

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

BOARD MEETING AGENDA

March 13, 2014

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, March 13, 2014, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>), and via email or via regular mail upon request. Complete agenda packets (in PDF format) are available for review on the District's website no later than 48 hours in advance of the meeting. Those interested in being on the mailing list for meeting notices (email or regular mail) can do so by providing the District Secretary with the appropriate address.

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of February 20, 2104 (Special), and February 27, 2014 (Regular).* Board requested to authorize.
- B. Consolidation of 2014 District Elections.* Board requested to authorize.

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Johnson et al. vs. BART, U.S. District Court / Northern
District Case No. C09-00901
Government Code Section: 54956.9(a)

4. ADMINISTRATION ITEMS

Director Saltzman, Chairperson

- A. Non-Discrimination in Subcontracting Program Enhancements.* Board requested to authorize.
- B. (CONTINUED from February 27, 2014, Board Meeting)
Agreement with ELERTS Corporation for ELERTS Transit Software Enterprise License Agreement.* Board requested to authorize.

5. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. Asset Management Policy.* Board requested to approve.
- B. BART to Oakland International Airport (Oakland Airport Connector Project): Quarterly Update.* For information.

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

Director Raburn, Chairperson
NO ITEMS.

7. GENERAL MANAGER'S REPORT

8. BOARD MATTERS

- A. Report of the Wayside Safety Ad Hoc Committee.
- 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.)
- 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 Memorium.
(An opportunity for Board members to introduce individuals to be commemorated.)

9. PUBLIC COMMENT

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

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

- A. CONFERENCE WITH LABOR NEGOTIATORS; PUBLIC EMPLOYEE PERFORMANCE EVALUATION / COMPENSATION
Agency Negotiators: Directors Blalock, Keller, and Saltzman
Titles: General Manager, General Counsel, Controller-Treasurer, District Secretary, and Independent Police Auditor
Gov't. Code Sections: 54957 and 54957.6

11. OPEN SESSION

- A. Compensation and Benefits for General Manager, General Counsel, Controller/Treasurer, District Secretary, and Independent Police Auditor. Board requested to authorize.

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

Board of Directors
Minutes of the 1,701st Meeting
February 20, 2014

A special meeting of the Board of Directors was held February 20, 2014, convening at 9:01 a.m. in the Board Room, 344 20th Street, Oakland, California. President Keller presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Mallett, Murray, Raburn, Saltzman, and Keller.

Absent: Directors Fang and McPartland. Director Radulovich entered the Meeting later.

President Keller called for Public Comment on Item 3 only. No comments were received.

President Keller announced that the Board would enter into closed session in the adjacent conference room under Item 3-A (Conference with Labor Negotiators) of the special meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

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

The Board reconvened in closed session at 9:04 a.m.

Directors present: Directors Blalock, Mallett, Murray, Raburn, Saltzman, and Keller.

Absent: Directors Fang and McPartland. Director Radulovich entered the Meeting later.

Director Radulovich entered the Meeting.

The Board Meeting recessed at 12:10 p.m.

The Board reconvened in closed session at 12:17 p.m.

Directors present: Directors Blalock, Mallett, Murray, Raburn, Radulovich, Saltzman, and Keller.

Absent: Directors Fang and McPartland.

The Board Meeting recessed at 2:21 p.m.

The Board reconvened in open session at 2:22 p.m.

Directors present: Director Keller.

Absent: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn,
Radulovich and Saltzman.

President Keller announced that the Board met in Closed Session and there were no announcements to be made.

The Special Board Meeting was adjourned at 2:22 p.m.

Kenneth A. Duron
District Secretary

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

Board of Directors
Minutes of the 1,702nd Meeting
February 27, 2014

A regular meeting of the Board of Directors was held February 27, 2014, convening at 5:03 p.m. in the Board Room, 344 20th Street, Oakland, California. President Keller presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller.

Absent: None.

President Keller called for Introduction of Special Guests. Director Blalock introduced and welcomed Alameda County Supervisor Keith Carson. Supervisor Carson and Ms. Irmina Sanchez addressed the Board, presenting commendations of appreciation for the District's partnership in the Lunar New Year celebration over several years.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of February 13, 2014.
2. Agreement with ELERTS Corporation for ELERTS Transit Software Enterprise License Agreement.

President Keller announced that at the request of Director Raburn and a member of the public, Item 2-B, Agreement with ELERTS Corporation, would be removed from the consent calendar, and that the order of agenda items would be changed.

Director Blalock moved that the Minutes of the Meeting of February 13, 2014, be approved. Director McPartland seconded the motion, which carried by unanimous acclamation. Ayes - 9; Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

President Keller brought the matter of Agreement with ELERTS Corporation for ELERTS Transit Software Enterprise License Agreement before the Board. Mr. Travis Engstrom and Lieutenant Kevin Franklin presented the item. The item was discussed.

Mr. Jamieson Johnson addressed the Board.

Discussion continued. The item was continued to a future meeting.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Military Ticket Program for Free Transportation for Returning United States Military Personnel before the Board. Ms. Julie Yim, Department Manager,

Customer Service, presented the item. The item was discussed. Director Murray moved adoption of Resolution No. 5255, In the Matter of Adopting Modified Fare Rates: Free Tickets for Military Personnel on Leave. Director McPartland seconded the motion, which carried by unanimous acclamation by the required two-thirds vote. Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

Director Raburn brought the matter of Proposed BART Extension to Livermore: Project-Level Environmental Update, before the Board. Mr. Robert Powers, Assistant General Manager, Planning and Development, and Mr. Val Menotti, Department Manager, Planning, presented the item.

The following individuals addressed the Board.

Honorable John Marchand

Mr. Troy Brown

Ms. Linda Jeffery Sailors

Ms. Valerie Raymond

Mr. Robert S. Allen

Mr. Joel Ramos

Mr. Gerald Cauthen

Mr. Jerry Grace

The item was discussed.

President Keller brought the matter of Smartphone Theft Prevention Act, Senate Bill 962 (Leno), before the Board. Director Saltzman and Mr. Paul Fadelli, Legislative Analyst, presented the item. Director Saltzman moved that the Board support passage of SB 962 (Leno), the Smartphone Theft Prevention Act. Director Murray seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

President Keller brought the matter of Alternative Dispute Resolution Advisory Measure before the Board, and gave a brief presentation on the item.

The following individuals addressed the Board.

Mr. Scott Denman

Mr. John Claassen

Ms. Josie Camacho

Mr. Chris Finn

Mr. Ted Franklin

Mr. Jeff Shoji

Mr. Saul Almanza

Ms. Patricia Schuchardt

Mr. Jerry Grace

Ms. Cheryl Brown

The item was discussed.

