

# San Francisco Bay Trail Project

## Board of Directors

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April 28, 2023

Agenda Item 7.a.

San Francisco Bay Trail Nonprofit

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### Subject:

Report on the Public Support Percentage Required to Maintain Bay Trail Nonprofit Status

### Background:

On March 23, 2023 MTC/Bay Trail staff were notified by Senior Accountant, Rose Lapada Liu, in Finance and Accounting at MTC regarding the inability of the Bay Trail Nonprofit to meet the public support percentage required to maintain 501(c)3 tax status.

In March 2023, MTC Finance and Accounting prepared the SF Bay Trail tax return for the fiscal period July 1, 2021 through June 30, 2022. Part of the required form is the Schedule A: Part II: Section C, under Question 16, which references a 33 1/3% public support test requirement the organization has to meet in the current or prior fiscal year.

It was brought to Bay Trail staff's attention that because fiscal year end (FYE) June 30, 2022, line 14 is less than 33 1/3%, FYE June 30, 2023 should either obtain contributions from the general public (not from a selected few which is excluded on line 5) or quantify amounts that could be reported on line 3 (value of services or facilities furnished by ABAG) for FYE June 30, 2019, to June 30, 2023. As of March 22, 2023, the Bay Trail only received a total of \$4,765.25, which means the nonprofit is not likely to meet the 33 1/3% requirement for this fiscal year ending June 30, 2023.

### Issues:

If the Bay Trail Nonprofit does not meet the 33 1/3% requirement, then MTC accounting must use a 10% facts/circumstance test. If it fails this test, it will be classified as a private foundation – which will require SF Bay Trail to file a more extensive 990PF tax form, 30% of AGI deductibility limit for donors (instead of 60%), distribution to charity requirements, and excise taxes on investment income and prohibited transactions.

Staff recommend that the Board discuss fundraising opportunities to obtain further contributions from a more diverse general public to meet the 33 1/3% requirement.

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**Recommended Action:**

Information

**Attachments:**

None

**Reviewed:**

A handwritten signature in black ink that reads "Andrew Fremier". The signature is written in a cursive, flowing style.

Andrew Fremier