

# **San Francisco Bay Area Rapid Transit District**

2150 Webster Street, P. O. Box 12688, Oakland, CA 94612-2688



## **BOARD OF DIRECTORS DRAFT MINUTES OF THE 1,926<sup>TH</sup> MEETING THURSDAY, FEBRUARY 9, 2023**

### **Members of the Board of Directors**

Janice Li, President (District 8)

Mark Foley, Vice President (District 2)

Debora Allen (District 1)

Rebecca Saltzman (District 3)

Robert Raburn (District 4)

John McPartland (District 5)

Elizabeth Ames (District 6)

Lateefah Simon (District 7)

Bevan Dufty (District 9)

## **MEETING DESCRIPTION**

A Regular Meeting of the Board of Directors was held on February 9, 2023, convening at 9:02 a.m., via teleconference and in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361. President Li presided, April B. A. Quintanilla, District Secretary.

### **1. CALL TO ORDER**

President Li called the Meeting to order at 9:02 a.m.

#### **A. Roll Call.**

Directors Present in Oakland:	Directors Ames, Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li.
-------------------------------	--

Directors Present via Teleconference:	None.
---------------------------------------	-------

Absent:	None. Director Allen entered the Meeting later.
---------	---

#### **B. Pledge of Allegiance. Director McPartland led the Pledge of Allegiance.**

#### **C. Introduction of Special Guests.**

On behalf of the Board, Director Simon welcomed the Coliseum Connections residents to the Board Room as special guests of the Board of Directors and thanked the residents for attending the Board Meeting to address the Board.

Director Allen entered the Meeting in Oakland.

### **2. REPORT OF THE BOARD PRESIDENT**

President Li presented the Report of the Board President, noting that the Board would hold the Annual Board Workshop on February 23, 2023, in the Board Room; that the 2023 Board Meeting schedule had already been shared with all Directors; and that the order of agenda items would be changed. President Li also acknowledged and recognized the Coliseum Connections residents who took the time to attend the Board Meeting.

#### **Public Comment**

Aleta Dupree addressed the Board.

### **3. BOARD COMMITTEE REPORTS**

President Li announced that there were no reports under Item 3, Board Committee Reports.

#### 4. **BOARD MATTERS**

A. Resolution Commending LaVerda Allen.

President Li announced that Item 4-A would be continued to a future Board Meeting.

B. Presentation: Remote Participation of Elected Officials in Public Meetings Under Assembly Bill 2449.

*Item 4-B was presented to the Board after Item 14-A.*

Jeana Zelan Peterson, Associate General Counsel, presented the item.

##### Public Comment

Aleta Dupree addressed the Board.

##### Discussion

The item was discussed, with the following highlights:

Vice President Foley inquired about how the rules apply to non-Board meetings, such as Ad Hoc Committee and Capitol Corridor Joint Powers Authority Board meetings.

Jeana Zelan Peterson, Associate General Counsel, responded that the rules apply to committees subject to the Brown Act and that there would be a separate cap for each committee or legislative body.

Director Saltzman inquired about the application of the rules to BART committees that are comprised of members of the public and whether they had been advised of the new rules.

Associate General Counsel Zelan Peterson noted that the Brown Act applies to Board-appointed committees, therefore, the same rules apply to those committee members, and the public and she noted that she would advise the committees via memorandum.

President Li inquired whether BART advisory committees are managed by the District Secretary's Office (DSO).

April Quintanilla, District Secretary, noted that not all these committees are Brown Act regulated, although they are treated as such in the context of accountability and transparency. District Secretary April Quintanilla offered to reach out to the various committees with the necessary information.

President Li expressed intent to work supportively with the DSO to distribute the presentation with the Board-appointed advisory bodies and respond to any questions the committee members might have.

Director Raburn highlighted the need to offer this presentation and other vital information to each Board-appointed committee, ensuring that the advisory bodies are fully and directly briefed, if possible.

Action:

No Board action was taken, as the item was presented for information only.

**5. CONSENT CALENDAR**

President Li brought the following Consent Calendar items before the Board:

- A. Approval of Minutes of Meetings of December 1, 2022 (Regular).
- B. Resolution to Continue Virtual Meetings During the Pandemic.
- C. Authorize the General Manager to Negotiate and Execute a Maintenance and Operations Agreement for the Hercules Transit Center.
- D. Affordable Housing and Sustainable Communities Applications Agreements - Round 7.

Director Dufty moved to approve all Consent Calendar items by one motion.

Director McPartland seconded the motion.

Robert Powers, General Manager, noted for the record a change in the Affordable Housing and Sustainable Communities Applications Agreements, regarding project scope.

Public Comment

No comments were received.

Discussion

The item was discussed, with the following highlight:

Director Raburn concurred with the change outlined by General Manager Powers.