Director Fang exited the Meeting.

Director Saltzman, Chairperson of the Administration Committee, brought the matter of Emergency Vehicle Access Easement at the BART Fremont Station to City of Fremont before the Board. Mr. John Rennels, Principal Property Development Officer, presented the item. Director Blalock moved adoption of Resolution No. 5256, In the Matter of Authorizing the Grant of an Emergency Vehicle Access Easement to the City of Fremont – Portion of BART Parcel O-AD01, O-AD02 (Portion of APN 507-0465-001-52); and that the General Manager or her designee be authorized to execute any agreements and documents that are necessary in connection with the motion. Director Murray seconded the motion, which carried by unanimous acclamation. Ayes - 8: Directors Blalock, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0. Absent – 1: Director Fang.

Director Saltzman brought the matter of Fiscal Year 2015 Budget: Financial Priorities, before the Board.

Director Fang re-entered the Meeting.

Mr. Carter Mau, Assistant General Manager, Administration and Budget; Mr. Robert Umbreit, Department Manager, Operating Budget and Analysis; and Mr. Gregg Marrama, Department Manager, Capital Development, presented the item. The item was discussed.

Mr. Jerry Grace addressed the Board.

Director Fang exited the Meeting.

Director McPartland, Chairperson of the Engineering and Operations Committee, brought the matter of Warm Springs Extension Project: Semi-Annual Project Update, before the Board. Mr. Paul Medved, Project Manager, Warm Springs Extension Program, presented the item. The item was discussed.

The following individuals addressed the Board.

Ms. Andrea Lowe

Mr. Jerry Grace

Mr. Glenn Coats

Mr. Terry Johnson

The Board Meeting recessed at 9:28 p.m.

The Board reconvened at 9:33 p.m.

Directors present: Directors Blalock, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller.

Absent: Director Fang.

Director McPartland brought the matter of District Emergency Preparedness Program before the Board. Chief of Police Kenton Rainey and Ms. Marla Blagg, Emergency Manager, presented the item. The item was discussed.

President Keller called for the General Manager's report. Mr. Paul Oversier, Assistant General Manager, Operations, gave a brief report on the train derailment of February 21. Ms. Grace Crunican, General Manager, reported on steps she had taken and activities and meetings she had participated in.

President Keller called for Board Member Reports and Roll Call for Introductions.

Director Murray reported she had attended a Contra Costa Transportation Authority meeting, and reported on voter research results discussed at the meeting.

Director McPartland reported he had attended State of the City addresses in Dublin and Pleasanton.

Director Murray requested a report on the District's plan for complying with East Bay Metropolitan Utility District drought initiatives.

Director Murray requested a report on the limitation for passengers to move between new control cars when they are coupled together.

President Keller called for In Memorium requests. No requests were received.

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

The Board Meeting was adjourned at 10:17 p.m.

Kenneth A. Duron
District Secretary



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>W. Garcia del Real</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: <i>3/6/14</i>		BOARD INITIATED ITEM: <i>No</i>		
Originator/Prepared by: Kenneth A Duron Dept. Office of the District Secretary	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>[Signature]</i> <i>03/05/14</i>	<i>[Signature]</i> <i>03/05/14</i>	<i>[Signature]</i> <i>[]</i>	<i>[Signature]</i> <i>03/05/14</i> <i>[]</i>	<i>[]</i>

TITLE:

CONSOLIDATION OF 2014 DISTRICT ELECTIONS

NARRATIVE:

PURPOSE: To receive Board approval of a resolution requesting the Boards of Supervisors of Alameda County, Contra Costa County, and the City and County of San Francisco to provide for the consolidation of the District election of members of the Board of Directors with the State of California general election to be held on November 4, 2014. The election districts are 2, 4, 6, and 8.

DISCUSSION: In order to conform to the California State Elections Code, the District must request the Boards of Supervisors of the Counties of Alameda, Contra Costa and San Francisco to consolidate the San Francisco Bay Area Rapid Transit District election with the State of California general election. The attached resolution has been drafted to accomplish this.

FISCAL IMPACT: Funding in the amount of \$800,000 will be allocated in the Fiscal Year 2015 Operating Budget to cover both the District's share of the cost of the election and the cost of printing, handling, translating, and mailing the candidates' statements. Some of the costs for the candidates' statements will be reimbursed to the District. The Fiscal Year 2015 Operating Budget allocation covers both Election Consolidation and Candidates' Statements of Qualifications. Board Resolution No. 4652, adopted by the Board of Directors on March 27, 1997, (attached) establishes rules governing candidates' Statements of Qualifications for District elections.

ALTERNATIVES: None.

RECOMMENDATION: That the Board of Directors adopt the attached resolution requesting the Boards of Supervisors of Alameda County, Contra Costa County, and the City and County of San Francisco to provide for the consolidation of the District election with the State of California general election, to be held on November 4, 2014.

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

Resolution of the Board of Directors of the
San Francisco Bay Area Rapid Transit District
requesting the Boards of Supervisors of Alameda
County, Contra Costa County, and the City and
County of San Francisco to provide for the
consolidation of a District election, electing
members of the Board of Directors,
with the State of California general election, to
be held on November 4, 2014 /

Resolution No.

WHEREAS, Section 28746.6 of the Public Utilities Code of the State of California provides:

“A general district election for the election of directors whose terms are to expire in that year shall be held and conducted on the first Tuesday after the first Monday in November of each even-numbered year and shall be consolidated, where possible, with the general election held on that date”; and

WHEREAS, Section 28746.8 of the Public Utilities Code of the State of California provides:

“Except as otherwise provided in this article, candidates for the board shall be nominated, the election held and conducted, and the ballots canvassed in accordance with the provisions of the Uniform District Election Law”; and

WHEREAS, Section 28747.2 of the Public Utilities Code of the State of California provides:

“A candidate for election from any of the election districts shall be nominated and elected by the voters residing within the election district from which he is elected”; and

WHEREAS, Section 28747.4 of the Public Utilities Code of the State of California in part provides:

“The county election official of each county within the boundaries of the district shall conduct the election and canvass the returns for those election districts or portions of election districts which are within the county of his or her jurisdiction as county election official. After the official canvass has been taken, the county election official shall report the returns, by election district number, to the board”; and

WHEREAS, a State of California General Election will be held on Tuesday, November 4, 2014; and

WHEREAS, the California State Legislature has established nine election districts within the San Francisco Bay Area Rapid Transit District as provided in Section 28745 of the Public Utilities Code of the State of California; and

WHEREAS, pursuant to Section 10522 of the Elections Code and 28750.4 of the Public Utilities Code of the State of California, the District has filed with the county election official of each affected County a certified copy of Resolution No. 5184 of the Board of Directors of the San Francisco Bay Area Rapid Transit District which provides a map showing the boundaries of the District and the boundaries of the election districts and maps of the election districts prepared in accordance with Article 2.4 of Chapter 3 of Part 2 of Division 10 of the Public Utilities Code of the State of California; and

WHEREAS, the territory in which said election is to be held is, to wit, all of the territory of said Districts Nos. 2, 4, 6, and 8 lying within the County of Alameda, the County of Contra Costa, and the City and County of San Francisco (hereinafter called the "Counties");

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District, as follows:

Section 1.

