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OAKLAND

CITY OF OAKLAND
2019 MAY 29 PM 3:51

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: BART-CITY Fund Pass Through
Agreement

DATE: May 20, 2019

City Administrator Approval

Date:

5/29/19

RECOMMENDATION

Staff Recommends that the City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Fund Pass Through Agreement With The Bay Area Rapid Transit District (BART) And To Accept and Appropriate Capital Funds From BART In An Amount Not To Exceed One Million Five-Hundred Thousand Dollars (\$1,500,000) To Fund Public Realm Improvements And Enhance Connection To The 19th St. BART Station

EXECUTIVE SUMMARY

Adoption of this Resolution will allow the City Administrator to accept and appropriate an amount not to exceed \$1.5 million from BART to fund public realm improvements and enhance connection to the 19th Street BART station. The grant funds will provide funding to pay for upgrades to existing City-owned street lighting and a second phase of wayfinding signage in the Uptown area.

BACKGROUND / LEGISLATIVE HISTORY

In the Spring of 2016 BART and the City applied to the U.S. Department of Transportation ("U.S. DOT"), Tiger Grant Program, for \$6.3 million in funding for BART station modernization projects and City of Oakland public realm projects. BART acted as the lead Agency on the grant application, with the City acting as a project supporter.

The U.S. DOT Tiger Grant Program announced in July 2016 that BART was awarded \$6.3 million in funding, with \$4.8 million going to BART to modernize the 19th St. Station and \$1.5 million going to the City to fund public realm projects (the "Project").

BART executed a grant contract with the U.S.DOT in January of 2018. BART will provide a Fund Pass-through Agreement (the Pass-through Agreement) and staff is recommending that the City accept said funds.

The Pass-through Agreement is attached as **Attachment A**.

Item: _____
CED Committee
June 11, 2019

PUBLIC OUTREACH / INTEREST

In 2013-15, the City engaged in a public planning process for 20th Street between Broadway and Harrison to address deficiencies in pedestrian and bicycle circulation from the BART and Broadway spine to Lake Merritt.

COORDINATION

The City departments consulted during the preparation of this report included the Office of the City Attorney, the Budget Bureau, and the Oakland Department of Transportation

SUSTAINABLE OPPORTUNITIES

Economic: The enhanced transportation infrastructure improvements will be an asset to the downtown area and will serve to draw more economic activity to local businesses.

Environmental: The transportation infrastructure upgrades will benefit bicyclists, pedestrians, autos and buses. The project will reduce energy use and produce rebate opportunities with PG&E.

Social Equity: The location of the Project adjacent to a regional bus transit station and multiple BART transit nodes will allow for a wide range of access to employment, and accommodate diverse commuters, including those for whom extended auto commuting is unaffordable. The project will improve transportation infrastructure in downtown Oakland, thereby benefitting all of Oakland residents and visitors.

CEQA

The proposed lighting and wayfinding signage project is exempt from California Environmental Quality Act ("CEQA") review, pursuant to Section 15301 (existing facilities). Section 15301 states, Class I exemptions consist of "the minor alterations of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the lead agency's determination." The project was submitted to the Federal Highway Administration and received a Categorical Exemption under the National Environmental Policy Act ("NEPA") in the spring of 2018.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution authorizing the City Administrator to enter into a Fund Pass Through Agreement with BART and to accept and appropriate capital funds from BART in an amount not to exceed, One Million Five-Hundred Thousand dollars (\$1,500,000) to fund public realm improvements and enhance connection to the 19th St. BART station.

For questions regarding this report, please contact George Durney, Urban Economic Analyst IV, at 510-238-6150.

Respectfully submitted,



MARK SAWICKI
Director, Economic and
Workforce Development Department

Reviewed by:
Jens Hillmer
Development Manager, Economic and
Workforce Development Department

Prepared by:
George Durney, UEA IV
Economic and Workforce Development
Department

Attachments:

- Attachment A: BART-City Fund Pass Through Agreement
- Attachment B: Go Uptown – 2016 Tiger Grant Application Project Summary

ATTACHMENT A

FUND PASS-THROUGH AGREEMENT

between

THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

and

CITY OF OAKLAND

for the

GATEWAY TO OAKLAND UPTOWN (GO UPTOWN) PROJECT

This Fund Pass-Through Agreement (“Agreement”) is entered into as of the ____ day of ____, 2018, by and between the San Francisco Bay Area Rapid Transit District (“BART”) and the City of Oakland, a municipal corporation (“City”) (collectively, the “Parties”) in connection with funding of a portion of the Gateway to Oakland Uptown (GO Uptown) Project. The portion of the Project to be funded by these funds includes the implementation of station area LED street lighting upgrades and station area pedestrian wayfinding in the area surrounding the 19th Street/Oakland BART Station.

RECITALS

- A. The Federal Transit Administration (FTA) allocated \$6,321,688 in FY 2016 TIGER Discretionary Grant funding (Federal Award Identification Number CA-2018-013-00) to BART, as the lead applicant, and the City, as the supporting applicant, for the GO Uptown joint project. The total cost of the GO Uptown Project is \$32,592,556. The Grant Agreement is included in Exhibit 1.
- B. The GO Uptown Project will be delivered using two contracts: 1) 19th Street/Oakland BART Station Improvement, and 2) 20th Street Complete Streets Improvements (identified in Tiger Grant Agreement as Project 2), which shall include the City’s station area LED street lighting (identified in Tiger Grant Agreement as Project 3), and the station area pedestrian wayfinding activities (identified in Tiger Grant Agreement as Project 4).

BART will be responsible for implementing contract 1, and the City will be responsible for implementing contract 2.

- C. The City has established a Scope of Work (attached in Exhibit 2) for the 20th Street Complete Streets Improvements, Station Area LED Street Lighting, and Station Area Pedestrian Wayfinding portions of the GO Uptown Project. The cost for the 20th Street Complete Streets Improvements portion of the Project is \$4,683,000, which will be funded by the City. The cost for the Station Area LED Street Lighting portion of the Project is \$1,200,000. The cost for the Station Area Wayfinding portion of the Project is \$300,000.
- D. The City and BART desire to execute this Agreement to pass-through \$1,500,000 in PTMISEA (also known as Proposition 1B Bonds) from BART to the City in order for the City to execute the Scope of Work for the Station Area LED Street Lighting and Station Area Wayfinding portions of the Project.
- E. All project components of both contracts are subject to Federal requirements, including those described in Exhibit 1.
- F. The purpose of this Agreement is to provide a procedure and set forth the conditions under which BART will pass through funds to the City and the City will report project progress to BART.

AGREEMENT

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

SECTION 1: CITY AGREEMENTS

- A. The City agrees to enter into a Contract (or Contracts) to implement the 20th Street Complete Streets Improvements, which shall include the City's Station Area LED Street Lighting, and Station Area Pedestrian Wayfinding portions of the GO Uptown Project ("City Projects").
- B. The City agrees that all work that the City performs, or causes to be performed, to implement the City Projects shall be done in accordance with all applicable laws, statutes, ordinances, rules, regulations or requirements of the Federal, State, or local government, and any agency thereof, including all applicable procurement rules and regulations, which relate to or in any manner affect the performance of this Agreement and all attachments to this Agreement. Further, for any portion of the City Projects considered a "public work," the City agrees to comply with all applicable requirements of the California Public Contract Code and the California Labor Code, including prevailing wage provisions. The City further agrees that it will cooperate with the applicable Federal and State subrecipient monitoring and reporting requirements, attached hereto as Exhibit 3 and incorporated by reference, as may be amended from time to time.

- C. The City shall appoint a Project Manager who shall see that the City Projects are maintained subject to FTA regulations and BART approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Project Manager will prepare Quarterly Progress Reports and Force Account Plans, as required by the FTA (see Exhibit 4) and FTA Circular 5010.1E, also referred to as "Award Management Requirements" (available at <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e>). Milestone/Progress Reports must include all required items, detailed in Circular 5010.1E, and are due to the FTA within thirty (30) calendar days after the end of each calendar quarter (i.e. by January 30, April 30, July 30, and October 30). City reports are due to BART within fifteen (15) calendar days after the end of the quarter to allow BART sufficient processing time. Force Account Plans are due prior to expenditure. The City agrees to comply with the project management principles Exhibit 1, FTA Circular 5010.1E, amendments thereto, and any other regulations and circulars that may be applicable.
- D. The City agrees to comply with all requirements, as applicable, contained in Government Code sections 8879.20 *et seq.*, 8879.50 *et seq.*, the Governor's Executive Order on Accountability (E.O. S-02-07), and the most recent version of Caltrans' PTMISEA Guidelines currently dated July 2015 (available at http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/Prop%201B/PTMISEA-Guidelines_July2015_Update.pdf). The City further agrees to provide any information that may be required of BART by the state to demonstrate compliance with these funding requirements.

- E. Government Code Section 8879.50(f)(1) requires project sponsors to report semiannually to Caltrans on the activities and progress of each approved and allocated PTMISEA project to ensure those activities funded from bond proceeds are being executed in a timely fashion, within approved scope and cost, and are achieving the intended purpose for which they are to be utilized. The City must provide completed and signed progress reports every six (6) months until the approved project is completed, and the project final report has been filed. Commencing on February 10th, 2019, and thereafter on each August 10th and February 10th through the term of this Agreement, the City agrees to provide BART with Semi-annual Progress Reports summarizing activities and progress made on the City Projects during the prior 6-month period in the formats required by PTMISEA (see http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/Prop%201B/PTMISEA-Guidelines_July2015_Update.pdf). The City is responsible for documenting all costs to perform the Work, and shall reimburse MTC and / or BART for any funds inappropriately spent as determined by an audit of the City Projects.
- F. The City agrees that no actions by the City's partner organizations, contractors or subcontractors, and no action by any other party or agency shall relieve the City of its obligation to comply fully with this Agreement.
- G. The City agrees that, while it may request and receive advice from BART from time to time in order to understand the City's obligations as a subrecipient of PTMISEA and other grant funds which may be added by amendment, the City remains solely responsible for its full compliance with all grant conditions. BART

agrees to respond promptly to the City's request for advice in connection with the foregoing sentence. The City Project Manager shall see that Project accounts are maintained subject to applicable grant conditions and Federal, State, or local regulations, and the requirements of this Agreement.

- H. The City may enter into contracts with third parties for the completion of the City Projects. Said contracts shall be subject to all of the terms, conditions and limitations set forth in this Agreement. BART reserves the right to review said contracts and change orders or amendments thereto for compliance with the grant requirements, prior to execution and to extent BART wishes to review said contracts and change orders, BART shall provide the City reasonable notice of not less than seventy-two (72) hours thereof. The City shall provide notice to BART of its intent to award these contracts and change orders. BART shall not be subject to any obligations or liabilities by contractors of the City or any other person not a party to this Agreement in connection with this work, notwithstanding BART's concurrence in the award of any contracts. Also, BART concurrence in the award of any contract shall not relieve the City of liability to BART for any charges to the grant that are subsequently disallowed by MTC or the State or any grant source, or determined by any audit to be unallowable.
- I. The City's invoices to BART pursuant to this Agreement shall segregate costs by activity pursuant to the Scope of Work in Exhibit 2. In addition, each invoice must have sufficient documentation to show Grant, Local Match, and In-Kind amounts, as detailed in Exhibit 5, attached hereto and incorporated herein by this

reference. All invoices shall be made in writing and delivered or mailed to BART as follows:

San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 21st Floor
Oakland, CA 94612

Attention: Denise McDonald, Principal Engineer,
Planning, Development & Construction - Stations

- J. The City agrees that only actual, allowable, necessary and reasonable costs are reimbursable and that all Work costs invoiced to BART, and local match contributions, shall comply with applicable Federal, State or local government requirements.
- K. Upon reasonable notice of not less than seventy-two (72) hours, the City shall allow representatives of MTC, State, Federal and BART auditors access to all records, books, and documents, related to costs or performance under this Agreement, beginning with execution of this Agreement and extending to three (3) years from final payment by the State to BART for work covered by this Agreement. In addition, the City shall provide copies of all source documents required to verify compliance with the requirements of this Agreement, including, but not limited to, approved cost allocation plans, written progress reports, job cost ledgers, and time records. The City shall maintain all records related to the Work and its costs for three (3) years from the date of final payment by the State to BART under the PTMISEA grant, by the FTA to BART under the TIGER grant, and from the date of final payment by other grant sources added by amendment to this Agreement. Furthermore, the City shall require each of its contractors and subcontractors to allow representatives of MTC, State, FTA and

BART to have access to all books, records, and documents relative to all costs and performance under this Agreement for the purpose of auditing, inspecting, and copying such books, records, and documents beginning with the execution of the contract or subcontract and extending for three (3) years after final payment under the Agreement. The contractors and subcontractors shall be required to maintain all records related to contract or subcontract costs and performance for three (3) years following final payment under the contract or subcontract.

- L. It is understood and agreed that neither BART nor any director, officer, agent or employee of BART is responsible for any damages or liability occurring by reason of anything done or omitted to be done by the City, its officers, agents and employees, under or in connection with this Agreement, as outlined in Exhibit 6. It is also understood that the City will fully indemnify, hold harmless and defend in any claim or litigation BART, its directors, officers, agents and employees from any damage or liability to the extent directly arising from anything done or omitted to be done by City, its officers, agents and employees under or in connection with this Agreement, and to pay and satisfy any resulting judgments; except that said indemnity, hold harmless and defense obligations shall not be applicable to any claim, damage or liability occurring due to the negligence or willful misconduct of BART, its directors, officers, agents and employees.
- M. The City agrees that BART may terminate this Agreement for cause if the City is in material default of any provision and has failed to cure any such default within the applicable notice and cure period, as provided herein. BART shall serve a thirty (30) day written notice of termination on the City setting forth the manner

in which the City is in default and the manner in which the alleged default may be cured. If the City does not cure a default within thirty (30) days of the receipt of the notice, or commence to cure within the thirty (30) day period and diligently prosecute the cure to completion to the satisfaction of BART, BART may in its discretion terminate this Agreement; provided, however, if the default is of the type that cannot be cured within thirty (30) days, the City shall have such additional time as may be reasonable to cure such default so long as the City has commenced such cure within the initial 30-day period and continues in good faith to prosecute such cure to completion. If the Agreement is terminated, the City will be reimbursed for the portion of the City Projects performed in accordance with the Agreement prior to termination.

- N. The City shall submit design drawings of grant pass-through funded components (identified in Tiger Grant Agreement as Project's 3 and 4) to BART for BART's review at the following milestones: 95% design, and any time a significant modification to the funded components are made to the design. The City agrees to work with BART to incorporate any reasonable changes to these funded components required to ensure safe and efficient access to the BART station. Upon submittal of design drawings to BART, comments are due to the City within ten (10) working days; failure of BART to provide its comments within such ten (10) day period shall constitute a waiver of BART's right to comment.

SECTION 2: BART AGREEMENTS

- A. BART agrees to reimburse the City in the amount of \$1,500,000 in Prop 1B PTMISEA funds for the implementation of the City Projects.
- B. BART agrees to reimburse the City in accordance with this Agreement, including, but not limited to, the Invoicing Procedures contained in Exhibit 5.

