

File No. 110528

Committee Item No. 4  
Board Item No. 29

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: July 13, 2011

Board of Supervisors Meeting

Date 7/19/11

#### Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget & Legislative Analyst Report          |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ethics Form 126                              |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
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Completed by: Victor Young  
Completed by: Victor Young

Date: July 8, 2011  
Date: 7-14-11

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

FILE NO. 110528

RESOLUTION NO.

[Feeder Agreement - BART]

1  
2 **Resolution approving the Agreement between the City and County of San Francisco**  
3 **and the Bay Area Rapid Transit District for payment for transfer trips, with a term from**  
4 **July 1, 2009, to June 30, 2010.**  
5

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

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

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

14 WHEREAS, For Fiscal Year 2010 the Feeder Agreement payment from BART to the  
15 SFMTA would be \$2,641,151, a 9% decrease from the previous year and less than Fiscal  
16 Year 2002 levels; and,

17 WHEREAS, On April 5, 2011, the SFMTA Board of Directors adopted Resolution No.  
18 11-042, approving the Payment for Transfer Trips (Feeder) Agreement between the City and  
19 BART, with a term from July 1, 2009 to June 30, 2010, based on the terms outlined above;  
20 and,

21 WHEREAS, a copy of the Agreement is on file with the Clerk of the Board of  
22 Supervisors in File No. 110528, which is hereby declared to be a part of this motion as if set  
23 forth fully herein; and,  
24  
25

1           WHEREAS, When the SFMTA Board of Directors approved the Agreement, it also  
2 authorized the Executive Director/CEO to negotiate future feeder agreements with BART  
3 using a methodology that more accurately reflects the costs to the SFMTA of providing the  
4 feeder service and is subject to inflationary adjustments; now, therefore, be it

5           RESOLVED, That the Board of Supervisors approves the Agreement between the City  
6 and County of San Francisco and the Bay Area Rapid Transit District for Payment for Transfer  
7 Trips (Feeder Agreement) between the City and BART, with a term from July 1, 2009 to June  
8 30, 2010 under the terms approved by the SFMTA Board of Directors; and, be it

9           FURTHER RESOLVED, That the Board of Supervisors urges the SFMTA to present  
10 the renegotiated Fast Pass reimbursement agreement with BART and the Fiscal Year 2011  
11 and 2012 Feeder Agreements with BART at the same time; and, be it

12           FURTHER RESOLVED, That the Board of Supervisors urges the SFMTA and BART to  
13 renegotiate the methodology for the FY 2011 and FY 2012 Feeder Agreements to provide a  
14 clear nexus between the actual number of transfer trips between BART and Muni and the  
15 related Feeder Agreement payment by BART to the MTA.

Item 4  
File 11-0528

Department(s):  
Municipal Transportation Agency (MTA)

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed resolution would retroactively approve a Feeder Agreement between the City, on behalf of Municipal Transportation Agency (MTA) and the Bay Area Rapid Transit (BART) for payment for transfer trips made on San Francisco Municipal Railway (MUNI) to and from BART for a one-year retroactive term from July 1, 2009 through June 30, 2010 (Fiscal Year 2009-10).

### Key Points

- In the initial 1987 Feeder Agreement, BART's Feeder Agreement payment to the MTA for these transfer trips was calculated by subtracting the average MTA fare per boarding from the MTA's operating cost per boarding and multiplying that amount by the number of transfer trips between BART and the MTA for that fiscal year.
- By 1991, BART's Feeder Agreement payment to the MTA had been calculated by adjusting the previous year's Feeder Agreement payment from BART to the MTA by the percentage change in BART Sales Tax revenue for the two years prior to the current year's Feeder Agreement, irrespective of the actual number of transfer trips between BART and MUNI. As a result, the proposed retroactive FY 2009-2010 payment from BART to the MTA would be the FY 2008-09 payment amount adjusted by the percentage change in BART Sales Tax revenue between FY 2007-08 and FY 2008-09.

