

**STAFF REPORT FOR CALENDAR ITEM NO.: 8.3
FOR THE MEETING OF: November 9, 2017**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Approve an Amendment to the TJPA Bylaws and Rules of Order to add the California High Speed Rail Authority as a new member and acknowledge an additional City & County of San Francisco member to the TJPA Board of Directors.

DISCUSSION:

The TJPA is a joint powers agency established in 2001 by agreement of the City and County of San Francisco (“City”), the Alameda-Contra Costa Transit District (“AC Transit”), and the Peninsula Corridor Joint Powers Board (“Caltrain”), each of which is a Member of the TJPA.

The Joint Powers Agreement contemplates that New Members may be added to the TJPA. (JPA, Section 16; See also Bylaws, Article IV; See also Bylaws, Section 10.1).

The California High-Speed Rail Authority (CHSRA) is a major stakeholder in the development and operation of Phase II of the Transbay Program. Inviting CHSRA to join the TJPA as a New Member may facilitate the consensus support that is critical to successful completion of DTX.

On January 12, 2017, the TJPA Board of Directors adopted a resolution, directing the Executive Director to invite CHSRA to join the TJPA conditioned upon the concurrence of the existing Members. On June 14, 2017, the CHSRA Board of Directors adopted a resolution, accepting the invitation to become a New Member of the TJPA. Subsequently the governing bodies of the City, AC Transit, and Caltrain each adopted resolutions concurring with the addition of CHSRA as a New Member of the TJPA, and authorizing the appropriate official to execute an amendment to the Joint Powers Agreement accomplishing the addition; each such designated official has executed the First Amendment to the Joint Powers Agreement (from of First Amendment to the Joint Powers Agreement attached). TJPA staff will send notice of the First Amendment to the State as required by state law. (Government Code, Section 6503.5).

The Joint Powers Agreement provides that for each New Member admitted to the TJPA, the City shall appoint one additional director to serve on the Board. (JPA, Section 16(c)). Thus, the decision to add CHSRA to the TJPA results in an increase in the total number of directors on the TJPA Board from five to seven -- one new director appointed by CHSRA and one new director appointed by the City.

In 2001, the TJPA Board of Directors adopted Bylaws and Rules of Order, each of which has been twice amended. Attached are recommended third amendments to the TJPA Bylaws and Rules of Order to reflect the addition of CHSRA as a New Member of the TJPA, and the increase in the total number of directors from five to seven.

RECOMMENDATION:

Staff recommends that the TJPA Board adopt amendments to the Bylaws and Rules of Order.

ENCLOSURES:

1. Form of First Amendment to Joint Powers Agreement
2. Proposed amendments to Bylaws
3. Proposed amendments to Rules of Order
4. Resolution

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The TJPA is a joint powers agency established in 2001 by a Joint Powers Agreement of the City and County of San Francisco (“City”), the Alameda-Contra Costa Transit District (“AC Transit”), and the Peninsula Corridor Joint Powers Board (“Caltrain”), each of which is a Member of the TJPA; and

WHEREAS, The Joint Powers Agreement at Section 16 and the TJPA Bylaws at Article IV contemplate that New Members may be added to the TJPA. The concurrence of the existing Members of the TJPA is required to invite a public agency to become a New Member of the TJPA; and

WHEREAS, The California High-Speed Rail Authority (CHSRA) is a major stakeholder in the development and operation of phase two of the Transbay Program, and inviting CHSRA to join the TJPA as a New Member may facilitate the consensus support that is critical to successful completion of phase two; and

WHEREAS, On January 12, 2017, the TJPA Board of Directors adopted Resolution No. 17-003, directing the Executive Director to invite CHSRA to join the TJPA conditioned upon the concurrence of the existing Members; and

WHEREAS, On June 14, 2017, the CHSRA Board of Directors adopted Resolution No. HSRA 17-11, accepting the invitation to become a New Member of the TJPA; and

WHEREAS, On June 28, 2017, the AC Transit Board of Directors adopted Resolution No. 17-030, concurring with the addition of CHSRA as a New Member of the Authority and authorizing the President of the AC Transit Board (or designee) to execute an amendment to the Joint Powers Agreement; and

WHEREAS, On August 3, 2017, the Caltrain Board of Directors adopted Resolution No. 2017-39, concurring with the addition of CHSRA as a New Member of the Authority and authorizing the Chair of the Caltrain Board (or designee) to execute an amendment to the Joint Powers Agreement; and

WHEREAS, On October 24, 2017, the City Board of Supervisors adopted Resolution No. 393-17, concurring with the addition of CHSRA as a New Member of the Authority and authorizing the Mayor of the City (or designee) to execute an amendment to the Joint Powers Agreement; and

WHEREAS, Each designated official has executed the First Amendment to the Joint Powers Agreement; and

WHEREAS, The decision to add CHSRA to the TJPA results in an increase in the total number of directors on the TJPA Board from five to seven -- one new director appointed by CHSRA and one new director appointed by the City; and

WHEREAS, In 2001, the TJPA Board of Directors adopted Bylaws and Rules of Order, each of which has been twice amended, and those documents require amendments to reflect the addition of CHSRA as a New Member of the TJPA, and the increase in the total number of directors from five to seven; now, therefore, be it

RESOLVED, That the TJPA Board of Directors adopts amendments to the Bylaws and amendments to the Rules of Order in the form attached.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of November 9, 2017.

Secretary, Transbay Joint Powers Authority

**FIRST AMENDMENT TO
JOINT POWERS AGREEMENT
CREATING THE TRANSBAY JOINT POWERS AUTHORITY**

This First Amendment to Joint Powers Agreement Creating the Transbay Joint Powers Authority, dated as of _____, 2017 (this “First Amendment”), amending and supplementing the Joint Powers Agreement Creating the Transbay Joint Powers Authority, dated as of April 4, 2001 (the “Original Agreement”) (the Original Agreement as amended by this First Amendment being herein referred to as the “Agreement”), is entered into by and between the City and County of San Francisco, a municipal corporation and charter city and county duly organized and existing under its Charter and the Constitution of the State of California (the “City”), the Alameda-Contra Costa Transit District, a transit district duly organized and created in accordance with the Public Utilities Code of the State of California (commencing with Section 24501) (the “District”), the Peninsula Corridor Joint Powers Board, a joint exercise of powers agency comprised of the City and County of San Francisco, San Mateo County Transit District, and Santa Clara Valley Transportation Authority, duly created and organized in accordance with the Government Code of the State of California (commencing with Section 6500) (the “JPB”), and the California High-Speed Rail Authority, duly created and organized under the laws of the State of California (the “CHSRA”) (collectively, the “Members”).

RECITALS

WHEREAS, In 2001, the City, the District, and the JPB entered the Original Agreement, creating the Transbay Joint Powers Authority (the “Authority”) to design, build, and operate the Transbay Transit Center Program (the “Transbay Program”); and

WHEREAS, The Transbay Program is being developed in two phases, with the first phase being construction of the new transit center for bus operations and the second phase being the development of the downtown extension (DTX) of Caltrain and eventually the California High-Speed Rail to the new transit center; and

WHEREAS, The Transbay Program is at a transition point, with the first phase nearing completion; the Authority desires to ensure that the agency has the strategic leadership to develop federal, state, regional, and local consensus support for key aspects of phase two, which may include project delivery methods, budget, funding, financing, and stakeholder/operator requirement for the system; and

WHEREAS, Section 16 of the Original Agreement and Article IV of the Authority’s bylaws contemplate that a public entity may be added as a New Member of the Authority with the concurrence of the existing Members of the Authority, and upon amendment to the Original Agreement; and

WHEREAS, The CHSRA is a public entity that is a major stakeholder in the development and operation of phase two of the Transbay Program; inviting CHSRA to join the

Authority as a new Member may facilitate the support that is critical to successful completion of phase two; and

WHEREAS, On January 12, 2017, the Authority Board of Directors adopted Resolution No. 17-003, directing the Executive Director to invite CHSRA to join the Authority conditioned upon the concurrence of the existing Members; and

WHEREAS, On June 14, 2017, the CHSRA Board of Directors adopted Resolution No. HSRA 17-11, accepting the invitation to become a Member of the Authority; and

WHEREAS, On June 28, 2017, the District Board of Directors adopted Resolution No. 17-030, concurring with the addition of CHSRA as a New Member of the Authority and authorizing the President of the District Board (or designee) to execute this First Amendment; and

WHEREAS, On August 3, 2017, the JPB Board of Directors adopted Resolution No. 2017-39, concurring with the addition of CHSRA as a New Member of the Authority and authorizing the Chair of the JPB Board (or designee) to execute this First Amendment; and

WHEREAS, On October 24, 2017, the City Board of Supervisors adopted Resolution No. _____, concurring with the addition of CHSRA as a New Member of the Authority and authorizing the Mayor of the City (or designee) to execute this First Amendment; and

NOW THEREFORE, the premises being as stated above, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate and intending to be legally bound hereby, it is mutually agreed by and between the Members as follows:

1. AUTHORITY; DEFINITIONS

1.1 Authority. This First Amendment amends and supplements the Original Agreement and is entered into in accordance with Section 16 and Section 25 of the Original Agreement.

1.2 Definitions. All capitalized terms used herein and not defined herein shall have the meanings ascribed to such terms in in the Original Agreement.

1.3 Construction of Certain Terms. All references in the Original Agreement to “this Agreement” or words of similar import shall be deemed to refer to the Agreement as defined in the preamble to this First Amendment. All references in the Original Agreement to “Member”, “a Member”, “the Members”, or words of similar import shall be deemed to refer to the Members as defined in the preamble to this First Amendment.

2. AMENDMENTS

2.1 Amendments to Section 8 (Board of Directors): Clause (a) in Section 8 is amended and restated as follows:

“(a) Directors and Alternates. Based on the addition of the CHSRA as a New Member of the Authority, the City shall appoint four (4) directors, and the District, the JPB, and the CHSRA shall each appoint one (1) director to serve on the Board. The JPB shall not appoint the City and County of San Francisco to serve as its director or alternate on the Board. Each Member may in a director’s absence appoint an alternate director for said director. The City and any New Member subsequently added to the Authority may appoint additional directors and alternate directors in accordance with Section 16 of this Agreement.”

2.2 Amendments to Section 23 (Notices): Section 23 is hereby amended by adding the following new clause:

“CHSRA: California High-Speed Rail Authority
100 Paseo de San Antonio, #206
San Jose, CA 95113
Attn: Northern Regional Director”

3. MISCELLANEOUS

3.1 Governing Law. This First Amendment shall be governed by and construed in accordance with the laws of the State of California.

3.2 Severability. If any portion, term, condition, or provision of this First Amendment is determined by a court to be illegal or in conflict with a law of the State of California, or is otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions is not affected.

3.3 Integration. This First Amendment and all its terms, conditions, and provisions shall be deemed to be part of the Original Agreement. Except as specifically amended and supplemented by this First Amendment, all other terms, conditions, and provisions of the Original Agreement (i) are unchanged, (ii) shall remain in full force and effect and are hereby ratified and confirmed by each Member, as defined in the preamble hereto, and (iii) shall apply to this First Amendment as if this First Amendment was originally part of the Original Agreement. In the event of any conflict or inconsistency between this First Amendment and the Original Agreement, the terms and provisions of this First Amendment shall govern and prevail to the extent necessary to resolve such conflict or inconsistency. The Original Agreement, as modified by this First Amendment, constitutes the entire contract between the Members relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

3.4 Counterparts. This First Amendment may be executed in several counterparts, each of which is an original and all of which constitutes but one and the same instrument.

3.5 Effectiveness. This First Amendment becomes effective as of the date first written above.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be duly executed and delivered by their respective officers that have been duly authorized to do so as of the date above.

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Edwin M. Lee
Mayor

APPROVED AS TO FORM:

Dennis J. Herrera
City Attorney

By: _____
Robin M. Reitzes
Deputy City Attorney

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

By: _____
Elsa Ortiz
President

APPROVED AS TO FORM:

By: _____
Denise C. Standridge
General Counsel

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

PENINSULA CORRIDOR JOINT POWERS BOARD

By: _____
Jeff Gee
Chair

APPROVED AS TO FORM:

By: _____
Joan L. Cassman
General Counsel

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

By: _____
Thomas C. Fellenz
Interim Chief Executive Officer

APPROVED AS TO FORM:

By: _____
James Andrew
Acting Chief Counsel

BYLAWS
OF THE
TRANSBAY JOINT POWERS AUTHORITY

Effective 4/2/2001
Amended 12/1/2008, 11/12/15, 11/9/2017

ARTICLE I
NAME

The name of this public entity is the Transbay Joint Powers Authority (the “Authority”).

ARTICLE II
OFFICES

- 2.1 Principal Office. The principal office for the transaction of the business of the Authority is located at 201 Mission Street, Suite 2100, San Francisco, California 94105. The Board of Directors (the “Board”) may change the principal office from one location to another. Any change of location will be noted by the Secretary in these Bylaws or this Section may be amended to state any such new location.
- 2.2 Other Offices. The Board may at any time establish branch or subordinate offices at any place or places.

ARTICLE III
LIMITATION ON AUTHORITY

The Authority’s exercise of its power under the Joint Powers Agreement creating the Transbay Joint Powers Authority (the “Agreement”), dated as of April 2, 2001 and first amended as of November 9, 2017, among the City and County of San Francisco (the “City”), the Alameda-Contra Costa Transit District, ~~and~~ the Peninsula Corridor Joint Powers Board, and the California High-Speed Rail Authority and these Bylaws is restricted to the extent required under Section 6509 of the Government Code of the State of California to the restrictions upon the manner of exercising power of the City. This designation restricting the exercise of powers of the Authority to the restrictions upon the manner of exercising power of the City may be changed by a two-thirds (2/3) vote of the Board provided that the designated agency must be a city or county in California and a Member of the Authority.

ARTICLE IV
MEMBER ENTITIES

In addition to the original “contracting parties” (as this term is used in Section 6502 of the Government Code of the State of California) to the Agreement, any other public entity (as defined in Section 6500 of the Government Code of the State of California), which becomes a contracting party pursuant to the Agreement and these Bylaws, is a Member. Any contracting party which withdraws or is expelled pursuant to the Agreement and these Bylaws ceases to be a Member.

ARTICLE V
EX-OFFICIO MEMBERS

The Authority by resolution of the Board may invite a public entity to serve as an ex-officio Member of the Authority. Ex-officio Members shall serve as advisory, non-voting members of the Board and/or committees of the Authority. Ex-officio Members shall serve at the pleasure of the Board. No ex-officio Member shall be considered a “contracting party” as that term is used in Section 6502 of the Government Code of the State of California.

ARTICLE VI
DEBTS AND LIABILITIES

The debts, liabilities and obligations of the Authority are not and will not be the debts, liabilities or obligations of any or all of the Members, including ex-officio Members. However, nothing in this Section or in the Agreement prevents, or impairs the ability of, a Member or Members, including ex-officio Members, from agreeing, in a separate agreement, to be jointly and/or severally liable, in whole or in part, for any debt, obligation or liability of the Authority, including but not limited to, any bond or other debt instrument issued by the Authority.

ARTICLE VII
DIRECTORS

7.1 Powers.

- (a) **General Powers.** Subject to the provisions of the Agreement and these Bylaws, the business and affairs of the Authority will be managed, and all powers will be exercised, under the policy direction of the Board.
- (b) **Specific Powers.** Without prejudice to these general powers, (i) the Board also has the power to borrow money and incur indebtedness on behalf of the Authority and cause to be executed and delivered for the Authority’s purposes, in the Authority’s name, promissory notes, deeds of trust, bonds, mortgages, pledges, hypothecations, leases, and other evidences of debt and securities, and certificates of participation; and (ii) in conformance with the procedures and criteria developed by it, the Board may cause the Authority to purchase commercial insurance or reinsurance or terminate commercial insurance or reinsurance upon a majority vote.
- (c) **Project Guidelines.** The Board also has the power to establish guidelines for the types of projects to be undertaken by the Authority.

7.2 Directors and Alternates. The City will initially appoint three (3) directors; based on the addition of the CHSRA as a New Member of the Authority and consistent with the Agreement at Section 8(a) and Section 16(c), the City will appoint one (1) additional

director for a total of four (4) appointees. Each other Member will appoint one (1) director to the Board. Each Member may, in a director's absence, appoint an alternate director for said director. Additional directors and/or alternate directors, if any, shall be appointed in accordance with the Agreement. The director and/or alternate director may be an elected official.

7.3 Vacancies.

- (a) **Events Causing Vacancy.** A vacancy on the Board exists on the occurrence of the following: (i) death of any director, (ii) the removal, dismissal or resignation of a director from the position s/he held with the Member at the time s/he became a director, (iii) the declaration by resolution of the Board of a vacancy of the office of a director who has been declared of unsound mind by an order of court or convicted of a felony after having been appointed as a director, or (iv) written notice to the Secretary from the appointing Member stating that the designation of the director or alternate director has been revoked; said revocation to be effective upon receipt unless the notice specifies a later time.
- (b) **Resignations.** No director or his/her alternate may resign if the Authority would then be without at least two directors, or their alternates, in charge of its affairs.
- (c) **Reduction or Increase in the Number of Directors.** The authorized number of directors may be reduced or increased by the deletion or addition of a Member.

7.4 Meetings. The Chair or Vice-Chair of the Board, or any four directors by written request, may call a meeting of the Board. All meetings of the Board of the Authority, including, without limitation, regular, adjourned regular, special and adjourned special meetings will be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54590 of the Government Code of the State of California).

7.5 Quorum. Seventy percent (70%) of the total number of authorized directors shall constitute a quorum for the transaction of business. Except for acts requiring a two-thirds (2/3) vote under these Bylaws or the Agreement, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is an act of the Board.

7.6 Rules of Order. The Board shall adopt rules of order to govern the conduct and procedure of Board meetings.

7.7 Minutes. The Board will keep or cause to be kept written minutes of its proceedings, except executive sessions.

7.8 Fees and Compensation of Directors. Directors and members of committees may receive reimbursement of expenses as may be determined by resolution of the Board to be just and reasonable.

- 7.9 Delegation of Powers. Except as otherwise provided in the Agreement and these Bylaws, the Board may delegate any of its powers by a two-thirds (2/3) vote of the Board.

ARTICLE VIII BOARD COMMITTEES

- 8.1 Committees. Upon written notice to the Board, the Chair may designate one (1) or more committees, each consisting of two (2) or more directors and, in a director's absence, their alternates, and one (1) or more ex-officio Members, if any, to be ratified by and serve at the pleasure of the Board, and to exercise such powers as may be delegated to it, except that no committee may:
- (a) take any final action on matters which, under the Agreement, require approval by a majority or two-thirds (2/3) vote of the Board;
 - (b) amend or repeal the Bylaws or adopt new Bylaws;
 - (c) amend or repeal any resolution of the Board;
 - (d) appoint any other committees of the Board or the members of these committees;
or
 - (e) approve any transaction which would violate the Political Reform Act (commencing with Section 81000 of the Government Code of the State of California) and/or Section 1090 of the Government Code of the State of California.
- 8.2 Meetings and Actions of Committees. Meetings and actions of any committees will be governed by, and held and taken in accordance with, the provisions of Sections 7.4-7.5 of these Bylaws, concerning meetings of directors, with such changes in the context of those Sections as are necessary to substitute the committee and its members for the Board and its members, except that the meetings of committees may be called by the committee. Minutes will be kept of each meeting of any committee and will be filed with the Authority records.

ARTICLE IX OFFICERS

- 9.1 Officers. The officers of the Authority are the Chair, Vice-Chair, Executive Director, Secretary, Chief Financial Officer and Legal Counsel. The Chair and Vice-Chair are elected officers. All directors are eligible to serve as an officer of the Authority. The Executive Director, Secretary, Chief Financial Officer and Legal Counsel shall serve at the pleasure of the Board, subject to the rights by any officer under an employment contract, if any, with the Authority. Any number of offices may be held by the same

person, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as the Executive Director.

