



**Members of the Board**

Charlene Haught Johnson, Chair  
Anthony J. Intintoli, Jr., Vice Chair  
Gerald Bellows  
Jeffrey Delbono  
Timothy Donovan

**MEETING AGENDA FOR THE  
WETA BOARD OF DIRECTORS**

**BOARD OF DIRECTORS' MEETING**

*June 27, 2013 at 1:00 P.M.*

**San Francisco Bay Area**

**Water Emergency Transportation Authority**

9 Pier, Suite 111

San Francisco

***The full agenda packet is available for download at [www.watertransit.org](http://www.watertransit.org).***

**AGENDA**

This information will be made available in alternative formats upon request. To request an agenda in an alternative format, please contact the Board Secretary at least five (5) working days prior to the meeting to ensure availability.

**PUBLIC COMMENTS** The Water Emergency Transportation Authority welcomes comments from the public. Speakers' cards and a sign-up sheet are available. Please forward completed speaker cards and any reports/handouts to the Board Secretary.

**Non-Agenda Items:** A 15 minute period of public comment for non-agenda items will be held at the end of the meeting. Please indicate on your speaker card that you wish to speak on a non-agenda item. No action can be taken on any matter raised during the public comment period. Speakers will be allotted no more than three (3) minutes to speak and will be heard in the order of sign-up.

**Agenda Items:** Speakers on individual agenda items will be called in order of sign-up after the discussion of each agenda item and will be allotted no more than three (3) minutes to speak. You are encouraged to submit public comments in writing to be distributed to all Directors.

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|------------------------------------------|---------------------------|
| 1. <u>CALL TO ORDER – BOARD CHAIR</u>    | <b><i>Information</i></b> |
| 2. <u>ROLL CALL/PLEDGE OF ALLEGIANCE</u> | <b><i>Information</i></b> |
| 3. <u>REPORT OF BOARD CHAIR</u>          | <b><i>Information</i></b> |
| 4. <u>REPORTS OF DIRECTORS</u>           | <b><i>Information</i></b> |
| 5. <u>REPORTS OF STAFF</u>               | <b><i>Information</i></b> |
| a. Executive Director's Report           |                           |
| b. Legislative Update                    |                           |

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6. CONSENT CALENDAR **Action**
- a. Minutes May 23, 2013
  - b. Approve Amendment to Agreement with the Association of Bay Area Governments for the Provision of Accounting Support Services
  - c. Approve Amendment to Agreement with Solano County Transit for the Provision of Bus and Ticketing Services
  - d. Approve Amendment to Clipper Memorandum of Understanding with MTC and Other Transit Operators
  - e. Approve Amendment to Agreement with Lindsay Hart, LLP for the Provision of Federal Legislative Representation
  - f. Approve Amendment to Agreement with Nematode Media, LLC (DBA Bay Crossings) for Advertising in Bay Crossings and Other Services
  - g. Approve Amendment to Agreement with Nossaman LLP for the Provision of Legal Services
  - h. Approve Purchase of FY 2013/14 Commercial Insurance Policies
7. APPROVE ADMINISTRATIVE CODE AMENDMENTS **Action**
8. CONSIDER APPROVAL OF A PROJECT LABOR AGREEMENT FOR THE NORTH BAY OPERATIONS AND MAINTENANCE FACILITY PROJECT CONSTRUCTION **Action**
9. APPROVE FY 2012-13 PROPOSITION 1B PROGRAM OF PROJECTS AND AUTHORIZE AGENCY OFFICIALS TO EXECUTE PROGRAM REQUIREMENTS **Action**
10. APPROVE AMENDMENT TO AGREEMENT WITH KPFF, INC. FOR DESIGN AND ENGINEERING SERVICES FOR THE CENTRAL BAY OPERATIONS AND MAINTENANCE FACILITY **Action**
11. RECESS INTO CLOSED SESSION
- a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION **Action**  
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (one case). **To Be Determined**
  - b. PUBLIC EMPLOYEE PERFORMANCE EVALUATION **Action**  
Title: Executive Director **To Be Determined**
12. REPORT OF ACTIVITY IN CLOSED SESSION **Action**  
Chair will report any action taken in closed session that is subject to reporting at this time. Action may be taken on matters discussed in closed session. **To Be Determined**
13. OPEN TIME FOR PUBLIC COMMENTS FOR NON-AGENDA ITEMS

ADJOURNMENT

Water Emergency Transportation Authority (WETA) meetings are wheelchair accessible. Upon request WETA will provide written agenda materials in appropriate alternative formats to individuals with disabilities. Please send a written request to [contactus@watertransit.org](mailto:contactus@watertransit.org) or call (415) 291-3377 at least five (5) days before the meeting.

**Participation in a meeting may be available at one or more locations remote from the primary location of the meeting. See the header of this Agenda for possible teleconference locations. In such event, the teleconference location or locations will be fully accessible to members of the**

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**public. Members of the public who attend the meeting at a teleconference location will be able to hear the meeting and testify in accordance with applicable law and WETA policies.**

Under Cal. Gov't. Code sec. 84308, Directors are reminded that they must disclose on the record of the proceeding any contributions received from any party or participant in the proceeding in the amount of more than \$250 within the preceding 12 months. Further, no Director shall make, participate in making, or in any way attempt to influence the decision in the proceeding if the Director has willfully or knowingly received a contribution in an amount of more than \$250 within the preceding 12 months from a party or such party's agent, or from any participant or his or her agent, provided, however, that the Director knows or has reason to know that the participant has a financial interest in the decision. For further information, Directors are referred to Government Code section 84308 and to applicable regulations.

## M E M O R A N D U M

TO: WETA Board Members

FROM: Nina Rannells, Executive Director

DATE: June 27, 2013

RE: Executive Director's Report

**PROJECT UPDATES**

**Ferry Terminal Refurbishment Projects** – This project includes gangway rehabilitation and terminal facility improvement projects that support the continued safe operation of East Bay ferry terminals and include a variety of work ranging from pier piling replacement to repairing walkways and awnings. Ben C. Gerwick, Inc was selected as the project Construction Manager and a kick off meeting was held on June 18.

**Regional Passenger Float Construction** – This project will construct a new regional spare float that can be utilized as a back-up for the Vallejo terminal float as well as other terminal sites such as downtown San Francisco when the permanent terminal floats must undergo periodic dry-dock, inspection and repair. This spare would support ongoing daily services and would be a valuable asset to have available for use in unplanned or emergency situations. Ghirardelli Associates Inc. was selected as the project Construction Manager and a kick off meeting was held June 13.

**Bay Breeze Vessel Refurbishment** – The ferry vessel *Bay Breeze* has surpassed its economic mid-life. This project consists of converting the propulsion to a conventional propeller system, refurbishment of the passenger cabin, extensive hull work, major system renovation, and replacement of control systems and navigation electronics. In March 2013 the Board of Directors approved the contract award to Marine Group Boat Works. The *Bay Breeze* arrived at the Shipyard on March 18 and the project is underway. The hull exterior has been ultra-high pressure water washed which removes the coatings and corrosion without damaging the aluminum plating. Engines, generators and other equipment have been removed from the vessel. The project continues on schedule with completion expected in December 2013.

**Clipper Fare Media Implementation** – Clipper is currently available as fare payment media for the Alameda/Oakland/South San Francisco, Alameda/Oakland/San Francisco, and Alameda Harbor Bay/San Francisco routes. As of July 1, Clipper will also be accepted on the South San Francisco to San Francisco service currently offered on Wednesdays and Fridays of each week. WETA is working with MTC to develop software programming and acquire equipment required to implement Clipper for the Vallejo ferry service. On June 4, MTC executed a change order with Cubic to authorize this work. Staff will be attending a project kick-off meeting with MTC and Cubic in July. Based upon MTC's projected schedule, Clipper should be available for the Vallejo service by summer 2014.

Staff participated in a recent meeting of MTC and transit operator executives to discuss long-term strategic plans for the Clipper program. Items under consideration include potential changes to the contracting model and governance structure through which the current Clipper program is delivered. A recommendation is expected pending future discussions and development of the strategic plan.

**North Bay Operations and Maintenance Facility** – This project will construct a new ferry maintenance facility located at Building 165 on Mare Island in Vallejo in three phases. As currently planned, Phase Zero - site preparation, demolition and abatement -- would be completed prior to landside construction work. Phase One will construct landside improvements including a 48,000 gallon fuel storage and delivery system, a new warehouse and renovation of Building 165. Phase Two will construct a system of modular floats and

piers, gangways and over-the-water utilities. Finally, the existing ferry maintenance facility (Building 477) will be cleaned up as required prior to surrender to Lennar Mare Island, the property owner of the land portion of the project site. This project was transferred to WETA for implementation as a part of the July 2012 Vallejo service transfer.

This project was originally developed and designed by the City of Vallejo, which issued an RFP for project construction in fall 2011. Bids received by the City significantly exceeded funds available, and all bids were rejected. On December 15, 2011, the California Transportation Commission approved a 20-month extension for the \$4.2 million STIP grant allocated to the project to provide time to re-design and re-bid the project; extending the deadline for construction contract award to August 2013.

In February 2013 the Board of Directors approved the contract award for construction management services to Weston Solutions. The pre-construction phase RFP was released on May 29, 2013. Proposal submittals for the pre-construction phase are due on June 28, 2013. The landside construction RFP is anticipated to be released by the end of June 2013.

The NEPA environmental review work for the Navy waterside portion of the project on behalf of the US Navy is underway. The Navy must complete this documentation prior to entering into a lease with WETA to use the waterside portion of the site. In addition, staff is coordinating with various resource agencies for submittal of the mitigation plan for the applicable waterside permits. The Navy lease and approval of waterside permits is required prior to release of the RFP documents for the waterside construction. Staff is working to complete the waterside specifications and RFP documents in parallel with the Navy lease and resources agency permit process.

**Central Bay Operations and Maintenance Facility** – This project will develop an operations and maintenance facility at Alameda Point to serve as the base for WETA's existing and future central bay ferry fleet. The proposed project would provide running maintenance services such as fueling, engine oil changes, concession supply and light repair work for WETA vessels. The new facility will also serve as WETA's Operations Control Center for day-to-day management and oversight of service, crew and facilities. In the event of a regional emergency, the facility would function as an Emergency Operations Center, serving passengers and sustaining water transit service for emergency response and recovery.

On May 30, the FTA transmitted a letter to WETA indicating that the project qualifies for a documented categorical exclusion under NEPA. The environmental review of this project is now complete. Staff is working to secure the services of a Construction Manager for the project and expects to receive multiple submittals in response to an RFP that was released for this work on May 29. Additionally, an item has been included on this month's Board agenda requesting approval of a contract amendment with KPFF, Inc. to initiate Preliminary and Final Design work for the project.

