

San Francisco Bay Area Rapid Transit District

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



BOARD OF DIRECTORS MINUTES OF THE 1,944TH MEETING THURSDAY, NOVEMBER 16, 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)

Adopted: March 14, 2024

MEETING DESCRIPTION

A Regular Meeting of the Board of Directors was held on November 16, 2023, convening at 1:01 p.m. in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California. President Li presided, April B. A. Quintanilla, District Secretary.

1. CALL TO ORDER

President Li called the Meeting to order at 1:01 p.m.

A. Roll Call.

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

Directors Present via Teleconference: Vice President Foley.

Absent: None.

Vice President Foley announced that he was attending the Meeting via teleconference under the Just Cause provision of Government Code Section 54953(f).

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

C. Introduction of Special Guests. No Special Guests were introduced.

2. CLOSED SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Property (including air rights) located at Ashby BART Station, 3100 Adeline Street, Berkeley 94703. APNs 53-1597-39-04 and 53-1703-009-00.

District Negotiators: Val Menotti, Chief Planning and Development Officer; Deb Castles, Principal Property Development Officer; Carli Paine, Group Manager of Transit-Oriented Development; and Darin Smith, Economic and Planning Systems.

Negotiating Parties: San Francisco Bay Area Rapid Transit District and City of Berkeley.

Under Negotiation: Price and Terms

Government Code Section: 54956.8

B. PUBLIC EMPLOYEE EMPLOYMENT

Title: General Counsel

Government Code Section: 54957(b)(1)

President Li brought the item before the Board.

Public Comment

Charles Gary and Aleta Dupree addressed the Board.

President Li indicated that the Board would enter into Closed Session under Items 2-A (Conference with Real Property Negotiators) and 2-B (Public Employee Employment) of the Regular Meeting agenda, and that the Board would reconvene in Open Session upon conclusion of the Closed Session.

The Board Meeting recessed at 1:08 p.m.

The Board reconvened in Closed Session at 1:10 p.m.

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

Directors Present via Teleconference: Vice President Foley.

Absent: None. Director McPartland entered the Meeting later.

Director McPartland entered the Meeting in Oakland.

The Board Meeting recessed at approximately 2:29 p.m.

3. OPEN SESSION

The Board reconvened in Open Session at 2:38 p.m.

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

Directors Present via Teleconference: Vice President Foley.

Absent: None.

A. Announcements from Closed Session, if any.

President Li announced that the Board had concluded its Closed Session under Items 2-A and 2-B and that there were no announcements to be made.

4. REPORT OF THE BOARD PRESIDENT

President Li brought the item before the Board and provided an update on the ongoing Holiday Toy Drive, noting that the recipients of the toy drive were the Community Youth Center and the Samoan Youth Development Center in San Francisco, which is involved in commendable work within the Asian

American/Pacific Islander and Bay View Hunters Point communities. President Li expressed excitement about the toy drive and encouraged Board Members to support the toy drive, emphasizing that the contributions would benefit families in need during the holiday season.

President Li also indicated that Board Members had received an email from staff regarding the details of the toy drive and highlighted Molly Burke, Principal Government and Community Relations Representative, as the contact person for any inquiries or assistance with the donation process.

Public Comment

No comments were received.

5. BOARD COMMITTEE REPORTS

President Li called for Board Committee Reports. Director Simon, Chairperson of the Financial Structure Ad Hoc Committee, provided an update on the Financial Structure Ad Hoc Committee Meeting on November 16th. Director Simon indicated that the Committee had a productive session, featuring a presentation from UpLift Consultants and recommendations regarding the Chief Financial Officer (CFO) position and financial structure change. Director Simon noted that the Committee unanimously approved the recommendations and that the full report and presentation were scheduled for the Board's approval on December 7th. Director Simon expressed gratitude to the consultants, staff, and committee members for their contributions to the process.

Public Comment

No comments were received.

6. CONSENT CALENDAR

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

- A. Approval of Minutes of the Meeting of June 30, 2023 (Special).
- B. Appointment of BART Police Citizen Review Board Member - District 1.
- C. Agreement with Oracle America, Inc. for Exadata Hardware and Software Upgrade.
- D. Award of Agreement No. 6M3689 with Falcon Force, Inc., for Bird Abatement Services.
- E. Change Order to Contract No. 6M4706, Design-Build of BART Headquarters, with Turner Construction Company, for BART Headquarters Multipurpose Room and Other Improvements.
- F. Change Orders to Contract No. 15EK-102, TCCCP New Traction Power Facilities, West Bay, with C3M Clark Cupertino A Joint Venture, for Various Items.
 - i. Change Order for Abatement of Asbestos.
 - ii. Change Order for Anticipated Cost of Future Unplanned Design Modifications.
 - iii. Change Order for Delay to the Critical Path and Substantial Completion to Civic Center and Montgomery Stations.
 - iv. Change Order for Replenish Allowance for District Caused Delays.
 - v. Change Order for Replenish Allowance for Differing Site Conditions.

- vi. Change Order for Replenish Allowance for Partnering.
- vii. Change Order for Replenish Allowance for Uniformed Off-Duty Police Officers.

- G. Change Order to Contract No. 15EK-145, Traction Power Substation Replacement KTE Installation, with Rosendin Electric, Inc., for Construction Costs Associated with Design Modifications.
- H. Change Order to Contract No. 47CJ-230A, Procurement of Fare Gates, with STraffic America, LLC, for the Fare Gate Central System/Monitoring Control System.

Director Allen requested that Item 6-B, Appointment of BART Police Citizen Review Board Member - District 1, be removed from the Consent Calendar.

Director Allen introduced Torin Fischer as her selected appointee for the District 1 seat on the BART Police Citizen Review Board and expressed her pleasure in introducing him, highlighting his extensive experience in governmental service, including his recent service on the Civil Grand Jury for Alameda County.

Public Comment

Torin Fischer addressed the Board.

Director Raburn moved that the Board of Directors ratifies the appointment of Torin Fischer as the District 1 representative on the BART Police Citizen Review Board for the current term of service, beginning on November 16, 2023, and expiring on June 30, 2024.

Director Ames seconded the motion.

Action

Upon motion by Director Raburn and second by Director Ames, the Board of Directors ratified the appointment of Torin Fischer as the District 1 representative on the BART Police Citizen Review Board for the current term of service, beginning on November 16, 2023, and expiring on June 30, 2024, by unanimous roll call vote.

Vote Summary:

Moved / Seconded: Director Raburn / Director Ames

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.

President Li brought the Consent Calendar Items 6-A and 6-C through 6-H before the Board.

Director Raburn moved to approve Consent Calendar Items 6-A and 6-C through 6-H by one motion.

Director Simon seconded the motion.

Public Comment

Aleta Dupree addressed the Board.

Discussion

The item was discussed, with the following highlight:

Director Saltzman expressed excitement about the agreement with Falcon Force for the use of falcons to address issues related to pigeons at BART stations.

Action

Upon motion by Director Raburn and second by Director Simon, the Board took the following actions by unanimous roll call vote.

Vote Summary:

Moved / Seconded: Director Raburn / Director Simon

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

No: 0.

Abstain: 0.

Absent: 0.

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

- A. The Minutes of the Meeting of June 30, 2023 (Special), were approved. *(Vote: 9-0)*
- C. The General Manager or his designee was authorized to execute a one (1) year Exadata upgrade agreement with Oracle America, Inc. in an amount not to exceed \$769,000.00. The General Manager was also authorized to exercise three (3) single year options to renew support services, in an amount not to exceed \$560,000.00 per option year. *(Vote: 9-0)*
- D. The General Manager was authorized to award Agreement No. 6M3689 to Falcon Force, Inc., of La Crescenta, California, to provide on-site bird abatement services in an amount not to exceed \$2,685,312.00 for a base term of three (3) years and up to two (2) one-year options for a maximum term of five (5) years. *(Vote: 9-0)*
- E. The General Manager or his designee was authorized to execute Change Order No. 518 to Contract No. 6M4706, for Design and Construction of the BART Headquarters (BHQ) Project in an amount not to exceed \$1,300,000.00. *(Vote: 9-0)*
- F. The General Manager was authorized to execute the Change Orders 31, 75, 76, 77, 78, 79, 80 identified above (in the Executive Decision Document) in an aggregate amount not to exceed \$4,383,369.00 to Contract No. 15EK-102, TCCCP New Traction Power Facilities, West Bay. (The referenced Executive Decision Document is attached and hereby made a part of these Minutes.) *(Vote: 9-0)*
- G. The General Manager was authorized to execute the Change Order identified above (in the Executive Decision Document) in an aggregate amount not to exceed \$1,460,241.69 to Contract No. 15EK-145, Traction Power Substation Replacement KTE Installation. (The referenced Executive Decision Document is attached and hereby made a part of these Minutes.) *(Vote: 9-0)*

- H. The General Manager was authorized to execute a Change Order with STraffic America, LLC for an amount not to exceed \$4,000,000.00 to Contract No. 47CJ-230A for Next Generation Fare Gates.
(Vote: 9-0)

7. **GENERAL MANAGER'S REPORT**

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

Robert Powers, General Manager, reported on the Metropolitan Transportation Commission's (MTC) approval of a funding distribution framework with BART securing \$58 million in Fiscal Year 2025 and \$294 million in Fiscal Year 2026; ridership; his listening tour; and the fare gates deployment, beginning at West Oakland Station.

General Manager Powers also highlighted the importance of recognizing November as "Salute to Service Month" and recognized Jonathan Piol, Senior Police Officer; Ace Lanta, Community Services Officer; and Kevin Franklin, Chief of Police, for introducing a patch on BART police uniforms to honor community members who have served in the military. General Manager Powers presented Director McPartland with one of the special patches in recognition of his military service.

Public Comment

Aleta Dupree addressed the Board.

Discussion

The item was discussed with the following highlights:

Director Saltzman thanked General Manager Powers and his team for securing the agreement from the MTC, acknowledging the significance of the achievement. Director Saltzman also expressed gratitude to Board Members who reached out to MTC Commissioners and emphasized the importance of maintaining communication with MTC for future collaborations.

President Li echoed Director Saltzman's sentiments, highlighting positive conversations with MTC Commissioners and recognizing the valuable contribution of labor partners in advocacy efforts.

Director McPartland expressed appreciation for the special patch he received from General Manager Powers.

Director Dufty acknowledged General Manager Powers, Chief Franklin, and the BART team for their efforts related to sidewalk vending issues in San Francisco. Director Dufty also highlighted the challenges faced by the City and County of San Francisco in banning sidewalk vending and commended BART's response, including the temporary suspension of vendors at specific BART stations.

Vice President Foley thanked General Manager Powers for co-authoring an article that appeared in "Newsweek" related to the transit "bailout."

8. **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:

Barney Smits
Glenn Overton
Aleta Dupree

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

Item 11 was heard after Item 8, Public Comment.

- A. Purchase of Office Building at 2000 Broadway, Oakland, CA for BART Police Department Administrative Headquarters.

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

Val Menotti, Chief Planning and Development Officer; Gina Galetti, Deputy Chief of Police; and Alesia Strauch, Principal Right of Way Officer, presented the item.

Public Comment

The following individuals addressed the Board:

Skyler Parker
Glenn Overton
James Perez
Aleta Dupree

Discussion

The item was discussed, with the following highlights:

Director Raburn emphasized the aging condition of the current BART Police Department facility, requiring costly seismic upgrades and replacement of outdated systems, thus, hindering operations. Director Raburn also underscored the relocation of the police headquarters as a rare win-win opportunity for riders' safety and affordable housing, noting that it paves the way for Transit-Oriented Development (TOD) at the current Lake Merritt Station, providing over 500 much-needed housing units, with over 40% designated as affordable.

Director Raburn moved that the General Manager or his designee be authorized to execute a Purchase and Sale Agreement with Kaiser Foundation Health Plan Inc. to purchase an office building at 2000 Broadway, Oakland CA 94612 for BART's Police Administrative Headquarters at a price not to exceed \$26,265,000.00 (inclusive of deposit and estimated closing costs); and that the General Manager or his

designee be authorized to execute any and all agreements and other documents in order to effectuate the preceding motion.

Director Dufty seconded the motion.

Director Ames inquired about using BART Safety, Reliability and Traffic Relief Program (Measure RR) interest funds for the new Police Department facility and emphasized the need for transparency in land agreements and financing mechanisms. Director Ames proposed exploring the MET Building as a potential relocation site for the Police Department, highlighting its temporary vacancy and perceived safety.

Director Saltzman clarified that the decision not to include a Police Department facility in the Lake Merritt development agreement was made by the Board in a previous vote and emphasized the need to focus on moving forward rather than looking back at past decisions.

Director Dufty expressed confidence in the proposal and highlighted the challenges of finding a suitable location for a public safety facility, emphasizing the aging condition of the current building, and the enhanced potential for recruiting and retaining personnel.

Director Allen inquired about the use of \$26 million from Measure RR earnings for the purchase of new real estate, especially when an existing building of similar age is being transferred to housing developers as part of the TOD project. Director Allen also expressed hesitation about supporting the proposed project at this time due to the financial situation of BART, emphasizing the significant deficit in the capital budget.

President Li expressed support for the proposed project and addressed the financial implications of retrofitting and renovating the existing MET Building, noting that the costs would be similar to those of purchasing and renovating the proposed new building at 2000 Broadway.

Director McPartland highlighted the importance of having a Police Department capable of responding efficiently to emergencies.

Vice President Foley expressed support for staff's recommendation, noting that investing in the new building makes sense for BART, allowing for modernization, potential revenue and ridership growth, and aligning with the TOD commitment.

Director Simon expressed support for the proposed facility for processing victims of crime and highlighted the significance of BART having its own facilities rather than relying on rented properties, indicating that the purchase would be a wise fiscal decision.

Director Saltzman emphasized the need for a permanent facility for the Police Department; highlighted the challenges of the current temporary location, such as lack of locker rooms, showers, and cubicles; and cited the potential loss of TOD opportunities if the current facility is not upgraded.

Action

Upon motion by Director Raburn and second by Director Dufty, the General Manager or his designee was authorized to execute a Purchase and Sale Agreement with Kaiser Foundation Health Plan Inc. to purchase an office building at 2000 Broadway, Oakland CA 94612 for BART's Police Administrative

Headquarters at a price not to exceed \$26,265,000.00 (inclusive of deposit and estimated closing costs); and the General Manager or his designee was authorized to execute any and all agreements and other documents in order to effectuate the preceding motion by roll call vote.

Vote Summary:

Moved/Seconded: Director Raburn / Director Dufty

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

No: Directors Allen and Ames.

Abstain: 0.

Result: 7-2, motion carried by roll call vote.

B. Ashby BART Station Transit-Oriented Development Update.

Director Saltzman brought the item before the Board.

Chief Planning and Development Officer Menotti; Carli Paine, Group Manager, Transit-Oriented Development; and Deb Castles, Manager of Property Development Projects, presented the item.

Public Comment

The following individuals addressed the Board:

Jerry Grace
Glenn Overton
Jack Kurzweil
Aleta Dupree
Moni Law
Kitt Saginor

Discussion

The item was discussed, with the following highlights:

Director Saltzman shared a message from Councilmember Ben Bartlett of the Berkeley City Council, who expressed support for moving forward with housing at Ashby Station.

Director Simon expressed appreciation for the compromise made regarding the traction power substation and highlighted the importance of providing housing for families, veterans, and low-income individuals. Director Simon also expressed gratitude to the Berkeley City Council, BART staff, and the community for their dedication to the project and their decade-long effort to create a positive outcome for Ashby Station.

Director Ames expressed appreciation for the Ashby Station TOD project and acknowledged the efforts made by staff and the community to include the Flea Market into the plan.

Director Raburn expressed gratitude for the housing solution for the Ashby Station TOD project, allowing for a substantial increase in housing from 35% to 50%.

Director Saltzman expressed appreciation for staff and Director Simon's leadership in navigating the complexities of the Ashby Station TOD project, acknowledging the significant effort and time involved in such negotiations.

Action

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

10. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

Item 10 was heard after Item 11-B, Ashby BART Station Transit-Oriented Development Update.

A. Quarterly Service Performance Review – First Quarter Fiscal Year 2024.

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

Shane Edwards, Assistant General Manager, Operations, and Chief Franklin presented the item.

Public Comment

Glenn Overton and Aleta Dupree addressed the Board.

Discussion

The item was discussed, with the following highlights:

Director Saltzman commended the positive aspects of the Quarterly Performance Report (QPR), highlighting improvements in reliability and the increased visibility of police department personnel. Director Saltzman also expressed ongoing concern about poor on-time performance at MacArthur Station, citing personal experiences of delays and disruptions during the daily BART commute.

Director Raburn commended the QPR and expressed anticipation for reviewing the data in the next quarter to assess the impact of recent changes.

Director Allen expressed encouragement at the improvement in the QPR and hope for sustained progress, especially regarding police department personnel presence. Director Allen also emphasized the importance of hiring and filling vacant positions.

President Li expressed positivity about the progress shown in the presentation and suggested sharing the information with elected officials, including Supervisors, Assemblymembers, and MTC Commissioners to highlight the positive changes.

Action

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

B. Revitalizing BART Operations Control Center.

Vice President Foley brought the item before the Board.

Assistant General Manager Edwards; Tera Stokes-Hankins, Chief Transportation Officer; Alaric Degrafinried, Assistant General Manager, Administration; and Asiann Chan-Velasco, Assistant Chief Transportation Officer, presented the item.

Public Comment

Aleta Dupree and Sal Cruz addressed the Board.

Discussion

The item was discussed, with the following highlight:

President Li expressed gratitude for the update; acknowledged the Operations Control Center's challenges; and expressed appreciation for the efforts to address hiring and retention issues, particularly the overhaul to directly tackle longstanding problems.

Action

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

C. BART Silicon Valley Phase II Extension Update.

Vice President Foley brought the item before the Board.

Assistant General Manager Edwards; Gary Griggs, Chief BART Silicon Valley Program Officer, Santa Clara Valley Transportation Authority (VTA); and Tom Maguire, Chief BART Silicon Valley Program Officer (VTA), presented the item.

Public Comment

The following individuals addressed the Board:

Barney Smits
Jerry Grace
Aleta Dupree
Glenn Overton

Discussion

The item was discussed with the following highlights:

Director McPartland commended the professional presentation and inquired about the transition from construction to operation. Director McPartland also expressed sensitivity to ventilation issues, especially in relation to changes in design.

Director Simon exited the Meeting.

Director Ames expressed concern about the depth of the Silicon Valley Phase II project; inquired about the decision to proceed with a single-bore design; and highlighted potential issues with transparency and cost escalation, suggesting that the project cost has increased significantly in a short period. Director Ames also proposed the need for an ad hoc committee to analyze constructability issues and compare the twin-bore and single-bore designs at this stage of the project.

Director Raburn expressed the importance of safety and passenger convenience; inquired about safety and the design of station access on both sides of Santa Clara Street; and requested information about the Fire Life Safety Committee's reasoning for the design change.

Director Allen commented on the possibility of revisiting the decision between single and twin-bore tunnel construction and expressed concern about the substantial cost increases over the past three years and having three program chiefs in three years.

President Li expressed continued support for the BART project and acknowledged the challenging nature of its current state. President Li also expressed concern about the leadership changes in the project over the past three years and the impact on costs and underscored the importance of VTA-BART Board collaboration.

Action

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

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

- A. Fiscal Year 2023 Year-End Budget Revision.

Item 9-A was continued to a future Board Meeting.

President Li indicated that Item 9-A would be continued to a future Board Meeting.

12. BOARD MATTERS

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

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

Director Dufty requested that the Meeting be adjourned in honor of Michael Youens, a regular BART rider from San Francisco to Berkeley.

Director Ames reported that she had attended the Alameda County Mayors' Conference at California State University, East Bay and mentioned promoting the extension of the Clipper® Bay Pass pilot program to the university.

Director Saltzman acknowledged and praised the Safe and Clean presentations conducted by BART staff and commended their efforts to make these presentations successful. Director Saltzman also encouraged Board Members to participate in the Safe and Clean presentations to inform the public about BART's activities.

Director Raburn reported that he had attended the San Lorenzo Halloween Parade and Día de Los Muertos event in Fruitvale. Director Raburn also reported on giving a Safe and Clean presentation to the San Leandro Breakfast Club and that he had shared positive news with Alameda County mayors regarding MTC's support for sustaining BART.

Director Dufty exited the Meeting.

Vice President Foley reported that he had attended a conference in Pasadena and expressed disappointment about the Oakland A's official departure from the Bay Area.

President Li expressed dissatisfaction with certain individuals, particularly John Fisher, regarding the Oakland A's situation.

13. ADJOURNMENT

The Meeting adjourned at 7:06 p.m. in honor of Michael Youens.

April B. A. Quintanilla
District Secretary



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="float: right; border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Michael Jones</i> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D: Approve and Send to Board		
DATE: 10/26/2023 11/7/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: David Greenaway Dept: PM/CM - Right of Way <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>David Greenaway</i> <small>5E595C789A5A49A...</small> </div> Signature/Date: <div style="text-align: right;">11/7/2023</div>	General Counsel <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Crystal Matson</i> <small>18E837040587403...</small> </div> <div style="text-align: right;">11/7/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Chris Gan</i> <small>EE11C8CEEEA04FD...</small> </div> <div style="text-align: right;">11/7/2023 []</div>	District Secretary <div style="text-align: right;">[]</div>	BARC <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> DocuSigned by: <i>Shane Edwards</i> <small>8128A2EB2F014F3...</small> </div> <div style="text-align: right;">11/7/2023 []</div>

Change Orders to Contract No. 15EK-102, Transbay Corridor Core Capacity Project (TCCCP) New Traction Power Facilities, West Bay

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Orders to Contract No. 15EK-102 for TCCCP New Traction Power Facilities, West Bay, in an amount not to exceed \$4,383,369.00

DISCUSSION:

The award of Contract No. 15EK-102, TCCCP New Traction Power Facilities, West Bay, to C3M, Clark, Cupertino, A Joint Venture of San Francisco, CA was authorized by the Board on July 23, 2020, in the amount of \$54,959,114.

The Contract is for the procurement and installation of two new traction power substations ("TPSS") at Civic Center ("MCC") and Montgomery Street (MMS) stations. The contract calls for the final design and building of the substation equipment, installation and testing of the equipment, and installation of associated equipment at adjacent facilities. The project is jointly funded by Transbay Corridor Core Capacity Project ("TCCCP") FTA funds and by Measure RR.

To date, District has issued Change Orders to this Contract in the total amount of \$399,166 which is 0.73% of the original Contract amount. The Change Orders requested for approval under this Executive Decision Document ("EDD") would resolve costs associated with

design modifications, construction delays, and would replenish allowance amounts for future work.

Project Staff has identified Change Orders in the not to exceed amount ("NTE") of approximately \$4,383,369. This includes the time delay to the critical path and substantial completion. Project Staff expects a future EDD to account for additional delays and Change Orders to the project.

Summary	Amount	Percentage of Base Bid
Total Base Bid Amount	\$54,959,114	
Agreed/Executed Change Orders	\$399,166	0.73%
Potential Change Orders	\$4,383,369	7.97%
Revised Contract Amount	\$59,741,649	

1. Change Order ("CO") 31 Abatement of Asbestos containing fire-proofing material inside the new TPSS at MMS (\$568,705): This change order is to abate unforeseen Asbestos at Montgomery Street Substation.
2. CO 75 Anticipated cost of future unplanned design modifications (\$1,000,000): Construction costs associated with any future unplanned design modifications.
3. CO 76 Delay to the Critical Path and Substantial Completion to Civic Center ("MCC") and Montgomery ("MMS") Stations (\$664,664): Delays incurred due to design review and BART approval, scheduling and coordination of work in the Right of Way.
4. CO 77 Replenish Allowance for District Caused Delays (\$1,000,000): Anticipated District Caused Delays include setbacks during testing, substation commissioning support, and lack of key personnel due to operational needs.
5. CO 78 Replenish Allowance for Differing Site Condition (\$1,000,000): Anticipated differing site conditions include additional design, material, equipment, and labor to complete the contract work. Other impacts are still to be evaluated.
6. CO 79 Replenish Allowance for Partnering (\$50,000): More partnering sessions will be needed until the end of the project.
7. CO 80 Replenish Allowance for Uniformed Off-Duty Police Officers (\$100,000): Cost already incurred for street closure during crane setup and equipment delivery at MMS in Aug 2023. No further cost is anticipated.

Total Change Orders Amount Needed: \$4,383,369

FISCAL IMPACT:

Funding in the amount of \$4,383,369 for Change Orders to Contract No. 15EK-102 is included in the total project budget for FMS# 15EK600 – Substation for Core Capacity.

The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following source:

Fund Group	Fund Description	Amount
Federal	F/G 354S - FTA CA-2020-047 TBCCCP FFGA	48,087,947
Federal	F/G 354T - FTA CA-2020-047 SC90	12,300,300
Federal	F/G 354U - FTA CA-2021-223-00 ARP	7,457,572
Measure RR	F/G 802A/B/C/D - Measure RR GOB	18,154,181
	TOTAL	86,000,000

As of October 10, 2023, \$86,000,000 is the total budget for this project. BART has expended \$64,461,527, committed \$13,836,530, and reserved \$0 to date. This action will commit \$4,383,369, leaving an available fund balance of \$3,318,574 in these fund sources for this project.

The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

ALTERNATIVES:

The alternative is to pay only for the work performed so far (CO 31) and the construction delays (CO 76) and to not authorize any allowances until such Change Orders are needed.

This could cause further delays to the project.

RECOMMENDATION:

It is recommended that the Board adopt the following motion.

MOTION:

The General Manager is authorized to execute the Change Orders 31, 75, 76, 77, 78, 79, 80 identified above in an aggregate amount not to exceed \$4,383,369 to Contract No. 15EK-102, TCCCP New Traction Power Facilities, West Bay.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Michael Jones</i> <small>47000790F2D7463...</small> </div>		GENERAL MANAGER ACTION REQ'D: Approve and Send to Board		
DATE: 10/26/2023 11/7/2023		BOARD INITIATED ITEM: No		
Originator/Prepared by: David Greenaway Dept: PM/CM - Right of Way <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>David Greenaway</i> <small>5E595C789A5A49A...</small> </div> Signature/Date: <div style="text-align: right;">11/7/2023</div>	General Counsel <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Crystal Matson</i> <small>18E837040587403...</small> </div> <div style="text-align: right;">11/7/2023 []</div>	Controller/Treasurer <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Chris Gan</i> <small>EE11C8CEEEA04FD...</small> </div> <div style="text-align: right;">11/7/2023 []</div>	District Secretary <div style="text-align: right;">[]</div>	BARC <div style="border: 1px solid black; padding: 2px; display: inline-block;"> DocuSigned by: <i>Shane Edwards</i> <small>8128A2EB2F014F3...</small> </div> <div style="text-align: right;">11/7/2023 []</div>

Change Order to Contract No. 15EK-145, Traction Power Substation Replacement KTE Installation

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Order No. 12 to Contract No. 15EK-145 for Traction Power Substation Replacement KTE ("Transbay Tube East") Installation, in an amount not to exceed \$1,460,241.69

DISCUSSION:

The award of Contract No. 15EK-145, Traction Power Substation Replacement KTE Installation, to Rosendin Electric, Inc of San Jose, CA ("Rosendin") was authorized by the Board on April 9, 2020, in the amount of \$12,552,540.97.

This Contract provides for the replacement of aging traction power equipment to provide safer, more reliable service. The location of the work is at the Oakland KTE Traction Power Substation ("TPSS") located at the District's Transition Trans-Bay Transition Structure Traction Power Substation KTE within the Port of Oakland. The Contract also includes installation of related equipment at three adjacent gap breaker stations. Most of the equipment to be installed by the Contractor is provided by Powell Electrical Systems, Inc. ("Powell"), under a separate procurement contract, 15EK-210, Procurement of Traction Power Substations, Phase 1. Furthermore, Rosendin will procure, install, and test new 34.5kV electrical equipment and AC equipment housing. This project is jointly funded by

FTA and by Measure RR.

To date, the District has issued Change Orders to this Contract in the total amount of \$430,000 which is 3.42% of the original Contract amount. Project Staff have proposed this Change Order No. 12 to increase the Contract for an amount not to exceed \$1,460,241.69.

Summary	Amount	Percentage of Base Bid
Total Base Bid Amount	\$12,552,540.97	
Agreed/Executed Change Orders	\$430,000	3.42%
Potential Change Orders	\$1,460,241.69	11.63%
Revised Contract Amount	\$14,442,782.66	

This Change Order would resolve construction costs associated with design modifications necessary to replace the ageing conduits to enable new cables to be pulled through the conduits. However, it is not the final Change Order as it does not include costs resulting from the associated time delay. Project Staff expects a future EDD to account for delays and further Change Orders (if any) to the project.

FISCAL IMPACT:

Funding in the amount of \$1,460,242 for Change Order to Contract No. 15EK-145 is included in the total project budget for FMS# 15EK350 – Substation Replacement Installation Group II.

The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

Fund Group	Fund Description	Amount
Federal	F/G	9,680,520

	3005/3025/3401/347Z/353G/353K/353M/3602/3603/3607/3609/3614 - FTA SGR Funding	
Local	F/G 6018/6213/6302/6303 - MTC and other Measures	1,776,000
Bart	F/G 8202/851W/8523/8525/8529/8535/8536/8538 - Operating to Capital Allocations	1,264,463
Measure RR	F/G 802A/B/C/D - Measure RR GOB	34,631,240
	TOTAL	47,352,223

As of October 5, 2023, \$47,352,223 is the total budget for this project. BART has expended \$42,224,111, committed \$2,973,153, and reserved \$0 to date. This action will commit \$1,460,242, leaving an available fund balance of \$694,717 in these fund sources for this project.

The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

ALTERNATIVES:

The alternative is to use a smaller size cables. However, this would not provide sufficient capacity to power the 3rd rail system. In addition, any new cable will have a significant lead time which would further cause construction delays and delay the testing and commissioning of the substation.

RECOMMENDATION:

It is recommended that the Board adopt the following motion.

MOTION:

The General Manager is authorized to execute the Change Order identified above in an aggregate amount not to exceed \$1,460,241.69 to Contract No. 15EK-145, Traction Power

Substation Replacement KTE Installation.