- 9.2 Election of Officers. At the first meeting of the Board, and as necessary thereafter, nominations for the offices of Chair and Vice-Chair, will be made and seconded by a director. If more than two (2) names are nominated for any one office, balloting occurs until a nominee receives a majority of the votes cast; provided that after the first ballot the nominee receiving the fewest votes will be dropped from the balloting. The initial term of the elected officers shall run from the date of their election to office until June 30, 2002. Thereafter, each elected officer serves a term of one (1) year. An elected officer may succeed himself/herself and may serve any number of consecutive or non-consecutive terms.
- 9.3 Removal of Elected Officers. An elected officer may be removed, with or without cause, by a majority vote of the Board at a regular or special meeting.
- 9.4 Vacancies. Any vacancy in the offices of Executive Director, Secretary, Chief Financial Officer and Legal Counsel because of death, resignation, removal, disqualification, or any other cause will be filled for the balance of the vacated term in the manner prescribed in these Bylaws for regular appointments to that office; provided, however, that such vacancies may be filled at any regular or special meeting of the Board.
- 9.5 Resignation of Officers. In the absence of a contrary written agreement, any officer may resign at any time by giving written notice to the Executive Director or Secretary. Any resignation takes effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in that notice, the acceptance of the resignation is not necessary to make it effective.
- 9.6 Responsibilities of Officers.
- (a) **Chair of the Board.** The Chair of the Board presides at meetings of the Board and exercises and performs such other powers and duties as may be from time to time assigned to him/her by the Board or prescribed by these Bylaws.
 - (b) **Vice-Chair of the Board.** The Vice-Chair of the Board fulfills all the duties of the Chair in his/her absence.
 - (c) **Executive Director.** Subject to such supervisory powers as may be given by the Board to the Chair of the Board, and except as provided in Section 9.6(g) below, the Executive Director generally supervises, directs, and controls the business and the employees of the Authority. He or she has such other powers and duties as may be prescribed by the Board or these Bylaws.
 - (d) **Secretary.** The Secretary will:
 - (1) Book of Minutes. Keep or cause to be kept, at the principal executive office of the Authority or such other place as the Board may direct, a book

of minutes of all meetings and actions of directors and committees of the Authority, with the time and place of holding the meeting, whether regular or special, and, if special, how authorized, the notice given, the names of those present and absent at such meetings and the proceedings of such meetings.

- (2) Notices and Other Duties. Prepare, give, or cause to be given, notice of, and agendas for, all meetings of the Board and committees of the Authority. He or she has such other powers and performs such other duties as may be prescribed by the Board.

(e) **Chief Financial Officer.** The Chief Financial Officer performs as follows:

- (1) Books of Account. The Chief Financial Officer keeps and maintains, or causes to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of Authority, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements. The books of account will be open to inspection by any director at all reasonable times.
- (2) Deposit and Disbursement of Money and Valuables. The Chief Financial Officer deposits all money and other valuables in the name and to the credit of the Authority with such depositories as may be designated by the Board; disburses the funds of the Authority as may be ordered by the Board; renders to the Board, whenever they request it, an account of all of his/her transactions as Chief Financial Officer and of the financial condition of the Authority; and has such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.
- (3) Bond. The Chief Financial Officer will give the Authority a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his/her office and for restoration to the Authority of all its books, papers, vouchers, money, and other property of every kind in his/her possession or under his/her control on his/her death, resignation, retirement, or removal from office.

(f) **Legal Counsel.** Legal counsel will perform all legal duties and responsibilities of the Authority assigned to him/her by the Board or the Executive Director.

(g) **Construction of the Transbay Terminal Project.** Notwithstanding the provisions of subsection (c), the Board may designate a person or entity to oversee all aspects of construction of the Transbay Project (including design and project controls related to construction), who shall take direction from and report directly to the Board and who shall also inform the Executive Director of such actions. Without limiting the foregoing, the Board may authorize the Authority to

enter into an agreement with the City's Department of Public Works to perform this function.

- 9.7 Fees and Compensation. The officers may receive such compensation and reimbursement of expenses as may be determined by resolution of the Board to be just and reasonable.

ARTICLE X
ADMISSION, WITHDRAWAL, SUSPENSION AND EXPULSION

- 10.1 Conditions for Admission of a New Member. Each applicant for membership in the Authority will meet the following minimum qualifications:

- (a) such new Member must be a public entity in the State of California;
- (b) adopt a resolution by its governing body approving entry into the Authority, designating a director, authorizing the execution of the Agreement, and acknowledging these Bylaws;
- (c) be approved for admission to the Authority only upon concurrence of the Members, as evidenced by an amendment to the Agreement; and,
- (d) pay such fees, expenses and costs as may be set by the Board.

- 10.2 Conditions to Permitting Withdrawal of a Member. A Member may withdraw provided that the following conditions are satisfied:

- (a) such Member is not in default under the terms of the Agreement or these Bylaws, of any contract executed by the Member in connection with any Authority project, any bond or other evidence of indebtedness for which the Member has agreed to assume responsibility in whole or in part;
- (b) such withdrawal will not cause the Authority to be in default or breach of any agreement to which it is a party, or of any bond or other evidence of indebtedness issued by the Authority;
- (c) not later than one hundred and eighty (180) days immediately preceding the effective date of such withdrawal, such Member has provided written notice to the Authority of its intent to withdraw;
- (d) such withdrawal is effective on the June 30th following the time period specified in Section 10.2(c); and,
- (e) at the time of withdrawal, there will be no less than two (2) directors remaining on the Board. In the event fewer than two (2) directors would be authorized, said Member may not withdraw until all principal of and interest on any and all bonds and other evidences of indebtedness issued by Authority have been paid in full.

Notice to withdraw is revocable by the Member if such written revocation is received by the Authority no later than June 1 following the end of the notice period specified in Section 10.2(c).