**Richmond Ferry Service** – This service will provide an alternative transportation link between the City of Richmond and downtown San Francisco. The environmental and conceptual design work includes plans for replacement of an existing facility (float and gangway) and a phased parking plan. Staff is working with the City of Richmond staff and representatives of Orton Development, Inc. to develop the plans. Environmental review for the project is underway. Public and resource agency scoping meetings were held in June 2012. The purpose of the meetings was to present information on the proposed project and to provide an opportunity for comment on the scope of the environmental analysis. The CEQA Initial Study/Mitigated Negative Declaration is anticipated to be published in June or July. Staff continues to conduct stakeholder outreach with the City and other agencies including Contra Costa Transportation Authority (CCTA) and the Bay Conservation and Development Commission (BCDC). Staff is also initiating the Section 7 and Essential Fish Habitat consultation with NOAA and NMFS.

**Berkeley Ferry Service** – This service will provide an alternative transportation link between Berkeley and downtown San Francisco. The environmental and conceptual design work includes plans for shared use of an existing City owned parking lot at the terminal site between ferry and local restaurant (H<sup>s</sup> Lordships) patrons. City participation is required in order to move the project forward and reach agreement on a shared use concept. The project will require a conditional use permit reviewed by the City's Planning Commission,

Zoning Adjustment Board and City Council. Staff also discussed options to expedite the project through the conditional use permit process.

Staff is working with the environmental consultant to complete the Final EIS/EIR. The Final EIS/EIR was submitted to FTA review in early October 2012. Staff is consulting with the NOAA and the NMFS on completion of Section 7 consultation and Essential Fish Habitat Assessment for the project. The assessments were prepared in compliance with legal requirements set forth under Section 7 of the Endangered Species Act and the Magnuson-Stevens Fishery Act. NOAA and NMFS will issue a Biological Opinion (BO) on the project. Staff is continuing to work with NOAA and NMFS on the proposed mitigation plan for the project. The BO is required prior to completion of the Final EIS/EIR.

**Treasure Island Service** – This project, which will be implemented by the Treasure Island Development Authority (TIDA), the Mayor's Office of Economic and Workforce Development and the prospective developer, will institute new ferry service to be operated by WETA between Treasure Island and downtown San Francisco in connection with the planned Treasure Island Development Project.

**Downtown San Francisco Ferry Berthing Expansion** – This project will expand berthing capacity at the Downtown San Francisco Ferry Terminal in order to support new and expanded ferry services to San Francisco as set forth in WETA's Implementation and Operations Plan. The proposed project would also include landside improvements needed to accommodate expected increases in ridership and to support emergency response capabilities if a catastrophic event occurs. Upon request from the FTA, this project has been included in the Federal Infrastructure Projects Permitting Dashboard, an initiative of the Federal Administration to expedite federal permitting processes for nationally or regionally significant projects.

A Draft EIS/EIR was released to the public on May 31. The document will be available for review and comments for a 60-day period extending through July 30, 2013.

**Hercules Environmental Review/Conceptual Design** – In Spring of 2012 staff met with the City of Hercules to receive an update on the environmental review status, current phasing plan, funding and schedule for the Intermodal Transit Center project; a pre-requisite project to a ferry terminal at this site. Based upon this discussion, it appears that funding is in place to construct the initial phases of the Intermodal Transit Center but that the project will not advance to such a point that ferry terminal construction could begin until 2017, at the earliest. As a result, City and WETA staffs have agreed that continuing the environmental review process for a potential ferry terminal at this site is not prudent at this time given the limited shelf life of this work. Staff will remain in contact with the City to coordinate any future ferry terminal work as the Transit Center project moves forward. This information is reflected in the WETA Short Range Transit Plan.

**Antioch, Martinez and Redwood City Ferry Service Projects** – These projects involve conceptual design and environmental review for potential future ferry services to the cities of Antioch, Martinez and Redwood City. Draft site feasibility reports have been prepared and distributed to the cities for review. The feasibility reports were prepared to identify site constraints and design requirements to better understand project feasibility and cost. Staff is continuing to work with City staff to review the draft reports and determine appropriate next steps for the respective planning and environmental processes. Staff presented the findings of the Antioch site feasibility report to the Antioch City Council on February 12, 2013. The presentation included an overview of next steps for the project. Staff is coordinating with Martinez and Redwood City on similar efforts.

**Contra Costa County Ferry Subcommittee** – Staff is working with the Contra Costa Transportation Authority (CCTA) and representatives from the cities of Antioch, Martinez, Hercules and Richmond to study implementation of ferry expansion services in Contra Costa County. Preparation of a "white paper" is underway to outline opportunities and challenges associated with each potential terminal site and service. The "white paper" will also examine the operational and capital cost for potential terminals and services and explore funding plans for each. Results of this study will inform stakeholders on specific site and service details for discussion and development of a countywide approach to developing services and funding

support. The subcommittee met on April 22, 2013 to review the scope for the "white paper" effort. CCTA is leading this effort.

**Alameda Ferry Terminal Station Access Plan** – This planning effort will evaluate opportunities to enhance pedestrian, bicycle, transit and drive access modes to both the Main Street and Harbor Bay Ferry Terminals which are both experiencing full parking lots. After a review of access needs and potential improvement strategies, staff from the City and WETA will work together to identify potential improvement measures. These measures can range from capital improvements such as bike lanes or parking to programmatic improvements such as shuttle service. Throughout this process, City and WETA staff will host multiple community forums to provide opportunities for public input and comment on the range of alternatives considered and preferred approaches that will ultimately be recommended as part of the final station access plan. Additionally, the planning process will be advised by input from the City of Alameda's Transportation Commission, Planning Commission and City Council as well as the WETA Board. This work is anticipated to be complete in spring 2014.

#### **UPDATE ON RELEVANT PROJECTS IMPLEMENTED BY OTHER AGENCIES**

**Warriors Arena** – The Golden State Warriors basketball team has proposed an Arena/Mixed use development at Piers 30/32 on the San Francisco waterfront that would potentially include a ferry berthing facility to accommodate direct ferry service to games and events at the proposed arena. WETA staff has met with the Warriors organization as well as with the Port of San Francisco and Municipal Transportation Authority staff over the past year to discuss this proposal. A Notice of Preparation was released in December 2012 and WETA submitted comments in January, 2013. Staff will continue to coordinate with the development team and City staff as the project progresses through the environmental process.

**Vallejo Station** – Vallejo Station is a compact, transit-oriented mixed-use project in the City of Vallejo that includes two major transit elements – a bus transfer facility that will consolidate local, regional and commuter bus services and a 1,200 space parking garage for ferry patrons and the general public.

The Vallejo Station Parking Structure will be constructed in two phases. Phase A Parking Structure is complete and now open. The City has initiated procurement of a Parking Access and Revenue Control System (PARCS) which is expected to be in effect at this new garage facility in the coming months. Additional traffic and parking signs, which will accompany the PARCS, will be procured and installed within the next month. Construction of Phase B of the parking structure is dependent upon the City securing funding and the relocation of the U.S. Post Office, which is at a stand-still.

#### **OUTREACH, PUBLIC INFORMATION, AND MARKETING EFFORTS**

On June 4 and June 27, Kevin Connolly and Mike Gougherty participated in meetings of the BCDC-Port of San Francisco Waterfront Planning Working Group.

On June 12, Nina Rannells and Vice Chair Intintoli provided an update on WETA's program to the Solano Transportation Authority Board of Directors.

On June 12, Mike Gougherty participated in a meeting of the Northeastern Waterfront Advisory Group and presented an update on the Downtown SF Ferry Terminal Expansion project.

On June 12, Keith Stahnke attended the MTC Trans Response Plan steering committee meeting.

On June 19, Kevin Connolly and Mike Gougherty presented an item to the San Francisco Historic Preservation Commission requesting review and comments on the Downtown SF Ferry Terminal Expansion project Draft EIS/EIR.

On June 25, Kevin Connolly, Mike Gougherty and Chad Mason conducted a Public Hearing offering the public and interested agencies an opportunity to submit formal comments on the Draft EIS/EIR released for the Downtown SF Ferry Terminal Expansion project.

**OPERATIONS REPORT**

The monthly operations statistics report covering April 2013 is provided as Attachment 1.

Planning for upcoming events;

- Fourth of July, additional service for Vallejo and Alameda Oakland routes.
- BART and AC Transit labor strike, additional ferry service if strike occurs, meetings and coordination with MTC and regional transit agencies.

**ADMINISTRATION**

Attachment 2 includes FY 2012/13 financial statements for ten months ending April 2013, including the Statement of Revenues and Expenses and the Statement of Capital Programs and Expenditures.

**OTHER**

AB 935 (Frazier) – This bill would amend Section 66540.12 of the Government Code relating to the terms of the San Francisco Bay Area Water Emergency Transportation Authority Board of Directors.



## Attachment 1

### Monthly Operations Statistics Report April 2013

		Alameda/ Oakland	Harbor Bay	South San Francisco	Vallejo	Systemwide
Ridership	Total Passengers April 2013	49,839	18,182	3,562	53,729	125,312
	Total Passengers April 2012	39,970	15,502	n/a	51,454	106,926
	Percent change	24.69%	17.29%	n/a	4.42%	17.20%
	Total Passengers Current FY To Date	475,496	167,056	30,692	568,381	1,241,625
	Total Passengers Last FY To Date	426,593	144,016	n/a	540,304	1,110,913
	Percent change	11.46%	16.00%	n/a	5.20%	11.77%
	Avg Weekday Ridership April 2013	1,704	826	162	2,258	4,950
	Passengers Per Hour	132	141	27	96	104
Ops Stats	Revenue Hours	379	129	132	562	1,202
	Revenue Miles	4,061	2,545	1,741	14,911	23,258
Fuel	Fuel Used (gallons)	30,432	13,425	14,886	110,646	169,390
	Avg Cost per gallon	\$3.30	\$3.30	\$3.30	\$3.31	\$3.30

## Attachment 2

**San Francisco Bay Area Water Emergency Transportation Authority**  
**FY 2012/13 Statement of Revenues and Expenses**  
**For Ten Months Ending 04/30/2013**

