

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

Board of Directors  
Minutes of the 1,552nd Meeting  
February 26, 2009

A regular meeting of the Board of Directors was held February 26, 2009, convening at 9:08 a.m. in the Board Room, 344 20<sup>th</sup> Street, Oakland, California. President Blalock presided; Kenneth A. Duron, District Secretary.

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

Absent: None. Director Fang entered the Meeting later.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of February 12, 2009 (Regular).
2. Award of Contract No. 6M3066, Furnish and Install Replacement Glass Systemwide as Needed.

Consent Calendar motions, as follow, were moved as a unit by Director Murray. Director Ward Allen seconded the motions, which carried by unanimous electronic vote. Ayes – 8: Directors Franklin, Keller, McPartland, Murray, Radulovich, Sweet, Ward Allen, and Blalock. Noes – 0. Absent – 1: Director Fang.

1. That the Minutes of the Meeting of February 12, 2009 (Regular), be approved.
2. That the General Manager be authorized to award Contract No. 6M3066, Furnish and Install Replacement Glass Systemwide as Needed, to Lon's Glass and Mirror, Inc., for an initial period of three years, and to exercise the options to extend the Contract for two additional one-year periods, for the total bid price of \$796,225.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

President Blalock brought the matter of Report of the BART Police Department Review Committee Report on Internal Affairs Investigation Consultant, Meyers Nave Riback Silver & Wilson: Scope of Work before the Board. Director Ward Allen, Chairperson of the BART Police Department Review Committee, and Director Keller, Vice Chairperson, and Committee members Director Sweet and Director Radulovich gave brief reports on the activities of the Committee. Vice Chairperson Keller requested the agendizing of a discussion on the use of force policy at a future Board Meeting.

Director Fang entered the meeting.

Director Ward Allen introduced Meyers Nave Riback Silver & Wilson Managing Principal Ms. Jayne Williams, who introduced members of her firm working with the District. Ms. Williams gave an overview of the Scope of Work, which was discussed by the Board.

The following individuals addressed the Board:

The Honorable Desley Brooks

Mr. John Marion

Ms. Paulette V. Hogan

Mr. Kevin Thomas

Dr. Amos Brown

Mr. Darrel Carey

Krystof

Mr. Gabe Meyers

Mr. Frank Tucker

Mr. Charlie Walker

Director Fang exited the meeting.

President Blalock brought the matter of Report of the BART Police Department Review Committee, Report on Comprehensive Police Department Review Consultant: Scope of Work before the Board. General Manager Dorothy W. Dugger gave an overview of the proposed Scope of Work, which was discussed by the Board.

The Board Meeting recessed at 11:54 a.m.

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The Board reconvened at 1:40 p.m.

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

Absent: Directors Fang and Ward Allen.

Consent Calendar Addenda items brought before the Board were:

1. Fiscal Year 2009 Mid Year Budget Revision.
2. Agreement with Keenan & Associates to Provide Broker and On-Call Consulting Services for Employee Benefits (Agreement No. 6M4042).
3. Change Order to Contract No. 09DJ-110, Replacement and Repairs of Anode Arrays and Cable Installations at Transbay Tube Cathodic Protection System, with Vortex Marine Construction, Inc., for Additional Cable Replacement Work (C.O. No. 3).

Consent Calendar Addenda motions, as follow, were moved as a unit by Director Murray. Director Sweet seconded the motions, which carried by unanimous electronic vote.

Ayes – 7: Directors Franklin, Keller, McPartland, Murray, Radulovich, Sweet, and Blalock.  
Noes – 0. Absent – 2: Directors Fang and Ward Allen.

1. Adoption of Resolution No. 5072, In the Matter of Amending Resolution No. 5052 (as amended by Resolution No. 5061) Regarding Fiscal Year 2009 Annual Budget.
2. That the General Manager or her designee be authorized to execute Agreement No. 6M4042, with Keenan & Associates, for Broker and On-Call Consulting Services for Employee Benefits, for a term of five years and maximum compensation not to exceed \$2,000,000.00, pursuant to notification issued by the General Manager and subject to compliance with the District's protest procedures.
3. That the General Manager be authorized to execute Change Order No. 3 to Contract No. 09DJ-110, for Cable and Anode Installations at Transbay Tube Cathodic Protection System, to Vortex Marine Construction, Inc., in an amount not to exceed \$860,000.00.

Director Murray, Chairperson of the Administration Committee, reported that two items on the committee agenda had been forwarded to Consent Calendar Addenda, and that the 2008 Customer Satisfaction Survey Results had been continued to a future meeting.

Director Keller, Chairperson of the Engineering and Operations Committee, brought the matter of District Signage Program before the Board, and made the following motions:

1. That the General Manager be authorized to execute an agreement with Metropolitan Transportation Commission (MTC) to implement the pilot project ("Project") for MTC's regional transit signage improvement efforts at Embarcadero Station/San Francisco Ferry Terminal.
2. That the Board, by a two-thirds majority vote, finds that compliance with Sections 20221 and 20222 of the Public Contracting Code does not constitute a method of procurement adequate for the operation of District facilities or equipment, and therefore authorizes procurement of materials not in excess of \$350,000.00 (partly funded by MTC and partly funded by the District) pursuant to Public Contract Code Section 20226, "Procurement of prototype equipment or modification," for the purpose of procuring prototype equipment, materials, and supplies for the Extended Project.

Director Murray seconded the motions, which carried by electronic vote by the required two-thirds majority. Ayes – 7: Directors Franklin, Keller, McPartland, Murray, Radulovich, Sweet, and Blalock. Noes – 0. Absent – 2: Directors Fang and Ward Allen.

Director Keller reported that one item had been forwarded to Consent Calendar Addenda, and that the Quarterly Performance Report, Second Quarter Fiscal Year 2009 - Service Performance Review had been deferred.

Director Sweet, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Proposed 2009 State and Federal Advocacy Programs before the Board. She noted that the federal advocacy program portion of the item had been continued to a future meeting. Director Sweet moved that the Board approve the described components of the BART state advocacy program. Director Keller seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Franklin, Keller, McPartland, Murray, Radulovich, Sweet, and Blalock. Noes – 0. Absent – 2: Directors Fang and Ward Allen. (The components of the state advocacy program are attached and hereby made a part of these minutes.)

President Blalock asked for the General Manager’s Report. Ms. Dugger had no report.

President Blalock called for Report of the Finance, Budget, and Internal Audit Committee. Director Murray, Chairperson of the committee, gave a brief report.

President Blalock brought Roll Call for Introductions before the Board.

Director Radulovich requested a report on the East Bay Greenbelt project along District right-of-way.

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

President Blalock announced that the Board would enter into closed session under Item 9-A (Conference with Legal Counsel – Anticipated Litigation), Item 9-B (Conference with Legal Counsel – Existing Litigation), and Item 9-C (Conference with Labor Negotiators) of the regular meeting agenda, and that the Board would adjourn upon conclusion of the closed session.

The Board Meeting recessed at 1:48 p.m.

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The Board reconvened in closed session at 2:00 p.m.

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

Absent: Directors Fang and Ward Allen.

The Board Meeting adjourned at 3:21 p.m.

Kenneth A. Duron  
District Secretary