SECTION 3: MUTUAL AGREEMENTS

- A. Neither party shall assign this Agreement, or any part thereof, without prior express written consent of the other, and any attempt thereof shall be void and unenforceable.
- B. All notices required hereunder may be given by personal delivery, U.S. mail, courier service (e.g. federal express) or facsimile. Notices shall be effective upon receipt at the following addresses:

To BART: San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 21st Floor
P.O. Box 12688
Oakland, CA 94604-2688

Attention: Denise McDonald, Principal Engineer,
Planning, Development & Construction - Stations

510-464-6384 (phone)

With a copy to: San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 16th Floor
P.O. Box 12688
Oakland, CA 94612

Attention: Nikhila Pai
Manager, Capital Project Control

510-464-6284 (phone)
510-287-4751 (fax)

To Agency: City of Oakland
Office of Neighborhood Investment
250 Frank Ogawa Plaza, Ste. 5313
Oakland, CA 94612

Attention: George Durney
Project Manager

With a copy to: City of Oakland
City Attorney's Office
One Frank H. Ogawa Plaza, 6th Fl
Oakland, CA 94612
Attention: Vincent L. Brown,
Deputy City Attorney

- C. Nothing in this Agreement is intended to nor does establish the Parties as partners, co-venturers or principal and agent with one another. Neither party may contract or enter into any other agreement in the name of the other.
- D. This Agreement shall be interpreted under and pursuant to the laws of the State of California applicable to contracts to be performed within the State, without reference to conflicts of law principles. This Agreement is made in Alameda County, California, and any action relating to this Agreement shall be instituted and prosecuted in the courts of Alameda County, California.
- E. This Agreement shall be binding upon and inure to the benefit of approved transferees, successors and assigns of each of the Parties to it, except that there shall be no transfer of any interest by any of the Parties to this Agreement except pursuant to the terms of the Agreement.

F. This Agreement represents the full, complete and entire agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other communications, representations, proposals, understandings or agreements, whether written or oral, between the Parties hereto with respect to such subject matter. This Agreement may not be modified or amended, in whole or in part, except in writing signed by an authorized officer or representative of each of the Parties hereto.

[Signatures appear on following page]

IN WITNESS WHEREOF, the Parties executed this Fund-Pass Through Agreement on or as of the date first written above.

CITY:

City of Oakland
a municipal corporation

By: _____

Approved as to form and legality:

Name: _____

Deputy City Attorney

Title: Sabrina Landreth
Oakland City Administrator

BART:

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT, a rapid transit district established pursuant to Public Utilities Code Section 28500 et seq.

Approved as to form:

By: _____

BART Attorney

Name: _____

Title: Grace Crunican
BART General Manager

EXHIBIT 1

TIGER Grant Agreement

EXHIBIT 2

Scope of Work for 20th Street Complete Streets Improvements, Station Area LED Street Lighting, and Station Area Pedestrian Wayfinding

Description: The scope of work the City of Oakland will be completing under the GO Uptown Project includes three projects:

- (1) the 20th Street Complete Improvements (identified in Tiger Grant Agreement as Project 2)
- (2) LED Street Lighting Improvements (identified in Tiger Agreement as Project 3)
- (3) Pedestrian Wayfinding Improvements (identified in Tiger Agreement as Project 4).

The City plans to construct these three projects under one construction contract.

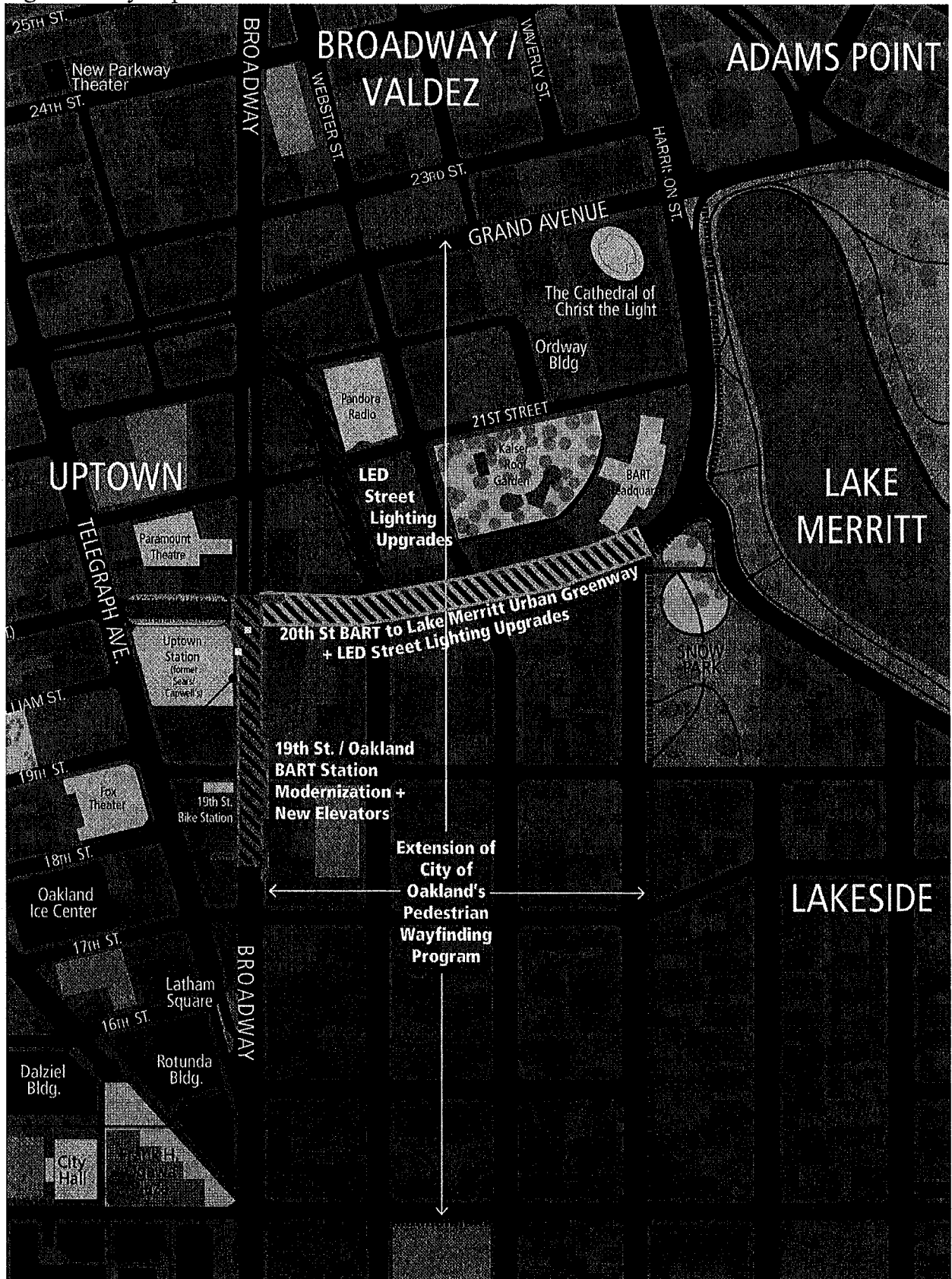
The 20th St. Complete Streets Improvements will be implemented on 20th St. from Broadway to Harrison St. Improvements will include components for the pedestrian, and bicycle environment. Such features include sidewalk reconstruction and widening, curb extensions, ADA compliant curb ramps, median refuges, and crosswalk improvements. Bicycle features include segments with raised bicycle lanes, Class II lanes, and parking protected lanes. The scope will implement traffic signal modifications, signing and striping, and a geometric realignment of the roadway.

The LED Street Lighting Improvements will be implemented on 20th Street in the same vicinity as the 20th St. Complete Street Improvements and on Franklin Street between 20th Street and Broadway. The lighting improvements will include upgrades and pole replacements to streetlights.

The Pedestrian Wayfinding Improvements will be implemented in the area bounded to the north by Grand Avenue, to the west by Broadway, to the east by Harrison Street and to the south by 14th Street.

Figure 1 depicts the areas where the City improvements will occur.

Figure 1: City Improvements



Scope and Cost:

City of Oakland GO Uptown Project Costs

ACTIVITY	Local Funds	State Funds	Project Costs
(1) 20th St. Complete Streets Improvements			
a. Preliminary Engineering		\$700,000	\$700,000
b. Construction Engineering		\$400,000	\$400,000
c. Mobilization & Traffic Control		\$150,000	\$150,000
d. Signage and Striping		\$35,952	\$35,952
e. Traffic Signal Modifications		\$900,000	\$900,000
f. Streetlight Modifications		\$220,000	\$220,000
g. Roadway Grading and Paving		\$305,400	\$305,400
h. Curb and Sidewalk Repair and Upgrade		\$641,785	\$641,785
i. Utility Relocation		\$260,000	\$260,000
j. Demolition		\$221,680	\$221,680
k. Landscaping and Streetscape Elements		\$131,960	\$131,960
l. Construction Contingencies	\$100,000	\$616,223	\$716,223
(2) Station Area LED Street Lighting Upgrades			
a. Installation		\$1,200,000	\$1,200,000
(3) Station Area Pedestrian Wayfinding			
a. Fabrication + Installation		\$300,000	\$300,000
Total City Project	\$100,000	\$6,083,000	\$6,183,000

BART will provide funding to the City for a portion of the City Project, as described below. BART will contribute to the cost for the construction of the LED Lighting Improvements and the Pedestrian Wayfinding Improvements. The City will bid these two scope elements as separate bid items so that the actual construction cost for each scope is identified. The BART contribution will be up to, but will not exceed, the following amounts for each item:

- Station Area LED Street Lighting: \$ 1,200,000

- Station Area Pedestrian Wayfinding: \$ 300,000

The LED Street Lighting and Pedestrian Wayfinding Signage will belong to the City and will remain City property and be maintained by the City after the upgrade(s).

Schedule:

City of Oakland GO Uptown Project Schedule:

The project schedule is for the combined project that includes the 20th St. Complete Streets Improvements, LED Lighting Improvements and Pedestrian Wayfinding Improvements.

Planned Completion of Final Design:	December 31, 2018
Planned Construction Contract Award Date:	September 1, 2019
Planned Construction Start Date:	September 16, 2019
Planned Construction Substantial Completion Date	March 16, 2020
Planned Revenue Service Date	July 16, 2020
Planned Project Closeout Date:	December 1, 2020

EXHIBIT 3

Subgrantee Monitoring Management Procedure

Subgrantee Monitoring Program for Federal and State Grants or Oversight of Grant Sub-Recipients

I. GENERAL

When the San Francisco Bay Area Rapid Transit District (BART) agrees to provide funds to a SUBGRANTEE (not a contractor) and BART expects an outside funding source (granting agency, e.g., the Federal Transit Administration, Caltrans) to reimburse BART through a grant, BART agrees with the funding agency to require the SUBGRANTEE to comply with all of the provisions of the grant agreement as though the SUBGRANTEE were the grant recipient. The grant requirements are passed along to the SUBGRANTEE through a pass-through agreement between BART and the SUBGRANTEE. BART also assumes the oversight responsibility of ensuring that the SUBGRANTEE complies in all respects with the applicable requirements of the grant agreement. If the granting agency is not satisfied that the SUBGRANTEE has complied fully with the provisions of its grant agreement with BART, the granting agency may refuse to reimburse BART for amounts BART has paid to the SUBGRANTEE, or demand that BART repay grant funds already disbursed to BART.

II. OBJECTIVE

The purpose of this Management Procedure is to provide BART staff with procedures for monitoring SUBGRANTEE'S compliance with grant requirements and with its pass-through agreement with BART.

III. DEPARTMENTS AFFECTED

For each pass-through agreement and the resulting contracts, if any, entered into by SUBGRANTEE, the following departments may be affected by this Management Procedure:

- Capital Budget and Funds Management Division
- Grant Development Division
- The Sponsoring Department (SUBGRANTEE Sponsoring Department: Planning, Development & Construction)
- The Office of the General Counsel
- The Assistant Controller
- The Procurement Department
- The Office of Civil Rights
- The System Safety Department
- The Insurance Department
- The Human Resources Department
- The Maintenance and Engineering Department
- The Office of Project Development & Construction
- The Internal Audit Department

IV. RESPONSIBILITY

The BART Capital Budget and Funds Management Division is responsible for establishing, maintaining, and monitoring compliance with this Management Procedure.

The Sponsoring Department is the department that implements the action resulting in BART's obtaining the grant from the funding source and that has responsibility for overseeing the SUBGRANTEE's project for BART, and will be the primary contact with the SUBGRANTEE. The Sponsoring Department is responsible for obtaining the

required participation by all affected departments, and is responsible for ensuring that the SUBGRANTEE complies with the grant requirements, including 2 CFR 200. The Sponsoring Department for this pass through is Planning, Development & Construction.

Other affected departments are responsible for providing assistance to the Sponsoring Department in the same manner as would be required if the grant were for a BART project.

V. PROCEDURE

Not all sections of this Management Procedure will be applicable to all SUBGRANTEES or project scopes of work, and this Management Procedure may be modified as required to be consistent with the requirements of the agreement between BART and the funding source.

NOTIFICATIONS: If the Sponsoring Department initiates the process leading to a funding source awarding BART a grant that will be used to fund a SUBGRANTEE's project, the Sponsoring Department must immediately notify the Capital Budget and Funds Management Division at the start of the process and identify the prospective agreement manager. The Capital Budget and Funds Management Division will provide the agreement manager with a copy of any available relevant provisions required by the granting agency. The agreement manager must become familiar with the requirements and make the requirements known to the prospective SUBGRANTEE. If the Grant Development Division obtains a grant that may be used to fund a SUBGRANTEE's project the Grant Development Division will immediately notify the prospective Sponsoring Department. This is to assure that all parties are aware of expected requirements.

SPONSORING DEPARTMENT: While Capital Budget and Fund Management Division and other BART departments, such as Procurement, the Assistant Controller, and Internal Audit, will have a role in monitoring grant compliance by each SUBGRANTEE, the primary responsibility for coordination and enforcement will remain with the Sponsoring Department.

The Sponsoring Department will need to designate an agreement manager. For this pass through the agreement manager is Denise McDonald. She will be the primary BART contacts with the SUBGRANTEE. The agreement manager is responsible for preparing and overseeing compliance with a funding pass-through agreement between the SUBGRANTEE and BART. The pass-through agreement must require that the SUBGRANTEE comply with the provisions of the grant agreement between the granting agency and BART as though it was the grant recipient, and a copy of the grant agreement must be included with the pass-through agreement and incorporated into the pass-through agreement by reference. Among other provisions, the pass-through agreement will indicate that SUBGRANTEE will be required to submit any certifications identified by BART as being required by the grant agreement. The pass-through agreement will also describe in detail the invoicing procedures and supporting documentation required for reimbursement by BART. The draft pass-through agreement must be reviewed and approved by the following BART departments: Sponsoring Department, Capital Budget and Funds Management Division, and the Office of the General Counsel.

The agreement manager will obtain from the SUBGRANTEE all applicable certifications and assurances required of BART by the granting agency. The certificates and assurances will be those specific to the grant as well as any annual certifications to the granting agency. The agreement manager will forward the certifications as required by the funding agreement and maintain copies of all certifications in file for three years following final reimbursement to BART under the grant agreement.

If the project scope so warrants, the Sponsoring Department will secure a BART project technical advisor for implementation support. Typically, a project technical advisor is required to provide technical expertise and oversight related to various project activities such as design, construction, and maintenance.

CAPITAL BUDGET AND FUNDS MANAGEMENT DIVISION: The Capital Budget and Funds Management Division will provide independent monitoring/control and must be copied on all communications with the SUBGRANTEE. Additionally, Capital Budget and Funds Management Division must sign off on any transactions involving grant-related activities including, but not limited to, project scope, schedule changes, payments, proposed budget modifications, and notices of non-compliance.

COMMUNICATIONS: Continuous communication will be maintained between BART and the SUBGRANTEE. The methods of communication may include letters, e-mails, meetings, site visits, and audits/inspections. Any substantive communications by phone or in person, including but not limited to communications regarding grant compliance, should be memorialized in writing. Progress on project and compliance oversight will be monitored through SUBGRANTEE Quarterly Project Reports (QPR), BART site visits, project schedule updates, reimbursement requests, and various SUBGRANTEE document submittals to BART such as plans and specifications, procurement documents, financial reports (single audit, general ledger, etc.).

REIMBURSEMENT: Reimbursement requests from the SUBGRANTEE will be processed in accordance with the provisions of the pass-through agreement. Reimbursement requests received by BART will use the following sign-off routing sequence unless otherwise determined: agreement manager, project manager if applicable, Capital Budget and Funds Management, and Accounts Payable.

NON-COMPLIANCE: Compliance shall be tracked by utilization of the Compliance Checklist attached hereto as Exhibit A and incorporated herein by this reference. Issues of non-compliance with the provisions of the grant or pass-through agreements will be resolved as follows:

The agreement manager will notify the SUBGRANTEE in writing of the non-compliant item(s) and propose a resolution. Following correspondence and/or meetings as the agreement manager and the SUBGRANTEE deem appropriate, corrections will be made by the SUBGRANTEE if agreement is reached. Correction of non-compliant items will be documented and will appear in the next publication or status report.

If the agreement manager and the SUBGRANTEE cannot reach an agreement regarding the non-compliant item(s), the agreement manager, together with Grant Compliance and other BART staff, will determine the appropriate course of action and will notify the SUBGRANTEE of its determination.

PROJECT CLOSEOUT: The agreement manager and/or project manager will provide coordination and verification that all responsibilities and work by the SUBGRANTEE are completed. Copies of the associated financial records that are closed will be provided to Capital Budget and Funds Division. Closeout begins immediately after all work activities under the grant are completed and all closeout documentation must be submitted within the following 90 days. The SUBGRANTEE must initiate closeout of a grant through BART when all approved activities are completed and applicable grant funds expended. This requires a letter notifying BART that the grant is ready for closeout. In order to expedite grant closeout, the following should be submitted: a final Financial Status Report (Standard Form-269A) if applicable; a final budget revision reflecting actual project costs by scope and activity; a copy of the Single Audit Report (OMB Circular A-133); a final narrative milestone/progress report including a discussion of each activity line item contained in the final budget and list of equipment purchased under the grant; a request to de-obligate any unexpended balance of Federal funds; and any other reports required as part of the terms and conditions of the grant.

EXHIBIT 3-A

COMPLIANCE CHECKLIST

The following compliance elements will be considered, and if determined to be not applicable (N/A) will be recorded as such. Some compliance elements may be satisfied with a single review, while others will require ongoing monitoring and/or new certifications with each contract or agreement proposed to be entered into between the SUBGRANTEE and its contractor(s) or consultant(s). When ongoing monitoring or continuing certification will be required, the initial sign-off indicates the responsible department's acknowledgement of its obligation under the grant.

For each pass-through agreement and resulting contract between SUBGRANTEE and its contractor(s) and consultant(s), a new checklist should be completed that identifies the pass-through agreement or contract being reviewed, and includes review of only applicable provisions in the checklist. For example, once the Insurance Department has reviewed the draft pass-through agreement and so noted its review under No. 1(a) of the checklist, its subsequent review of Certificate of Insurance for a specific SUBGRANTEE contract need not include a response to No. 1(a). In such instance, the reviewer would simply record "N/A" in No. 1(a).

1. Insurance

- (a) The Insurance Department reviewed the draft pass-through agreement with the SUBGRANTEE and determined that it includes appropriate provisions to protect BART's interests.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

- (b) The Insurance Department reviewed the executed Certificate of Insurance in the contract between the SUBGRANTEE and its contractor [insert name and number of contract] and determined that it complies with the requirements of the contract and with applicable grant requirements.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

2. Disadvantaged Business Enterprise (DBE)

- (a) The Office of Civil Rights will monitor the SUBGRANTEE'S DBE program as applied to grant-funded contracts as if BART managed the contracts. Deficiencies will be discussed with the SUBGRANTEE and reported to the agreement manager.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

- (b) The Office of Civil Rights reviewed the SUBGRANTEE'S applicable procurement documents for [insert name and number of contract or agreement] and determined that they include any DBE participation or language required by the grant.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

3. Accounting - General Accounting in coordination with Internal Audit reviewed the SUBGRANTEE's accounting procedures and determined that the procedures follow Generally Accepted Accounting Principles (GAAP), determined that invoicing procedures and documentation meet BART's requirements, and that any FTA reporting requirements, including National Transit Database (NTD) reporting if applicable, are addressed.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

4. Capital Budget and Funds Management - Capital Budget and Funds Management will monitor and control the grant fund consistent with normal BART administrative practices. These actions include receipt and review of project quarterly updates for inclusion into the appropriate granting agencies reporting structure (e.g., FTA TRAMS System). Project activities by the SUBGRANTEE potentially requiring a grant budget revision or amendment will be monitored and acted upon as required.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

5. Schedule – The agreement manager and/or project manager reviewed the overall project schedule and found it to be consistent with the projected completion dates and any milestones in the grant agreement. Additional review will be necessary if there are changes to the schedule.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

6. Procurement

- (a) The Procurement Department and/or the Internal Audit Department reviewed the procedures for awarding professional service, purchase, and construction agreements and found them to be reasonable and consistent with any applicable grant requirements.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

- (b) Procurement – The Procurement Department and/or the Internal Audit Department reviewed the SUBGRANTEE’s applicable procurement solicitation documents for [insert name and number of contract or agreement] for compliance with grant requirements and BART standard provisions before they are advertised for bids or proposals.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

7. Design and Construction Agreement – As a condition of receiving any grant funds from BART, SUBGRANTEE shall have executed first a Design and Construction Agreement that covers, among other topics, SUBGRANTEE’s required reimbursement of BART staff time expended on SUBGRANTEE’S project, including but not limited to design review and review of construction. The Design and Construction Agreement will also include the proposed schedule for SUBGRANTEE’S submittal and BART’s review of SUBGRANTEE’S design and construction documents. The Design and Construction Agreement may not include schedules that are inconsistent with the milestones and completion dates set forth in the grant agreement, as may be amended from time to time.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

8. Safety – The System Safety Department and/or project manager reviewed the SUBGRANTEE’s construction plan and found it provides safety in accordance with BART operating safety procedures. BART staff (safety monitors/resident engineers) will make announced and unannounced visits to assure construction and BART safety operating procedures are followed as appropriate.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

9. Drug and Alcohol Program - The Human Resources Department reviewed the grant project scope to determine applicability of the FTA drug and alcohol program.

Reviewer

Print Name: _____

Signature: _____

Date: ___/___/___

EXHIBIT 4

FTA Quarterly Progress Report (QPR) Instructions

The QPR is the primary written communication between the BART and FTA. The information provided in QPR reports should be as complete as possible, highlighting progress toward project objectives and any potential problem areas.

Please provide the following update information on the project(s) 15 days after the close of the quarter(s) ending March 31, June 30, September 30, and December 31.

1. **PROJECT:** Project number and ALI information.
2. **SCOPE:** Brief, but specific description of the project scope.
3. **PROJECT MILESTONES:**
 - a. Current status of each milestone that has passed during the prior reporting period.
 - b. Completion dates for any milestones completed during the reporting period.
 - c. Revised dates when any original (or last revised) completion dates were not met.
 - d. Explanation of why scheduled milestones were not met.
 - e. All rolling stock ALIs must include a milestone for Contract Award.
4. **ACTIVITY STATUS:**
 - a. Narrative, including any problems in implementation, specification preparation, bid solicitation, resolution of protests and third party contract awards.
 - b. Identification of problem areas and a narrative on how they will be solved.
5. **ACTION ITEMS/OUTSTANDING ISSUES:**
 - a. Issues and administrative requirements that could have a significant or adverse impact to the project's scope, budget, schedule, quality, safety and/or compliance with Federal requirements.
 - b. Expected impacts and the efforts to recover from the delays.
6. **PROJECT COST:**
 - a. Updated cost spreadsheet detailing the project budget and expenditures including any award budget or schedule changes.
 - b. Analysis of each significant project cost variance.
 - c. Acceptance of equipment and construction or other work with a breakout of the costs incurred and those costs required to complete the project. (Use quantitative measures, such as hours worked, sections completed, or units delivered.)
7. **CHANGE ORDERS:**
 - a. All potential and executed change orders, as defined in Circular 4220.1, and amounts exceeding \$100,000, pending or settled, during the reporting period with brief description.
8. **OTHER ITEMS:**
 - a. A list of all outstanding claims exceeding \$100,000, and all claims settled during the reporting period. This list should be accompanied by a brief description, estimated costs, and the reasons for the claims.
 - b. A list of claims or litigation involving third-party contracts and potential third-party contracts

- c. A list of all real property acquisition actions, including just compensation, property or properties under litigation, administrative settlements, and condemnation for each parcel during the reporting period.
9. **NEXT QUARTER:** Anticipated progress for the subsequent reporting period (e.g. April to June 2019.)
10. **FEDERAL FINANCIAL REPORT (SF-425):** Financial reporting form used throughout the Federal Government Grant System. Complete form and attach it to each quarterly Project Progress and Monitoring Report. The form is available at <https://www.neh.gov/files/grants/sf-425.pdf>

Following dates are important in the milestone section of the report. Please provide or update:

BID DATE:

AWARD DATE:

COMPLETION DATE:

OTHER: List claims and change orders over \$100,000 and protests.

Prepare the report in MS Word so the information can be cut and pasted into the FTA online reporting system.

EXHIBIT 5

BART / City Fund Pass-Through Agreement

Invoicing Procedures

General

1. BART reimbursement of project costs does not constitute BART's final decision about whether the costs are eligible under this Agreement and does not constitute a waiver of any violation of the provisions of this Agreement. If BART determines in its reasonable discretion that the City is not eligible to receive any portion of the amount reimbursed, BART will withhold that amount from the subsequent invoice(s) or request return of the ineligible amounts and provide an explanation for any withholding.
2. The City invoice will include a copy of the detailed contractor's pay application and a summary sheet segregating costs by fund source (FTA grant agreement number).
3. Payments record retention: See Pass-Through Agreement on record retention.
4. Retention from the prime construction contractor will be withheld by the City and paid by the City from funds disbursed to the City under this Agreement upon completion of the Work. Retention will not be released without approval by BART, which shall not be unreasonably withheld, conditioned or delayed. Upon the satisfactory completion and BART's acceptance of the performed work, City shall release retention, thereby reducing prime construction contractor's retention balance.
5. Invoices will be processed monthly.
6. Costs incurred prior to FTA grant approval will not be allowed as project costs eligible for reimbursement as described in the FTA Circular 5010.1E – Federal Principal for Determining Allowable Costs, Section b(10) which states cost must: “not be incurred prior to grant award unless specifically provided for in a Letter of No Prejudice or equivalent document approved by FTA, or in the pre-award authority as described in the Federal Register listing of the Annual Apportionments.”
7. The City's prime construction contract award date is the earliest date costs can be incurred for hard construction costs.
8. BART concurrence is required on change orders related to grant funded work that increase contract costs prior to reimbursement. Any change orders must be in compliance with this Agreement and the Design and Construction Agreement.

Detailed Procedure

1. The City Project Manager approves and processes the invoice package submitted by prime construction contractor. Upon payment to the contractor, withholding retention, the City will prepare a reimbursement package of contractor invoices/receipts and submits its Subgrantee Payment Certification coversheet to:

San Francisco Bay Area Rapid Transit District
Accounts Payable Dept. – LKS-22
300 Lakeside Dr., 22nd Fl
Oakland, CA 94612

With copy to: BART Project Manager

2. BART Project Manager reviews the reimbursement package and either approves the submittal in its reasonable discretion or requests changes and/or clarification within 10 business days of receipt of the reimbursement package.
3. The BART Project Manager notifies the City Project Manager of the results of the review. If changes are required, the City Project Manager works with the contractor to resolve the changes and resubmits, per step 1 above.
4. BART pays the City (as indicated on the invoice summary) within 30 calendar days of receipt of an acceptable reimbursement package.
5. BART draws down the funds on a reimbursement basis, consistent with internal BART policy.

Summary Sheet

1. The City reimbursement package application is to be submitted under original City letterhead.
2. The costs are to be summarized by the FTA activity line item coding used in the grant application.
3. The City approval is to be by City's authorized representative who has been designated in writing by the City.

Payment Application

The templates of the forms to be submitted will be approved by BART in its reasonable discretion prior to any formal request for reimbursement. Attached to this exhibit is a sample Reimbursement Package Template.

Copies of the following are to be attached to the City reimbursement package request:

1. Invoice from the contractor (Prime and subcontractors), in the form of the Application and Certificate for Payment.
2. Disadvantaged Business Enterprise (DBE) report on monthly basis. A sample report template is provided in Exhibit 5-B.
3. Prevailing wages review. Certified payroll forms are to be submitted with each invoice.
4. Documents used by the City to determine invoice value shall be based on costs incurred less retention, and shall include:
 - a. Contractor's Application and Certificate for Payment
 - b. Subgrantee Payment Certifications (by grant number)
 - c. Summary – Transportation Grant Reimbursements (showing Funding of Draws by Sources and by Project Component)

Exhibit 5-A
Reimbursement Package Template

Subgrantee Payment Certification
 Bay Area Rapid Transit District
 300 Lakeside Drive, 16th Floor, Oakland, CA 94612

To Controller: Payment certification for the Attached Invoice
Invoice No. PTMISEA-X xst invoice for PTMISEA Grant
Grant: MTC PTMISEA
Fund: Prop 1B PTMISEA (Public Transportation Modernization Improvement and Service Enhancement Program), Fund Type 99313
Subgrantee: City of Oakland

TEMPLATE

Project Components	Invoices				BART to Pay the following:	Project		Grant	
	Expended prior to this submission	Expended per attached invoices	Submitted for reimbursement	Total Approved to Date Thru Invoice:		Approved Project Amount	Remaining Project Balance	Approved Grant Amount	Remaining Grant Balance
20th Street Complete Streets Improvements*	\$0.00	\$0.00	N/A	\$0.00	Local Match	\$4,683,000.00	\$4,683,000.00	N/A	N/A
Station Area LED Street lighting Upgrades	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,200,000.00	\$1,200,000.00	\$1,200,000.00	\$1,200,000.00
Station Area Pedestrian Wayfinding	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$300,000.00	\$300,000.00	\$300,000.00	\$300,000.00
Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,183,000.00	\$6,183,000.00	\$1,500,000.00	\$1,500,000.00

* Please include all expended amounts for tracking and grant matching purposes.

