposed Funding		
Source	Description	Amount
BARTOAC	Operating to Capital Allocation – F/C 8537	\$2,050,000
	TOTAL	\$2,050,000

As of March 13, 2023, \$2,050,000.00 is the total budget for this project. BART has expended \$0.00 committed \$0.00 and reserved \$0.00 to date. This action will commit \$2,050,000, leaving an available fund balance of \$0.00 in these fund sources for this Project.

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

ALTERNATIVES:

Do not authorize the General Manager to negotiate and enter into an agreement with Alstom for VPI train control parts. This would lead to an increased risk of non-correctable train control system failures.

RECOMMENDATION:

Adopt the following motion.

MOTION:

Pursuant to Public Contract Code Section 20227, the Board finds that Alstom Signaling Operations, LLC is the single source of supply for the purchase of end-of-life Vital Processor Interlocking (VPI) train control parts in use throughout the District.

As such, the Board of Directors authorizes the General Manager to negotiate and execute a single source agreement with Alstom in an amount not to exceed \$2,050,000 for the purchase of the aforementioned parts.

Two-thirds vote required.



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: 3/17/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Tiffany Posey Dept: General Manager <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Tiffany Posey</i> <small>BBCFA2B30CB64E7...</small> </div> Signature/Date: <div style="text-align: right;">3/17/2023</div>	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> <div style="text-align: right;">3/17/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> <div style="text-align: right;">3/17/2023 []</div>	District Secretary <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> <div style="text-align: right;">3/17/2023 []</div>

2022 Annual Surveillance Report

PURPOSE:

Pursuant to the District's surveillance ordinance, staff must bring an annual report to the Board regarding the use of the approved surveillance technologies and request continued use of those technologies. This report is intended to allow the Board of Directors an opportunity to determine whether the benefits to the community of the surveillance technologies utilized at BART facilities outweigh the costs and that civil rights are appropriately safeguarded by the policies in place to use them.

DISCUSSION:

This Annual Surveillance Report covers the time period from July 1, 2021, through June 30, 2022. This report includes all surveillance technologies previously approved by the Board of Directors. It is important to note that BART has taken a community-based and collaborative approach with regard to policy development and implementation of surveillance technologies.

There are multiple guiding principles with respect to the use of District approved surveillance technologies. First and foremost is the decision to use the identified surveillance technology in a manner that should appropriately balance security and privacy interests. It shall not be used to harass, intimidate, or discriminate against any individual or group, and lastly, the technology shall not be used for immigration enforcement actions.

A key success in BART's implementation of its Surveillance Program has been community collaboration. In areas of the surveillance technology packages that were presented and approved by BART's Board of Directors, transparency and outreach to the community and privacy groups were essential.

The Surveillance Annual Report includes information on seven (7) specific surveillance technologies. One (1) technology, Trip Verification is being discontinued and is not being requested to be renewed.

1. BART Closed Circuit Television

Department: Maintenance & Engineering

ID Number: ME-BCCTV-SUP-01

Board Approved: October 2018

2. BART Public Emergency Phone Towers

Department: Maintenance & Engineering

ID Number: ME-BPEPT-SUP-01

Board Approved: October 2018

3. BART Mobile Applications & Related Modifications to BART.gov

Department: Office of the Chief Information Officer

ID Number: OCIO-BMAARMTB-SUP-01

Board Approved: October 2018

4. BART Automated License Plate Recognition (ALPR)

Department: BART Police Department

ID Number: BPD-ALPR-SUP-02

Board Approved: April 2019

5. BART Research Data Collection and Usage

Department: Marketing & Research

ID Number: OEA-BMRDDCU-SUP-06

Board Approved: March 2019

6. BART Trip Verification Technology

Department: Planning & Development

ID Number: PD-TVD-SUP-01

Board Approved: October 2019

7. BPD Body Worn Cameras

Department: BART Police Department

ID Number: BPD-BWC-SUP-01

Board Approved: August 2021

FISCAL IMPACT:

This item does not include requests for additional funding.

ALTERNATIVES:

The ordinance requires, based on the information included in the report, that BART's Board of Directors determine that the benefits to the community of the surveillance technologies discussed outweigh the costs involved in utilizing them and that civil liberties and civil rights have been safeguarded. The BART's Board of Directors could decline to make such a finding for any or all of the surveillance technologies. At that point, the District would need to cease the use of those technologies.

RECOMMENDATION:

Approve the following motion.

MOTION:

BART's Board of Directors determines, based on the information provided in the 2022 Surveillance Annual Report, that the benefits to the community of using the six (6) surveillance technologies described in the report outweigh the costs associated with their use, and that civil liberties and civil rights are, concurrent with their use, adequately safeguarded by the policies adopted. The motion requested is that the Board approve the continued use of the six (6) surveillance technologies described in the 2022 Surveillance Annual Report.



Surveillance Annual Report 2022

Executive Summary

2022 Surveillance Annual Report

Pursuant to the District's surveillance ordinance, staff must bring an annual report to the Board regarding the use of approved surveillance technologies and request approval for continued use of those technologies. This report is intended to allow the Board of Directors an opportunity to determine whether the surveillance technologies implemented benefits the communities we serve outweigh the costs and the civil liberties and civil rights are safeguarded.

The San Francisco Bay Area Rapid Transit District's (BART) Annual Surveillance Report covers the time period from July 1, 2021, through June 30, 2022. This report includes all surveillance technology previously approved by the Board of Directors. It is important to note that BART has taken a community-based and collaborative approach regarding policy development and implementation of surveillance technologies. All the surveillance technologies deployed within BART has the sole goal of improving public safety and security. This also enhances the public's trust and transportation experience at BART. Each technology must go through several steps before being presented to the BART Board of Directors for approval and implementation. The steps taken include the initial proposal, policy development, implementation, and then the evaluation of each respective technology.

There are multiple guiding principles with respect to the use of District approved surveillance technologies. First and foremost is the decision to use surveillance technology should balance security and privacy interests. It shall not be used to harass, intimidate, discriminate against any individual or group, and lastly the technology shall not be used for immigration enforcement actions.

Secondly, the Surveillance Program must have robust controls in place to prevent the inadvertent release or misuse of the data collected. A key success in BART's implementation of its Surveillance Program has been community collaboration. In areas of the surveillance technology packages that were presented and approved by the BART's Board of Directors, transparency and outreach to the community and privacy groups was essential. This provides an understanding about expressed community concerns about the use of the technology and how data is protected. BART continues to meet with community partners, such as Oakland Privacy and Secure Justice to understand privacy concerns and ensures protective measures are in place to prevent the release or misuses of data that is collected.

Per the San Francisco Bay Area Rapid Transit District's Code of Ordinances, this **Surveillance Annual Report** is a written report regarding the specific use of active surveillance technology in the District. Per Ord. No. 2018-1, this report includes the following six (6) Board approved surveillance technologies:

- a) A reasonably specific description of **how the surveillance technology was used**;
- b) Whether and **how often data acquired through the use of the surveillance technology was shared** with outside entities, the name of any recipient entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s);
- c) A summary of community complaints or concerns received by the BART District related to the surveillance technology; discussion with privacy advocates indicated, "the intent is to capture complaints pertaining to privacy or civil liberties harm from the use of surveillance or data obtained and not general consumer complaints
- d) The **results of any internal audits**, any information about violations of the Surveillance Use Policy, and any actions taken in response;
- e) Information, including **crime statistics**, if the equipment is used to deter or detect criminal activity, that helps the community assess whether the surveillance technology has been effective at achieving its identified purposes;
- f) Statistics and information about **public records act requests** related to surveillance technology; and
- g) Total **annual costs** for the surveillance technology, including personnel and other ongoing costs.

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Approved Surveillance Use Policies

At the time of this report, the following Surveillance Technologies have been approved by the Board:

1. BART Closed Circuit Television

Department: Maintenance & Engineering ID

Number: ME-BCCTV-SUP-01

Board Approved: October 2018

2. BART Public Emergency Phone Towers

Department: Maintenance & Engineering ID

Number: ME-BPEPT-SUP-01

Board Approved: October 2018

3. BART Mobile Applications & Related Modifications to BART.gov

Department: Office of the Chief Information Officer ID

Number: OCIO-BMAARMTB-SUP-01

Board Approved: October 2018

4. BART Automated License Plate Recognition (ALPR)

Department: BART Police Department ID

Number: BPD-ALPR-SUP-02

Board Approved: April 2019

5. BART Research Data Collection and Usage

Department: Marketing & Research ID

Number: OEA-BMRDDCU-SUP-06

Board Approved: March 2019

6. BART Trip Verification Technology

Department: Planning & Development ID

Number: PD-TVD-SUP-01

Board Approved: October 2019

7. BPD Body Worn Cameras

Department: BART Police Department ID

Number: BPD-BWC-SUP-01

Board Approved: August 2021

BART Closed Circuit Television

2022 Surveillance Annual Report

Surveillance Technology Use

Description: The use of cameras based on closed-circuit television (CCTV) technology increases the public's confidence in our transportation system. This improves the protection of riders, employees, railcars, and critical infrastructure. The authorized use includes constant facility surveillance 24 hours a day, 7 days per week within all BART properties. The cameras are not used in areas where there is a reasonable expectation of privacy, such as restrooms. CCTV data provides critical situational awareness for the Transportation and Operations Control Center personnel for managing stations and special events. Also, information provided by CCTV systems reduces delays in revenue service by allowing BART personnel to avoid train-holds in situations that can be resolved remotely by CCTV. Additionally, CCTV data is used for accident/incident investigations, mechanical failure investigations, and California Public Utilities Commission (CPUC) compliance checks.

This surveillance technology within the BART system is a vital resource for police criminal investigations. To meet the burden of proof, "beyond a reasonable doubt", every District Attorney's Office that the BART Police Department interacts with has based their decision to file a criminal complaint based on the availability of quality surveillance video. CCTV footage provides essential direct investigation evidence of violent crimes. This footage has led to the identification and capture of perpetrators. BART Police Department detectives use surveillance videos daily to solve a variety of crimes against property and crimes against persons.

Data Sharing

The BART CCTV system is deployed on a secure network that is segmented and isolated from other network traffic. Access to the CCTV network for BART personnel is limited to a need to know, and right to know basis. No direct access is provided to any persons or organizations outside of BART. However, copies can be provided for video evidence, such as required by subpoena, judicial order, other legal obligations, or to assist with criminal investigations by law enforcement agencies. However, they follow the District's Safe Transit Policy. The table below provides a summary of the twenty-one (21) recipients that the BART Police Department released CCTV video recordings to, during Fiscal Year 2022.

Outside Law Enforcement Agencies Receiving BART CCTV Data		
Alameda County Sheriff's Office	El Cerrito PD	San Francisco PD
Alameda County Public Defender's Office	Oakland PD	San Francisco Public Defender's Office
Contra Costa Public DA	Oakland Housing Authority PD	San Francisco Dept of Accountability
San Mateo County Sheriff's Office	Pittsburg PD	Alameda County DA
Berkeley PD	Pleasanton PD	San Mateo County DA
Colma PD	Santa Clara County Public Defender's Office	San Francisco County DA
Concord PD	California Highway Patrol	FBI

Complaints

The BART Customer Service Department reported sixty-three (63) complaints on CCTV coverage and/or the use within the BART system. There were zero (0) complaints received pertaining to privacy or civil liberties harm. The categories of complaints fell into insufficient CCTV coverage for graffiti and vandalism incidents, car burglaries, accidents, personnel and or cleanliness of stations/ trains.

Sources of CCTV Request	
BART PD Investigations	3128
Internal BART Request (Not Law Enforcement)	165
Court Subpoenas	25
California Public Request Act	48
Outside Law Enforcement Requests	196
Total CCTV Requests	3562

Surveillance Policy Compliance

There are three types of CCTV feeds: Digital Facility CCTV, Analog Facility CCTV Video, and Train Car Video. The Digital Video feed is managed by a District ran system called Ocularis. Ocularis has a direct linkage into BART Police Video Recovery Unit. Requests for the Digital Ocularis videos require a form that is sent to the BART Police Department for approval. The form requires justification and are approved by BART Police. Analog videos are requested through Systems Maintenance AFC Computers and Communications, where the requests are logged and reviewed for approval. The BART Police Department received three thousand five hundred and sixty-two (3,562) total video requests for criminal investigations. These requests often originated under the California Public Records Act, District Attorney Offices, External Law Enforcement, System Safety, Transportation, and Engineering requests.

BART Police detectives produced over two hundred and thirty-one (231) wanted persons bulletins using CCTV images to attempt to identify persons involved in criminal activity. Of the three thousand five hundred and sixty-two (3,562) police videos, there was three thousand one hundred and twenty-eight (3,128) that were requested for criminal investigations and twenty-five (25) requested for court subpoenas.

There were two hundred and sixty-eight (268) Train Car Video requests. When the BART Police Department and BART Staff request train recordings, the request goes through Maximo, which requires the request to be reviewed and approved in accordance with the Surveillance Use Policy for the CCTV system. The request is approved by Rolling Stock and Shops (RS&S) Management for release to the BART Police Department, System Safety, Transportation, and Engineering as requested.

A random audit of fifty-five (55) randomly selected cases, showed no violations of the Surveillance Use Policy for the CCTV system by the BART Police Department video recovery unit or District Personnel requesting access to specific videos. However, for requesting Train Videos, improvements for a detailed documentation process were implemented. While a Maximo approval process currently exists for requests it does not detail who is final approval authority for release to departments outside BART Police Department. This report identified the need to improve this process, which is currently underway and involves discussion between departments. Once finalized, the process will be institutionalized by the BART Police Department with the assistance from the Office of the Chief Information Officer (OCIO).

Crime Statistics

Video surveillance is essential for the effective operation of a public transit system. CCTV data provides critical situational awareness for the BART Police Department and Operations Control Center for managing stations and special events. Information provided by CCTV systems also reduces delays in revenue service by allowing BART personnel to avoid train-holds in situations that can be viewed remotely by CCTV. CCTV data is also used for accident/incident investigations by Safety, mechanical failure investigations by Engineering, BART Police Criminal Investigations, and California Public Utilities Commission (CPUC) compliance checks. CCTV footage provides critical information for investigations in multiple areas.

Aside from the operational uses, one of the primary public safety benefits of a robust CCTV system is the deterrent effect that is provided by the presence of cameras monitoring public spaces. The presence of the CCTV cameras pre-dates the Surveillance Ordinance by several decades. BART stations have always been commissioned with CCTV cameras already in place. There are numerous incidents every year at BART where CCTV evidence provides critical information to solve a crime, identify suspects, and positively support public safety in the system.

Establishing a causal relationship between the occurrence of crime and the presence, or absence, of CCTV is beyond the scope of this report, but CCTV is an essential part of the safety and security strategy that customers and employees expect the District to provide as part of running a Tier-I mass transit system.

Crime statistics are published monthly and are available at;

<https://www.bart.gov/about/police/reports>

<https://www.crimemapping.com/map/agency/454>

Public Records Act Requests

There were fifty-four (54) public records act requests for video footage, there were no public records requests found, which were associated with the CCTV technology itself.

Costs

Three thousand five hundred and sixty-two (3,562) requests for video evidence were processed by the BART Police Video Recovery Unit in FY22. Processing the volume of video requests required 5 Full Time Employees (FTE) assigned to the unit. The total cost for both Digital and Analog CCTV Maintenance and Operations in FY22 is \$1,464,550.

The maintenance and operational cost for the four thousand eight hundred and twenty-three (4,823) CCTV cameras on train cars (including video recovery from the cameras) in FY22 was \$284,483.

BART has three thousand, one hundred and fifty-one (3,151) CCTV operational cameras deployed in facilities across the BART system (not including train cars). This is seven hundred and sixty (760) cameras less than reported last year. Verification with Comms Engineering, advise the reduction in camera numbers is from cameras that have been temporarily decommissioned during Construction and Station Modernization projects at 19th Street, Civic Center, Powell Street, Montgomery Street and El Cerrito Del Norte. The cost to maintain the including supporting network and data-center infrastructure, is likewise reduced to \$1,464,500 for 2022. The cost also includes maintenance of CCTV equipment in non-public areas of the BART system that are not covered by the Surveillance Ordinance.

The primary purpose of the CCTV system in stations is for public safety and security as well as for operational needs such as facility, train, and infrastructure maintenance.

BART Public Emergency Phone Towers

2022 Surveillance Annual Report

Surveillance Technology Use

Description: The primary use for the Public Emergency Phone Towers is to provide a direct connection to the BART Police Department Integrated Security Response Center for BART passengers and employees to report emergencies or unsafe conditions. Under the approved project, Public Emergency Phone Towers were deployed at the Coliseum BART station as a pilot in 2019. A full deployment throughout the District would require 204 units on 69 station platforms, although no further installations are planned at this time. The design specifications call for three units per platform evenly distributed for maximum effectiveness. These towers are equipped with emergency phones, blue strobe lights, and surveillance cameras. Where installed, the Public Emergency Phone Towers are available 24 hours a day, 7 days per week. The Public Emergency Phone Towers provide a quick and simple way for BART passengers and employees to alert the BART Police Department that emergency assistance is needed in addition to providing additional CCTV coverage of the immediate vicinity.

Data Sharing

The Public Emergency Phone Towers include CCTV cameras which are part of the larger CCTV surveillance system. Use of the CCTV camera footage from the Public Emergency Phone Towers is controlled by the CCTV Surveillance Policy. No data is shared from the Public Emergency Phone Towers other than CCTV footage recorded by the included cameras.

Complaints

BART Customer Service reported zero (0) complaints received for the Public Emergency Phone Towers.

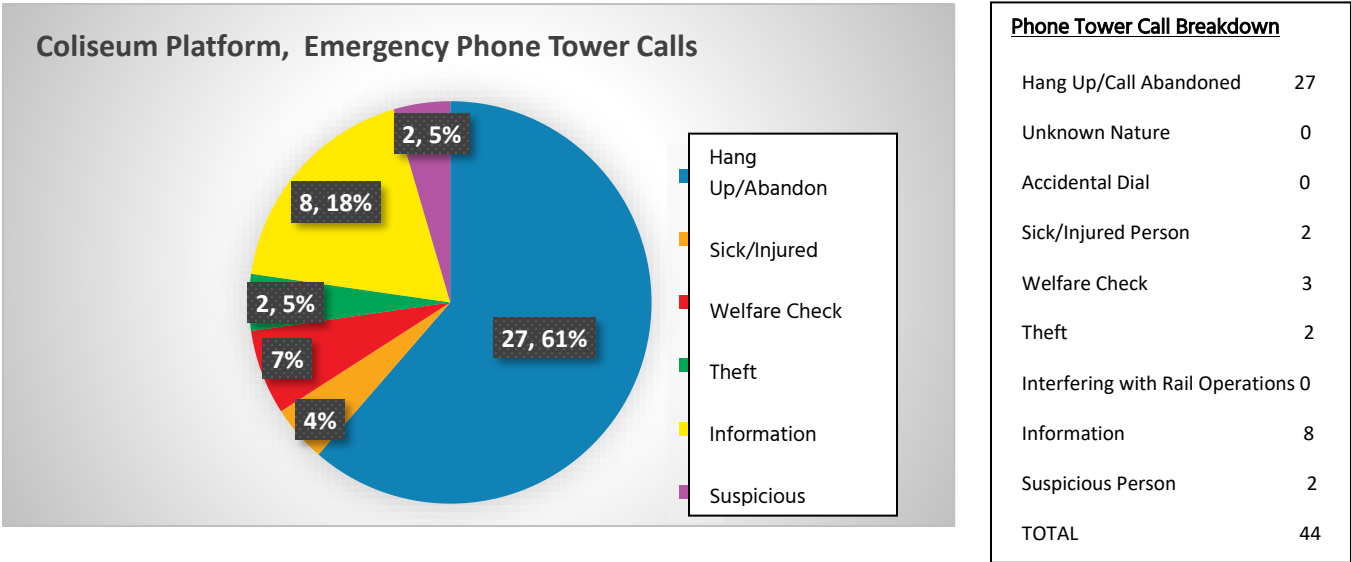
Surveillance Policy Compliance

There were no violations of the Surveillance Use Policy for the Public Emergency Phone Towers discovered during this period. A random audit of CCTV video requests was conducted for policy compliance which covers the same CCTV system used by the Public Emergency Phone Towers.

Crime Statistics

The following chart reflects the usage of the three (3) Public Emergency Phone Towers at the Coliseum Station.

Coliseum Platform, Emergency Phone Towers
Total Call by Type for the Period 30 June 2021-30 June 2022



Additional crime statistics are published monthly and are available at;
<https://www.bart.gov/about/police/reports>
<https://www.crimemapping.com/map/agency/454>

Public Records Act Requests

There were no public records act requests for the Public Emergency Phone Towers.

Costs

The ongoing maintenance costs included (4) hours of labor every thirty (30) days totaling approximately \$3,800 for Fiscal Year 2022.

BART Mobile Applications and Related Modifications to BART.gov

2022 Surveillance Annual Report

Surveillance Technology Use

Description: Mobile Apps, collectively referred to as “BART Applications.” BART Applications are also used to handle financial transactions, provide proof of payment, to aid the BART Police Department Parking Programs with parking payments and carpool enforcement. Authorized use includes navigation, trip planning, fares, parking, transaction enforcement, transit system analysis and demand management, providing and redeeming incentives, transit information and communication, and surveys.

Data Sharing

The following Authorized BART Service Providers provide elements of support, and infrastructure related to the ongoing operation of the BART Mobile Applications and Related Modifications to BART.gov:

Authorized BART Service Providers		
Acquia	HaCon	Salesforce
Auth0	Moovel	TransSight, LLC
Amazon Web Services	PayPal/Braintree	Data Ticket

Complaints

BART Customer Service registered a total of four (4) complaints on BART Mobile Applications & Related Modifications to BART.gov related to privacy concerns. Three of the complaints expressed concerns with being monitored because of the App requested location information. One complaint expressed concern about credit card phishing attempt while using the App. There were additional customer notifications that reported problems with usage or functionality issues with the Trip Planner, Parking Application, the Official Application, and the Police BART Watch Applications. Most of the comments indicated incorrect scheduling and train time information, parking payment issues and or the application not functioning properly.

Surveillance Policy Compliance

There were no violations of the Surveillance Use Policy for the BART Mobile Applications & Related Modifications to BART.gov during this period. BART has several automated mechanisms of continuous monitoring for administrative access, activity logging, firewalling, intrusion detection, and intrusion prevention that verified policy compliance.

Crime Statistics

Implementation of parking features on the mobile application supports enforcement of BART's parking rules such as checking for a valid parking permit and simplifying the validation process. Use of the BART Watch App shows that the public is utilizing this method and texting in addition to the traditional phone call to BART Police Dispatch.

Additional crime statistics are published monthly and are available at:

<https://www.bart.gov/about/police/reports>

<https://www.crimemapping.com/map/agency/454>

Public Records Act Requests

There were no Public Records Act request for BART Mobile Application requested.

Costs

Ongoing maintenance and operational expenses related to this surveillance technology, not including labor was \$381,219 for FY22.

BART Automated License Plate Recognition (ALPR)

2022 Surveillance Annual Report

Surveillance Technology Use

Description: The goal of installing Automated License Plate Recognition (ALPR) technology is to improve the safety and protection of BART riders, employees, and their vehicles while in BART owned or operated parking areas and garages. The Use Policy and Impact Reports were approved by the Board on 25 April 2019 and updated on 24 October 2019 to include Parking Management. The Impact and Use Reports were produced as an ongoing collaborative effort with key privacy groups such as Oakland Privacy and Secure Justice. The collaborative nature of this effort allows for a transparent and robust policy that meets all elements of BART's Surveillance Ordinance and California Civil Code Sections 1798.90.51 and 1798.90.53.

From the ALPR policy development inception in 2019 the BART Police Department and Parking Management staff continue to meet with Privacy Groups to understand privacy concerns and put in place protective measures to prevent misuse of data from the ALPR System. The Initial ALPR project was approved by the BART Board of Directors for a pilot program on 25 April 2019 for a single installation at the MacArthur Parking Garage. On 24 October 2019 the Board approved a second APLR use to include Parking Management functions. On 14 April 2022 they approved a proposal for a service contract for seven (7) mobile ALPR units and two (2) fixed cameras to assist with the efficient enforcement of parking program and deter crime on BART property. The fixed cameras will replace existing cameras at MacArthur Station garage. Using ALPR for parking enforcement improves compliance with parking rules, provides documentation support for complaint resolution, and can increase customer satisfaction by providing improved data on space availability.

Data Sharing

The ALPR contract was executed on September 1, 2022. The next steps include a pilot implementation of one ALPR unit and the fixed cameras. Staff will report back to the Board following the pilot.

The existing fixed camera array of the MacArthur garage was hit by a box truck on 31 December 2021 and stopped working. The ALPR camera was 8 years old and was no longer under warranty and will not be replaced, until the new ALPR project is implemented. The new ALPR project will also include training of staff regarding the data collection requirements in the Surveillance Ordinance and Approved Impact and Use Policies. The Board approved to continue to allow ALPR transmittal of the information to a secure location at the Northern California Regional Intelligence Center (NCRIC) where physical access is limited to authorized individuals and involves significant physical access protections and digital firewalls.

The Memorandum of Understanding and Agreement (MOU) which was signed between the BART Police Department and the NCRIC on October 23, 2019, remains in effect. It should be noted that while signatories of the MOU were between the two agencies. Privacy groups such as Oakland Privacy and Secure Justice were also involved in the development of the MOU to ensure transparency and community collaboration to the greatest extent possible. Key components of the MOU mandated that all ALPR data be secure and must have encryption requirements from the data source to capture transmission to the NCRIC data center for storage. The data would be stored in the NCRIC facilities in the Federal Building in San Francisco. NCRIC offices have 24/7 staffed security and multiple locked doors requiring both electronic keys and knowledge-based PINs. It also requires that only active NCRIC employees who possess a valid security clearance of SECRET or better are allowed physical access. Lastly, NCRIC requires all activity is logged for audit and tracking purposes. Audits are available for an agency to view the actions of their officers.

The MOU specifically limits the retention of ALPR data collected from the BART ALPR cameras to 30-days, except where required by a subpoena, court order, or ongoing investigation. Additionally, the MOU specifically prohibits sharing of ALPR data collected from the BART owned cameras with federal immigration officials or immigration agencies either directly or indirectly. Authorized access to ALPR data in the NCRIC database is restricted to authorized public safety entities who possess a need to know and right to know the shared data except where explicitly denied by BART.

