

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
2150 Webster Street, P.O. Box 12688, Oakland, CA 94612-2688

Board of Directors
Minutes of the 1,920th Meeting
November 17, 2022

A regular meeting of the Board of Directors was held on November 17, 2022, convening at 4:01 p.m., via teleconference and in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361. President Saltzman presided, April B. A. Quintanilla, District Secretary.

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

Directors Present via Teleconference: Director Simon.

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

President Saltzman gave opening remarks and instructions regarding Public Comment.

President Saltzman called for the Introduction of Special Guests.

Ed Alvarez, Chief of Police, introduced BART's new Deputy Police Chief, Ja'Son Scott.

Director Simon welcomed and congratulated Deputy Chief Scott on his new role.

President Saltzman called for Public Comment on the Closed Session items, Items 2-A and 2-B. No comments were received.

President Saltzman announced that the Board would enter into closed session under Item 2-A (Public Employee Performance Evaluation) and Item 2-B (Conference with Labor 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 4:06 p.m.

The Board reconvened in closed session at approximately 4:08 p.m.

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

Directors Present via Teleconference: Director Simon.

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

Director McPartland entered the Meeting in Oakland.

Director Simon exited the Meeting.

Director Allen entered the Meeting via Teleconference.

Director Simon re-entered the Meeting via Teleconference.

The Board Meeting recessed at approximately 5:05 p.m.

The Board reconvened in open session at 5:07 p.m.

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

Directors Present via Teleconference: Directors Allen and Simon.

Absent: None. Director McPartland entered the Meeting later.

President Saltzman brought the matter of Compensation and Benefits for General Manager, General Counsel, Controller-Treasurer, Independent Police Auditor, and Inspector General before the Board.

Director Raburn moved that the base salaries of the General Manager, General Counsel, Controller-Treasurer, Independent Police Auditor, and Inspector General be increased by 3.5% retroactive to July 1, 2022, and other non-represented employees receive the same wage increase and that the Board President be authorized to execute any necessary changes to the Board appointees' employment agreements to incorporate the change. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 7 – Directors Ames, Dufty, Foley, Li, Raburn, Simon, and Saltzman. Noes: 0. Absent: 2 – Directors Allen and McPartland.

Director McPartland entered the Meeting in Oakland.

Director Raburn moved that the base salary of the Interim Controller-Treasurer be increased to \$289,623.31 effective immediately in recognition of continued service as both Interim Controller-Treasurer and Assistant Controller. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 8 – Directors Ames, Dufty, Foley, Li, McPartland, Raburn, Saltzman, Simon. Noes: 0. Absent: 1 – Director Allen.

President Saltzman brought the matter of Report of the Board President before the Board and reported that the BART Holiday Toy Drive had already begun, and that Berkeley Opportunities for Self-Sufficiency (BOSS) had been selected as the recipient of the toy drive donations.

President Saltzman brought the matter of Board Committee Reports before the Board. Director Dufty, Chairperson of the Audit Committee, provided an update on details of the Audit Committee meeting on November 15, 2022, in which the Committee heard several presentations, including the 2022 Federal Transit Administration Triennial Review; the draft external audit report for the fiscal year ending in 2022; and a report from the Office of the Inspector General updating the Committee on their accomplishments, efforts, and investigations.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of September 22, 2022, and October 13, 2022.
2. Agreement with Giro, Inc. for HASTUS Software Application System and Services.
3. Resolutions Fixing the Employer's Contribution to the California Public Employee's Retirement System (CalPERS).
 - a. Public Employees' Medical and Hospital Care Act for Employees Represented by American Federation of State, County and Municipal Employees, Local 3993; Amalgamated Transit Union, Local 1555; Service Employees International Union, Local 1021; BART Police Officers' Association; BART Police Managers' Association; and Non-Represented Employees.
 - b. Public Employees' Medical and Hospital Care Act at an Equal Amount for Employees and Annuitants Represented by American Federation of State, County and Municipal Employees, Local 3993; Amalgamated Transit Union, Local 1555; Service Employees International Union, Local 1021; BART Police Officers' Association; BART Police Managers' Association; and Non-Represented Employees.
4. Amendment to Agreement No. 6M4711, with CityHealth Urgent Care, a Medical Corporation, for Extension of Term and Increase in Funding for COVID-19 Testing Services.
5. Award of Invitation to Bid No. 9120A, Sewer/Vacuum Truck With Hi Rail System.
6. Award of Invitation to Bid No. 9104A, Bill Handling Unit Replacement.
7. Award of Contract No. 59CT-130, Wayfinding Improvements Phase IV.
8. Award of Invitation for Bid No. 9111A, Skid Mounted Ventilation Unit.
9. Single Source Procurement with Stadler Rail AG for E-Line Spare Trucks (BOGIES).
10. Agreement with Cisco Systems, Inc. for Smartnet Maintenance Service and Support.

11. Procurement with ePlus Technology, Inc., as the Official National Association of State Procurement Officials (NASPO) Provider, for BARTNET Hardening Equipment: Rubrik Data Storage Equipment.
12. Procurement with SHI International Corp., as the Official National Association of State Procurement Officials (NASPO) Provider, for BARTNET Hardening Equipment: F5 IDS / IPS Security Systems.
13. Change Order to Contract No. 6M3388A, Ultrasonic Rail Flaw Detection Testing Services, with Sperry Rail, Inc., to Exercise the Agreement's Third Option Year.
14. Resolution Adopting the 2022 BART Local Hazard Mitigation Plan.
15. Adopt Final Supplemental Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan and Approve the BART Hayward Maintenance Complex Phase 2 Project.
16. Amendment to Agreement for Restroom Attendant Services.
17. Amendment to Fiscal Year 2023 Quality of Life Initiatives Agreement for Elevator Attendants.

President Saltzman announced Items 6-A, Approval of Minutes of the Meetings of September 22, 2022 and October 13, 2022, and 6-C, Resolutions Fixing the Employer's Contribution to the California Public Employee's Retirement System (CalPERS), would be continued.

Directors Allen, Foley, and Simon exited the Meeting.

Director Dufty made the following motions as a unit. Vice President Li seconded the motions.

1. That the General Manager or his designee be authorized to execute a one (1) year software upgrade agreement in an amount not to exceed \$465,000.00, with three (3) single year options to renew support services, each in an amount not to exceed \$130,000.00, for a total contract value not to exceed \$855,000.00 with Giro Inc. to HASTUS Software Application System and Services.
2. That the General Manager be authorized to execute an amendment to Agreement No. 6M4711, with City Health Urgent Care for COVID testing services to extend the term of the Agreement to June 30, 2023, and to increase funding by \$200,000.00 for a total not-to-exceed amount of \$1,700,000.00.
3. That the General Manager be authorized to award Invitation for Bid (IFB) No. 9120A Sewer/Vacuum Trucks with HI Rail System to Custom Truck One Source for the amount of \$2,0444,596.50, including 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.

(The foregoing motion was made on the basis of analysis by the staff and certification by the Controller-Treasurer that funds are available for this purpose.)

4. That the General Manager be authorized to award IFB No. 9104A for Bill Handling Unit Replacement to Team One Repair, Inc. in the amount of \$3,990,046.24 (includes all taxes), pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedures.

(The foregoing motion was made on the basis of analysis by the staff and certification by the Controller-Treasurer that funds are available for this purpose.)

5. That the General Manager be authorized to award Contract No. 59CT-130, Wafyinding Improvements Phase IV, to LC General Engineering & Construction, Inc. for the Bid price of \$1,781,940.00, pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedures and Federal Transit Administration's (FTA) requirements related to protest procedure; and in addition, that the General Manager be authorized to exercise Options 1 through 4 for \$901,896.00 consistent with the requirements of the Contract.
6. That the Board authorizes the General Manager to award IFB No. 9111A for two (2) skid mounted ventilation units to Doc Bailey Construction Equipment of San Leandro, California for an amount of \$651,277.62, pursuant to notification to be issued by the General Manager.

(The foregoing motion was made on the basis of analysis by the staff and certification by the Controller-Treasurer that funds are available for this purpose.)

7. That the Board finds pursuant to Public Contract Code Section 20227 that Stadler Rail AG is the Single Source supplier for spare Truck sets for the District's Diesel Multiple Unit (DMU) vehicle fleet; and that the General Manager be authorized to execute a Single Source Contract with Stadler Rail AG for spare Trucks for an amount not to exceed \$1,693,343.73 including sales tax.
8. That the General Manager be authorized to execute a five (5) year agreement with Cisco Systems, Inc. for Cisco Smartnet maintenance service and support for an amount not to exceed \$4,100,000.00.
9. That the General Manager be authorized to execute a contract with ePlus Technology, Inc. for the procurement of Rubrik data storage equipment for an amount not to exceed \$135,000.00.
10. That the General Manager be authorized to execute a contract with SHI International, Corp. for the Procurement of F5 Intrusion Detection System/Instruction Prevention System (IDS/IPS) security systems for an amount not to exceed \$150,000.00.
11. That the General Manager be authorized to execute Change Order No. 3 for Agreement No. 6M3388A, Ultrasonic Rail Flaw Detection Testing Services with Sperry Rail, Inc., in the amount of \$621,000.00.
12. That Resolution No. 5537, In the Matter of Adopting the 2022 BART Local Hazard Mitigation Plan, be adopted.

13. That having reviewed and considered the information contained in the Final Supplemental Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Plan, the BART Board of Directors hereby:
 - a. Finds that on the basis of the whole record before the Board, there is no substantial evidence that the proposed BART Hayward Maintenance Complex Phase 2 (HMC2) Project will have a significant effect on the environment (the potentially significant impacts identified can all be mitigated to less-than-significant levels following implementation of mitigation measures identified in the Final Supplemental Initial Study/Mitigated Negative Declaration; and
 - b. Finds that the Final Supplemental Initial Study/Mitigated Negative Declaration reflects the Board's independent judgment and analysis; and
 - c. Adopts the Final Supplemental Initial Study/Mitigated Negative Declaration; and
 - d. Adopts the Mitigation Monitoring and Reporting Plan; and
 - e. Approves the HMC2 Project as proposed.
14. That the Board authorizes the General Manager to execute amendment No. 2 to Professional Service Agreement No. 6M2087 with District Works, LLC in an amount not to exceed \$3,700,000.00 for Fiscal Year (FY) 23-25 Attendant Services.
15. That the Board authorizes the General Manager to execute this amendment with Urban Alchemy in an amount not to exceed \$1,000,000.00. for Attendant Services.

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

The motions brought by Director Dufty and seconded by Vice President Li carried by unanimous roll call vote by the required two-thirds vote for Item 6-I, Single Source Procurement with Stadler Rail AG for E-Line Spare Trucks (BOGIES). Ayes: 6 – Directors Ames, Dufty, Li, McPartland, Raburn, and Saltzman. Noes: 0. Absent: 3 – Director Allen, Foley, and Simon.

Director Allen entered the Meeting via Teleconference.

President Saltzman called for the General Manager's Report. Robert Powers, General Manager, reported on upcoming community events, the BART Metro survey, the North Berkeley BART station transit-oriented development (TOD) project, the BART Police and Oakland Police Athletic League Shop-With-A-Cop event, and ridership totals for October 2022.

Director Foley re-entered the Meeting in Oakland.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Dufty thanked President Saltzman for the President's work and leadership provided on the Powell Street Station Project.

President Saltzman commented on the selection process related to the Berkeley project and expressed appreciation for all those involved.

President Saltzman called for general Public Comment.

The following individuals addressed the Board:

Aleta Dupree
Clarence Fischer
Joe Kunzler
Jamie San Nicolas

Discussion continued, with the following highlights:

Director Raburn thanked BART staff for their responsiveness to the request for coat hooks in BART station restrooms.

President Saltzman requested that staff check and repair all coat hooks in BART station restrooms.

President Saltzman brought the matter of Approval of Organizational Structure of BART's Financial Operations Audit Recommendations before the Board. Harriet Richardson, Inspector General, and George Skiles, Performance Audit Consultant, presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlight:

President Saltzman shared support of the recommendations and prior experience working with Vice President Li, several staff members, and the Audit Committee.

President Saltzman moved that the Board of Directors accept the Audit Committee's recommendation to adopt a Chief Financial Officer (CFO) structure and direct a newly created committee to discuss options and make recommendations to the Board of Directors for implementing the CFO structure. Director Dufty seconded the motion.

Discussion continued, with the following highlights:

Vice President Li expressed support for President Saltzman's comments and motion, including establishing a special committee to provide oversight rather than the Audit Committee, as well as, establishing a CFO position through a committee instead of referring to state legislation as presented in the staff presentation.

Director Dufty thanked staff and the consultant for their presentation and for working together with numerous other staff members to research ways to optimize business processes, performance, and budget as well as strengthen BART's work in areas such as communication and accountability.

Director Allen thanked the Inspector General and consultant for their presentation and their work to lead BART to become a more efficient and modernized organization.

Director Ames requested clarification on the purpose of a special committee and how it differs from the existing Audit Committee and who would serve on the special committee.

President Saltzman indicated that the current Audit Committee has many items to consider, that the separate special committee would involve collaborative processes, and that the special committee would be a sub-committee of the Board that includes staff.

Director McPartland expressed gratitude and thanked staff and the consultant for their work.

Director Raburn inquired about the presentation and the number of peer agencies that have an elected Board of Directors; commented on a past similar study from 2006; inquired about the fee paid to Sjoberg Evashenk Consulting for their Performance Audit report and the presentation of the matter to the Board; and indicated that he would abstain from the motion that was pending.

Director Foley thanked staff and the consultant for their work and expressed support for the motion that was pending.

Director Allen commented on the 2006 past study and support of the motion that was pending and expressed her interest in serving on the special committee.

The motion brought by President Saltzman and seconded by Director Dufty carried by unanimous roll call vote. Ayes: 7 – Directors Allen, Ames, Dufty, Foley, Li, McPartland, and Saltzman. Noes: 0. Abstentions: 1 – Director Raburn. Absent: 1 – Director Simon.

Director Ames, Vice Chairperson of the Administration Committee, brought the matter of Fiscal Year 2022 Year-End Budget Revision before the Board. Pamela Herhold, Assistant General Manager, Performance and Budget, and Katherine Alagar, Manager of Operating Budgets, presented the item.

Aleta Dupree addressed the Board.

Director Dufty moved that Resolution No. 5538, In the matter of amending Resolution No. 5520 regarding Fiscal Year 2022 Annual Budget, be adopted. Vice President Li seconded the motion, 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.

Director Dufty, Chairperson of the Engineering and Operations Committee, brought the matter of Agreements for the Lease and Rental of Nonrevenue Vehicles and Equipment before the Board. Linda Lee, Manager of Engineering Programs, presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlight:

Director Dufty expressed support for the item.

Vice President Li moved that the General Manager be authorized to execute lease and rental agreements for nonrevenue vehicles and equipment as identified in Attachment I for an aggregate amount not to exceed \$10,000,000.00, for a period of 5 years with Vendors listed in the current Attachment I, and those Vendors added to that list thereafter. President Saltzman seconded the motion, 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. (Attachment I is attached as hereby made a part of these Minutes.)

Director Foley, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Update on Regional Transit Coordination before the Board. Val Menotti, Chief Planning and Development Officer, and Robert Franklin, Director of Customer Access, presented the item.

The following individuals addressed the Board:

Adina Levin
Aleta Dupree
Clarence Fisher
John Aranta
Jamie San Nicolas

The item was discussed, with the following highlights:

Vice President Li thanked staff for their presentation and commented on support for regional transit coordination; implementing meaningful change, including improving ridership experiences; determining a long-term structure; and engaging transit boards in the Regional Network Management structure.

Director Ames inquired about the presentation and the framework and policies and expressed desire to see technical experts guide policy direction to build ridership.

Director Raburn thanked staff, the speakers, and members of the Board and shared past experience serving on the committee.

President Saltzman thanked staff for their presentation; expressed desire for a more detailed report and policy involvement; and commented on issues with representation on the various Boards, anticipated changes related to reorganization with the Metropolitan Transportation Commission (MTC), and possible formal communication from the Board to the related transit agencies.

Director Allen commented on past experience serving on some of the mentioned committees and expressed support for permitting executive directors to do more work on the matter with feedback from the BART Board when needed.

Director Foley thanked staff, the Board, and members of the public who commented; expressed support for BART to have greater representation on the MTC; and inquired about any concerns that the Board should be aware of.

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

Vice President Li congratulated all reelected and reappointed Board Members on their success; reported on touring the Operations Control Center and recognized staff for their work; and requested that the Meeting be adjourned in honor of Crispin Hollings, LGBTQ community leader and public servant in San Francisco. Chief Alvarez shared news of the passing of a long-time BART Police Department staff member, Cheryl Rinker.

Director Raburn reported on attending the National Organization of Black Law Enforcement Executives' first annual awards event, the Día de Los Muertos event, and the Silver San Francisco Bay Area Planning and Urban Research Association (SPUR) awards event.

Director Foley reported on attending the Contra Costa Transportation Authority's Street-Smart Diablo Youth Safety Awareness Assembly, the North Berkeley transit-oriented development (TOD) presentation, and the Contra Costa Transportation Authority Board Meeting, and the Willow Cove Elementary BART Safety Assembly.

Director Allen reported on attending the North Berkeley transit-oriented development (TOD) presentation; congratulated the Board Members who were reelected or reappointed to the Board of Directors, especially Director Ames; and requested that the Meeting be adjourned in honor of long-time pet companion, Zorro.

The Meeting adjourned at 7:32 p.m. in honor of Crispin Hollings, Cheryl Rinker, and Zorro.