

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

Board of Directors  
Minutes of the 1,846th Meeting  
July 25, 2019

A regular meeting of the Board of Directors was held July 25, 2019, convening at 9:00 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California. President Dufty presided; Patricia K. Williams, District Secretary.

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

Absent: None.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of June 13, 2019 (Regular); June 27, 2019 (Regular); July 11, 2019 (Regular); and July 17, 2019 (Special).
2. BART Police Citizen Review Board (BPCRB) Allocation of Funds for Membership Fees to National Association for Civilian Oversight of Law Enforcement (NACOLE).
3. Resolution Authorizing California State of Good Repair Program Funds for Fiscal Year 2019 -2020.
4. District Engineering Recruitment Sourcing Services.
5. Employee Relocation Assistance for the Deputy Managing Director Capitol Corridor.
6. Agreement with U.S. Bank Voyager Fleet Systems, Inc., for Participation in the State of California Department of General Services Purchase Card (CAL-Card) Program for the Voyager Fuel Card Program.
7. Award of Contract No. 15TC-231, Aerial Structure Fall Protection, M-Line.
8. Invitation for Bid No. 9054, Fujitec Step Assemblies.
9. Invitation for Bid No. 9055, Escalator Step Assemblies.
10. Invitation for Bid No. 9061, Uninterruptible Power Supply.
11. Reject the Single Bid for Agreement No. 6M3425, Systemwide Track Joint Elimination Services.
12. Richmond Greenway Pedestrian/Bike Path Revocable License Agreement with the City of Richmond.

Director Saltzman made the following motions as a unit. Director Raburn seconded the motions, which carried by unanimous electronic vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

1. That the Minutes of the Meetings of June 13, 2019 (Regular); June 27, 2019 (Regular); July 11, 2019 (Regular); and July 17, 2019 (Special), be approved.
2. That the Board authorize the allocation of \$400.00 per fiscal year for BART Police Citizen Review Board (BPCRB) membership fees to National Association for Civilian Oversight of Law Enforcement (NACOLE).
3. Adoption of Resolution No. 5413, Authorizing the Acceptance of Fiscal Year 2019-2020 California State of Good Repair Program Funds.
4. That the General Manager or his designee be authorized, in conformance with established District procedures governing the procurement of professional services, to obtain District recruitment sourcing services, to identify qualified candidates for engineering positions identified by the Human Resources Department. The cost of the sourcing services will not exceed an aggregate amount of \$200,000.
5. That the General Manager or his designee be authorized to enter into a relocation expense reimbursement agreement, if necessary, for the role of Deputy Director, Capitol Corridor, in accordance with Management Procedure Number 70, New Employee Relocation Expense Reimbursement.
6. That the General Manager be authorized to enter into an agreement with U.S. Bank Voyager Fleet Systems, Inc., for participation in the State of California DGS Cal-Card Program, reference participating addendum No. 7-16-99-27, Amendment 1, Commercial Card Solutions Contract 00612-Category 2, for the period December 31, 2018, to December 31, 2020.
7. That the General Manager be authorized to award Contract No. 15TC-231, Aerial Structure Fall Protection, M-Line, to SDV Services, Inc., for the Bid price of \$1,382,999.00 pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures.
8. That the General Manager be authorized to award Invitation for Bid No. 9054, an estimated quantity contract, for the purchase of Fujitec escalator step assemblies, to Precision Escalator for the amount of \$1,611,437.05, including taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the District protest procedures.
9. That the General Manager be authorized to award Invitation For Bid No. 9055, an estimated quantity contract, for the purchase of O & K step chain assemblies, to Kone Spares, Moline, Illinois, for the amount of \$1,449,907.44, including taxes, pursuant to notification to be issued by the General Manager.
10. That the General Manager be authorized to award Invitation For Bid No. 9061, an estimated quantities contract, for Uninterruptible Power Supply to Benning Power Electronics, Inc. for an amount of \$893,017.15 (including applicable sales tax),

pursuant to a notification to be issued by the General Manager, subject to compliance with the District's protest procedures.

(The foregoing three motions were made on the basis of analysis by the staff and certification by the Controller/Treasurer that funds are available for this purpose.)

11. That the General Manager be authorized to reject the proposal submitted by Holland, LP for Request for Proposal No. 6M3425 Systemwide Track Joint Elimination Services, to restructure the scope of services and to re-advertise the Request for Proposal.
12. That the General Manager or his designee be authorized to enter into a revocable License Agreement with the City of Richmond for the operation and maintenance of an access point to the Richmond Greenway from South 45<sup>th</sup> Street in Richmond, and to amend the License Agreement to address landscape improvements on BART property adjacent to the Richmond Greenway.

President Dufty announced that the Board would enter into closed session under Item 2-A (Public Employee Employment) and Item 2-B (Conference with Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in open session.

The Board Meeting recessed at 9:02 a.m.

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The Board reconvened in closed session at 9:03 a.m.

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

Absent: None.

The Board Meeting recessed at 9:35 a.m.

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The Board reconvened in open session at 9:35 a.m.

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

Absent: None.

President Dufty announced that the Board had voted in closed session to appoint Robert Powers as General Manager by a unanimous vote, subject to the parties reaching agreement on terms and conditions of employment.

President Dufty brought the matter of Compensation and Benefits for General Manager before the Board, and moved that the Board approve the following terms of employment for Robert

Powers, which shall be incorporated in a mutually satisfactory written employment agreement prepared by the General Counsel for execution by Mr. Powers and the Board President: Service for an indefinite term at the pleasure of the Board; base salary of \$385,000 per year; twelve months' severance pay for involuntary termination unless a result of death or gross misconduct; annual accrual of vacation at the rate of five weeks per year with subsequent changes in the rate of accrual occurring according to the schedule for non-represented employees generally; benefits afforded non-represented management employees and retirees; and additional annual contributions to the Money Purchase Pension Plan as follows:

Effective upon amendment of the Money Purchase Pension Plan, \$30,000 per year contributed to Mr. Powers' Money Purchase Pension Plan account ratably for each payroll period. The additional contributions to the Money Purchase Pension Plan will be coordinated on Mr. Powers making the maximum deferral contributions to the District's 457(b) Plan under Internal Revenue Code Sections 457(e)(15) and (18). The actuarial impact upon future annual costs to the District will not exceed \$30,000 per year. The Board will work with the Office of the General Counsel and District staff to take the necessary steps to amend the Money Purchase Pension Plan to provide for such additional contributions, including compliance with Government Code Section 7507. Vice President Saltzman seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

The Board Meeting recessed at 9:39 a.m.

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The Board reconvened at 9:51 a.m.

Director Raburn introduced Mr. Michael McGill, Chairperson of the Bond Oversight Committee. Mr. McGill presented the committee's Annual Report.

Director Raburn introduced Mr. Rick Goldman, Chairperson of the BART Bicycle Advisory Task Force. Mr. Goldman gave a presentation on behalf of the task force.

Mr. Carl Holmes, Assistant General Manager, Construction and Development introduced the 2019 Summer Interns from the departments of Planning, Development and Construction, and Maintenance and Engineering.

President Dufty called for Public Comment.

The following individuals addressed the Board:

Gena Alexander

Michael Granat

Aleta Dupree

Izzy Meckler

Director Simon exited the meeting.

Director Allen, Vice-Chairperson of the Administration Committee, brought the matter of Award of Agreement No. 6M4674, with APEX Investigation, for District's Workers' Compensation Investigative Services before the Board. Ms. Pamela Herhold, Assistant General

Manager, Performance and Budget; and Mr. Rod Maplestone, Human Resources Division Manager, presented the item. Director Saltzman moved that the General Manager be authorized to award Agreement No. 6M4674, Investigative Services for the District's Workers' Compensation Program, to APEX Investigation for an amount not to exceed \$1,152,470.85 for the base three-year period, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures; and that the General Manager also be authorized to exercise Option Year One (1) for an amount not to exceed \$430,942.60 and Option Year Two (2) for an amount not to exceed \$430,942.60, subject to availability of funds. President Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, and Dufty. Noes – 0. Absent – 1: Director Simon.

Director McPartland exited the meeting.

Director Foley, Chairperson of the Engineering and Operations Committee, brought the matter of Agreements for Quality of Life Programs before the Board. Ms. Tamar Allen, Assistant General Manager, Operations; and Mr. Tim Chan, Group Manager, Planning, presented the item. The item was discussed. Director Li moved that the General Manager be authorized to enter into negotiations with the listed agencies for the specified services:

1. Urban Alchemy for elevator attendants at Civic Center, Powell Street, Montgomery and Embarcadero stations. In Fiscal Year 2020 (FY20) not to exceed \$1,500,000, Fiscal Year 2021 (FY21) not to exceed \$1,900,000 and Fiscal Year 2022 (FY22) not to exceed \$3,279,000. BART will enter into a separate reimbursement agreement with San Francisco Municipal Transportation Agency (SFMTA) for 50% of actual costs for these services.
2. San Francisco Public Works (SFPW) for three Pit Stop locations at Powell Street, 16th Street and 24th Street In FY20 not to exceed \$257,500, FY21 not to exceed \$265,225 and FY22 not to exceed \$273,182.
3. Contra Costa Health Services (CCHS) for one dedicated Homeless Outreach Team in Contra Costa County. In FY20 not to exceed \$180,000, FY21 not to exceed \$187,000 and FY22 not to exceed \$194,000.
4. Alameda County Healthcare Services Agency (ACHSA) for one dedicated Homeless Outreach Team (HOT) in Alameda County. In FY20 not to exceed \$250,000, FY21 not to exceed \$257,500 and FY22 not to exceed \$265,225.
5. San Mateo County Human Services Agency (SMCHSA) for one dedicated Homeless Outreach Team (HOT) in San Mateo County and San Francisco International Airport (SFO). In FY20 not to exceed \$250,000, FY21 not to exceed \$257,500 and FY22 not to exceed \$265,225. BART will enter into a separate reimbursement agreement with SFO for up to 50% of the costs based on the actual time spent at the airport.

Director Saltzman seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 0. Absent – 2: Directors McPartland and Simon.

Director Foley brought the matter of Single Source Procurement with Motorola Solutions, Inc., for an Independent Public Safety Tunnel Radio System before the Board. Ms. Tamar Allen; and Mr. Shane Edwards, Chief Maintenance & Engineering Officer, presented the item. The item was discussed. Director Allen moved that pursuant to California Public Contract Code Section

20227, the Board finds that Motorola Solutions, Inc. is the single source for the purchase of equipment for the Project, and that the purchase is for the purpose of duplicating or replacing equipment in use at the District; and that the General Manager be authorized to enter into direct negotiations and execute a contract with Motorola Solutions, Inc. for the procurement of an Independent Public Safety Tunnel Radio System for an amount not to exceed \$1,930,000 plus applicable taxes. President Duffy seconded the motion, which carried by unanimous electronic vote by the required two-thirds majority. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Duffy. Noes – 0. Absent – 2: Directors McPartland and Simon.

Director Foley brought the matter of Award of Contract No. 07EA-120, 19th Street/Oakland Station Modernization Project, before the Board. Mr. Holmes and Ms. Shirley Ng, Group Manager, Capital Programs, presented the item. The item was discussed. Director Raburn moved that the General Manager be authorized to award Contract No. 07EA-120, 19th Street Oakland Station Modernization Project, to Proven Management, Inc., for the Bid Price of \$32,691,000 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and Federal Transit Administration requirements related to protests; and that the General Manager be further authorized to exercise Option 1, Track Wall Mural Painting, subject to certification by the Controller/Treasurer that funding is available. Director Saltzman seconded the motion, which carried by electronic vote. Ayes – 6: Directors Ames, Foley, Li, Raburn, Saltzman, and Duffy. Noes – 1: Director Allen. Absent – 2: Directors McPartland and Simon.

President Duffy exited the meeting.

Director Foley brought the matter of Agreement No. 6M3426 with Loram Maintenance of Way, Inc., for Production Rail Profiling Services before the Board. Ms. Tamar Allen; Mr. Laurence Farrell, Group Manager, Maintenance and Engineering; and Mr. Gregory Shivy, Principal Track Engineer, presented the item. The item was discussed. Director Li moved that the General Manager be authorized to award Agreement No. 6M3426 to Loram Maintenance of Way, Inc., to provide Production Rail Profiling Services for a one (1) year base period with (2) two, (1) one-year options, for an amount not to exceed \$12,636,749.00, pursuant to notification to be issued by the General Manager. Director Raburn seconded the motion, which carried by unanimous electronic vote. Ayes – 6: Directors Allen, Ames, Foley, Li, Raburn, and Saltzman. Noes – 0. Absent – 3: Directors Duffy, McPartland and Simon.

Director Foley brought the matter of Change Orders to Contract No. 09DJ-150A, TBT Cathodic Protection Reference Cell Replacement, with DMZ Builders before the Board. Ms. Tamar Allen; Ms. Maansii Chiraq Sheth, Project Manager; and Mr. Myat San, Group Manager, Mechanical/Electrical Engineering, presented the item. Director Allen moved that the General Manager be authorized to execute the Change Orders 9.1 through 16 (a total of 8 Change Orders) for Contract No. 09DJ-150A, TBT Cathodic Protection Reference Cell Replacement for a total estimated amount of \$380,588.00, with a time extension to the Contract Duration of 61 Days. Director Li seconded the motion which carried by unanimous electronic vote. Ayes – 6: Directors Allen, Ames, Foley, Li, Raburn, and Saltzman. Noes – 0. Absent – 3: Directors Duffy, McPartland and Simon. (A description of the eight change orders is attached and hereby made a part of these Minutes.)

President Duffy re-entered the meeting.

Director Foley brought the matter of Change Order to Contract No. 47CJ-120, Procurement of Ticket Vending Machine Transport Installation Kits with Software Modifications, with Cubic Transportation Systems, Inc., to Dispense Clipper Cards (C.O. No. 1) before the Board. Ms. Tamar Allen and Ms. Mitra Moheb, Manager of Engineering Programs, presented the item. The item was discussed. Director Saltzman moved that the General Manager be authorized to execute Change Order No. 001 to Contract No. 47CJ-120, Procurement of Clipper® Vending Machine Transport Installation Kits and Software Modifications to Dispense Clipper ® Cards in the amount of \$687,911.00. Directors Allen and Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 0. Absent – 2: Directors McPartland and Simon.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Award of Agreement No. 57RR-110, with Alex Kushner General, Inc., for Embarcadero and Civic Center Bike Station Modifications before the Board. Mr. Holmes; Mr. Steve Beroldo, Manager of Access Programs; and Mr. Maceo Wiggins, Department Manager, Office of Civil Rights, presented the item. The item was discussed. Director Raburn moved that the General Manager be authorized to award Contract No. 57RR-110, for Embarcadero and Civic Center Bike Station Modifications, to Alex Kushner General Inc., of San Francisco, California, for the bid price of \$573,260, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures. President Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 0. Absent - 2: Directors McPartland and Simon.

Director Raburn brought the matter of Update on Transbay Core Capacity Project before the Board. Mr. Holmes; Mr. Duncan Watry, Project Manager; Ms. Nikki Foletta, Project Manager; and Mr. Thomas Dunscombe, Group Manager, Capital Projects, presented the item. The item was discussed.

President Dufty called for the General Manager's Report.

Ms. Tamar Allen reported on the faregate pilots at Richmond and Fruitvale Stations. Mr. Roddrick Lee, Acting Assistant General Manager, External Affairs, reported on the development of a survey on the modified fare gates to gain customer feedback. General Manager Powers reported on steps he had taken and activities and meetings he had participated in.

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

Director Raburn reported he had met with Blueshield regarding their pending move near the 12<sup>th</sup> Street/Oakland City Center Station and with Alameda County Supervisor Carson and Alameda County Administrator Muranishi on homeless outreach and transit oriented development, and had attended the Family Bridges Gala, a Service Review Advisory Committee for East Bay Paratransit meeting, the SPUR housing, transportation and urban development symposium, and a meeting of the Tanforan Memorial group.

President Dufty requested an In Memoriam for Joseph "Bunny" Simon, who owned 8 nightclubs in the Fillmore District in the 50's and 60's, and was credited with bringing black jazz to San Francisco. Mr. Simon was the grandfather of Director Lateefah Simon.

Director Saltzman reported she had met with the El Cerrito Democratic Club to discuss transit oriented development and Assembly Bill 2923 and that she would be participating in community outreach with District staff to discuss the San Pablo specific plan.

President Dufty called for Public Comment. No comments were received.

President Dufty announced that the Board would enter into closed session under Item 13-A (Conference With Legal Counsel) 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 12:57 p.m.

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The Board reconvened in closed session at 1:07 p.m.

Directors present: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty.

Absent: Directors McPartland and Simon.

The Board Meeting recessed at 1:11 p.m.

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The Board reconvened in open session at 1:12 p.m.

President Dufty announced that there were no announcements to be made from the closed session.

The Meeting was adjourned at 1:12 p.m. in honor of Joseph “Bunny” Simon.

Patricia K. Williams  
District Secretary

## EXECUTIVE DECISION DOCUMENT

### ATTACHMENT #1

### CHANGE ORDER SUMMARY

#### BACKGROUND

Name of Contractor: DMZ Builders Co., Inc.  
Contract No./NTP: 09DJ-150A / July 25, 2018  
Contract Description: TBT Cathodic Protection Reference Cell Replacement  
Percent Complete as of 7/15/2019 85%

<u>COST</u>	<u>% of Award</u>	<u>CO Totals</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$ 949,850.00
Change Orders:			
Other than Board Authorized C.O.s	9.91%	\$ 94,120.42	
Pending Board Authorized C.O.s	<u>40.07%</u>	<u>\$380,588.00</u>	
Subtotal of all Change Orders	49.98%	\$474,708.42	
<u>Revised Contract Amount:</u>			\$1,424,588.42

#### SCHEDULE

Original Contract Duration:	360 Days
Time Extension to Date:	0 Days
Time Extension Due to Pending COs:	61 Days
Revised Contract Duration	421 Days

#### SUMMARY REASON FOR THESE CHANGE ORDER(S)

To address access and coordination conflicts with TBT Retrofit Project and differing site conditions encountered.