That the Boards of Supervisors of the Counties are hereby requested to order the consolidation of said district elections with said general election to be held on Tuesday, November 4, 2014, and to further provide that within the territory affected by said order of consolidation, to wit, the Counties, that except as otherwise provided in Article 2.2 of Chapter 3 of Part 2 of Division 10 of the Public Utilities Code of the State of California, the election shall be held and conducted and the ballots canvassed in accordance with the provisions of said Uniform District Election Law.

Section 2.

That the Secretary of the District is hereby authorized and directed to certify to the due adoption of this resolution and to file copies hereof, so certified, with the Board of Supervisors and with the county election official of each of the Counties.

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

Resolution of the Board of Directors of
the San Francisco Bay Area Rapid Transit
District Establishing the District Rules
Governing Candidates' Statement of
Qualifications for District Elections /

Resolution No. 4652

WHEREAS, Section 13307 of the Elections Code of the State of California provides, among other things, that candidates for District office may prepare a candidate's Statement of Qualifications of up to 200 words; the Board may authorize an increase in the limitation on words for the statement from 200 to 400 words; the Board may require each candidate filing a statement to pay in advance his or her estimated pro rata share of the total cost of producing and mailing the candidate's statement; and that, before the nomination period opens, the Board shall determine whether a charge shall be levied against that candidate for the candidate's statement, and

WHEREAS, it is the intent of the Board of Directors of the San Francisco Bay Area Rapid Transit District to adopt rules governing candidates' Statements of Qualifications for District elections.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District, as follows:

1. Each candidate for the BART Board of Directors who prepares a candidate's Statement of Qualifications pursuant to California Elections Code Section 13307 shall be required to pay a total election fee of \$750 at the time of filing as part of the cost to the District of printing, handling, translating, and mailing the candidate's statement, including the cost of foreign language translations.

2. The limit on the length of the candidate's Statement of Qualifications shall be 200 words.

BE IT FURTHER RESOLVED that the District Secretary is authorized to adopt procedures consistent with Section 13309 of the Elections Code for relieving indigent candidates from paying the requisite fee; and

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BE IT FURTHER RESOLVED that each candidate filing as a candidate for BART Director must complete the State of California Fair Political Practices Commission's disclosure form entitled: "Statement of Economic Interests" and to file said form with the District Secretary of the San Francisco Bay Area Rapid Transit District; and

BE IT FURTHER RESOLVED that the provisions of this resolution shall govern the 1998 election and all subsequent elections for the District's Board of Directors unless otherwise modified by this Board.

Supersedes Resolution No. 4622, adopted June 27, 1996.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia de la Cruz</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c 3/7/14		BOARD INITIATED ITEM: NO		
Originator/Prepared by: Maceo Wiggins Dept:	General Counsel <i>Audrey Powell</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>[Signature]</i>
Signature Date: <i>[Signature]</i> 3/6/14	3/6/14 []	[]	[]	3-6-14 []
TITLE:				

Approve Changes to San Francisco Bay Area Rapid Transit District Non-Discrimination Program for Subcontracting on Non-Federally Funded Contracts

NARRATIVE:

Purpose: To authorize changes made to the San Francisco Bay Area Rapid Transit District's Non-Discrimination Program for Subcontracting on Non-Federally Funded Contracts.

Discussion: In December 1997, the Board approved adoption of BART's Non-Discrimination Program for Subcontracting on Non-Federally Funded Contracts (the "Program"). The Program is applicable to construction and procurement contracts and services agreements of over \$50,000 funded wholly with non-federal funds. The Program ensures that Bidders do not discriminate in the award of subcontracts on the District's non-federally funded construction and procurement contracts and service agreements. Among other things, the District certifies eligible firms as either a Minority-owned business enterprise ("MBE") or a Woman-owned business enterprise ("WBE") under the Program.

The Office of Civil Rights has prepared updates to the Program to reflect recent changes to the Public Contract Code as well as to implement features of the District's Small Business Opportunity Plan. The updates include:

- A raise in the Program threshold for procurement contracts and professional services agreements covered by the Program to \$100,000;
- An acknowledgement that firms that are owned and controlled by minority women may be counted as both a WBE and as an MBE firm;
- Administrative changes, additional definitions and clarifications to streamline and improve the Program.

Staff is seeking Board approval of the above-described updates to the Program.

Fiscal Impact: None.

Alternative: The alternative is to not approve the updates to the Program. This will prevent the District from implementing recommended updates to the Program to reflect changes in the Public Contract Code and adding features to implement the District's Small Business Opportunity Plan.

Recommendation: Approval of the following motion.

Motion: The Board of Directors approves the attached updated Non-Discrimination Program for Subcontracting on Non-Federally Funded Contracts dated March 2014.

BART'S NON-DISCRIMINATION PROGRAM FOR SUBCONTRACTING ON NON-FEDERALLY FUNDED
CONTRACTS

Updated March 2014

I. Purpose

The purpose of the Non-Discrimination Program for Subcontracting on Non Federally Funded Contracts (the "Program") is to ensure that contractors who contract with BART do not discriminate or give a preference in the award of subcontracts on the basis of race, national origin, color, ethnicity (hereinafter "ethnicity"), or gender. This program applies only to BART's non-federally funded contracts.

