

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.3**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Finance and Information Technology

**BRIEF DESCRIPTION:**

Authorizing the Director of Transportation to execute the Agreement between the City and County of San Francisco and the San Francisco Bay Area Rapid Transit District for Payment for Transfer Trips (Feeder Agreement), for the term from July 1, 2010 to June 30, 2020.

**SUMMARY:**

- The SFMTA and BART provide an integrated transit network in San Francisco. The SFMTA provides extensive transit services to BART stations, allowing customers to use transit to reach locations away from BART stations.
- For over two decades, the SFMTA and BART have had a feeder agreement in which BART has paid the SFMTA to help provide feeder bus and rail services to BART stations. The original FY 1987 Feeder Agreement initially used a formula based on the net cost per boarding multiplied by the estimated number of transfer trips. By 1989, the formula was revamped to base payments on the percentage change in sales tax revenues BART collected during the two previous years, which has no relationship to service or ridership.
- The currently unpaid feeder reimbursement amount from BART to the SFMTA for fiscal year 2010 is \$2,641,151, a 9 percent decrease from the previous year, due to the decline in sales tax.
- During the approval process for the FY 2010 feeder payment, the decision was made to change the methodology from a sales tax based payment to a ridership-based payment and present both the Fast Pass Agreement and the Feeder Agreement at the same time for approval.
- The SFMTA and BART are proposing that feeder payments (a) increase by 0.5% each year, for fiscal years 2011 and 2012 and (b) adjust annually based on the percentage change of the San Francisco Bay Area Consumer Price Index (CPI) and Muni feeder ridership to BART as measured by individual transfer trips from Muni to BART for fiscal years 2013 through 2020.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Agreement with the San Francisco Bay Area Rapid Transit District for Payment for Transfer Trips (Feeder Agreement)

**APPROVALS:**

**DATE**

DIRECTOR \_\_\_\_\_ 11/13/12

SECRETARY \_\_\_\_\_ 11/13/12

**ASSIGNED SFMTAB CALENDAR DATE:** November 20, 2012

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### **PURPOSE**

This item requests authorization for the Director of Transportation to execute the Feeder Agreement between the City and BART, for the term from July 1, 2010 to June 30, 2020.

### **GOALS**

This item will meet the following goal and objectives of the SFMTA Strategic Plan:

Goal 2: Make transit, walking, bicycling, taxi, ridesharing & carsharing the preferred means of travel

Objective 2.3 Increase use of all non-private auto modes

### **DESCRIPTION**

#### *Background*

The SFMTA and BART provide an integrated transit network in San Francisco. The SFMTA provides extensive transit services to BART stations in San Francisco and Daly City, allowing customers to use transit to reach locations away from BART stations. The SFMTA and BART have multiple agreements relating to the payment for and provision of services within San Francisco. The two major ones are:

- (a) Adult Fast Pass® Agreement – Customers who have purchased the equivalent of the former paper Muni Adult Fast Pass® on Clipper® can ride BART within San Francisco as well as Muni. Currently, the SFMTA reimburses BART \$1.02 per trip taken. A new contract to be presented along with this Agreement to the SFMTA Board of Directors in a separate report proposes raising the reimbursement rate to \$1.19 and tying subsequent rate increases to adjustments to the Consumer Price Index. The SFMTA expects to pay BART just over \$9 million in FY12 under the new contract.
- (b) Feeder Agreement – BART pays a lump sum to the SFMTA for the provision of feeder bus and rail services to BART stations under the Feeder Agreement. As of Fiscal Year 2010, this amount due from BART is \$2,641,151. The Fiscal Year 2009 payment received from BART was \$2,904,092.

#### *Historical Feeder Agreement Formula and Revenues*

Historically, BART has paid the SFMTA to offset some of the costs associated with providing Muni feeder service to BART stations. The original FY 1987 Feeder Agreement, which was established under the Metropolitan Transportation Commission's Regional Financial Plan, initially used a ridership-based formula to calculate reimbursement to Muni. Specifically, reimbursement depended upon net cost per boarding multiplied by the estimated number of transfer trips.

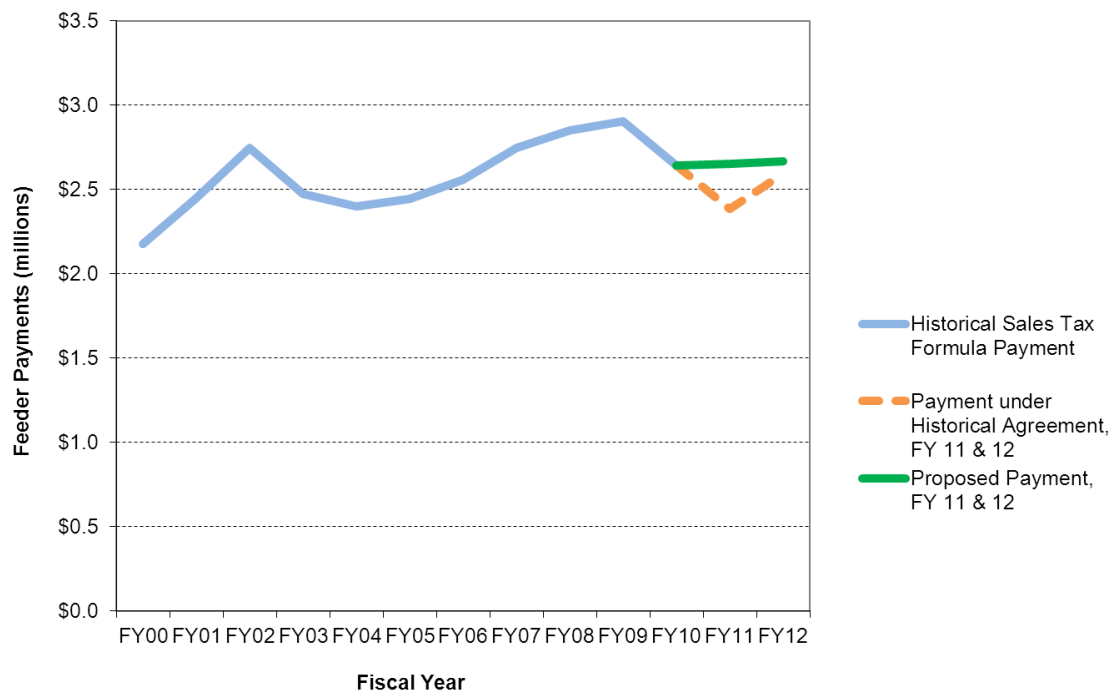
$$\text{Reimbursement} = (\text{Operating Cost Per Boarding} - \text{Average Fare per Boarding}) * \text{Transfer Trips}$$

By 1989, the Metropolitan Transportation Commission directed BART and the then-San Francisco Municipal Railway to modify the formula to adjust the reimbursement annually based upon the percentage change in BART’s sales tax revenue receipts during the previous two years. This formula bears no relationship to ridership or the amount of service provided, nor is there an adjustment for inflation.

In a July 2011 report assessing the financial impacts of the Feeder Agreement, the San Francisco Budget and Legislative Analyst’s Office concluded that had BART and the SFMTA retained the original ridership and cost-based methodology, the feeder payment would be approximately \$15,135,790 for FY 2010 rather than \$2,641,151. Both BART and the SFMTA concluded that BART would not be able to absorb such a large increase in feeder payments, and BART did not agree with the methodology that produced this result.

Table 1 and the accompanying chart show the historical fluctuation in feeder payments over the past decade. For Fiscal Year 2010, the feeder payment was \$2,641,151, a decrease of 9 percent from the previous year and less than the amount from fiscal year 2002. Based on the historical sales tax methodology, the Fiscal Year 2011 feeder payment would decline an additional 10 percent for a cumulative decrease of 18 percent over two years, but would rebound somewhat to \$2,591,472 for Fiscal Year 2012 due to increased BART sales tax receipts. Both amounts would be less than the Fiscal Year 2002 payment of \$2,746,668 – despite cumulative inflation of over 20 percent.

**Feeder Agreement Payments from BART to SFMTA, FY 2000-2012**



(Document accessibility note: Data contained in the chart above is replicated in the following table)

Table 1: Historical Feeder Agreement Reimbursement from BART to SFMTA

Fiscal Year	Feeder Payment	Change from Previous Year
FY 2000	\$2,175,648	5.3%
FY 2001	\$2,449,471	12.6%
FY 2002	\$2,746,668	12.1%
FY 2003	\$2,476,164	-9.9%
FY 2004	\$2,399,733	-3.1%
FY 2005	\$2,444,526	1.9%
FY 2006	\$2,556,678	4.6%
FY 2007	\$2,747,117	7.4%
FY 2008	\$2,849,241	3.7%
FY 2009	\$2,904,092	1.9%
FY 2010	\$2,641,151	-9.1%
FY 2011(payment under historical agreement)	\$2,386,535	-9.6%
FY 2011 (proposed payment)	\$2,654,357	0.5%
FY 2012(payment under historical agreement)	\$2,591,472	8.6%
FY 2012 (proposed payment)	\$2,667,629	0.5%

*Previous Consideration of the Fast Pass and Feeder Agreements*

The methodology currently used to calculate the existing Feeder Agreement does not reflect the appropriate nexus between ridership and the required payment. Thus, at the beginning of 2010, at the urging of policymakers, the SFMTA initiated negotiations with BART on both agreements.

On April 5, 2011, the SFMTA Board of Directors also approved the FY10 Feeder Agreement, which provided for a feeder payment from BART to the SFMTA of \$2,641,151 based on the historical sales tax methodology.

On August 3, 2011, the Board of Supervisors approved the FY10 feeder payment amount in Resolution 348-11 but “urge[d] the SFMTA and BART to renegotiate the methodology for the FY 2011 and FY 2012 Feeder Agreements to provide a clear nexus between the actual number of transfers trips between BART and Muni and the related Feeder Agreement payment by BART to the SFMTA.” The Board of Supervisors also deferred approval of the Fast Pass Agreement (which is presented separately to the SFMTA Board of Directors for approval) until both agreements could be presented together.

*Proposed Feeder Agreement*

The SFMTA and BART are proposing the following methodology for feeder payments between FY 2011 and FY 2020:

- FY 2011: Increase payments by 0.5% annually above the FY 2010 reimbursement amount of \$2,641,151 under the historical sales tax formula used for the past two decades (\$2,654,357). The SFMTA and BART agreed to fixed amounts for FY2011 and FY2012 to address SFMTA concerns over the decline in the FY 2010 reimbursement while transitioning to a new ridership-based methodology.
- FY 2012: Increase payments by 0.5% annually above the FY 2010 reimbursement amount of \$2,654,357 (\$2,657,629).
- FY 2013: Adjust payments annually based on the percentage change of ridership and the San Francisco Bay Area Consumer Price Index (CPI), up to a maximum of 5% annually. Feeder ridership changes would be calculated by the number of Muni feeder trips to BART tracked on the Clipper® Card for the two preceding years. For example, if ridership increased by 1.5% and the CPI increased by 3.0% for the two preceding years, the feeder payment would increase by 4.55%. The specific calculation would be:

$$\text{Feeder payment} = \text{Previous Year's Feeder Payment} * [((1 + \text{Percentage Change in Ridership}) * (1 + \text{Percentage Change in CPI})) - 100\%]$$

Fiscal Year	Feeder Payment	Methodology
FY 2010	\$2,641,151	Base payment per the historical Feeder Agreement sales tax formula
FY 2011	\$2,654,357	0.5% increase over FY 2010 payment
FY 2012	\$2,667,629	0.5% increase over FY 2011 payment
FY 2013 – FY 2020		Payment adjusted by the percentage change of ridership and CPI for the two preceding years up to a maximum of 5%

Given that FY 2011 and FY 2012 are completed, the Board is asked to approve these payments retroactively for those fiscal years, along with the Agreement going forward.

**ALTERNATIVES CONSIDERED**

Various alternatives were discussed between BART and SFMTA during the two-year negotiations process and both agencies agreed to the proposal summarized in this report. It is highly unlikely that further negotiations would result in a different outcome.

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**FUNDING IMPACT**

This contract will provide for payments of \$2,654,357 and \$2,667,629 from BART to the SFMTA for FY 2011 and FY 2012, respectively. Payments for FY 2013 would be based on percentage change in ridership and CPI as outlined in this document.

**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The City Attorney's Office has reviewed this Calendar Item. This Agreement will also require approval from the San Francisco Board of Supervisors because revenues under the contract exceed \$1 million.