Computer Domains with NCRIC ALPR Data Access		
Atherton PD	Fremont PD	Seaside PD
BART PD	NCRIC	Hillsborough PD
Benicia PD	Berkeley PD	Solano County Sheriff
Brisbane PD	Palo Alto PD	South San Francisco PD
California Highway Patrol	Alameda County Sheriff	Tracy PD
Marin PD	San Mateo Sheriff	Vacaville PD
Ceres PD	Dixon PD	Vallejo PD
Chico PD	San Francisco PD	Plumas County Sheriff
Daly City PD	Santa Clara Sheriff	Menlo Park PD
Oakland PD	Merced County	CA Department of Motor Vehicles
San Leandro PD	Colma PD	Gilroy PD
Federal Bureau of Investigation	US Department of Interior	Newark PD
Milpitas PD	Monterey PD	Redwood city PD
Office of the Inspector General	Santa Clara DA	Antioch PD
Campbell PD	San Rafael PD	Los Altos PD
Union City PD	El Cerrito PD	San Bruno PD
Sana Cruz County Sheriff	Burlingame PD	CA Dept of Insurance
Napa PD	Marin County Sheriff	Mendocino County Sheriff
IRS Criminal Investigations	Marina PD	Pacifica PD
San Joaquin County Sheriff	Sonoma County Sheriff	CA Department of Corrections
Contra Costa County DA	Livermore PD	Mountain View PD
Alameda PD	Yolo County	CA Department of Justice
East Bay Parks PD	East Palo Alto PD	National Parks Service
Orange County Intelligence Assessment Center	US Dept of Agriculture	Belmont PD
California State University Monterey	Hayward PD	Hercules PD
Los Gatos PD	Place County Sheriff	Pleasanton PD
Riverside County Sheriff		

Complaints

BART has not received any complaints with ALPR technology installed at MacArthur Parking Garage. BART receives complaints from passengers who have been victimized by property crimes in the District's parking lots. ALPR technology is one of the tools that the District may use to deter criminal activity in the parking areas as well as solve crimes for victims of property crimes in BART parking lots and garages.

Surveillance Policy Compliance

There were no violations of the Surveillance Use Policy for the ALPR technology. While the ALPR data is available to the above agencies, a review of the NCRIC ALPR audit log revealed that the BART Police Investigation Unit Department had requested ALPR Data on one (1) occasion from July 2021 to June 2022. The request was for a case requesting information on stolen, wanted, or the suspect's vehicle.

Crime Statistics

Comparing the period of July through June for property crimes occurring in the MacArthur Parking Garage between 2021 and 2022, there were twenty-eight (28) incidents in 2021 and fifty-seven (57) incidents in 2022. Currently there is insufficient data to establish a statistical link between the loss of deployment of ALPR Camera and property crime rates at this location. There is a significant increase in property crime in this garage. As this is the second breakdown of this BART owned camera, this information highly supports the recent decision to utilize a lease versus a purchase option for the pending new ALPR cameras. The estimated Commission Date for the leased ALPR cameras is 1 November 2022. As part of the lease, training of the system and system reports will be included for BART Police and Parking Management.

BART crime statistics are updated monthly and made available at the following URL's;
<https://www.bart.gov/about/police/reports>
<https://www.crimemapping.com/map/agency/454>

Public Records Act Requests

BART received 2 Public Record Act Requests on ALPR and requested information on BART's ALPR Policies which was distributed.

Costs

The ALPR procurement authorized by the Board includes the two (2) fixed ALPR in the MacArthur Garage and 7 handheld ALPR cameras to be used for both law enforcement and parking enforcement purposes. The program selected to lease the cameras and the cost set aside for the ALPR lease program is \$ 318,000 for the base contract.

BART Research Data Collection

2022 Surveillance Annual Report

Surveillance Technology Use

Description:

BART conducts research for a variety of research and learning purposes, such as to:

- Provide market information and metrics to help inform District decisions related to strategic planning, budget priorities, station access policy, marketing strategy, and other areas.
- Gather insight into latent demand, usage of Transportation Network Companies (TNCs), other emerging travel modes and understand impact on public transit usage.
- Understand effectiveness of marketing initiatives by analyzing riders' aggregate travel behavior changes over time.
- Identify reasons for change in ridership patterns.

Methodologies using electronic and/or mobile data collection may be used to facilitate the following:

- Faster and less expensive data collection by eliminating the need to manually enter survey results.
- Expanded research capabilities using real time and location-based mobile technologies.
- “In the moment” ratings of BART facilities to improve rating accuracy, and image data that helps explain the reasons for ratings.
- The use of research panels to detect changes in travel patterns over time.
- Analysis of Bay Area residents' travel behavior, e.g., trip purposes, travel modes, travel mode shifts, vehicle occupancies, changes in car ownership habits, as well as demographics (for both riders and non-riders) in soliciting respondent consent for BART research projects.

BART discloses the types of data that will be collected, the nature of potential uses of such data by BART and, as applicable, third-party partners in research, and describe the mitigations taken to protect respondent privacy.

Data Sharing

BART research data is not shared with any third party unless such disclosure is required by law or court order or if shared under an agreement that ensures that the requirements of the Surveillance Use Policy (SUP) that was previously approved by the Board of Directors. For example, BART may transfer select data to consulting firms or governmental organizations to use for travel modeling or environmental impact assessment, given that data handling and security requirements are met.

In such cases, where data at the individual record level are required for analysis, the third party will be required to be under contract with BART or bound by a Non-Disclosure Agreement (NDA) with BART. Such contracts and NDAs require adherence to provisions of this SUP and associated Surveillance Impact Report.

In Fiscal Year 2022 the District did not share any data with any outside agencies.

Complaints

BART Customer Service reported zero (0) complaints received for the Data Collection and Usage for Research and Learning surveillance technology.

Surveillance Policy Compliance

There were no violations of the Surveillance Use Policy for the Data Collection and Usage for Research and Learning surveillance technology discovered during this period.

Crime Statistics

Not applicable. This solution is not a Crime Prevention tool.

Public Records Act Requests

There were no public records act requests for the Data Collection and Usage for Research and Learning surveillance technology.

Costs

The annual software license fee is approximately \$32,000.

BART Trip Verification Technology

2022 Surveillance Annual Report

Surveillance Technology Use

Description: The Trip Verification Software (TVS) was initially developed to be used by BART staff and authorized service providers to provide the transit-riding public with new features and benefits. Handheld Trip Verification Devices (TVDs) were designed to scan Clipper Cards to grant access to selected transportation partners with the goal of increasing transit ridership. The initial deployment of the technology was to be used to incentivize travelers to take public transit to the San Francisco International Airport (SFO). However, the project cancelled the use of technology, and the application was never given to SFO. This was due to the fiscal impact of COVID-19. There is no plan to implement this project in the future and it is formally being removed as a surveillance technology. This technology will not be included in next year's Surveillance Report.

Data Sharing

This was a pilot program and was never executed, and the project was cancelled due to COVID impact on BART funding.

Complaints

None, BART's Trip Verification Technology not implemented.

Surveillance Policy Compliance

There were no violations of the Surveillance Use Policy for the proposed Trip Verification Technology. The program was never executed due to COVID impacting funding.

Crime Statistics

Not applicable. This solution is not a Crime Prevention tool.

Public Records Act Requests

There were no public records act requests for the Trip Verification technology.

Costs

Per the approved Surveillance Impact Report for Trip Verification Technology, the start-up development costs for the trip verification technology included the software development, hardware (android phones), device management and an initial marketing strategy for a total of \$40,000 in 2021. There were no costs beyond the initial startup costs. The program was not initiated so no maintenance costs were incurred.

BART Police Body Worn Cameras

2022 Surveillance Annual Report

Surveillance Technology Use

Description: The Board approved the purchase of Body Worn cameras on 26 August 2021. The goal of the Body Worn Cameras (BWC) is to continually increase the confidence of the public when interacting with BART Police Department personnel. Specifically, this technology seeks to provide transparency of BART police officers and police representatives while interacting with the public. Body Worn Cameras (BWC) are intended to assist BART Police and police oversight branches such as the Independent Police Auditor, Internal Affairs, District Attorney, and others as required by law. The BWC provides video and audio interaction between authorized police representatives and contacted members of the public. The BWC provides an objective, unbiased video, and audio record of a contact and/or incident. The Police Department provides BWC to designated sworn and civilian personnel for use while on-duty including:

- * Police Lieutenants/Police Sergeants/Police Officers
- * Fare Inspectors
- * Crisis Intervention Specialists
- * Community Service Officers
- * Ambassadors

The BWC records both video and audio activity. BPD Policy, and the BWC Impact Report and Use Policy require that the BWC shall only be used during official police business. BWC enhances public safety and are in alignment with BART Police Department's values of transparency, community, and progressive policing vision.

The use of the BWC provides documentary evidence for criminal investigations, civil litigation, and allegations of officer misconduct. Such evidence shall be maintained by the Police Department in accordance with the Surveillance Ordinance and BART Police records retention policy. Exceptions include data that is required subpoena, or as an investigatory record for a criminal investigation, or for purposes of an administrative investigation on the conduct of a member(s) of the Police Department. For certain criminal cases, there may be a requirement by the courts or legal decision to retain the video indefinitely.

The BWC serves the following key purposes:

- Transparency
- Reassures the public when interacting with members of the BART Police Department.
- Collects information that is objective and unbiased.
- Provides evidential support to prosecute offenders for criminal offenses.
- Provides the public a means to address or report Police Misconduct.

The Use Policy and Impact Reports were approved by the Board in August 2021. Both the Impact and Use Reports were produced as collaborative effort with key privacy groups such as Oakland Privacy and Secure Justice. The collaborative nature of this effort allowed for a transparent and robust policy that met all elements of BART's Surveillance Ordinance and California Civil Code Sections 1798.90.51 and 1798.90.53.

Data Sharing

Agencies Receiving BART BWC Data		
Alameda County Prosecutor's Office	San Francisco Police Dept	BART Office of Civil Rights
Contra Costa County District Attorney's Office	San Francisco Police Dept, Airport Police Records	Forensic Visual, Civil Litigation Contractor
San Mateo District Attorney's Office	Berkeley Police Dept	San Francisco Public Defender's Office
San Francisco District Attorney's Office	El Cerrito Police Dept	California Department of Justice
Santa Clara County District Attorney's Office	Alameda County Sheriff's Office	BART Office of Independent Police Auditor
BART Legal Dept		

Complaints

BART Customer Service reported zero (0) complaints received on Body Worn Cameras.

Surveillance Policy Compliance

There were no violations of the Surveillance Use Policy for the BWC Technology.

Crime Statistics

While there currently is insufficient data to establish a statistical link between the deployment of Body Worn Camera and crime rate reduction, it is important for the public to have a transparent verifiable form of visual and audible documentation of events when interacting with members of the BART Police Department.

BART crime statistics are updated monthly and made available at the following URL's:

<https://www.bart.gov/about/police/reports>

<https://www.crimemapping.com/map/agency/454>

Public Records Act Requests

There were seven (7) public records act requests for BWC.

Costs

The BWC Camera is a subscription procurement with an initial investment cost of \$492,330 and \$6.7 million over ten years. There are no Maintenance costs associated with the subscription service. Broken, worn or outdated cameras can be replaced during the 10-year period.



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: 3/16/2023 3/17/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept: Benefits/Workforce Dev <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Diane Iwata</i> <small>B2B28E38D3F14F1...</small> </div> Signature/Date: <div style="text-align: right;">3/17/2023</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> <div style="text-align: right;">3/17/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> <div style="text-align: right;">3/17/2023 []</div>	District Secretary <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> <div style="text-align: right;">3/17/2023 []</div>

Recruitment and Relocation Expenses for Chief Transportation Officer

PURPOSE:

To authorize the General Manager to execute a national recruitment and relocation agreement to assist the District with filling the position of Chief Transportation Officer.

DISCUSSION:

On March 11, 1993, the Board adopted Resolution 4487, which requires Board approval prior to any recruiting activity to employ a person who is not a current District employee for an annual salary of \$50,000 or more. The resolution also states that the District should confine its recruiting to the State of California, consistent with provisions of the law, and that no relocation or moving expenses would be offered to new employees without prior Board approval.

The Chief Transportation Officer is a vital senior management position that requires specialized skills derived from unique managerial/technical experience and education, which is critical for the District to operate. Specifically, the Chief of Transportation is responsible for all operations and activities related to movement and control of revenue and non-revenue railed vehicles throughout the system, the operation of stations for patron service, District-sponsored bus service, and coordination of activities with the BART Police Department.

By adopting this motion, the Board will authorize staff to use an executive search firm for this recruitment. The objective in using a search firm is to increase the candidate pool and identify highly qualified applicants. In the recruitment work plan, every effort is made to locate qualified individuals in California and the San Francisco Bay Area in particular. However, recruitment will not be confined to California.

In addition, the ability to offer relocation assistance in the event that one or more successful candidates are not from the immediate area will enhance the District's competitive posture in this search. The Board's action will allow for executing a relocation agreement within the parameters of current District practice as provided in Management Procedure 70. This procedure sets a maximum reimbursement for relocation at \$18,000 and it does not allow for reimbursement for loss on the sale of a residence.

FISCAL IMPACT:

The cost for search firm fees (\$80,000 approximately) and any subsequent relocation cost (\$18,000 approximately, if needed) will come from the existing FY23 Operating Budget for Transportation (Cost Center 0805763, Account 681300.)

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

ALTERNATIVES:

Fill the positions using in-house District recruitment resources. Recruiting for the position without use of an executive search firm and relocation assistance could result in the inability to attract adequate talent.

RECOMMENDATION:

Adopt the following motion:

MOTION:

That the General Manager or his designee is authorized to execute a national recruitment agreement with an executive search firm to assist the District with filling the position of Chief of Transportation in conformance with established District procedures governing the use of executive search services, and to identify suitable candidates both inside and outside of California. In addition, the General Manager is authorized to enter into a relocation agreement for this position, if necessary, in accordance with Management Procedure Number 70, New Employee Relocation Expense Reimbursement.



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: Yes		
DATE: 3/10/2023 3/17/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: Mitra Moheb Dept: Strategic Engineering <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Mitra Moheb</i> <small>2FF3D1D7BECF44D...</small> </div> Signature/Date: <div style="text-align: right;">3/17/2023</div>	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> <div style="text-align: right;">3/17/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small> <i>Todd Morgan</i> <small>701F6C4C0ABE4A8...</small> </div> <div style="text-align: right;">3/17/2023 []</div>	District Secretary <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> <div style="text-align: right;">3/17/2023 []</div>

Procurement of Fare Collection Equipment by Competitive Negotiation

PURPOSE:

- 1) At the March 23, 2023, Board Meeting, to provide information to the Board regarding the staff recommendation to obtain Board authorization for the General Manager to award Contract No. 47CJ-230A to STraffic America, LLC.
- 2) At the April 13, 2023, Board Meeting, or a subsequent Board Meeting, to obtain Board authorization for the General Manager to award Contract No. 47CJ-230A to STraffic America, LLC for the procurement of Fare Collection Equipment.

DISCUSSION:

Public Contract Code Section 20216 governs the process for the District's procurements of electronic and specialized rail transit equipment by competitive negotiation under Public Contract Code Section 20229.1. Section 20216(e) provides that such a contract may not be awarded until 15 days after the staff's recommendation is made available to the public. Therefore, staff's recommendation for award of the subject Contract will be made available to the public and presented at the March 23, 2023, Board meeting for information purposes only. Staff will request that the Board authorize the General Manager to award the Contract at the April 13, 2023, Board meeting.

For ease of reference, this single Executive Decision Document supports staff's information only item on the March 23, 2023, Board meeting agenda, and the action item on the April 13, 2023, Board meeting agenda (or subsequent Board meeting).

Since the Automatic Fare Collection (AFC) modernization program in 1999, the District has

procured additional fare gates and rehabilitated the original fare gates. The District currently has over 700 fare gates with varying ends of useful life depending on the age of the fare gates as well as whether and when they were rehabilitated. The District has the opportunity to procure new fare gates incorporating updated technology, station hardening/fare evasion features, and lessons learned from the Fare Gate Rehabilitation and Renovation project. BART plans to procure fare collection equipment for a number of reasons, including to:

- reduce opportunities for fare evasion
- improve the customer experience
- improve the maintenance and reliability of fare gates
- take advantage of new technology
- retain existing operational and reporting infrastructure
- support and integrate with regional Clipper fare payment system
- align aesthetics with BART's Station Modernization Program

The scope of work for the procurement, in general, would consist of the purchase of an off-the-shelf fare gate product with vendor support for installation and software integration, as well as program management, in-service support, publications, warranty, training and data submittal.

As the new fare gates will be relied upon for safely and efficiently moving millions of customers throughout the BART system for at least 20 years, it is imperative for the District to be able to consider factors other than price in selecting a supplier, such as a proposer's approach, capabilities and understanding of the District's requirements and needs. Given the projected complexity of this fare gate procurement with its potential design and production challenges inherent when delivering a solution that addresses the District's unique needs, should the need to utilize a new fare gate vendor arise following award to a vendor, staff intends to request that Proposers extend the validity period of their Proposals for a period of time during the initial stages of project delivery in order for the District to meet its projected timelines for systemwide fare gate replacement.

On January 13, 2022, the Board of Directors authorized the General Manager, by two-thirds vote, to initiate the procurement of fare gates by competitive negotiation pursuant to California Public Contract Code Section 20229.1.

On December 1, 2022, following the receipt of Proposals in response to Request for Proposal (RFP), Contract No. 47CJ-230, the Board of Directors authorized the General Manager to reject all Proposals and readvertise for the solicitation of new Proposals.

An Invitation to Propose was published on December 7 and December 9, 2022, in multiple

newspapers. A Notice to Proposers was sent on December 5, 2022, to three (3) prospective Proposers inviting them to view the solicitation on the BART Vendor Portal. On December 2, the Contract Book was uploaded onto the BART Vendor Portal. A total of nine (9) prospective Prime and Sub Proposers downloaded the Invitation to Propose with the instructions on how to obtain the Contract documents. On December 15, 2022, a pre-Proposal meeting was held, and three (3) prospective Prime Proposers attended. Proposals were received by January 10, 2023. The three (3) Proposals were received from the following:

1. Conduent Transport Solutions, Inc.
2. Cubic Transportation System, Inc.
3. STraffic America, LLC

The proposals were reviewed by the BART Selection committee, chaired by the Contract Administration team, which consisted of representatives from a range of departments and disciplines. Based on an initial review of the Proposals and the RFP minimum technical requirements, all three Proposers were determined to be qualified Proposers and responsive to the RFP.

In accordance with the provisions of Contract No. 47CJ-230A, the selection of firms was based on a competitive negotiated procurement based on procedures contained in California Public Contract Code Section 20229.1. Award will be made to the qualified Proposer whose Proposal is most advantageous to the District with price as well as other factors considered.

Evaluations of the Proposals consisted of a review of the following: 1) the Proposer's technical approach, 2) the qualifications and experience of the Proposer and its personnel, 3) oral interviews with the Proposer, and 4) the Proposer's Price Proposal. After the Selection Committee evaluated the Proposers based on the aforementioned criteria, the final combined scoring and ranking resulted in STraffic America, LLC (STraffic) receiving the highest combined evaluation score. Based on this, staff has determined that the Proposal submitted by STraffic is the most advantageous to the District with price and other factors considered. STraffic's total Proposal Price of \$47,163,000 (base price plus option prices) compared to the Engineer's Estimate of \$65,000,000 is considered fair and reasonable. Furthermore, a review of STraffic's business experience and financial capabilities has resulted in a determination that STraffic is responsible and possesses the requisite technical expertise, business experience, and financial capabilities for Contract award.

The table below shows the overall score for each Proposer.

Proposer	Overall Score
----------	---------------

STraffic America, LLC	93.21
Conduent Transport Solutions, Inc.	83.25
Cubic Transportation Systems, Inc.	77.89

To date, \$72,876,522 has been secured for the Next Generation Fare Gates project, as follows:

- BART Funds (Operating-to-Capital Allocations and Measure RR)
\$22,991,650
- County Transportation Agency Funds
\$28,108,392
- Federal Funds
\$15,226,600
- State Funds
\$6,549,880

Of that amount, \$31,878,250 has been allocated to the project and \$40,998,272 is yet to be allocated.

This Contract was advertised pursuant to the District's Disadvantaged Business Enterprise ("DBE") Program requirements. The Office of Civil Rights reviewed the scope of work for this Contract and determined that there were DBE subcontracting opportunities; therefore, a DBE participation goal of 4% was set for this Contract. The low Bidder STraffic America, LLC committed to subcontracting 11% to DBEs. The Office of Civil Rights has determined that the STraffic America, LLC has met the DBE participation goal set for this Contract.

FISCAL IMPACT:

Funding in the amount of \$11,271,900 for the award of Base Contract No. 47CJ-230A to STraffic America, LLC is included in the budget for project 47CJ012 Next Gen Fare Gates Project.

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

	Proposed Funding	
Source	Description	Amount
FTA	State of Good Repair - F/C 3013, 3017, 3020, 3025	\$8,886,600
BARTRR	2022 Measure RR GOB – F/C 802D	9,000,000
BARTOAC	Operating to Capital Allocation – F/C 8531, 8533..8537	13,991,650
	TOTAL	\$31,878,250

As of March 08, 2023, \$31,878,250 is the total budget for this project. BART has expended \$2,715,303, committed \$311,183 and reserved \$8,728,100 to date. This action will commit \$11,271,900, leaving an available fund balance of \$8,851,764 in these fund sources for this Project.

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

ALTERNATIVES:

The alternative would be to reject the proposals and re-advertise Contract No. 47CJ-230A. This would delay the roll out of new Fare Gates. In addition, staff does not believe this will result in lower prices or increased competition.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The Board finds that STraffic America, LLC has submitted the proposal in response to Contract No. 47CJ-230A that is the most advantageous to the District based on the highest evaluation score received (which considers the proposer's technical proposal, qualifications and experience of the proposer and its personnel, oral interviews with the proposer, and the proposer's price proposal).

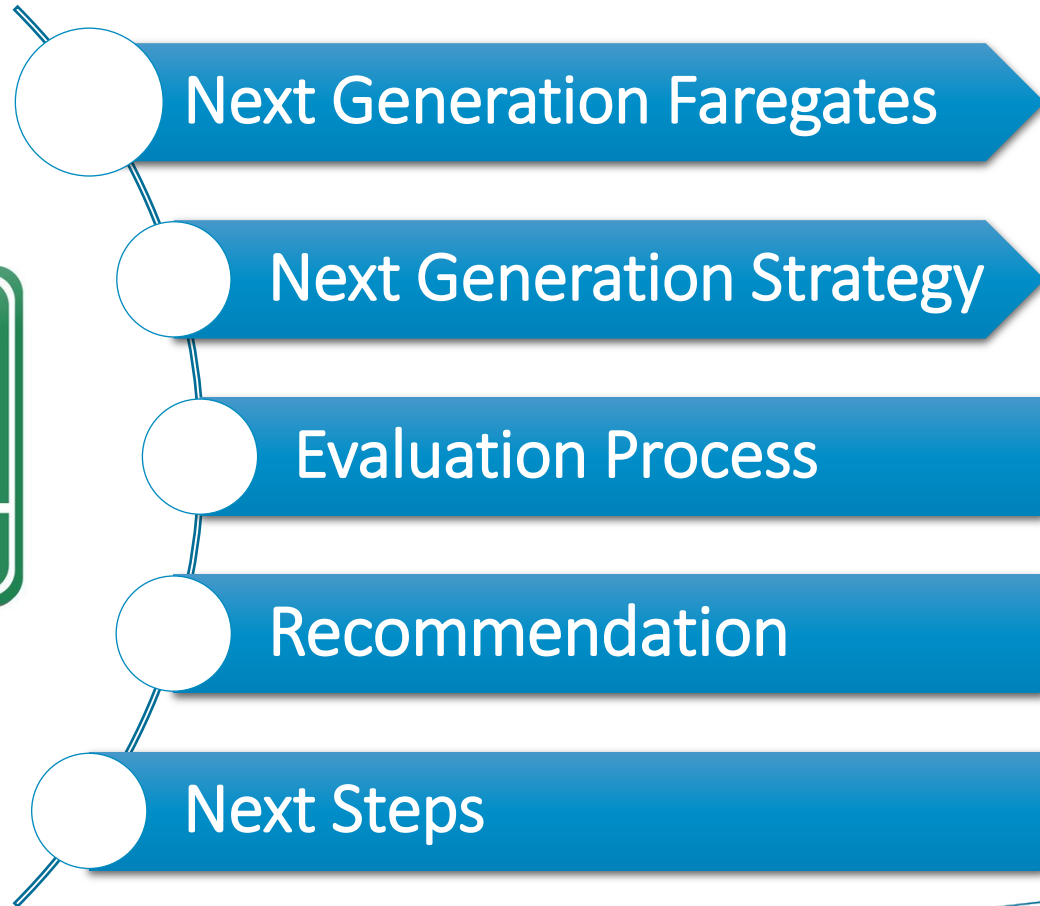
To that end, the General Manager is authorized to award Contract No. 47CJ-230A to

STraffic America, LLC in the base contract amount of \$11,271,900 (including all applicable taxes) for the procurement of Fare Collection Equipment, upon certification by the Controller-Treasurer that funding is available, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and the Federal Transit Administration's requirements related to protests.

The General Manager is further authorized to exercise any and all options for a total amount not-to-exceed \$47,163,000 (base price plus option prices) (including all applicable taxes) upon certification by the Controller-Treasurer that funding is available.

Next Generation Fare Gates Update

Agenda



Next Generation Faregates

Procurement process is underway!