II. Findings

1. BART awards contracts to private prime contractors for goods and services in three areas: construction, procurement and professional services.
2. Some of the contracts in each of these areas are financed with funds received by BART from non-federal sources, e. g., fare revenue.
3. In many instances where the BART contract contains subcontracting opportunities, the Bidder/prime contractor, in making its bid for a BART contract, subcontracts portions of the work to be performed under the contract. In these situations, BART, provides the funds, through the prime contract, to pay the subcontractors.
4. Studies performed for the District, including research by the National Economic Research Associates and Mason Tillman Associates show that prime contractors in the private sector, in BART's geographic market, subcontract with minority and women-owned subcontractors ("MBE" and "WBE") at a rate that is substantially below the availability of qualified MBEs and WBEs to perform the work being subcontracted. The studies show that this underutilization of MBE and WBE subcontractors exist in all three areas in which BART contracts.
5. Among other things the studies show that the difference between the availability and the utilization of MBE and WBE subcontractors by prime contractors is generally statistically significant, i. e. , the level of underutilization is not attributable to chance, but instead indicates that a factor, other than chance, is responsible for the difference. The statistical data support a finding that discrimination based on the race, national origin, and gender is a significant factor that accounts for the underutilization of MBE and WBE subcontractors by private sector prime contractors.
6. BART has a legal obligation to ensure that funds paid by BART to a Bidder/prime contractor are not, in turn, spent by the Bidder/prime contractor in a discriminatory manner in its selection of subcontractors. If BART fails to take steps to prevent such discrimination, BART becomes a passive participant in that race and/or gender discrimination.
7. In a subcontracting market which operated in a non-discriminatory manner, it would be expected that the distribution of subcontracts among subcontractors owned by members of various ethnic groups and women would generally reflect the availability of qualified and available subcontractors in each group to perform the work. Accordingly, if a Bidder subcontracts a portion of the work and if a Bidder lists subcontracts in such a manner that there is a significant difference between the percentage of subcontracting dollars awarded to MBEs and WBEs and the availability of MBEs and WBEs, then the conclusion is warranted that ethnicity and/or gender discrimination may account for the difference.

8. If a Bidder subcontracts a portion of the work and where a bid shows a difference between a Bidder's utilization of MBE and/or WBE subcontractors and the availability of such subcontractors, BART will require information from the Bidder from which it can be determined whether the Bidder discriminated on the basis of ethnicity and/or gender in subcontracting. If the Bidder either fails to cooperate with the investigation or is found to have discriminated in subcontracting, the Bidder will be found non-responsive and will not be awarded the contract, even though the Bidder is otherwise the lowest Bidder.

III. Definitions

1. Agreement. An Agreement between BART and a Consultant for professional services which is funded solely with non-federal funds.
2. Availability Percentage. MBE and WBE availability which shall be equal to the percentage of MBEs and the percentage of WBEs in the pool of all Subcontractors within the relevant market area that are available to bid on Subcontract work in the absence of discrimination or preference.
3. Bid. A bid or proposal submitted by a firm that seeks to obtain Contracts or Agreements with BART.
4. Bidder. A private sector business entity, regardless of the ethnicity or gender of the owner, which submits bids, proposals or otherwise seeks to obtain Contracts or Agreements with BART.
5. Broker. A firm that arranges or expedites transactions and does not maintain a store, warehouse or other establishment in which the materials, supplies articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business.
6. Contract. A contract between BART and a Prime Contractor or Prime Supplier which is funded solely with non-federal funds.
7. Manufacturers' Representative. A firm that arranges or expedites transactions and does not maintain a store, warehouse or other establishment in which the materials, supplies articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business.
8. Minority-owned business enterprise (MBE). A business enterprise that is at least 51% owned and controlled by a minority person(s).
9. Women-owned business enterprise (WBE). A business enterprise that is at least 51% owned and controlled by a woman or women.
10. Minority person(s). African Americans (i. e. persons having origins in any of the Black African racial groups), Hispanics (i. e. , Cuban, Mexican, Puerto Rican, Latin American, European Spanish (but not Portuguese), and other Hispanic origins and cultures), Asians and other minorities (i. e. , Asian and Pacific Islander, ancestral groups of Asian Indians, Chinese, Japanese, Filipino, Hawaiian, and other Asian or Pacific Islander), and Native American ancestral groups of Aleut, Eskimo and American Indian.

11. Office of Civil Rights ("OCR"). The San Francisco Bay Area Rapid Transit District Office of Civil Rights.
12. Subcontract. A contract between a Prime Contractor/Prime Supplier/Prime Consultant and a first tier subcontractor.
13. Subcontractor. A firm that has entered into a contract with a Prime Contractor/Prime Supplier/Prime Consultant.

IV. **Presumption of Non-Discrimination**

1. For each BART contract for the procurement of goods or services in an amount of \$100,000 or more, which is funded solely by non-federal funds, the BART Office of Civil Rights ("OCR") shall determine, based on applicable studies or other reliable information, the availability of MBE subcontractors and the availability of WBE subcontractors to perform work likely to be subcontracted under the contract. MBE availability and WBE availability shall be equal to the percentage of MBEs and the percentage of WBEs in the pool of all subcontractors available to perform the subcontracted work ("availability percentage"). Separate availability percentages shall be determined for MBEs and WBEs.
2. For each BART construction contract in an amount of \$50,000 or more, which is funded solely by non-federal funds, the BART Office of Civil Rights shall determine, based on applicable studies or other reliable information, availability of MBE subcontractors and the availability of WBE subcontractors to perform work likely to be subcontracted under the contract. MBE availability and WBE availability shall be equal to the percentage of MBEs and the percentage of WBEs in the pool of all subcontractors available to perform the subcontracted work ("availability percentage"). Separate availability percentages shall be determined for MBEs and WBEs.
3. A Bidder is not required to subcontract any portion of the work. If the Bidder does not subcontract any of the work, the Program shall not apply.
4. If the Bidder does subcontract a portion of the work and if the dollar amount of subcontracts listed for MBEs and WBEs by the Bidder reflects the availability percentage of MBEs and the availability percentage WBEs, it shall be presumed that the Bidder did not discriminate on the basis of ethnicity and/or gender in the selection of subcontractors.
5. If the Bidder does not list subcontracts to MBEs and WBEs in dollar amounts which reflect the MBE and/or the WBE availability percentages, no presumption of non-discrimination exists and OCR shall undertake an investigation, as provided herein, to determine if the Bidder discriminated on the basis of ethnicity and/or gender in the selection of subcontractors. OCR shall notify the Bidder that there is no presumption of non-discrimination and that the Bidder is required to provide the information in Section V. below. The notice to the Bidder shall include a summary of the calculations made by OCR.
6. In making the calculations under Sections IV. 4 or IV.5 above, firms that are owned and controlled by minority women may be counted as both a WBE firm and as an MBE firm.
7. No Bidder shall be found in non-compliance or non-responsive based on a Bidder's failure to list subcontracts to MBEs and WBEs in dollar amounts which reflect the availability percentages for MBEs and WBEs. A finding of non-compliance or non-responsiveness may

be based only on a finding, made after the Bidder is afforded an opportunity for a hearing, that the Bidder discriminated on the basis of ethnicity and/or gender in the selection of subcontractors; or on a finding that the Bidder did not provide the information or did not otherwise cooperate, as required herein, in the investigation of possible discrimination. At a hearing on the issue of discrimination, the hearing officer may consider, where deemed relevant, a Bidder's failure to list MBE and/or WBE subcontractors in dollar amounts which reflect applicable availability percentages.

V. Information Required From Bidder Regarding Non-Discrimination

1. If the Bidder contends it has listed subcontracts to MBEs and WBEs in dollar amounts reflective of the respective MBE and WBE availability percentages, the Bidder shall provide the following information to BART at the time it submits its bid or, where applicable, within the time permitted by the contract provisions:
 - a. The dollar amount of each subcontract and a statement of the scope of work to be performed under the subcontract;
 - b. The identification of each subcontract awarded to a MBE or a WBE, including the name, address and telephone number of the MBE or WBE subcontractor and;
 - c. Proof that the subcontractor is an MBE or WBE. If a Bidder lists a proposed MBE or WBE firm that is not currently certified as such by the District, the Bidder must provide a completed Application for MBE and/or WBE Certification for those businesses which are claimed to be MBEs or WBEs, but which are not currently certified as such by the District. Firms owned and controlled by minority persons or women currently certified as a Disadvantaged Business Enterprise ("DBE") by the California Unified Certification Program ("CUCP") are presumed to be qualified as MBEs and/or WBEs under the Program.
2. If the Bidder has not listed subcontracts for MBEs and/or WBEs in dollar amounts reflective of their respective availability percentages, OCR shall notify the Bidder, pursuant to Section IV.5, that it is required to provide the information required by Sections V.1 and V.2. The Bidder shall provide the information required by Section V.2 not later than five (5) calendar days ("Days") after the date of the notice from OCR pursuant to Section IV.5. If the Bidder has listed subcontracts in dollar amounts reflective of MBE, but not WBE availability percentages, or vice versa, the Bidder is required to submit the information listed below only as it relates to the availability percentage which was not achieved.
 - a. Separately for each subcontract, the name, address, telephone number, ethnicity and gender of the owner of each business entity that was listed as a subcontractor;
 - b. Separately for each subcontract, the name, address, telephone number, ethnicity and gender of the owner of each business entity that submitted a bid, but was not selected as a subcontractor;
 - c. Separately for each subcontract, the name, address, telephone number, ethnicity and gender of the owner of each business entity that expressed an interest, on the telephone or in writing, in bidding for the subcontract, but did not do so;

- d. For each subcontract where a MBE or WBE was not selected, copies of the bids submitted by the non-MBE/WBE, who was selected, and the bids or proposals submitted by each MBE and WBE. The bid or proposal documents covered by this Section shall contain at least the following information: the bid or proposal amount and a description of the scope of work. If no written bids or proposals were submitted by some or all of the subcontractors who bid the job, the Bidder shall provide a written statement containing the amount of each oral bid or proposal;
- e. Separately for each subcontract where the listed subcontractor is a non-MBE/WBE, a full and complete statement of the reason(s) that the non-MBE/WBE was selected as the subcontractor, and a MBE or WBE was not selected. If the reason is based on relative qualifications, the statement must address the particular qualifications at issue. If the reason is the respective dollar amounts bid, the statement must state the amounts and describe the similarities and/or dissimilarities in the scope of work covered by the bids or proposals;
- f. A statement describing any efforts the Bidder may have made to ensure non-discrimination in subcontracting, including a description of any advertising and other outreach efforts and;
- g. Such other information as may be requested by the District which is relevant to the issue of possible discrimination by the Bidder in subcontracting. This information may include the Bidder's record with respect to MBE and WBE subcontractor participation on other general contracts awarded to the Bidder in the previous 12 months.

VI. Enforcement/Hearing Procedures

1. If at any time during the bidding process, a Bidder fails to timely provide the information required by Sections V.1 or V.2, or if the information provided by the Bidder is incomplete OCR shall issue a written Finding of Non-Compliance that sets forth the deficiencies in the Bidder's response. The Finding of Non-Compliance shall be transmitted to the Bidder in a manner that provides verification of receipt. If the Bidder does not contest the Finding of Non-Compliance within five (5) Days of the date of issuance of the Finding of Non-Compliance, OCR shall issue a Final Determination of Non-Compliance and the District will issue a Finding of Non-Responsiveness.
2. If the Bidder disagrees with OCR's Finding of Non-Compliance, it may, within five (5) Days of the issuance of the Final Determination of Non-Compliance, request, in writing, a hearing before a hearing officer appointed by the District. Unless otherwise agreed by the District and the Bidder, the hearing shall be held within fourteen (14) Days of the request. The hearing shall be conducted consistent with Sections VI.10 and VI.11 below. If the hearing officer finds that the Bidder did timely provide the required information, OCR's finding of Non-Compliance shall be withdrawn. If the hearing officer finds that the required information was not timely provided, OCR shall issue a Final Determination of Non-Compliance and the District will issue a Finding of Non-Responsiveness.
3. Where a Bidder submits information which it contends shows that it awarded subcontracts in dollar amounts which reflect the Availability Percentages for MBEs and WBEs, OCR shall

determine if the Bidder is correct. If the Bidder is correct, OCR shall issue a Finding of **Non-Discrimination**. If OCR decides that the Bidder is incorrect, OCR shall notify the Bidder **in writing** that the Bidder must provide the information set forth in Sections V.1 and V.2 **within five (5) Days** from the date of the notice.