- 10.3 Conditions to Permitting Suspension of a Member. The Board of the Authority may suspend a Member from the Authority subject to the following conditions:
- (a) the Member is in default under the terms of the Agreement, these Bylaws, any contract executed by the Member in connection with any Authority project, any bond or other evidence of indebtedness for which the Member has agreed to assume responsibility, in whole or in part;
 - (b) the Authority has given written notice of the default described in subsection (a) to the defaulting Member;
 - (c) not earlier than thirty (30) days after transmittal of the notice, two-thirds (2/3) of the Board votes to suspend said Member;
 - (d) a suspended Member has no rights to participate as a voting Member in the meetings of the Board until it is reinstated, however a suspension does not relieve said Member from any financial obligation it may have; and,
 - (e) a Member suspended from the Authority may be readmitted upon a unanimous vote of the Board to readmit said Member; and such readmission will not cause the Authority to be in default or breach of any agreement to which it is a party; or of any bond or other evidence of indebtedness issued by the Authority.
- 10.4 Conditions to Permitting Expulsion of a Member. The Authority may expel a Member from the Authority subject to the following conditions:
- (a) the Member is in default under the terms of the Agreement, these Bylaws, any contract executed by the Member in connection with any Authority project, any bond or other evidence of indebtedness for which the Member has agreed to assume responsibility, in whole or in part;
 - (b) the Authority has given written notice of the default described in subsection (a) to the defaulting Member;
 - (c) not earlier than thirty (30) days after transmittal of the notice, two-thirds (2/3) of the Board votes to expel said Member; and
 - (d) a Member expelled from the Authority shall not be readmitted to the Authority.

ARTICLE XI EVENTS OF DEFAULT AND REMEDIES

11.1 Events of Default Defined. The following are “events of default” under the Agreement and these Bylaws, and the terms “events of default” and “default” means, whenever they are used in the Agreement and these Bylaws, with respect to a Member, any one or more of the following events:

- (a) such Member: (i) assigns its rights, claim, or interest it may have under the Agreement; (ii) fails to appoint a director and/or an alternate to serve on the Board; (iii) withdraws from the Authority such that the withdrawal adversely affects any bonds, liabilities or other forms of indebtedness of the Authority; (iv) fails to comply with these Bylaws; or (v) fails to comply with any contract executed by the Member in connection with any project undertaken by the Authority, any bond or other evidence of indebtedness for which the Member has agreed to assume responsibility, in whole or in part;
- (b) failure by such Member to pay fees, if any, assessed by the Board; or
- (c) the filing by such Member of a case in bankruptcy, or the subjection of any right or interest of such Member under the Agreement or these Bylaws to any execution, garnishment or attachment, or adjudication of such Member as bankrupt, or assignment by such Member for the benefit of creditors, or the entry by such Member into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Member in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar act which may hereafter be enacted.

11.2 Cure Period. A Member shall not be in default under the Agreement or these Bylaws unless such Member shall fail to correct such default for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to such Member by the Authority or the Executive Director; provided, however, if the failure stated in the notice cannot be corrected within the applicable period; the Authority, or the Executive Director, as the case may be, will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Member within the applicable period and diligently pursued until the default is corrected. After such an extension, failure to diligently pursue or to achieve corrective action is a separate “event of default” under Section 11.1 of these Bylaws requiring notice but not requiring that Authority consent to any extension;

11.3 Remedies on Default.

- (a) Whenever any event of default referred to in Section 11.1(a) of this Article has occurred and is continuing, it will be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to the Agreement and these Bylaws.

(b) In the event that the Authority elects to suspend or expel any defaulting Member, subject to the conditions described and in the manner provided in Sections 10.3 and 10.4, respectively, of these Bylaws, the Member nevertheless agrees to pay the Authority all costs, losses or damages arising or occurring as a result of such default, and administrative and legal costs incurred in noticing the default and effecting the suspension.

11.4 No Remedy Exclusive. No remedy conferred herein upon or reserved to the Authority is intended to be exclusive and every such remedy is cumulative and is in addition to every other remedy given under the Agreement or these Bylaws, now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default impairs any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in these Bylaws, it is not necessary to give any notice, other than such notice as may be required in these Bylaws or by law.

11.5 Agreement to Pay Attorneys' Fees and Expenses. In the event a Member should be in default under any of the provisions of these Bylaws and the Authority should employ attorneys or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting Member, the defaulting Member agrees that it will on demand therefor pay to the Authority the reasonable fees of such attorneys and such other expenses so incurred by the Authority.

11.6 No Additional Waiver Implied by One Waiver. In the event any agreement contained in the Agreement and these Bylaws should be breached by any Member and thereafter waived by the other Members, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

ARTICLE XII ADMINISTRATOR

The City is designated in the Agreement as the “Administrator” for the Authority. As such, the City will provide necessary administrative services for the Authority pursuant to an administrative services agreement. If the City and County of San Francisco ceases to serve as the Administrator, the Board may appoint a successor entity, agency, person, firm or corporation, including a nonprofit corporation, to serve as the Administrator to execute the provisions of the Agreement and implement programs undertaken by the Authority.