### Fiscal Impact

- BART Sales Tax revenues for FY 2008-09 were \$184,285,565 and BART Sales Tax revenues for FY 2007-08 were \$202,632,203, resulting in a 9.05 percent decrease. Based on this 9.05 percent decrease, if the proposed Feeder Agreement is approved, the FY 2009-10 Feeder Agreement payment by BART to the MTA would be \$2,641,151, which is \$262,941 or 9.05 percent less than the \$2,904,092 that BART paid the MTA for FY 2008-09.
- Using the 1987 methodology, based on the actual number of transfer trips between BART and the MTA, the BART payment to the MTA for FY 2009-10 would be \$15,135,790, which is \$12,494,639 or 473.1 percent more than the \$2,641,151 amount calculated under the current methodology.

### Policy Considerations

- The Budget and Legislative Analyst believes that the MTA and BART should renegotiate the Feeder Agreement methodology to provide a clear nexus between the actual number of transfer trips between BART and MUNI and the related Feeder Agreement payment by BART to the MTA for FY 2010-11 and FY 2011-12, including negotiations regarding BART providing retroactive payments to the MTA for FY 2009-10.

### Recommendation

- Approval of the proposed resolution is a policy decision for the Board of Supervisors.

**MANDATE STATEMENT/ BACKGROUND****Mandate Statement**

In accordance with Charter Section 9.118(a), City agreements, or amendments to such City agreements, with anticipated revenue of \$1,000,000 or more are subject to approval of the Board of Supervisors.

**Background**

The Municipal Transportation Agency (MTA) and Bay Area Rapid Transit (BART) provide an integrated transit network in San Francisco through the interconnection of both transit agencies' systems. The MTA provides transit services to BART stations within San Francisco and Daly City, enabling BART users to access San Francisco Municipal Railway (MUNI) locations beyond walking distance from BART stations, while BART provides transit within San Francisco and to areas outside of San Francisco, including the East Bay and the San Francisco Airport, enabling San Franciscans to access Bay Area locations outside of San Francisco.

BART and the MTA have multiple agreements relating to the provision of services and payment for those services within San Francisco. One of the two most significant agreements between BART and the MTA is an annual Feeder Agreement, which establishes a lump sum payment from BART to the MTA for the provision of MTA feeder bus and rail services to BART stations. Feeder transit services are the MUNI bus and rail routes that directly serve BART stations to enable BART transit-riders to access MUNI public transportation.

The other significant agreement between BART and the MTA is the Fast Pass Agreement, which establishes a per-ride reimbursement rate for the MTA to pay BART for all trips on BART within San Francisco made by MUNI Adult Fast Pass holders.

**Fast Pass Agreement**

Mr. Jason Lee, Financial Services Manager in the MTA's Finance & Information Technology Division, advises that the MTA has records of entering into Fast Pass Agreements with BART since 1984.<sup>1</sup> These Fast Pass Agreements allow MUNI monthly Adult Fast Pass users to take an unlimited number of monthly rides on BART within San Francisco city limits at no additional cost to the rider, with reimbursements made by the MTA to BART at a fixed rate for each ride on BART.

The most recent Fast Pass Agreement, with a two-year term from December 21, 2007 through December 31, 2009, provided that the MTA pay BART a fixed reimbursement rate of \$1.02 per trip.

Since the latest Agreement expired on December 31, 2009, BART and the MTA have been negotiating the terms of a new Fast Pass Agreement, and the MTA has continued to pay BART at the same \$1.02 reimbursement rate that it was paying during the term of the last Fast Pass Agreement.

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<sup>1</sup> Some of these agreements were subject to Board of Supervisors approval and expenditures for the BART agreements were included in previous MTA budgets, which were subject to approval by the Board of Supervisors.

On May 4, 2011, the Budget and Finance Committee tabled that Fast Pass Agreement (File 11-0201) negotiated between the MTA and BART which would have (a) increased the MTA's reimbursement rate from \$1.02 to \$1.19 per trip, retroactive to January 1, 2010, (b) tied the MTA reimbursement rates to BART's percentage rate of increases through July 1, 2012, (c) after July 1 2012, tied the MTA's reimbursement rates to BART's actual fare increases and (d) capped future MTA annual reimbursement rate increases to a maximum of ten percent. The MTA and BART have recommenced discussions to negotiate a new Fast Pass Agreement and are in the process of finalizing new terms. According to Mr. Lee, the MTA plans to bring the new Fast Pass Agreement to the Board of Supervisors for approval by September, 2011.