**RECOMMENDATION**

Staff recommends that the SFMTA Board authorize the Director of Transportation to execute the Agreement between the City and County of San Francisco and the San Francisco Bay Area Rapid Transit District for Payment for Transfer Trips (Feeder Agreement), for the term from July 1, 2010 to June 30, 2020.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) and the San Francisco Bay Area Rapid Transit District (BART) provide an integrated transit network in San Francisco; and

WHEREAS, The SFMTA provides extensive transit services to BART stations, allowing customers to use transit to reach locations away from BART stations; and

WHEREAS, Since 1989, BART has paid a lump sum to the SFMTA for the provision of feeder bus and rail services to BART stations under the Feeder Agreement based on the percentage change in sales tax revenues BART collected during the two previous years; and

WHEREAS, In 2011 the SFMTA Board and San Francisco Board of Supervisors approved a feeder payment from BART to the SFMTA for fiscal year 2010 based on a sales tax methodology and asked future payments to be based on a ridership methodology; and

WHEREAS, The SFMTA and BART are proposing that feeder payments for fiscal years 2011 through 2012 increase by 0.5% over the previous respective fiscal years in the amounts of \$2,654,357 for FY 2011 and \$2,667,629 for FY 2012; and

WHEREAS, For fiscal years 2013 through 2020, the SFMTA and BART are proposing to adjust Feeder Agreement payments annually based on the San Francisco Bay Area Consumer Price Index (CPI) and the percentage change of Muni feeder ridership to BART stations using the Clipper® Card, with a maximum five percent increase in payments in any given year; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute the Agreement between the City and County of San Francisco and the San Francisco Bay Area Rapid Transit District for Payment of Transfer Trips (Feeder Agreement), for the term from July 1, 2010 to June 30, 2020; and be it

FURTHER RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to submit the Agreement to the Board of Supervisors for its approval.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 20, 2012.

\_\_\_\_\_  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

**AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO**  
**AND THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
**FOR PAYMENT FOR TRANSFER TRIPS (FEEDER AGREEMENT)**

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2012 (the "Effective Date") by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("the City"), acting by and through its Municipal Transportation Agency ("SFMTA"), and the SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ("BART") (collectively, the "Parties").

**RECITALS**

1. The City is a municipal corporation chartered under the Constitution of the State of California and empowered by the Constitution and by its charter to, among other matters, operate the San Francisco Municipal Railway ("Muni") through the San Francisco Municipal Transportation Agency ("SFMTA").
2. BART is a rapid transit district duly created and acting under the laws of the State of California, operating a regional rapid transit system for the San Francisco Bay Area.
3. Both SFMTA and BART operate transit services in San Francisco and pursuant to Section 29142.4(a) of the Public Utilities Code of the State of California are participating members of a regional transit coordinating council established by the Metropolitan Transportation Commission ("MTC") to coordinate routes, schedules, fares, and transfers within San Francisco.
4. SFMTA and BART participate with MTC in developing an annual regional financial plan to which this Agreement is, in part, responsive.
5. MTC has determined that a payment by BART to SFMTA for feeder service will facilitate the coordination of transit service, furnish an incentive for providing enhanced feeder service between Muni and BART stations in San Francisco, and therefore encourage transit use and improve the quality of transit service.



6. Since 1987, BART and the City have entered into agreements providing for payment by BART to the City for enhanced feeder service between Muni and BART stations in San Francisco.
7. The first feeder service payment of \$1.3 million BART made in 1987 was based on estimates of the number of riders transferring between Muni and BART. The original intent was to validate these estimates with actual passenger counts.
8. Because actual numbers of transferring riders were not available, in 1989 MTC directed that the feeder service payment be linked to BART's sales tax growth. At the time, both agencies agreed to the sales tax methodology, which has been applied to calculate feeder payment amounts since 1989.
9. Inasmuch as the Clipper® program electronically tracks ridership by transit agency, the parties now agree that sales tax methodology is no longer appropriate for determining feeder service payments.
10. System connectivity is important to both BART and SFMTA. BART serves eight station locations within San Francisco and connects the city to the East Bay and the Peninsula. Over 60 Muni routes, the vast majority of total service, provide transfer opportunities at the eight BART stations, allowing passengers who originate from or are destined to locations away from these stations to access the BART system.
11. This Agreement will govern the feeder payments from BART to SFMTA for Fiscal Years 2011 through 2020.
12. The feeder payments for Fiscal Years 2011 and 2012 will increase by one-half of one (0.5) percent over the payments made for the respective previous fiscal years.
13. This Agreement reinstates a trip-based methodology for calculating the feeder payment for Fiscal Year 2013 through Fiscal Year 2020. The new formula adjusts the previous year's feeder payment by the year-to-year percentage change in actual individual trips transferring from Muni to BART based on Clipper data and the year-to-year percentage change in inflation based on the San Francisco Bay Area Consumer Price Index for All Urban Consumers, for all items, not to exceed five (5) percent annually.

## **AGREEMENT**

NOW, THEREFORE, the SFMTA and BART, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

### **SECTION I. PAYMENT**

The manner for establishing the feeder service payment between SFMTA and BART has been determined by SFMTA and BART as set forth below.

#### **1.1 Payment Amount for Fiscal Years 2011 and 2012**

1. For Fiscal Year 2011 (“FY11”), BART agrees to pay SFMTA the amount of Two Million, Six Hundred Fifty-Four Thousand, Three Hundred Fifty-Seven Dollars (\$2,654,357) within thirty (30) calendar days of the Effective Date.
  
2. For Fiscal Year 2012 (“FY12”), BART agrees to pay SFMTA the amount of Two Million, Six Hundred Sixty-Seven Thousand, Six Hundred Twenty-Nine Dollars (\$2,667,629) within thirty (30) calendar days of the Effective Date.

#### **1.2 Payment Amount for Fiscal Years 2013 through 2020**

1. The Fiscal Year 2013 (“FY13”) payment amount will be the FY12 payment amount adjusted by the following changes occurring in the two years prior to FY13:
  - a. “Ridership Change”: The percentage change between FY11 and FY12 in total Clipper<sup>®</sup> transactions in which a customer transfers from Muni to BART. Under the supervision of the MTC, the Clipper<sup>®</sup> vendor (currently Cubic Transportation Systems) tracks these transactions and other interagency transfers on a monthly basis and summarizes them in an Interoperator Travel Matrix report.
  - b. “Inflation Change”: The percentage change between FY11 and FY12 is based on the San Francisco Bay Area Consumer Price Index for All Urban Consumers (“San Francisco-Oakland-San Jose CPI-U”), for all items, with an

index based period of 1982-84 = 100, as reported by the Bureau of Labor Statistics, U.S. Department of Labor.

- c. Specifically, the FY13 payment amount shall be calculated as follows:

$$\text{FY13 Feeder Payment} = \text{FY12 Feeder Payment} \times [((100\% + \text{Ridership Change}) \times (100\% + \text{Inflation Change})) - 100\%]$$

2. The payment amounts for Fiscal Years 2014 (“FY14”) through 2020 (“FY20”) shall be calculated using the FY13 payment calculation methodology as described in Section I.1.2.1.c above. Under no circumstances shall the total feeder payment increase by more than five (5) percent from the previous year’s payment.
3. BART agrees to render payment for Fiscal Years 2013 through 2020 by December 31 of each fiscal year.

## **SECTION II. OTHER COSTS ASSOCIATED WITH AGREEMENT**

SFMTA and BART will each bear its own internal costs associated with administration of this Agreement including, without limitation, reporting, billing, accounting, and auditing costs.

## **SECTION III. RECORDS AND AUDITS**

BART will preserve and maintain, and SFMTA or its authorized representatives will have the right to audit BART’s accounts, records, and data regarding BART records shown in Exhibit A for a period of three (3) years after the final payment under this Agreement. SFMTA will preserve and maintain, and BART or its authorized representatives will have the right to audit SFMTA’s accounts, records, and data regarding collection and compilation of transit trip data and relevant cost accounting data for a period of three (3) years after the final payment under this Agreement. These documents will adhere to generally accepted accounting principles as required by the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243 of the Public Utilities Code, and as required by Section 15 of the Urban Mass Transportation Administration Act of 1964, as amended. Pursuant to California Government Code Section 8546.7, the Parties to this Agreement will be subject to the examination and audit of the Auditor General of the State of California for a period of three (3) years after the final payment under this Agreement.

**SECTION IV. TIME PERIOD AND CONDITION OF AGREEMENT**

It is agreed and understood that there is no obligation under this Agreement on the part of BART to make any payment to SFMTA for fiscal years other than Fiscal Years 2011 through 2020.

**SECTION V. GENERAL PROVISIONS**

A. Responsibility:

SFMTA will be solely responsible for the maintenance, safety, and operation of vehicles providing connecting feeder service to BART stations and for the training and supervision of all personnel involved in providing connecting feeder service to BART stations. SFMTA will be responsible for the setting of transfer fares and the operation of all of SFMTA's transit services connecting with BART stations. SFMTA will secure any necessary approvals from City or State agencies for the placement of all bus stop signs, benches and shelters.

B. Notices:

All invoices, notices or other communications to either party by the other will be deemed given when made in writing and delivered or mailed to such party at their respective addresses as follows:

To BART:                   BART  
300 Lakeside Drive  
P.O. Box 12688  
Oakland, CA 94604-2688

**Invoices:**  
Assistant Controller  
300 Lakeside Drive  
P.O. Box 12688  
Oakland, CA 94604-2688

**All Other Notices:**  
General Manager  
300 Lakeside Drive  
P.O. Box 12688  
Oakland, CA 94604-2688

To SFMTA:                   Municipal Transportation Agency  
One South Van Ness Avenue, Seventh Floor  
San Francisco, CA 94103

**Invoices:**

Sonali Bose  
Chief Financial Officer  
Municipal Transportation Agency  
One South Van Ness Avenue, Eighth Floor  
San Francisco, CA 94103

**All Other Notices:**

Edward D. Reiskin  
Director of Transportation  
Municipal Transportation Agency  
One South Van Ness Avenue, Seventh Floor  
San Francisco, CA 94103

C. Indemnity:

SFMTA agrees to indemnify, save harmless and defend BART, its officers, agents, and employees from legal liability of any nature or kind on account of any claim for damages to property or personal injuries to or death of person or persons incurred by reason of any act, or failure to act, of SFMTA, its officers, agents, employees and subcontractors, or any of them, in performing any duties required by this Agreement, unless such claims arise out of the sole negligence of BART, its officers, agents, or employees.

BART agrees to indemnify, save harmless and defend SFMTA, its officers, agents and employees from legal liability of any nature or kind on account of any claim for damages to property or personal injuries to or death of person or persons incurred by reason of any act, or failure to act, of BART, its officers, agents, employees and subcontractors, or any of them, in performing any duties required by this Agreement, unless such claims arise out of the sole negligence of SFMTA, its officers, agents, or employees.

The foregoing provisions regarding indemnification are included pursuant to the provisions of Section 895.4 of the Government Code, and are intended by the parties to modify and supersede the otherwise applicable provisions of Chapter 21, Part 2, Division 3.6, Title I of the Government Code.

D. Compliance with ADA:

BART and SFMTA acknowledge that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Without limiting any other provision of this Agreement, BART and SFMTA will provide the services specified in this

Agreement in a manner that complies with the Americans With Disabilities Act of 1990 (“ADA”) 42 U.S.C §12143 is and any and all other applicable federal, state, and local disability rights legislation. BART and SFMTA agree not to discriminate against disabled persons in the provision of services, benefits, or activities provided under this Agreement and further agree that any violation of this prohibition on the part of BART and SFMTA, their employees, agents or assigns will constitute a material breach of this Agreement.

**SECTION VI. TERM OF THE AGREEMENT**

This Agreement covers the period from July 1, 2010 through June 30, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

SAN FRANCISCO BAY AREA RAPID  
TRANSIT DISTRICT

CITY AND COUNTY OF SAN  
FRANCISCO  
MUNICIPAL TRANSPORTATION  
AGENCY

By: \_\_\_\_\_  
Grace Crunican  
General Manager

By: \_\_\_\_\_  
Edward D. Reiskin  
Director of Transportation  
Municipal Transportation Agency

Authorized by MTA Board  
Resolution No. \_\_\_\_\_  
Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Roberta Boomer  
Secretary, SFMTA Board

Board of Supervisors  
Resolution No. \_\_\_\_\_  
Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:  
Office of the General Counsel

By: \_\_\_\_\_  
Patricia McCoy Smith  
Attorney

APPROVED AS TO FORM:  
Dennis J. Herrera, City Attorney

By: \_\_\_\_\_  
Robin M. Reitzes  
Deputy City Attorney