% of Year Elapsed 83.1%

	Current Month	Prior Year Actual	2012/13 Budget	2012/13 Actual	% of Budget
<b>OPERATING EXPENSES</b>					
<b><u>PLANNING &amp; GENERAL ADMIN:</u></b>					
Wages and Fringe Benefits	95,592	1,269,738	1,434,800	1,030,477	71.8%
Services	68,481	2,388,779	1,979,100	571,375	28.9%
Materials and Supplies	1,083	47,917	258,100	7,693	3.0%
Utilities	1,129	14,956	16,000	7,793	48.7%
Insurance	-	28,578	33,000	(6,303) <sup>a</sup>	-19.1%
Miscellaneous	7,413	306,710	128,000	80,674	63.0%
Leases and Rentals	22,456	268,610	266,000	219,268	82.4%
Admin Overhead Expense Transfer	(19,402)	-	(984,000)	(265,972)	27.0%
<b>Sub-Total Planning &amp; Gen Admin</b>	<b>176,753</b>	<b>4,325,288</b>	<b>3,131,000</b>	<b>1,645,005</b>	<b>52.5%</b>
<b><u>FERRY OPERATIONS:</u></b>					
<b><u>Harbor Bay FerryService</u></b>					
Purchased Transportation	180,502	1,098,946	1,122,000	1,093,131	97.4%
Fuel - Diesel & Urea	44,266	404,896	531,300	385,294	72.5%
Other Direct Operating Expenses	16,306	341,174	411,400	314,632	76.5%
Admin Overhead Expense Transfer	2,836	-	116,700	34,441	29.5%
<b>Sub-Total Harbor Bay</b>	<b>243,910</b>	<b>1,845,016</b>	<b>2,181,400</b>	<b>1,827,499</b>	<b>83.8%</b>
<b><u>Alameda/Oakland Ferry Service</u></b>					
Purchased Transportation	501,763	3,015,472	3,702,300	3,295,676	89.0%
Fuel - Diesel & Urea	100,341	1,131,900	1,454,300	1,034,309	71.1%
Other Direct Operating Expenses	20,925	732,809	737,600	389,768	52.8%
Admin Overhead Expense Transfer	6,381	-	265,000	72,007	27.2%
<b>Sub-Total Alameda/Oakland</b>	<b>629,411</b>	<b>4,880,181</b>	<b>6,159,200</b>	<b>4,791,760</b>	<b>77.8%</b>
<b><u>Vallejo FerryService</u></b>					
		<i>(Operated by City of Vallejo)</i>			
Purchased Transportation	610,938	6,240,622	6,538,500	5,792,482	88.6%
Fuel - Diesel & Urea	336,633	3,965,227	6,009,500	3,842,940	63.9%
Other Direct Operating Expenses	112,988	2,041,094	1,042,280	980,622	94.1%
Admin Overhead Expense Transfer	6,640	258,786	455,100	117,110	25.7%
<b>Sub-Total Vallejo</b>	<b>1,067,198</b>	<b>12,505,729</b>	<b>14,045,380</b>	<b>10,733,155</b>	<b>76.4%</b>
<b><u>South San Francisco FerryService</u></b>					
		<i>(Service launched on 6/4/12)</i>			
Purchased Transportation	143,503	122,092	2,083,400	1,487,709	71.4%
Fuel - Diesel & Urea	49,082	44,197	841,500	457,796	54.4%
Other Direct Operating Expenses	17,766	4,096	322,000	243,369	75.6%
Admin Overhead Expense Transfer	3,545	-	147,200	42,413	28.8%
<b>Sub-Total South San Francisco</b>	<b>213,896</b>	<b>170,384</b>	<b>3,394,100</b>	<b>2,231,287</b>	<b>65.7%</b>
<b>Total Operating Expenses</b>	<b>2,331,168</b>	<b>23,726,598</b>	<b>28,911,080</b>	<b>21,228,706</b>	<b>73.4%</b>
<b>Total Capital Expenses</b>	<b>198,372</b>	<b>32,496,198</b>	<b>25,419,571</b>	<b>6,705,918</b>	<b>26.4%</b>
<b>Total Expenses</b>	<b>2,529,540</b>	<b>56,222,796</b>	<b>54,330,651</b>	<b>27,934,624</b>	<b>51.4%</b>
<b>OPERATING REVENUES</b>					
Fare Revenue	946,416	9,465,348	9,717,441	8,410,846	86.6%
Local - Bridge Toll	1,384,587	14,149,730	18,985,189	12,816,220	67.5%
Local - Property Tax and Assessments	-	78,192	206,450	-	0.0%
Local - Other Revenue	166	33,328	2,000	1,641	82.0%
<b>Total Operating Revenues</b>	<b>2,331,169</b>	<b>23,726,598</b>	<b>28,911,080</b>	<b>21,228,706</b>	<b>73.4%</b>
<b>Total Capital Revenues</b>	<b>198,372</b>	<b>32,496,198</b>	<b>25,419,571</b>	<b>6,705,918</b>	<b>26.4%</b>
<b>Total Revenues</b>	<b>2,529,540</b>	<b>56,222,796</b>	<b>54,330,651</b>	<b>27,934,624</b>	<b>51.4%</b>

<sup>a</sup> Includes the return of \$25,000 paid into Escrow last year for the purchase of Supplemental Insurance as part of the Vallejo transfer.

## Attachment 2

**San Francisco Bay Area Water Emergency Transportation Authority  
FY 2012/13 Statement of Capital Programs and Expenditures  
For Ten Months Ending 04/30/2013**

Project Description	Current Month	Project Budget	Prior Year Actual	2012/13 Budget	2012/13 Actual	Future Year	% of Project
<b>CAPITAL EXPENSES</b>							
<b>FACILITIES EXPANSION</b>							
<b>Future Expansion Service Studies:</b>							
Berkeley Terminal - Environ/Concept Design	12,742	2,335,000	2,053,018	281,982	90,579	-	92%
Richmond Terminal - Environ/Concept Design	10,284	812,500	197,224	615,276	258,992	-	56%
Redwood City - Environ/Concept Design		812,500	108,535	75,965	8,737	628,000	14%
Antioch - Environ/Concept Design	410	812,500	98,047	250,000	35,571	464,453	16%
Martinez - Environ/Concept Design	787	812,500	137,979	74,521	24,683	600,000	20%
SF Berthing Expansion - Environ/Concept Design	26,267	3,300,000	1,919,679	1,380,321	353,893	-	69%
<b>Terminal/Berthing Expansion Construction:</b>							
Pier 9 Mooring Facility		3,150,000	3,138,848	11,152	4,524	-	99%
SSF Oyster Mitigation	603	275,000	49,470	50,000	25,468	175,530	27%
SSF Terminal Construction	7,571	26,000,000	23,943,585	2,056,415	198,864	-	93%
Berkeley Terminal - Final Design		3,200,000	-	800,000	-	2,400,000	0%
<b>Maintenance &amp; Operations Facilities:</b>							
North Bay Operations & Maintenance Facility	114,516	25,500,000	-	4,862,500	588,154	20,637,500	2%
Central Bay Ops & Maint Facility - Environ/Concept Design	5,628	952,500	608,021	344,479	264,272	-	92%
Central Bay Ops & Maint Facility - Final Design		3,647,500	-	2,742,500	-	905,000	0%
<b>FACILITIES REHABILITATION</b>							
<b>Channel Dredging:</b>							
Channel Dredging - Harbor Bay	-	410,000	26,879	383,121	335,400	-	88%
<b>Passenger Floats &amp; Gangways:</b>							
Gangway Rehabilitation - Main Street Terminal		125,000		125,000	-	-	0%
Gangway & Float Rehab - Harbor Bay Terminal		240,000		240,000	-	-	0%
Spare Float Replacement	1,865	3,300,000		470,000	2,425	2,830,000	0.1%
Passenger Float Replacement - Clay Street Terminal	687	2,410,000	119,145	2,290,855	2,143,499	-	94%
Gangway & Pier Rehab - Clay Street		625,000	-	30,000	-	595,000	0%
<b>Terminal Rehabilitation:</b>							
Terminal Fac Improvement - Harbor Bay & Maint St.	(263)	250,000	-	250,000	12,135	-	5%
<b>FERRY VESSELS</b>							
<b>Major Component Rehab/Replacement:</b>							
Vessel Engine Overhaul - Encinal		803,564	2,708	800,856	800,815	-	100%
Purchase of Inflatable Buoyancy Apparatus		127,500	-	127,500	-	-	0%
Communications Equipment		182,000	39,737	142,263	3,406	-	24%
<b>Vessel Mid-Life Repower/Refurbishment:</b>							
Vessel Mid-Life Repower/Refurbishment: - Bay Breeze	17,273	5,015,000	53,323	4,961,677	133,935	-	4%
Vessel Mid-Life Repower/Refurbishment: - Mare Island		1,803,188	-	1,803,188	1,420,567	-	79%
<b>Vessel Expansion/Replacement:</b>							
Purchase Replacement Vessel		15,000,000	-	250,000	-	14,750,000	0%
<b>Total Capital Expenses</b>	<b>198,372</b>	<b>101,901,252</b>	<b>32,496,198</b>	<b>25,419,571</b>	<b>6,705,918</b>	<b>43,985,483</b>	
<b>CAPITAL REVENUES</b>							
Federal	30,561	27,261,904	13,010,685	10,787,218	2,410,383	3,464,000	57%
State	156,839	58,565,504	6,776,762	11,386,258	3,603,299	40,402,483	18%
Local - Bridge Toll	7,518	5,297,431	4,620,197	677,234	681,651	-	100%
Local - San Mateo Sales Tax Measure A		9,640,764	8,077,889	1,562,875	(16,199)	-	84%
Local - Alameda Sales Tax Measure B	3,454	1,135,650	10,665	1,005,985	26,785	119,000	3%
<b>Total Capital Revenues</b>	<b>198,372</b>	<b>101,901,252</b>	<b>32,496,198</b>	<b>25,419,571</b>	<b>6,705,918</b>	<b>43,985,483</b>	

## LINDSAY HART, LLP

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### Peter Friedmann

Of Counsel

DATE: June 27, 2013

TO: WETA Board Members

FROM: Peter Friedmann  
202-783-3333      OurManInDC@federalrelations.com

SUBJECT: **Report to the Board: June**

The big transportation issue before Congress is the ongoing collapse of the highway and rail infrastructure, combined with the looming expiration of MAP-21, the omnibus transportation bill that was passed by Congress and signed by the President just last year. The funding stream ends September 30, 2014. We are concerned about continued funding generally, and distribution of ferry funds, near term and long term.

**Collapsing Bridges Drawing Attention to Deferred Transportation Infrastructure.** The problem is that until only recently, funding for highways and transit has been limited to the gas tax paid by motorists. Just in the past few years has Congress and the President been willing to supplement those revenues by general Federal funds. 30 years ago the gas tax was generating more revenue than was needed for our Interstate and national highway systems; so some small portion of the surplus was diverted to transit. Over the years, the amount going to transit has increased dramatically; new transit programs have been added (such as ferries) even as gas tax revenues have declined. Cars get better mileage, and we mandated ethanol while exempting it from the tax.