Action

The following actions were approved by unanimous roll call vote, upon motion by Director Dufty and second by Director McPartland:

- A. The Minutes of the Meeting of December 1, 2022, were approved. (*Vote: 9-0*)
- B. Resolution No. 5555, In the matter of Re-Authorizing the District's legislative and subordinate legislative bodies to utilize the provisions enacted by AB 361 to meet remotely with teleconferenced meetings during a re-proclaimed emergency as authorized by law in accordance with Government Code Section 54953(e) and other applicable provisions of the Ralph M. Brown Act for an additional period of thirty (30) days from the adoption of this Resolution, was adopted. (*Vote: 9-0*)

- C. The General Manager or a designee was authorized to negotiate and execute a maintenance and operations agreement as generally described above for the Hercules Transit Center. (The Executive Decision Document for Item 5-C referenced by this action is attached and hereby made a part of these Minutes.) *(Vote: 9-0)*
- D. The General Manager or his designee was authorized to enter into agreements required to apply for Round 7 of the Affordable Housing and Sustainable Communities grant program, including Memoranda of Understanding and Pass-Through Agreements to receive funds; and Agreements will be with some or all of the following parties:
- BRIDGE Housing
  - Pacific West Communities & the City of Richmond
  - Pacific West Communities, the Alameda County Transportation Commission, & the City of San Leandro
  - The Related Companies of California LLC, Satellite Affordable Housing Associates & the City of El Cerrito
  - The Related Companies of California LLC, Affordable Housing Access Inc., & the City of Dublin
  - Mercy Housing
  - Resources for Community Development
- (Vote: 9-0)*

*Vote Summary:*

*Moved / Seconded: Director Dufty / Director McPartland*

*Aye: Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li.*

*No: 0.*

*Abstain: 0.*

*Result: 9-0, motion carried by unanimous roll call vote.*

## **6. GENERAL MANAGER'S REPORT**

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

*Item 6-A was presented after Item 4-B.*

Robert Powers, General Manager, introduced Rodd Lee, Assistant General Manager, External Affairs, who reported on legislative meetings regarding the transit funding shortfall. General Manager Powers reported on BART's Transit and Intercity Rail Capital Program (TIRCP) award, the San Francisco Chinese New Year parade, the Diversity Employee Resource Group's return to in-person events, and the upcoming Black History Month celebration.

### **Public Comment**

Aleta Dupree addressed the Board.

## Discussion

The item was discussed, with the following highlights:

Director Raburn commended the scheduling of the upcoming Black History Month event, noting that the event would focus on the Port Chicago Explosion, and reminded all that the East Bay Regional Park District recently created a new park, the Thurgood Marshall Park.

President Li expressed gratitude to the Government and Community Relations team, particularly to Rodd Lee, Assistant General Manager, External Affairs, for a successful legislative trip to Sacramento, and indicated that she looked forward to a similar trip to Washington, D. C. in March 2023.

## **7. PUBLIC COMMENT**

President Li called for general Public Comment, an opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.

The following individuals addressed the Board:

Aleta Dupree  
Andrew Klein  
Mari

## **8. CONTROLLER-TREASURER'S REPORT**

- A. Quarterly Report of the Controller-Treasurer for the Quarters Ending June 30, 2022, and September 30, 2022.

*Item 8-A was presented to the Board after Item 6-A.*

President Li brought the item before the Board.

Chris Gan, Interim Controller-Treasurer, presented the item.

### Public Comment

Aleta Dupree addressed the Board.

### Discussion

The item was discussed, with the following highlights:

Director Allen inquired about the San Francisco Municipal Transportation Agency (SFMTA) figures and the outstanding payment owed to BART.

Chris Gan, Interim Controller-Treasurer, indicated that a meeting was scheduled with SFMTA and that the issue would be addressed.

President Li inquired about outstanding funds from SFMTA, the funds' source, and the purpose of the funds.

Interim Controller-Treasurer Gan clarified the SFMTA projects that are related to BART projects and explained the offer of payment with interest to BART.

**9. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS**  
**Director Saltzman, Chairperson**

A. Coliseum Connections Update.

*Item 9-A was presented to the Board after Item 7.*

Director Saltzman, Chairperson for the Planning, Public Affairs, Access and Legislation Commission, brought the item before the Board.

President Li recognized the urgency to create space to discuss the situation that the Coliseum Connections residents have been faced with, due to the flooding on New Year's Eve. President Li indicated that moving forward, BART would continue to work with Urban Core and other stakeholders to return residents to their homes.

Director Raburn noted that the Board heard from the residents and would continue to work to find solutions.

Carli Paine, Group Manager of Transit-Oriented Development, and Abigail Thorne-Lyman, Director of Real Estate and Property Development, presented the item.

Michael Johnson, President of Urban Core Development, addressed the Board, noting challenges and the decision to provide hotel accommodations for displaced residents.

**Public Comment**

The following individuals addressed the Board:

Kevin Jenkins  
Patricia Brooks  
Michelle Staratt  
Chris Ragland  
Alex Vila  
Davina Brown  
Terri Lowe  
Yasmeen Qanaan  
Nicole Hoskins  
Amal Sherrif  
Jasmine Braggs  
Genoa Kimbrell  
Leesa Williams  
Sway  
Tracy Peterson  
Tishayla  
Sid  
Farida Savai

Tache Daniels  
Kaila Mathis  
Antoinette  
Andre  
Miesha  
Lydia Boudouin  
Nik  
Shanice  
Fiki  
Ashley Z.  
Janiel B.  
Brandi J.  
Jedidiah Burton  
LaConnie  
Daimon White  
Dr. Anglyn Sasser  
Faviola  
Essence Washington  
Cynthia  
Salote Tehisi  
Andre Buchanan  
Andrea Hudson

Director Saltzman exited the Meeting.

### Discussion

The item was discussed, with the following highlights:

General Manager Powers reaffirmed commitment to working with the General Counsel's Office and the Metropolitan Transportation Commission (MTC) to provide preloaded Clipper® cards to all affected Coliseum Connections residents and families as a matter of priority. General Manager Powers also offered to explore BART parking improvements and additional security measures that may be available for affected residents and families.

Director Simon referenced legislation that supports individual liberty and self-determination, particularly those who struggled during the COVID-19 pandemic and were unable to meet rent payments. Director Simon inquired about the involvement of HSAs (Human Services Agencies), holding meetings, plans of action, development of a strike force or task force among disaster or emergency response managers, human services providers, and stakeholders to coordinate or communicate with one another, known cases of residents who may have applied for Federal Emergency Management Agency (FEMA) support including a possible request to FEMA by the Developer to hire Case Managers to work with affected tenants in completing paperwork that may have been denied. Director Simon thanked residents for sharing their stories and experiences and expressed gratitude to City officials and staff for highlighting the living conditions at the Coliseum Connections and for creating an environment for the community to be heard in ways that renders accountability.

Director Saltzman re-entered the Meeting in Oakland.



## Discussion

Discussion continued, with the following highlights:

Real Estate and Property Management Director Thorne-Lyman responded that BART was regularly meeting and coordinating both with the City and County Housing Departments and stakeholders to pull resources in support of Coliseum Connections residents, including capital improvements to the building; and that moving forward, Patricia Brooks, Chief of Staff for Councilmember Jenkins, had offered to be the contact person for coordinating additional HSA support and bringing those resources together.

Director Simon referenced funded HSA programs that may readily dispense housing vouchers and transportation support vouchers to residents whose health and safety may be compromised and offered to reach out to the HSA decision-making authority, liaise with Councilmember Jenkins' office, and coordinate with BART staff to facilitate support delivery for the affected community.

Director Dufty commented on engaging with BART transit-oriented development (TOD) staff leadership and the Maintenance and Engineering departments to address improvements to the parking lot and installation of trashcans, security cameras, and signs concerning respect for the neighborhood; accountability related to the importance of responding when issues are identified and following up by showing physical presence or occasional site visits; and the Efficient and effective use of BART's Government Affairs team. Director Dufty also noted that Board was eager and proficient in approaching high-level government officials and leveraging government power to promote community aims and objectives. Director Dufty inquired about the process for individuals whose vehicles have been damaged and the steps they must take to initiate a claim.

Urban Core Development President Michael Johnson responded to Director Dufty's inquiry.

President Li acknowledged that there are complexities associated with moving residents into temporary housing following the flooding incident and inquired about how the hotel placements were selected to accommodate displaced residents, and what other options, if any, were either previously explored, or potentially considered for the future.

Urban Core Development President Michael Johnson responded to President Li's inquiry.

President Li encouraged Urban Core Development to ensure that families are kept together while exploring other options beyond hotels because temporary housing options are more economical.

Director Ames requested that Urban Core Development commit to a timeline to conclude their coordination and work with City officials because of the need to expedite the process as residents wish to return to their homes promptly. Director Ames also inquired about the available funding from the Alameda County Housing Department for the Coliseum Connections electrical repair needs and a detailed timeline to seek or expedite for the County Board of Supervisors' approval.

Vice President Foley commended the residents for their efforts to seek solutions amid the emergency and for bringing their situation to BART's attention. Vice President Foley reaffirmed BART's commitment to building TODs and strong communities that bring people together and create a sense of independence and healthy living. Vice President Foley suggested that BART support the residents with pre-loaded Clipper® cards and parking permits for BART's parking lots; emphasized the importance of BART's commitment to TODs, lease agreements, and BART's role in ensuring that the property is efficiently and effectively managed and maintained in accordance with established procedures, rules and regulations,

moving forward; and encouraged the Urban Core Development management team to organize weekly meetings with residents and to regularly provide them factual updates to bridge the information gap and mitigate feelings of being unheard.

President Li inquired whether the Oakland City Council had agendaized the Coliseum Connections flooding incident to be heard at any of its meetings or if there were plans to do so.

TOD Group Manager Paine responded to President Li's inquiry.

Director Dufty clarified that there had been public comment on the item, and a commitment to hear the item at the next Oakland City Council meeting.

President Li inquired about liability and the mechanisms that may be available to the Board to render accountability.

Real Estate and Property Development Director Thorne-Lyman and Matthew Burrows, General Counsel, responded to President Li's inquiry.

President Li encouraged staff to integrate practical accountability tools in the future because the Board cares about the communities and residents we serve, and indicated that BART would continue to promote TOD items. President Li also expressed readiness to work with staff, gather questions from the Board, and work with the Government and Community Relations team to develop a list of questions for Urban Core Development.

Director Raburn referenced an email indicating that countless persons displaced by the flooding might soon be homeless and expressed concern about the needs of the affected residents and the limited resources available to house them for the duration of the repairs.