- Staff recommendation 3/23
- Seek Board action on 4/13
 - \$47M* for New Gate Procurement Systemwide

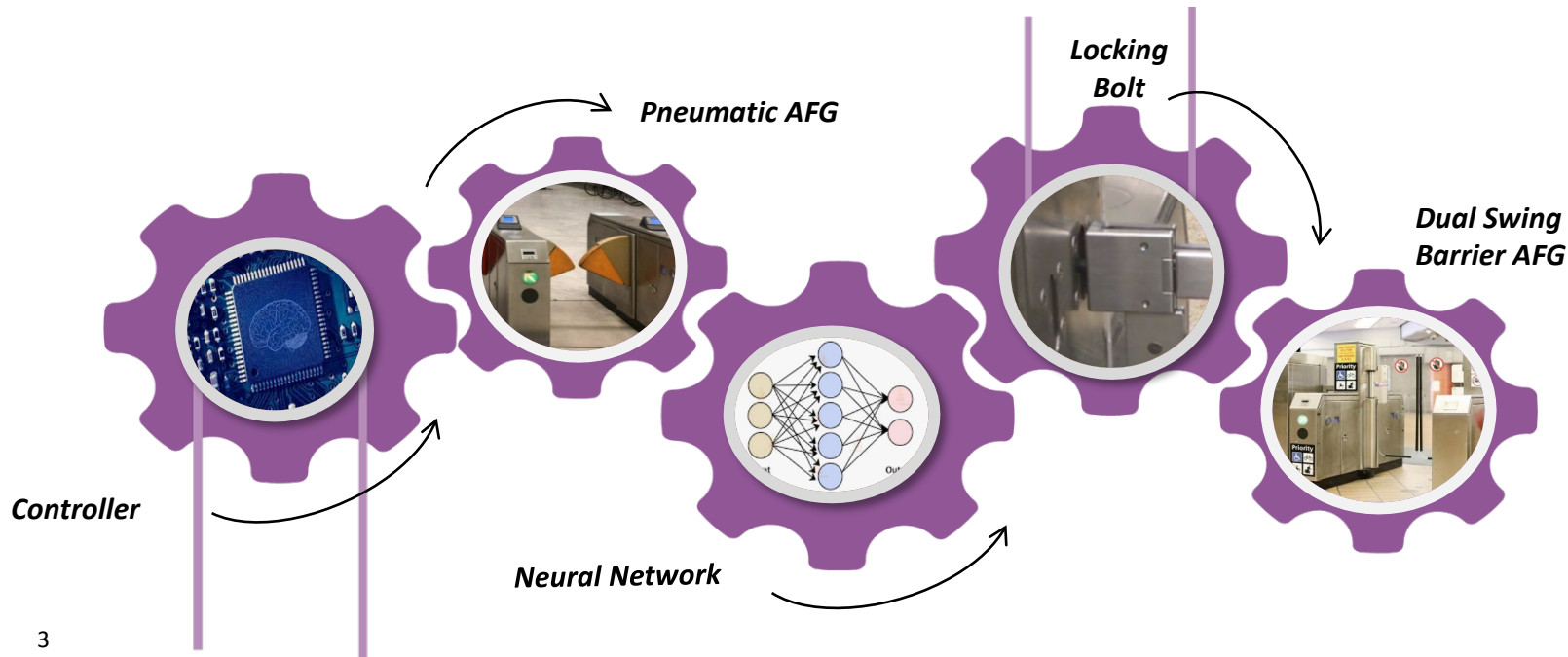
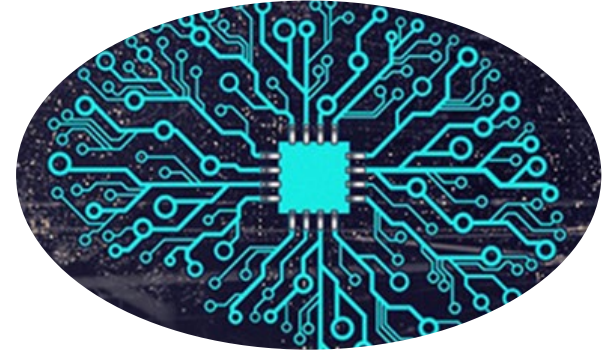
Project Goals

- Deter fare evasion
- Modernize aesthetic
- Reduce maintenance
- Improve access
- Employ Innovative technology

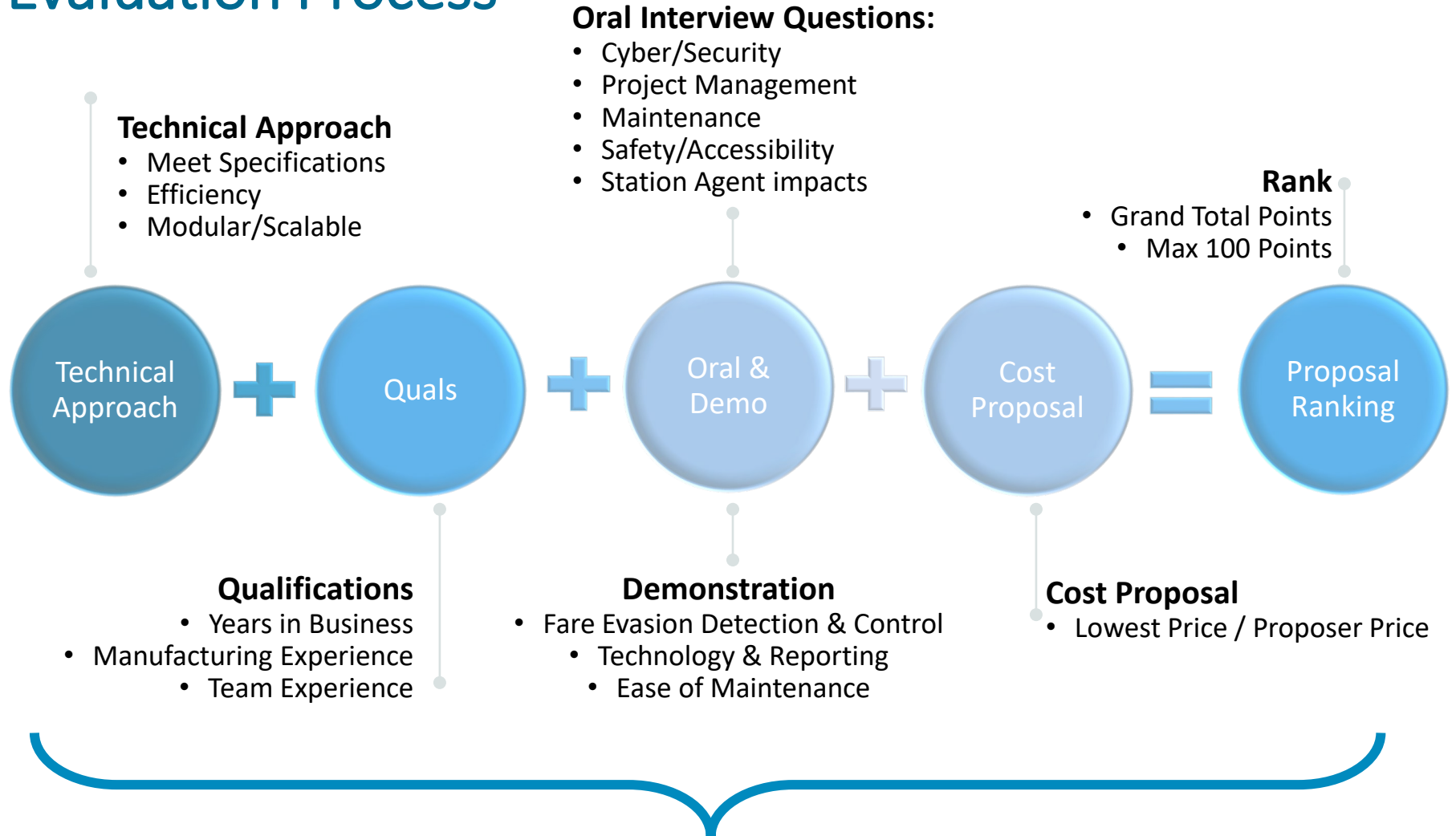
The Next Generation Faregate project is a high priority initiative for BART

Next Generation Strategy

- Scope / Schedule / Budget
- Technical Specifications
- Software Optimization
- Funding
- Request for Expression of Interest/Request for Proposal
- Competitive Negotiation Procurement



Evaluation Process



Interdisciplinary Evaluation Committee:

Transportation
Engineering
Access

Maintenance
Office of Civil Rights
Procurement

Recommendation



STraffic America, LLC

Evaluations Summary and Final Ranking

Proposer	Technical Approach	Team Qualifications	Price	Oral Interviews	Grand Total	Rank
Conduent Transport Solutions, Inc.	29	18	19.4	16.7	83.25	2
Cubic Transportation Systems, Inc.	26	18	20.0	14.3	77.89	3
STraffic America LLC	36	19	19.5*	19.1	93.21	1

* 2.3% above lowest bid

***STraffic America LLC will work Shoulder to Shoulder
with BART Forces for the Best Implementation***

Next Steps

1

- April 13 – Consent Item to Award
- Vendor Notice to Proceed
- Begin Preliminary Design
- Pilot Gate Delivery

2

- Continue to seek funds
- Update Cost Estimate to Complete
- Develop Priorities and Deployment Strategy
- Publicize Implementation Schedule

3

- Identify Infrastructure Needs
- Evaluate and Design Potential Electrical Modifications
- Install/Modify Infrastructure
- July – Board Update on Progress

Thank you



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: March 17, 2023

FROM: General Manager

SUBJECT: Quarterly Service Performance Review – Second Quarter FY 2023

Attached is the “**Quarterly Service Performance Review – Second Quarter FY 2023**” presentation that will be presented at the March 23, 2023 meeting as an information item.

If you have any questions about the document, please contact Shane Edwards, Assistant General Manager, Operations at (510) 464-7393.

DocuSigned by:
Michael Jones
47000790F2D7463

Robert M. Powers

cc: Board Appointed Officers
Executive Staff



Quarterly Service Performance Review 2nd Quarter, FY23 (October- December 2022)

Engineering & Operations Committee
March 23, 2023





Service Performance

Service Delivery

Capacity

- Weekday - Average Ridership
- **Dispatches Operated**
- **Passenger Loading**

Punctuality

- On-time – Customer
 - Daily / Peak
- On-time – Train
 - Daily / Peak
 - **Timed Train Meets - K-Line**

Railway Asset Availability

Revenue Fleet

- Revenue Fleet - Fleet Reliability
 - 4 AM - Car Availability
 - Vehicle MTBSD - (Hours)

Wayside

- Wayside - Train Control Systems
 - Wayside Train Control System
 - Computer Control System
- Wayside - Railway Systems
 - Track
 - Traction Power

Operations

- Transportation Staffing

Stations

- Availability – Elevators
- Availability – Escalators
- Availability – Fare Collection

Customer Experience

Customer Service

- Customer Service
 - **Overall Customer Satisfaction**
 - Station Agent Customer Service
 - Complaints

Environment

- Environment – Stations
 - Outside
 - Inside
- Environment – Trains
 - Cleanliness
 - Temperature
- Environment – Code of Conduct
 - **Gender Based Harassment**
 - Fare Evasion

Safety and Security

Safety

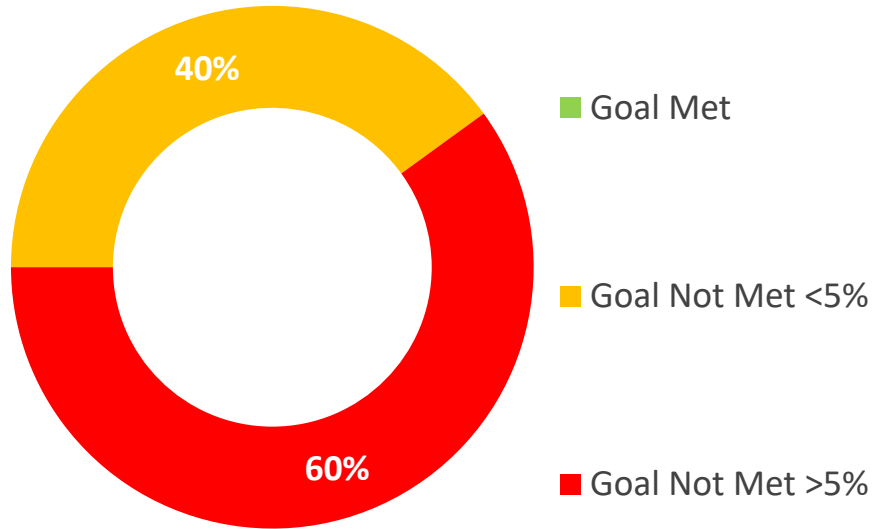
- Safety – Passenger
 - Station Incidents
 - Vehicle Incidents
- Safety – Employee
 - Lost Time Injuries
 - OSHA Recordable Injuries
- Safety – Violations
 - Unscheduled Door Openings
 - OSHA Recordable Injuries

Security

- Police Coverage
 - BPD Presence
 - BPD Response Time
- Crime – Against Person
- Crime – Burglary
 - Bike Thefts
 - Auto Burglaries
 - Auto Thefts
- **Progressive Policing**

New this quarter

Summary – Service Delivery

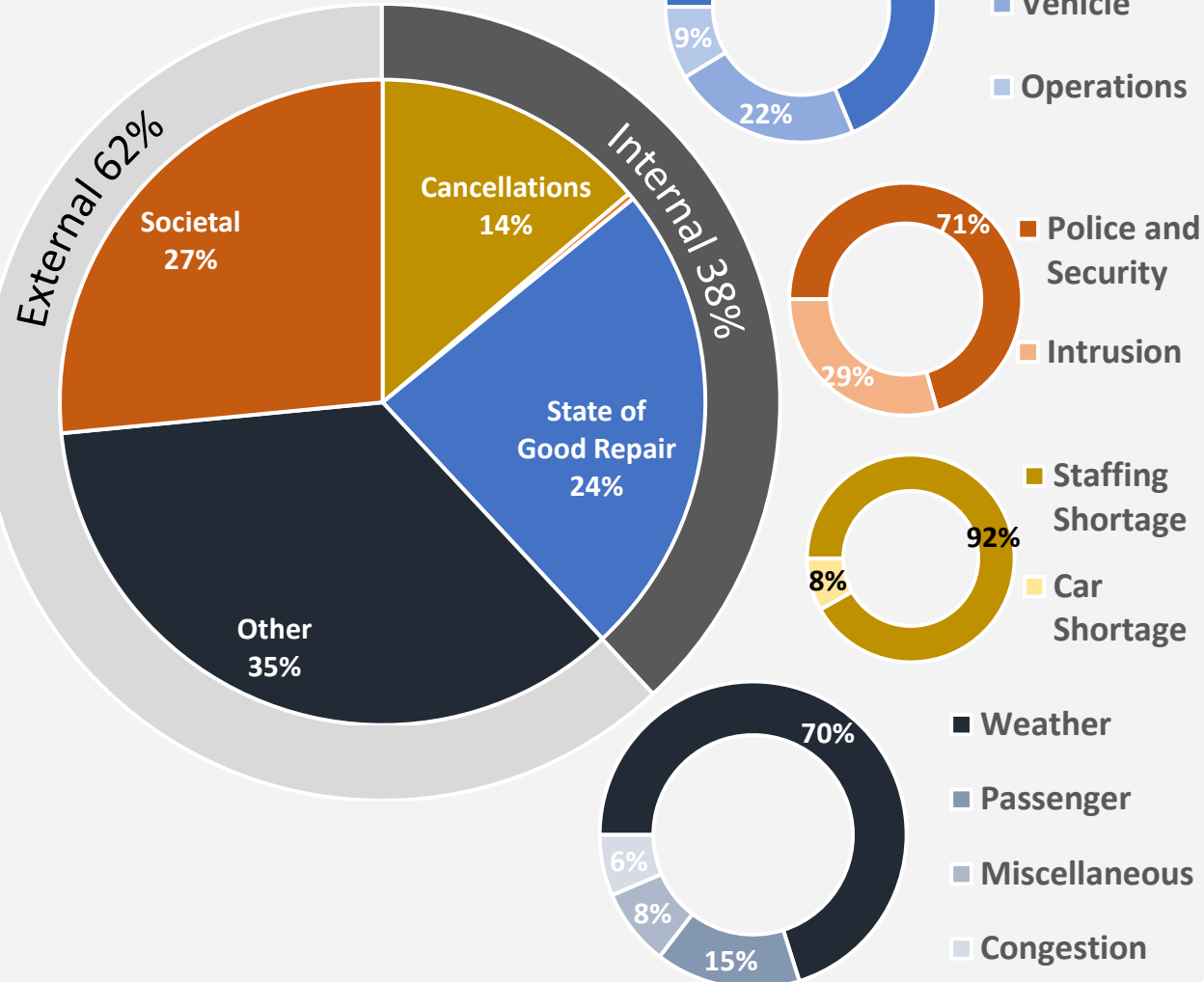


Metric	FY23 Q2	Goal	Change from FY23 Q1	
<i>All-Day</i>				
Weekday - Average Ridership	146209	167715	0.3%	▲
Daily - Trains On-Time	71.0%	91.0%	(4.3%)	▼
Daily - Customers On-Time	83.5%	94.0%	0.8%	▲
<i>Peak</i>				
Peak - Trains On-Time	69.1%		(4.2%)	▼
Peak - Customers On-Time	84.6%		(1.4%)	▼

▼ Gray arrows represent change from the previous quarter for metrics which do not have an established goal

Service Delivery – Delay Incident Detail

13001 Delayed Trains Caused by Incidents



Trains Delayed - Top Ten Single Incidents

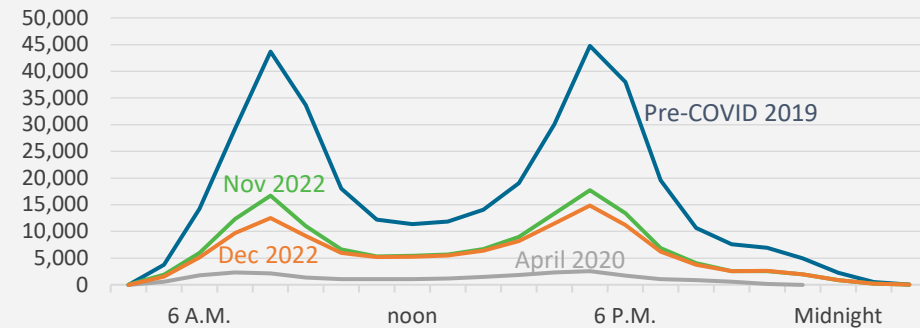
12/01	Rain, 552
11/08	Rain, 260
12/29	Rain, 235
12/30	Rain, 229
12/27	Rain, 205
12/10	Rain, 200
11/01	Rain, 200
12/16	Smoke Under Vehicle, 176
12/08	Rain, 162
12/31	Rain, 157

*Top ten incidents = 18.3%
of delayed trains*

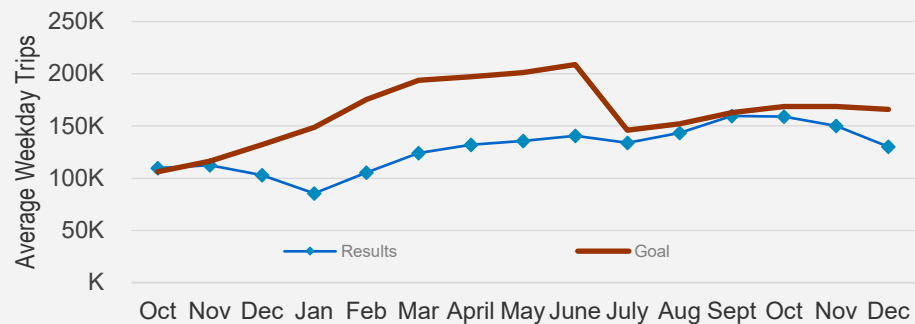
Capacity – Ridership

- Ridership below budgeted goal

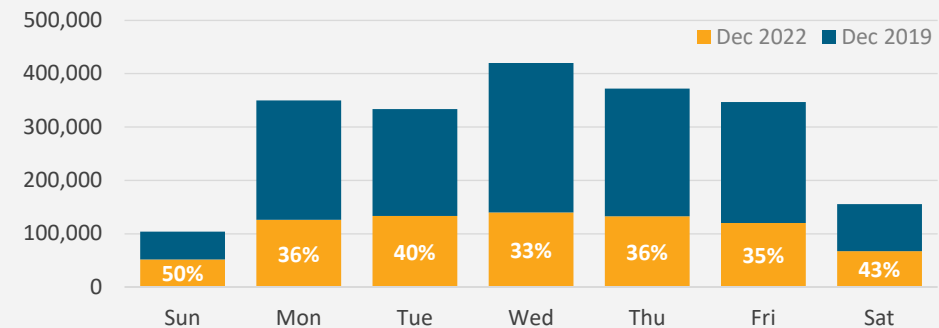
Weekday Hourly System Activity



Average Ridership - Weekday



Comparison of December Ridership by Day of Week

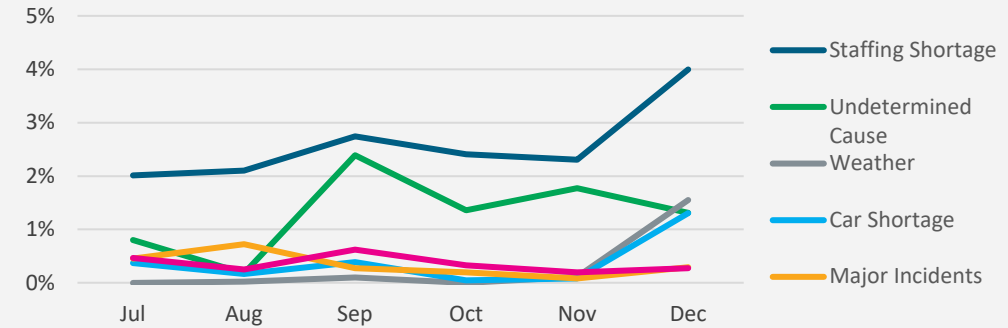


Capacity – Dispatches Operated

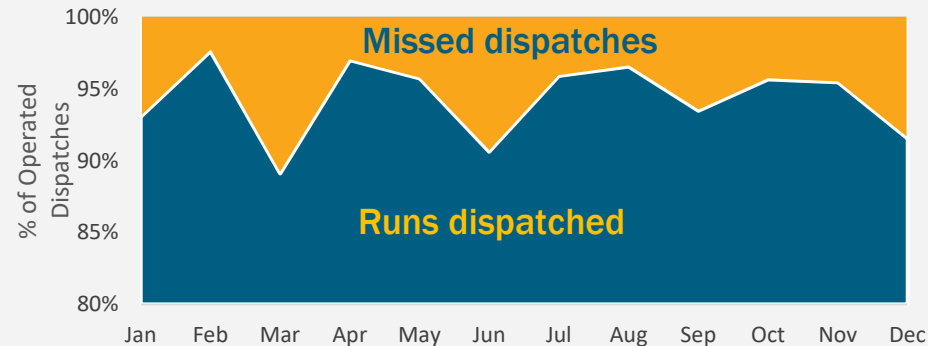


- Missed Dispatches are scheduled trains that did not run OR partial runs that were not able to dispatch from origin
- Majority of missed dispatches around PM peak
- Staffing shortage was the primary cause
- Weather was the second highest factor, and will likely continue into the beginning of Q3 based on January's storms

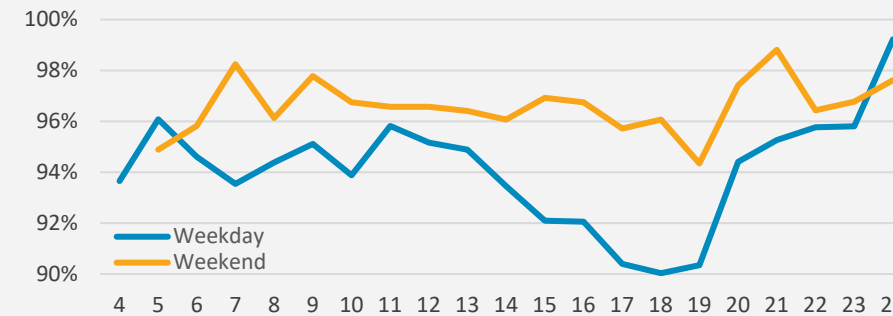
% of Scheduled Dispatches Missed by Cause



Scheduled Runs Dispatched from Origin



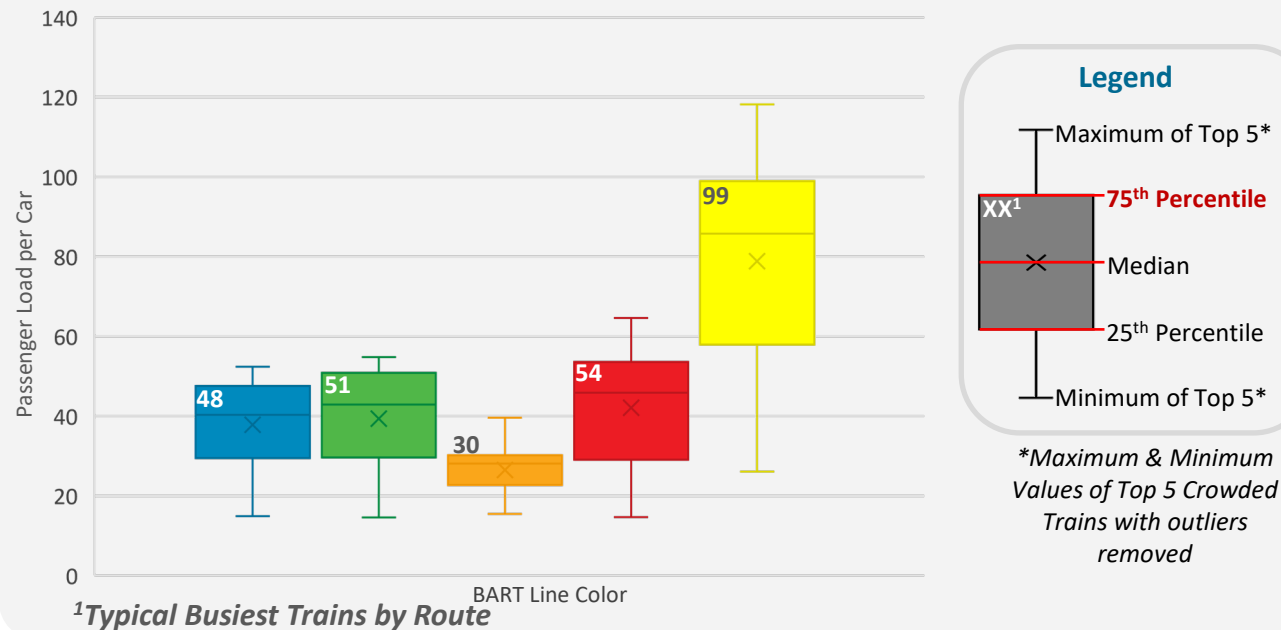
Hourly Scheduled Runs Dispatched from Origin