Approvals:

Property Development Staff Analyst _____ Date _____

Grants Compliance Analyst/Manager _____ Date _____

Project Manager _____ Date _____

_____ Date _____
 MacArthur Transit Community Partners

Exhibit 5-B
Disadvantaged Business Enterprise (DBE) Report Template

Date: _____
Billing Period: _____

SUBCONSULTANTS SUMMARY

DBE PARTICIPATION

Company Name	DBE (Yes/No)	Amount Paid to Date	Non-DBE% Participation to Date	DBE % Participation to Date
Prime		\$	%	%
Sub		\$ -	%	%
Sub		\$ -	%	%
Sub		\$	%	%
TOTAL		\$ -	%	%

DBE GOAL:

YTD NON-DBE:	\$
YTD DBE:	\$

EXHIBIT 6

Insurance Documents

6.0 INSURANCE

At all times during the life of this Agreement to acceptance of the work covered by this Agreement, or as may be further required by this Agreement, CITY OF OAKLAND, its officers, agents and employees, at its own cost and expense, shall provide the insurance specified by this Article.

A. Evidence Required

At or before execution of this Agreement and at such other times as the District may request, CONSULTANT shall provide the District with a Certificate of Insurance executed by an authorized representative of the insurer(s) evidencing that CITY OF OAKLAND's insurance complies with this Article. The certificate shall reference the District Agreement Number and Title to which the certificate relates. In addition, a copy of all required endorsements shall be attached to and form a part of CITY OF OAKLAND's Certificate of Insurance.

B. Notice of Cancellation, Reduction or Material Change in Coverage

All policies shall be endorsed to provide the District with thirty (30) calendar days' prior written notice of any cancellation, reduction, or material change in coverage. Notices shall be sent to:

Department Manager, Risk and Insurance
San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, California 94604-2688

CITY OF OAKLAND shall annually submit to the District's Department Manager, Risk and Insurance, certifications confirming that the insurance required has been renewed and continues in place.

C. Qualifying Insurers

Policies shall be issued by California admitted companies which hold a current policyholders alphabetic and financial size category rating of not less than A VIII according to Best's Insurance Reports; provide, however, nothing in this paragraph C shall prohibit the City of Oakland from self-insuring to meet the insurance requirements set forth in the Exhibit 6.

D. Insurance Required

1. Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate as respects products/completed operations if applicable.
 - a. Coverages included shall be:
 - (1) Premises and Operations;
 - (2) Broad Form Property Damage;
 - (3) Blanket Contractual Liability;
 - (4) Products/Completed Operations;
 - (5) Personal Injury Liability;
 - (6) Cross-liability and Severability of Interest; and
 - (7) Independent Contractor's Liability.
 - b. Coverage shall be endorsed to include the following, a copy of which shall be provided to the District:
 - (1) Inclusion of the District, its directors, officers, representatives, agents and employees as additional insureds as respects services or operations in connection with this Agreement; and
 - (2) Stipulation that the insurance is primary insurance and that no insurance or self-insurance of the District will be called upon to contribute to a loss.
2. Automobile Liability Insurance for bodily injury (including death) and property damage which provides coverage limits of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.
3. Statutory Workers' Compensation and Employers' Liability Insurance for not less than One Million Dollars (\$1,000,000) per occurrence applicable to Employers' Liability coverage for all employees engaged in services or operations under this Agreement. The policy shall include broad form all-states/other states coverage. Coverage shall be specifically endorsed to include the insurer's waiver of subrogation in favor of the District, its directors, officers, representatives, agents and employees, a copy of which shall be provided to the District. Should any such work be subcontracted, CITY OF OAKLAND shall require each subconsultant of any tier similarly to comply with this Article, all in strict compliance with federal and state laws.
4. Professional Liability Insurance for damages arising out of CITY OF OAKLAND's acts, errors or omissions. The policy shall provide a coverage limit of not less than One Million Dollars (\$1,000,000) per claim/aggregate as respects CITY OF OAKLAND's services under this Agreement. Such insurance shall be maintained for a period of not less than two (2) years following completion of services.

E. Special Provisions

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CITY OF OAKLAND, and any approval of said insurance by the District or its insurance contractor(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CITY OF OAKLAND pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The District acknowledges that some insurance requirements contained in this Article may be fulfilled by a funded self-insurance program of CITY OF OAKLAND. However, this shall not in any way limit liabilities assumed by CITY OF OAKLAND under this Agreement. Any self-insurance program must be approved in writing by the District.
3. Should any of the work under this Agreement be subcontracted, CITY OF OAKLAND shall require each of its subconsultants of any tier to provide the aforementioned coverages, or CITY OF OAKLAND may insure subconsultant(s) under its own policy(ies).
4. The District reserves the right to withhold payments to CITY OF OAKLAND in the event of material noncompliance with the insurance requirements of this Article 6.0.
5. The District reserves the right to terminate this Agreement in the event of material noncompliance with the insurance requirements of this Article 6.0.

F. Insurance Requirements for Contractors and The City of Oakland

1. **Commercial General Liability** insurance shall cover Bodily Injury, Property Damage and Personal Injury for Premises Operations, Products and Completed Operations, Independent Contractors and Contractual Liability. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01).
 - a. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents, employees and volunteer shall be primary insurance. Any other insurance available to the City, Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Contract).
 - b. Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate. The general aggregate limit shall apply separately to this location/project or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability Insurance:** Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 00 01.
3. **Worker's Compensation insurance** as required by the laws of the State of California. Coverage shall include Employers Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, \$1,000,000 each employee bodily injury by disease. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The

Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Contract and thereafter as required by that code.

4. Pollution Liability:

- a. For Contractors engaged in: environmental remediation, emergency response, hazmat cleanup or pickup, liquid waste remediation, tank and pump cleaning, repair or installation, fire or water restoration or fuel storage dispensing, the Contractor must maintain Contractor's Pollution Liability Insurance of at least \$1,000,000 for each occurrence and \$2,000,000 in the aggregate.
- b. For Contractors engaged in transporting waste, then transportation (1st and 3rd Party) must be included with the pollution liability.
- c. Regardless of the coverage limits in I. through II. above, contractor's coverage must be compliant with the Motor Carrier Act of 1980, California Vehicle Code Sections 34630-34634 and California Health and Safety Code Section 25169.

5. Professional Liability/Errors and Omissions insurance as appropriate for design/build operations with limits not less than \$2,000,000 each claim and \$2,000,000 aggregate. If the professional liability/errors and omissions insurance is written on a claims made form:

- a. The retroactive date must be shown and must be before the date of the contract or the beginning of work.
- b. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
- c. If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the contractor must purchase extended period coverage for a minimum of three (3) years after completion of work.

6. Builders' Risk/Course of Construction Insurance (CP 10 30) covering all risks of loss in an amount equal to the completed value form with no coinsurance penalty provisions and in an amount equal to the initial contract sum, subject to subsequent modification of the contract sum. The insurance shall apply on a replacement cost basis. The insurance shall name as insured the City of Oakland, the Contractor and all subcontractors in the work. The insurance shall cover the entire work at the site identified in the Scope of Work, including reasonable compensation for architects' services and expenses made necessary by an insured loss. Insured property shall include portions of the work located away from the site but intended for use at the site and shall also cover portions of the work in transit. The policy shall cover the cost of removing debris, including demolition as may be made legally necessary by the operation of any law, ordinance or regulation. The insurance shall be maintained in effect until the project has been accepted as substantially complete. The insurer shall waive all rights of subrogation against the City.