### **Proposed Feeder Agreement (subject of this proposed resolution File 11-0528)**

Since 1987, BART and the MTA have entered into annual Feeder Agreements, in which BART pays the MTA to offset a portion of the MTA's costs to provide MUNI feeder services to BART stations located in San Francisco. The original methodology for calculating BART's Feeder Agreement payment to the MTA was to subtract the average MTA fare per boarding from the MTA's operating cost per boarding and multiplying that amount by the number of transfer trips between BART and the MTA for that fiscal year.

According to Mr. Lee, by 1991 the methodology for calculating BART's Feeder Agreement payments to the MTA had changed. However, the MTA could not provide the Budget and Legislative Analyst with any information documenting the reason for the change. Since 1991, BART's Feeder Agreement payment to the MTA has been calculated by adjusting the previous year's Feeder Agreement payment from BART to the MTA by the percentage change in BART Sales Tax revenue for the two years prior to the current year's Feeder Agreement, irrespective of the actual number of transfer trips between BART and MUNI.

For example, in FY 2008-09, BART paid the MTA the amount that BART paid in FY 2007-08 minus the percentage change in the amount of Sales Tax BART received<sup>2</sup> from FY 2006-07 as compared to FY 2007-08. Table 1 below summarizes the Sales Tax revenues BART retains, annual percentage changes in such revenues and the payments received by the MTA from BART from FY 1999-2000 through FY 2008-09.

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<sup>2</sup> BART collects 0.5 percent Sales Tax from San Francisco, Alameda, and Contra Costa counties. Of this amount, BART retains 75 percent and the remaining 25 percent is split evenly between AC Transit and MTA.

**Table 1: Summary of BART's Feeder Agreement Payments to MTA**

Fiscal Year	BART Sales Tax Revenue		BART Feeder Agreement Payment to MTA	
	Amount	Percent Increase (Decrease) from Previous Year	Amount	Percentage Increase (Decrease) From Previous Year
FY 1999-2000	\$170,911,394	12.59%	\$2,175,648	5.28%
FY 2000-01	191,648,289	12.13	2,449,471	12.59
FY 2001-02	172,773,943	(9.85)	2,746,668	12.13
FY 2002-03	167,440,932	(3.09)	2,476,164	(9.85)
FY 2003-04	170,566,337	1.87	2,399,733	(3.09)
FY 2004-05	178,391,706	4.59	2,444,526	1.87
FY 2005-06	191,679,598	7.45	2,556,678	4.59
FY 2006-07	198,805,232	3.72	2,747,117	7.45
FY 2007-08	202,632,203	1.92	2,849,241	3.72
FY 2008-09	184,285,565	(9.05)	2,904,092	1.92

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new Feeder Agreement for FY 2009-10 between the City, on behalf of the MTA, and BART, with a term retroactive to July 1, 2009 through June 30, 2010. Under the proposed resolution, the required one-year FY 2009-2010 payment by BART to the MTA would be \$2,641,151 which is \$262,941 or 9.05 percent less than the amount of \$2,904,092 paid by BART to the MTA for FY 2008-09 as shown in Table 1 above.

The MTA Board of Directors approved the proposed retroactive FY 2009-10 Feeder Agreement with BART on April 5, 2011.

## FISCAL ANALYSIS

### Feeder Agreement Payment for FY 2009-10 Under Proposed Methodology is \$2,641,151.

As shown in Table 1 above, BART Sales Tax revenues in FY 2008-09 were \$184,285,565. As also shown above in Table 1, BART Sales Tax revenues in FY 2007-08 were \$202,632,203, representing a 9.05 percent decrease. As shown in Table 2 below, based on this 9.05 percent decrease, if the proposed Feeder Agreement is approved, the FY 2009-10 Feeder Agreement payment by BART to the MTA would be \$2,641,151. This FY 2009-10 proposed payment of

\$2,641,151 by BART to the MTA represents a \$262,941 reduction from the \$2,904,092 (see Table 1 above) that BART paid the MTA for FY 2008-09, or a decrease of 9.05 percent.

