



Tri-Valley ▲ San Joaquin Valley
REGIONAL RAIL AUTHORITY

Board of Directors

Meeting Packet

Feb. 8, 2023 at 2 p.m.



AGENDA – BOARD OF DIRECTORS
February 8, 2023 at 2:00 p.m. via teleconference

CORONAVIRUS DISEASE (COVID-19) ADVISORY AND MEETING PROCEDURE

This meeting will be held via teleconference in accordance with the Brown Act and Government Code § 54953(e), as a precaution to protect the health and safety of staff, officials, and the general public. The Board of Directors will not be physically in attendance but will be available via video conference.

The regular meeting facilities for the meetings of the Board of Directors are currently closed to the public. Consequently, there will be no physical location for members of the public to participate in the meeting. We encourage members of the public to access the meeting online using the instructions listed on the agenda. Online attendees will have the opportunity to speak during Public Comment.

If you would like to submit public comment via email, please do so by 5:00 p.m. the day before the meeting to comments@valleylinkrail.com. Please include “Public Comment February 8, 2023” and the agenda item in the subject line. In the body of the email please include your full name. Public comments submitted via email will be posted online will be read during Public Comment and will be subject to the regular three-minute time restriction.

This Board of Directors meeting will be conducted on the web-video communication platform Zoom. To view and/or participate in this meeting, members of the public will need to either download Zoom from the website zoom.us. It is recommended that anyone wishing to participate in the meeting complete the download process before the start of the meeting. To listen without viewing, members of the public may also join the meeting by calling in via telephone. A live stream will also be available on our YouTube channel without the ability to make public comment. All public comments will be subject to the regular three-minute time restriction.

There will be zero tolerance for any person addressing the Board making profane, offensive, and disruptive remarks, or engaging in loud, boisterous, or other disorderly conduct, that disrupts the orderly conduct of the public meeting.

Upon request, the Tri-Valley-San Joaquin Valley Regional Rail Authority will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. A speech-to-text option (live transcription) is now available on all Zoom meetings. Live transcription currently only supports English, and the accuracy of the feature depends on many variables, such as but not limited to: background noise, volume and clarity of the speaker’s voice, lexicons and dialects. Requests for any other reasonable accommodation should be submitted in writing, and must include your name, mailing address, phone number and brief description of the requested materials and the preferred alternative format or auxiliary aid or service at least 2 days before the meeting. Requests should be sent to: comments@valleylinkrail.com.

TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY

AGENDA – BOARD OF DIRECTORS February 8, 2023 at 2:00 p.m. via teleconference

How to listen and view meeting online:

- From a PC, Mac, iPad, iPhone or Android device click the link below:
<https://zoom.us/j/93548110883>
Password: **ValleyLink**
- To supplement a PC, Mac, tablet or device without audio, please also join by phone:
Dial: 1 (669) 900-6833
Webinar ID: 935-4811-0883
Password: **898381**

To comment by video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on the agenda item. You will then be unmuted when it is your turn to make your comment for up to 3 minutes. After the allotted time, you will be muted.

- Livestream online at: [Valley Link Rail YouTube Channel](#)

No option to make Public Comment on YouTube live stream.

How to listen via telephone to the meeting:

- For audio access to the meeting by telephone, use the dial-in information below:
Dial: 1 (669) 900-6833
Webinar ID: 935-4811-0883
Password: **898381**

*Please note to submit public comment via telephone dial *9 to raise your hand. The meeting’s host will be informed that you would like to speak. If you are chosen, you will be notified that your request has been approved and you will be allowed to speak. You will then press *6 to unmute yourself. Comments are limited to up to 3 minutes at the discretion of the board chair. After the allotted time, you will be muted by the host.*

To submit written comments:

- Send public comments prior to the meeting by email, to comments@valleylinkrail.com

If you are submitting public comment via email, please do so by 5:00 p.m. the day before the meeting to comments@valleylinkrail.com

Please include “Public Comment – February 8, 2023” and the agenda item to which your comment applies in the subject line. In the body of the email please include your full name. A list of the public comments submitted will be read during Public Comment and letters will be posted on the Authority’s website along with other meeting material.

TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY

AGENDA – BOARD OF DIRECTORS
February 8, 2023 at 2:00 p.m. via teleconference

1. Call to Order and Pledge of Allegiance
 - a. Oath of Office
2. Roll Call of Members
3. Public Comments:

Members of the public may address the Board on any issues not listed on the agenda that are within the purview of the Authority. Comments on matters that are listed on the agenda may be made at the time the Board is considering each item. Time limits on public comments may be established by the Chair.
4. Consent Agenda – **ACTION**

Recommend approval of all items on Consent Agenda as follows:

 - a. Minutes of January 11, 2023 Board of Directors Meeting.
 - b. Treasurer’s Report for December 2022.
5. Administrative Support Services Agreement with the Livermore Amador Valley Transit Authority (LAVTA) – **ACTION**
6. Authorizing the Executive Director to Exercise Option 1 with Red Oak Engineering & Consulting for Regional Advocacy Services – **ACTION**
7. Meetings of the Board of Directors – **ACTION**
8. State Funding and Legislative Update – **INFORMATION**
9. Executive Director’s Report – **INFORMATION**
10. Directors’ Discussion – Comments, Questions and Agenda Requests
11. Upcoming Meeting Details March 8, 2023
12. Adjourn

Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRRA)
Minutes of Board meeting on January 11, 2023 via Zoom Teleconference

1. **Call to Order**

The meeting of the board of directors was called to order by Chair Melissa Hernandez at 2:00 p.m.

a. Oaths of Office

Director Haubert, Supervisor for Alameda County, swore in three new members of the board; Mateo Bedolla, City of Tracy; Director John Marchand, City of Livermore, and Director Jose Nuño, City of Manteca.