ATTACHMENT B

GO Uptown Gateway to Oakland Uptown

2016 TIGER Grant Application Project Summary

Lead Applicant



Supporting Applicant



Project Supporters



Project Description

GO Uptown is a unique and transformative set of improvements to 19th St. / Oakland BART Station and the surrounding public realm that will improve access to the station, expand station capacity, and replace aging infrastructure while simultaneously reducing energy use, modernizing the appearance of the station, enhancing safety and promoting local art. The primary project components include:

BART Station Modernization Projects

- Two new glass elevators connecting all BART station levels to the AC Transit Uptown Transit Center and other Uptown destinations
- Interior station upgrades including new glass railings, glass fare barriers, and new energy-efficient LED lighting throughout the station.
- New art features throughout the station, including three permanent illuminated public art installations in each of the stairwells
- Expanded and reconfigured fare gates to reduce crowding and anticipate the re-opening of a new station entrance with the former Capwell's/Sears building

Amount Funded \$17.8m (Proposition 1B) **TIGER Funding request** \$4.8m

City of Oakland Public Realm Projects

- 20th Street BART to Lake Merritt Urban Greenway "complete streets" project
- New LED street lighting along 20th St. and Webster St.
- Extension of the City of Oakland's pedestrian wayfinding program to a 20-block area between the 19th St. BART Station and Lake Merritt

Amount Funded \$4.6m (Caltrans ATP Grant) **TIGER Funding request** \$1.5m

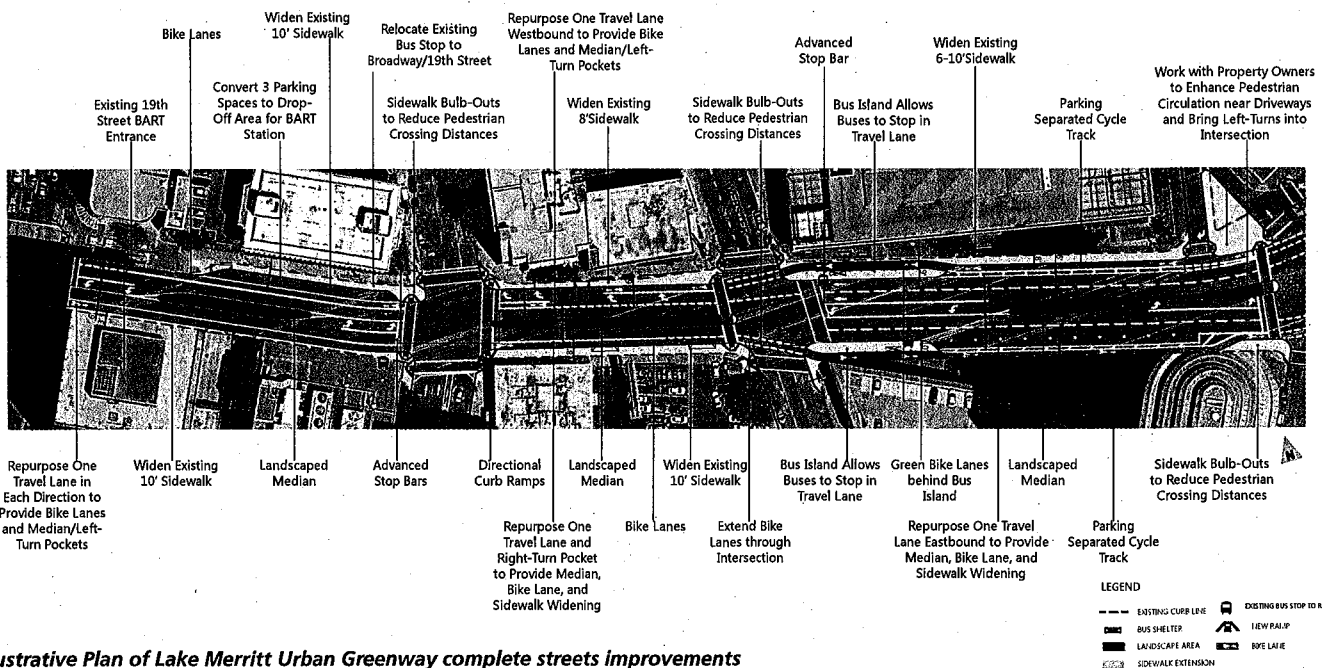
Total Project Funded Local Match	\$22.3m
Total Project TIGER Funding Request	\$6.3m
Total Project Cost	\$28.6m



Rendering of proposed interior lighting improvements



Rendering of proposed new fare barriers with incorporated art



Illustrative Plan of Lake Merritt Urban Greenway complete streets improvements

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2019 MAY 29 PM 3: 53

Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A FUND PASS THROUGH AGREEMENT WITH THE BAY AREA RAPID TRANSIT DISTRICT (BART) AND THE CITY OF OAKLAND AND TO ACCEPT AND APPROPRIATE CAPITAL FUNDS FROM BART IN AN AMOUNT NOT TO EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000) TO FUND PUBLIC REALM IMPROVEMENTS AND ENHANCE CONNECTION TO THE 19TH ST. BART STATION

WHEREAS, in the spring of 2016, BART and the City submitted an application to the U.S. Department of Transportation, Tiger Grant Program, for Six Million Three Hundred Thousand Dollars (\$6,300,000) in funding for BART Station Modernization Projects and City of Oakland Public Realm Projects; and

WHEREAS, The U.S. Department of Transportation, Tiger Grant Program, announced in July 2016 that BART and the City were awarded Six Million Three Hundred Thousand Dollars (\$6,300,000) in funding, with Four Million Eight Hundred Thousand Dollars (\$4,800,000) going to BART to modernize the 19th St. Station and One Million Five Hundred Thousand Dollars (\$1,500,000) going to City of Oakland to fund Public Realm Projects; and

WHEREAS, in order to implement the project, BART is willing to provide a Fund Pass-Through Agreement in the amount of One Million Five-Hundred Thousand Dollars (\$1,500,000) to 1) upgrade existing City owned street lighting along 20th Street between Broadway and Harrison Street and on Webster Street between 20th Street and Broadway, and 2) extend City wayfinding signage in the area east of Broadway and bounded by Grand Avenue, 14th Street and Harrison Street; and

WHEREAS, the City is willing to accept State Prop 1B Bond funds and authorizes the City Administrator to enter into a Fund Pass Through Agreement, outlining City and BART responsibilities, to 1) upgrade existing City owned lighting along 20th Street between Broadway and Harrison Street and on Webster Street between 20th Street and Broadway, and 2) extend City wayfinding signage in the area east of Broadway and bounded by Grand Avenue, 14th Street and Harrison Street; and

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

WHEREAS, the City will package, advertise, bid and award the project together with the 20th Street BART to Lake Merritt Urban Greenway (Complete Streets) Project, which is anticipated to bid in the winter of 2020-21; now therefore, be it

RESOLVED: The Bay Area Rapid Transit District (BART) is willing to make a financial contribution of an amount Not-to-Exceed One Million Five Hundred Thousand Dollars (\$1,500,000) and provide a Fund Pass-Through Agreement to pass through said funds to the City to 1) upgrade existing City-owned ornamental LED Lighting along 20th Street between Broadway and Harrison St. and on Webster Street between 20th Street and Broadway, and 2) extend City wayfinding signage in the area east of Broadway and bounded by Grand Avenue, 14th Street and Harrison Street and in the vicinity at station entry points to the 19th Street station; and be it

FURTHER RESOLVED: City Council authorizes the City Administrator to accept and appropriate said capital funds from BART to a Miscellaneous Grant Fund (2999) in a project account to be determined; and be it

FURTHER RESOLVED: City Council authorizes the City Administrator to enter into a Fund Pass-Through Agreement with BART to 1) upgrade existing City owned ornamental LED Lighting along 20th Street between Broadway and Harrison Street and on Webster between 20th Street and Broadway, and 2) extend City wayfinding signage in the area east of Broadway and bounded by Grand Avenue, 14th Street and Harrison Street, and instructs the City Administrator or his designee to finalize and execute this agreement; and be it

FURTHER RESOLVED: That the City and its agents shall comply with the provisions of the Fund Pass Through Funding Agreement, including the completion of Project Reports and filing of reimbursement requests; and be it

FURTHER RESOLVED: That the contract will be reviewed and approved by the City Attorney for form and legality, and copies of the agreement shall be filed with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON-MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS

City Clerk and Clerk of the Council of the
City of Oakland, CA