FY 2008-09 Payment	\$2,904,092
9.05% decrease in Sales Tax revenues between FY 2007-08 and FY 2008-09	-262,941
<b>Amount of FY 2009-10 Payment if Feeder Agreement is Approved</b>	<b>\$2,641,151</b>

**Feeder Agreement Payment for FY 2009-10 Under 1987 Methodology would be \$15,135,790.**

Mr. Lee advises that, as previously discussed, an alternative methodology to the current formula to determine BART's Feeder Agreement payment to the MTA is the methodology employed by BART and the MTA from 1987 – 1991, which is tied directly to MUNI and BART ridership and is based on the actual number of transfer trips between BART and MUNI. The Budget and Legislative Analyst agrees with the MTA's position that the formula utilized from 1987 to 1991 is preferable in order to tie the Feeder Agreement payment by BART to the MTA to the actual number of transfer trips between BART and MUNI which more accurately reflects the MTA's costs to provide the Feeder transit services. This 1987-1991 methodology is preferable to the existing methodology utilized after 1991, which is now based upon previous payment amounts and BART's annual Sales Tax revenues, irrespective of the actual number of transfer trips between BART and MUNI.

As shown in Table 3 below, utilizing the 1987 methodology, the Feeder payment by BART to the MTA for FY 2009-10 would be \$15,135,790, which is \$12,494,639 or 473.1 percent more than the \$2,641,151 amount calculated under the current methodology.

Cost per Boarding*	\$2.69
Minus Average Fare per Boarding	-0.77
Multiplied by the Number of Transfer Trips*	x 7,883,224
<b>Amount of FY 2009-10 Payment under 1987 Feeder Agreement Methodology</b>	<b>\$15,135,790</b>

\*-Source: the 2010 National Transit Database

## **POLICY CONSIDERATIONS**

Mr. Lee advises that, based on the MTA's belief that the Feeder Agreement (subject of this proposed resolution) and the Fast Pass Agreement between BART and the MTA do not reflect the appropriate nexus between the level of transit services provided and the required

reimbursement payments from BART to the MTA, the MTA began negotiations in January, 2010 with BART on both the Fast Pass Agreement and the Feeder Agreement in order to revise the methodologies. It was the MTA's hope that it could renegotiate both Agreements simultaneously. However, according to Mr. Lee, BART did not wish to negotiate the Feeder Agreement until negotiations regarding the Fast Pass Agreement had concluded. Negotiations surrounding the Fast Pass Agreement (which as noted above was tabled by the Budget and Finance Committee on May 4, 2011) have taken longer than expected and BART and the MTA have not yet discussed any proposed changes to the methodology of the Feeder Agreement. Because FY 2009-10 had ended some time ago, the MTA Board of Directors made the decision to retroactively approve the existing methodology for the proposed Feeder Agreement for FY 2009-10 in order to receive the Feeder Agreement payment from BART, which is needed to balance its operating budget.

The Budget and Legislative Analyst also believes that a different methodology than the existing methodology utilized after 1991, which is being proposed for the required BART FY 2009-10 Feeder Agreement payment to the MTA, should be utilized to calculate BART's Feeder Agreement payment amount to MTA in order to establish a clear nexus between the actual number of transfer trips between BART and MUNI and the related required Feeder Agreement payment by BART to the MTA. Mr. Lee advises that the MTA is currently negotiating with BART to develop a revised methodology for the Feeder Agreements for both FY 2010-11 and 2011-12. Mr. Lee further advises that a retroactive payment for the Feeder Agreement for FY 2009-10 would be feasible if BART agrees to make such a payment to the MTA.

Given (a) the MTA's current negotiations with BART to amend the terms of the Feeder Agreement's methodology to provide a clear nexus between the actual number of transfer trips between BART and MUNI and the related required Feeder Agreement payment by BART to the MTA, and (b) the \$12,494,639 or 473.1 percent increase for the required Feeder Agreement payment for FY 2009-10 which the MTA would have recovered from BART if the methodology previously utilized between 1987 and 1991 was used, the Budget and Legislative Analyst believes that the MTA and BART should renegotiate the Feeder Agreement methodology to provide a clear nexus between the actual number of transfer trips between BART and MUNI and the related required Feeder Agreement payment by BART to the MTA for FY 2010-11 and FY 2011-12, including negotiations regarding BART providing retroactive payments for FY 2009-10, based on the 1987 methodology.

## RECOMMENDATION

Approval of the proposed resolution is a policy decision for the Board of Supervisors.

Edwin M. Lee | Mayor

Tom Nolan | Chairman

Jerry Lee | Vice-Chairman

Leona Bridges | Director

Cheryl Brinkman | Director

Malcolm Heinicke | Director

Bruce Oka | Director

Nathaniel P. Ford Sr. | Executive Director/CEO

April 28, 2010

Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Subject: BART/SFMTA Fast Pass Agreement

Dear Ms. Calvillo:

The San Francisco Municipal Transportation Agency respectfully requests that this item be heard at the earliest possible meeting of the Budget and Finance Committee of the San Francisco Board of Supervisors.

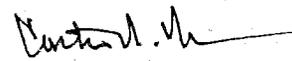
Attached please find an original and four copies for proposed resolution for Board of Supervisors consideration. The resolution requests approval of the Feeder Agreement between the City and County of San Francisco and the Bay Area Rapid Transit District for payment of transfer trips. Under the proposed retroactive agreement to Fiscal Year 2010, BART will pay the SFMTA a lump sum of \$2,641,151. This amount varies from year to year based on the percentage change of BART sales tax revenues.

In addition to the resolution, please find enclosed the following attachments:

1. Briefing Memorandum
2. Proposed Feeder Agreement
3. SFMTA Board of Directors Resolution approving the Agreement
4. Form SFEC 126

Please contact Sonali Bose at 415.701.4617 if you have any questions regarding this matter.

Sincerely,

  
for Nathaniel P. Ford Sr.  
Executive Director/CEO

cc: Board of Supervisors Budget Analyst

RECEIVED  
BOARD OF SUPERVISORS  
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2011 MAY - 2 PM 12:33  
BY [Signature]

Edwin M. Lee | Mayor  
Tom Nolan | Chairman  
Jerry Lee | Vice-Chairman  
Leona Bridges | Director  
Cheryl Brinkman | Director  
Malcolm Heinicke | Director  
Bruce Oka | Director  
Nathaniel P. Ford Sr. | Executive Director/CEO

## MEMORANDUM

Date: April 28, 2011

To: Honorable Members of the Board of Supervisors

From: *Nathaniel P. Ford Sr.*  
Nathaniel P. Ford Sr.  
Executive Director/CEO

Subject: Request for Approval of Feeder Agreement with BART

Pursuant to Section 9.118 of the City Charter, the San Francisco Municipal Transportation Agency (SFMTA) requests that the Board of Supervisors authorize the SFMTA to enter into a Feeder Agreement with the San Francisco Bay Area Rapid Transit District (BART). The SFMTA Board of Directors approved the agreement on April 5, 2011 which is based on a historical methodology with the understanding that the methodology will need to be changed for future years to better reflect the relationship between services and payment.

### 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:

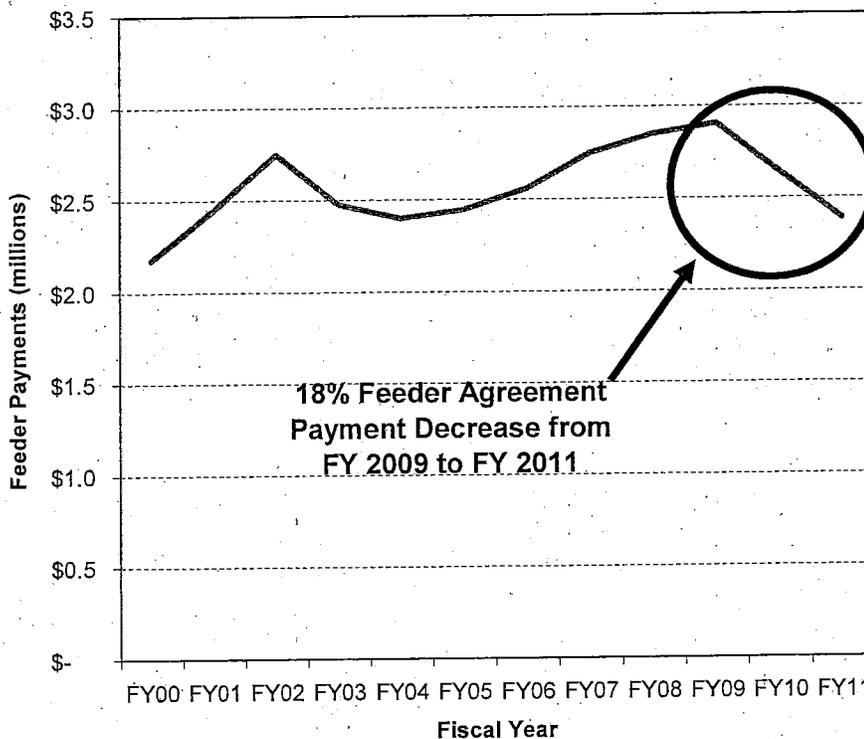
- (a) Feeder Agreement – BART pays a lump sum to the SFMTA for the provision of feeder bus and rail services to BART stations under the Feeder Agreement. Currently, this amount is \$2,641,151 but varies from year to year based on the percentage change of BART sales tax revenues.
- (b) Adult Fast Pass® Agreement – Customers who have purchased a Muni Adult Fast Pass® can ride BART within San Francisco as well as Muni. Currently, the SFMTA reimburses BART \$1.02 per trip taken. A new contract pending before the San Francisco Board of Supervisors will raise the reimbursement rate to \$1.19 and tie subsequent rate increases to future fare increase policies adopted by the BART Board. The SFMTA expects to pay BART at least \$10 million per year under the new contract.

## 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. Based on past agreements, BART adjusts its payments annually based upon the percentage change in its sales tax revenues 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.

Table 1 and the accompanying chart show the historical fluctuation in feeder payments over the past decade. For Fiscal Year 2010, the feeder payment is \$2,641,151, a decrease of 9 percent from the previous year and less than the amount from fiscal year 2002. BART projects an additional 10 percent decrease for the Fiscal Year 2011 feeder payment. Thus, under the current formula, payments from BART to the SFMTA will have decreased by 18 percent over two years. In fact, the Fiscal Year 2011 Feeder Agreement payment will be less than that in fiscal year 2001 – despite cumulative inflation of around 30 percent.

**Historical Feeder Agreement Reimbursement from BART to SFMTA**



**Table 1: Historical Feeder Agreement Reimbursement from BART to SFMTA**

Fiscal Year	BART Sales Tax Revenue		Feeder Agreement Payment	
	Amount	Change from Previous Year	Amount	Change from Previous Year
FY00	\$170,911,394	12.59%	\$2,175,648	5.28%
FY01	\$191,648,289	12.13%	\$2,449,471	12.59%
FY02	\$172,773,943	-9.85%	\$2,746,668	12.13%
FY03	\$167,440,932	-3.09%	\$2,476,164	-9.85%
FY04	\$170,566,337	1.87%	\$2,399,733	-3.09%
FY05	\$178,391,706	4.59%	\$2,444,526	1.87%
FY06	\$191,679,598	7.45%	\$2,556,678	4.59%
FY07	\$198,805,232	3.72%	\$2,747,117	7.45%
FY08	\$202,632,203	1.92%	\$2,849,241	3.72%
FY09	\$184,285,565	-9.05%	\$2,904,092	1.93%
FY10	\$166,519,816	-9.64%	\$2,641,151	-9.05%
FY11	N/A	N/A	\$2,386,535	-9.64%

The methodologies used to calculate both the Feeder Agreement and the Fast Pass Agreement have been in place for over a decade and do not reflect the appropriate nexus between the level of services and the required payment. Thus, at the beginning of 2010, the SFMTA initiated negotiations with BART on both agreements in an attempt to revise the methodologies. The SFMTA had hoped to renegotiate the Feeder Agreement methodology in conjunction with changes to the Fast Pass Agreement and bring both agreements to the SFMTA Board for approval. However, due to the length of Fast Pass Agreement negotiations process, the SFMTA and BART have been unable to discuss the changes to the methodology of the Feeder Agreement.

Because FY 2010 had already closed and FY 2011 is nearing completion, the SFMTA Board approved the old methodology retroactively for FY 2010 in this Agreement and the same methodology for FY 2011 so that SFMTA can receive payments from BART. The FY 2011 agreement will be presented to the SFMTA Board at an upcoming meeting, and subsequently to the Board of Supervisors if the SFMTA Board approves it.

The SFMTA will begin negotiations with BART on revising the Feeder Agreement methodology to more accurately reflect the nexus between the service level and the payments for FY 2012.

### **Alternatives Considered**

The alternative to the proposed Agreement would be to initiate new discussions with BART to determine a formula that would more accurately reflect the costs of providing Muni feeder service. However, further negotiations would delay the receipt of \$2,641,151 from BART, unless both parties agree to execute this Agreement and then retroactively apply any future formula changes.

### **Recommendation**

Staff recommends that the San Francisco Board of Supervisors authorize the SFMTA Executive Director/CEO to execute the Feeder Agreement between the City and BART.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 11-042

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, BART pays 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, For Fiscal Year 2010 the Feeder Agreement payment from BART to the SFMTA would be \$2,641,151, a 9% decrease from the previous year and less than Fiscal Year 2002 levels; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO 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, 2009 to June 30, 2010; and be it

FURTHER RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO to negotiate future feeder agreements with BART using a methodology that more accurately reflects the costs to the SFMTA of providing the feeder service and is subject to inflationary adjustments; and be it

FURTHER RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO 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 APR 05 2011.



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 \_\_\_\_\_, 2011 (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, among other matters, to operate the San Francisco Municipal Railway ("Muni") through the 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 the City 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 council established by the Metropolitan Transportation Commission to coordinate routes, schedules, fares, and transfers within San Francisco.
4. The City and BART participate with the Metropolitan Transportation Commission in developing an annual Regional Financial Plan to which this Agreement is, in part, responsive.
5. BART has determined that a payment for feeder service to the City 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. It is the intention of BART and the City to enter into an Agreement providing for payment by BART to the City for enhanced feeder service between Muni and BART stations in San Francisco.

7. It is the intention of the City and BART that this Agreement specify the terms under which the Fiscal Year 2010 ("FY10") payment will be made.

## **AGREEMENT**

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

### **SECTION I. PAYMENT**

1. The manner for establishing the feeder service payment between the City and BART has been determined by the City and BART within the context of the Regional Financial Plan. Under the Regional Financial Plan, the FY10 payment amount will be the Fiscal Year 2009 ("FY09") payment amount adjusted by the percentage change in BART sales tax revenue for the two years prior to FY10 (i.e., the percentage change between FY08 and FY09). BART sales tax revenues for FY09 were 9.05% lower than FY08 sales tax revenues. Therefore, the FY09 payment amount of Two Million, Nine Hundred Four Thousand, Ninety-Two Dollars (\$2,904,092) is decreased by 9.05% and the FY10 payment will be Two Million, Six Hundred Forty-One Thousand, One Hundred Fifty-One Dollars (\$2,641,151).
2. BART agrees to render payment to the City in the amount of Two Million, Six Hundred Forty-One Thousand, One Hundred Fifty-One Dollars (\$2,641,151) within thirty (30) calendar days of the Effective Date.

### **SECTION II. REPORTING AND INFORMATION REQUIREMENTS**

Within thirty (30) calendar days of the date that the City submits Muni's National Transit Database Reports (formerly MUNI's Section 15 Report) for FY09, the City will provide BART with the following data for the periods July 2008 through June 2009:

- A. Actual operating cost of local service.
- B. Actual passenger revenue for trips on Muni within the City and County of San Francisco.
- C. The number of unlinked boardings (National Transit Database Reporting Information).

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

The City 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 IV. RECORDS AND AUDITS**

BART will preserve and maintain, and the City or its authorized representatives will have the right to audit BART's accounts, records, and data regarding BART sales tax revenue and relevant cost accounting data for a period of three (3) years after the final payment under this Agreement. The City will preserve and maintain, and BART or its authorized representatives will have the right to audit the City'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. The City will provide BART, upon request, copies of its annual audits and such other reports and data as are routinely maintained, developed, or compiled as relate to transit trips for FY10.

### **SECTION V. 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 the City for fiscal years other than FY10.

### **SECTION VI. GENERAL PROVISIONS**

#### **A. Responsibility:**

The City 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. The City will be

responsible for the setting of transfer fares and the operation of all of the City's transit services connecting with BART stations. The City 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:** Ed Pangilinan  
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 the City:**

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:**

Nathaniel P. Ford Sr.  
Executive Director/CEO  
Municipal Transportation Agency  
One South Van Ness Avenue, Seventh Floor  
San Francisco, CA 94103

C. Indemnity:

The City 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 the City, 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 the City, 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 the City, 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 the City 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 the City will provide the services specified in this Agreement in a manner that complies with the Americans With Disabilities Act (ADA) Title 24, and any and all other applicable federal, state, and local disability rights legislation. BART and the City 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 the City, their employees, agents or assigns will constitute a material breach of this Agreement.

**SECTION VII. TERM OF THE AGREEMENT**

This Agreement covers the period from July 1, 2009, through June 30, 2010.

**SAN FRANCISCO BAY AREA  
RAPID TRANSIT DISTRICT**

By: \_\_\_\_\_  
Dorothy W. Dugger  
General Manager

**CITY AND COUNTY OF  
SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

By: \_\_\_\_\_  
Nathaniel P. Ford Sr.  
Executive Director/CEO  
Municipal Transportation Agency

Authorized by MTA Board  
Resolution No. 08-66  
Dated: April 15, 2008

Attest:

\_\_\_\_\_  
Roberta Boomer  
Secretary, MTA Board

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

Attest:

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

**APPROVED AS TO FORM:  
Office of the General Counsel**

By: \_\_\_\_\_  
Amelia Sandoval-Smith  
Attorney, Office of the General Counsel

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

By:   
Robin M. Reitzes  
Deputy City Attorney

**FORM SFEC-126:  
NOTIFICATION OF CONTRACT APPROVAL**  
(S.F. Campaign and Governmental Conduct Code § 1.126)

<b>City Elective Officer Information</b> <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, San Francisco Board of Supervisors	City elective office(s) held: Members, San Francisco Board of Supervisors
<b>Contractor Information</b> <i>(Please print clearly.)</i>	
Name of contractor: San Francisco Bay Area Rapid Transit District (BART)	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
(1) BART Board of Directors: Gail Murray, Joel Keller, Bob Franklin, Robert Raburn, John McPartland, Thomas Blalock, Lynette Sweet, James Fang, Tom Radulovich; (2) Acting General Manager: Sherwood Wakeman, Controller/Treasurer: Scott Schroeder; Assistant General Manager of Operations: Paul Oversier; (3) none; (4) none; (5) none	
Contractor address: 300 Lakeside Dr., PO Box 12688, Oakland, CA 94604-2688	
Date that contract was approved:	Amount of contract: \$2,641,151 for Fiscal Year 2010
Describe the nature of the contract that was approved: BART pays a lump sum to the SFMTA for the provision of feeder bus and rail services to BART stations under the Feeder Agreement. For this contract, the amount is \$2,641,151, but varies from year to year based on the percentage change of BART sales tax revenues. This amount is 9% less than the previous fiscal year.	
Comments:	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form
- a board on which the City elective officer(s) serves \_\_\_\_\_

Print Name of Board

- the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: ( ) 415-554-5184
Address: City Hall, Room 244 1 Dr. Carlton B. Goodlett Pl. SF CA 94102	E-mail: Board.of.Supevisrs@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed