

BOARD OF DIRECTORS MEETING

Thursday, November 3, 2022

5:30 PM

TELECONFERENCE AND VIDEO CONFERENCE MEETING ONLY

The meeting will be streamed through VTA's YouTube channel:

<https://www.youtube.com/watch?v=b2Lmo395Ing>

and through: <https://us02web.zoom.us/j/85914427437>.

Call in: (one-tap) +12133388477,,85914427437# or +16692192599,,85914427437#

Call #in: (telephone): US: +1 669 219 2599 or +1 669 900 9128 Webinar ID: 859 1442 7437

Technology limitations may limit the ability to receive verbal public comments during the meeting. We encourage the public to submit their comments by 1:00 p.m. on November 3, 2022, to board.secretary@vta.org. Instructions for participating in the teleconference will be posted on VTA's website.


AGENDA

To help you better understand, follow, and participate in the meeting, the following information is provided:

- Persons wishing to address the Board of Directors on any item on the agenda or not on the agenda are requested to submit their written comments by 1:00 p.m. on November 3, 2022, to board.secretary@vta.org.
- Persons who wish to address the Board of Directors during the teleconference meeting are encouraged to visit VTA's website, bit.ly/vta-board-agendas for instructions. **Speakers are asked to limit their comments to 1 minute.** *The amount of time allocated to speakers may vary at the Chairperson's discretion depending on the number of speakers and length of the agenda.*
- The Consent Agenda items may be voted on in one motion at the beginning of the meeting. The Board may also move regular agenda items on the consent agenda during Orders of the Day.

Disclosure of Campaign Contributions to Board Members (Government Code Section 84308)
In accordance with Government Code Section 84308, no VTA Board Member shall accept, solicit, or direct a contribution of more than \$250 from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency. Any Board Member who has received a contribution within the preceding 12 months in an amount of more than \$250 from a party or from any agent or participant shall disclose that fact on the record of the proceeding and shall not make, participate in making, or in any way attempt to use his or her official position to influence the decision.

A party to a proceeding before VTA shall disclose on the record of the proceeding any contribution in an amount of more than \$250 made within the preceding 12 months by the party, or his or her agent, to any Board Member. No party, or his or her agent, shall make a contribution of more than \$250 to any Board Member during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. The foregoing statements are limited in their entirety by the provisions of Section 84308 and parties are urged to consult with their own legal counsel regarding the requirements of the law.

- All reports for items on the open meeting agenda are available for review in the Board Secretary's Office, 3331 North First Street, San Jose, California, (408) 321-5680, at least 72 hours prior to the meeting. This information is available on our website, www.vta.org. Any document distributed less than 72-hours prior to the meeting will also be made available to the public at the time of distribution. Copies of items provided by members of the public at the meeting will be made available following the meeting upon request.
- In accordance with the Americans with Disabilities Act (ADA) and Title VI of the Civil Rights Act of 1964, VTA will make reasonable arrangements to ensure meaningful access to its meetings for persons who have disabilities and for persons with limited English proficiency who need translation and interpretation services. Individuals requiring ADA accommodations should notify the Board Secretary's Office at least 48-hours prior to the meeting. Individuals requiring language assistance should notify the Board Secretary's Office at least 72-hours prior to the meeting. The Board Secretary may be contacted at (408) 321-5680 or *e-mail: board.secretary@vta.org or (408) 321-2330 (TTY only). VTA's home page is on the web at: www.vta.org or visit us on  Facebook at: www.facebook.com/scvta. (408) 321-2300: 中文 / Español / 日本語 / 한국어 / tiếng Việt / Tagalog.

**NOTE: THE BOARD OF DIRECTORS MAY ACCEPT, REJECT OR MODIFY
ANY ACTION RECOMMENDED ON THIS AGENDA.**

There will be no physical location for the November 3, 2022, VTA Board of Directors' Meeting. You can use this link to access the meeting:
<https://us02web.zoom.us/j/85914427437>
Call in: (one-tap): +12133388477,,85914427437# or +16692192599,,85914427437#
Call #in: (telephone): US: +1 669 219 2599 or +1 669 900 9128
Webinar ID: 859 1442 7437

1. CALL TO ORDER AND ROLL CALL

1.1. ROLL CALL

1.2. Orders of the Day

2. AWARDS AND COMMENDATION

There are no Awards and Commendations.

3. PUBLIC COMMENT

This portion of the meeting is reserved for persons desiring to address the Board of Directors on any item within the Board's jurisdiction **but not on the agenda**. Speakers are **limited to 1 minute**. *This section of the agenda is limited to no more than 30 minutes but could be extended at the discretion of the chairperson. Those who requested to speak but were unable to address the Board on Item #3 due to the time limit will have the opportunity to address the Board on the second public comment, under "Other Items".* The law does not permit Board action or extended discussion of any item not on the agenda except under special circumstances. If Board action is requested, the matter can be placed on a subsequent agenda. All statements that require a response will be referred to staff for reply in writing.

4. PUBLIC HEARINGS

- 4.1. ACTION ITEM** - Close Hearing and adopt five (5) Resolutions of Necessity determining that the public interest and necessity require the acquisitions of real property interests on properties located in the City of San Jose owned respectively by (1) Thanh N. Phung; (2) Emilio B de Sousa and Angela M. de Sousa, Trustees of the 1992 de Sousa Family Revocable Living Trust; (3) Ho Dai Truong; (4) HC Investment Associates, L.P., a California limited partnership; and (5) Henry Nguyen and Nancy Le for VTA's BART Silicon Valley Phase II Project.

Property ID/Assessor's Parcel Number/Owner

B3016 (APN No.:467-09-063) owned by Thanh N. Phung

Property ID/Assessor's Parcel Number/Owner

B3120 (APN No.:467-09-039) owned by Emilio B de Sousa and Angela M. de Sousa, Trustees of the 1992 de Sousa Family Revocable Living Trust

Property ID/Assessor's Parcel Number/Owner

B3127 (APN No.:467-10-012) owned by Ho Dai Truong

Property ID/Assessor's Parcel Number/Owner

B3129 (APN No.:467-09-076) owned by HC Investment Associates, L.P., a California limited partnership

Property ID/Assessor's Parcel Number/Owner

B4231 (APN No.:467-09-043) owned by Henry Nguyen and Nancy Le

Note: Motion must be approved by at least 2/3 of the Board (8 members).

5. REPORTS

5.1. Committee Reports

5.1.A. Citizens Advisory Committee (CAC) Chairperson's Report. (Verbal Report) (Miller)

5.1.B. Policy Advisory Committee (PAC) Chairperson's Report. (Verbal Report) (Moore)

5.1.C. Standing Committee Chairpersons' Report. (Verbal Report)

5.1.D. Policy Advisory Board Chairpersons' Report. (No Report)

5.2. General Manager Report. (Verbal Report)

5.2.A. INFORMATION ITEM - Receive Safety and Security Update.

5.2.B. INFORMATION ITEM - Receive Government Affairs Update.

5.3. Chairperson's Report. (Verbal Report)

6. CONSENT AGENDA

ADMINISTRATION AND FINANCE (A&F) COMMITTEE

6.1. ACTION ITEM - Authorize the General Manager to execute a contract with the lowest responsive and responsible bidder, George Bianchi Construction, in the amount of \$3,346,057.19 for the construction of the 2021 Better Bus Stops Improvements (Contract #C21211F).

6.2. ACTION ITEM - Adopt the amended Conflict of Interest Code for the Santa Clara Valley Transportation Authority (VTA) and its Appendix of Designated Positions and Disclosure Categories and to submit the revised Conflict of Interest Code and the list of designated positions to the Santa Clara County Board of Supervisors for approval.

6.3. ACTION ITEM – Approve the following:

1. Authorize the General Manager to proceed with the acquisition process and execute all documents required for VTA’s acquisition (or possession and use) of the requisite right-of-way for the US101/SR25 Interchange Improvement Project Phase I (“Project”) pursuant to Section 5-3 of the Administrative Code, and where:

(a) the purchase price equals or is greater than the statutory offer of just compensation established for the property and the purchase price exceeds the authority of the General Manager under Section 5-3 of the Administrative Code; or

(b) the purchase price exceeds the authority of the General Manager and is within 15% above the statutory offer of just compensation established for the property.

2. Authorize the General Manager to execute all documents necessary to convey or assign easement rights or fee title, as applicable, to:

(a) utility providers for replacement rights, along with requisite access rights, related to utility relocations; and

(b) public agencies for the operation and maintenance of public infrastructure.

3. Authorize the General Manager to enter into settlement agreements with businesses that have established entitlement to claim loss of business goodwill under California Eminent Domain Law and where the settlement for such loss of business goodwill is within 15% of the valuation opinion of VTA's business appraiser.

CONGESTION MANAGEMENT PROGRAM & PLANNING (CMPP) COMMITTEE

6.4. INFORMATION ITEM - Receive the Valley Transportation Plan (VTP) Transportation Program Semi-Annual Report Ending June 30, 2022.

6.5. INFORMATION ITEM - Receive the 2000 Measure A Transit Improvement Program Semi-Annual Report Ending June 30, 2022.

SAFETY, SECURITY, AND TRANSIT PLANNING & OPERATIONS (SSTP&O) COMMITTEE

6.6. ACTION ITEM - Adopt the Vanpool Subsidy Program as an ongoing VTA service.

6.7. INFORMATION ITEM - Receive a report on the Guaranteed Ride Home Pilot Program.

GOVERNANCE AND AUDIT (G&A) COMMITTEE

6.8. ACTION ITEM - Amend the FY 2022/FY 2023 Auditor General (AG) Work Plan to defer two projects due to VTA's revised project timelines, delete one project due to events that have occurred over the past two years at VTA, and replace with two projects that have a high priority.

6.9. ACTION ITEM - Approve the VTA Hybrid Board and Committee Meetings Policy, and authorize staff to incorporate any corresponding provisions into the adopted *VTA Chairperson Guidelines*.

BOARD OF DIRECTORS

6.10. ACTION ITEM - Approve the Regular Meeting Minutes of October 6, 2022.

6.11. ACTION ITEM - Adopt a subsequent Resolution authorizing the Santa Clara Valley Transportation Authority (VTA) Board of Directors and all standing, advisory, policy, oversight, steering, and inter-agency committees and subcommittees of the Board to continue to meet by remote teleconference, subject to the requirements of Assembly Bill 361 (Rivas).

- 6.12. INFORMATION ITEM** - Receive unapproved Minutes/Summary Reports from VTA Committees, Joint Powers Boards (JPB), and Regional Commissions.

7. REGULAR AGENDA

ADMINISTRATION AND FINANCE (A&F) COMMITTEE

- 7.1. ACTION ITEM** - Authorize the General Manager, through VTA's insurance broker of record, Willis Towers Watson (WTW), to procure the Owner Controlled Insurance Program (OCIP) (General Liability and Workers' Compensation), Builders Risk and Environmental Premise/Contractor's Pollution Insurance for VTA's BART Silicon Valley Phase II Extension Project (BSVII) for Contract Package 2 (CP2), Progressive Design Build and Early Works Packages for a premium not to exceed \$22,770,800.

CONGESTION MANAGEMENT PROGRAM & PLANNING (CMPP) COMMITTEE

- 7.2. ACTION ITEM** - Approve the updated criteria for the 2016 Measure B Bicycle & Pedestrian Planning Studies Competitive Grant Program.

SAFETY, SECURITY, AND TRANSIT PLANNING & OPERATIONS (SSTP&O) COMMITTEE

- 7.3. INFORMATION ITEM** - Receive an update on the Downtown Light Rail Program and seek committee input on the alternatives.
- 7.4. INFORMATION ITEM** - Receive an update on the Future of Light Rail Program.

GOVERNANCE AND AUDIT (G&A) COMMITTEE

There were no items submitted for the Regular Agenda from the Governance and Audit Committee.

BOARD OF DIRECTORS

- 7.5. INFORMATION ITEM** - Receive an update on VTA's BART Silicon Valley Phase II Extension Project. (Verbal Report)
- 7.5.A.** APTA Independent Peer Review Presentation
- 7.6. INFORMATION ITEM** - Receive SB 129 Joint Labor Management Committee Update. (Verbal Report)
- 7.7. INFORMATION ITEM** - Review the proposed 2023 Board of Directors Meeting Schedule.

8. OTHER ITEMS

8.1. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

8.2. Announcements

8.3. Public Comment (Continued)

This portion of the meeting is reserved for persons who had requested but were not able to address the Board of Directors under Item #3 due to the time limit and for those individuals who would like to address the Board on agenda items under “Other Items.” **Speakers are limited to 1 minute.** The law does not permit Board action or extended discussion of any item not on the agenda except under special circumstances. If Board action is requested, the matter can be placed on a subsequent agenda. All statements that require a response will be referred to staff for reply in writing.

9. CLOSED SESSION

9.1. Recess to Closed Session

A. Conference with Legal Counsel -- Existing Litigation [Government Code Section 54956.9(d)(1)]

Name of Case: Estrada v. Santa Clara Valley Transportation Authority, et al.
(Santa Clara County Superior Court Case No. 19-CV-342351)

B. Conference with Legal Counsel - Existing Litigation [Government Code Section 54956.9(d)(1)]

Name of Case: Santa Clara Valley Transportation Authority v. Harduman and
Kulwant Sanghera "S&S Market"
(Santa Clara County Superior Court Case No. 21-CV-392664)

C. Conference with Legal Counsel - Existing Litigation [Government Code Section 54956.9(d)(1)]

Name of Case: VTA v. Della Maggiore Tile, Inc., et al.
(Santa Clara County Superior Court Case No. 21CV388901)

D. Conference with Legal Counsel - Existing Litigation [Government Code Section 54956.9(d)(1)]

Name of Case: Skanska-Shimmick-Herzog v. Santa Clara Valley Transportation
Authority
(San Mateo Superior Court Case No. 20-CIV-02854)

E. Conference with Legal Counsel - Existing Litigation [Government Code Section 54956.9(d)(1)]

Name of Case: Lane et al v. Universal Protection Service, LP et al
(Santa Clara County Superior Court Case No. 22CV398848)

F. Conference with Legal Counsel - Existing Litigation
[Government Code Section 54956.9(d)(1)]

Name of Case: Davallou et al v. Universal Protection Service, LP et al
(Santa Clara County Superior Court Case No. 22CV399418)

G. Conference with Legal Counsel - Existing Litigation
[Government Code Section 54956.9(d)(1)]

Name of Case: Fritch et al v. Universal Protection Service, LP et al
(Santa Clara County Superior Court Case No. 22CV399095)

H. Conference with Legal Counsel - Existing Litigation
[Government Code Section 54956.9(d)(1)]

Name of Case: Megia et al v. Universal Protection Service, LP et al
(Santa Clara County Superior Court Case No. 22CV399096)

I. Conference with Legal Counsel - Existing Litigation
[Government Code Section 54956.9(d)(1)]

Name of Case: Gil v. Universal Protection Service, LP et al
(Santa Clara County Superior Court Case No. 22CV400206)

J. Conference with Legal Counsel - Existing Litigation
[Government Code Section 54956.9(d)(1)]

Name of Case: Bertolet et al v. Universal Protection Service, LP et al
(Santa Clara County Superior Court Case No. 22CV400239)

K. Conference with Legal Counsel - Existing Litigation
[Government Code Section 54956.9(d)(1)]

Name of Case: Bertolet v. Santa Clara Valley Transportation Authority (Workers
Compensation Appeals Board, ADJ15161138)

L. Conference with Legal Counsel – Anticipated Litigation
[Government Code Section 54956.9(d)(2)]

Significant Exposure to Litigation: One Case Relating to Potential Claim from
Gill

9.2. Reconvene to Open Session

9.3. Closed Session Report

10. ADJOURN

BOARD OF DIRECTORS MEETING

Thursday, November 3, 2022

5:30 p.m.

VIDEO AND TELECONFERENCE MEETING ONLY

ADDENDA TO AGENDA

5.1.D.X. Ad Hoc Grade Separation Committee Chairperson's Report (Verbal Report)

5.2 General Manager Report

- INFORMATION ITEM -Receive a presentation on bus availability and the current trends of service loss and vehicle defects. (Verbal Report)