With less gas tax revenue coming in, maintenance of highway and bridges has been deferred. High profile bridge collapses are occurring more frequently. Most recently, the collapse of the bridge on I-5 just north of Seattle that carries 400,000 vehicles a day has refocused attention. That it has occurred in Senator Patty Murray's state (Chair of Senate Transportation Appropriations, and number one advocate for ferries) only increases the profile. That bridge was constructed in 1955, and is "functionally obsolete" according to Federal Highway Administration. Most disconcerting is the fact that many bridges on the Interstate system are much older.

**Increasing Federal Gas Tax - A Political "Death Wish"?** The obvious solution would be to increase the gas tax, but neither Congress nor the President have had the political courage to even propose it -- at least not since 1991, when George H.W. Bush pushed it through, breaking his "read my lips, no new taxes" pledge, and losing his re-election bid the following year.

So Senator Boxer, Chair of the Environment and Public Works Committee had to be creative to find funds to pay for MAP-21. Still afraid of increasing the gas tax (at least that is one thing that both Republicans and Democrats and the President all have in common), they "borrowed" (or rather, diverted) from future federal revenues unrelated to the gas tax. Clever accounting.

**Increasing State Gas Taxes.** They can't do that again, so the question is, how do we fund continuing Federal transportation programs? Some on the Hill are proposing to increase the gas tax. But what is starting to happen is that some Governors are no longer standing by. Even though interstate commerce and highways have been a Federal government responsibility, some states are increasing their state portion of the gas tax, in order to generate revenue to start rebuilding infrastructure. Vermont and Maryland increased their gas taxes last year, to fund delayed transport construction.

**Incremental Changes – Protecting Public Ferry Funding.** Congress won't find time to make major changes in the highway and transit programs in MAP-21. Instead they may seek other means to address specific concerns which have arisen since the law was passed last year. One such concern is that the Federal Highway Administration seems to be making private ferry boats and/or terminals eligible for Ferry Formula Grant Program funding. We are working with other public systems, particularly Washington State, to assure that the \$67 million distributed nationally by the FHWA is not diluted by grants to private operators.

**Congress will somehow find money to extend MAP-21.** Congress will have to find some stop gap creative accounting means of extending it for another 6 to 12 months. Immigration will take all the time as the all-consuming issue before Congress this year. In terms of infrastructure, the Water Resources Development Act (pays for dredging harbors/navigation channels including the 50 foot deep commercial channel serving Port of Oakland) is the big initiative this year. As bridges collapse, I am afraid that Congress will continue to respond to each calamity individually, as all Members of Congress pray their bridges/overpasses will remain intact.

**Near-term Ferry grant opportunities:** Meanwhile for ferries, the Federal Transit Administration will soon be issuing calls for grant applications; we have worked to convey the need to focus those on congested urban areas, and to San Francisco in particular. The total pot they have to distribute nationally is \$30 million. The FTA's ferry grant administrators have developed their criteria for the grant applications, which are currently being reviewed by the Secretary of Transportation's office. Release could come any day, at which point WETA can formally submit application(s).

On this initiative as well as the FHWA grant program which we want limited to public ferry infrastructure, we have the strong and active support of our Congressional Delegation. We will be working to get each of them to take a ride on a WETA boat by the end of summer.

Respectfully Submitted,

Peter Friedmann  
WETA Federal Representative

**SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY**  
**MINUTES OF THE BOARD OF DIRECTORS MEETING**

*(May 23, 2013)*

The Board of Directors of the San Francisco Bay Area Water Emergency Transportation Authority met in regular session at the WETA offices at Pier 9, Suite 111, San Francisco, CA.

**1. ROLL CALL AND CALL TO ORDER**

Chair Charlene Haught Johnson called the meeting to order at 1:05 p.m. Directors present were Vice Chair Anthony Intintoli, Director Gerald Bellows and Director Timothy Donovan. Vice Chair Intintoli led the pledge of allegiance.

**2. REPORT OF BOARD CHAIR**

No report.

**3. REPORT OF DIRECTORS**

No report.

**4. REPORTS OF STAFF**

Executive Director Nina Rannells introduced Planning and Development Manager Kevin Connolly who delivered an update to the Board regarding South San Francisco ridership.

Mr. Connolly reviewed the recent changes to the service which included an additional evening departure from South San Francisco to the East Bay as well as a new direct midday service from South San Francisco to San Francisco on Wednesdays and Fridays. He said that average daily ridership in 2013 was already up 30% over the 2012 average and that ridership had increased 13% over the previous month since the service changes had been implemented. He noted that while it had only been 13 days since the changes had been initiated that it was not an insignificant change and suggested that the numbers may continue to increase. Director Donovan replied that this was good news.

Ms. Rannells then referred the Board to her written monthly report, adding her appreciation for representatives of Masters, Mates & Pilots for their recent advocacy of the Central Bay Maintenance Facility project in meetings with FTA and congressional representatives in Washington, DC.

Chair Johnson asked if there was a State Legislative update. Ms. Rannells said that there was no written report but that AB 935 had passed out of the Assembly. She added that in addition to the Contra Costa and San Mateo representation, AB 935 had been updated to include representational seats for organized labor as well as Alameda, San Francisco, and Solano counties.

Vice Chair Intintoli asked for clarification regarding the "percentage of project completed" for the refurbishment of the vessel *Mare Island* in Attachment 2 of the Executive Director's report. Finance and Grants Manager Lynne Yu responded that it was a formula error.

**5. CONSENT CALENDAR**

Ms. Rannells noted a full consent calendar and acknowledged specifically the work of Administrative/Policy Analyst Lauren Gularte for her work on the DBE Goal Analysis Report. Vice Chair Intintoli asked why the North Bay Maintenance Facility was not included on the list of contracts to be awarded. Ms. Gularte replied that it was because there were no federal funds budgeted for the project.

Director Bellows made a motion to approve the consent calendar. Vice Chair Intintoli seconded the motion and the item carried unanimously.

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## **6. APPROVE FISCAL YEAR 2013/14 OPERATING AND CAPITAL BUDGET**

Ms. Rannells presented this item requesting that the Board approve the Fiscal Year 2013/14 Proposed Operating and Capital Budget. She noted that the \$66.8 million budget covered a much bigger program than it had in prior years, including nearly \$31 million in operating expenses and \$36 million in capital. Ms. Rannells said that as well as day-to-day service operations, the operating budget included major planning initiatives such as a comprehensive system review, a system-wide fare program, and defining and prioritizing future expansion efforts. She noted that the capital program included significant funds for rehabilitation of a number of key facilities and vessels as well as the Downtown Ferry Terminal Expansion Project and the Central Bay and North Bay Maintenance Facilities.

Ms. Rannells said that the operating budget was conservative, including contingency for changes in fuel prices and other unanticipated costs. She noted a revised copy of the budget made available at the meeting which addressed the line item "contribution to capital reserve" which was intended to maximize utilization of Regional Measure 2 funds by taking excess fare revenues and contributing them to a fund to pay future local matches for capital projects. Ms. Rannells reported that MTC would not allow this and that the revised version of the budget had a lower operating figure as a result. She said that Ms. Yu had been working with MTC on an alternative approach to creating an operating reserve utilizing excess Regional Measure 1 funding. Ms. Rannells emphasized that staff was always looking for ways to create a reserve for future expenses.

Ms. Rannells then offered to receive questions regarding the budget, noting that Ms. Yu had been instrumental in creating it and could also address any questions or concerns.

Vice Chair Intintoli commented that starting new services was challenging and that they would need time to meet MTC farebox recovery requirements. He emphasized that any new services should identify sources of local funding prior to implementation and that no new services should be created at the expense of existing services.

Vice Chair Intintoli and Director Donovan expressed appreciation for the clarity of the budget presentation.

Director Bellows asked about the crane budgeted for the North Bay Maintenance Facility. Ms. Rannells noted that a crane was currently leased and that a WETA-owned crane could be used at both the Central Bay and North Bay facilities. Director Donovan asked if it would be a new crane. Operations Manager Keith Stahnke said that it would be.

Director Bellows made a motion to approve the item. Director Donovan seconded the motion and the item carried unanimously.

## **7. APPROVE A CONSTRUCTION MANAGEMENT CONTRACT FOR THE REGIONAL PASSENGER FERRY FLOAT PROJECT AND AUTHORIZE RELEASE OF A REQUEST FOR PROPOSALS FOR PROJECT CONSTRUCTION**

Mr. Stahnke presented this item requesting Board approval of a contract award for construction management services for a Regional Passenger Ferry Float to Ghirardelli Associates Inc. in an amount not to exceed \$330,000, and authorize the Executive Director to negotiate and execute a final contract and take any other such related actions to support this work, as well as authorization for the release of a Request for Proposals for Construction of the Regional Passenger Ferry Float project.

Director Donovan asked if DBE/SBE objectives were being met for this project. Lauren Gularte, Administrative/Policy Analyst indicated that all federal funds paid to Ghirardelli Associates Inc. will count towards WETA's DBE and SBE goals.

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Director Donovan made a motion to approve the item. Director Bellows seconded the motion and the item carried unanimously.

**8. APPROVE A CONSTRUCTION MANAGEMENT CONTRACT FOR THE FERRY TERMINAL REFURBISHMENT PROJECT AND AUTHORIZE RELEASE OF A REQUEST FOR PROPOSALS FOR THE PROJECT**

Mr. Stahnke presented this item requesting Board approval for the construction management services for the Ferry Terminal Refurbishment Projects to Ben C. Gerwick, Inc. in an amount not to exceed \$159,000 and authorize the Executive Director to negotiate and execute a final contract and take any other such related actions to support this work, as well as authorization for the release of a Request for Proposals for Ferry Terminal Refurbishment Project.

Director Bellows made a motion to approve the item. Vice Chair Intintoli seconded the motion and the item carried unanimously.

**9. AUTHORIZE THE RELEASE OF A REQUEST FOR PROPOSALS FOR THE LANDSIDE CONSTRUCTION CONTRACT FOR THE NORTH BAY OPERATIONS AND MAINTENANCE AND FACILITY**

Mr. Connolly presented this item requesting Board authorization to release a Request for Proposals for Package 1, Landside Construction Contract for the North Bay Operations and Maintenance Facility and delivered an overview of the project scope to the Board.

Ms. Rannells added that the project was on a fast-track as the clock was ticking on a funding deadline. She said that in order to utilize STIP funds allocated to this project, a contract needed to be awarded no later than August 31.

Ms. Rannells added that she had been contacted by Ben Espinoza of the Napa-Solano Building Trades Council regarding their interest in the WETA Board adopting a project labor agreement for this project. Ms. Rannells said that their preferred language was currently under review and that she would keep the Board informed on the status of the item. Vice Chair Intintoli noted that it certainly deserved a careful look and consideration.

Director Donovan asked for clarification of how the project labor agreement would be addressed. Ms. Rannells replied that staff will focus on developing an agreement to bring forward to the Board at their June meeting. In the event that this meeting occurs after Package 1 is released for bid, the Project Labor Agreement could be added into the RFP by way of an addendum.

Vice Chair Intintoli made a motion to approve the item. Director Bellows seconded the motion and the item carried unanimously.

**10. AUTHORIZE RELEASE OF A REQUEST FOR PROPOSALS FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE CENTRAL BAY OPERATIONS AND MAINTENANCE FACILITY**

Senior Planner Mike Gougherty presented this item requesting Board authorization to release a Request for Proposals for construction management services for the Central Bay Operations and Maintenance Facility project. He presented an extensive project overview and invited questions from the Board.

Director Donovan asked if the facility could be used to load passengers in an emergency scenario. Mr. Gougherty replied this was included in the project scope. Mr. Donovan also asked if solar panels would be used for the building. Mr. Gougherty replied yes insofar as they were economically feasible in the context of the project, and that other technologies such as grey water would also be considered.

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Director Donovan asked if any site cleanup would be required. Mr. Gougherty responded the preliminary sampling indicated no contamination and that sediment testing would be required. Director Donovan asked who would be responsible for site cleanup if it was required. Director Bellows replied that typically it would be the federal government and that in his familiarity with the site there was no indication of contamination.

Public Comment

Russ Barnes of Weston Solutions Inc. asked if WETA anticipated issuing multiple construction contracts in the same fashion as the Vallejo project and also what the overall budget for the project was.

Mr. Gougherty replied that part of the intent of bringing in a construction management firm at this stage was that they would be able to assist in making that determination. He added that the anticipated construction budget was \$25 to \$30 million.

Vice Chair Intintoli referred to the DBE item which listed \$2.2 million for the Central Bay Maintenance Facility and asked for confirmation that this represented the amount of federal dollars budgeted for the project. Ms. Gularte said that this was correct.

Vice Chair Intintoli made a motion to approve the item. Director Bellows seconded the motion and the item carried unanimously.

**11. RECESS INTO CLOSED SESSION AND REPORT ON CLOSED SESSION**

Chair Johnson called the meeting into closed session at 1:56 p.m. Upon reopening of the meeting at 2:58 p.m. she reported that action had been taken but not subject to disclosure.

**12. ADJOURNMENT**

All business having concluded, the meeting was adjourned at 3:00 p.m.

Respectfully Submitted,

Board Secretary

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MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director  
Lynne Yu, Manager, Finance & Grants**

**SUBJECT: Approve Amendment to Agreement with the Association of Bay Area Governments for the Provision of Accounting Support Services**

**Recommendation**

Approve Amendment No. 12 to the agreement with the Association of Bay Area Governments (ABAG) in the amount of \$120,000 for the provision of accounting support services for FY 2013/14 and authorize the Executive Director to execute the amendment.

**Background**

On March 22, 2001, the Water Transit Authority (WTA) Board approved an agreement with ABAG to manage its fiscal affairs in conformance with accepted state government accounting practices. This agreement transferred over to the Water Emergency Transportation Authority (WETA) upon its creation on January 1, 2008, and has been amended annually to provide funding to continue this ongoing work.

**Discussion**

The annual ABAG agreement includes fiscal services to process and pay invoices, keep WETA's accounting records, provide advice on financial accounting matters and provide for required independent financial audit work. Through this contract work, WETA receives the benefit of ABAG finance staff's knowledge of governmental accounting practices, access to their professional staff to help manage financial audits, use of ABAG's accounting software system, an independent review of invoices and check processing services. This arrangement provides an overall cost saving over what it would cost to directly hire accounting personnel and purchase, manage and maintain financial accounting software. It also allows WETA staff to focus our financial efforts on more specialized grant and financial planning work.

The current amendment is set to expire on June 30, 2013. Staff recommends extending the agreement to June 30, 2014. In FY 2013/14, this will include the services of independent auditor Maze & Associates Accountancy Corporation to conduct WETA's annual fiscal audit for FY 2012/13 and the services of Bartel Associates, LLC to complete the required June 30, 2013 GASB 45 OPEB Actuarial Valuation.

**Fiscal Impact**

Sufficient funds are included in the FY 2013/14 Operating Budget to support this amendment.

\*\*\*END\*\*\*

MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director**

**SUBJECT: Approve Amendment to Agreement with Solano County Transit for the Provision of Bus and Ticketing Services**

**Recommendation**

Approve Amendment No. 1 to the agreement with Solano County Transit (SolTrans) at an estimated cost of \$665,000 for the provision of Route 200 bus service and ticketing services for FY 2013/14 and authorize the Executive Director to execute the amendment.

**Background/Discussion**

As a part of the Vallejo Ferry Service (Ferry Service) transition, the Authority entered into an agreement with SolTrans for the provision of Route 200 bus service and other ancillary services necessary to maintain the Ferry Service as historically operated. The Route 200 is a door-to-door express bus service between the Vallejo and San Francisco ferry terminals that is operated on a limited basis to complement the Vallejo ferry service schedule. Other ancillary services include all aspects of ferry ticketing services and the provision of back-up bus services when ferries are unable to make their regularly scheduled trips.

The current agreement for services, which are provided on a cost reimbursable basis, is set to expire on June 30, 2013. SolTrans has done a good job providing these services and staff recommends continuing this service arrangement for another year through June 30, 2014.

Services to be provided in FY 2013/14 under this agreement would be as follow:

1. **Route 200 Bus Service:** Provide 3,700 hours of Route 200 bus service at an estimated annual cost of \$425,000.
2. **Ticket Sales and Customer Service:** Staff and oversee the Vallejo Ferry Terminal ticket office and provide general customer information and services. This work also includes credit card processing, armored truck services, daily bank deposits, administration of SF Muni Stickers and all associated costs for an estimated annual cost of \$240,000.
3. **Back-up Bus Service and Standby Drivers:** Provide on-demand back-up bus service and stand-by drivers to support the Ferry Service when vessels are not available to operate regularly scheduled service between the Vallejo Ferry Terminal and the San Francisco Ferry Building. These services are provided on an as-needed basis at an hourly rate of \$75.14 for back-up service operation and \$32.97 for stand-by drivers.

As a part of this contract, SolTrans is required to provide monthly operations, financial and ridership data for the Route 200 and back-up bus trips provided.

**Fiscal Impact**

Sufficient funds are included in the FY 2013/14 Operating Budget for the Vallejo ferry service to support this amendment.

\*\*\*END\*\*\*

MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director**

**SUBJECT: Approve Amendment to Clipper Memorandum of Understanding with MTC and Other Transit Operators**

**Recommendation**

Approve Amendment No. 2 to the Clipper Memorandum of Understanding (MOU) with the Metropolitan Transportation Commission (MTC) and participating transit operators and authorize the Executive Director to execute the amendment.

**Background**

On January 5, 2012, the Board authorized the Executive Director to execute an agreement with MTC to enter into the Clipper MOU, as previously amended. The Clipper MOU defines the basic agreements among MTC and participating transit operators with respect to operation of the Clipper fare payment system, including: MTC's responsibilities, transit operators' responsibilities, a consultation process for amending the Clipper Operating Rules, allocation of operating expenses between MTC and the operators, allocation of operating expenses between the operators and a dispute resolution process.

**Discussion**

MTC and the Clipper member operators have developed Amendment No.2 to the Clipper MOU to address three changes mutually agreed to in support of the program as follows:

1. With the transition of portions of the Regional Transit Card (RTC) Discount Card Program to the Clipper Contractor, Amendment No. 2 establishes transit operators as financially responsible for services specifically related to the distribution of RTC Clipper Cards. Transit operators were previously responsible for these services under the separate RTC Discount Card Program MOU.
2. Amendment No. 2 eliminates the expiration date of June 30, 2013, for the 1% commission currently being paid to the transit benefit third party administrators, as the operators' staff have agreed to continue the commission.
3. Amendment No. 2 eliminates the operators' responsibility to accept transfer of ownership of the Clipper equipment from MTC. The transfer of ownership would require that each operator individually adhere to Federal Transit Administration (FTA) requirements related to equipment tracking, as well as for equipment disposition once the items are at end-of-life. Transfer of equipment ownership would require costly and time-intensive changes to the Clipper Contract and require FTA consent for each operator.

**Fiscal Impact**

There is no significant fiscal impact associated with this Clipper amendment.

\*\*\*END\*\*\*

MEMORANDUM

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**TO:** Board Members

**FROM:** Nina Rannells, Executive Director

**SUBJECT:** Approve Amendment to Agreement with Lindsay Hart, LLP for the Provision of Federal Legislative Representation

**Recommendation**

Approve Amendment No. 12 to the agreement with Lindsay Hart, LLP (LH) in the amount of \$160,000 for the provision of federal legislative representation for FY 2013/14 and authorize the Executive Director to execute the amendment.

**Background**

The Water Transit Authority (WTA) approved an agreement with Lindsay Hart, LLP as Lindsay, Hart, Neil & Weigler, LLP (LHNW) on November 29, 2001 after a competitive selection process. This agreement was transferred over to the Water Emergency Transportation Authority (WETA) upon its creation on January 1, 2008, and has been amended annually to provide funding to continue this ongoing work. Over the years, LHNW has been successful at securing over \$30 million in federal funding commitments toward WETA projects and in working to increase overall federal transportation funding for ferry programs.

**Discussion**

With the approval of the proposed contract amendment, Mr. Peter Friedmann and his staff would continue working on funding and other federal legislative issues in FY 2013/14, focusing on the following programs and priorities:

- Expand, maintain and coordinate San Francisco Bay/California Congressional Delegation advocacy for WETA, and work to ensure continued active support for WETA by the Washington State Congressional Delegation, where WETA boats have been built, repaired and rehabilitation, and by other Members of Congress.
- Work with WETA staff to pursue grants and seek congressional support from the Ferry Boat Discretionary Fund as administered by the Federal Highway Administration and Federal Transit Administration.
- Participate as founding member of the DC representatives of the Public Ferry Coalition, to gain increased federal funding and other federal support for public ferry service throughout the country.
- Work towards overall objective of gaining a revenue stream to WETA in any new federal ferry legislation, including MAP 21.
- Assure that WETA's interests are well-served in any ferry formula grant program.
- Regularly inform WETA Board and staff of all relevant legislative and regulatory developments and lobbying activities in Washington DC.

**Fiscal Impact**

Sufficient funds are included in the FY 2013/14 Operating Budget to support this amendment.

\*\*\*END\*\*\*

MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director**

**SUBJECT: Approve Amendment to Agreement with Nematode Media, LLC (DBA Bay Crossings) for Advertising in *Bay Crossings* and Other Services**

**Recommendation**

Approve Amendment No. 5 to the agreement with Nematode Media, LLC (DBA Bay Crossings) in the amount of \$48,000 for advertising in *Bay Crossings* and other public information/marketing services and authorize the Executive Director to execute the amendment.