Director Dufty summarized two questions asked by the residents, to which responses were pending, regarding how to obtain paperwork to end a tenancy from FPI Property Management and the presence of mold in the Coliseum Connections building. Director Dufty requested that staff monitor inspections and assist the affected residents with meeting the inspectors.

Director Allen addressed the issue of insurance and noted that the displaced residents should have been provided with the insurance policy information.

Director McPartland inquired whether the affected residents had been helped through the FEMA process, either at the BART or city-and county-levels.

Director Saltzman thanked all responders for their work and urged all stakeholders to keep working on finding solutions until every resident is back in their home and until everything they have lost is recovered. Director Saltzman inquired about providing tenants with free parking at any BART station of the tenants' choice.

General Manager Powers responded to Director Saltzman's inquiry.

Director Dufty addressed the need for case management and mental health support services and requested that staff work to ensure the required paperwork in the process is completed.

Action:

No Board action was taken, as the item was presented for information only.

**10. ADMINISTRATION ITEMS**  
**Director Dufty, Chairperson**

**A. Ridership Development Plan.**

*Item 10-A was presented to the Board after Item 8-A.*

Director Dufty, Chairperson of the Administration Committee, brought the item before the Board.

Pamela Herhold, Assistant General Manager, Performance and Budget; Alicia Trost, Chief Communications Officer; and Dave Martindale, Director of Marketing and Research, presented the item.

Public Comment

Aleta Dupree and Andrew Klein addressed the Board.

Discussion

The item was discussed, with the following highlights:

Director Simon expressed appreciation for the presentation, staff's work, and the presenters' enthusiasm.

President Li expressed gratitude for the presentation and commended the presenters and the new initiatives, indicating that the information represented a new era of connection with the public and riders.

Director Raburn commended the presentation and indicated that beyond gender and demographics, inclusivity at BART includes several modes of outreach, such as directional guidance and help with using bicycle amenities.

Director Ames commended the presenters for highlighting the public safety narrative and encouraged the presenters to showcase enclosed elevators and the installation of new fare gates as progress made on preventing fare-evasion. Director Ames also referenced other concerns with the BART system, such as the lack of wayfinding materials in some stations.

**B. Fare Policy Outlook 2024-2025.**

Director Dufty brought the item before the Board.

Assistant General Manager Herhold; Michael Eiseman, Director of Financial Planning; and Ryan Reeves, Principal Planner, presented the item.

Public Comment

Aleta Dupree and Clarence Fischer addressed the Board.

## Discussion

The item was discussed, with the following highlights:

Director Saltzman expressed enthusiasm about the presentation, specifically the Clipper® START and Bay Pass update because UC Berkeley students have long requested these options. Director Saltzman also expressed concern about the proposed fare surge of 5.5%, noting that the increase would be the largest increase since the BART Board initially approved discounted fares.

Director Simon expressed interest in monitoring similar situations regarding fare increases and declining ridership in other major cities such as Chicago, New York, and Austin. Director Simon also indicated that various ridership scenarios would be studied in a BART *Title VI* analysis.

Vice President Foley welcomed the presentation and recommended that staff provide the Board with information on the effects of accelerated implementation of the 50% Clipper® START discount in July 2023 and the potential outcomes of the acceleration. Vice President Foley inquired whether BART provides a fare schedule that shows the change for every stop when fare increases are under consideration.

Assistant General Manager Herhold noted that BART does include a comprehensive fare table for all full adult and discount fares when the Board considers fare increases.

Vice President Foley expressed an inclination to support the staff proposed fare increase methods and indicated a desire to explore and understand how the numbers will be managed and what the impacts will be.

Director Raburn expressed willingness to support the proposed 5.5% fare increase and the idea of accelerating the 50% discount as a promotion this year, noting that tables showing various trips should accompany the proposal to adopt the fare changes.

President Li expressed support for the proposal to increase the Clipper® START discount to 50%, and to implement the discount once the *Title VI* analysis is completed. President Li inquired whether there had been conversations about Bay Pass, or if individuals can ultimately pay into, and/or be eligible for the program.

Financial Planning Director Eiseman provided updates on several pass options researched as part of the fare integration business case.

President Li expressed support for, and inclination to move forward with fare increases, but noted that the proposed 5.5% is high, and urged staff produce and/or propose lower increases of 3% or 4%. President Li also requested that staff present the Board with different policy options for consideration as the budget season approaches.

Director Ames expressed opposition to the fare increases and indicated a desire to consider different rates, noting that increasing fares while attempting to increase ridership presents mixed messages.

Director Allen expressed support for increasing the fares with the proposed 5.5% rate and indicated that the Board should be aware that the riding public objects to fare increases and the District should be prepared to explain them. Director Allen also inquired about the availability of any study or survey that indicates riders' interest in returning to BART because they will receive a 50% discount.

Director Dufty expressed support for the inflation-based increase and commented on the importance of articulating and explaining the increase to the riding public.

Director McPartland expressed support for the 5.5% fare increases for two consecutive years and indicated that the increases will keep BART from falling off the fiscal cliff and maintain parity with inflation.

