



Agenda Item No. (3)

To: Rules, Policy and Industrial Relations Committee/Committee of the Whole
Meeting of June 27, 2025

From: Denis J. Mulligan, General Manager

Subject: **RESCIND RESOLUTION NOS. 2020-049 AND 2023-010, REVISE THE STRATEGIC PLAN, AND AUTHORIZE THE GENERAL MANAGER TO TAKE ANY OTHER ACTIONS NECESSARY TO COMPLY WITH THE FEDERAL TRANSIT ADMINISTRATION MASTER AGREEMENT, FEDERAL HIGHWAY ADMINISTRATION GRANT AGREEMENTS AND UNITED STATES DEPARTMENT OF TRANSPORTATION GUIDANCE**

Recommendation

The Rules, Policy and Industrial Relations Committee recommends the Board of Directors approve the following actions:

1. Rescind Board Resolution No. 2020-049;
2. Rescind Board Resolution No. 2023-010;
3. Revise the Final 2024 Strategic Plan; and,
4. Authorize the General Manager to take any other actions necessary to ensure the Golden Gate Bridge, Highway and Transportation District is in compliance with the Federal Transit Administration Master Agreement 33, as may be superseded by future versions, and Federal Highway Administration grant agreements, and United States Department of Transportation guidance.

This matter will be presented to the Board of Directors at its June 27, 2025, meeting for appropriate action.

Summary

Federal Transit Administration ("FTA") grant agreements between the FTA and grant recipients incorporate the terms and conditions of the applicable FTA Master Agreement. Similarly, Federal Highway Administration (FHWA) grant agreements incorporate analogous terms to the FTA Master Agreement. As required by Executive Order 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," the most recent FTA Master Agreement 33, dated April 25, 2025 ("Master Agreement 33"), contains a new provision that subjects grant recipients to liability under the False Claims Act if a recipient fails to comply with "all applicable Federal anti-

discrimination laws," or if a Recipient operates any programs "promoting" DEI initiatives that violate any applicable Federal anti-discrimination laws at the time a Recipient requests FTA funds.

In a letter dated April 24, 2025 to all recipients of United States Department of Transportation ("U.S. DOT") assistance, U.S. DOT Secretary Sean Duffy provided the following guidance regarding the types of programs promoting DEI that violate applicable federal anti-discrimination laws: "Whether or not described in neutral terms, any policy, program, or activity that is premised on a prohibited classification, including discriminatory policies or practices designed to achieve so called 'diversity, equity, and inclusion,' or 'DEI,' goals, presumptively violates Federal law."

FTA grant agreements executed after April 25, 2025 are subject to Master Agreement 33, and staff anticipates that future FHWA grant agreements, including the \$400 million Bridge Investment Program grant, will contain the same new terms required by Executive Order 14173.

Accordingly, staff recommends making the policy changes and delegating the authority to the General Manager described below to ensure the Golden Gate Bridge, Highway and Transportation District ("District") is in compliance with FTA Master Agreement 33, as may be superseded by future versions, FHWA grant agreements, and DOT guidance.

Rescind Resolution No. 2020-049

On July 24, 2020, the Board of Directors ("Board") approved Resolution No. 2020-049, which condemned racism and committed the District to ensuring its workforce, facilities, and services are safe and free of discrimination. Although not in violation of applicable federal anti-discrimination law, this Resolution authorized certain anti-discrimination efforts focused on specific racial groups and contains DEI language, which could be construed as inconsistent with U.S. DOT's interpretation of the new prohibition on DEI programs in Master Agreement 33. Therefore, staff recommends rescinding Resolution No. 2020-049 to align with the requirements in Master Agreement 33 and U.S. DOT guidance.

Rescind Resolution No. 2023-010

On January 27, 2023, the Board approved Resolution No. 2023-010, which authorized updates to the District's Procurement Manual to allow for the inclusion of Social Equity as an evaluation factor in some District best value procurements, as detailed in the related staff report. Although not in violation of applicable federal anti-discrimination law, this policy contains DEI language that could be construed as inconsistent with U.S. DOT's interpretation of the new prohibition on DEI programs in Master Agreement 33. Therefore, staff recommends rescinding Resolution No. 2023-010, removing the language allowing the District to consider Social Equity as an evaluation factor from the Procurement Manual, and not including Social Equity as an evaluation factor in future procurements, to align with the requirements in Master Agreement 33 and U.S. DOT guidance.

Revise the Final 2024 Strategic Plan

On May 24, 2024, the Board approved the District's Final 2024 Strategic Plan ("Strategic Plan"). The Strategic Plan is a living document subject to change year-to-year as initiatives are completed, restructured, deferred or withdrawn, or as new ideas, concepts and initiatives are added. Approval of the Strategic Plan did not constitute the approval of any of the specific initiatives within the

Strategic Plan. Prior to the implementation of any specific initiative, further staff analysis will be completed and as required by Board policy, each initiative of the Strategic Plan will be brought through the Board's committee structure and then forwarded to the Board for consideration and possible approval.

Although not in violation of applicable federal anti-discrimination law, initiatives 5, 30, and 35 in the Strategic Plan contain DEI language that could prompt scrutiny by the federal government. Initiative 5 is "Prioritize equity as a criterion when planning and implementing transit service, with a focus on providing robust service within equity-priority communities that have significant concentrations of underserved populations." Initiative 30 is "Study the effectiveness of all staff training, including training on sexual harassment and implicit bias." Initiative 35 is "Complete the work of the GGB Board's Advisory Committee on Diversity, Equity and Inclusion and implement its recommendations." Staff recommends withdrawing initiatives 5 and 35 from the Strategic Plan, and revising initiative 30 to remove the reference to "implicit bias," to align with the requirements in Master Agreement 33 and U.S. DOT guidance.

Authorize the General Manager to Take Actions Necessary to Comply with the FTA Master Agreement and U.S. DOT Guidance

Staff recommends authorizing the General Manager to take any other actions necessary to ensure the District is in compliance with FTA Master Agreement 33, as may be superseded by future versions, FHWA grant agreements, and U.S. DOT guidance. For example, such actions may include but are not limited to, revising contracting procedures or personnel policies.

Fiscal Impact

There is no fiscal impact associated with these actions.

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