

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,878th Meeting
January 28, 2021

A regular meeting of the Board of Directors was held on January 28, 2021, convening at 9:00 a.m. via teleconference, pursuant to Governor Gavin Newsom's Executive Order N-29-20 and the California Shelter-in-Place mandate. President Foley presided; Patricia K. Williams, District Secretary.

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

Absent: None. Director Allen entered the Meeting later.

President Foley gave instructions on viewing the Meeting, accessing presentation materials online, and Public Comment.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of January 14, 2021.
2. 2021 Organization of Committees and Special Appointments.
3. Procurement with Cisco Systems for the Replacement Back Office Servers at Lake Merritt Administration Building.
4. Response to Roll Call for Introductions Item No. RCI 19-827, Labor Peace Agreement for Hotel Policy, for Board Consideration.

Director McPartland made the following motions as a unit. Director Saltzman seconded the motions.

1. That the Minutes of the Meeting of January 14, 2021, be approved.
2. That the Board of Directors ratifies the proposed Organization of Committees and Special Appointments for 2021. (The Organization of Committees and Special Appointments for 2021 is attached and hereby made a part of these Minutes.)
3. That the General Manager be authorized to enter into a National Association of State Procurement Officials (NASPO) ValuePoint contract with Cisco Systems, Inc. for the procurement of Cisco Hyperflex computer equipment for an amount not to exceed \$1,339,931.00 (includes \$99,306.00 sales tax).
4. Adoption of the Labor Peace Agreement Policy for Transit-Oriented Development (TOD) Hotel Operations. (The Policy is attached and hereby made a part of these Minutes.)

President Foley called for Public Comment on the Consent Calendar. Ty Hudson addressed the Board.

The motions brought by Director McPartland and seconded by Director Saltzman carried by unanimous roll call vote. Ayes: 8 – Directors Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0. Absent: 1 – Director Allen.

President Foley called for general Public Comment. Aleta Dupree addressed the Board.

President Foley brought the matter of Quarterly Report of the Controller/Treasurer for the Period Ending September 30, 2020 before the Board. Christopher Gan, Assistant Controller, presented the item.

Aleta Dupree addressed the Board.

Director Ames commented on the decrease in the rate of return on investments; requested that staff provide information about BART's investments; and inquired about utilizing uncommitted capital funding for unprogrammed capital projects and the conversion of uncommitted capital funding to committed capital funding.

Director Li, Chairperson of the Administration Committee, brought the matter of 2020 Customer Satisfaction Survey Results before the Board. David Martindale, Director of Marketing and Research, and Maureen Wetter, Principal Research Project Analyst, Customer and Performance Research, presented the item.

Aleta Dupree addressed the Board.

Director Allen entered the Meeting.

Hayden Miller and Marc Jordan addressed the Board.

The item was discussed, with the following highlights:

Director Raburn commended Research and Marketing (R&M) Director Martindale and Principal Research Project (PRP) Analyst Wetter for their work and commented on the survey results; addressing personal security and cleanliness in the trains and stations; the needs of passengers with disabilities; and the increase in access to stations by walking, biking, and other transit modes.

Director Li expressed appreciation for Director Raburn's leadership on access issues and work with the BART Accessibility Task Force.

Director Saltzman thanked staff for their work and riders for their participation in the survey, and commented on issues in the target quadrant and the riders who participated in the survey.

Director Simon thanked staff for their work and commented on the size of the survey sample and potential expansion of the elevator attendant program.

Director Allen commented on the riders who participated in the survey; inquired about the development of the quadrant chart and the correlation between service attribute ratings and overall satisfaction; noted riders' feedback regarding improved station and train cleanliness; and commended staff for achieving the increase in rider satisfaction.

Director Ames expressed appreciation for the survey; commented on the riders who participated in the survey, the need to address cleanliness and security, power-washing stations, new fare gates, and securing elevators; and commended staff for their work.

Director McPartland commended staff's execution of the survey; commented on the consistency and relevance of the survey, written customer comments regarding drug paraphernalia and syringes, and his request for data regarding comments about drug paraphernalia and syringes; and thanked Director Allen for her comparative analysis of service attribute ratings and the quadrant chart.

Director Li associated herself with Director Saltzman's comments; commended staff for their work; and commented on complaints regarding face coverings, survey data regarding BART's COVID-19 response and social distancing on trains, the riders who participated in the survey, on-time performance, and the data regarding service attribute ratings and derived importance.

Director Dufty associated himself with the Directors who commended staff and drew positive and less positive attributes from the survey responses; commented on the importance of developing a deeper survey of passengers' experience, specifically concerning social issues, over the next two years, and elevator attendants; expressed appreciation for the survey; and requested engagement with staff about capturing rider feedback as changes are implemented.

President Foley thanked staff, R&M Director Martindale, and PRP Analyst Wetter for their work and the public for their feedback; commented on focusing on accessibility and concern about interpretation of the data used in the quadrant chart; and requested that staff develop an action plan to address issues identified by the survey.

Director Li inquired about the next steps following the survey and whether the item would be presented to the Board after the full survey report has been completed.

Director Simon, Chairperson of the Engineering and Operations Committee, brought the matter of Sole Source Procurement with Bombardier Transportation for the Purchase of Coverboard Antennas before the Board. Michael Gerbracht, Project Manager, Strategic Engineering, presented the item.

Aleta Dupree and Hayden Miller addressed the Board.

Director Raburn commented on the number of platforms that will be addressed by the procurement and expressed support for making BART more reliable.

Director Raburn moved that pursuant to California Public Contract Code Section 20227, the Board of Directors finds that Bombardier Transportation is the sole source for the procurement of Program Stop/Identification (PS/ID) Antenna Assemblies and that the purchase is for the sole purpose of replacing or duplicating equipment in use; and that the Board of Directors authorizes the General Manager to execute a Contract with Bombardier Transportation for the procurement of the PS/ID Antenna Assemblies, in an amount not to exceed \$1,126,793.00. President Foley seconded the motion, which carried by unanimous roll call vote by the required two-thirds vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

Director Simon brought the matter of Change Order to Contract No. 20AJ-100, BART Operational Trunked Radio Replacement, with Dailey Wells Inc., for the Acceleration of Phase 2 (C.O. No. 1). Jefre Riser, Acting Group Manager for Communications and Control Engineering, presented the item.

Director Raburn moved that the General Manager be authorized to execute Change Order No. 001 to Contract No. 20AJ-100 for BART Operational Trunked Radio Replacement for an amount not to exceed \$4,608,000.00. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

Director Simon brought the matter of Update on COVID-19 Response before the Board. Pamela Herhold, Assistant General Manager, Performance and Budget; Tamar Allen, Assistant General Manager, Operations; and Rodd Lee, Assistant General Manager, External Affairs, presented the item.

The following individuals addressed the Board:

Aleta Dupree
John Arantes
Sal Cruz
Jesse Hunt

The item was discussed, with the following highlights:

Director Raburn thanked union leaders for representing their workforce; expressed support for frontline workers; and commented on the General Manager and staff's provision of needed resources, the General Manager's letter to county health officials, and COVID-19 vaccination at the Metro (MET) Center Building; and inquired about staff's contact with the Unity Council or La Clinica regarding utilizing BART property at Fruitvale Station as a COVID-19 vaccination and testing site.

Director Saltzman thanked unions, workers, and management for working together over the past year; expressed disappointment about transit workers' decreased prioritization for the COVID-19 vaccine and appreciation for the General Manager's decision to send Governor Gavin Newsom a letter co-signed by Bay Area transit agencies; and suggested that Board Members focus on advocating for transit workers' prioritization for the COVID-19 vaccination.

Director Simon commented on the Fruitvale community and thanked Director Raburn for his inquiry about facilitating COVID-19 vaccinations and testing at Fruitvale Station.

Director Li associated herself with Director Saltzman's comments; commended employees, frontline workers, and labor union partners for their work; thanked John Arantes, Sal Cruz, and Jesse Hunt for their attendance at the Meeting, work as union presidents, and commitment to working with BART leadership; and commented on the recovery of employees who tested positive for the COVID-19 virus, BART's COVID-19 protocol, working during the pandemic, federal funding, and her intent to advocate for additional funding.

Director Ames commended the coordination between the unions and staff; commented on Governor Newsom's re-prioritization of COVID-19 vaccine recipients; inquired about the Coronavirus Aid, Relief, and Economic Security (CARES) Act true-up and receiving additional

funding if ridership does not return as projected; and commended staff for their work on the response to the COVID-19 virus.

Director Dufty commented on the presentation, challenges in 2021 so far, and labor leadership's assistance and innovation, positive information in the presentation about BART's progress during the pandemic, and federal resources that will be provided.

President Foley thanked essential frontline workers for their work, Assistant General Manager Allen and union leadership for their collaboration, and Assistant General Manager Herhold's staff for their work on the federal assistance package; commented on funding transit in ways that are less farebox-dependent; and addressed Governor Newsom to express that transit workers need to be moved into COVID-19 vaccine Phase 1-b, Tier 1.

Director Allen thanked frontline workers and support staff for their work; expressed disappointment in the distribution of the COVID-19 vaccine; commented on providing the COVID-19 vaccine to frontline workers, concern about BART's financial situation, right-sizing the agency, service model projections, subsidy funding and budget deficits, and evaluating excess positions and further reductions in spending.

Director McPartland commended Robert Powers, General Manager, Assistant General Manager Allen, and union members and leadership for their collaboration; commented on his discussion with General Manager Powers about utilizing BART property as COVID-19 vaccination sites; and expressed gratitude and pride as a Director and member of the BART family.

Director Simon expressed agreement with Board Members' appreciation for staff; acknowledged the passing of 136 New York Metropolitan Transportation Authority (MTA) transit employees due to the COVID-19 virus; thanked managers who work in the field; and commented on respecting transit workers' labor and public service.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matters of (1) BART Headquarters Office Building (2150 Webster St., Oakland, CA) – Update on BART Headquarters Office Building; and (2) BART Headquarters Office Building (2150 Webster St., Oakland, CA) – Change Orders to Contract No. 6M4706, Design-Build of BART Headquarters, with Turner Construction Company, before the Board. Carl Holmes, Assistant General Manager, Design and Construction; Emilia Sanchez, Group Manager, Capital Projects; and Maceo Wiggins, Director of the Office of Civil Rights, presented the items.

Director Raburn expressed appreciation for staff presenting to the BART Accessibility Task Force.

Sal Cruz addressed the Board.

The item was discussed, with the following highlights:

Director McPartland inquired about a COVID-19 protection plan for the new Board Room.

Director Saltzman expressed enthusiasm about the small business participation figures; suggested that the Board submit an inquiry to Governor Newsom about how long Executive Order N-29-20

will remain in effect; and expressed discomfort about returning to in-person meetings before vaccinations are readily available.

Director Saltzman made the following motions as unit. Director Simon seconded the motions.

1. That the General Manager be authorized to execute Change Order No. 502, Code Deficiencies and Unforeseen Conditions, in the not to exceed amount of \$1,876,985.00, to Contract No. 6M4706, for construction of the BART Headquarters (BHQ), with Turner Construction Company.
2. That the General Manager be authorized to execute Change Order No. 501, Design Fees, in the not to exceed amount of \$3,800,000.00, to Contract No. 6M4706, for Design-Build of BART Headquarters, with Turner Construction Company.

Discussion continued, with the following highlights:

Director Simon expressed enthusiasm about and commented on the Office of Civil Rights' work with Turner Construction Company and stakeholders in the small business community to ensure equity in the build-out and design processes; thanked Michael Jones, Deputy General Manager, Office of Civil Rights Director Wiggins, and Assistant General Manager Holmes for their work; and expressed excitement about moving into the new BART Headquarters building.

Director Allen expressed enthusiasm about the project being on-time and on-budget; commented on concern about the shape of the dais in the new Board Room; inquired about installation of monitors for Board members to view presentations, the shape of the dais, and the space between the chairs at the dais; and expressed disappointment about the change orders.

Director Ames requested that the total project budget be provided; inquired about the Information Technology department's responsibility for acquiring new technology for the new BHQ building; requested that a layout of each floor be provided at the next project update; and inquired about flex space in the new BHQ building and planning for the future.

Director Dufty thanked Assistant General Manager Holmes for leading the project and inquired about the application of small and local business participation requirements to the change orders.

President Foley thanked Assistant General Manager Holmes and staff for their work to keep the project on-schedule and on-budget; inquired about the status of sit/stand desks for the new BHQ; and commented on leveraging telecommuting and flexible scheduling to ensure employees' safety.

Director Raburn highlighted that the project is on-budget, on-schedule, and delivering jobs that are promised and commented on the potential impact of the COVID-19 virus on the project schedule and employing strict protocols to keep the project on-schedule.

Leah Turner addressed the Board.

The motions brought by Director Saltzman and seconded by Director Simon carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

Director Raburn brought the matter of Update on Parking Management – Automated License Plate Reader Procurement before the Board. Ryan Greene-Roesel, Manager of Special Projects, Customer Development and Station Access, and Mimi Bolaffi, Director of Security Programs, Police Operations Division, presented the item.

Director Raburn exited the Meeting.

Director Dufty, Vice Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, assumed the gavel and thanked Special Projects Manager Greene-Roesel and Security Programs Director Bolaffi for their work.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Saltzman commended the work on the Automated License Plate Reader (ALPR) program; commented on the installation cost for fixed license plate readers; and requested that staff present information about replacing parking payment machines at a Board meeting this fiscal year.

Director Li expressed agreement with Director Saltzman; thanked staff for their work; thanked Senator Scott Weiner for his leadership on Senate Bill (SB) 210; and commented on engaging with Senator Weiner about SB 210 and implementing policy changes required by SB 210, if approved.

Director Ames requested that staff provide more detailed information at the next presentation of the item about preventing property damage if cameras are installed; commented on considering free parking at BART stations; and expressed support for the ALPR program.

Director Allen expressed support for the ALPR program and commented on free parking at BART stations, safety, property damage to customers' cars and violent crimes in BART parking lots, and investing in ALPR cameras when ridership increases.

Director McPartland commented on the community's previous outrage about BART's surveillance and commended staff's collaboration with the community.

President Foley expressed support for the direction of the ALPR program and commented on Community Service Officer (CSO) staffing; and inquired about the 24-hour limitation in SB 210.

Director Dufty brought the matter of Report on Regional Transit Coordination before the Board. Val Menotti, Chief Planning and Development Officer, Systems Development, and Hannah Lindelof, Group Manager, Policy Planning, Strategic and Policy Planning, presented the item.

The following individuals addressed the Board:

Stephanie Beecham
Rick Najas
Adam Bookbinder
David Sorrell

Director Raburn re-entered the Meeting and assumed the gavel.

The item was discussed, with the following highlights:

Director Li thanked public speakers and transit advocates for following the issue and President Foley and Director Saltzman for representing BART at an upcoming meeting with the Metropolitan Transportation Commission (MTC); commented on coordinating and integrated work around regional transit coordination, the network management and governance decision-making authority spectrum, decision areas, and the proposed membership composition for a federation/executive board; and requested additional discussion of the proposed membership composition for a federation/executive board.

Director Saltzman suggested that issues related to regional transit coordination be presented and discussed together; requested that BART staff, the MTC, and advocates present to the Board at the same Board meeting; expressed appreciation for agencies' work on integration over the past year; commented on the proposed integration model; and inquired about staff's plan to seek authority from the Board to advocate for an integration solution.

Director Ames expressed agreement with the comments by Directors Saltzman and Li and commented on the fast pace of the integration solution, developing the definition of the problem statement, the absence of the state as a partner, the Link21 press release, and lack of transit coordination; and suggested that Union Pacific Railroad, Capitol Corridor Joint Powers Authority, Altamont Corridor Express (ACE), and the state help with the second Transbay rail crossing and better connectivity with rail partners.

Director Raburn commented on the MTC's lack of focus on transit, efforts to place transit representation on the MTC, funding for the integration model, and consolidation of congestion management agencies; and suggested consideration of either routine presentations or forming an ad hoc committee on this topic.

President Foley called for the General Manager's Report. General Manager Powers indicated that his report was included in the COVID-19 update.

President Foley called for Board Member Reports, Roll Call for Introductions, and In Memoriam requests.

Director Simon requested that the District Secretary send a condolence letter to the New York Metropolitan Transportation Authority (MTA) and that the Meeting be adjourned in honor of the 136 New York MTA transit employees who passed away due to the COVID-19 virus.

Director Allen requested that the Meeting be adjourned in honor of Katherine Strehl, former Assistant General Manager, External Affairs, at BART.

President Foley reminded Board Members that their Fair Political Practices Commission (FPPC) Form 460 was due on February 1st and wished Director Saltzman a happy belated birthday.

President Foley called for Public Comment.

President Foley and Director Saltzman exited the Meeting.

Director Li read a written comment submitted by Kevin Burke into the record.

Director Li announced that the Board would enter into closed session under Items 10-A (Public Employee Performance Evaluation); 10-B (Conference with Real Property Negotiators); and 10-C (Conference with Negotiators) 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 1:12 p.m.

The Board reconvened in closed session at 1:17 p.m.

Directors present: Directors Ames, Dufty, Li, McPartland, Raburn, Simon, and Foley.

Absent: None. Directors Allen and Saltzman entered the Meeting later.

Directors Allen and Saltzman entered the Meeting.

The Board Meeting recessed at 2:56 p.m.

The Board reconvened in open session at 2:57 p.m.

Director present: President Foley.

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

President Foley announced that the Board had concluded its closed session and that there were no announcements to be made.

The Meeting adjourned at 2:58 p.m. in honor of Katherine Strehl and the 136 New York MTA transit employees who passed away due to the COVID-19 virus.

Patricia K. Williams
District Secretary

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ORGANIZATION OF COMMITTEES AND SPECIAL APPOINTMENTS

STANDING COMMITTEES

ADMINISTRATION**	
Janice Li	Chairperson
Elizabeth Ames	Vice Chairperson
Robert Raburn	

ENGINEERING & OPERATIONS**	
Lateefah Simon	Chairperson
Elizabeth Ames	Vice Chairperson
Janice Li	

PLANNING, PUBLIC AFFAIRS, ACCESS & LEGISLATION**	
Robert Raburn	Chairperson
Bevan Dufty	Vice Chairperson
John McPartland	

SPECIAL COMMITTEES

AUDIT**	
Debora Allen	Chairperson
Rebecca Saltzman	Vice Chairperson
Bevan Dufty	

LABOR NEGOTIATIONS REVIEW**	
Rebecca Saltzman	Chairperson
Janice Li	Vice Chairperson
Mark Foley	

PERSONNEL REVIEW**	
Bevan Dufty	Chairperson
Lateefah Simon	Vice Chairperson
Mark Foley	

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY PARTNERSHIP**	
Elizabeth Ames	
John McPartland	
Robert Raburn	
Rebecca Saltzman	

AD HOC COMMITTEE

REDISTRICTING**	
Lateefah Simon	Chairperson
Elizabeth Ames	Vice Chairperson
Mark Foley	

**Brown Act Committee, subject to public meeting requirements

***Brown Act Board, subject to public meeting requirements

NOTE: BART Directors discharging liaison function do not serve as members of either a committee of BART or the other organization, nor as members of a joint committee. Any action on behalf of BART must be taken by the full Board.

Ratified 1/28/2021

SPECIAL APPOINTMENTS - LIAISON

CONTRA COSTA TRANSPORTATION AUTHORITY**	
Debora Allen	Primary
Mark Foley	Alternate

PARATRANSIT SERVICE REVIEW ADVISORY COMMITTEE	
Lateefah Simon	
Robert Raburn	

SAN FRANCISCO TRANSPORTATION AUTHORITY**	
Janice Li	Primary
Bevan Dufty	Alternate

SPECIAL APPOINTMENTS - EXTERNAL

ALAMEDA COUNTY TRANSPORTATION COMMISSION**	
Rebecca Saltzman	Primary
John McPartland	Alternate

ALTERNATE REPRESENTATIVE TO THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION BOARD OF DIRECTORS	
Lateefah Simon	

BART AND AC TRANSIT COORDINATION COMMITTEE**	
Elizabeth Ames	Co-Chairperson
Robert Raburn	
John McPartland	

CAPITOL CORRIDOR JOINT POWERS BOARD***	
Debora Allen	Contra Costa
Elizabeth Ames	Alameda Alternate
Bevan Dufty	San Francisco
Janice Li	San Francisco
John McPartland	Alameda
Robert Raburn	Alameda
Rebecca Saltzman	Contra Costa

DIRIDON STATION AREA JOINT POLICY ADVISORY BOARD***	
Robert Raburn	

INNOVATE 680 POLICY ADVISORY COMMITTEE**	
Debora Allen	

OVERSIGHT BOARD TO SUCCESSOR AGENCY OF SAN FRANCISCO REDEVELOPMENT AGENCY***	
Bevan Dufty	

PLEASANT HILL BART STATION LEASING AUTHORITY BOARD OF DIRECTORS***	
Debora Allen	
Mark Foley	

SOUTH HAYWARD BART STATION ACCESS AUTHORITY**	
Elizabeth Ames	
John McPartland	
Robert Raburn	Alternate

TRI-VALLEY – SAN JOAQUIN REGIONAL RAIL AUTHORITY***	
John McPartland	

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE**	
Lateefah Simon	Primary
Rebecca Saltzman	Alternate

**Brown Act Committee, subject to public meeting requirements

***Brown Act Board, subject to public meeting requirements

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Ratified 1/28/2021

LABOR PEACE AGREEMENT POLICY FOR TRANSIT ORIENTED DEVELOPMENT HOTEL OPERATIONS

VISION

As stated in its Board-adopted Transit-Oriented Development Policy, The San Francisco Bay Area Rapid Transit District (BART) is a steward of a large-scale public investment. This includes real estate assets essential to BART's transit-operations, and real estate assets that can be used to catalyze transit-oriented development (TOD) in furtherance of BART's purpose and goals. BART TOD projects will prioritize uses with the highest ridership including residential, community services, and uses with a high density of quality jobs such as office space, but potentially also hotel and hospitality. Due to both its financial interest in these projects to support transit operations, and its commitment to ensuring projects provide community benefits, this policy aims to provide greater certainty around BART's expectations for labor operations in hotels that are part of its TOD projects.

POLICY

- The District shall not execute any lease, Lease Disposition and Development Agreement (LDDA), or other contract or agreement providing for the development of a Hotel Development Project in which the District has a proprietary interest, unless and until the project applicant, developer, or owner, and any operator or manager of the hotel that has been selected, has signed a Labor Peace Agreement covering any Hospitality Operations at the project.
- Each such District lease, LDDA, or other contract or agreement shall further require that any future subcontractor, tenant, sub-lessee, or manager that operates a hospitality operation at the Hotel Development Project shall be required to enter into a Labor Peace Agreement, as defined below.
- The District shall make these requirements express components of any request for proposal, request for qualifications, or other similar solicitation for a Hotel Development Project.
- Nothing in this Policy shall require or compel an employee to be a member of any labor organization, nor shall it require the developer or any tenant, subcontractor, or sub-tenant to recognize a labor organization as the bargaining representative for its employees or to enter into a collective bargaining agreement with any labor organization.
- This Policy shall not apply to hotel development projects on which the District's cumulative investment, or the present value of its expected lease revenues, is less than \$100,000 or on which the hotel or motel component of the hotel development project will employ fewer than 10 full-time equivalent employees at the hotel or motel.
- Moreover, this policy shall be prospective and shall not be applicable to any past or present development projects for which options agreements for ground leases or ground leases have already been executed between the District and any developer.
- This Policy will sunset in 5 years to allow the District to evaluate the impacts. Staff will return to Board at least 6 months before sunset to seek approval to continue or dissolve.

DEFINITIONS

For purposes of this Policy, the following terms shall have the ascribed meanings:

a. “Labor Peace Agreement” shall mean a binding and enforceable agreement with any labor organization that represents or seeks to represent hospitality workers in the county in which the project will be located, in which the labor organization agrees on behalf of itself and its members, in exchange for good and valuable consideration, not to engage in any picketing, work stoppages, boycotts, or any other economic interference with any hospitality operation at the project.

b. “Hospitality Operation” shall mean any hotel or motel operation, and any conference center, restaurant, bar, or any other food and beverage service operation operated or developed in conjunction with a hotel or motel.

c. “Hotel Development Project” shall mean a real-estate project developed pursuant to the TOD Policy that will or may include one or more hotels or motels.

d. “Proprietary interest” shall mean any of the following:

(i) through a lease of real property that is owned by the District and used for the hotel development project, the District receives ongoing revenue, excluding government fees, tax revenue, or assessment revenue, or similar fees and revenues, except for tax revenue under the circumstances specified in paragraphs (ii) and (iii) of this subsection;

(ii) the District receives ongoing revenue from the hotel development project to repay loans provided by the District to assist in the development of the project, including incremental tax revenues generated by the project;

(iii) the District receives ongoing revenue from the hotel development project to pay debt service on bonds provided by the District to assist in the development of the project, including incremental tax revenues generated by the project;

(iv) the District has assets at risk because it has agreed to underwrite or guarantee the development of the hotel development project or loans related to the project; or

(v) the District has an ongoing economic and non-regulatory interest at risk in the financial success of a hotel development project which is likely to be adversely affected by labor-management conflict, except that no interest shall be considered economic and non-regulatory if it arises from the exercise of regulatory or police powers such as taxation (except as set forth in paragraphs (ii.) and (iii.) of this subsection), zoning, or the issuance of permits or licenses.