## **11. ENGINEERING AND OPERATIONS ITEMS**

### **Director Foley, Chairperson**

A. Award of Agreements for On-Call Architectural and General Engineering Services.

Vice President Foley, Chairperson of the Engineering and Operations Committee, brought the item before the Board.

Nikhila Pai, Senior Manager of Agreement Management, presented the item.

### Public Comment

Chuck Morganson addressed the Board.

Director Dufty moved that the General Manager be authorized to award the below listed Agreements to provide Architectural and General Engineering Services in an amount not to exceed \$40,000,000.00 each (\$320,000,000.00 total), pursuant to notification to be issued by the General Manager; and that the awards are subject to the District's Protest Procedures and Federal Transit Administration (FTA) requirements related to protests:

1. 6M8207 to Gannett Fleming, Inc., Oakland, CA
2. 6M8208 to HDR Engineering, Inc., Walnut Creek, CA
3. 6M8209 to HNTB Corporation/FMG Architects, a Joint Venture, Oakland, CA
4. 6M8210 to Jacobs Engineering Group, Inc., Oakland, CA
5. 6M8211 to Parsons Transportation Group, Inc., Oakland, CA
6. 6M8212 to PGH Wong Engineering, Inc., San Francisco, CA
7. 6M8213 to T.Y. Lin International/Transit Systems Engineering, Inc., a Joint Venture, Oakland, CA
8. 6M8214 to WSP USA Inc., San Francisco, CA

President Li seconded the motion.

### Discussion

The item was discussed, with the following highlights:

Director Allen commented on the Professional Liability Insurance Program (PLIP) related to eight prior contracts and the lack of transparency and accountability in this process. Director Allen also inquired about whether prior PLIP issues were addressed, professional liability coverage for subconsultants, the amounts paid by BART on the eight prior contracts, and the lack of information presented to the Board regarding the expenditures for the prior contracts.

Michael Jones, Deputy General Manager, responded to Director Allen's inquiries.

Director Allen commented on the motion proposed in the Executive Decision Document (EDD) and expressed concern about the lack of accountability for spending and potential conflicts of interest.

Director Allen recommended that motion proposed in the EDD be amended to reflect a change in the dollar amount to \$5,000,000.00 from \$40,000,000.00, and made the following substitute motion: That the General Manager be authorized to award the below listed Agreements to provide Architectural and General Engineering Services in an amount not to exceed \$5,000,000.00 each (\$40,000,000.00 total), pursuant to notification to be issued by the General Manager; that the awards are subject to the District's Protest Procedures and Federal Transit Administration (FTA) requirements related to protests; and that each contract shall undergo an audit by the Office of Inspector General at 50% completion mark to ensure compliance with all contract provisions and State and Federal Laws:

1. 6M8207 to Gannett Fleming, Inc., Oakland, CA
2. 6M8208 to HDR Engineering, Inc., Walnut Creek, CA
3. 6M8209 to HNTB Corporation/FMG Architects, a Joint Venture, Oakland, CA
4. 6M8210 to Jacobs Engineering Group, Inc., Oakland, CA
5. 6M8211 to Parsons Transportation Group, Inc., Oakland, CA
6. 6M8212 to PGH Wong Engineering, Inc., San Francisco, CA
7. 6M8213 to T.Y. Lin International/Transit Systems Engineering, Inc., a Joint Venture, Oakland, CA
8. 6M8214 to WSP USA Inc., San Francisco, CA

Director McPartland seconded the motion.

Director Raburn noted that there was an agreement reached with the public in 2016 when voters approved the BART Safety, Reliability and Traffic Relief Program (Measure RR) and that the agreement emphasized the understanding that capital spending commitments to rebuild BART would incentivize economic growth opportunities for the community. Director Raburn commented on the number of subconsultants that were Disadvantaged Business Enterprises, Small Business Enterprises, and unique to working inside the market area and expressed support for the original motion.

Maceo Wiggins, Director of the Office of Civil Rights, offered comments regarding the PLIP.

Director Ames expressed support for Director Allen's substitute motion; commented on staff working to ensure greater accountability and transparency; and expressed disappointment that the Board was not provided with a list of the projects with the size of budgets that validated the \$40 million price per contract.

Director Saltzman inquired about how quickly the District would expend the \$5 million if the substitute motion were approved.

Sylvia Lamb, Assistant General Manager, Infrastructure Delivery, responded to Director Saltzman's inquiry.

Director Saltzman requested that staff periodically provide the Board with updated information when there are significant updates or when items are updated.

Director McPartland inquired about the number of pending projects; expressed a desire to propose a substitute motion to change the dollar amount to \$10,000,000.00 from \$5,000,000.00; and commented on transparency and reporting.