ARTICLE XIII TERMINATION

- 13.1 Time of Termination. The Authority may be terminated upon the written consent of two-thirds (2/3) of the Members if the effective termination date and such written consents are delivered to the Authority and the Secretary at least sixty (60) days prior to the effective termination date provided that all principal of and interest on any and all bonds and other evidences of indebtedness issued by the Authority are paid in full.
- 13.2 Continuing Obligations. After the termination date, the Authority will continue to be obligated to pay, or cause to be paid any amounts due for winding up its affairs, including but not limited to any litigation costs and/or extraordinary costs associated with a financing transaction. After the effective termination date, each Member has a continuing obligation to pay any fees assessed prior to the effective termination date.
- 13.3 Distribution of Assets. In the event any assets remain after winding up the affairs of the Authority, such sums will be distributed to the City and County of San Francisco.

ARTICLE XIV AMENDMENTS

- 14.1 Amendment by Directors. Subject to the limitations set forth below, the Board may adopt, amend or repeal the Bylaws. Such power is subject to the following limitations:
- (a) The Board may not alter, amend or repeal a Bylaw provision fixing the authorized number of directors or the minimum and maximum number of directors.
 - (b) If any provision of these Bylaws requires the vote of a larger proportion of directors than a simple majority, such provision may not be altered, amended or repealed except by vote of such larger number of directors.
 - (c) The Board may not alter, amend, or repeal Bylaw provisions requiring compliance with the Agreement.

ARTICLE XV RECORDS AND REPORTS

- 15.1 Maintenance of the Authority Records. The Authority will keep:
- (a) Adequate and correct books and records of account; and,
 - (b) Minutes in written form of the proceedings of its Board, and committees of the Board.

All such records will be kept at the Authority's principal executive office.

- 15.2 Inspection Rights.

- (a) Any Member may inspect the accounting books and records and minutes of the proceedings of the Board and committees of the Board, at any reasonable time, for a purpose reasonably related to such person's interest.
- (b) Any inspection and copying under this Section may be made in person or by an agent or attorney or the entity entitled thereto and the right of inspection includes the right to copy and make extracts.

15.3 Maintenance and Inspection of Agreement and Bylaws. The Authority will keep at its principal executive office the original or copy of the Agreement and these Bylaws are amended to date, which will be open to inspection by the Authority or any Member at all reasonable times during office hours.

15.4 Inspection by Directors. Every director has the absolute right at any reasonable time to inspect all non-confidential books, records, and documents of every kind and the physical properties of the Authority. This inspection by a director may be made in person or by an agent or attorney, and the right of inspection includes the right to copy and make extracts of documents.

15.5 Financial Report.

- (a) Not later than January 1st after the close of Authority's fiscal year, the Board will cause an annual report prepared by a certified public accountant to be sent to the governing body of each Member.
- (b) The report required by this Section will be accompanied by any report thereon of independent accountants, or, if there is no such report, by the certificate of an authorized officer of the Authority that such statements were prepared without audit from the books and records of the Authority.

15.6 Fiscal Year. The Authority's fiscal year is July 1 to June 30.

ARTICLE XVI CONFLICTS OF INTEREST CODE

The Authority shall be subject to the conflict of interest rules set forth in the Political Reform Act (commencing with Section 81000 of the Government Code of the State of California) and Sections 1090 et seq. of the Government Code of the State of California, and the Authority shall adopt a conflict of interest code as required and as provided by the implementing regulations of the Political Reform Act.

ARTICLE XVII CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Civil Code will govern the construction of these Bylaws. Without limiting the generality of the above, the term “person” includes both the Authority and a natural person and any capitalized term not defined in these Bylaws will have the meaning ascribed to it in the Agreement.

ARTICLE XVIII
EFFECTIVE DATE

These Bylaws shall go into effect immediately upon the effective date of the Agreement.

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS
RULES OF ORDER**

ARTICLE I – AUTHORITY

The Transbay Joint Powers Authority (“Authority”) adopts these Rules as required by Section 7.6 of the Authority Bylaws, to govern the conduct of meetings of the Board of Directors (“Board”). In the event of a conflict between these Rules and the Bylaws, the Bylaws shall govern.

ARTICLE II – DIRECTORS AND OFFICERS

Section 1. Chair of the Board

The Chair shall call Board meetings to order, preside at all meetings and shall perform other duties as necessary or incidental to the office. The Chair may create committees to perform advisory functions as he/she shall determine, and may appoint and remove at his/her pleasure, members from such committees. Every regular and special meeting agenda shall be approved by the Chair prior to posting by the Secretary.

Section 2. Vice-Chair of the Board

In the absence or inability of the Chair to act, the Vice-Chair shall take the place of and perform the duties of the Chair.

Section 3. Executive Director

The Executive Director shall provide a report to the Board at every regular meeting to update the Directors on matters within the Authority’s jurisdiction. Items for consideration by the Board at any meeting will be scheduled at the discretion of the Executive Director or Chair

Section 4. Chief Financial Officer

The Chief Financial Officer shall provide a report to the Board on the Authority’s finances at regular meetings or upon the request of any Board member. The report of the Chief Financial Officer shall be listed on the agenda as an action or discussion item at the discretion of the Chair.

Section 5. Secretary of the Board

The Secretary of the Board shall call the roll at each Board meeting, call each item on the agenda, and record all votes by Directors. The Secretary shall assist the presiding officer as necessary to assure that meetings are orderly. The Secretary shall maintain a file of all written communications received by the Authority, and shall file all recordings and meeting minutes as provided in Article IV, Section 7.