2. **Roll Call of Members**

Members Present

Chair Melissa Hernandez, City of Dublin
Vice Chair Dan Wright, City of Stockton
Director Paul Akinjo, City of Lathrop
Director Mateo Bedolla, City of Tracy
Director David Haubert, Alameda County
Director David Hudson, San Ramon
Director Brittni Kiick (Livermore), LAVTA
Director Bernice King Tingle, Mountain House
Director John Marchand, City of Livermore
Director John McPartland (District 5), BART
Director Jose Nuño, City of Manteca
Director Robert Rickman, San Joaquin County
Director Karen Stepper, Town of Danville
Director Leo Zuber (Ripon), ACE

3. **Public Comments**

There was no public comment.

4. **Consent Calendar – ACTION**

Motion to approve all items on Consent Calendar as follows:

- a. Minutes of December 14, 2022 Board of Directors Meeting.
- b. Treasurer's Report for November 2022.
- c. Resolution R02-2023 Declaring that Agency meetings will continue to be held via teleconference.

Motion: Stepper/King-Tingle

Aye: Akinjo, Bedolla, Haubert, Hernandez, Hudson, Kiick, King-Tingle, Marchand, McPartland, Nuño, Rickman, Stepper, Wright, Zuber

Nay: None

Abstain: None

Absent: None

Motion Passed

5. **Election of Board Chair and Vice Chair – ACTION**

Pursuant to the Authority's bylaws, the Authority's Chair and Vice Chair are elected biennially to serve two-year terms. The chairperson rotates between representatives from entities from cities or county located in Alameda County and from cities or county located in San Joaquin County. A representative from San Joaquin County was elected as chair for the last term, therefore, the new

**Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRRA)
Minutes of Board meeting on January 11, 2023 via Zoom Teleconference**

Chair shall be a director from Alameda County and the Vice Chair from San Joaquin County. Directors discussed this item, and the following motions were made.

a. Election of Chair

A motion was made Director King-Tingle and seconded by Director Marchand to elect Director Hernandez, director representing the City of Dublin in Alameda County, to the position of Chair of the Board of Directors.

Aye: Akinjo, Bedolla, Haubert, Hudson, Kiick, King-Tingle, Marchand, McPartland, Nuño, Rickman, Stepper, Wright, Zuber

Nay: None

Abstain: Hernandez

Absent: None

Motion Passed

b. Election of Vice Chair

A motion was made by Director Hudson to elect Director Akinjo, director representing the City of Lathrop in San Joaquin County to serve as Vice Chair. Akinjo declined and the motion was withdrawn by Hudson. A motion was made by Chair Hernandez to elect Dan Wright, director representing the City of Stockton in San Joaquin County, to the position of Vice Chair of the Board of Directors. This motion was seconded by A second motion was made by Director Zuber.

Aye: Akinjo, Bedolla, Haubert, Hernandez, Hudson, Kiick, King-Tingle, Marchand, McPartland, Nuño, Rickman, Stepper, Zuber

Nay: None

Abstain: Wright

Absent: None

Motion Passed

6. Delegate Authority to the Executive Director/CEO to for Filing of Applications with the State of California and Execution of Certifications, Assurances and Grant Agreements Required to Receive State Financial Assistance – ACTION

Deputy Director, Wil Ridder summarized the staff report and recommended that the board approve resolution R01-2023 authorizing the Executive Director/CEO, or designee, to file applications with the State of California, execute certifications, assurances, grant agreements and to take any other such actions as may be necessary to secure state financial assistance and manage state assistance or cooperative agreements on behalf of the agency. Ridder stated that this action would allow the Authority enter into a Funds Transfer Agreement with the California Department of Transportation for \$5 million in State Budget earmark funds approved during the FY 2023 State Budget as well as manage these funds going forward. There was no public comment. Directors discussed this item, and a motion was made to approve the resolution.

Motion: Marchand/Zuber

Aye: Akinjo, Bedolla, Haubert, Hernandez, Hudson, Kiick, King-Tingle, Marchand, McPartland, Nuño, Rickman, Stepper, Wright, Zuber

Nay: None

Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRRA)
Minutes of Board meeting on January 11, 2023 via Zoom Teleconference

Abstain: None
Absent: None
Motion Passed

7. **Transit and Intercity Rail Capital Program (TIRCP) Cycle 6 Grant Application – ACTION**
Ridder outlined the details of the Transit Intercity Rail Capital Program (TIRCP) Cycle 6 funding request and requested board approval for the submission of a TIRCP Cycle 6 grant application for \$40 million in Major Projects Project Development Reserve funding and authorize the Executive Director to negotiate and execute all agreements with regional and State partners. There was no public comment.

Motion: Hudson/Wright
Aye: Akinjo, Bedolla, Haubert, Hernandez, Hudson, Kiick, King-Tingle, Marchand, McPartland, Nuño, Rickman, Stepper, Wright, Zuber
Nay: None
Abstain: None
Absent: None
Motion Passed

8. **Executive Director’s Report - INFORMATION**
Executive Director/CEO, Kevin Sheridan, addressed the latest state budget figures as it relates to transportation. He acknowledged certain funding cuts but noted that these cuts were mitigated by other funding sources and allocations and said he looks forward to the budget revisions in May. Sheridan advised that February will likely be the last virtual meeting. Legal counsel Michael Conneran added that a staff report will be presented at the next board meeting addressing the plan for meetings moving forward. Directors discussed this item.

9. **Directors’ Discussion**
Director Hudson shared details of an upcoming mayors’ conference to be held on May 11, 2023. He asked that staff and board chair be available to present a project update as well as information on the hydrogen plant. Chair Hernandez informed the board that she, along with other Tri-Valley mayors will be heading to Washington DC next week and will speak on behalf of Valley Link. Director King-Tingle congratulated Hernandez on her election as chair of the board and expressed her desire to have the chair and executive director continue their quarterly report to the Mountain House Community Services District.

10. **Upcoming Meeting Details**
a. Regular meeting – February 8, 2023 via teleconference

11. **Adjourn**
Meeting adjourned without objection at 2:31 p.m.



Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: Treasurer's Report for December 2022

FROM: Tamara Edwards, Director of Finance

DATE: February 8, 2023

Action Requested

Staff requests that the Tri-Valley – San Joaquin Valley Regional Rail Authority Board accept the Treasurer's Report for December 2022.

Background/Discussion

The Treasurer's Reports shows all expenses and revenues for the month of December as well as the year-to-date totals.

The fund balance reflected on both the balance sheet and the expense report is the difference between the revenue received and the expenses. As the Rail Authority's funding is all on a reimbursement basis this will be reflected as a negative amount (expenses higher than revenues) until year end when accruals are done at which time the fund balance will be zero. Additionally, as all the Rail Authority's funding is on a reimbursement basis LAVTA continues to provide the cash flow for the Rail Authority which is reflected in the funds due to LAVTA line item.

Attachments:

1. December 2022 Treasurer's Report

Tri-Valley San Joaquin Regional Rail Authority
BALANCE SHEET
FOR THE PERIOD ENDING:
December 31, 2022

ASSETS:

108 CASH-GENERAL CHECKING	237,400
120 ACCOUNTS RECEIVABLE	202,073
150 PREPAID EXPENSES	0
111 NET PROPERTY COSTS	8,263

TOTAL ASSETS **447,736**

LIABILITIES:

205 ACCOUNTS PAYABLE	16,039
20501 DUE TO LAVTA	2,929,055
22110 PAYROLL CLEARING	0
211 PRE-PAID REVENUE	45,152
22000 FIT	8,194
22010 SIT	2,800
22020 FICA	1,257
22030 SDI	0
22090 Worker's Comp	17,537
22100 457	15,389

TOTAL LIABILITIES **3,035,424**

FUND BALANCE:

301 FUND RESERVE	0
304 GRANTS, DONATIONS, PAID-IN CAPITAL	0
30401 SALE OF BUSES & EQUIPMENT	0
FUND BALANCE	(2,587,688)

TOTAL FUND BALANCE **-2,587,688**

TOTAL LIABILITIES & FUND BALANCE **447,736**

Tri-Valley San Joaquin Regional Rail Authority
REVENUE REPORT
FOR THE PERIOD ENDING:
December 31, 2022

ACCOUNT	DESCRIPTION	BUDGET	CURRENT MONTH	YEAR TO DATE	BALANCE AVAILABLE	PERCENT BUDGET EXPENDED
	Caltrans		0	0		
	MTC-Bridge Tolls	21,740,864	0	138,930	21,601,934	0.6%
	Alameda County/Strategic Development	0	0	0		
	Government Relations/Community Engage	0	0	0		
	TOTAL REVENUE	21,740,864	0	138,930	21,601,934	0.6%

Tri-Valley San Joaquin Regional Rail Authority
EXPENDITURE REPORT
December 31, 2022

ACCOUNT	DESCRIPTION	BUDGET	CURRENT MONTH	YEAR TO DATE	BALANCE AVAILABLE	PERCENT BUDGET EXPENDED
Direct Labor and Benefits						
	Executive Director	252,000	35,437	165,037	86,963	65.49%
	Deputy Executive Director	212,800	29,035	137,942	74,858	64.82%
	Administrative Assistant	61,750	0	19,737	42,013	31.96%
	Finance Director	45,000	0	10,500	34,500	23.33%
	Manager of Policy, Planning, and Environmental	184,800	27,708	122,797	62,003	66.45%
	Rail Engineering, and Construction Project Manager	198,400	25,718	129,760	68,640	65.40%
	Employee Benefits	266,250	7,166	53,825	212,425	20.22%
	TOTAL - Direct Labor	1,221,000	125,065	639,599	581,401	52.38%
Consultants/seconded staff						
	General Engineering Consultants	15,000,000	513,999	1,707,613	13,292,387	11.38%
	AECOM	3,564,684	59,789	102,532	3,462,152	2.88%
	Hydrogen Proof of Concept	-	0	24,605	(24,605)	
	Financial Advisory Services	150,000	0	0	150,000	0.00%
	Government Relations/Community Engagement	450,000	18,000	110,000	340,000	24.44%
	TOTAL - Consultants	19,164,684	591,787	1,944,750	17,219,934	10.15%
Other Direct Costs						
	Legal	430,000	48,079	75,144	354,856	17.48%
	Insurance	50,000	0	10,543	39,457	21.09%
	Audits	25,000	0	7,600	17,400	30.40%
	HR	-	0	335	(335)	
	Line of Credit	125,000	0	0	125,000	0.00%
	Travel/Mileage/Mis	25,000	(154)	831	24,169	3.32%
	Office space/furnishings	150,000	1,906	38,674	111,327	25.78%
	Professional Development	2,500	201	201	2,299	8.06%
	Memberships	2,500	0	0	2,500	0.00%
	Information Technology/Software	15,000	0	0	15,000	0.00%
	ACTC	250,000	0	0	250,000	0.00%
	SJRRC	100,000	0	0	100,000	0.00%
	BART	100,000	0	0	100,000	0.00%
	Caltrans Reimbursement	-	5,857	8,720	(8,720)	
	Union Pacific Reimbursement	80,000	0	0	80,000	0.00%
	TOTAL OTHER DIRECT COSTS	1,355,000.00	55,889.86	142,047.55	1,212,952	10.48%
	TOTAL OPERATING EXPENDITURES	21,740,684	772,742	2,726,397	19,014,287	12.54%
	LAVTA Expense		0	0		
	FUND BALANCE (OPERATING)		(772,742)	(2,587,467)		



Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: Administrative Support Services Agreement with the Livermore Amador Valley Transit Authority (LAVTA)

FROM: Wil Ridder, Deputy Director, Financial Planning and Programming

DATE: February 8, 2023

Action Requested

Staff requests that the Board of Directors authorize the Executive Director to prepare, negotiate the terms and conditions, and execute an administrative support services agreement with Livermore Amador Valley Transit Authority (LAVTA).

Discussion

Since 2019, LAVTA has provided administrative support to the Authority including accounting, grant management, auditing, human resources, and procurement functions. Staff is recommending that the Tri-Valley – San Joaquin Valley Regional Rail Authority (Authority) enter into an administrative support services agreement with LAVTA to formalize that relationship in part to support the Authority in achieving direct recipient grantee status with the Federal Transit Administration (FTA) in order to pursue federal funding grants. LAVTA is an existing federal grantee and FTA direct recipient that brings direct experience and expertise to these activities. LAVTA staff currently serve in the roles of Chief Financial Officer and Executive Assistant to the Authority. This administrative support services agreement with LAVTA would enable the Authority to continue those roles and responsibilities.

Background

The Authority was established on January 1, 2018 by California State Assembly Bill No. 758 (AB 758) as amended by Senate Bill No. 548 (SB 548) to plan, develop, deliver, and operate cost-effective and responsive transit connectivity between the Bay Area Rapid Transit's (BART's) heavy rail transit system in Alameda County and the Altamont Commuter Express (ACE) commuter rail system in San Joaquin County in Northern California. AB 758 required that LAVTA provide administrative support for the newly established Authority for the first 18-month period to provide all necessary administrative support to the board to perform its duties and responsibilities. At the conclusion of the initial period, AB 758 provided the Authority with the option to select either LAVTA or the San Joaquin Regional Rail Commission to provide administrative support, or alternatively to hire an executive director for those functions. If an executive director was hired, the executive may appoint staff or retain consultants as necessary to carry out the duties of the authority.

In June 2019, the Authority's Board of Directors formally approved the establishment of the Tri Valley – San Joaquin Valley Regional Rail Authority as the entity to deliver the Valley Link transit service for which

the Authority will perform planning, designing, financing, construction, operating, and the leasing, developing, or disposing of land, facilities, or equipment, necessary to deliver and operate Valley Link. The Board also approved the continued use of LAVTA to provide all necessary administrative support to the Board to perform its duties and responsibilities in implementing the Project. LAVTA staff currently serve in the role of Chief Financial Officer and Executive Assistant to the Authority.

In May 2022, the Valley Link Project was approved by the FTA to enter Project Development within the Capital Investments Grant (CIG) Program. The Authority is now in a critical period to establish direct recipient grantee status under FTA to complete Project Development and position the Authority to receive federal funding under the CIG Program. As part of this effort, the Authority recognizes the need to formalize the Authority's ongoing administrative support relationship with LAVTA to meet FTA's organizational and financial capacity requirements for the Authority to deliver the Valley Link Rail Project as a direct recipient grantee. LAVTA is an existing FTA direct recipient grantee agency able to provide all necessary administrative support and financial management to the Authority to perform the duties and responsibilities in implementing the Project.

The proposed agreement, , would allow for the Authority to authorize, by task order, LAVTA to perform services in support of the Authority. It would be renewable on a year-to-year basis.

Fiscal Impact

The Authority is currently paying a stipend to the Chief Financial Officer to provide services to the Authority. By this approval, the Authority would authorize the Executive Director/CEO to enter into agreement with LAVTA for additional services on a task order basis, up to an amount not to exceed \$180,000 on an annual basis.

Recommendation

Staff recommends the approval of the authorization for the Executive Director/CEO to prepare, negotiate the terms and conditions, and execute an administrative support services agreement with LAVTA, with the condition that the Executive Director/CEO not authorize task orders in any one year that exceed \$180,000.



Tri-Valley San Joaquin Valley
REGIONAL RAIL AUTHORITY

RESOLUTION NO. R03-2023

* * *

RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRI-VALLEY-SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO NEGOTIATE AND EXECUTE AN ADMINISTRATIVE SERVICES AGREEMENT WITH THE LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY

WHEREAS, the Tri-Valley-San Joaquin Valley Regional Rail Authority (Authority) was established to plan, develop, and deliver cost-effective and responsive transit connectivity, between the Bay Area Rapid Transit's (BART) rapid transit system and the Altamont Corridor Express commuter rail service, that reflects regional consensus and meets the goals and objectives of the San Joaquin Valley and Tri-Valley communities, consistent with the project feasibility report adopted pursuant to Section 132661 of the Public Utilities Code; and

WHEREAS, the legislation establishing the Authority provided that the Livermore Amador Valley Transit Authority would serve as the managing agency for the Authority during the initial 18 months of its operation; and

WHEREAS, the Authority board, in June 2019, acted to extend the relationship with LAVTA indefinitely; and

WHEREAS, in May 2022, the Valley Link Project was approved by the FTA to enter Project Development within the Capital Investments Grant (CIG) Program; and

WHEREAS, the Authority is seeking to become a direct recipient grantee of the FTA and to apply for and receive Urbanized Area Formula Program assistance authorized by 49 U.S.C. 5307; and

WHEREAS, the Authority desires for formalize its relationship with LAVTA in order to fully satisfy FTA's organizational and financial capacity requirements.

NOW, THEREFORE, BE IT RESOLVED BY the Tri-Valley-San Joaquin Valley Regional Rail Authority Board of Directors:

1. That the Executive Director/CEO, or designee, is authorized to negotiate and execute an administrative services agreement with the Livermore Amador Valley Transit Authority (LAVTA) for an initial term not to exceed one year, which term will extend on a year-by-year basis until terminated by either party.
2. That the Executive Director, or designee, is authorized to issue task orders to have LAVTA perform services under that agreement, provided the amount of such task orders does not exceed \$180,000 in any one fiscal year or \$15,000 in any one month.

Regularly passed and adopted this 8th day of February, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Melissa Hernandez, Chair

ATTEST:

Kevin Sheridan, Executive Director/CEO

CERTIFICATION

The undersigned duly qualified Executive Director/CEO, acting on behalf of Tri-Valley-San Joaquin Valley Regional Rail Authority, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Tri-Valley-San Joaquin Valley Regional Rail Authority Board of Directors held on February 8, 2023.

Kevin Sheridan, Executive Director/CEO

Date



Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: Resolution 04-2023 Authorizing the Executive Director to Exercise
Option 1 with Red Oak Engineering & Consulting for Regional Advocacy Services

FROM: Kevin Sheridan, Executive Director

DATE: February 3, 2023

Action Requested

Staff requests that the Board authorize the Executive Director to exercise Option 1 of the Professional Services Agreement with Red Oak Engineering & Consulting, LLC for Regional Advocacy Services, in a form approved by legal counsel, for a not-to-exceed amount of \$100,800 and extend the contract term for an additional year.

Background and Discussion

Previously the Authority entered into contract with Red Oak Engineering & Consulting for Regional Advocacy Services. Red Oak Engineering and Consulting was selected after staff issued a Request for Proposals (RFP) for Regional Advocacy Services on January 6, 2022. The Authority received three timely and responsive submittals to the RFP on February 4, 2022. An award was subsequently made under RFP No. 2022-01 to Red Oak Engineering & Consulting, LLC in an amount of \$96,000 for an initial one-year contract, with the Authority reserving the right, in its sole discretion, to exercise up to one, one-year option term to extend the agreement and increase the contract amount to \$100,800.

Authority staff continue to see value in educating and briefing regional policymakers, and public agencies regarding opportunities for funding the Valley Link project. Staff recommends that under RFP No. 2022 – 01, that Option 1 be exercised to extend the term of the agreement, amount not-to-exceed \$100,800 for an additional one-year contract term.

Fiscal Impact

On June 24, 2020, the Metropolitan Transportation Commission (MTC) approved the Authority's allocation request for \$46.8 million for Valley Link. The allocation includes funding for Government Relations sufficient for the additional one-year contract.

Recommendation

Authorize the Executive Director to exercise Option 1 of contract for Regional Advocacy Services with Red Oak Engineering and Consulting to extend the contract term one year, for an amount not to exceed \$100,800.



Tri-Valley San Joaquin Valley
REGIONAL RAIL AUTHORITY

RESOLUTION NO. R04-2023

* * *

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRI-VALLEY – SAN
JOAQUIN VALLEY REGIONAL RAIL AUTHORITY AUTHORIZING THE EXECUTIVE
DIRECTOR TO EXERCISE OPTION 1 WITH RED OAK ENGINEERING AND
CONSULTING AGREEMENT FOR REGIONAL ADVOCACY SERVICES**

WHEREAS, the Legislature adopted AB 758, establishing the Tri-Valley - San Joaquin Valley Regional Rail Authority (Authority) under California Public Utilities Code Section 132651 *et seq.*, to plan, develop and deliver cost-effective and responsive transit connectivity between the Bay Area Rapid Transit District's rapid transit system in the Tri-Valley and the Altamont Corridor Express commuter rail service; and

WHEREAS, as required by AB 758, the Authority prepared and delivered an initial Project Feasibility Report to the Legislature on June 30, 2019 to explore the improvement of transit connectivity between the Tri-Valley and San Joaquin Valley; and

WHEREAS, pursuant to the final Project Feasibility Report, the Authority has been engaged in the design and environmental activities to advance the Valley Link Project (Project) towards construction and eventual operation; and

WHEREAS, on June 24, 2020, the Metropolitan Transportation Commission (MTC) approved the Authority's allocation request for \$46.8 million for Valley Link. The allocation includes funding for Government Relations which includes Regional Advocacy Services that will allow staff to educate and brief regional policymakers and other interested parties on the Valley Link project and secure funding for construction and operation of the commuter rail system; and

WHEREAS, the Authority prepared and issued a Request for Proposals (RFP) for Regional Advocacy Services on January 6, 2022; and

WHEREAS,. The evaluation committee received three timely and responsive submittals to the RFP on February 4, 2022; and

WHEREAS, the evaluation committee recommended an award under RFP No. 2022-01 to Red Oak Engineering & Consulting, LLC in an amount not to exceed \$96,000.00 for an initial one-year Agreement; and

WHEREAS, the Authority reserved the right, in its sole discretion, to exercise up to one, one-year option term to extend the Agreement; and

WHEREAS, the Authority now desires to exercise Option 1 to extend the Agreement for one year, for an amount not to exceed \$100,800 pursuant to the terms of RFP No. 2022-01;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Tri-Valley-San Joaquin Valley Regional Rail Authority hereby authorizes the Executive Director to exercise Option 1 with Red Oak Engineering & Consulting, LLC, for Regional Advocacy Services, in a form approved by legal counsel, to extend the term one year, for an amount not-to-exceed amount of \$100,800.

APPROVED AND PASSED, this 8th day of February 2023.

Melissa Hernandez, Chair

ATTEST:

Kevin Sheridan, Executive Director

APPROVED AS TO FORM:

Michael Conneran, Legal Counsel



Tri-Valley San Joaquin Valley
REGIONAL RAIL AUTHORITY

STAFF REPORT

SUBJECT: Meetings of the Board of Directors
FROM: Kevin Sheridan, Executive Director/CEO
DATE: February 8, 2023

REQUESTED ACTION:

Discuss (i) the remote meeting exceptions to the Ralph M. Brown Act (the Brown Act) in light of Assembly Bill (AB) 2449 and Governor Newsom's anticipated withdrawal of the COVID-19 State of Emergency, and (ii) options for future in-person meetings and possible remote meeting sites. Request Board to cancel the March Board of Directors meeting and reconvene in April to approve a revised 2023 Board of Directors meeting calendar.

BACKGROUND

The Brown Act was enacted in 1953 to guarantee the public's right to attend and participate in meetings of legislative bodies of "local agencies."¹ As "legislative bodies," a quorum of the Authority Board and any standing committees may only discuss matters within the body's subject matter jurisdiction when doing so in compliance with the many requirements set forth in the Brown Act, including that the meetings must be open and accessible to the public, that agendas describing all planned actions and discussions must be published at least 24 hours in advance of any Special Meeting or 72 hours in advance of any Regular Meeting, and that the Board and committees may only meet in Closed Session for specific reasons delineated in the law.

For many years, the Brown Act has permitted members of local legislative bodies to participate in public meetings via teleconference only when:

1. each remote location is open and accessible to the public, and connected to the main meeting location by telephone, video, or both;
2. the notice and agenda of the meeting identify the address of each remote location;
3. the agenda is posted at each remote location;
4. all votes are taken by roll call;
5. the public is given an opportunity to address the legislative body and otherwise participate at each remote location; and
6. at least a quorum of the legislative body participate from locations within the Authority's jurisdiction (but other members may participate from outside the jurisdiction).²

¹ Cal. Gov't. Code § 54950 *et seq.*

² Cal. Gov't. Code § 54953(b).

Meetings During the COVID-19 State of Emergency

During the early months of the COVID-19 pandemic, Governor Newsom issued multiple Executive Orders that suspended certain portions of the Brown Act to enable fully remote meetings of local legislative bodies, without requiring compliance with certain aspects of the Brown Act teleconference rules enumerated above. These Executive Orders were later replaced by AB 361, enacted in 2021, which amended the Brown Act to permit local agencies, including cities, to meet remotely during a proclaimed State of Emergency without having to notice the remote locations from which members participate, or make those locations accessible to the public, provided the legislative bodies make certain findings regarding public health and safety.³

On October 17, 2022, the Governor announced his intent to withdraw the COVID-19 State of Emergency on February 28, 2023. After the Governor withdraws the State of Emergency, the teleconference exceptions afforded by AB 361 will no longer be available to the Board and its committees.⁴

Meetings After the COVID-19 State of Emergency

Once the flexibility provided under AB 361 is no longer available to local legislative bodies, the traditional teleconferencing rules under the Brown Act will again become the primary method of remote participation by Board and committee members who are unable – or choose not – to attend meetings in person.

However, in addition to the traditional teleconference rules, AB 2449 amended the Brown Act effective January 1, 2023 to provide an alternative way for members of local legislative bodies to participate in meetings remotely, even when there is no State of Emergency, until January 1, 2026. Under AB 2449, Board and standing committee members may participate in meetings without identifying the member's location on the agenda or making the location accessible to the public if:

- a. a quorum of members participate in the meeting in person from a singular physical location that is clearly identified on the agenda, open to the public, and situated within the Authority's jurisdiction;
- b. the public can remotely hear, visually observe, and address the body at the meeting through (i) audio-video teleconference or (ii) a combination of audio teleconference and live-streaming video technology;
- c. the agenda must provide notice of the means by which members of the public may access the meeting and offer public comment, and identify and include an opportunity for all persons to attend and address the legislative body;
- d. the member participating remotely under AB 2449 has:

³ Codified at Cal. Gov't Code § 54953(e)(3) until January 1, 2024, at which point the subsection will be repealed.

⁴ If the Governor opts to continue the State of Emergency, or declares a subsequent State of Emergency, the teleconference exceptions afforded by AB 361 will remain available, or again become available, until as late as January 1, 2024. Absent further legislative action, teleconference exceptions created by AB 361 will be repealed by operation of law on January 1, 2024.

- i. notified the legislative body of their intent to participate remotely for "just cause," and provided a description of the reason; or
 - ii. made a request to participate remotely due to "emergency circumstances" and the legislative body takes action to approve the request; and
- e. the member participating remotely under AB 2449 uses both audio and visual technology to allow members of the public to see and hear them, and publicly discloses whether any other individual over the age of 18 is present at their remote location.

Just Cause

AB 2449 defines "just cause" as one or more of the following: (i) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely; (ii) a contagious illness that prevents a member from attending in person; (iii) a need related to a physical or mental disability, as defined by statute; or (iv) travel while on official business of the legislative body or another state or local agency.

Emergency Circumstances

"Emergency circumstances" is defined as physical or family medical emergencies that prevent members from attending in person.

Limitations

A member may rely upon the "just cause" exception no more than two times per calendar year. When combining the "just cause" and "emergency circumstances" exceptions, no member may participate remotely under AB 2449 for more than (a) three consecutive months, (b) 20% of the regular meetings in a calendar year (i.e., no more than 4 of 24 regular meetings per year), or (c) two meetings in a calendar year if the legislative body has fewer than 10 regular meetings in that year.⁵

Absent additional legislative action at the State level, the remote meeting alternative created through AB 2449 will be repealed as of January 1, 2026.

ANALYSIS

The purpose of this informational item is to solicit the Board's feedback and comments on the remote meeting rules. A summary sheet "Brown Act Meeting Guidance" is attached for your convenience. Once the State of Emergency ends, the Board will need to return to public meetings, although some members may participate remotely in compliance with the long-standing teleconference rules or through the new rules implemented by SB 2449. Additionally, the Board may want to consider establishing a publicly accessible additional location from which members can teleconference. Of course, creating a second location will require the posting of agendas at the remote location, and the use teleconferencing technology (either telephone or Zoom) in a manner that will permit the public to participate from the remote location.

⁵ These limitations will be applied separately for each legislative body.

FISCAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDATION

Request Board to cancel the March Board of Directors meeting and reconvene in April to approve a revised 2023 Board of Directors meeting calendar. The Board may want to discuss with staff the option of creating a remote teleconference location under the long-standing teleconferencing rules in the Brown Act.

Brown Act Meeting Guidance

In response to the COVID-19 pandemic, the California Legislature provided local agencies flexibility to conduct virtual Board meetings under Assembly Bill 361 (AB 361). AB 361 allows legislative bodies of local agencies to use abbreviated teleconference procedures when there is a declared State of Emergency and either state or local officials have imposed or recommended measures to promote social distancing, or whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.

In October 2022, Governor Newsom announced that the COVID State of Emergency would end on February 28, 2023. A governor-declared State of Emergency is a necessary predicate for remote meetings under AB 361. As such, beginning March 2023, Board and committee meetings must be in person.

Absent the State of Emergency, individual Board members sitting on a legislative body of a local agency will have two choices if they want to participate remotely: (1) use the traditional Brown Act teleconference rules, or (2) use newly enacted alternate rules established by AB 2449.

If the Board wishes to hold meetings from multiple public locations, that can be arranged, provided staff is able to arrange for technical support in both locations. Local agencies may also hold "hybrid" meetings in which members of the public and staff participate remotely, and Board members—and anyone else—participate in person. Similarly, local agencies may continue to livestream/broadcast (i.e., one-way transmission rather than two-way "zoom") meetings to the public for convenience. However, many members of the public have become accustomed to participating remotely and may wish the Board to continue to offer that service.

"Traditional" Teleconference Rules

Under traditional Brown Act rules, the following rules and restrictions apply to members of the Board and committees who participate in Board or committee meetings subject to the Brown Act by teleconference:

- A quorum of the members of the legislative body must be within the boundaries of the agency.
- The agenda must identify the teleconference location.
- The agenda must be posted at the teleconference location.
- The teleconference location must be accessible to the public.
- The public must be allowed to participate in the meeting from the teleconference location.

New Teleconference Alternatives for 2023

In September 2022, the Governor signed AB 2449, which provided for new teleconference alternatives that go into effect January 1, 2023. These new rules are in addition to, not instead of, traditional Brown Act teleconference rules. However, these new provisions are so onerous that it is not likely that this law will be a practical alternative for Board members to meet virtually as a matter of practice. Nonetheless, there now exists an alternative to the traditional Brown Act teleconference rules.

Teleconference for "Just Cause"

A member of the Board or committee subject to the Brown Act can participate in noticed meetings by teleconference for "just cause," subject to the following rules and restrictions:

- The member of the Board or committee notifies the Agency via the Board Secretary of their intent to participate remotely for "just cause," and provides a brief description of the reason.

- "Just cause" means one or more of the following: (i) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely; (ii) a contagious illness that prevents a member from attending in person; (iii) a need related to a physical or mental disability, as defined by statute; or (iv) travel while on official business of the Board committee, or another state or local agency.
- A quorum of the members of the Board or committee participate in the meeting in person from a singular physical location that is clearly identified on the agenda, open to the public, and situated within the agency's jurisdiction.
- The public can remotely hear, visually observe, and address the Board or committee at the meeting through (i) audio-video teleconference, or (ii) a combination of audio teleconference and live-streaming video technology.
- The agenda must provide notice of the means by which members of the public may access the meeting and offer public comment, and identify and include an opportunity for all persons to attend and address the Board or committee.
- The member participating remotely uses both audio and visual technology to allow members of the public to see and hear them, and publicly discloses whether any other individual over the age of 18 is present at their remote location.
- This exception is limited to no more than two times per calendar year.

Teleconference due to "Emergency Circumstances"

A member of the Board or committee subject to the Brown Act can participate in noticed meetings by teleconference due to "emergency circumstances," subject to the following rules and restrictions:

- The member of the Board or committee makes a request to participate remotely due to "emergency circumstances," and the Board or committee takes action to approve the request.
 - "Emergency circumstances" means physical or family medical emergencies that prevent members from attending in person.
- A quorum of the members of Board or committee participate in the meeting in person from a singular physical location that is clearly identified on the agenda, open to the public, and situated within the Agency's jurisdiction.
- The public can remotely hear, visually observe, and address the Board or committee at the meeting through (i) audio-video teleconference, or (ii) a combination of audio teleconference and live-streaming video technology.
- The agenda must provide notice of the means by which members of the public may access the meeting and offer public comment, and identify and include an opportunity for all persons to attend and address the Board or committee.
- The member participating remotely uses both audio and visual technology to allow members of the public to see and hear them, and publicly discloses whether any other individual over the age of 18 is present at their remote location.
- When combining the "just cause" and "emergency circumstances" exceptions, no member of Board or committee may participate remotely under AB 2449 for more than (a) three consecutive months, (b) 20% of the regular meetings in a calendar year (i.e., no more than 4 of 24 regular meetings per year), or (c) two meetings in a calendar year if the legislative body has fewer than 10 regular meetings in that year.



Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: State Funding and Legislative Update

FROM: Wil Ridder, Deputy Director, Financial Planning and Programming and Gus Khouri,
President, Khouri Consulting

DATE: February 8, 2023

ACTION REQUESTED

This is an information item, and no action is requested. Staff and the Authority's legislative advocacy consultant will provide a verbal report at the February Board meeting.

BACKGROUND/DISCUSSION

On January 10, Governor Newsom released his proposed FY 2023-24 State Budget. The 2023-24 Budget, which contains \$223.6 billion in General Fund spending (\$297 billion with special funds), is projected to have a deficit of \$22.5 billion. This is a sharp turn from the past few years following surpluses in the FY 22-23 State Budget (\$97.5 billion) and the FY 21-22 State Budget (\$76 billion) surplus, which were predominantly used for one-time expenditures rather than long-term obligations. Thankfully, the Governor is not predicting a recession. The FY 23-24 State Budget has a \$35.6 billion reserve to help address the shortfall and stave off deep cuts. The Rainy-Day Fund is at its constitutional maximum (10 percent of General Fund revenues), and a total of \$951 million must be dedicated to infrastructure investments in 2023-24.

Funding For Climate Change

The 2021 and 2022 Budget Acts allocated approximately \$54 billion over five years to advance the state's climate agenda. The Budget maintains 89 percent of these investments (roughly \$48 billion) and continues to prioritize equity and investments in populations facing disproportionate harm from pollution and the climate crisis.

Significant Budget Adjustments

- **Equitable Zero-Emission Vehicles and Infrastructure**—A \$745 million General Fund reduction partially offset by a shift of \$535 million to the Greenhouse Gas Reduction Fund. This maintains approximately \$2.1 billion (91 percent) for programs that expand affordable and convenient ZEV infrastructure access in low-income neighborhoods.
- **Heavy-Duty Zero-Emission Vehicles and Supporting Infrastructure**—A \$1.5 billion General Fund reduction partially offset by a shift of \$839 million to the Greenhouse Gas Reduction Fund. This maintains approximately \$5.3 billion (89 percent) for programs supporting drayage, transit, school buses, port ZEVs, and infrastructure.

- **Zero-Emission Mobility**—A \$184 million General Fund reduction partially offset by a shift of \$25 million to the Greenhouse Gas Reduction Fund. This maintains approximately \$180 million (53 percent) for sustainable community-based transportation equity projects that increase access to zero-emission mobility in low-income communities.
- **Emerging Opportunities and Federal Programs**—A reduction of \$133 million General Fund, which is partially offset by a shift of \$40 million to the Greenhouse Gas Reduction Fund. This maintains approximately \$1.3 billion (93 percent) to invest in demonstration and pilot projects in high carbon-emitting sectors, such as maritime, aviation, rail, and other off-road applications, as well as support for hydrogen infrastructure and vehicle grid integration at scale.

Funding for Transportation

With the Congressional passage of The Infrastructure Investment and Jobs Act in November of 2021, California will receive more than \$40 billion of new formula-based transportation funding over the next five years and billions of dollars in additional funding from new competitive grants.

The 2022 Budget Act included \$13.8 billion for transportation programs and projects aligned with the state's climate goals. Given the projected decline in General Fund revenues for FY 23-24, the January Budget includes \$2.7 billion in General Fund reductions, partially mitigated by an additional \$500 million from state transportation funds, to maintain \$11.6 billion (84 percent) of these investments. Below is a list of where adjustments are being made.

Significant Budget Adjustments

- **Transit Intercity Rail Capital Program**—A planned funding reduction in 2023 and 2024 from \$2 billion annually to \$1 billion in 2023-24 and \$500 million each in 2024-25 and 2025-26. These funds are set to be allocated proportionally, by region, based on population. This maintains approximately \$5.7 billion (74 percent) of the original \$7.7 billion planned additional funds for local transit capital infrastructure projects. This reduction will be restored if there is sufficient General Fund revenue in January 2024. MTC was anticipating \$800 million from its formulaic distribution, which could be compromised if funding is not provided.
- **Active Transportation Program**—A reduction of \$500 million in General Fund revenues, with \$300 million of the decline being restored from State Highway Account funds, for a net decrease of \$200 million. This will allow the program to sustain all the programming capacity approved in the 2023 programming cycle. This maintains approximately \$850 million (81 percent) of the original \$1.05 billion of additional funds for projects that increase the proportion of trips accomplished by walking or biking and increase the safety and mobility of non-motorized users.
- **Climate Adaptation Program**—A shift of \$200 million General Fund with \$200 million State Highway Account funding, leaving unaffected the project funding that supports climate resiliency and reduces infrastructure risk.
- **Safety Grade Separations**—A delay of \$350 million of funding originally planned to be available in 2023-24, which will be made available in 2025-26. Given the multi-year nature of these projects, this shift should not significantly impact the ability to deliver the same number of originally planned projects that improve safety for people walking, biking, and driving at rail crossings.

FISCAL IMPACT

There is no fiscal impact associated with this item at this time.



Tri-Valley ▲ San Joaquin Valley
REGIONAL RAIL AUTHORITY

STAFF REPORT

SUBJECT: Executive Director's Report
FROM: Kevin Sheridan, Executive Director/CEO
DATE: February 8, 2023

Action Requested

This is an information item. No action is requested.

Background/Discussion

An oral report will be provided at the board meeting.