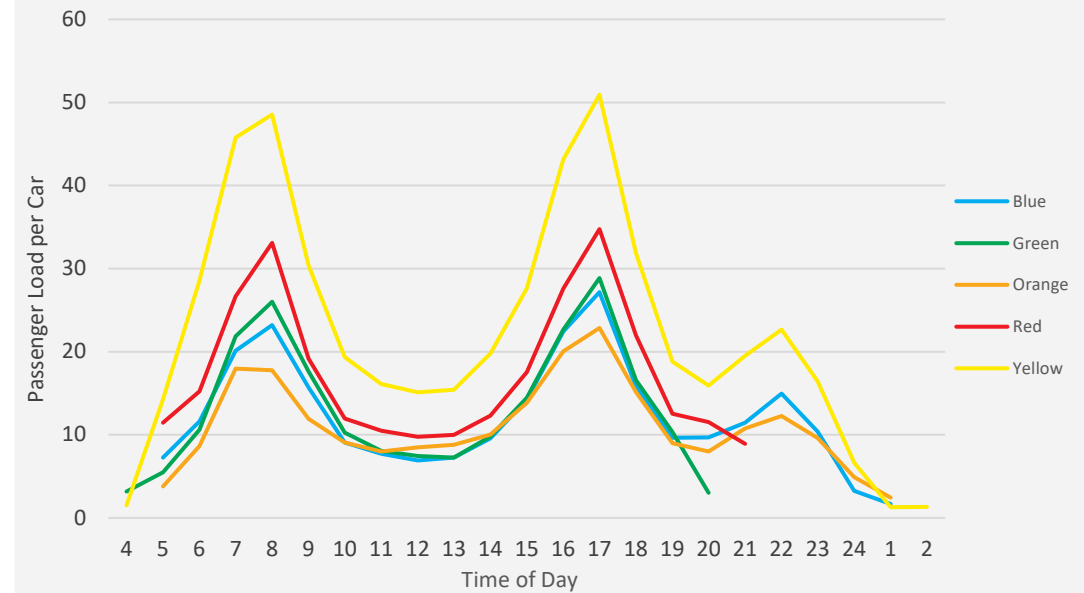
Capacity – Passenger Loading



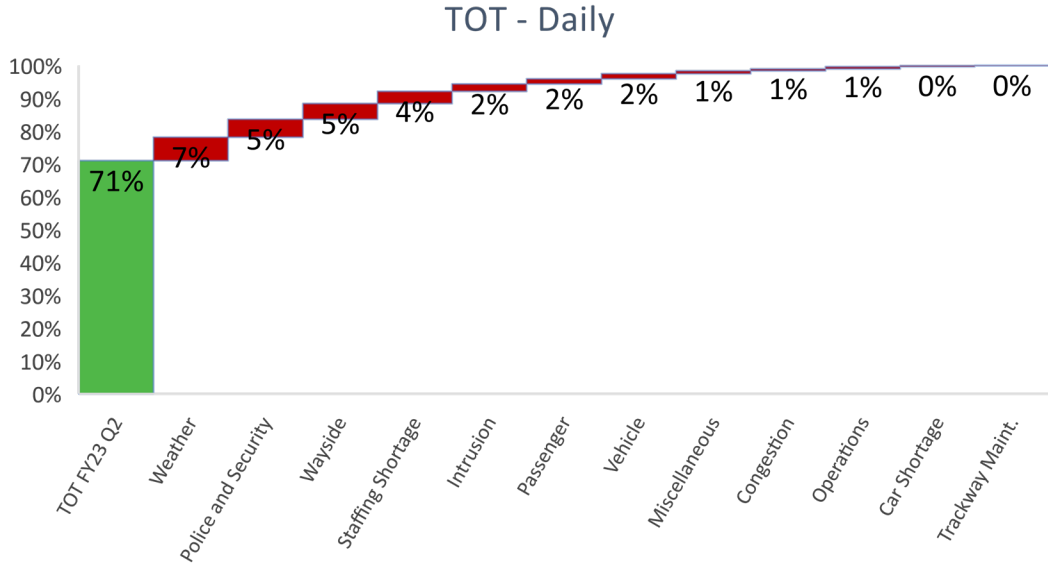
Passenger Load per Car for Top 5 Crowded Weekday Trains



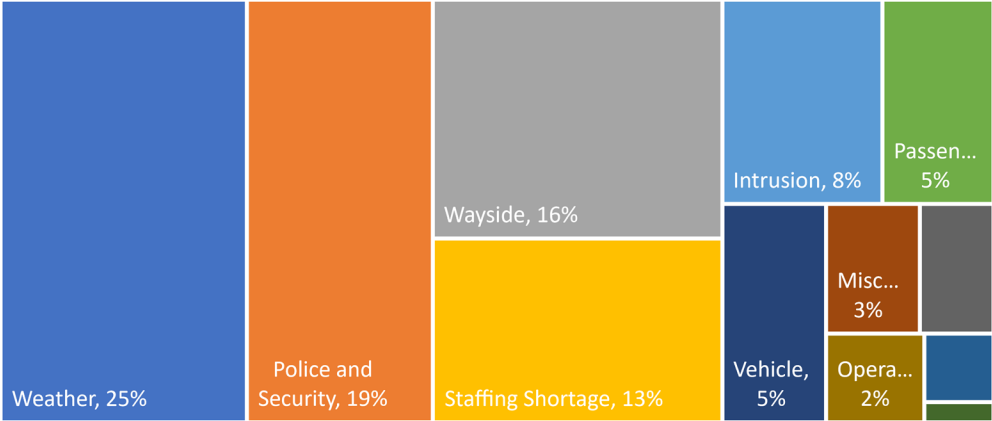
Average Hourly Weekday Passenger Load per Car by Line



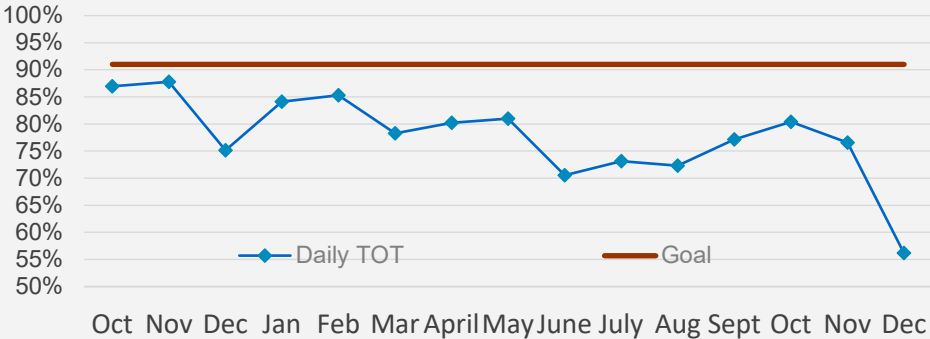
Punctuality – Trains On-Time



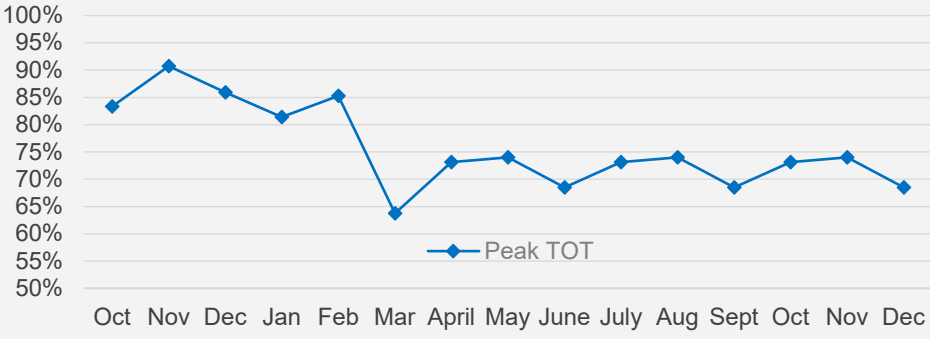
Estimate of EOL Late Trains by Incident Cause



● Daily On-Time



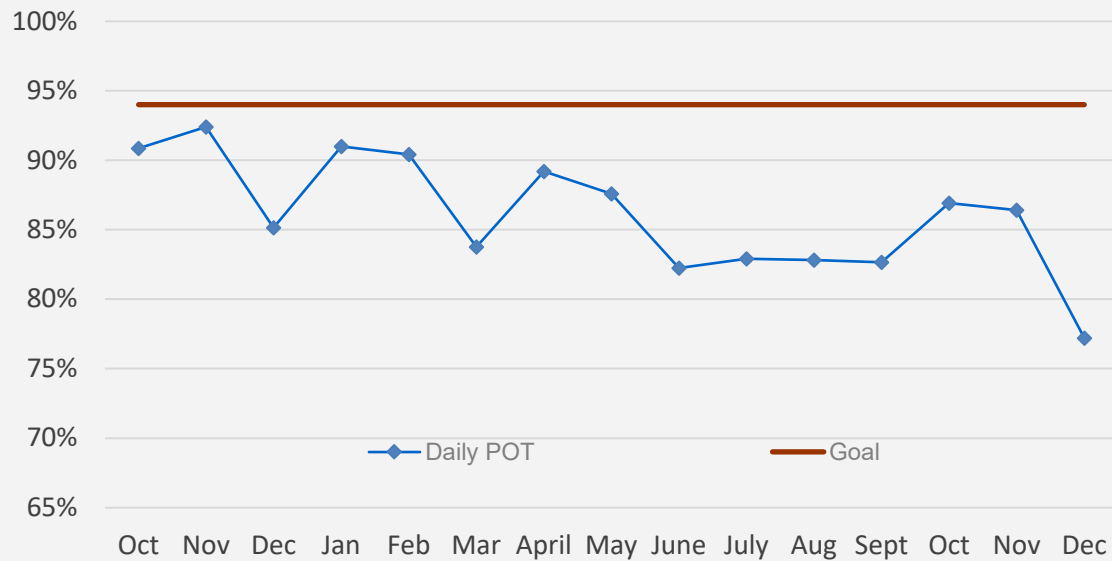
Peak Period On-Time



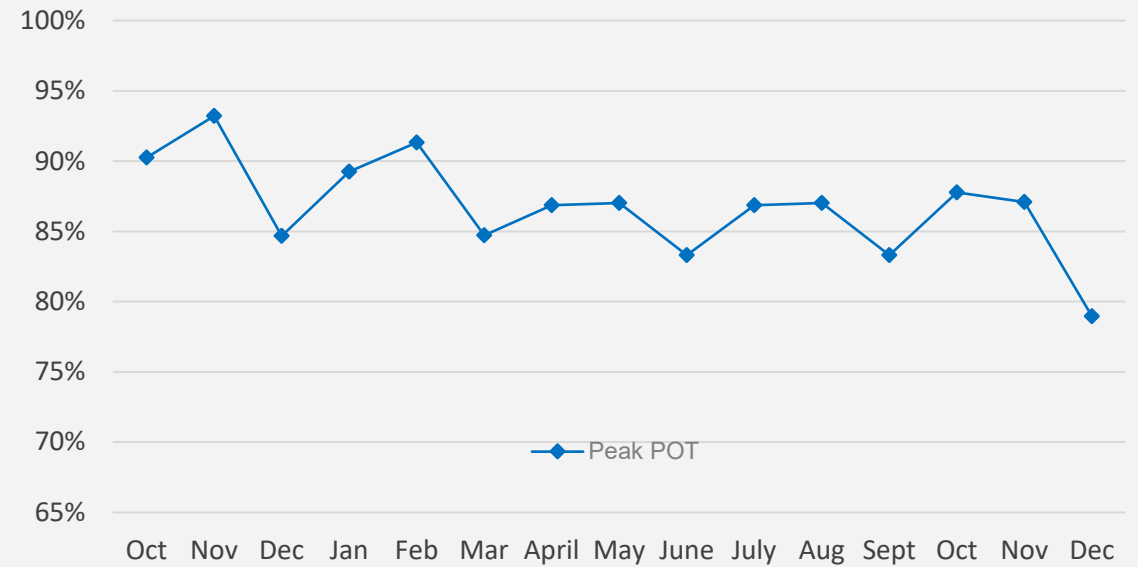
Punctuality – Customer On-Time

- Customer on-time performance was impacted by the increased number of canceled trains and speed reductions due to weather

● Daily Customer On-Time



Peak Customer On-Time

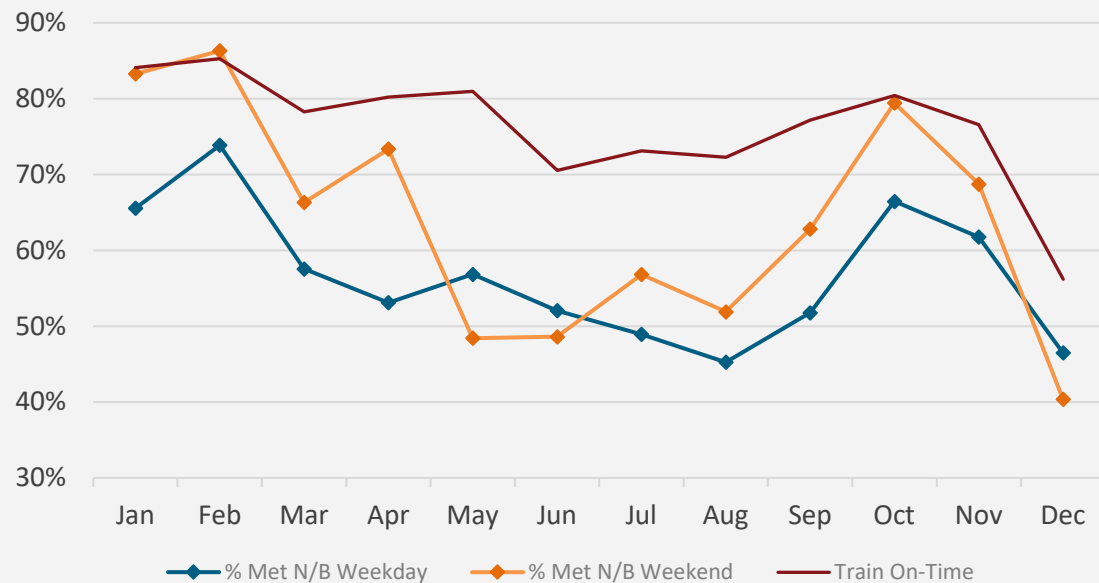


Punctuality – Timed Train Meets

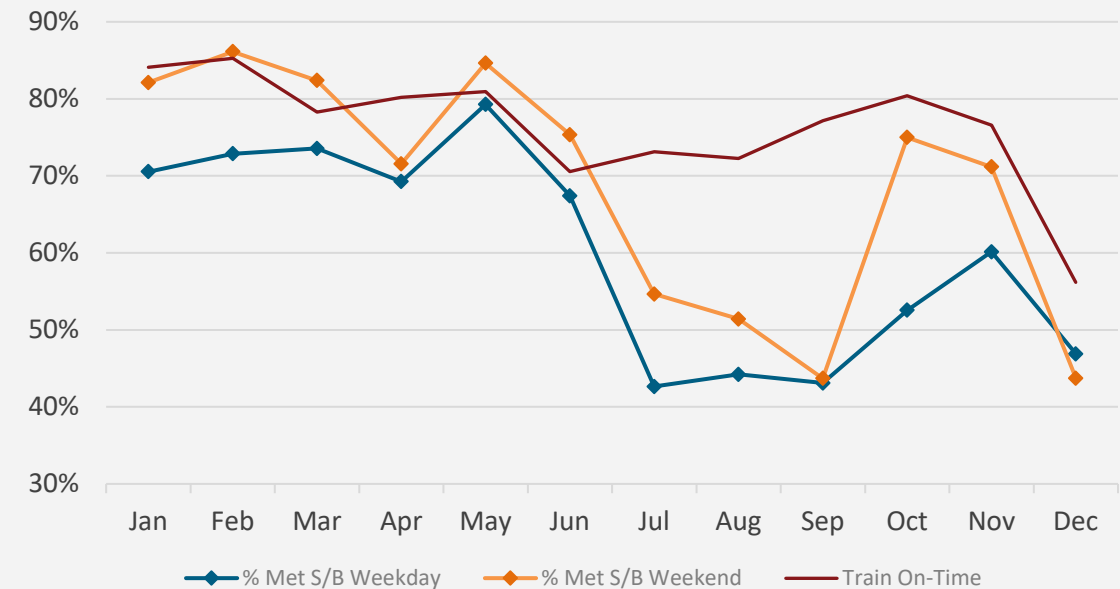


- A meet is considered successful when there is at least 20 seconds of overlap time for both trains at the timed transfer point
- Timed Train Meets on the K-Line between the Yellow and Orange lines occur as follows
 - Northbound trains meet at 19th Street
 - Southbound trains meet at MacArthur

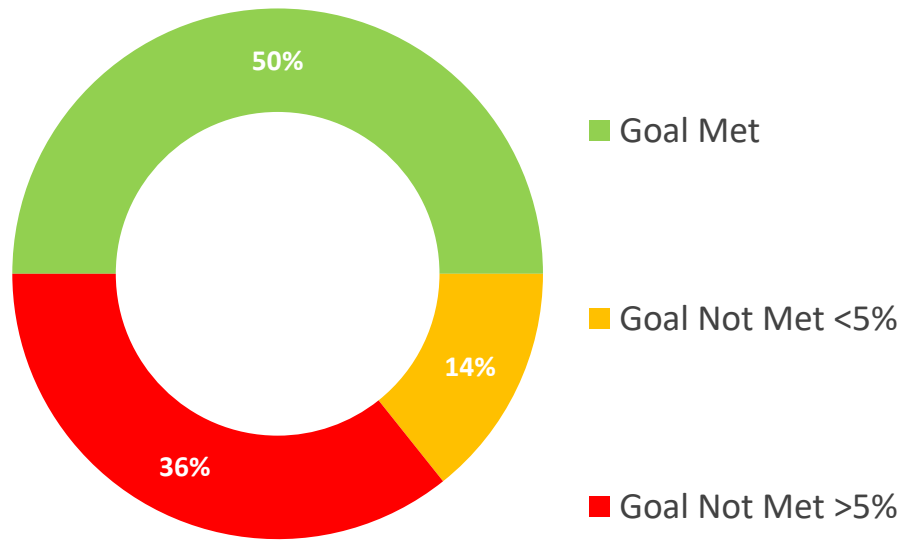
Northbound Meets at 19th Street



Southbound Meets at MacArthur

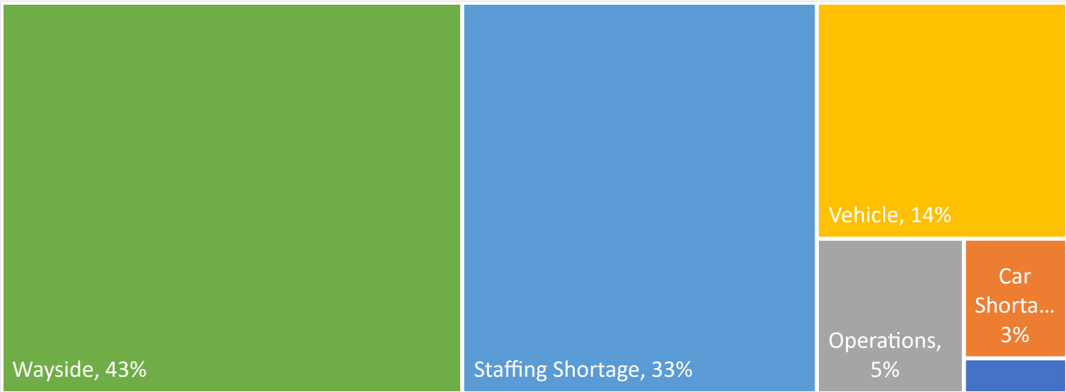


Summary – Railway Asset Availability

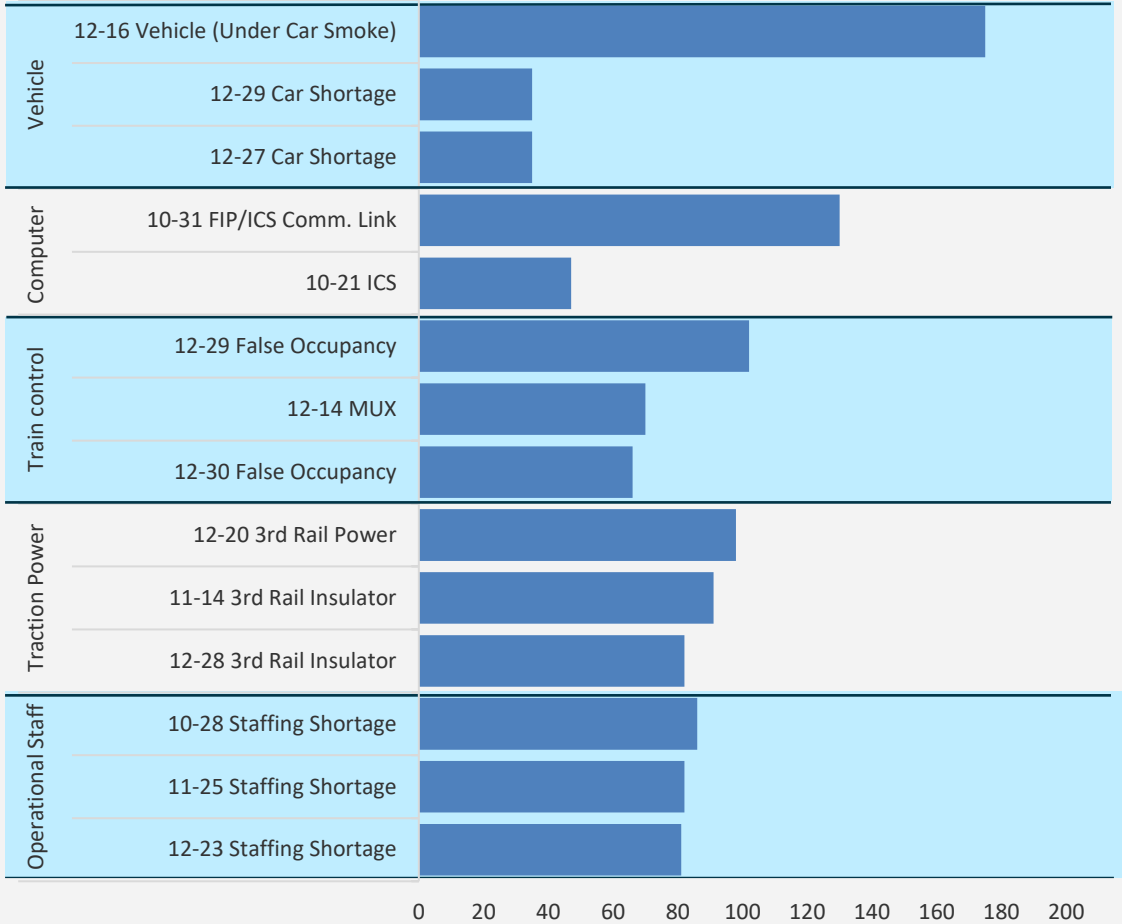


Metric	FY23 Q2	Goal	Change from FY23 Q1	
<i>Station Equipment</i>				
Elevators in Service - Station	99.1%	98.0%	(0.3%)	▼
Elevators in Service - Garage	99.8%	97.0%	(0.06%)	▼
Escalators in Service - Street	96.5%	93.0%	(0.9%)	▼
Escalators in Service - Platform	98.4%	96.0%	1.5%	▲
Automatic Fare Collection - Gates	98.8%	99.0%	(0.3%)	▼
Automatic Fare Collection - Vendors	98.2%	95.0%	0.9%	▲
<i>Revenue Vehicle</i>				
Vehicle MTBSD - (Hours)	5845	6500	(17.0%)	▼
4 AM - Car Availability	679	636	(0.4%)	▼
DMU - MDBF (Miles)	19384	20000	22.5%	▲
<i>Wayside Equipment</i>				
Track	0.09	0.30	50.0%	▲
Transportation	3.64	0.50	(33.6%)	▼
Traction Power	1.14	1.00	8.5%	▲
Wayside Train Control System	1.80	1.30	(16.4%)	▼
Computer Control System	0.48	0.30	(410.7%)	▼

Breakdown of 4,950 Trains Delayed by Incidents due to Railway Asset Unavailability

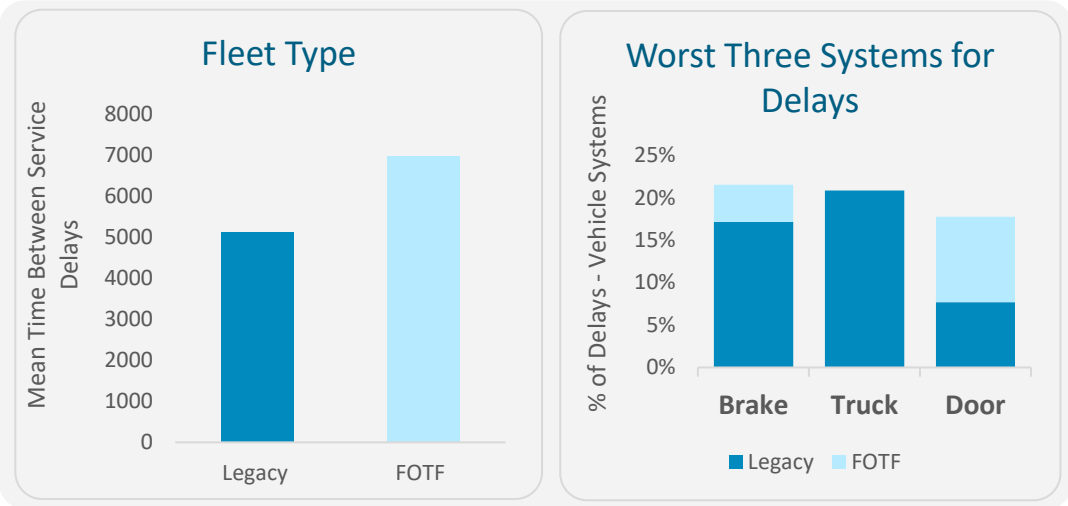


Trains Delayed – Three Worst Asset-Related Incidents by Department

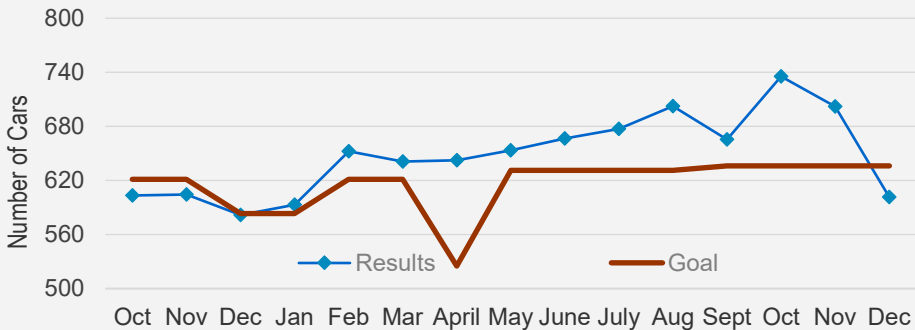


Revenue Fleet – Reliability

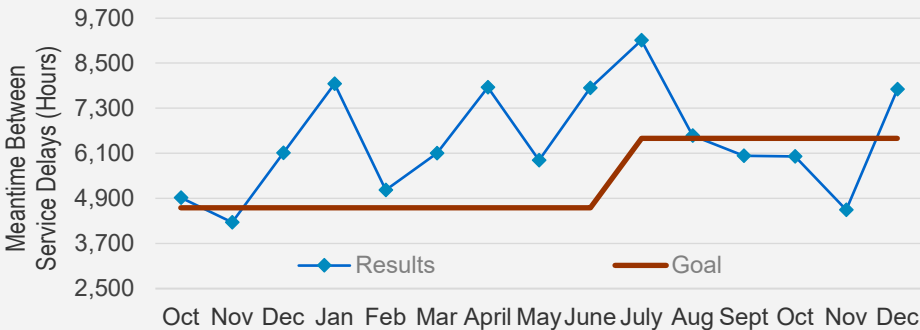
- Fleet of the Future continues to outperform the legacy fleet
- Aging legacy fleet driving down reliability
- December car availability impacted by wet weather and wheel flats