ARTICLE III – PUBLIC PARTICIPATION

Section 1. Open Meetings

Official business of the Authority shall be conducted through open and public meetings in accordance with the Ralph M. Brown Act (commencing with Section 54590 of the California Government Code). The Authority shall provide for increased public notice as set forth in these Rules of Order.

Section 2. Public Participation

The Authority shall encourage and permit public comment on matters within the Authority's jurisdiction. The Chair or presiding officer shall request public comment before Board action is taken any item on the official agenda.

ARTICLE IV – MEETINGS AND ORDER OF BUSINESS

Section 1. Meeting Times and Location

The Board shall hold regular meetings on the second Thursday of the month at 9:30 a.m., beginning July 10, 2008, in City Hall, Room 416, 1 Dr. Carlton B. Goodlett Place, San Francisco. The Board shall not meet during the week of Thanksgiving, and shall not meet between December 24th and December 31st.

Section 2. Special Meetings and Closed Sessions

The Board may hold special meetings at the call of the Chair or Vice-Chair, or upon the written request of four Directors. Special meetings may be held at the regular meeting location, or at an alternate location, in accordance with Section 54956 of the Brown Act. The Board may also meet in closed session in accordance with the Brown Act. After every closed session, the Board shall reconvene in open session and publicly report any action taken in closed session as required by Section 54957.1 of the Brown Act.

Section 3. Posting of Agenda

At least 72 hours before any meeting the Board Secretary shall post an agenda containing a general description of each item of business to be transacted or discussed at the meeting. The agenda shall be posted in a location that is freely accessible to the public, and on the Authority's Internet site. The Secretary shall provide copies of each meeting's agenda directly to the public agency members of the Authority for posting within each member's geographic area of jurisdiction.

Section 4. Agenda - General Public Comment

The agenda for every regular and special meeting of the Authority shall provide a time for general public comment, and the presiding officer shall allow members of the public to

address the Board of Directors on items of interest to the public that are within the jurisdiction of the Authority. During the public comment period members of the public may address the Board for up to three minutes. The Chair or presiding officer may limit the total amount of time allocated for public testimony on particular issues and for each individual speaker, when necessary to allow other individuals to speak or to maintain order. At the conclusion of public comments the Board may refer the proposal to the Executive Director or staff for review.

Section 5. Order of Business

The Order of Business for regular meetings shall be as follows:

1. Call to Order
2. Roll Call
3. Communications
4. Board of Director's New and Old Business
5. Executive Director's Report
6. Public Comment
7. Calendar Matters
8. Adjournment

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that Board members, officers and staff may briefly respond to statements made or questions posed by members of the public during any public comment period. Notwithstanding the foregoing limitation, the Board may take action on items of business not appearing on the agenda in an emergency, where immediate action is needed on an item which became known after the agenda was posted, or where the item was continued from a prior meeting, provided that the Board identifies the item and votes to proceed as required by Section 54954.2 of the Brown Act.

Section 6. Agenda Changes or Continuances.

Any agenda change or continuance shall be announced at the beginning of the meeting, or as soon thereafter as the change or continuance becomes known to the presiding officer.

Section 7. Minutes of Proceedings

The Secretary shall audio record each regular and special meeting and shall create a minute book for all closed sessions. The Secretary shall record the vote on all resolutions, motions and all other questions and make a draft of the minutes available for inspection and copying no later than ten working days after the meeting. The officially adopted minutes must be available for inspection and copying no later than ten working days after the meeting at which the minutes are adopted.

ARTICLE V – PARLIAMENTARY PROCEDURE

Section 1. Quorum

Authority business shall be conducted by the Board of Directors only when a quorum of the Board is present. The term “quorum” shall mean 70% (i.e., 5 out of 7 ~~4 of 5~~) of the Directors of the Authority. Board Committees are not subject to the quorum rule.

Section 2. Rules of Debate.

When a Director desires to address the board, the member shall seek recognition by addressing the presiding officer, and when recognized, shall proceed to speak, confining comments to the question before the Board. No discussion shall take place until a resolution or a calendared item has been introduced. The Secretary of the Board shall act as parliamentarian and determine all questions of order.

Section 3. Majority Vote.

The Board may act by resolution or motion. All official acts of the Board in open meetings shall be taken by majority vote of the members present (i.e., at least 3 ayes if 5 members are present, at least 4 ayes if either 6 or 7 members are present), on a resolution or motion introduced and seconded by a Director, after allowance for discussion by the Board and public comment.

ARTICLE VI - RULES OF ORDER

Section 1. Adoption of Rules of Order.

The adoption of the Rules of Order shall be by motion and shall require an affirmative-recorded vote of a majority of the members of the board. When adopted, such Rules of Order shall remain in effect, unless suspended or amended as provided herein.

Section 2. Suspension of the Rules of Order.

Except for this rule, and as authorized by other provisions of law, any of these Rules of Order may be suspended by the affirmative vote of the majority of the members of the Board, provided that such suspension is entered upon the minutes of the Board. A motion to suspend the rules is an official action subject to Article V, Section 3.

Section 3. Amendments to Rules of Order.

An amendment to the Rules of Order may be adopted by the affirmative vote of a majority of the members of the board.

AMENDED: November 9, 2017

AMENDED: May 15, 2008

AMENDED: May 30, 2003

ADOPTED: June 12, 2001