Director McPartland made a substitute motion that the General Manager be authorized to award the below listed Agreements to provide Architectural and General Engineering Services in an amount not to exceed \$10,000,000.00 each (\$80,000,000.00 total), pursuant to notification to be issued by the General Manager; that the awards are subject to the District's Protest Procedures and Federal Transit Administration (FTA) requirements related to protests; and that each contract shall undergo an audit by the Office of Inspector General at 50% completion mark to ensure compliance with all contract provisions and State and Federal Laws; and that each contract shall undergo an audit by the Office of Inspector General at 50% completion mark to ensure compliance with all contract provisions and State and Federal Laws:

1. 6M8207 to Gannett Fleming, Inc., Oakland, CA
2. 6M8208 to HDR Engineering, Inc., Walnut Creek, CA
3. 6M8209 to HNTB Corporation/FMG Architects, a Joint Venture, Oakland, CA
4. 6M8210 to Jacobs Engineering Group, Inc., Oakland, CA
5. 6M8211 to Parsons Transportation Group, Inc., Oakland, CA
6. 6M8212 to PGH Wong Engineering, Inc., San Francisco, CA
7. 6M8213 to T.Y. Lin International/Transit Systems Engineering, Inc., a Joint Venture, Oakland, CA
8. 6M8214 to WSP USA Inc., San Francisco, CA

Director Allen seconded Director McPartland's substitute motion and indicated that she would accept a friendly amendment to her substitute motion to change the dollar amount to \$10,000,000.000 instead of \$5,000,000.00.

Director McPartland expressed agreement with Director Allen's suggestion to proceed with a friendly amendment and withdrew his substitute motion.

Director Dufty expressed confidence that staff would be an appropriate steward of the contract process and the requisite transparency and support for the original motion.

Director Allen noted that the infrastructure work should proceed as quickly as possible and that, from the standpoint of the taxpayers, the riders, and workers, oversight and accountability surpasses the rush to move forward quickly. Director Allen also inquired about the status of the PLIP.

Office of Civil Rights Director Wiggins responded to Director Allen's inquiry.

Director Ames inquired about utilizing separate Request for Proposal (RFP) processes and receiving information for prior years.

Assistant General Manager Lamb responded to Director Ames' inquiries.

Director Raburn commented on not limiting the District's capacity and expressed disagreement with creating a short-term process for a new set of general engineering contracts.



Action:

The following substitute motion by Director Allen, seconded and amended by Director McPartland, failed by roll call vote: That the General Manager be authorized to award the below listed Agreements to provide Architectural and General Engineering Services in an amount not to exceed \$10,000,000.00 each (\$80,000,000.00 total), pursuant to notification to be issued by the General Manager; that the awards are subject to the District's Protest Procedures and Federal Transit Administration (FTA) requirements related to protests; and that each contract shall undergo an audit by the Office of Inspector General at 50% completion mark to ensure compliance with all contract provisions and State and Federal Laws; and that each contract shall undergo an audit by the Office of Inspector General at 50% completion mark to ensure compliance with all contract provisions and State and Federal Laws:

1. 6M8207 to Gannett Fleming, Inc., Oakland, CA
2. 6M8208 to HDR Engineering, Inc., Walnut Creek, CA
3. 6M8209 to HNTB Corporation/FMG Architects, a Joint Venture, Oakland, CA
4. 6M8210 to Jacobs Engineering Group, Inc., Oakland, CA
5. 6M8211 to Parsons Transportation Group, Inc., Oakland, CA
6. 6M8212 to PGH Wong Engineering, Inc., San Francisco, CA
7. 6M8213 to T.Y. Lin International/Transit Systems Engineering, Inc., a Joint Venture, Oakland, CA
8. 6M8214 to WSP USA Inc., San Francisco, CA

*Moved / Seconded: Director Allen / Director McPartland*

*Aye: Directors Allen, Ames, and McPartland.*

*No: Directors Duffy, Foley, Raburn, Saltzman, Simon, and Li.*

*Abstain: 0.*

*Result: 3–6–0, motion failed by roll call vote.*

Action:

Upon motion by Director Duffy and second by President Li, the General Manager was authorized to award the below listed Agreements to provide Architectural and General Engineering Services in an amount not to exceed \$40,000,000.00 each (\$320,000,000.00 total), pursuant to notification to be issued by the General Manager; and the awards are subject to the District's Protest Procedures and Federal Transit Administration (FTA) requirements related to protests:

1. 6M8207 to Gannett Fleming, Inc., Oakland, CA
2. 6M8208 to HDR Engineering, Inc., Walnut Creek, CA
3. 6M8209 to HNTB Corporation/FMG Architects, a Joint Venture, Oakland, CA
4. 6M8210 to Jacobs Engineering Group, Inc., Oakland, CA
5. 6M8211 to Parsons Transportation Group, Inc., Oakland, CA
6. 6M8212 to PGH Wong Engineering, Inc., San Francisco, CA
7. 6M8213 to T.Y. Lin International/Transit Systems Engineering, Inc., a Joint Venture, Oakland, CA
8. 6M8214 to WSP USA Inc., San Francisco, CA



*Moved / Seconded: Director Dufty / President Li*

*Aye: Directors Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li.*

*No: Directors Allen and Ames.*

*Abstain: 0.*

*Result: 7–2–0, motion carried by roll call vote.*

## **12. BOARD MATTERS**

- A. Board Member Reports.
- B. Roll Call for Introductions.
- C. In Memoriam.

*Items 12-A, 12-B, and 12-C were presented to the Board after Item 10-B.*

President Li called for Items 12-A, Board Member Reports; 12-B, Roll Call for Introductions; and 12-C, In Memoriam.