4. A Bidder, given notice pursuant to Section IV.5 to provide the information required by Sections V.1 and V.2, shall provide the information in a timely manner, even if the Bidder disputes OCR's decision that the Bidder did not award subcontracts in dollar amounts **which** reflect the MBE and WBE Availability Percentages. A failure of a Bidder to timely provide this information will result in a Finding of Non-Compliance pursuant to Section VI.1.
5. Where a Bidder submits, in a timely manner, the information required by Sections V.1 and V.2, OCR shall review the information and any other information OCR considers pertinent. In this regard, the Bidder shall not unreasonably refuse to provide additional information requested by OCR. Based on this review and investigation, OCR shall make a determination, within fifteen (15) Days of the receipt of information provided by the Bidder, either that the Bidder did not discriminate on the basis of ethnicity and/or gender in its selection of subcontractors, or that a hearing is needed to determine if the Bidder discriminated. If OCR decides there was no discrimination, OCR shall issue a Finding of Non-Discrimination, which shall be final and not subject to challenge or appeal by any Bidder.
6. If OCR decides that a hearing is needed on the issue of discrimination, OCR shall notify the Bidder of this decision within five (5) Days of the date the decision is made. This written notice shall include the following: the date, time and location of the hearing; the name and address of the hearing officer; and a statement of the reasons OCR has decided that a hearing is necessary.
7. Unless otherwise agreed in writing by the District and the Bidder, the hearing shall begin not later than fourteen (14) Days after the date of the notice given pursuant to Section VI.6.
8. The hearing officer shall be selected by OCR.
9. The only issue to be resolved by the hearing officer is whether the Bidder discriminated in its selection of one or more subcontractors. If contested by the Bidder, resolution of this issue shall include a determination whether the Bidder's selection of subcontractors reflected the Availability Percentages of MBEs and/or WBEs, and/or whether the Availability Percentages stated in the contract are accurate.
10. At the hearing, the Bidder and the District may be represented by counsel and may present relevant witnesses and documents. The rules of evidence need not be observed. The hearing officer shall exercise all powers relating to the conduct of the hearing. Regardless of the outcome, the Bidder and BART shall bear their own costs and attorneys' fees. The District shall pay the hearing officer's fees.
11. The hearing officer shall issue a written recommendation to the District within ten (10) Days following completion of the hearing.
12. Following receipt of the hearing officer's recommendation, the District shall issue a final determination and, if appropriate, a Finding of Non-Responsiveness.

VII. Protest of Award of Contract

If applicable, award of a contract is subject to BART's protest procedures. For contracts not subject to BART's protest procedures, all findings, including the findings of the hearing officer, shall be final.

VIII. Severability

Each clause, sentence, paragraph, subdivision, Section or portion of this Program is separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, Section or portion, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the Program, or the validity of their application to other persons or circumstances.

THIS APPENDIX IMPLEMENTS THE NON-DISCRIMINATION PROGRAM FOR SUBCONTRACTING ON NON-FEDERAL CONTRACTS (THE "PROGRAM"). THE APPENDIX MAY BE SUBJECT TO REVISION, SUBSTITUTION, DELETION OR ADDITION BY THE OFFICE OF CIVIL RIGHTS CONSISTENT WITH THE TERMS OF THE PROGRAM WITHOUT REQUIRING BOARD APPROVAL OF THE REVISION OR CHANGES TO THE PROGRAM.

Appendix – Certification of MBE and WBE Firms

Certification is the process by which all firms seeking to participate as Minority-Owned Business Enterprises ("MBE"s) and/or Women-Owned Business Enterprises ("WBE"s) in the Program are determined to have met the eligibility requirements of the Program. This Appendix provides guidance for certifying firms as MBEs and WBEs.

I. Application Requirements

All applicants for MBE or WBE certification will be required to complete an application for MBE or WBE certification. Firms who are currently certified by the California Unified Certification Program ("CUCP") as a DBE shall be presumed to meet all requirements for qualifying as an MBE or WBE, provided they are a member of a presumptive group as defined by 49 Code of Federal Regulations Part 26.

Once a completed application has been received by the District the applicant shall be notified in writing that their application has been received and is complete for review. The District shall not review incomplete applications. A failure of an applicant to timely provide information required in the application or any additional information that OCR requires to review an application will result in an administrative denial of the application. Any firm denied certification may reapply for certification six (6) months after the date of denial.

II. Burdens of Proof

Any firm seeking certification has the burden of proof of demonstrating to the District that it meets the requirements concerning group membership as either a minority or woman. The District will make determinations concerning whether individuals and firms have met the burden of demonstrating group membership by considering all the facts in the record, viewed as a whole.

III. Group Membership Determinations

If the District has reason to question whether an individual is a member of a minority group or a woman, the District will require the individual to demonstrate, by a preponderance of the evidence, that he or she is a member of such group. The District may require the applicant to produce appropriate documentation of group membership.

IV. Ownership Determination

1. To be an eligible MBE, a firm must be at least 51 percent owned by one or more minority individuals. In the case of a corporation, such individuals must own at least 51 percent of each class of voting stock outstanding and at least 51 percent of the aggregate of all stock outstanding. In the case of a partnership, at least 51 percent of each class of partnership interest must be owned by minority individuals and must be reflected in the firm's partnership agreement. In the case of a limited liability company at least 51 percent of each member interest must be owned by minority individuals.

2. To be an eligible WBE, a firm must be at least 51 percent owned by one or more women. In the case of a corporation, such individuals must own at least 51 percent of each class of voting stock outstanding and at least 51 percent of the aggregate of all stock outstanding. In the case of a partnership, at least 51 percent of each class of partnership interest must be owned by women and must be reflected in the firm's partnership agreement. In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by women.
3. The firm's ownership by minorities and/or women must be real, substantial and continuing, going beyond pro forma ownership of the firm as reflected in the ownership documents. The minority and/or women owners must enjoy the customary incidents of ownership and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements.
4. All securities that constitute ownership will be held directly by minorities or women. No securities or assets held in trust, or by any guardian for a minor, are considered as held by minorities or women in determining ownership of a firm.
5. The contributions of capital or expertise by the minority and women owners to acquire their ownership interests must be real and substantial.
6. The District will presume as not being held by a minority or woman, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-minority or non-woman individual or non-minority or non-woman owned firm which is:
 - a. Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;
 - b. Involved in the same or a similar line of business;
 - c. An immediate family member. An immediate family member is defined as a father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law or father-in-law or;
 - d. Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.
1. To overcome the foregoing presumption and permit the interests or assets to be counted, minorities or women must demonstrate by clear and convincing evidence that:
 - a. The gift or transfer was made for reasons other than obtaining certification as a MBE or WBE or;
 - b. The assets were transferred as the result of a final property settlement or court order in a divorce or legal separation or;
 - c. The assets were transferred through inheritance or otherwise because of the death of the former owner.
2. The District will apply the following rules in situations in which marital assets form a basis for ownership of a firm:
 - a. When marital assets held jointly or as community property by both spouses, are used to acquire the ownership interests asserted by one spouse, the District will deem ownership interest in the firm to have been acquired by that spouse with his/her individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled.
 - b. A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for MBE or WBE certification. This

renunciation must be contemporaneous with the acquisition of the ownership interest in question.