● Car Availability at 4 AM



● Mean Time Between Service Delays



415

LEGACY

FOTF

451

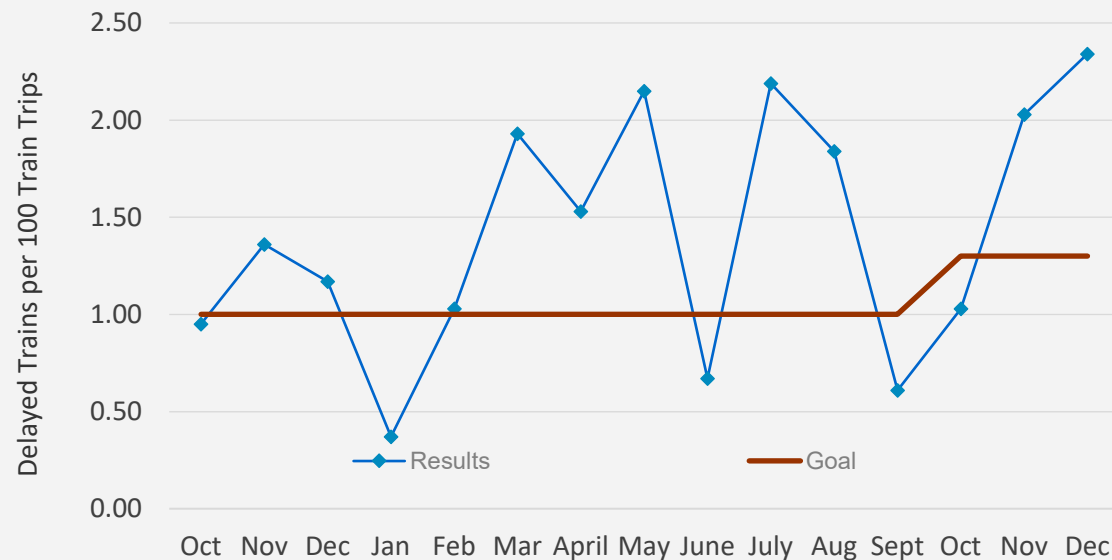
Car count as of 02/01/2023

Wayside Equipment – Train Control Systems

Wayside Train Control System

- Several False Occupancies due to a track switch failure between San Leandro and Bay Fair
- Most delays were due to multiple routing equipment failures in November and December

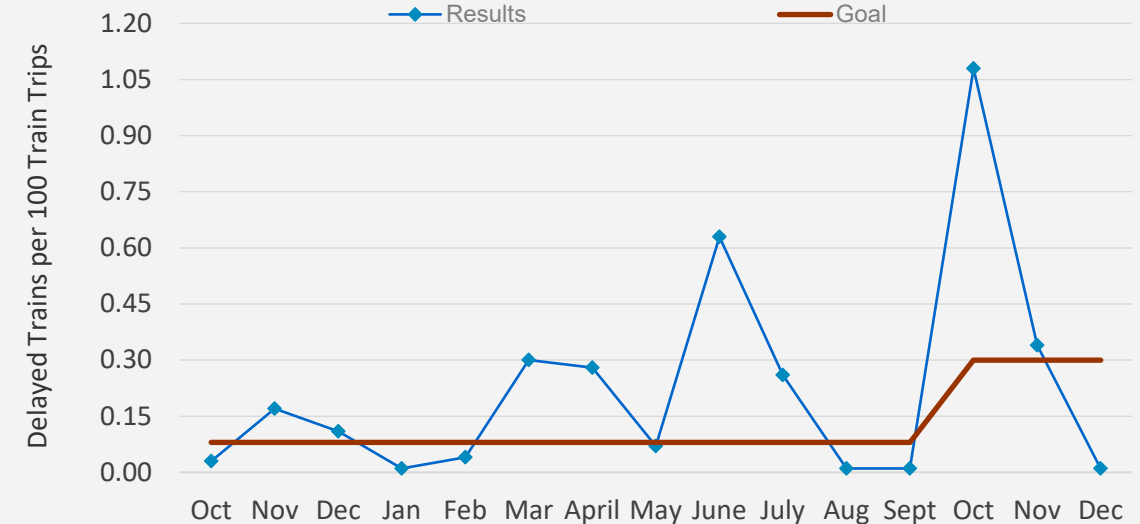
Wayside Train Control System



Wayside Computer Control System

- The Switch Failure on Oct. 31st was the primary source of delays this quarter, which impacted 130 trains

Wayside Computer Control System

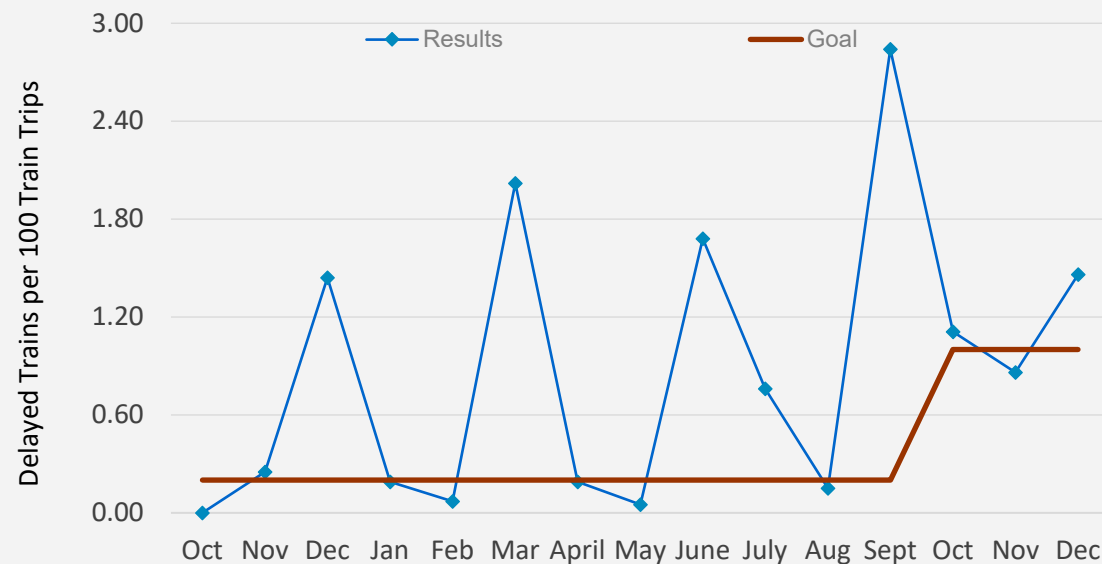


Wayside Equipment – Railway

Traction Power System

- 3rd Rail power issues on the M-Line and at Lake Merritt generated multiple delays
- Coverboard failures at Balboa Park also contributed to delays this quarter

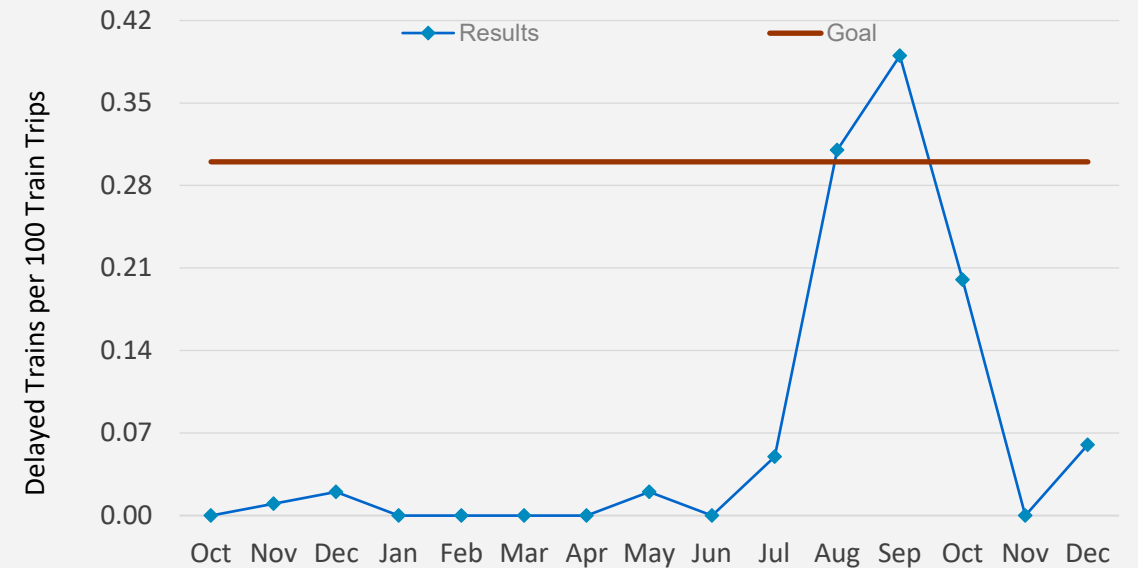
● Traction Power System



Track System

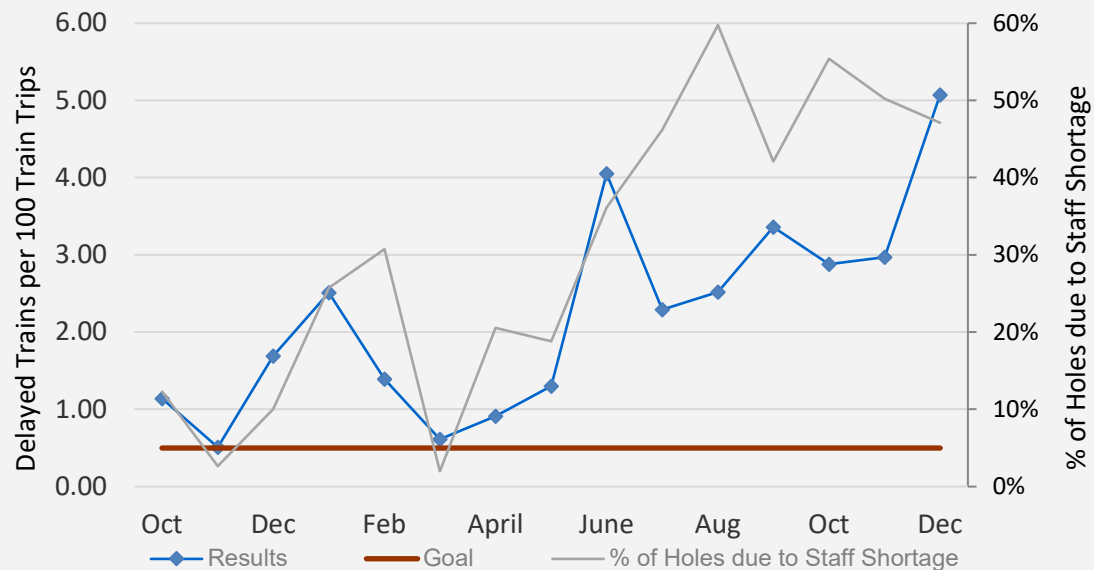
- Met goal

● Track System

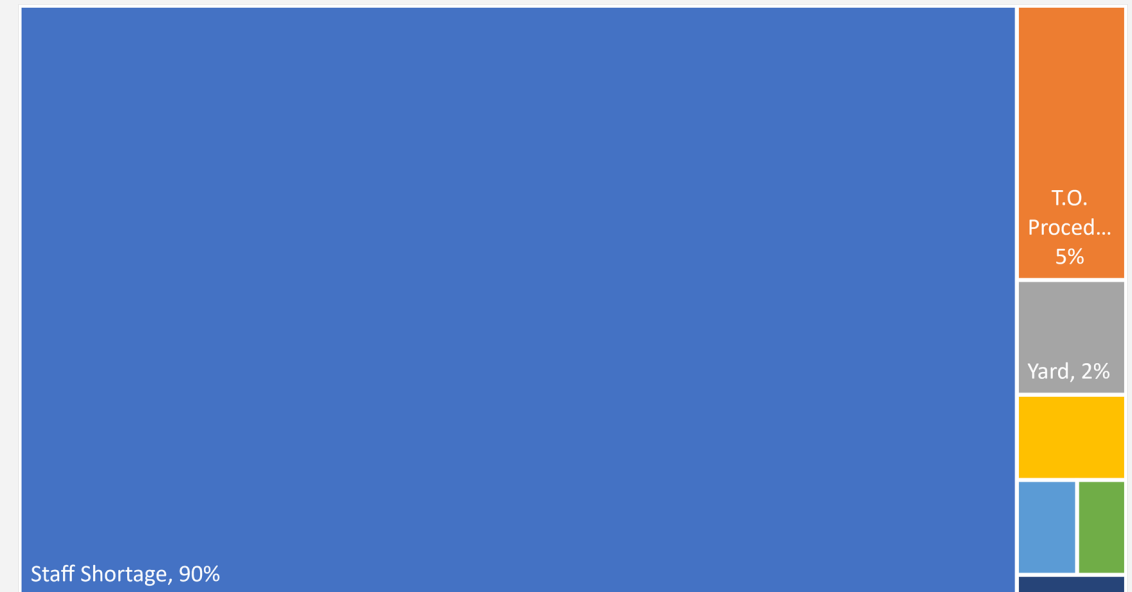


- Staff shortages make up the vast majority of Operations-related train delays
- Recruiting of Train Operators, Rail Controllers, and Foreworkers remains the highest priority

Operations



Breakdown of 1,829 trains Delayed due to Operations Unavailability



Outlook – Transportation Staffing

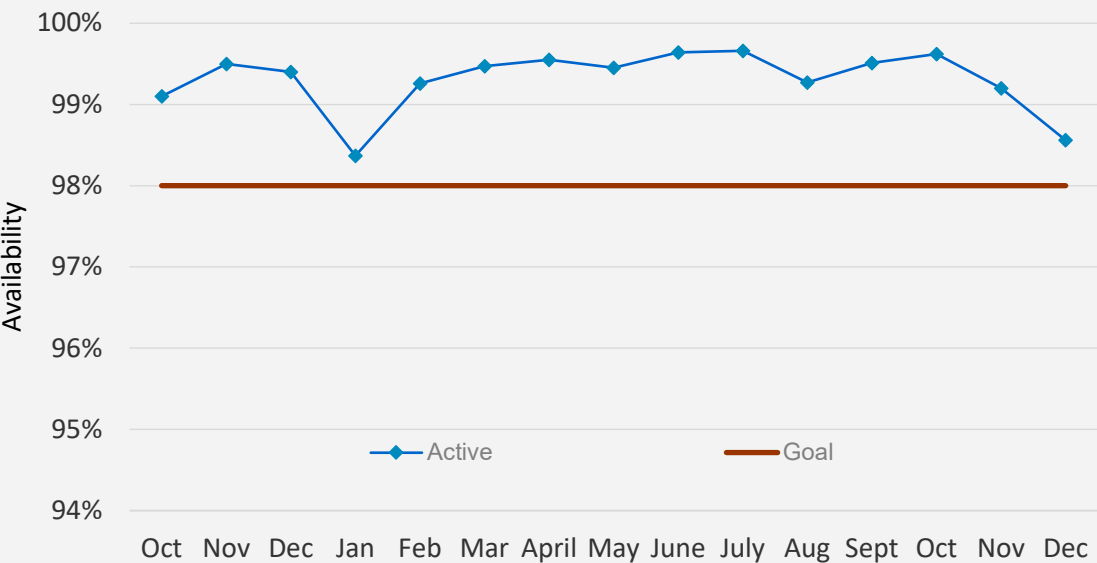
- Train Operators
 - On pace to reach full-staffing in late 2023
 - Will address train cancellations due to staffing shortage
 - Three classes underway – on-going
 - Full bench of qualified applicants
- Station Agents
 - On pace to reach full-staffing this Summer
 - Continued recruiting to keep pace with retirements and promotions
- Rail Controllers
 - A record seven rail controller trainees in process
- Foreworkers
 - Hiring will become a priority for 2023/2024 as Train Operators and Station Agents reach full-staffing



Station Elevator

- Goal met

Station Elevator

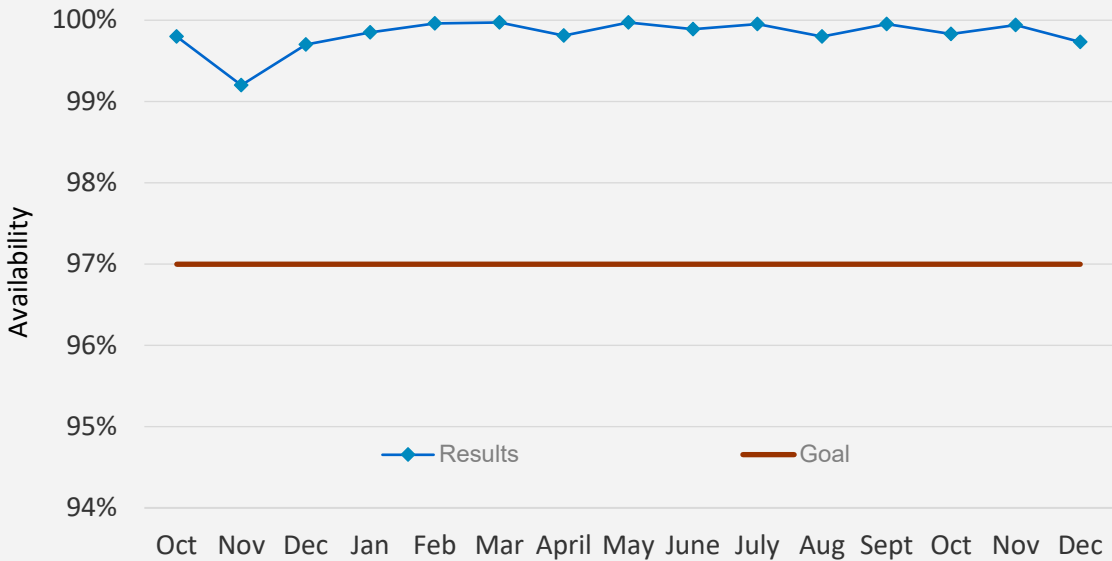


Garage Elevator

- Goal met



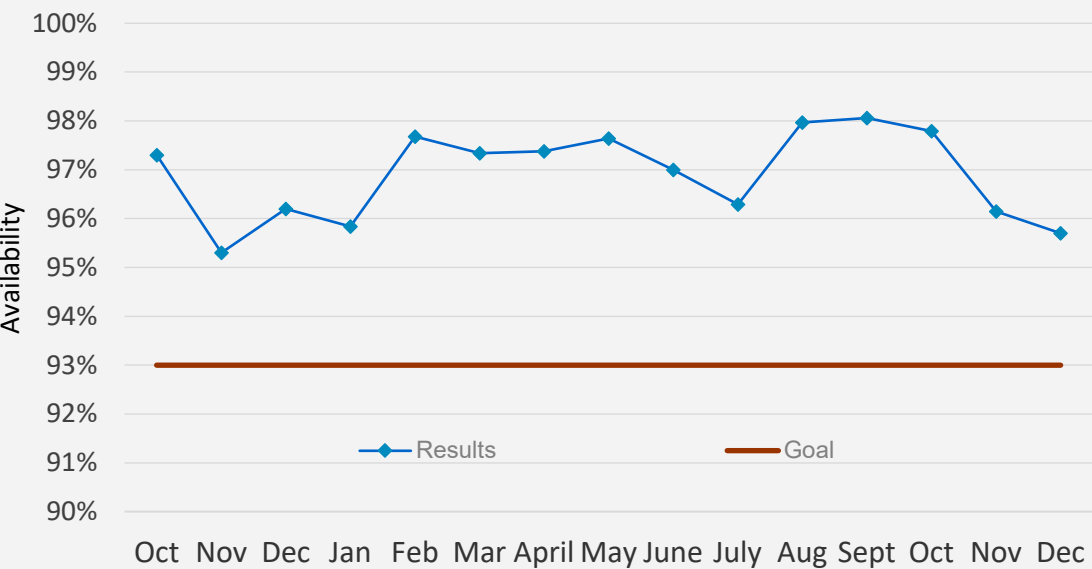
Garage Elevator



Street Escalator

- Goal met

Street Escalator

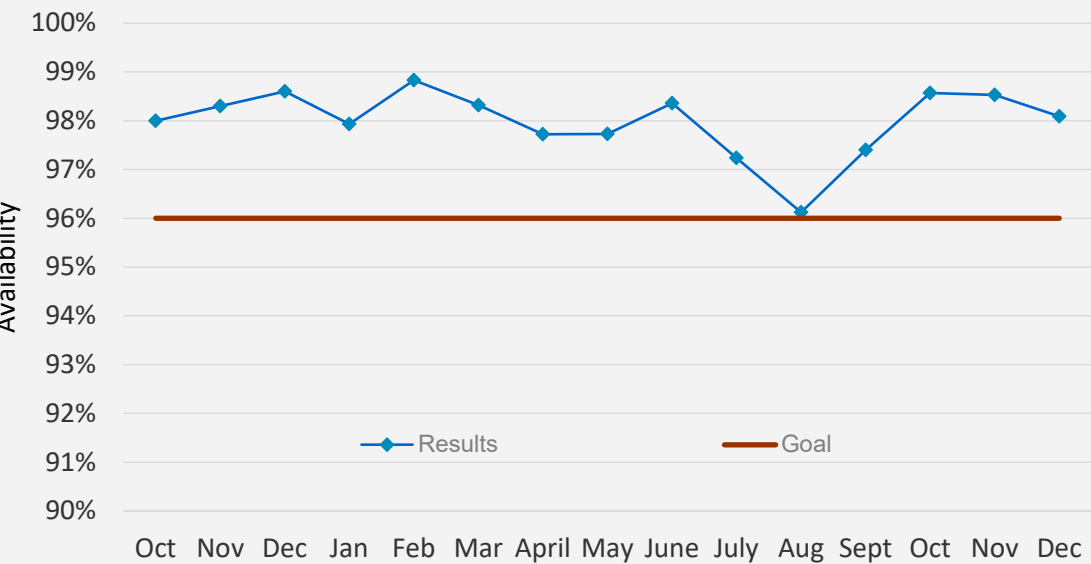


Platform Escalator

- Goal met



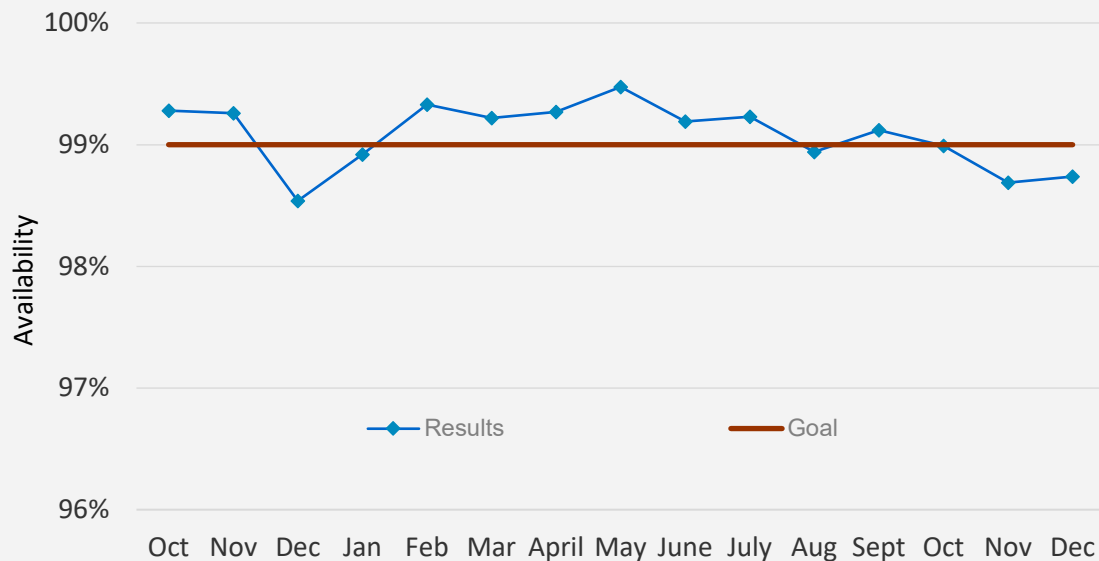
Platform Escalator



Gate Availability

- Damaged electrical conduits resulted in power loss to fare gates at Civic Center, Walnut Creek, and Downtown Berkeley

