

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

Board of Directors
Minutes of the 1,501st Meeting
February 22, 2007

A regular meeting of the Board of Directors was held February 22, 2007, convening at 9:16 a.m. in the Board Room, 344 20th Street, Oakland, California. President Sweet presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Franklin, Luce, Murray, and Sweet.

Absent: Director Fang. Directors Keller, Radulovich, and Ward Allen entered the meeting later.

President Sweet announced that the Board would enter into closed session under Item 3-A-1 (Conference with Real Property Negotiators), Item 3-A-2 (Conference with Labor Negotiators), Item 3-B (Conference with Legal Counsel – Anticipated Litigation), and Item 3-C (Conference with Labor Negotiators – Public Employee Performance Evaluation) of the regular meeting agenda, and that the Board would reconvene in open session immediately upon conclusion of the closed session.

The Board Meeting recessed at 9:17 a.m.

The Board entered into closed session at 9:21 a.m.

Directors present: Directors Blalock, Franklin, Keller, Luce, Murray, and Sweet.

Absent: Director Fang.

Director Radulovich entered the meeting.

Director Ward Allen entered the meeting.

Closed session recessed at 10:38 a.m.

The Board Meeting reconvened at 10:39 a.m.

Directors present: Directors Blalock, Franklin, Keller, Luce, Murray, Radulovich, and Sweet.

Absent: Director Fang. Director Ward Allen entered the meeting later.

Consent Calendar items brought before the Board were:

1. Approval of the Minutes of the Meeting of February 8, 2007.
2. Award of Contract No. 79NH-2EA, Repair of Two Hydraulic Truck Lifts for Hayward Main Shop.
3. Award of Invitation for Bid No. 8817, Circuit Boards.
4. Award of Invitation for Bid No. 8821, Battery Assembly.
5. Grant of Easement to Kirkham, LLC and 1396 5th Street, LLC at the West Oakland BART Station.

Consent Calendar motions, as follow, were moved as a unit by Director Franklin. Director Blalock seconded the motions, which carried. Ayes – 7: Directors Blalock, Franklin, Keller, Luce, Murray, Radulovich, and Sweet. Noes – 0. Absent – 2: Directors Fang and Ward Allen.

1. That the Minutes of the Meeting of February 8, 2007, be approved.
2. That the General Manager be authorized to award Contract No. 79NH-2EA, Repair of Two Hydraulic Truck Lifts for Hayward Main Shop, to Ferris Hoist & Repair, Inc., for the bid price of \$246,570.00.
3. That the General Manager be authorized to award Invitation for Bid No. 8817, for Gate Driver Printed Circuit Boards, to Group Alpha, Inc., of Anderson, South Carolina, for an amount of \$123,346.97, including applicable sales tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures.
4. That the General Manager be authorized to award Invitation for Bid No. 8821, for Battery Assemblies, to Saft American Inc., for an amount of \$118,015.50, including applicable sales tax, pursuant to notification to be issued by the General Manager, subject to the District's protest procedures.

(The foregoing two motions were 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 Board approves the grant of easement to both Kirkham, LLC, and 1396 5th Street, LLC ("Mariposa"), for vehicle parking as shown in Exhibit 1, in consideration for \$276,573.00. (Exhibit 1 is attached and hereby made a part of these Minutes.)

Director Ward Allen entered the meeting.

The Board Meeting recessed at 10:40 a.m.

The Board Meeting reconvened at 11:27 a.m.

Directors present: Directors Blalock, Franklin, Keller, Luce, Murray, Ward Allen, and Sweet.

Absent: Director Fang. Director Radulovich entered the meeting later.

Consent Calendar Addenda item brought before the Board was:

1. Award of Contract No. 6M3038, Reconditioning of Transit Vehicle Wheels.

Director Keller moved that the General Manager be authorized to award Contract No. 6M3038, for Reconditioning of Transit Vehicle Wheels, to ORX Railway Corporation, for an amount not to exceed 150% of the bid amount of \$6,499,627.00, totaling \$9,749,441.00, plus applicable taxes, subject to the availability of funding, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures. Directors Blalock and Ward Allen seconded the motion, which carried by unanimous acclamation. Ayes – 7: Directors Blalock, Franklin, Keller, Luce, Murray, Ward Allen, and Sweet. Noes – 0. Absent – 2: Directors Fang and Radulovich.

Director Franklin, Chairperson of the Administration Committee, had no report.

Director Radulovich entered the meeting.

Director Keller, Vice Chairperson of the Engineering and Operations Committee, brought the matter of Sole Source Procurement with Knorr Brake Corporation for Brake Caliper Overhaul Kit Components before the Board, and moved that the Board find, pursuant to Public Contract Code Section 20227, that Knorr Brake Corporation is the sole source for procurement of specific brake caliper overhaul components, 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 with Knorr Brake Corporation and to execute a contract for the purchase of these components at a price not to exceed \$475,000.00, including sales tax. Director Blalock seconded the motion, which carried by the required two-thirds majority. Ayes – 8: Directors Blalock, Franklin, Keller, Luce, Murray, Radulovich, Ward Allen, and Sweet. Noes – 0. Absent - 1: Director Fang.

Director Keller brought the matter of Oakland Airport Connector Project: Alignment Revision before the Board. Directors Keller and Ward Allen moved adoption of Resolution No. 5006, In the Matter of Adopting Modifications to the Oakland Airport Connector Project and an Addendum to the Final Environmental Impact Report/Final Environmental Impact Statement. Director Blalock seconded the motion, which carried. Ayes – 8: Directors Blalock, Franklin,

Keller, Luce, Murray, Radulovich, Ward Allen, and Sweet. Noes – 0. Absent - 1: Director Fang.

Director Blalock, Vice Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Agreements for Environmental, Conceptual Design, and Planning Services before the Board, and moved that the General Manager be authorized to execute Agreement No. 6G7906, with Nelson/Nygaard Consulting Associates, in an amount not to exceed \$8,000,000.00, for a term not to exceed five years, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and Federal Transit Administration's requirements related to protest procedures. Director Franklin seconded the motion, which carried. Ayes – 6: Directors Blalock, Franklin, Keller, Luce, Ward Allen, and Sweet. Noes – 0. Abstain – 2: Directors Murray and Radulovich, due to potential conflict of interest. Absent - 1: Director Fang.

Director Blalock, continuing on the same item, moved that the General Manager be authorized to execute Agreement No. 6G7910, with Wilbur Smith Associates, in an amount not to exceed \$8,000,000.00, for a term not to exceed five years, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and Federal Transit Administration's requirements related to protest procedures. Director Radulovich seconded the motion, which carried. Ayes – 8: Directors Blalock, Franklin, Keller, Luce, Murray, Radulovich, Ward Allen, and Sweet. Noes – 0. Absent - 1: Director Fang.

Director Radulovich, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, reported that the committee had received and discussed a presentation on State Infrastructure Bond Strategy (Proposition 1B): Proposed Priorities.

President Sweet asked for the General Manager's Report. General Manager Thomas E. Margro reported that the District had contacted American Public Transportation Association (APTA), and APTA was in the process of forming a team to perform a safety peer review for the District, and that it was anticipated the team would begin its review within the next two months.

President Sweet brought the matter of Compensation of Board-Appointed Officers before the Board. Director Keller moved that on a one-time basis, each of the Board-Appointed Officers may transfer up to 240 hours of accrued sick leave into their sick leave bank. Director Blalock seconded the motion, which carried. Ayes – 8: Directors Blalock, Franklin, Keller, Luce, Murray, Radulovich, Ward Allen, and Sweet. Noes – 0. Absent - 1: Director Fang.

Director Ward Allen exited the meeting.

President Sweet brought the matter of Approval of Agreements for an Alternative Operational and Financial Arrangement for the BART to San Francisco Airport Extension before the Board, consisting of the following three agreements:

1. Agreement among the Metropolitan Transportation Commission (MTC), San Mateo County Transit District (SamTrans), and the San Francisco Bay

Area Rapid Transit District (BART) Regarding the BART San Francisco Airport Extension Project (Three Party Financial Agreement);

2. Settlement Agreement and Release of Claims between BART and SamTrans (Settlement Agreement);
3. A Funding Agreement between BART, SamTrans, and the San Mateo County Transportation Authority for the Assignment of 2% of San Mateo County Half-cent Sales Tax to BART (Measure A Agreement).

Director Keller moved that the General Manager be authorized to execute the Three-Party Financial Agreement and the Measure A Agreement. Director Blalock seconded the motions, which carried. Ayes – 5: Directors Blalock, Franklin, Keller, Murray, and Sweet. Noes – 2: Directors Luce and Radulovich. Absent - 2: Directors Fang and Ward Allen.

Director Keller moved that the General Manager be authorized to execute the Settlement Agreement. Director Murray seconded the motion, which carried. Ayes – 7: Directors Blalock, Franklin, Keller, Luce, Murray, Radulovich, and Sweet. Noes – 0. Absent - 2: Directors Fang and Ward Allen.

President Sweet announced that there was no report from the District Security Advocacy Ad Hoc Committee.

Director Blalock, Chairperson of the District Organizational Review Ad Hoc Committee, gave a brief report on the committee's recent activities, and advised that there would be a proposed action plan brought forward at an upcoming meeting for consideration by the Board.

President Sweet brought Roll Call for Introductions before the Board. No items were introduced.

President Sweet called for General Discussion and Public Comment. Mr. Jerry Grace addressed the Board.

The Board Meeting adjourned at 11:43 a.m.

Kenneth A. Duron
District Secretary