V. Control Determination

1. All firms seeking certification as an MBE and/or WBE must be controlled by the minority or women owners respectively. In order for minority and/or women owner(s) to be found to control a firm the customary discretion of the minority or women owner must not be limited in any way, by any formal or informal agreement or any other restriction which would impede or limit the customary discretion of the minority or women owners to control and direct the day to day and long term operations of the firm.

VI. Other Considerations

1. OCR will provide written notification to the firm that it has been certified and add it to the list of certified MBE and/or WBE firms. A list of currently certified MBE and WBE firms will be made available on the BART website. Only firms on this list, or listed in the CUCP database, will be eligible for calculating the attainment of availability percentages.
2. Once a firm has been certified, the firm will be assigned one or more North American Industry Classification System ("NAICS") codes. The assignment of a NAICS code is only for informational purposes to assist potential Bidders in identifying MBE and/or WBE firms capable of performing the work to be subcontracted.
3. The District expects all participants in the Program to cooperate fully with requests for information relevant to the certification process and other requests for information. Failure or refusal to provide such information is a ground for denial or removal of MBE or WBE certification.
4. From time to time, the District may request additional information to ensure that a firm certified as an MBE or WBE remains eligible for certification. Failure to timely comply with a request for additional information shall constitute a failure of an MBE or WBE to cooperate with requests for information relevant to the certification process and is a ground for removal of MBE or WBE certification.
5. Only firms organized for profit may be eligible MBEs or WBEs. Not-for-profit organizations, even though controlled by minorities or women, are not eligible to be certified as MBEs or WBEs.
6. A Broker or Manufacturer's representative shall not be eligible for certification as an MBE or WBE as a part of the Program.
7. Applicants have no right of appeal of a certification decision. If a certification is denied and an objection is filed by the applicant, an Administrative Review may be conducted at the request of the Manager of the Office of Civil Rights. In order to conduct the Administrative Review, OCR shall convene an Administrative Review Committee which shall consist of the certification officer's manager, the Department Manager of the Office of Civil Rights and any other persons the Department Manager of the Office of Civil Rights deems necessary to conduct the Administrative Review. The Administrative Review Committee shall either confirm the decision issued by the certification officer or reverse the decision of the certification officer. Once a determination is made by the Administrative Review Committee, this decision will be communicated in writing to the applicant. All determinations made after an Administrative Review are considered final.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Merica Selander</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>2/21/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Travis W Engstrom Dept: Office of the CIO <i>Travis Engstrom</i> Signature/Date: <i>2/18/14</i>	General Counsel <i>MB</i> Signature/Date: <i>2/20/14</i>	Controller/Treasurer <i>[Signature]</i> Signature/Date: []	District Secretary []	BARC <i>Carlo M...</i> Signature/Date: <i>2/20/14</i> []

ELERTS: Rider Safety Communication for Smartphones

NARRATIVE:

Purpose

For the Board to authorize the General Manager to execute a 7 year Enterprise License Agreement (ELA, or Agreement) for ELERTS Transit software, with ELERTS Corp., not to exceed \$265,000, plus applicable taxes, in FY14.

Discussion

The BART Police Department and the Office of the Chief Information Officer (CIO) have identified a unique public safety communications platform that provides two-way communication, geo-targeted alerts, high-resolution photography and confirmed message delivery from smartphones.

This mobile software solution will allow BART riders to more easily participate in the National "See Something, Say Something" campaign by using their smartphones to report suspicious incidents and crime. ELERTS provides a silent, safe and discrete way to report crime within confined spaces like trains, stations and parking lots without alerting or agitating a dangerous subject.

ELERTS Transit software is currently in use in the Massachusetts Bay Transportation Authority (MBTA), the Metropolitan Atlanta Rapid Transit Authority (MARTA), the Niagara Frontier Transportation Authority (NFTA) and in the Santa Clara Valley Transportation Authority (VTA).

ELERTS not only provides riders with a mobile safety solution, but also provides the BART Police Department with the ability to send mass updates to Officer Smart Phones that show near real-time photos and details for incidents such as missing children, suspicious bags, and wanted suspects.

The ELERTS application uses a targeted set of menus and drop-down lists that make it easy for riders to report issues. To widen the use of this application, the Office of Civil Rights has included in this agreement the translation of all menus and drop-down lists within the application, that allow Users to easily report issues with minimal typing, into both Spanish and Simplified Chinese making BART the first ELERTS customer to use alternative languages within the application.

If they so choose, users are able to send additional text transmissions entered into the comments section of the application in ELERTS beyond what is described in the drop-down menus. In contrast to the menus and drop-down lists that will be available in alternative languages, current ELERTS technology does not allow the translation of these additional text transmissions. Users' text transmissions in the comment section will be routed to the BART Police Department that will handle alternative language transmission from ELERTS as they do all other alternative language submissions such as telephone, email and fax. The Office of Civil Rights has directed ELERTS to include a disclaimer in the application stating that "Text transmissions entered into the comments section in an alternative language may experience a delay in translation". Throughout the duration of this Agreement, the Office of Civil Rights will continue to work with ELERTS to provide additional enhancements to support the translation of the comments section wherever

possible.

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

Fiscal Impact

Funding for \$265,000.00 plus applicable taxes for executing this Agreement will come from project budget 79HA010 ELERTS: Rider Safety Communication for Smartphones. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of the 02/18/2014, \$265,000 plus applicable taxes is available for this project from the following fund sources:

Description	Amount
F/G 5371 - FY09-10 PROP 1B Security	250,000
F/G 0031 – Bart Operating Budget	15,000
Total	\$265,000.00

BART has expended \$0.00 committed \$0.00 to date for other actions. This action will commit \$265,000 leaving an uncommitted balance of \$0 in these fund sources.

There is no fiscal impact on available un-programmed District Reserves.

Alternative

Do not authorize the execution of this Agreement. The District will be unable to accept text based safety transmissions from riders. Riders will continue to use telephone voice communications for alerting BART Police.

Recommendations

Approve the following motion:

Motion

The Board authorizes the General Manager to execute an Enterprise License Agreement with ELERTS Corp., for ELERTS software & support services in an amount of \$265,000, plus applicable taxes.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeLuca</i>		GENERAL MANAGER ACTION REQ'D: To request Board approval of BART's Asset Management Policy		
DATE: c <i>3/7/14</i>		BOARD INITIATED ITEM: <input type="checkbox"/> NO		
Originator/Prepared by: Frank Ruffa Dept: Maintenance & Engineering <i>Frank Ruffa</i> Signature/Date: <i>3/6/14</i>	General Counsel <i>Andrew Rapp</i> Signature/Date: <i>3/6/14</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>Paul Overton</i> Signature/Date: <i>3/7/14</i>

TITLE:

ASSET MANAGEMENT POLICY

NARRATIVE:

Purpose:

To request Board approval of BART's Asset Management Policy.