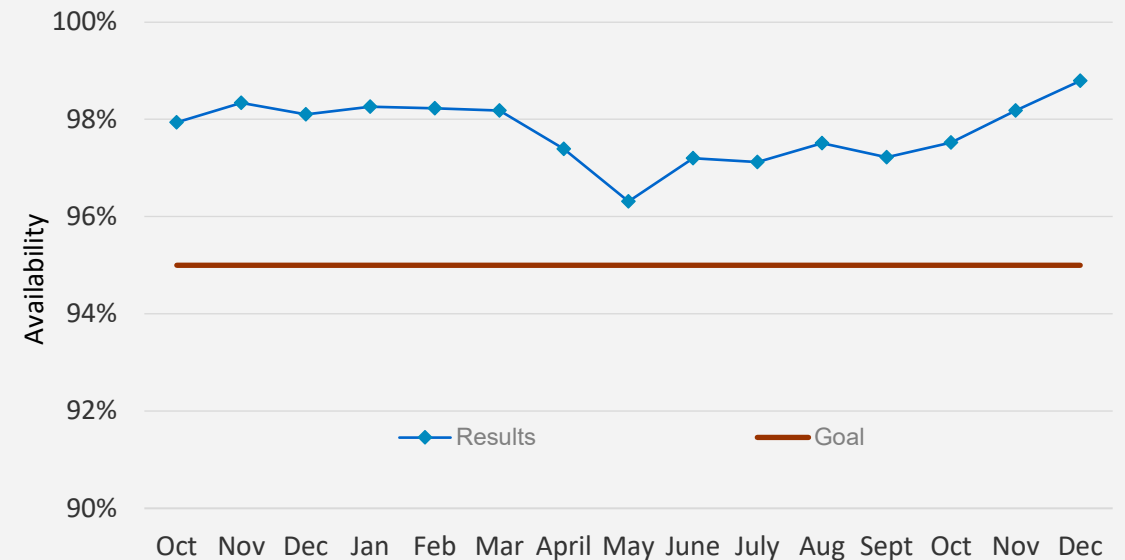
Gate Availability



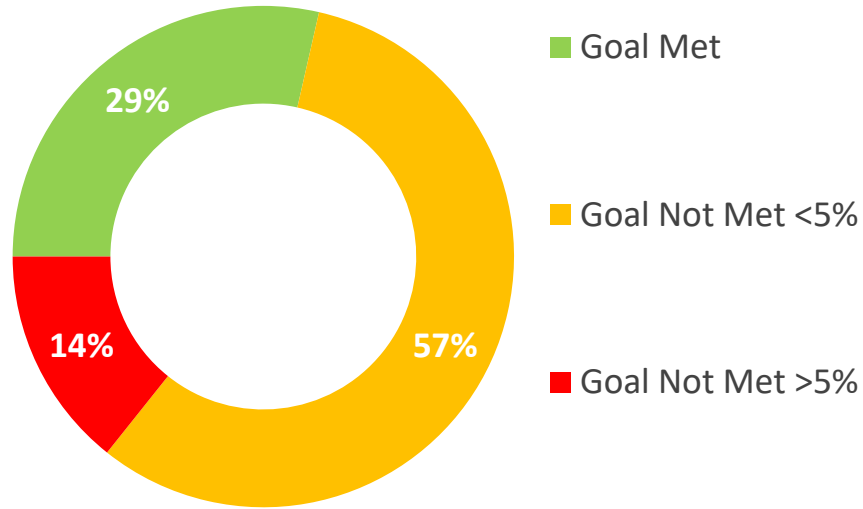
Vendor Availability

- Goal met

Vendor Availability



Summary – Customer Experience

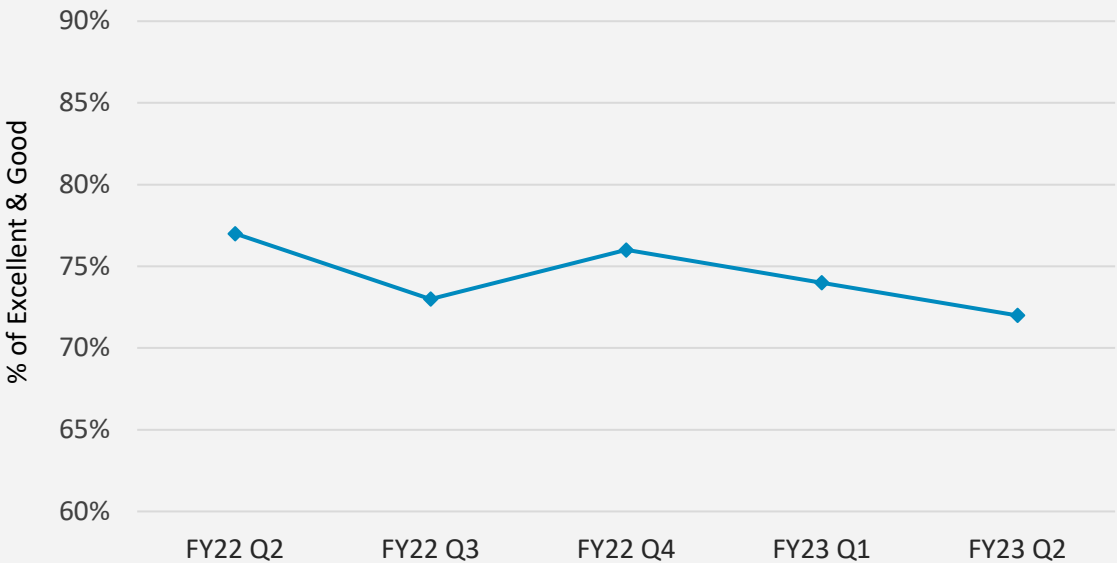


Metric	FY23 Q2	Goal	Change from FY23 Q1	
<i>Service</i>				
Overall Customer Satisfaction	72.0%		2.0%	▲
Station Agent Customer Service	72.8%	75.0%	(1.0%)	▼
Complaints per 100,000 Passenger Trips	23.4	5.1	12.3%	▲
<i>Train Environment</i>				
Train Temperature	85.0%	82.0%	1.7%	▲
Train Interior Cleanliness	68.5%	70.0%	(1.8%)	▼
<i>Station Environment</i>				
Environment Outside Stations	68.2%	66.0%	3.1%	▲
Environment Inside Stations	67.2%	64.0%	6.5%	▲
<i>Code of Conduct</i>				
Gender Based Harassment	9%			
Fare Evasion	21.8%		(1.6%)	▼

▼ Gray arrows represent change from the previous quarter for metrics which do not have an established goal

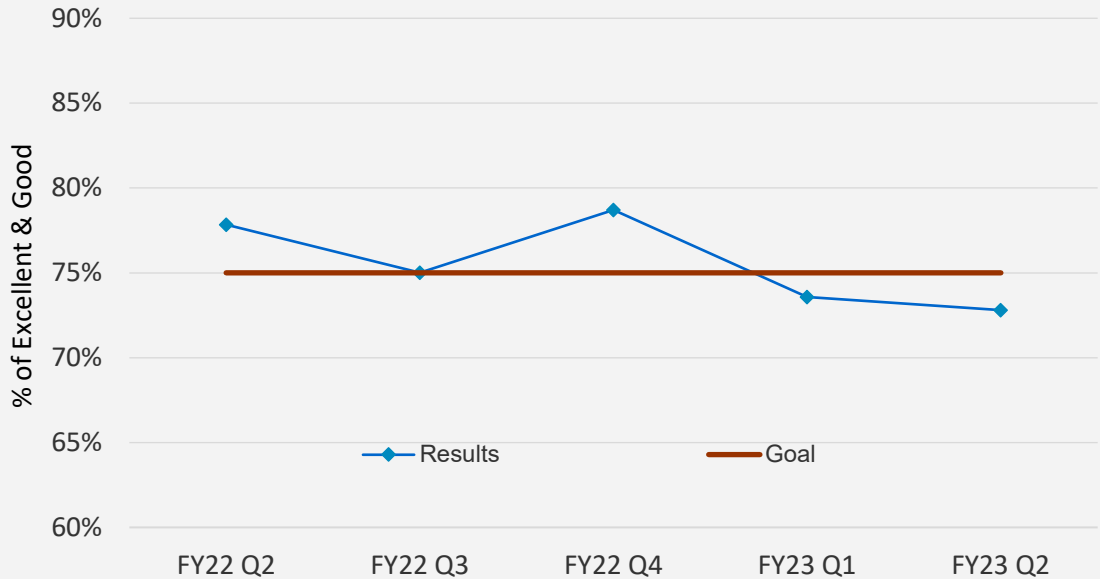
Overall, how satisfied are you with the services provided by BART?

Overall Customer Satisfaction

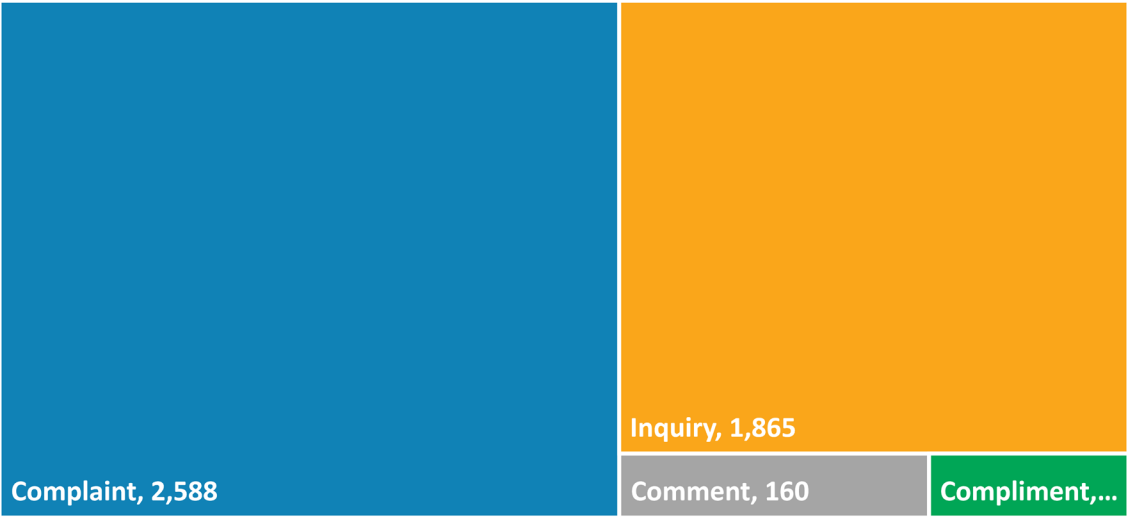


Customer service from Station Agent (if used today)

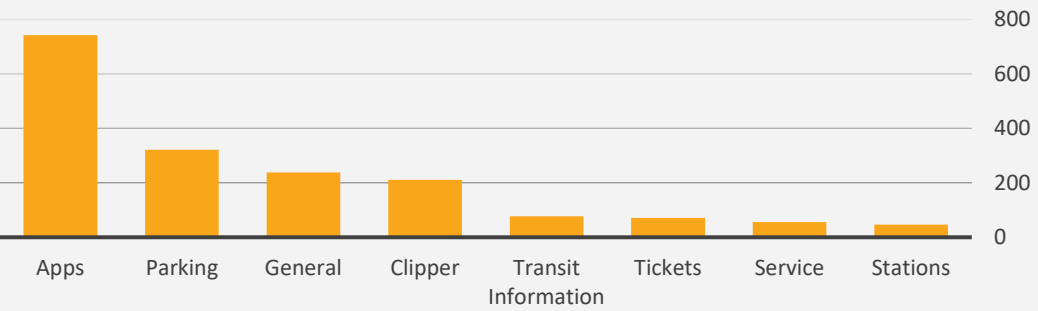
Station Agent Customer Service



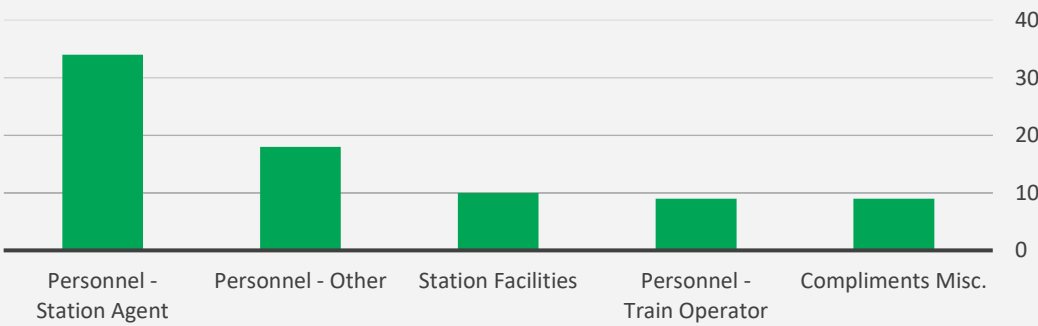
Customer Service – Cases by Type



Inquiry Cases – FY23 Q2



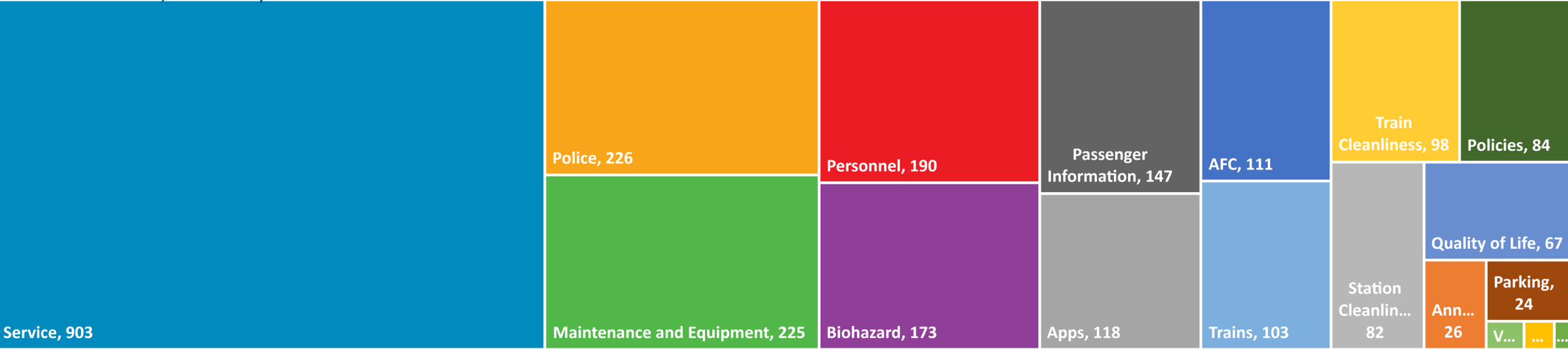
Compliment Cases – FY23 Q2



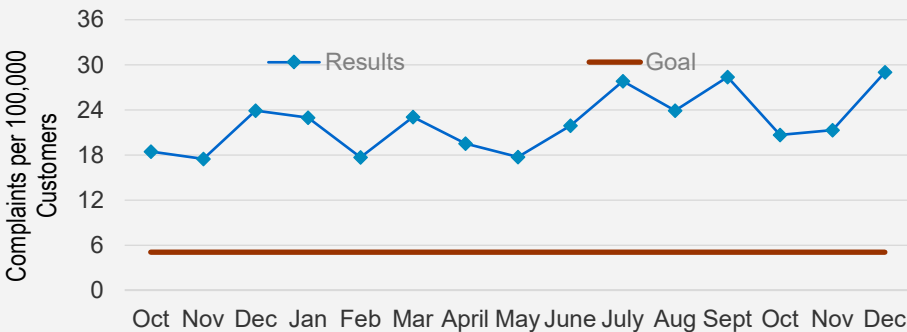
Customer Service – Complaint Cases



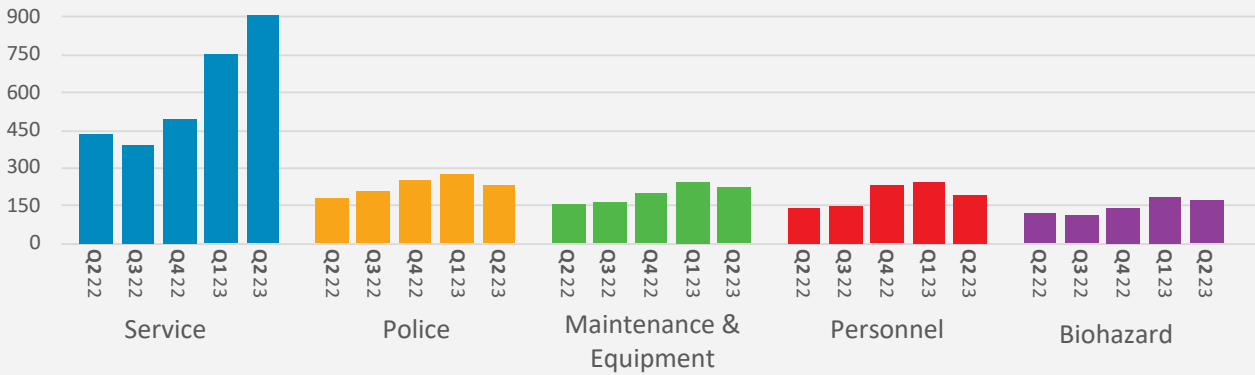
Breakdown of 2,588 Complaint Cases



Customer Complaints



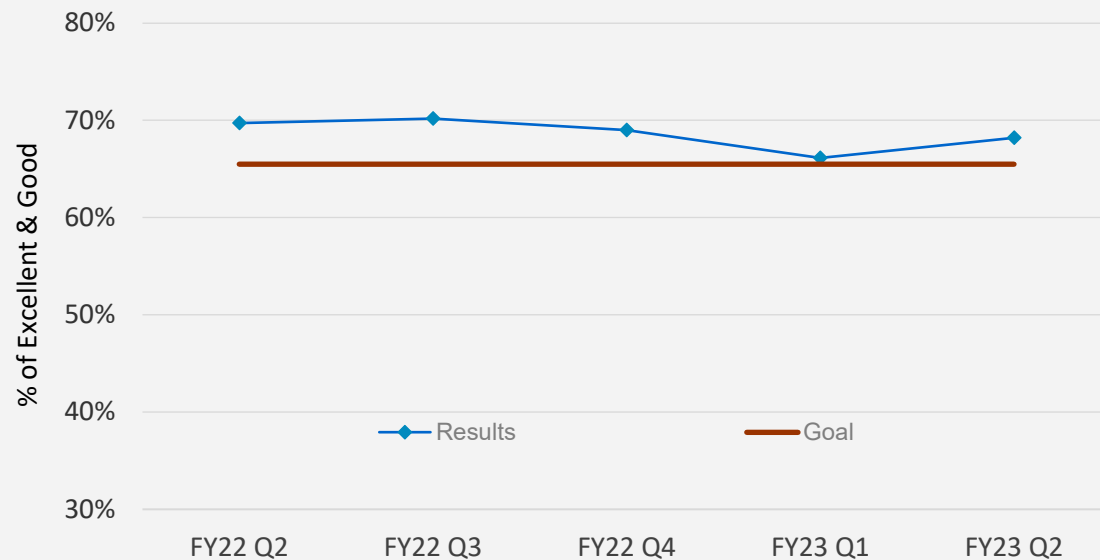
FY23 Q2 Trending Customer Complaints



Environment Outside Station

- Goal met

Customer Rating - Outside Station

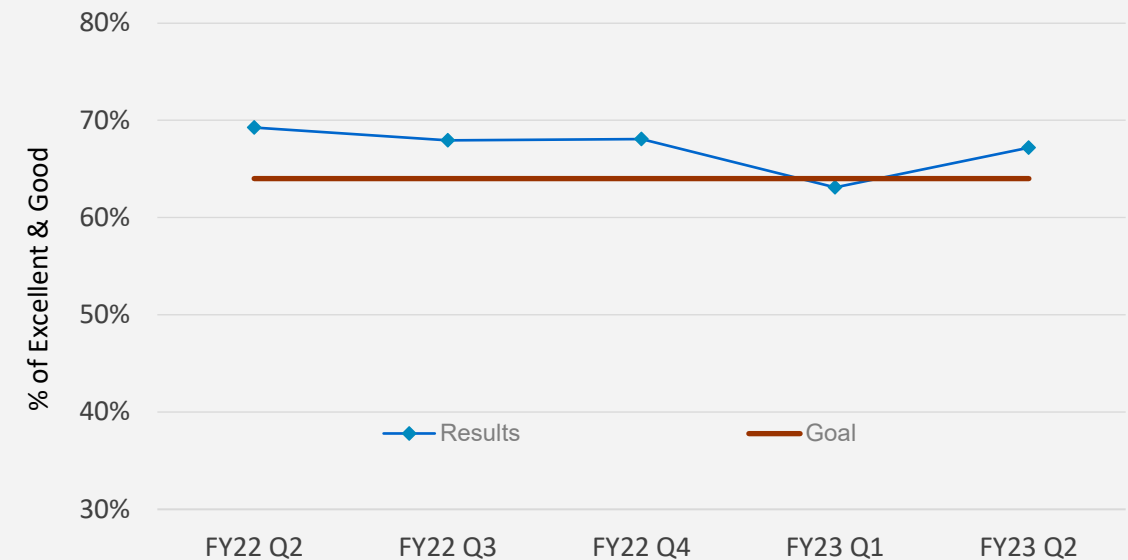


Environment Inside Station

- Goal met



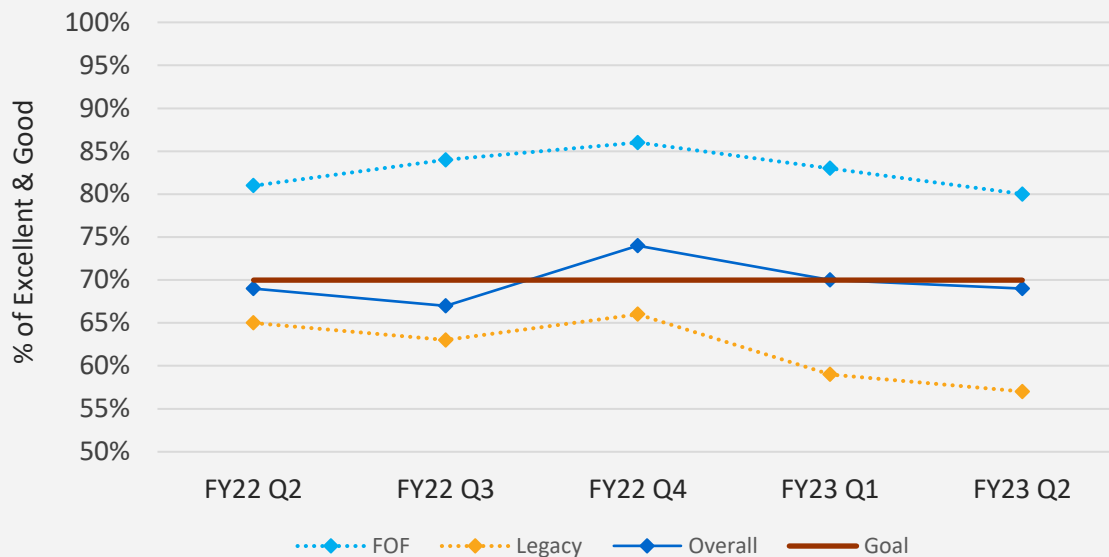
Customer Rating - Inside Station



Train Interior Cleanliness

- Rating decreased by 1.8% from Q1 FY23
- FOTF Intermediate Thorough Interior Cleaning started on November 22

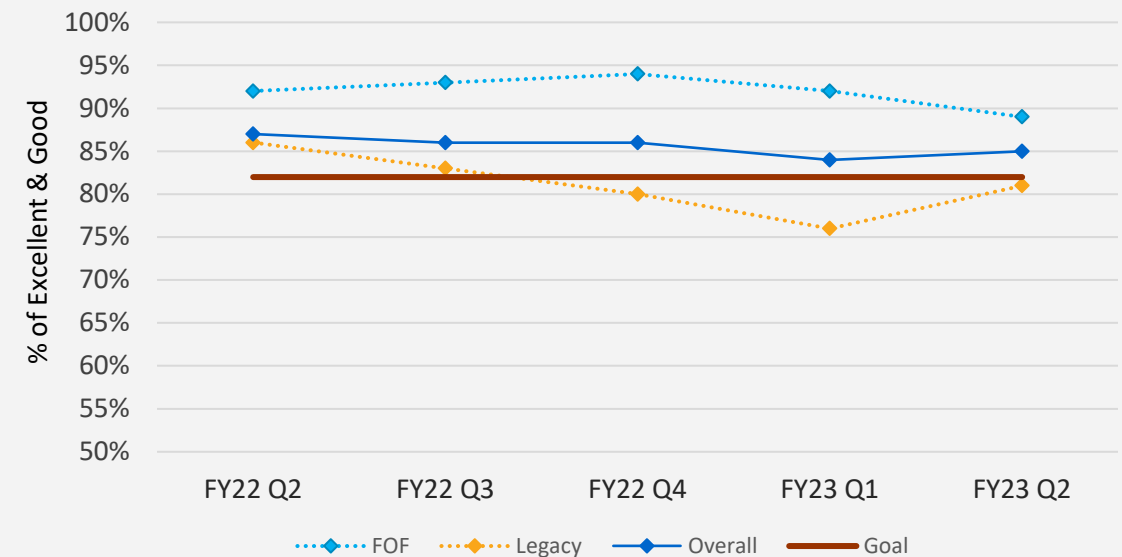
Customer Rating – Interior Cleanliness



Train Temperature

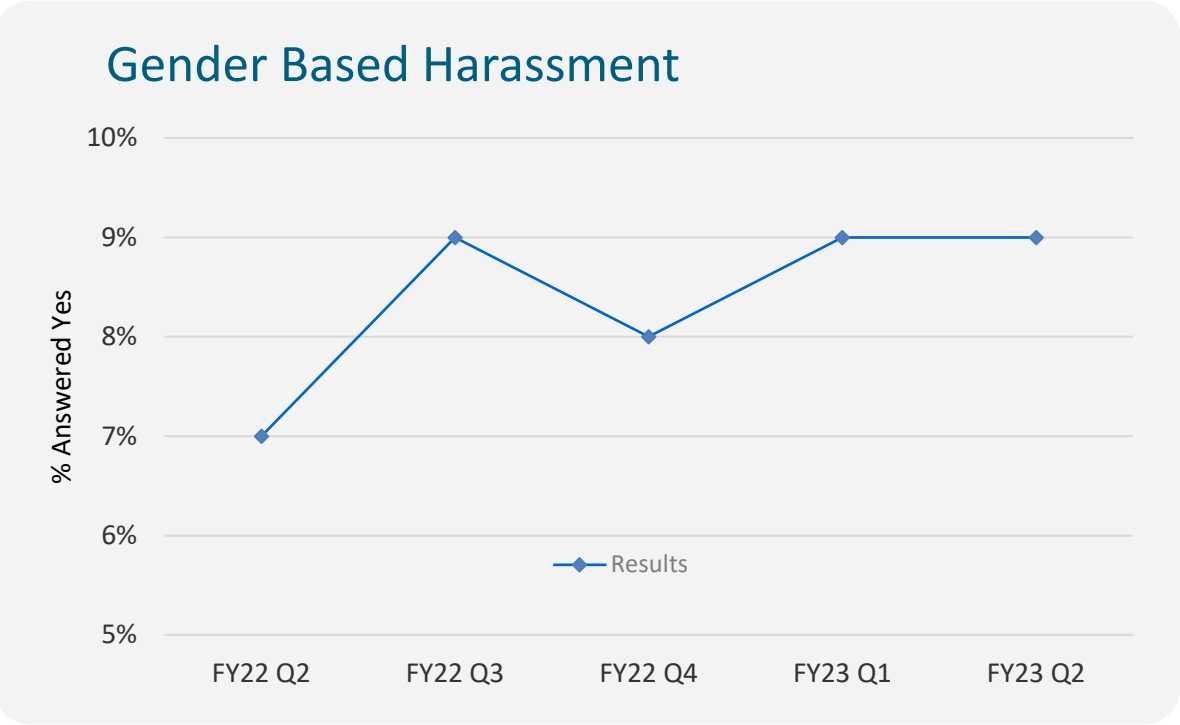
- Goal met

Customer Rating - Temperature



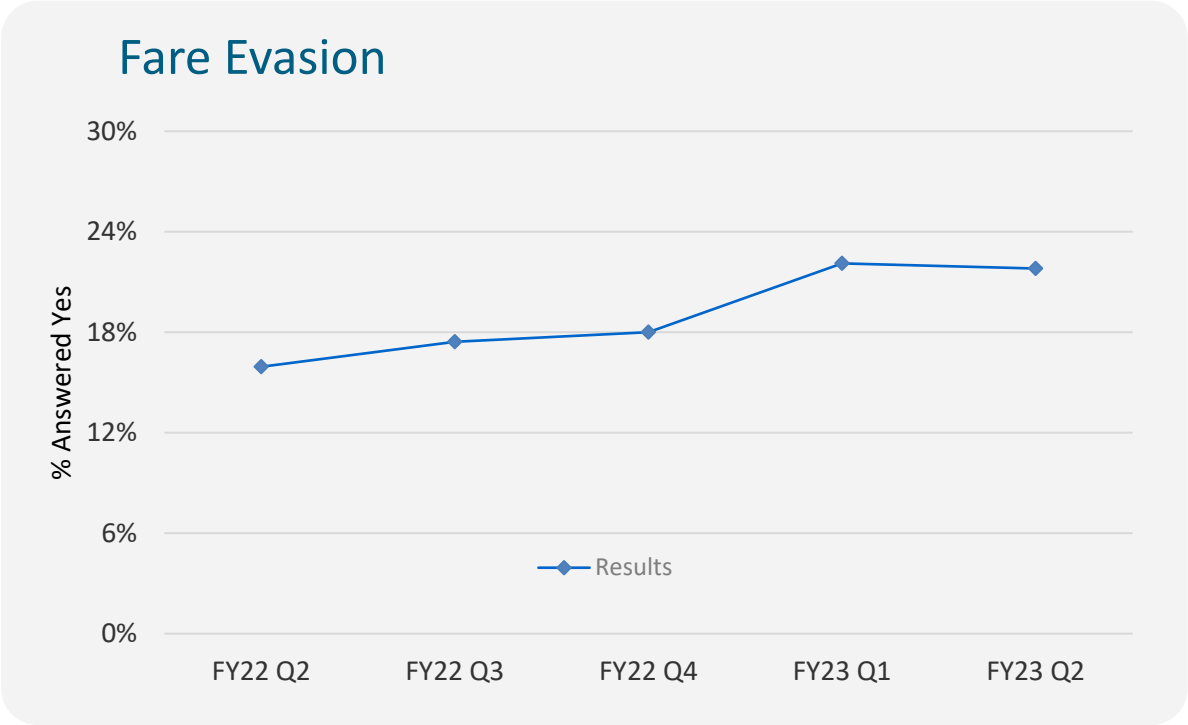
Gender Based Harassment

Have you experienced gender-based sexual harassment at BART in the last six months?

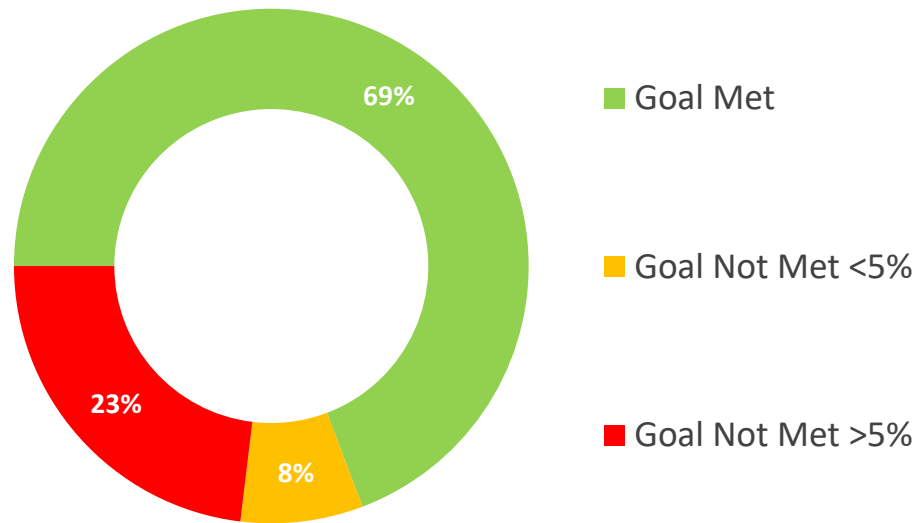


Fare Evasion

Did you see anyone enter or exit the Station without paying their fare today?



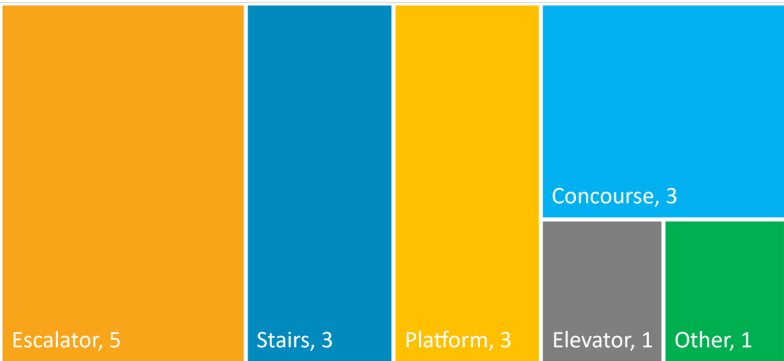
Summary – Safety and Security



Metric	FY23 Q2	Goal	Change from FY23 Q1	
<i>Safety</i>				
Vehicle Incidents/Million Patrons	0.90	0.6	(157.1%)	▼
Unscheduled Door Openings/Million Car Miles	0.18	0.2	5.3%	▲
Rule Violations Summary/Million Car Miles	0.18	0.25	(28.6%)	▼
Station Incidents/Million Patrons	1.44	2	17.7%	▲
OSHA-Recordable Injuries/Illnesses/Per OSHA	11.46	12	17.9%	▲
Lost Time Injuries/Illnesses/Per OSHA	6.77	6.5	14.5%	▲
<i>Security</i>				
Police Response Time/Emergency Incident (Minutes)	4.63	5	(15.82%)	▼
Bike Thefts	28	50	41.66%	▲
Auto Thefts/1,000 Parking Spaces	1.97	2.0	(93.87%)	▼
Auto Burglaries/1,000 Parking Spaces	2.08	3.5	(6.38%)	▼
BART Police Presence	9.0%	12%	(6.51%)	▼
Crimes Against Persons/Million Riders	9.52	2	(13.27%)	▼

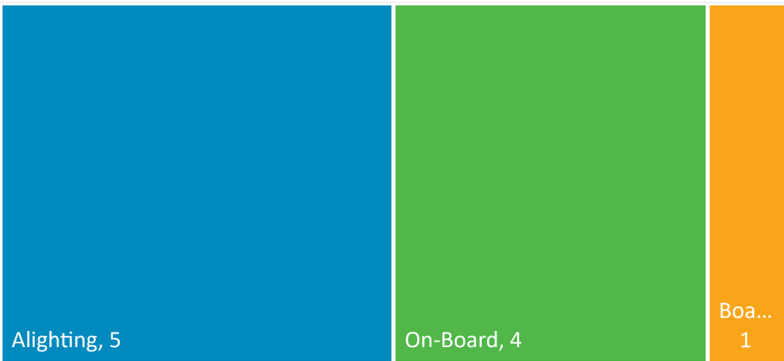
Station Incidents

Breakdown of 16 Station Incidents

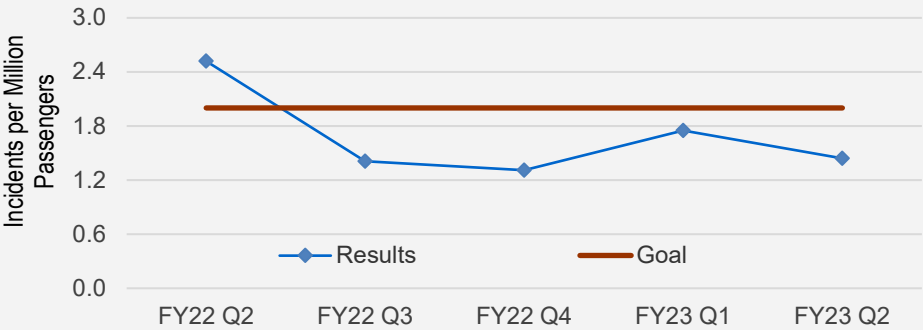


Vehicle Incidents

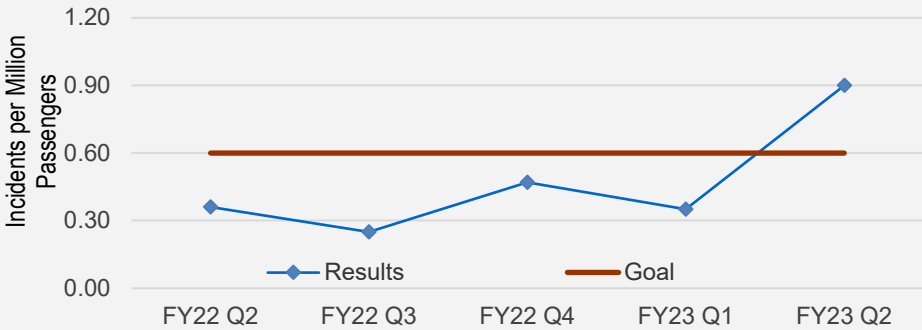
Breakdown of 10 Vehicle Incidents



Station Incidents

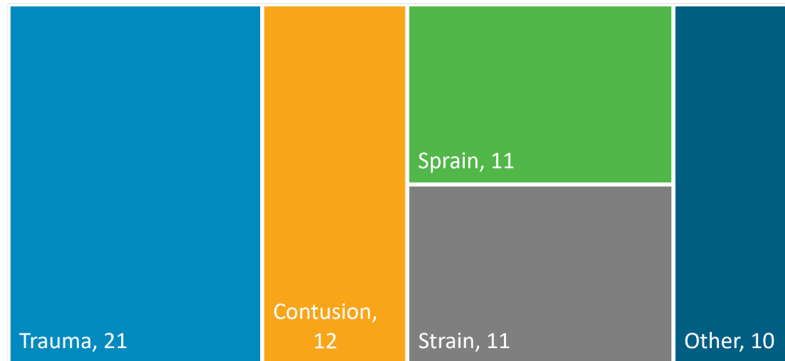


Vehicle Incidents



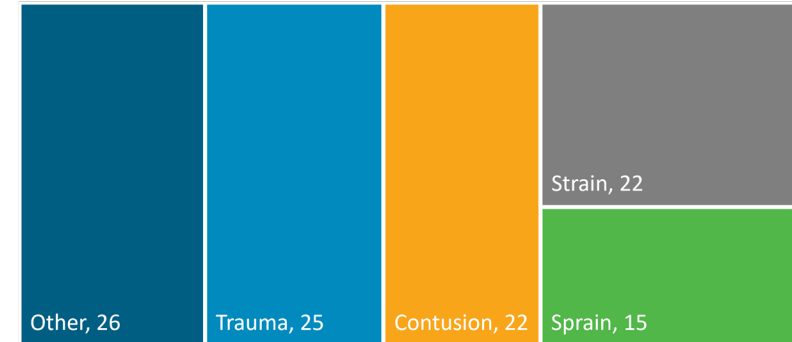
Lost Time due to Injuries

Breakdown of 65 Lost Time Cases

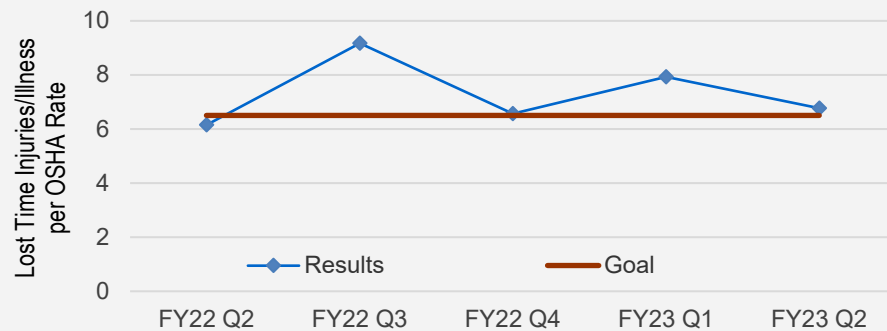


OSHA Recordable Injuries

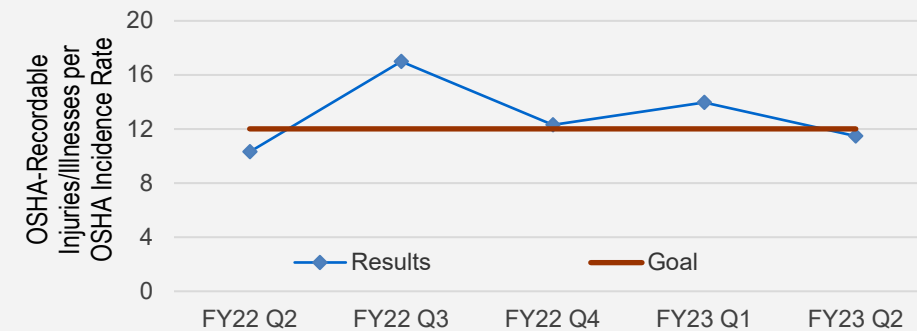
Breakdown of Recordable Injuries



● Lost Time due to Injuries



● OSHA Recordable Injuries

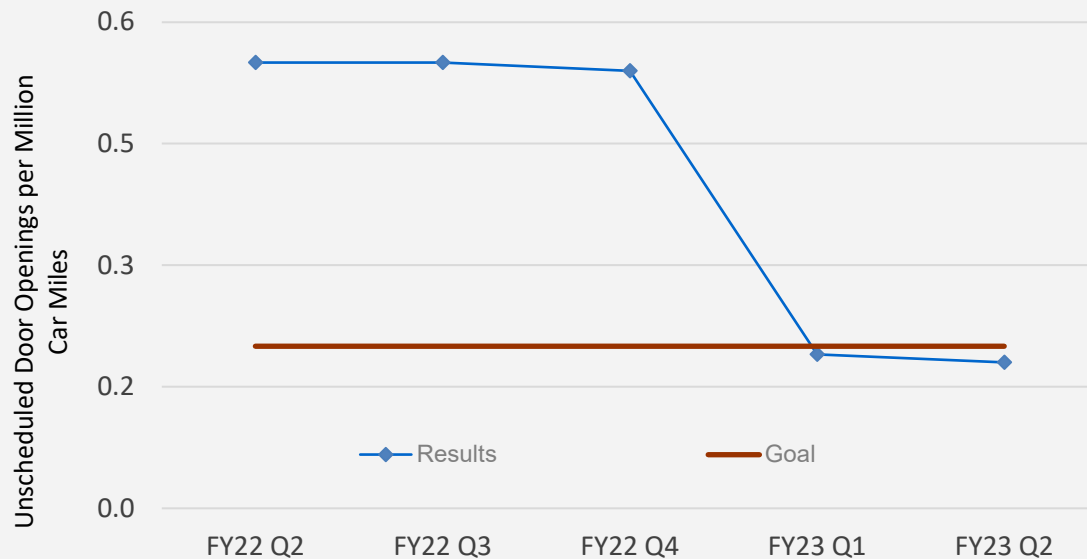


Safety – Procedure Violations

Unscheduled Door Openings

- October 2022 – 3 Unscheduled Openings
- November 2022 – 1 Unscheduled Opening

Unscheduled Door Openings

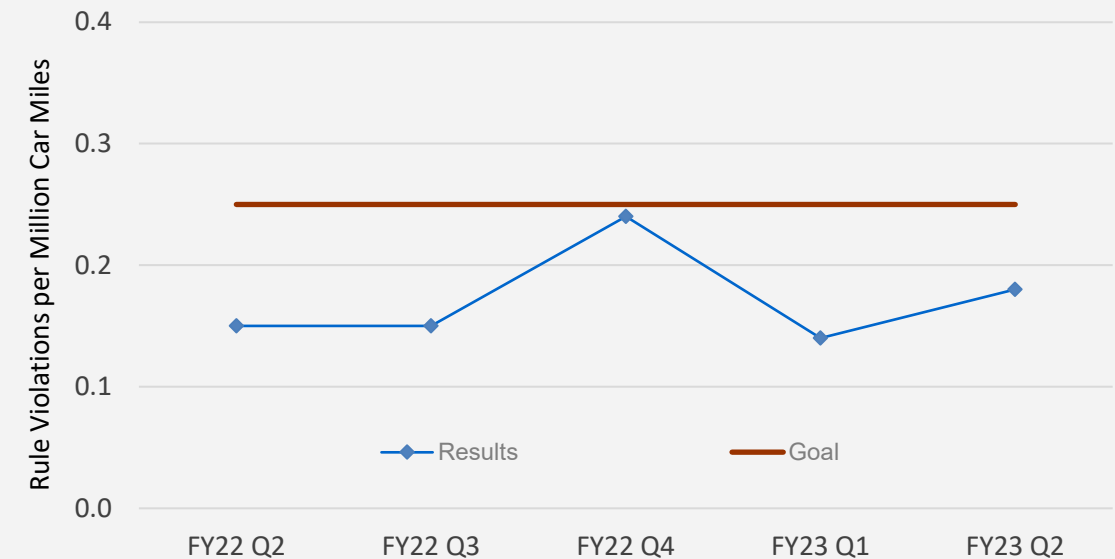


Rule Violations

- November 23rd – 1 Transportation Rule Violation
- December 26th – 1 Transportation Rule Violation
- December 30th – 1 Transportation Rule Violation



Rule Violations

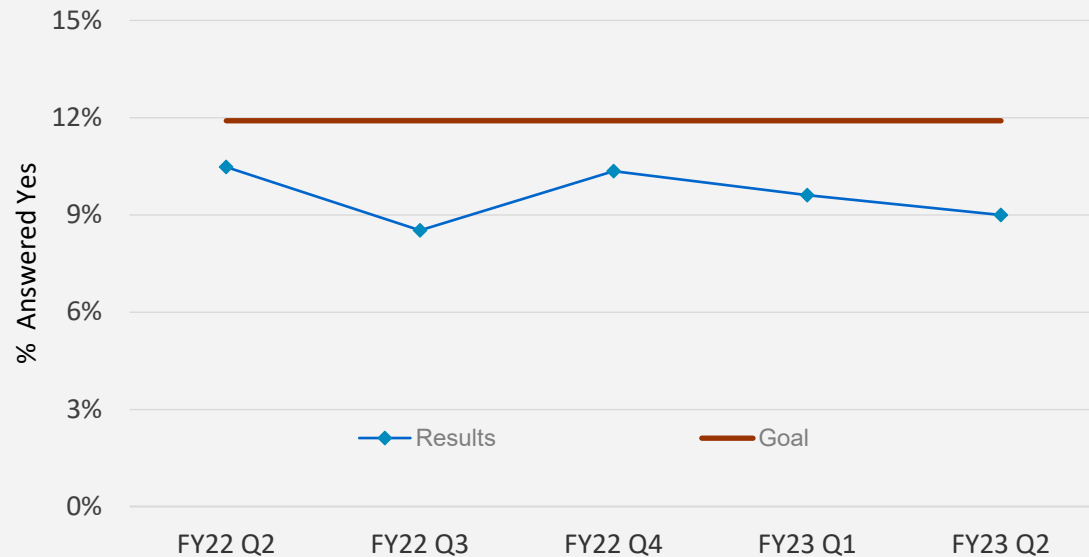


Police Presence

- Continued uniformed visibility, daytime and nighttime staffing at Civic Center
- 9,000 train checks recorded Q2 FY23

BART Police Presence

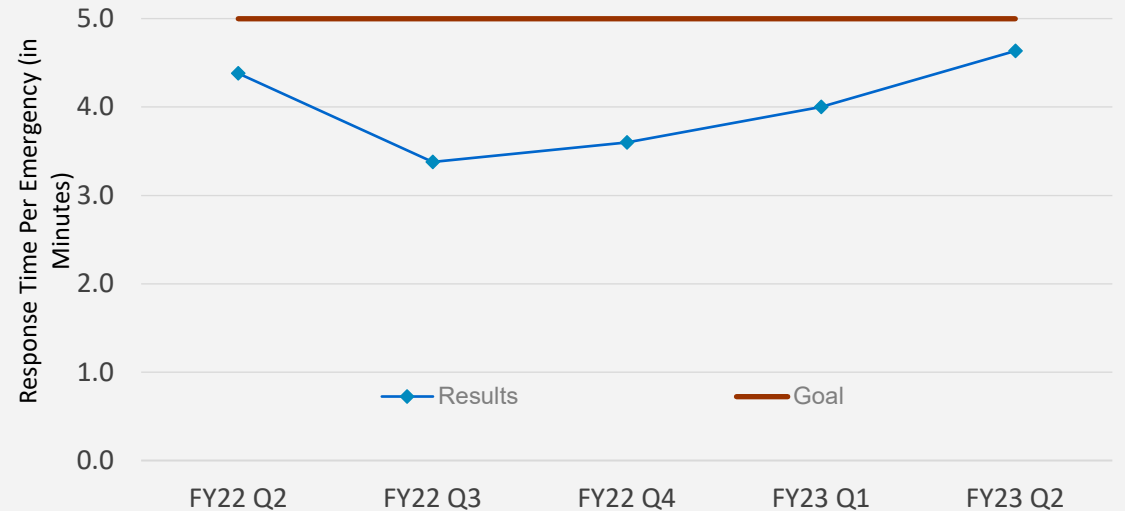
Did you see BART Police in the station today?
Did you see BART Police outside the station today?
Did you see BART Police on this train?



Police Response Time

- Goal met
- Expected to mirror ridership, increases/decreases influence number of calls
- December 2022 San Francisco and San Mateo county area Priority One calls were responded to within 2-3 minutes.

BART Police Response Time





Bike Theft

- Seeing slight increase to reports of locker-break in bicycle thefts
- Goal changed to less than 50 bike thefts in Q2 of FY23
- Goal met

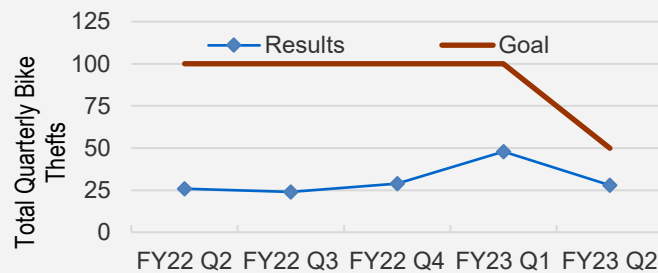
Auto Theft

- Goal changed to two auto thefts per 1,000 parking spaces in Q2 of FY23
- Goal met

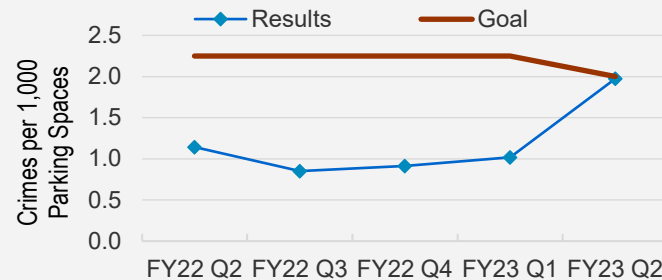
Auto Burglary

- Goal changed to 3.5 crimes per 1,000 parking spaces in Q2 of FY23
- Goal met

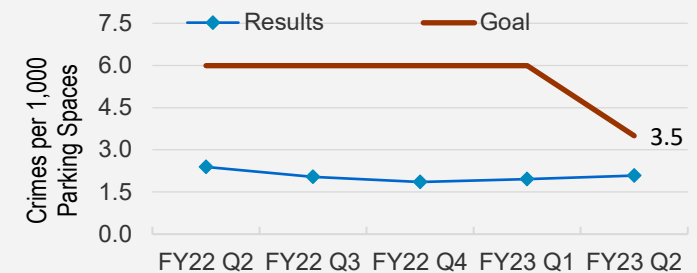
Bike Theft



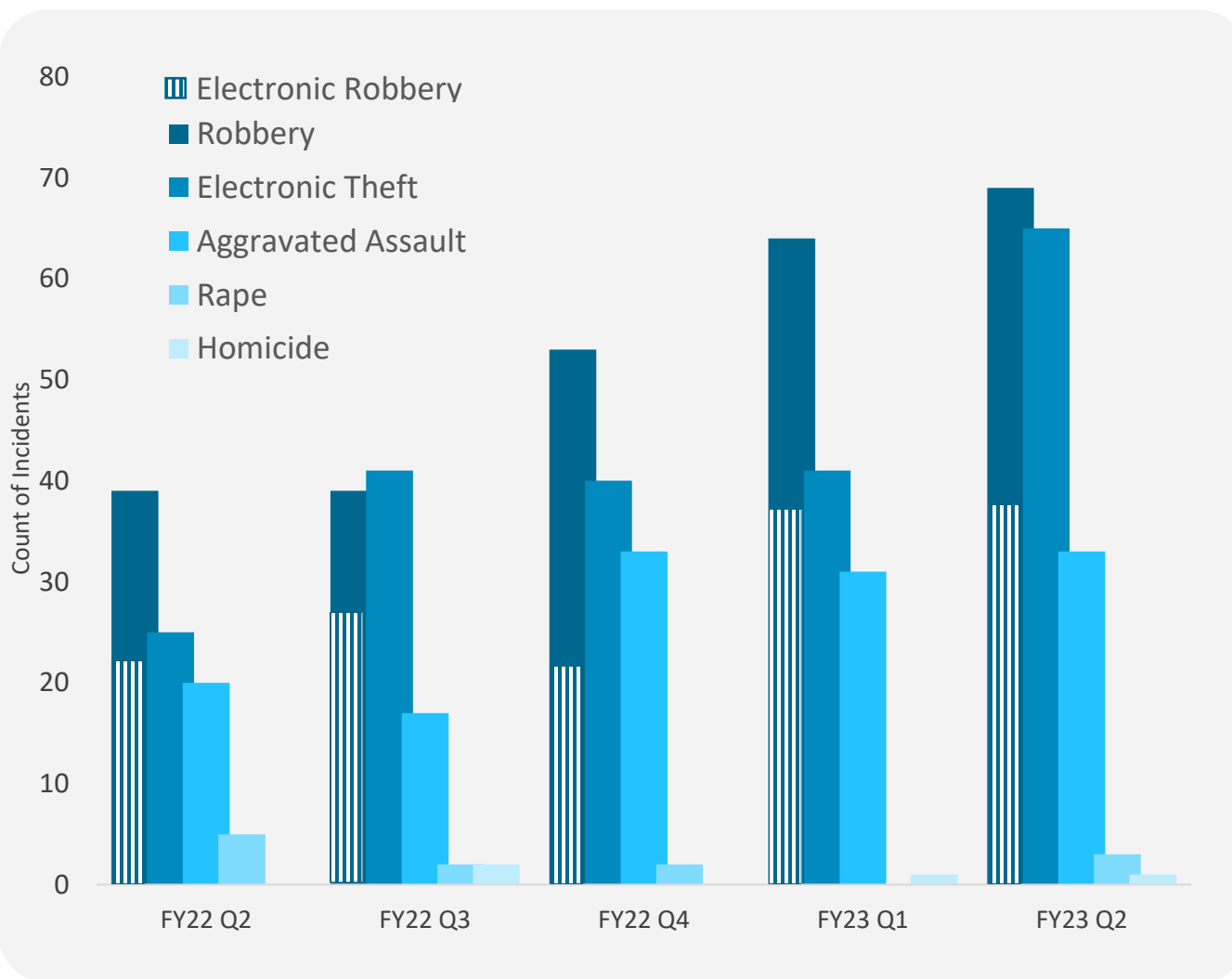
Auto Theft



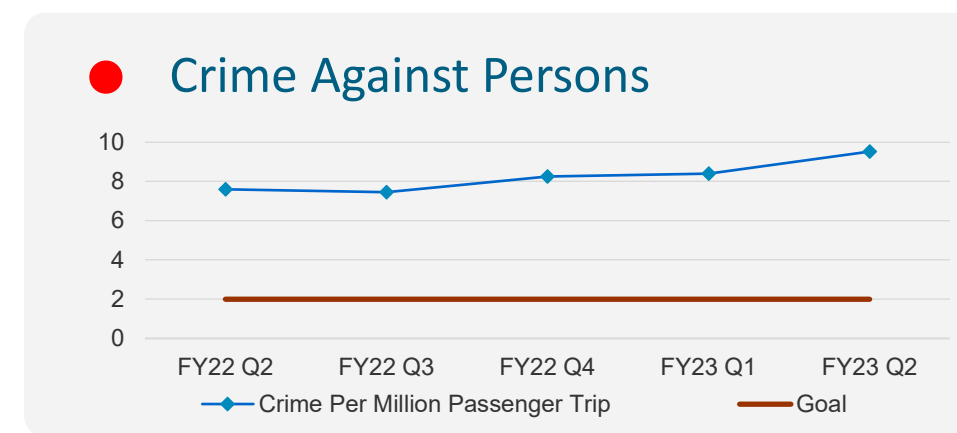
Auto Burglary



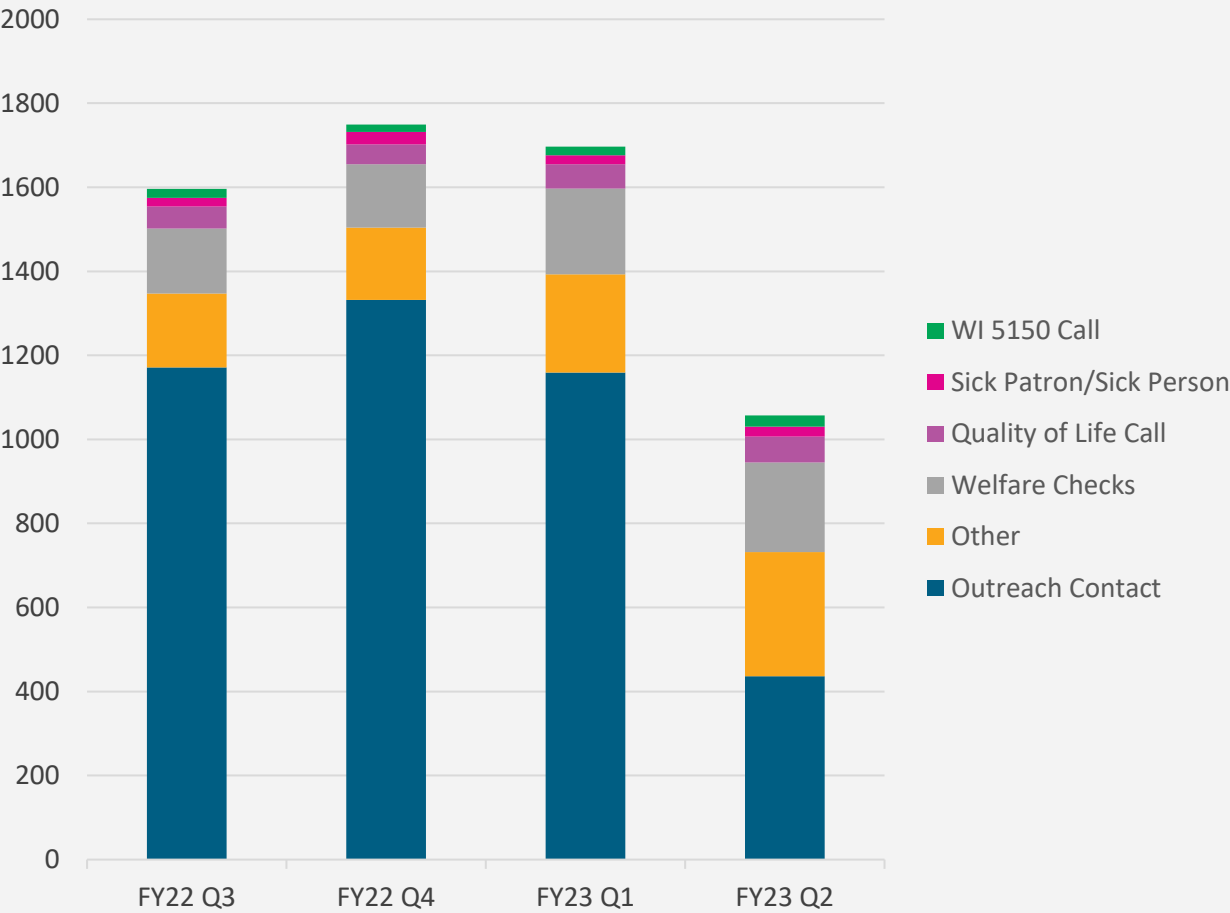
Crime – Against Persons



- Increased reports of electronic theft in past quarter



Progressive Policing Contacts by Incident Type



Upcoming Progressive Policing Measures



Topic

Measure

1. Calls Diverted to PPC Bureau

- PPC Bureau diverts sworn officer calls

2. Services Offered & Connections Made

- Count and categories of referrals

3. Narcan deployments and doses

- Use and effectiveness of Narcan

4. Progressive Policing Team Deployments

- Coverage and staffing

5. Rider input – BART Watch App stats

- Monitor rider reports to BPD

QUESTIONS



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: March 17, 2023

FROM: General Manager

SUBJECT: Senate Bill 827 (Glazer) BART Office of the Inspector General

At the March 23, 2023, Board of Directors meeting, staff will present Senate Bill (SB) 827 for your consideration and action. The bill grants the BART Inspector General (IG) the authority to maintain a fully independent and objective audit and investigation program. It further specifies the IG's access to records and property and creates new penalties for individuals who obstruct the work of the IG.

Attached is staff's analysis, presentation, and text for SB 827. A draft Board motion is provided below.

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 MOTION:

The Board of Directors supports SB 827 if amended.

Introduced by Senator GlazerFebruary 17, 2023

An act to amend Section 28840 of, and to add Sections 28841.2, 28841.4, and 28841.6 to, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 827, as introduced, Glazer. 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 specifies the duties and responsibilities of the BART Inspector General including, among others, conducting, supervising, and coordinating audits and investigations relating to the district's programs and operations.

This bill would provide that the BART Inspector General is vested with the full authority to exercise all responsibility for maintaining a full scope, independent, and objective audit and investigation program. The bill would provide the office 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. The bill would provide that all books, papers, records, and correspondence of the office are public records subject to the California Public Records Act, but would prohibit the BART Inspector General from releasing certain types of records to the public, except under certain circumstances. The bill would also make it a crime to engage in specified activities with regard to an audit, evaluation, investigation, or review

conducted pursuant to these provisions, as specified. Because the bill would create a new crime, the bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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: yes.
State-mandated local program: 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, subject to approval of the Governor, only if either of the
- 14 following occur:
- 15 (A) A two-thirds majority of the members of the board votes
- 16 for removal.
- 17 (B) The *BART* Inspector General violates a federal or state law
- 18 or regulation, a local ordinance, or a policy or practice of the
- 19 authority relative to ethical practices, including, but not limited
- 20 to, the acceptance of gifts or contributions.

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

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

9 *(c) The BART Inspector General is vested with the full authority*
10 *to exercise all responsibility for maintaining a full scope,*
11 *independent, and objective audit and investigation program,*
12 *including, but not limited to, those activities described in*
13 *subdivision (d) of Section 28841 and Section 28841.2.*

14 SEC. 2. Section 28841.2 is added to the Public Utilities Code,
15 to read:

16 28841.2. The Office of the BART Inspector General shall have
17 access and authority to examine all records, files, documents,
18 accounts, reports, correspondence, or other property of the district
19 and external entities that perform work for the district. The Office
20 of the BART Inspector General may enter any district office or
21 facility and access, examine, and reproduce during regular business
22 hours all records, files, documents, accounts, reports, vouchers,
23 correspondence files, and all other records for any audit or
24 investigation. Any officer or employee of the district or entity
25 having these records or property in their possession, under their
26 control, or otherwise having access to them, shall permit access
27 to, and examination and reproduction thereof, upon the request of
28 the BART Inspector General or the BART Inspector General's
29 authorized representative.

30 SEC. 3. Section 28841.4 is added to the Public Utilities Code,
31 to read:

32 28841.4. (a) The BART Inspector General may gain access
33 to confidential records or property that are obtained in connection
34 with any audit, evaluation, investigation, or review conducted
35 pursuant to Section 28841.2 unless a law specifically refers to and
36 precludes the BART Inspector General from accessing, examining,
37 and reproducing any record or property pursuant to Section
38 28841.2. Information or documents obtained in connection with
39 any audit, evaluation, investigation, or review conducted by the
40 BART Inspector General are subject to any limitations on release

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

7 (b) For purposes of this section, “confidential records or
8 property” means records or property that may lawfully be kept
9 confidential as a result of a statutory or common law privilege or
10 any other law.

11 (c) The Office of the BART Inspector General shall not destroy
12 any papers or memoranda used to support a completed audit sooner
13 than three years after the audit report is released to the public. All
14 books, papers, records, and correspondence of the office pertaining
15 to its work are public records subject to Division 10 (commencing
16 with Section 7920.000) of Title 1 of the Government Code and
17 shall be filed at any of the regularly maintained offices of the
18 BART Inspector General, except that none of the following items
19 or papers of which these items are a part shall be released to the
20 public by the BART Inspector General or the employees of the
21 BART Inspector General:

22 (1) Personal papers and correspondence of any person providing
23 assistance to the BART Inspector General when that person has
24 requested in writing that their papers and correspondence be kept
25 private and confidential. Those papers and correspondence shall
26 become public records if the written request is withdrawn, or upon
27 the order of the BART Inspector General.

28 (2) Papers, correspondence, memoranda, or any substantive
29 information pertaining to any audit not completed.

30 (3) Papers, correspondence, or memoranda pertaining to any
31 audit that has been completed, which papers, correspondence, or
32 memoranda are not used in support of any report resulting from
33 the audit.

34 (4) Any survey of public employees that the BART Inspector
35 General determines should be kept confidential to deter retaliation
36 if the public employees respond to the survey.

37 (5) Any record of an investigation, including, but not limited
38 to, all investigative files and work product, except that the BART
39 Inspector General, whenever the BART Inspector General
40 determines it necessary to serve the interests of the state, may issue

1 a public report of an investigation that has substantiated an
2 improper governmental activity, as defined in Section 8547.2 of
3 the Government Code, keeping confidential the identity of the
4 employee or employees involved. The BART Inspector General
5 may also release any findings or evidence supporting any findings
6 resulting from an investigation conducted pursuant to this article
7 whenever the BART Inspector General determines it necessary to
8 serve the interests of the state.

9 SEC. 4. Section 28841.6 is added to the Public Utilities Code,
10 to read:

11 28841.6. It is a misdemeanor, punishable by imprisonment in
12 a county jail not exceeding six months, or by a fine not exceeding
13 one thousand dollars (\$1,000), or by both that imprisonment and
14 fine, to do any of the following:

15 (a) Fail or refuse to permit the examination of, access to, or
16 reproduction of the records, files, documents, accounts, reports,
17 correspondence, cash drawers, or cash of their office by the BART
18 Inspector General or in any way interfere with such examination
19 conducted pursuant to this article.

20 (b) Interfere, intend to deceive or defraud, or obstruct the BART
21 Inspector General in the performance of an audit, evaluation,
22 investigation, or review pursuant to this article.

23 (c) Manipulate, correct, alter, or change records, documents,
24 accounts, reports, or correspondence before or during any audit,
25 evaluation, investigation, or review conducted pursuant to this
26 article.

27 (d) Distribute, reproduce, release, or fail to safeguard
28 confidential draft documents exchanged between the BART
29 Inspector General and the entity subject to the audit, evaluation,
30 investigation, or review conducted pursuant to this article before
31 the release of the final report and without the BART Inspector
32 General's express permission.

33 SEC. 5. The Legislature finds and declares that Section 3 of
34 this act, which adds Section 28841.4 to the Public Utilities Code,
35 imposes a limitation on the public's right of access to the meetings
36 of public bodies or the writings of public officials and agencies
37 within the meaning of Section 3 of Article I of the California
38 Constitution. Pursuant to that constitutional provision, the
39 Legislature makes the following findings to demonstrate the interest
40 protected by this limitation and the need for protecting that interest:

1 The need for the Office of the BART Inspector General to fully
2 examine and evaluate records, files, documents, accounts, reports,
3 correspondence, and all other property of the San Francisco Bay
4 Area Rapid Transit District and external entities that perform work
5 for the district outweighs the interest in public disclosure of
6 information obtained by the Office of the BART Inspector General
7 in connection with its activities.

8 SEC. 6. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

O

SB 827 (Glazer) Analysis and Recommendation

TITLE: San Francisco Bay Area Rapid Transit District: Office of the Inspector General

AUTHOR: Glazer (D-Orinda)

SPONSORS: N/A

RECOMMENDATION: Support if Amended

BACKGROUND: BART's Office of the Inspector General (OIG) was created under Senate Bill (SB) 595 (Stat. 2017, Ch. 650, Sec. 2) and the affirmative passage of Regional Measure 3 (RM3) in 2018. The measure, which raised toll rates on the Bay Area's seven state-owned bridges, was on the ballot for voters in the City and County of San Francisco, Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma Counties.

The OIG was established to ensure BART makes effective use of bridge toll revenue and other revenue and operates efficiently, effectively, and in compliance with applicable federal and state laws. Duties and responsibilities for the BART OIG include, among others, conducting fraud and waste investigations, conducting audits and making recommendations to improve the efficiency and effectiveness of BART programs and operations, identifying opportunities to improve the data used to determine project resource allocations, and identifying and recommending best practices in the delivery of capital projects.

SB 595 requires the Bay Area Toll Authority (BATA) to provide \$1 million annually from an allocation of bridge toll revenue to the BART OIG. It allows BATA to increase the funding in the second and subsequent years of operation of the office, to the extent the BART OIG requests and justifies the need for funds and such requests can be accommodated in BATA's budget.

SB 827 is Senator Glazer's second bill regarding the OIG. In 2022, he introduced SB 1488, which the Board voted (6-3) to oppose unless amended. The bill passed the Legislature but was vetoed by Governor Newsom. The Governor cited the unresolved issue of notification for all represented employees of their right to representation as the reason for his veto.

PURPOSE: SB 827 amends Sections 28840 and 28841 of the District Act found within the Public Utilities Code (PUC). A section-by-section summary is provided below.

Section 1: IG Authority

- Section 28840 of the PUC is amended to clarify the IG is vested with the full authority to exercise all responsibility for maintaining a full scope, independent, and objective audit and investigation program.

Section 2: IG Access to District and Third-Party Documents and Other Property

- Adds Section 28841.2 to the PUC, granting the OIG access and authority to examine all records, files, documents, accounts, reports, correspondence, or other property of the District and any third-party entities that perform work for the District.
- The OIG may enter any District office or facility and access, examine, and reproduce, during regular business hours, any materials needed for an audit or investigation.
- Any officer or employee of the District or third-party entity in possession of or with access to documents shall permit access and examination, upon request of the IG or their designee.

Section 3: Handling of Documents and Other Properties

- Adds Section 28841.4 to the PUC, granting the IG access to confidential records or property obtained in connection with any audit, evaluation, investigation, or review unless a law specifically refers to and precludes the IG from accessing, examining, and reproducing.
- Information or documents obtained by the IG are subject to any limitations on release of the information or documents that may apply to an employee or officer of the District or external entity.
- Providing confidential information that is subject to a privilege shall not be construed as waiving that privilege.
- The OIG shall not destroy any materials used to support a completed audit sooner than three years after the audit report is made public.
- Books, papers, records, and correspondence of the OIG pertaining to its work are public records and shall be filed at any of the regularly maintained offices of the IG, except for instances specified within the bill.

Section 4: Misdemeanor Charges for Obstructing the Work of the IG

- Section 28841.6 would be added to the PUC, specifying that it would be a misdemeanor, punishable by imprisonment in a county jail for up to six months and/or a fine up to \$1,000, to do any of the following:
 - Fail or refuse to permit the examination of, access to, or reproduction of the records, files, documents, accounts, reports, correspondence, cash drawers, or cash of their office by the IG or in any way interfere with such examination.
 - Interfere, intend to deceive or defraud, or obstruct the IG in the performance of an audit, evaluation, investigation, or review pursuant to this article.
 - Manipulate, correct, alter, or change records, documents, accounts, reports, or correspondence before or during any audit, evaluation, investigation, or review conducted pursuant to this article.
 - Distribute, reproduce, release, or fail to safeguard confidential draft documents exchanged between the IG and the entity subject to the audit, evaluation, investigation, or review conducted pursuant to this article before the release of the final report and without the IG's express permission.

DISTRICT IMPACT: SB 827 seeks to align the duties and responsibilities of the BART OIG with similar public offices including the State Auditor, California Department of Transportation (Caltrans) Independent Office of Audits and Investigations, and the Los Angeles County Metropolitan Authority Office of the Inspector General. The bill provides the OIG with explicit access to records and property commonly granted to professionals within the accountability field and seeks to enforce compliance with the OIG by establishing a new misdemeanor penalty.

SB 827 is less prescriptive than SB 1488, which sought several amendments related to removal of the IG, access to records and property, access to employees, subpoena authority, duties of the General Manager, the hiring of staff and consultants, and a separate computer network. SB 827 seeks to support the audit and investigation functions of the OIG and further clarifies the office's authority to conduct independent oversight of BART's programs and operations. The bill grants explicit access to information and vests the IG with the full authority to carry out prescribed duties and responsibilities, which the IG has identified as reoccurring challenges in reports to the Legislature, Audit Committee, and Board. The language within SB 827 aligns with the District's support of the OIG and staff are recommending a "Support if Amended" position based on the following input received from the Board, OIG, and various internal stakeholders.

Creation of a New Crime

SB 827 would make it a misdemeanor, punishable by imprisonment in a county jail for up to six months and/or a fine up to \$1,000, to obstruct the IG in the performance of an audit, evaluation, investigation, or review. While this language may provide an enforcement mechanism for the OIG to compel compliance by BART employees and contractors, there are concerns as to whether a criminal penalty is the appropriate approach. For example, a misdemeanor may require an individual to seek outside legal counsel and appear in court for a trial, potentially resulting in a criminal record that could impact future employment or professional licensing. Staff seek Board authorization to work with the author and OIG on amendments to lessen or remove the proposed criminal penalty within SB 827 while ensuring the work of the office is not obstructed.

Jurisdiction of Other Audit and Oversight Entities

Within SB 1488, BART secured amendments to clearly define the scope of the OIG as to not conflict with other audit and oversight offices including the Office of Civil Rights and the Office of the Independent Police Auditor. This language is not included within SB 827 and staff seek Board authorization to work with the author and OIG on similar amendments stating the OIG shall not interfere with the original jurisdiction nor unduly influence or undermine the independence of such entities, which goes beyond the District's Whistleblower Policy.

Governor's Veto of SB 1488

Governor Newsom's veto message for SB 1488 encouraged the author to work with the IG and BART Board on the issue of employee notification in either a charter or future legislation. SB 827 does not contain language granting the OIG access to employees, District officers, or contractors and does not address the issue of notification to represented employees of their right to representation. Staff are not seeking Board authorization for amendments on this issue as employee notification and rights to representation are likely to be addressed in an OIG charter and may be the focus of future discussions between the OIG, BART's labor partners, BART management, and the Board.

KNOWN SUPPORT/OPPOSITION: None on file.

STATUS: Introduced on February 17 and dual referred to the Senate Transportation Committee and Senate Judiciary Committee. First hearing date pending.



Senate Bill 827 (Glazer) BART Office of the Inspector General

BART Board of Directors
March 23, 2023

SB 827 Background and Key Legislative Dates

Feb. 17	Bill introduced
Feb. 20	Memo and bill summary provided to Board
March 1	Bill referred to Senate Transportation and Judiciary Committees; hearing dates pending
March 9	Bill presented to Board as Informational Item
March 20	Bill may be acted upon/amended
March 23	Bill presented to Board for action
April 28	Policy committee deadline for fiscal bills
May 19	Fiscal committee deadline to report bills to the Floor
June 2	House of Origin Deadline
July 14	Policy committee deadline in second house
Sept. 1	Fiscal committee deadline in second house
Sept. 8	Last day to amend on the Floor
Sept. 14	Last day for each house to pass bills
Oct. 14	Last day for Governor to sign or veto bills

Policy Committee Hearings

Senate Transportation

2nd and 4th Tuesdays at 1:30PM
March 28, April 11, April 25

Senate Judiciary

Every Tuesday at 1:30PM

Bill Summary

Authority of the BART Inspector General (IG)

- The District Act is amended to clarify the BART IG is vested with the full authority to exercise all responsibility for maintaining a full scope, independent, and objective audit and investigation program.

IG Access to District and Third-Party Documents and Other Property

- The IG shall have access and authority to examine all records, files, documents, accounts, reports, correspondence, or other property of the District and any third-party entities that perform work for the District.
- The IG shall have the authority to enter any District office or facility and access, examine, and reproduce, during regular business hours, any materials needed for an audit or investigation.
- Any officer or employee of the District or third-party entity in possession of or with access to documents shall permit access to and examination of them upon request of the IG or their designee.

Bill Summary

Handling of Documents and Other Property

- The IG may gain access to confidential records or property that are obtained in connection with any audit, evaluation, investigation, or review unless a law specifically refers to and precludes the IG from accessing, examining, and reproducing.
- Information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the IG are subject to any limitations on release of the information or documents as may apply to an employee or officer of the District or external entity. Providing confidential information that is subject to a privilege shall not be construed as waiving that privilege.
- The IG shall not destroy any materials used to support a completed audit sooner than three years after the audit report is made public.
- All books, papers, records, and correspondence of the OIG pertaining to its work are public records and shall be filed at any of the regularly maintained offices of the IG, except for specified instances.

Bill Summary

Misdemeanor Charges for Obstructing the Work of IG

New language makes it a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or a fine not exceeding \$1,000, or both, to do any of the following:

- Fail or refuse to permit the examination of, access to, or reproduction of any information requested by the IG or in any way interfere with an examination.
- Interfere, intend to deceive or defraud, or obstruct the IG in the performance of an audit, evaluation, investigation, or review.
- Manipulate, correct, alter, or change records, documents, accounts, reports, or correspondence before or during any audit, evaluation, investigation, or review.
- Distribute, reproduce, release, or fail to safeguard confidential draft documents exchanged between the IG and the entity subject to the audit, evaluation, investigation, or review before the release of a final report and without the IG's express permission.

Staff Recommendation: *Support if Amended*

SB 827

- Aligns the duties and responsibilities of the OIG with similar accountability offices in the state.
- Supports the audit and investigation functions of the OIG and clarifies authority to conduct independent oversight of BART's programs and operations.
- Addresses challenges identified by the OIG regarding access to information and independence necessary to conduct work according to professional standards.

Issues to address through amendments

- Concerns with the creation of a new criminal penalty. Amendments shall seek to lessen or remove proposed misdemeanor penalty, while ensuring the work of the OIG is not obstructed.
- Potential conflicts between the OIG and other audit and oversight entities within the District. Amendments shall seek to clarify the OIG is not to interfere with the original jurisdiction nor unduly influence or undermine the independence of other audit and oversight entities within the District.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

----- MEMORANDUM

TO: Board of Directors

DATE: March 17, 2023

FROM: Claudette Biemeret, Assistant Inspector General

SUBJECT: For Information: OIG Comments on Recommendations to Amend Senate Bill 827
(Glazer)

Attached is a presentation of the Office of the Inspector General's comments on the Office of External Affairs' recommendations to amend Senate Bill 827 introduced by Senate Glazer.

If you have any questions, please contact Claudette Biemeret, Assistant Inspector General, at 510.464.6141.

Senate Bill 827 (Glazer)

**BART Office of the
Inspector General**

**BART Board of Directors
March 23, 2023**



Comments on External Affairs Recommendations

- Open to discussions regarding penalties if subpoena power provided as a suitable alternative.
 - Would also require amendments to ensure access to employees.
- Clarifying existing audit and oversight offices seems unnecessary as its already reflective in their legislation (OIPA) or FTA regulations (OCR).
 - Addressed issue in Whistleblower & Antiretaliation Policy.
 - Important to note that it sets a standard that a charter or board policy is not sufficient to fully clarify the OIG's role and responsibilities.



Claudette Biemeret, Assistant Inspector General
CIG, CGAP, LPEC, CIIA
(She/Her/Hers)

Email: cbiemer@bart.gov

Phone: 510.464.6141

In the Matter of Assigning
Board Members to Unrepresented Areas
for Informal Representation as Needed
Due to Redistricting.

Resolution No. _____

_____/

WHEREAS, the San Francisco Bay Area Rapid Transit District is committed to ensuring that all constituents within the District are represented by an elected Board Member who can address concerns and questions related to each individual district; and

WHEREAS, every ten years, the District conducts redistricting pursuant to California Public Utilities Code § 28750 et seq.; and

WHEREAS, the redistricting process may result in the adjustment of district boundaries; and

WHEREAS, the effective date for the adjusted boundaries of each district is the date of the next election following redistricting; and

WHEREAS, the election for the even-numbered districts is held two years prior to the election for the odd-numbered districts, resulting in staggered effective dates for the adjusted district boundaries; and

WHEREAS, the staggered effective dates may temporarily result in a lack of formal representation for constituents who reside in areas that are in between two district boundaries following the first election after redistricting.

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

Section 1. Assignment of Board Members to Unrepresented Areas. To ensure continuity in representation by an elected member of the Board of Directors, the Board of Directors hereby assigns Board Members to continue to informally represent unrepresented areas that were within their respective districts before the first election following redistricting, until those areas become represented on the date of the second election following redistricting.

Section 2. Description of Informal Representation. Board Members assigned to informally represent unrepresented areas are encouraged to participate in such activities as responding to emails and phone calls, engaging with local stakeholders, meeting with elected officials, and representing BART stations in the unrepresented areas.

Section 3. Continued Application of this Resolution and Deviations. The Board of Directors hereby declares that the assignment procedure outlined in Section 1 of this Resolution shall continue to apply following all redistricting processes in the future unless amended by Resolution.

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: