

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
2150 Webster Street, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,907th Meeting
April 28, 2022

A regular meeting of the Board of Directors was held on April 28, 2022, convening at 9:00 a.m., via teleconference, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361. President Saltzman presided; April B. A. Quintanilla, Acting District Secretary.

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

Absent: None.

President Saltzman gave instructions regarding Public Comment.

Under Item 2, Report of the Board President, President Saltzman addressed the meeting agenda and schedule.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of April 14, 2022.
2. Submittal of California Office of Emergency Services (CalOES) Form 130, Designating Agents Necessary to Provide for All Matters Pertaining to State and Federal Emergency Management Agency (FEMA) Requirements.
3. Award of Invitation for Bid No. 9108, For the Procurement of DSS Sign Replacement Project.
4. Award of Invitation for Bid No. 9118, For the Procurement of Hi-Rail Flat Bed With Crane.
5. Procurement with Carahsoft Technology Corporation, as the Official National Association of State Procurement Officials (NASPO) Provider, for Backoffice Security Equipment for the Unified Optical Network.

Director Dufty made the following motions as a unit. Director Foley seconded the motions.

1. That the Minutes of the Meeting of April 14, 2022, be approved.
2. That Resolution No. 5515, Designation of Applicant's Agent Resolution, be adopted.
3. That the General Manager be authorized to award Invitation For Bid (IFB) No. 9108 for three hundred and fifty-two (352) 32" Industrial Displays and eighty-eight (88) Industrial Computers to Transource Services Corp., of Phoenix, Arizona in the amount of \$596,673.00 (includes all taxes), pursuant to notification to be issued by the General Manager.

4. That the General Manager be authorized to award IFB No. 9118 Hi-Rail Flat Bed with Crane to Custom Truck One Source for an amount not-to-exceed \$589,037.42 (includes all taxes), pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures and the Federal Transit Administration's requirements related to protests.
5. That the General Manager be authorized to enter into a National Association of State Procurement Officials (NASPO) ValuePoint contract with Carahsoft Technology Corporation for the procurement of Gigamon back office server equipment for an amount not to exceed \$558,274.

Director Allen requested that Item 3-D, Award of Invitation for Bid No. 9118, For the Procurement of Hi-Rail Flat Bed With Crane, be removed from the Consent Calendar.

Upon President Saltzman's request, Director Dufty accepted a friendly amendment to remove Item 3-D, from the Consent Calendar vote.

President Saltzman announced that Item 3-A, Approval of Minutes of the Meeting of April 14, 2022, would be removed from the Consent Calendar.

President Saltzman called for Public Comment on the Consent Calendar. Aleta Dupree addressed the Board.

The motions brought by Director Dufty and seconded by Director Foley, with the removal of Items 3-A and 3-D carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, Li, McPartland, Raburn, Simon, and Saltzman. Noes: 0.

Item 3-D was discussed, with the following highlights:

Director Allen expressed concern about the process by which the contract was awarded and asked staff to clarify.

Director Ames inquired about the Good Faith Effort associated with the Disadvantage Business Enterprise (DBE) process.

Director Foley inquired whether Doc Bailey had done business with BART in the past.

Doc Bailey addressed the Board.

Director Allen moved that Invitation for Bid No. 9118 be re-bid. Director Ames seconded the motion

Discussion continued, with the following highlights:

Director Simon inquired about the collateral consequences, if any, of re-bidding the contract.

Director McPartland commented that BART could have done better with its due diligence and expressed support for the motion made by Director Allen.

Director Allen inquired about the purchase of equipment required for the subject contract.

Discussion continued.

Doc Bailey addressed the Board.

Discussion continued, with the following highlights:

Director Dufty thanked staff for explaining the process and the steps required for federally-funded projects.

Vice President Li expressed alignment with the comments made by Director Dufty.

Vice President Li made the following substitute motion: That the General Manager be authorized to award IFB No. 9118 Hi-Rail Flat Bed with Crane to Custom Truck One Source for an amount not-to-exceed \$589,037.42 (includes all taxes), pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures and the Federal Transit Administration's requirements related to protests. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 7 – Directors Dufty, Foley, Li, McPartland, Raburn, Simon, and Saltzman. Noes: 2 – Directors Allen and Ames.

President Saltzman called for general Public Comment. Aleta Dupree and Joe Kunzler addressed the Board.

President Saltzman brought the matter of Board Matter of Amendment to Customer Code of Conduct to Include Mask Requirement. President Saltzman shared that last week there was a federal ruling that invalidated the federal mask requirement on transit, and on planes and that BART staff on their own did not have the authority to continue with the mask requirement without the Board taking a policy action. President Saltzman notated that as a result, the Board put together specific language addressing the Code of Conduct and if it passed, signs in the stations would be updated in an effort to protect those vulnerable communities, people who have underlying health conditions, people who are immunocompromised, and children under 5 years old who are not eligible to be vaccinated.

The following individuals addressed the Board:

Beth Kenny
Hamilton Carter
Jordan Davis
Kacei Conyers
Rosemary Ehat
Maddy Ruvolo
Warren Cushman
Jesse Hunt
Kelly Barker
Jenn Lerner
Aleta Dupree
Antonio Taylor
Grace Mall
Shauna Reeves
Raul Maldonado
Jessica Lengman
Joe Kunzler
Michael Lyon
Steven Marsden

Edith
Marisol Ferrante
Curtis
Mara Schecter
Hamie
David Nierengart
Scott Blanks
Peter Straus

The item was discussed with the following highlights:

President Saltzman noted that there is no expectation of Station Agents or Operators to enforce the mask requirement; and addressed the suggestion of designating the first 3 – 5 cars with a mask requirement and not for the remainder of the train cars.

Director Foley addressed concerns raised by public speakers; commented that he believes masks do make BART safe; and commended employees on their efforts in dealing with COVID and the related protocols. Director Foley indicated that he did not want Station Agents and Train Operators being asked to enforce the mask requirement rule as the BART Police Department should be given the latitude to enforce this rule utilizing education, free masks, and if necessary, citations and ejections from the system; and expressed that he does not support blaming the BART Police Department for the enforcement of the mask requirement.

Vice President Li commented that she is fully aligned with the comments of Director Foley; thanked the public for reaching out to the Board of Directors with emails and comments about the mask requirement, specifically people with disabilities and seniors who have had to explain their experiences on public transit; and expressed strong support for the action, sharing that she will ask her fellow colleagues to vote yes on the requirement as it is temporary thought July 18, 2022, which will provide the Board with time to watch the data and look at compliance around this matter.

Director Raburn noted that like many people across the country he was upset upon learning of the judge's ruling; further commented that the State, the Center for Disease Control (CDC) and local health departments must retain measures; and expressed that enforcement without a health department mandate is problematic and that he would continue the practice of wearing double masks when on public transit; and suggested an alternative proposal to encourage mask-wearing with BART car cards, outreach, and by looking out for each other, and continuing to survey the mask compliance; but expressed lack of support for a mask mandate.

Director Dufty commented on the federal judge decision that led to the repeal of the mask mandate; expressed that he feels like BART is taking a firm stand, following no one; and thanked President Saltzman for expressing to the General Manager deep concern about the implications of removing the mask mandate on the BART system, ridership and the health of our riders; and joined all of the Directors who have spoken so far in commending and thanking our labor partners.

Director Ames commented on the need to wear a mask and follow Centers for Disease Control (CDC) guidelines; read a passage from the CDC website referencing that all passengers on public conveyances traveling into, within or out of the United States as well as other workers involved in the operation of conveyances, regardless of their vaccination status are required to wear a mask over their nose and mouth; and indicated concern over the confusing message of taking the masks off

and putting them back on, as she believes there is going to be another variant, possibly in the fall, when flu season arrives; and expressed support for the mandate.

Director Allen thanked Director Raburn for his comments as she also supports an alternative proposal of strongly encouraging masking; commented on the different types of masks and, efficacy, and enforcement of a mandate; expressed concern about the initiative; and inquired about whether there were any plans to present some kind of presentation on the actual science and benefits of masking in transit and the authority that provides the Police Department the ability to cite and or eject people from the system for noncompliance.

President Saltzman asked staff to begin handing out surgical masks as they are deemed more effective for the public and our employees.

Director Allen indicated that she did not think that the Board had been presented with the proper information to support the mandate and that she would abstain from expressing support on the vote.

Director McPartland commented that he appreciated all of the comments received for the motion to continue the mask mandate; and thanked the labor staff, Directors and the public, noting that the voluntary compliance has reached 96%.

Director Simon commented on witnessing people with their masks on BART; expressed that she would like for BART to poll agencies in Los Angeles and New York, acknowledging that deeply dependent transit communities have called on transit agencies to require a temporary continuance of the mandate; and referenced the members of the community who deeply rely on BART for basic mobility and safety who are also immunocompromised, and have requested a mask requirement.

President Saltzman moved that the Customer Code of Conduct be amended to include a mask requirement. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 7 – Directors Ames, Dufty, Foley, Li, McPartland, Simon, and Saltzman. Noes: 0 Abstentions: 2 –Directors Allen and Raburn

President Saltzman called for the General Manager’s Report. Robert Powers, General Manager, reported on BART’s continued work on Senate Bill 917 with Senator Becker, taking a support if amended position; the addition of digital advertising screens at the Embarcadero Station and Montgomery Stations as part of BART’s advertising franchise and partnering with Outfront Media; the Cypress Mandela and Oakland Unified School District trade fair; the progress of Transit-Oriented Development efforts in Berkeley; increase in ridership; attendance at an event with the Transit Twitter Besties Group, a group of Bay Area Transit enthusiasts and advocates who will be touring our building, sharing their ideas about transit and growing ridership.

Joe Kunzler and Aleta Dupree addressed the Board.

The item was discussed with the following highlight:

President Saltzman commented that she was pleased to see staff back in the Board room and that she thought this would encourage the public to engage with the Board publicly once all return to the Boardroom.

Director Simon, Chairperson of the Administration Committee, brought the matters of (1) Issuance and Sale of General Obligation Bonds (Election of 2016), 2022 SERIES D (Green Bonds); and (2) Issuance and Sale

of General Obligation Bonds (Election of 2004), 2022 Refunding SERIES H (Federally Taxable) (Green Bonds) before the Board. Christopher Gan, Interim Controller- Treasurer, presented the items.

The item was discussed with the following highlights:

Director Raburn thanked staff for their work on the information presented; commented that he visited the Tube and noted incredible progress taking place with hundreds of workers overnight.

Director Raburn moved (1) Resolution No. 5513, Authorizing And Approving The Issuance And Sale Of Not To Exceed \$700,000,000 Aggregate Principal Amount Of San Francisco Bay Area Rapid Transit District General Obligation Bonds (Election Of 2016), 2022 Series D; Authorizing The Execution And Delivery Of A Third Supplemental Trust Agreement Pursuant To Which Such Bonds Are To Be Issued, A Bond Purchase Agreement Pursuant To Which Such Bonds Are To Be Sold By Negotiated Sale; Approving An Official Statement Relating To Such Bonds; Authorizing Execution And Delivery Of The Official Statement And Certain Documents In Connection With The Issuance And Sale Of Such Bonds, Including A Continuing Disclosure Agreement; Delegating To The Controller/Treasurer Of The District Or The Interim Controller/Treasurer Of The District Power To Determine Final Terms Of Such Bonds And Complete Said Documents And Authorizing Certain Other Matters Relating Thereto, be adopted, incorporated herein as set forth in full, authorizing and approving the issuance and sale of not to exceed \$700 million aggregate principal amount of the Bonds, and authorizing the preparation, execution and delivery of agreements and documents in connection therewith; and that (2) Resolution No. 5514, Authorizing And Approving The Issuance And Sale Of Not To Exceed \$60,000,000 Aggregate Principal Amount Of San Francisco Bay Area Rapid Transit District General Obligation Bonds (Election Of 2004), 2022 Refunding Series H (Federally Taxable); Authorizing The Execution And Delivery Of A Second Supplemental Trust Agreement Pursuant To Which Such Bonds Are To Be Issued, A Bond Purchase Agreement Pursuant To Which Such Bonds Are To Be Sold By Negotiated Sale; Approving An Official Statement Relating To Such Bonds; Authorizing Execution And Delivery Of The Official Statement And Certain Documents In Connection With The Issuance And Sale Of Such Bonds, Including A Continuing Disclosure Agreement And An Escrow Agreement; Delegating To The Controller/Treasurer Of The District Or The Interim Controller/Treasurer Of The District Power To Determine Final Terms Of Such Bonds And Complete Said Documents And Authorizing Certain Other Matters Relating Thereto, be adopted, incorporated herein as if set forth in full, authorizing and approving the issuance and sale, if sufficient savings are achieved, or not to exceed \$60 million aggregate principal amount of the Refunding Bonds, and authorizing the preparation, execution and delivery of agreements and documents in connection therewith.

Discussion continued with the following highlight:

Director Ames thanked staff for issuing the bonds and for all of the work that went into the presentation; expressed concern that the projects are tied to the bond issuance; and inquired whether staff would be able to provide a project list of what the bond issuance would cover before the budget is adopted.

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

Director Simon, Chairperson of the Administration Committee, brought the matter of Fiscal Year 2023 and Fiscal Year 2024 Preliminary Budget Overview before the Board. Pamela Herhold, Assistant General

Manager, Performance and Budget; Michael Eiseman, Director of Financial Planning; and Christopher Simi, Director of Budgets, presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Raburn thanked staff for the informative report and outstanding budget memo; commented on the absence of different initiatives for the Board to consider in the budget memo; requested cost information about rail service in order to provide full consideration; noted that the Board and staff can come up with a service plan that will address many issues; and referenced BART's Commercial Communications Revenue Program and Digital Railway Program, indicating that these are the things that provide wi-fi and cellular service as well as support for the commercial stations serviced by our fiber optic network, and that the Board has not had an update on these matters in a while.

Director Ames inquired about the staffing from Fiscal Year 2020 to present; commented that 10% of BART's workforce, roughly 520 less employees that we had in Fiscal Year 2020, caused an increase of over \$60 million in salary and benefits and asked staff for some insight.

Director Allen thanked Directors Ames and Raburn for the questions they raised; and requested that staff provide the projected actuals for Fiscal Year 2022 at the next Board meeting.

Director Dufty, Chairperson of the Engineering and Operations Committee, brought the matter of Procurement with Cisco Systems, as the Official National Association of State Procurement Officials (NASPO) Provider, for New Network Switches for the New Unified Optical Network (UON) before the Board. Sylvia Lamb, Acting Chief Engineering Officer, and Mitra Moheb, Senior Manager of Engineering Programs presented the item.

The item was discussed, with the following highlight:

Director Raburn inquired about consideration of a non-Clipper contactless payment system that the system would be compatible with.

Director Raburn moved that the General Manager or his designee be authorized to enter into a contract with Cisco Systems Inc. to purchase new network switches District wide for Clipper 2.0 network segmentation configuration and testing for an amount not to exceed \$6,500,000.00. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, Li, McPartland, Raburn, Simon, and Saltzman. Noes: 0 Absent: 0

Director Foley, Chairperson of the Planning, Public Affairs, Access and Legislation Committee, brought the matter of Silicon Valley BART Extension, Phase II, Project Update before the Board. Carl Holmes, Assistant General Manager, Design and Construction, presented the item.

The following individuals addressed the Board:

Mark Molineaux
Riley Esteves
Adam Buchbinder
Andrea Horbinski
Ryan Globus
Adina Levin
Aleta Dupree

The item was discussed with the following highlights:

Vice President Li thanked staff for the presentation and asked a few questions related to project milestones, risk assessment, various phases of the project, and funding.

President Saltzman commented that she appreciates that the Santa Clara Valley Transportation Authority (VTA) has changed course and is now looking at this project in a more transparent manner; and expressed that she is willing to engage and have more meetings with VTA and agrees that BART needs to see a funding plan and invoke a more collaborative process.

Director Allen inquired about the issue of the Peer Review previously performed with independent outside experts; asked staff about whether there had already been a peer review regarding the single bore issue and the outcome; and commented that BART should be at an appropriate stage before diving into construction and that she thinks the peer- review needs to be a peer review of independent, not BART, but people in the industry.

Director Ames commented that the Peer Review is missing for this project of the two structural systems; noted that there was a peer review on the single bore some time ago and thinks there should be a review of the twin-bore versus the single bore with both entrances; expressed concern about this as she has been asking for this for some time and was told it would be forthcoming; and further commented that later it was discovered that the full project increased to \$9 billion dollars, creating the need to evaluate which system is more efficient for riders.

Director Raburn thanked the Directors for their comments; commented that he was appreciative that BART had the foresight to include a good deal in the VTA contract and that tapping into the Transportation Development Act (TDA) funds would not be ideal; noted that it is important for BART and VTA to be on track with this project; and further commented that it is disheartening that VTA has paused the station contract, that BART should be re-examining this project to determine if the twin-bore or single-bore is the best solution, and that it is critical to get to a funding plan within the next 90 days.

Director McPartland commented that VTA has the responsibility for building the project and BART takes over operations; and addressed the comments regarding Peer Review from multiple sources from public comments.

Director Foley commented that the VTA General Manager is BART's partner and runs a significant agency in the Bay Area and expressed support and appreciation for VTA.

Director Allen thanked Director Foley for his comments; noted that more Directors have commented that a Peer Review would be appropriate at this time; and commented on BART's a fiduciary

obligation for the future sustainability of BART and the impact of issues with the project on BART and BART riders.

President Saltzman announced that the Board would enter into closed session under Item 11-B (Public Employee Employment) of the Regular Meeting agenda; that Item 11-A (Public Employee Performance Evaluation) would be continued to a future Board Meeting; and that the Board would reconvene in open session upon conclusion of the closed session.

The Board Meeting recessed at 1:38 p.m.

The Board reconvened in closed session at 1:50 p.m.

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

Absent: Directors McPartland and Simon. Director Dufty entered the Meeting later.

Director Dufty entered the Meeting.

The Board Meeting recessed at approximately 2:00 p.m.

The Board reconvened in open session at approximately 2:05 p.m.

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

Absent: Director Simon. Director McPartland entered the Meeting later.

President Saltzman brought the matter of Response to Roll Call for Introductions (RCI) Item No. 21-842: Initiative to Require Posting Video Recordings of Audit Committee, BART Police Citizen Review Board, and Redistricting Ad Hoc Committee Meetings before the Board. April Quintanilla, Acting District Secretary, presented the item.

Riley Esteves addressed the Board.

The item was discussed, with the following highlights:

Director Allen thanked Acting District Secretary Quintanilla for acting quickly with getting the meetings posted so that the public can view them. Director Allen made a motion to include qualification of the videos that are held by the DSO's office; and asked April Quintanilla to read the motion again.

Director McPartland entered the Meeting.

Director Allen moved that the Board directs the District Secretary's Office to post video recordings for Audit Committee and BART Police Citizen Review Board meetings on Legistar, on a regular and continuous basis so long as the video recordings are in BART's possession. President Saltzman seconded the motion.

President Saltzman commented on returning to in-person meetings and inquired about the submission of a plan to address the video recording issue.

Director Allen commented that attending the committee meetings virtually works better and renders greater attendance than in-person meetings.

Aleta Dupree addressed the Board.

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

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

Vice President Li reported that she had attended the Capitol Corridor Joint Powers Authority (CCJPA) Board meeting and thanked the District Secretary's Office, applauding Acting District Secretary April Quintanilla, as it was the first time that a hybrid meeting was held in a separate location.

Director Raburn reported that he had attended the CCJPA Board meeting in Suisun and thanked the District Secretary's Office and staff and that he had attended the Diridon Station Joint Policy Advisory Committee meeting and the Trades Fair at the Cypress Mandela Training Program with apprenticeship graduates and over 2600 Unified School District and San Leandro High School students; and thanked staff for their attendance and participation.

Director Dufty reported that he had attended a meeting with the Captain of the Mission Police Station regarding illegal vending at the 24th Street Plaza, which included Deputy Chief Kevin Franklin from the BART Police Department, and that new vending legislation has been signed into legislation by Mayor London Breed; and thanked all public safety and government agencies that participated in the conversation.

Director Allen reported that she had attended the Concord State of the City event and heard a presentation regarding BART's Sales Tax, including projections for the future and a quarterly general summary report; testified in favor of Senate Bill 1488, before the California Senate Judiciary Committee and California State Senate Transportation Committee; and attended a meeting with Laura Tolkoff with The San Francisco Planning and Urban Research Association (SPUR) regarding project delivery.

Director Ames reported that she had testified in support of Senate Bill 1488 and attended the Alameda Creek Fish Passage Improvements ribbon-cutting event and Earth Day Celebration in Fremont.

Director McPartland reported that he had attended the Retirement Luncheon for Michael Tree, previous Chief Executive Officer for the planning portions of Valley Link and attended the Santa Clara Valley Transportation Authority BART Joint meeting.

Director Foley reported that he had spoken before the Senate Transportation Committee in opposition to Senate Bill 1488; attended the Contra Costa County Board meeting; and provided an update to Assembly Member Grayson.

The Meeting adjourned at 2:23 p.m.

April B. A. Quintanilla
Acting District Secretary