Discussion:

The District has a responsibility to its riders and the citizens of the San Francisco Bay Area to maintain approximately \$21 billion of assets in a State of Good Repair, as defined by the Federal Transit Administration and as required by federal legislation. Continued system vitality requires careful financial stewardship and consistent reinvestment to responsibly replenish system assets.

Federal legislation, MAP-21 (Moving Ahead for Progress in the 21st Century), mandates Asset Management by applicants of federal funds as a means to reach a State of Good Repair and requires agencies to use this approach to compete for funding sources. To ensure that BART is positioned to achieve and maintain a State of Good Repair necessary to provide safe, reliable, on-time service, the attached Asset Management Policy contains policy goals and objectives for implementing consistent asset management processes throughout BART.

An Asset Management Policy further demonstrates the commitment of the BART Board to meet MAP-21 requirements. Not meeting MAP-21 requirements could jeopardize future federal funding.

The goals of the proposed Asset Management Policy include:

- A. Ensuring that BART's services are provided and infrastructure maintained in a sustainable manner;
- B. Safeguarding BART assets, including employees and physical assets, by implementing asset management strategies and directing appropriate resources to these strategies;
- C. Demonstrating transparent and responsible asset management processes that align with accepted best practices and federal standards; and
- D. Meeting federal legislative requirements for asset management by applicants of federal funds.

The General Manager is responsible for developing the asset management strategy, plans and procedures and reporting to the Board on the status and effectiveness of BART's asset management efforts.

MAP-21 requires that the Asset Management Policy be reviewed and reaffirmed by the BART

Board again by March 13, 2019.

Fiscal Impact:

There is no immediate fiscal impact associated with adoption of the Asset Management Policy. Implementation and support of the policy will require a financial commitment from the District, including ensuring that resources are appropriately directed to address BART's asset management efforts.

Alternative:

Do not adopt an Asset Management Policy or defer adoption of the Policy to a later date which could jeopardize BART's eligibility for federal funding

Recommendation:

It is recommended that the Board adopt the following motion.

Motion:

The Board approves the attached Asset Management Policy.

March 13, 2014

Asset Management Policy

The San Francisco Bay Area Rapid Transit District has an important responsibility to its riders and the citizens of the San Francisco Bay Area to maintain the District's approximately \$21 billion of assets in a State of Good Repair, as defined by the Federal Transit Administration (FTA) and as required by Federal legislation, Moving Ahead for Progress in the 21st Century Act (MAP-21), 49 USC, Section 5326. Continued system vitality requires careful financial stewardship and consistent reinvestment to responsibly replenish system assets. In addition, federal legislation mandates Asset Management as a means to reach a State of Good Repair and requires agencies to use this approach in order to be eligible for Federal funding. In order to ensure that BART is positioned to achieve and maintain a State of Good Repair necessary to provide the safe, reliable, on-time service our customers expect, the following policy goals and objectives are adopted:

Goals:

- A. Ensure that BART's services are provided and infrastructure maintained in a sustainable manner.
 - Consider the risks and consequences of action, and inaction, when prioritizing asset replacement or repair, and when identifying and allocating funding sources.
 - Incorporate complete asset lifecycle costs into long-term financial planning to achieve cost-effective asset management planning.
 - Inform decision making by planning for, reporting, and considering future lifecycle costs of new services and assets (i.e., extensions, infill stations, garages) as well as when considering upgrades and expansion of the existing physical infrastructure.
- B. Safeguard BART assets, including employees and physical assets, by implementing asset management strategies and directing appropriate resources to these strategies.
 - Develop employee capability, capacity and competency in asset management practices; and promote employee and Board member stewardship and governance of asset management strategies.
 - Collaboratively identify and consistently apply criteria to prioritize funding of asset management projects throughout BART.
 - Annually allocate appropriate financial and operational resources to implement asset management strategies and devote resources to prioritized projects.
- C. Demonstrate transparent and responsible asset management processes that align with accepted best practices and federal standards.
 - Achieve and sustain a target level of asset management maturity across the BART organization.
 - Review and update all asset management plans on an annual basis to ensure assets are managed, valued and depreciated in accordance with Generally Accepted Accounting Principles (GAAP) and federal standards.
 - Ensure alignment and integration among BART's Asset Management Strategy, annual operating and capital budgets, Strategic Plan, and Short Range Transit Plan/Capital

Improvement Program in order to accurately assess the District's overall financial health and inform decision makers.

D. Meet federal legislative requirements for asset management.

- Develop Asset Management Plans that include, at a minimum:
 - Capital asset inventories and condition assessments
 - Risk-based decision-making and a decision support tool
 - Investment prioritization consistent with the System Safety Program Plan provisions.
- Establish performance targets in relation to State of Good Repair measures, as required by the FTA.

Legislation: 49 U.S.C. Section 5326 / MAP-21 Section 20019

Related Documents: Asset Management Strategy and associated Asset Management Plans.

Responsibility:

The BART Board is responsible for adopting the Asset Management Policy, allocating resources, and providing high level oversight of the delivery of BART's asset management strategy to ensure that resources are appropriately used to address BART's plans and priorities. BART's General Manager has overall responsibility for developing an asset management strategy, plans and procedures, and reporting to the Board on the status and effectiveness of asset management within BART.

Review Date: This policy shall be in effect for five years. It will be reviewed and re-approved by the BART Board before March 13, 2019.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

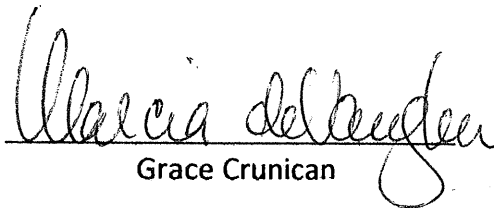
TO: Board of Directors

DATE: March 7, 2014

FROM: General Manager

SUBJECT: E&O Agenda Item #5.B: Oakland Airport Connector Quarterly Project Update – For Information

The attached presentation for the March 13, 2014 Board meeting provides the quarterly update for the Oakland Airport Connector Project. If you have any questions about this presentation, please contact Tom Dunscombe, Group Manager, Planning and Development at (510) 394-6173.


Grace Crunican

Attachment

cc: Board Appointed Officers
Deputy General Manager
Executive Staff