Director Saltzman requested that the Meeting be adjourned in honor of Janet Abelson, El Cerrito City Councilmember and former El Cerrito Mayor.

Vice President Foley reported that he had attended the Concord City Council Special Meeting related to the Concord Weapons Station Term Sheet; that he and other Board Members had met with state legislators to discuss BART's fiscal cliff; and that he had attended the Contra Costa Mayors Conference.

Director Raburn reported that he had celebrated the onset of Black History Month with the African American Sports and Entertainment Group (AASEG) during their press conference related to the development of the Oakland Coliseum Properties and that he had participated in the 2023 Mayors' Economic Forecast event.

Director Allen reported that she and other Board Members had met with state legislators to discuss BART's fiscal cliff and that she had received a book, *What Doesn't Kill You: One Cop's Perspective on Homelessness, Mental Illness and Addiction*, authored by Retired BART Police Officer, Eric Hofstein.

Director Ames requested that the Meeting be adjourned in honor of Richard Valle, Alameda County Supervisor, former Unity City City Councilmember, and Vietnam War veteran.

President Li reported that she had met with the new BART Police Officers' Association (BPOA) President Shane Reiss; that she had met with Alaric Degrafinried, Assistant General Manager, Administration, regarding BART Police Department recruitment; that she had met with Daniel Cooperman, Senior Manager of Social Services Partnership, to shadow the new attendant programs funded by the City and County of San Francisco; and that she looked forward to reading former BART Police Officer Hofstein's book, *What Doesn't Kill You: One Cop's Perspective on Homelessness, Mental Illness and Addiction*.

### 13. CLOSED SESSION

#### A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS:

Property:	Property Located at the West Dublin/Pleasanton BART Station at 6501 Golden Gate Drive, Dublin CA 94568 (APN 941-2842-2 and 941-2842-4).
District Negotiators:	District Negotiators: Val Menotti, Chief Planning & Development Officer; Abigail Thorne-Lyman, Director of Real Estate & Property Development; Carli Paine, Group Manager Transit Oriented Development; Tobias Liebermann, Principal Property Development Officer; and Darin Smith, Economic & Planning Systems.
Negotiating Parties:	The Related Companies of California, LLC, Barings LLC, and San Francisco Bay Area Rapid Transit District.
Under Negotiation:	Price and Terms.
Government Code Section:	54956.8.

*Item 13-A was presented to the Board after Item 11-A.*

President Li announced that the Board would enter into Closed Session under Item 13-A (Conference with Real Property Negotiators) of the Regular Meeting agenda.

#### Public Comment

No comments were received.

The Board Meeting recessed at 1:06 p.m.

---

The Board reconvened in Closed Session at 1:11 p.m.

Directors Present in Oakland:	Directors Allen, Foley, McPartland, Raburn, Saltzman, Simon, and Li.
-------------------------------	--

Directors Present via Teleconference:	None.
---------------------------------------	-------

Absent:	None. Directors Ames and Dufty entered the Meeting later.
---------	---

Director Ames entered the Meeting in Oakland.

Director Dufty entered the Meeting in Oakland.

The Board Meeting recessed at 1:44 p.m.

---

#### **14. OPEN SESSION**

The Board reconvened in Open Session at 1:49 p.m.

Directors Present in Oakland: Directors Ames, Dufty, Foley, McPartland, Raburn, Saltzman, Simon, and Li.

Directors Present via Teleconference: None.

Absent: None. Director Allen entered the Meeting later.

Director Allen entered the Meeting in Oakland.

A. Announcement from Closed Session, if any.

President Li announced that the Board had concluded its Closed Session under Item 13-A and that there was no announcement to be made.

#### **ADJOURNMENT**

The Meeting adjourned at 4:03 p.m. in honor of Janet Abelson and Richard Valle.

April B. A. Quintanilla  
District Secretary



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> <div style="float: right; text-align: right;">             DocuSigned by:    <small>47000790F2D7463...</small> </div>		<b>GENERAL MANAGER ACTION REQ'D:</b>		
<b>DATE:</b> 1/23/2023      2/2/2023		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Ryan Greene-Roesel <b>Dept:</b> Customer Dev & Station Access <div style="text-align: right;">             DocuSigned by:    <small>31775ED2B5944A2...</small> </div> <b>Signature/Date:</b> 1/31/2023	<b>General Counsel</b> <div style="text-align: right;">             DocuSigned by:    <small>F8FD7B3A73E74E8...</small> </div> <b>Signature/Date:</b> 1/31/2023 <div style="text-align: right;">[   ]</div>	<b>Controller/Treasurer</b> <div style="text-align: right;">             DocuSigned by:    <small>EE11C8CEEEA04FD...</small> </div> <b>Signature/Date:</b> 1/31/2023 <div style="text-align: right;">[   ]</div>	<b>District Secretary</b> <div style="text-align: right;">             DocuSigned by:    <small>AA8F1409A8F748E...</small> </div> <b>Signature/Date:</b> 2/1/2023 <div style="text-align: right;">[   ]</div>	<b>BARC</b> <div style="text-align: right;">             DocuSigned by:    <small>AA8F1409A8F748E...</small> </div> <b>Signature/Date:</b> 2/1/2023 <div style="text-align: right;">[   ]</div>

### AUTHORIZE THE GENERAL MANAGER TO NEGOTIATE AND EXECUTE A MAINTENANCE AND OPERATIONS AGREEMENT FOR THE HERCULES TRANSIT CENTER

**PURPOSE:** To obtain BART Board approval to authorize the General Manager or a designee to negotiate and execute an updated maintenance and operations agreement for the Hercules Transit Center.

**DISCUSSION:** BART owns the Hercules Transit Center, a satellite park-and-ride facility ("Facility") in the City of Hercules. Since 2009, BART has partnered with the City of Hercules ("Hercules") and the Western Contra Costa Transit Authority ("WestCAT") to operate and maintain the Facility. Under the current three party-agreement, Hercules operates the parking program and maintains the Facility, including collection of parking fees via a third-party vendor, trash removal, street sweeping, landscaping, and repairs. WestCAT provides free connecting bus services to the El Cerrito del Norte BART station to those who have purchased parking, and maintains on-site bus operator restrooms. From the parking fees it collects, Hercules reimburses itself for operating and maintenance expenses and reimburses WestCAT for each free connecting bus trip provided to customers. In FY2022, about 250 such subsidized round trips to BART were made on the bus from the Facility to the El Cerrito del Norte BART station. Any remaining money collected from parking fees is retained for future capital expenses or submitted to BART.

Due to low facility utilization and increase of remote work options following the COVID-19 pandemic, the parties are seeking to optimize operating costs while improving the customer experience. The parties agree that, by enabling parking payments in the BART Official App, BART can more cost-effectively collect parking revenues than Hercules' parking vendor.

AUTHORIZE THE GENERAL MANAGER TO NEGOTIATE AND EXECUTE A MAINTENANCE AND OPERATIONS AGREEMENT FOR TH (cont.)

This would also provide an improved and modernized parking payment experience for customers, who must currently obtain a paper printout or hangtag to park.

The parties further agree that Hercules is best positioned to continue to maintain the Facility given its location within the City, allowing the inclusion of the site in existing city maintenance contracts. The parties therefore seek to create a new agreement whereby BART operates the parking program and collects parking revenues, Hercules continues to maintain the Facility, and WestCAT continues to receive a subsidy for providing free connecting bus service to BART.

Key terms of the new agreement will include the following:

- The base agreement duration will be four (4) years, and will be automatically extended each year, for up to six (6) additional years, unless one of the parties gives notice of termination. This Agreement may be extended beyond the initial ten (10) year term for an additional length of time by written mutual agreement of the Parties.
- BART will collect parking fees via the BART Official App and a parking payment website (once available). Consistent with current practice, a limited number of parking spaces will be set aside for free use for first-time customers who arrive without a smartphone.
- BART will reimburse Hercules for agreed-upon maintenance expenses, subject to a bi-annual budget process.
- Customers who purchase Daily Parking will continue to receive a free round-trip bus trip to BART. BART will continue to reimburse WestCAT \$1.36 for each one-way trip to BART. The existing discount offered for a combined monthly parking and transit pass will be discontinued due to low usage and high administrative burden.
- Facility capital expenses will be prioritized as part of BART's overall capital budgeting process.

In addition to revising the agreement, BART is working to deliver a capital project at the facility. Funded by Costa County Transportation Authority Measure J, the project has installed emergency blue light telephones and restriped the parking area. By June 30<sup>th</sup>, the project will also install bus shelter wind screens, new signage, and electrical improvements.

The Office of Civil Rights determined that the District's Small Business Program, Non-Discrimination Program for Subcontracting, and Disadvantaged Business Enterprise Program would not apply to this Agreement since this Agreement is an interagency agreement.

**FISCAL IMPACT:** There is no fiscal impact expected as result of this change, as BART is already paying for the expenses of operating and maintaining the facility. The Real Estate Department operating budget will be augmented beginning in FY24 to reflect the cost of

AUTHORIZE THE GENERAL MANAGER TO NEGOTIATE AND EXECUTE A MAINTENANCE AND OPERATIONS AGREEMENT FOR TH (cont.)

reimbursements to Hercules and WestCAT. BART will reimburse Hercules up to \$82,000 in FY24 and \$91,000 in FY25 for maintenance expenses, and WestCAT up to \$7,500 in FY24 and \$10,000 in FY25 for the transit transfer subsidy. These expenses will be largely offset by additional parking revenues collected by BART at the Facility, which are forecast to gross \$80,000-\$90,000 in FY24. Budgets for subsequent fiscal years will be set as part of BART's two-year operating budget process.

**ALTERNATIVES:** Do not authorize the General Manager to negotiate a new agreement for operation and maintenance of the Hercules Transit Center. The current arrangement, in which Hercules both operates the parking program and maintains the facility, will continue under the existing agreement.

**RECOMMENDATION:** Adoption of the following motion.

**MOTION:**

Authorize the General Manager or a designee to negotiate and execute a maintenance and operations agreement as generally described above for the Hercules Transit Center.