**Background**

The Water Transit Authority (WTA) first entered into a formal agreement with Bay Crossings (aka Nematode Media, LLC) in September, 2004. This agreement was renewed in July 2005 for a one year term, in June 2006 and 2009 (under WETA) for three year terms and in June 2013 for a one year term.

The Authority has utilized the *Bay Crossings* newspaper as a means of communicating with ferry riders, businesses and residents of the Bay's shoreline communities regarding its plans, environmental review process and services since 2001. The Authority has also provided a subsidy to support the Bay Crossings store in the San Francisco Ferry Building which provides ferry passengers access to ferry schedules, information and tickets. In recent years, WETA has also provided a small subsidy (\$12,000 annually) for Bay Crossings to host and support the display of real-time ferry departure information. This service is no longer needed in FY 2013/14 as these signs were recently replaced with the new ferry schedule flap sign recently installed in the San Francisco Ferry Building by the Metropolitan Transportation Commission.

Staff recommends continuing its contract with Bay Crossings in FY 2013/14 for the following reduced work scope:

1. Bay Crossings newspaper- \$36,000/year  
This supports placement of San Francisco Bay Ferry ads and ferry schedules in *Bay Crossings* as well as informational articles promoting WETA's activities.
2. Bay Crossings store – Extended Store Hours - \$12,000/year  
The Bay Crossings store is a venue for distributing information and is a resource for daily ferry commuters. WETA's compensation helps to defray the costs of staffing the store for four extra hours daily during the work week.

**Fiscal Impact**

Sufficient funds are included in the FY 2013/14 marketing budget to support this amendment.

\*\*\*END\*\*\*

MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director**

**SUBJECT: Approve Amendment to Agreement with Nossaman LLP for the Provision of Legal Services**

**Recommendation**

Approve Amendment No. 17 to the agreement with Nossaman LLP in the amount of \$650,000 for the provision of legal services for FY 2013/14 and authorize the Executive Director to execute the amendment.

**Background**

The Authority's enabling statute requires the employment of general counsel to manage its legal affairs. In August 2004, the San Francisco Bay Area Water Transit Authority authorized Nossaman LLP (Nossaman) to serve as its general counsel. In January 2008, this contract transferred to the San Francisco Bay Area Water Emergency Transportation Authority upon its creation and has been renewed annually since. Annual legal expenses have ranged from \$140,000 in FY 2004/05 to \$1,100,000 in FY 2010/11, based upon the volume and complexity of legal issues facing the agency. Nossaman has served the Authority's interests well in a wide range of areas over the years and staff recommends continuing this working relationship through FY 2013/14.

**Discussion**

Staff has reviewed the FY 2013/14 work program and anticipates the need for legal support services related to general agency oversight and capital project implementation as follows:

**General Oversight**

This includes work in support of items such as general agency operation, governance issues, contracts, legislation, procurement, policy development, employment law, insurance requirements and lease and other property transactions. Other anticipated work includes research on transition-related issues and special subjects of interest or concern as needed.

**Capital Program Support**

This work includes advice and oversight of legal issues related to capital projects included in the \$36 million FY 2013/14 capital budget. Such work includes review of project proposals for legal content, contract development and review of any protests or project issues as they arise during or after the procurement. Major projects in FY 2013/14 include work on the Authority's two Maintenance and Operations Facility projects and the procurement of new vessels.

Staff estimates these services to cost up to \$650,000 in FY 2013/14, consistent with the prior fiscal year budget for legal services.

**Fiscal Impact**

Sufficient funds are included in the FY 2013/14 Operating and Capital Budgets to support this work.

\*\*\*END\*\*\*

MEMORANDUM

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**TO:** Board Members

**FROM:** Nina Rannells, Executive Director  
Keith Stahnke, Manager, Operations  
Melanie Jann, Manager, Administration & Business Services

**SUBJECT:** Approve Purchase of FY 2013/14 Commercial Insurance Policies

**Recommendation**

Approve the purchase of the following commercial insurance policies for FY 2013/14 for a total cost not to exceed \$ 175,000:

- 1) Marine Commercial Liability including Terminal Operators and Automobile Liability
- 2) Excess Marine Liabilities
- 3) Property Insurance
- 4) Docks, Pilings and Ramps
- 5) Public Officials and Employment Practices Liability Insurance
- 6) Specialty Workers' Compensation

**Background**

The Authority carries a variety of different insurance policies annually to protect the agency and its operation from third party claims and loss of property. Each type of insurance is described in more detail below:

Marine Commercial Liability Insurance and Excess Marine Liabilities

This coverage protects against third party claims for bodily injury and property damage at scheduled locations.

Property Insurance

Property insurance is protection against losses due to damage to property from fires, vandalism, accidents etc. including both personal belongings and business inventory.

Docks, Pilings and Ramps

This marine property insurance covers waterside assets including docks, ramps, piers, floats, gangways, and pilings. These are insured for actual values. The insurance has a combined limit of \$38,403,605 with various deductibles.

Public Officials and Employment Practices Liability Insurance

Public Officials and Employment Practices Liability Insurance is designed to address the significant exposures faced by public entities and responds to claims brought against an insured public entity, its employees and volunteers for any alleged or actual breach of duty, neglect, error, misstatement or omission in the course of public duties.

Specialty Workers' Compensation

Coverage providing four types of benefits (medical care, death, disability, rehabilitation) for employee job-related injuries or diseases as a matter of right (without regard to fault). The premium rate is based on a percentage of the employer's payroll and varies according to the employee's occupation.



Additionally, it is important to note that there is overlap between the WETA's coverage and the contracted operator's coverage for incidents that occur while passengers embark and disembark from the vessels. The contracted operator's bumbershoot insurance provides an additional \$49,000,000 of coverage while passengers embark and disembark from the vessels, making the total liability limit between the WETA's Terminal Operator's Liability insurance (\$10,000,000) and the contracted operator's (\$49,000,000) limit a total of \$59,000,000.

**Discussion**

This item authorizes the purchase of the following commercial insurance policies in FY 2013/14:

- 1) Marine Liability Insurance.
- 2) Excess Liabilities.
- 3) Property Insurance.
- 4) Docks, Pilings and Ramps.
- 5) Public Officials and Employment Practices Liability Insurance.
- 6) Specialty Workers' Compensation

Proposed policies will be purchased through both Wells Fargo Insurance Services and Alliant Insurance Services as noted in the insurance policy schedule provided as **Attachment A**.

Wells Fargo Insurance Services insure other public ferry operators such as Golden Gate Ferries and Washington State Ferries and will provide the Marine Terminal Operators Liability insurance and Property insurance for Marine Facilities. Alliant Insurance Services, has access to a Public Entity Property Insurance Program (PEPIP) with competitive pricing and will provide Property insurance for Marine Facilities and the administrative offices, Public Officials/Professional, Employment Practices insurance and Specialty Workers' Compensation insurance.

The estimated annual premium for all policies is expected to be no more than \$175,000.

**Fiscal Impact**

Sufficient funds are included in the FY 2013/14 Operating Budget to support the purchase of commercial insurance.

\*\*\*END\*\*\*

San Francisco Bay Area Water Transportation Authority (WETA)  
2013- 2014 Insurance Policy Schedule

Attachment A

	Coverage	Locations	Limit	Deductible/Retention	Policy Period	Carrier	Policy Number	Estimated 13-14 Annual Premium
Wells Fargo Insurance Services	Marine Commercial Liability Terminal Operators Legal Liability Auto Liability	Pier 9 Offices Pier 9 Harbor Bay Main Street Clay Street South San Francisco Vallejo Mare Island	\$1,000,000 Each Occurrence \$2,000,000 Aggregate	\$2,500 each occurrence	7/1/2013 - 7/1/2014	The Great American Insurance Company of New York	OMH3133584	\$ 17,000
	Excess Marine Liabilities	Pier 9 Offices Pier 9 Harbor Bay Main Street Clay Street South San Francisco Vallejo Mare Island	\$9,000,000 Excess \$1,000,000	N/A	7/1/2013 - 7/1/2014	50% The Great American Insurance Company of New York 25% AGCS United States Fire Insurance Company 25% Travlers Property & Causality Insurance Company	WFIS13-0021	\$ 12,000
	Docks, Pilings and Ramps	Pier 9 Clay Street Harbor Bay Main Street Vallejo Mare Island	Total Insured Value: \$19,430,200	\$10,000 each occurrence \$20,000 wind, wind driven water and flood	7/1/2013 - 7/1/2014	The Great American Insurance Company of New York	OMH3133584	\$ 80,000
Alliant Insurance Services	Docks, Pilings and Ramps	South San Francisco Ferry Terminal	Total Insured Value: \$18,973,405	\$1,000 each occurrence	7/1/2013 - 7/1/2014	Lexington Insurance Company	PRPROP1314	\$ 31,000
	Property	Pier 9 Offices	Total Insured Value: \$300,000	\$1,000 each occurrence	7/1/2013 - 7/1/2014	Lexington Insurance Company	PRPROP1314	\$ 1,000
	Public Officials / Professional Employment Practices	N/A	\$3,000,000 Aggregate	\$15,000 each wrongful act \$15,000 each employment practices violation	7/1/2013 - 7/1/2014	Darwin Select Insurance Company	0202-3740-REN	\$ 17,000
	Specialty Worker's Compensation	N/A	Statutory WC Limit Employers' Liability \$1M/\$1M/\$1Mil	N/A	12/16/2012 - 12/16/2013	National Union Insurance Company of Pittsburg, PA (Chartis)	WC 005-64-3339	\$ 17,000
								\$ 175,000

**MEMORANDUM**

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director**

**SUBJECT: Approve Administrative Code Amendments**

**Recommendation**

Approve, by motion, amendments to the agency Administrative Code as attached.

**Background**

The Authority's Administrative Code, which was originally approved in its current form by the Board of Directors at their first meeting in March 2008, establishes the rules and procedures under which the agency operates. Staff has conducted a review of the Code and made edits and amendments to clarify and improve the agency operating rules and procedures as provided in redline and clean form in **Attachment 1**. The revisions proposed:

- Make a number of clarifying and correctional edits throughout the Code to ensure consistency with the Authority's enabling statute;
- Amend the policy for meal reimbursement while on official travel to be consistent with the U.S. General Services Administration guidelines; and
- Amend contract policies and procedures to be consistent with Federal Transit Administration guidelines and procurement limits.

A more specific discussion regarding changes by each chapter of the Code is as follows:

Chapter 1: Administrative Code – This chapter describes the powers and duties of the Authority officers, the methods of appointing Authority staff and methods, procedures and systems of operation and management of the Authority. A number of small correctional and clarifying amendments have been made to this chapter related to definitions of terms, duties of the governing board, duties of various officers and annual budgets.

Chapter 2: Policies and Procedures for Payments for Goods and Services – This chapter establishes a set of policies and procedures relating to payments for goods and services. One small amendment has been made related to establishment of a petty cash fund; making it permissive rather than prescriptive.

Chapter 3: Travel, Conference and Business Expense Reimbursement Policies and Procedures - This chapter establishes a set of policies relating to travel, conference and business expenses and established procedures for reimbursement of eligible associated expenses. One change has been made to this chapter allowing for meals while on official travel to be paid on a per diem basis consistent with the U.S. General Services Administration guidelines.

Chapter 4: Conflict of Interest Code – This chapter outlines agency conflict of interest reporting requirements, designating positions required to file statements of economic interest and identifying disclosure categories. No changes have been made to this chapter.

Chapter 5: Contract Policies and Procedures – This chapter identifies policies and procedures for procurement, award and administration of contracts. Amendments to the Code in this chapter are intended to clarify conformance with Federal Transit Administration (FTA) procurement requirements when FTA funds are involved, clarify the Authority's procurement processes by further defining different types of procurements and associated processes and clarifying the Authority's protest procedures. In addition, changes are proposed that increase the Executive Director's contracting authority for Small Purchases/Contracts up to \$100,000 (from \$25,000) and provide the Executive Director authority to approve contract amendments within established limits. These changes are consistent with FTA procurement guidelines and the general practice in the industry for transit operating agencies.

**Fiscal Impact**

There is no fiscal impact associated with this item.

\*\*\*END\*\*\*

# Attachment 1 – Clean Version

San Francisco Bay Area Water Emergency Transportation Authority  
Administrative Code

## **ADMINISTRATIVE CODE OF THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY**

**Ordinance #01-01  
Adopted March 31, 2008**

**(Updated as of June 27, 2013)**

San Francisco Bay Area Water Emergency Transportation Authority  
Administrative Code

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**CHAPTER 1**  
**ADMINISTRATIVE CODE**

**Article I**  
**Title and Authority**

101.1 Title and Authority.

This ordinance is enacted pursuant to the provisions of California Government Code Title 7.10, commencing with Section 66540, and may be referred to as the “San Francisco Bay Area Water Emergency Transportation Authority Administrative Code.” This ordinance prescribes the powers and duties of the Authority officers, the method of appointing Authority staff, and methods, procedures and systems of operation and management of the Authority.

**Article II**  
**Definitions**

102.1 Definitions.

(A) For purposes hereof, the following words shall have the following meanings:

(1) “Act” means San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act, California Government Code Title 7.10, commencing with Section 66540, as amended from time to time.

(2) “Authority” means the San Francisco Bay Area Water Emergency Transportation Authority.

(3) “Board” means the Board of the Authority. The Board is the legislative body of the Authority as defined under provisions of Section 54952 of the Brown Act.

(4) “Brown Act” means the Ralph M. Brown Act, Government Code Sections 54950 *et seq.*, as it may be amended from time to time.

(5) “Chair” means the person designated to preside at meetings of the Authority pursuant to Section 104.1(D) (1) of this Chapter 1.

(6) “Chief Financial Officer” means the chief financial officer of the Authority.

(7) “Code” means the San Francisco Bay Area Water Emergency Transportation Authority Administrative Code.

(8) “Community Advisory Committee” shall have the meaning set forth in Section 104.4 of this Code.

(9) “Executive Director” means the chief executive and operating officer selected by the Board to manage the day-to-day activities of the Authority.

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- (10) "Fiscal Year" means July 1 to and including the following June 30.
- (11) "General Counsel" means the attorney(s) acting as general counsel to the Authority.
- (12) "Holiday" means any day observed by the Authority as a holiday, other than a Saturday or Sunday.
- (13) "Invitation for Bids" or "IFB" means a procurement process pursuant to which the Authority procures goods or services on a low bid basis.
- (14) "Local Jurisdiction" means any local agency as defined in Government Code Section 15501, the boundaries of which are within the nine Bay Area counties of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Solano, Napa, Sonoma and Marin.
- (15) "Locally Elected Official" means a duly elected and serving official of the legislative body of a Local Jurisdiction having an elected legislative body.
- (16) "Manager, Business Services" means the person designated by the Executive Director as such. In the absence of such designation, the Executive Director will be deemed to hold the position.
- (17) "Member" means a person serving as a member of the Board.
- (18) "Official Acts" means all substantive actions taken by the Board, excluding matters that are procedural in nature.
- (19) "Request for Proposals" or "RFP" means a procurement process whereby the Authority seeks proposals and enters into a contract for goods, services, construction or related activities. Contracts may be procured on a low bid, best value or similar basis.
- (20) "Request for Qualifications" or "RFQ" means a procurement process in which the Authority obtains professional and other services on a qualifications basis that does not consider or considers as only one element, the cost of the services to be provided.
- (21) "Small Contract" shall mean any contract or other procurement involving expenditures equal to or less than \$100,000.00.
- (22) "Staff" means an employee or the employees of the Authority.
- (23) "Standing Board Committee" shall have the meaning set forth in Section 104.3 of this Code.
- (24) "Technical Advisory Committee" shall have the meaning set forth in Section 104.5 of this Code.
- (25) "Vice Chair" has the meaning set forth in Section 104.1(D)(2) of this Code.

(26) "Working Day" means any day other than a Saturday, Sunday or Holiday.

**Article III**  
**Powers, Authority And Duties Of The Governing Board**

103.1 Powers.

The Board shall exercise all of the powers and authority of the Authority in furtherance of the purposes of the Authority as defined in the Act. Without limiting the generality of the foregoing, the Board shall have the power to do the following on behalf of the Authority:

(A) The Board shall determine all questions of Authority policy, shall determine what water-transportation facilities shall be acquired or constructed by the Authority, and shall supervise, regulate, and set all charges for the use of such facilities.

(B) Subject to Chapter 5, the Board shall contract for or employ professional services required by the Authority or for the performance of work and services which in the opinion of the Board cannot be satisfactorily be performed by its officers and employees.

(C) The Board shall approve and supervise the implementation of annual budgets for the Authority. The Board may cause the Authority to incur any form of indebtedness that is authorized by the Act on the terms and conditions that the Board in its discretion determines will further any of the Authority's purposes.

(D) The Board shall cause the Authority to contract with an independent certified public accountant for an annual audit of the financial records and books of the Authority. The accountant shall submit a report of the audit to the Board, and the Board shall make copies of the report available to the public.

(E) The Board shall prescribe a method of securing necessary staff for the Authority, and shall adopt rules and regulations governing the employment of staff including the establishment of a retirement system. If the Board determines that it is in the best interests of the staff of the Authority, the Board may cause the Authority to enter into a contract with the Public Employees' Retirement System.

(F) The Board may appoint committees from its membership and delegate such authority to such committees as it deems advisable and may appoint advisory committees to advise on issues related to carrying out the mission of the Authority.

(G) The Authority shall employ an Executive Director who shall have charge of administering the day-to-day affairs and responsibilities of the Authority, subject to the policy direction of the Board. The Executive Director, subject to the approval of the Board, shall oversee the hiring of staff necessary to carry out the functions of the Authority.

(H) The Authority shall appoint a general counsel, responsible for managing the legal affairs of the Authority and the Board may employ additional legal staff, contract for private legal counsel and contract with state agencies for legal services.

(I) The Authority shall employ a Chief Financial Officer.

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(J) The Authority has all authority necessary to carry out its mandate as set forth in the Act.

103.2 Organization.

(A) The Board shall consist of Members in accordance with the Act commencing with Section 66540.12, as amended from time to time.

103.3 Principal Office.

The principal office of the Authority shall be at Pier 9, Suite 111, The Embarcadero, San Francisco, California. The Board may change said principal office from one location to another.

103.4 Meetings.

(A) The Board shall meet at the principal office of the Authority or at such other place as may be designated by motion of the Board or by direction of the Chair.

(B) Matters to be placed on the agenda for any regular meeting may be submitted to the Chair, or his or her designee, by any Member no later than ten (10) Working Days prior to the date of the meeting. The notice of an agenda for each regular meeting shall be prepared by or under the direction of the Executive Director, who shall cause copies to be posted, mailed and/or delivered to members and posted, all in accordance with applicable law.

(C) Regular, adjourned, and special meetings of the Board, and any Standing Board Committee meeting shall be conducted in accordance with the provisions of the Brown Act.

(D) Unless otherwise specified herein, Robert's Rules of Order shall govern the conduct of Authority meetings and the Chair's decision on any procedural question shall be final. No person shall address the Board at any meeting until he or she has first been recognized by the Chair. The decision of the Chair to recognize a person may be changed by vote of a majority of the Members present at the meeting, provided that the rights of members of the public to address comments to the Board as provided under the Brown Act or other applicable law shall not be abridged. The Chair may, in the interest of facilitating the business of the Board, limit the amount of time that a person may use in addressing the Board.

(E) At any regular meeting not held because of a lack of a quorum, the Members present, if less than a quorum of the Board, may, by vote of a majority of the Members present, constitute themselves a "Committee of the Whole" for the purposes of discussing agenda matters or any other matter of interest to the Members present. The committee shall automatically cease to exist if a quorum of the Board is present at the meeting. No formal Board action may be taken by Members of the Board acting as a Committee of the Whole.

(F) The Board may act either by ordinance or resolution. The Board may adopt and enforce rules and regulations for the administration, maintenance, operation and use of the Authority's facilities and services, including but not limited to rates, charges and fees for such purposes.

103.5 Quorum and Voting Requirements for Action by the Board.

A majority of the authorized Members of the Board shall constitute a quorum for the purposes of the transaction of business relating to the Authority, and, except as otherwise provided herein, all Official Acts of the Authority shall require the recorded majority vote of the total authorized membership of the Board.

103.6 Minutes.

The Secretary to the Board shall cause to be kept minutes of regular, adjourned regular, and special meetings of the Board, and shall cause a copy of the minutes to be forwarded to each Member. If the Secretary has not been appointed or is not present, the Board shall appoint an acting secretary at each meeting to keep official minutes for such meeting, provided that the Board may delegate to the Secretary, if one has been appointed, authority to appoint an acting secretary in his or her absence. Such acting secretary may be a person other than a Member.

103.7 Member Compensation.

Members shall be compensated in accordance with the provisions of Section 66540.15 of the California Government Code as amended from time to time.

**Article IV**  
**Officers and Duties**

104.1 In General.

(A) The Officers of the Authority. The Officers of the Authority shall consist of the Chair and Vice Chair, each of whom shall be a Member, an Executive Director, a General Counsel, a Chief Financial Officer, and such other officers as the Board may appoint.

(B) Appointment of Executive Director, General Counsel, Chief Financial Officer, and Other Officers. The Executive Director, General Counsel, Chief Financial Officer, and such other officers as the Board may deem necessary shall be appointed by the affirmative votes of a majority of the Members.

(C) Removal of Officers and Staff. Officers of the Authority other than officers who are Members shall serve at the pleasure of the Board and may be removed by the affirmative vote of a majority of the Members.

(D) Duties of Various Officers.

(1) Duties of Chair. The Chair shall

(a) Preside over all meetings of the Board, including, but not limited to, setting the dates and times of meetings, declaring the opening and closing of each proceeding of the board, ruling on points of order, regulating the individuals that, except for board members, may address the board at its meetings, and putting issues to the vote and announcing decisions following those votes.

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- (b) Appoint Members to committees and serve as an ex officio member of all committees.
- (c) Propose the annual budget for the Authority.
- (d) Sign all orders issued by the Board and contracts and grant documents as approved by the board.
- (e) Represent the Authority at all proceedings. The Chair may appoint individuals to represent the Board on other boards or commissions, subject to ratification by the Board. Appointees serve at the pleasure of the Board and those appointments will be subject to review by the Board at least once every two years.
- (f) Have such other powers and duties as may be prescribed from time to time by the Board.

The Chair may delegate any of the powers described in this section, other than the power to delegate, to any Member of the Board

(2) Duties of the Vice Chair. The Vice Chair shall perform the duties of the Chair in that person's absence or disability and, when so acting, shall have all the powers of and be subject to all the restrictions upon the Chair, and shall exercise and perform such other powers and duties as may from time to time be prescribed by the Board.

(3) Chair Pro Tempore. In the event of the absence, or inability to act, of the Chair and Vice Chair, the Members present at any meeting of the Board, by order entered in the minutes, shall select one of their members to act as Chair Pro Tempore, who, while so acting, shall have all of the authority of the Chair.

(4) Duties of Executive Director. The Executive Director shall be a full-time officer of the Authority. The powers and duties of the Executive Director are:

- (a) To have full charge of the administration of the day-to-day business affairs of the Authority, within policy guidelines established by the Board;
- (b) To administer the personnel system of the Authority within policy guidelines established by the Board, including hiring, controlling, supervising, promoting, transferring, suspending with or without pay or discharging any employee;
- (c) Subject to any limitation and to the terms and conditions set forth in Chapter 5 hereto, to act as the purchasing agent for the Authority;
- (d) To keep the Board advised as to the needs and the status of operations of the Authority;
- (e) To see that all rules, regulations, ordinances, policies, procedures and resolutions of the Authority are observed and enforced;
- (f) Except as otherwise provided herein or in the Act, to execute and deliver contracts and agreements on behalf of the Authority following such approvals as

San Francisco Bay Area Water Emergency Transportation Authority  
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may be required hereunder and to administer Authority contracts in accordance with and subject to the limitations set forth in Chapter 5 attached hereto;

(g) To authorize, approve and make expenditures in accordance with and subject to the limitations set forth in Chapters 2 and 3 hereof.

(h) To prepare or cause to be prepared and distributed the agenda for all Board meetings;

(i) To undertake such other duties, powers and responsibilities as may from time to time be assigned to him by the Board;

(j) To accept and consent to deeds or grants conveying any interest in or easement upon real estate to the Authority pursuant to California Government Code Section 27281 and to prepare and execute certificates of acceptances therefor from time to time as the Executive Director determines to be in furtherance of the purposes of the Authority. Such authority shall be limited to actions of a ministerial nature necessary to carry out conveyances authorized by the Board; and

(k) Unless specifically delegated to an officer appointed by the Executive Director with the approval of the Board, to assume the responsibilities of a Secretary to the Board. Until such time as the Board appoints a Secretary, any reference in this Code to such officer shall be deemed to be a reference to the Executive Director or his or her appointee.

If the Executive Director is absent or incapacitated, or if there is no Executive Director, the Board Chair may appoint any person to serve as an interim Executive Director until the Executive Director's return or until the next meeting of the Board. The interim Executive Director shall perform the duties of the Executive Director in that person's absence and, when so acting, shall have all the powers of and be subject to all the restrictions upon the Executive Director, and shall exercise and perform such other powers and duties as may from time to time be assigned that person by the Board. The Board may appoint an Executive Director or interim Executive Director at any meeting; provided, however, that at no time shall there be more than one person appointed to act as the Executive Director.

104.2 Compensation.

Compensation shall be as provided and covered in the Personnel and Salary Manual and Procedures that is Chapter 6 of this Code.

104.3 Standing Board Committees.

The Chair of the Board may, as he or she deems appropriate, appoint Standing Board Committees consisting of less than a quorum of the Board, to accomplish the purposes set forth herein. Committee members serve at the pleasure of the Chair of the Board.

(A) Organization of Standing Board Committees. Standing Board Committees shall be organized and operate as follows:

(1) The Chair of the Board shall appoint a chairman for each Standing Board Committee.



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(2) Any meeting of such a committee shall be deemed to be a meeting of the Authority for purposes of compensation.

(3) A majority of the authorized members of the Standing Board Committee shall constitute a quorum and approval of any action shall require the affirmative vote of a majority of Members present at the meeting and constituting a quorum.

(4) All Standing Board Committee meetings shall be open to all Members, unless the presence of Members who are not members of such committee would violate the provisions of the Brown Act.

(5) Subject to (6) below, if a Standing Board Committee member is absent, the Chair shall attend as an ex officio Member, or if the Chair is not available to attend, the Standing Board Committee chair may appoint one or more nonmember Members present to serve as temporary members of the Standing Board Committee. The number of nonmember Members who may be appointed shall not exceed the fully authorized complement of the Standing Board Committee. Nonmember Members and the Chair serving as an ex officio Member shall serve with full powers for the duration of the meeting only. However, if during the meeting at which the Chair is serving ex officio or a nonmember Member is appointed pursuant to this provision, the number of regular Standing Board Committee members present plus the Chair serving ex officio and any nonmember Members appointed would exceed the total number of authorized Standing Board Committee members, then the Chair and any nonmember Members shall relinquish their Standing Board Committee membership status so as to assure that the total Standing Board Committee membership at no time exceeds total authorized Standing Board Committee membership. In such event the order of relinquishment of Standing Board Committee member status by nonmember Members shall be the reverse order of appointment and prior to relinquishment by the Chair.

(6) To allow full participation by Board members at meetings of Standing Board Committees and in addition to the right of the Board to convene as a Committee of the Whole in the absence of a quorum of the entire Board at a regular or special Board Meeting pursuant to Section 103.4(E) hereof, each Standing Board Committee meeting may also be noticed as a Committee of the Whole. If so noticed and in the event that a quorum of the entire Board is present, the Standing Board Committee will automatically convert to a Committee of the Whole. Likewise if after convening as a Committee of the Whole, there is no longer a quorum of the full Board present, then the Committee of the Whole will automatically convert back into a Standing Board Committee. The Chair of the Standing Board Committee will serve as Chair of the Committee of the Whole. If noticed as a Committee of the Whole, the agenda for the Standing Board Committee shall include the following footnote:

This Standing Board Committee may be attended by Members who do not serve on the Standing Board Committee. In the event that a quorum of the entire Board is present, this Standing Board Committee shall act as a Committee of the Whole. Any item acted upon by the Standing Board Committee or the Committee of the Whole shall be advisory only and shall require consideration and action by the full Board as a prerequisite to its enactment.

104.4 Community Advisory Committee.

(A) Meetings. The Board may convene a community advisory committee to assist and advise the Board in carrying out its functions. The Community Advisory Committee shall meet on a regular basis.

(B) Membership. The Community Advisory Committee shall include members in conformance with Section 66540.315 of the Act.

(C) Term of Membership. The members of the Community Advisory Committee serve at the pleasure of the Board.

(D) Mission. The mission of the Community Advisory Committee is to assist and advise the Board in carrying out its functions. The Community Advisory Committee's members are an important link between the Authority and their respective communities with reference to the Authority's planning process and recommendations. The Community Advisory Committee serves as a sounding board for ideas generated or solicited by the Authority, as well as proposals presented by Authority staff and consultants.

104.5 Technical Advisory Committee.

(A) Meetings. The Board may convene a technical advisory committee to assist and advise the Board in carrying out its functions. The Technical Advisory Committee shall meet on an as needed basis.

(B) Membership. The Technical Advisory Committee shall include members as determined by the Board. Members of the Technical Advisory Committee should have technical skills, education and training and experience relevant to the function of the Technical Advisory Committee.

(C) Mission. The mission of the Technical Advisory Committee, meeting as a whole or through ad-hoc subcommittees, is to provide review and comment to Authority staff and to the Board on the myriad of technical reports and studies that will be prepared in the development of new ferry services. Representatives from government agencies will review the findings of the recommendations for consistency to promote inter-agency cooperation and integration with ongoing planning efforts.

**Article V**  
**Contracts**

105.1 In General.

The Authority may enter into contracts of any nature whatsoever, including, but not limited to, contracts to indemnify and hold harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of its powers. The Authority may contract with any public agency or with any entity, public or private, or person upon such terms and conditions as the Board finds are in the best interests of the Authority.

105.2 Contracting Procedures.

Authority contracts shall be procured and awarded in accordance with the provisions of Chapter 5 hereof.

105.3 Agreements with Other Public Agencies and Procedures for Award of Cooperative Agreements.

The Board may make and perform any agreement to join with any other agency, district, authority, city or county, in the planning, designing, financing, acquisition and construction of projects or to otherwise carry out the mission of the Authority. The Authority may agree to provide services to or obtain services from such other agencies, districts, authorities, cities or counties subject to the approval of a majority of the authorized Members of the Board, pursuant to a written agreement.

**Article VI**  
**Budgets, Reports, Investments And Disbursements**

106.1 Annual Budget, Notice, Hearing and Adoption.

Each year no later than the Authority's June Board meeting, the Board shall adopt by ordinance or resolution the Annual Budget(s) for the ensuing fiscal year. Approval of a majority of the authorized Members shall be required for adoption of the Annual Budget and any amendments thereto.

106.2 Purchases and Payment Procedures.

Payment procedures for goods and services shall be governed by Chapter 2 of this Code. A voucher system to be administered by the Authority for payment of Authority expenses may also be established.

106.3 Books and Accounts.

Full books and accounts shall be maintained by the Chief Financial Officer of the Authority in accordance with generally accepted accounting principles as adopted by the Government Accounting Standards Board of the Financial Accounting Foundation for both public-reporting purposes and for reporting of activities to the Controller of the State of California.

106.4 Contracts.

The Board's approval of an Annual Budget shall be deemed approval of any contract made within the budgeted amounts in accordance with the approved budget. All contracts in excess of the limitations of the approved Annual Budget shall be made only upon the approval of not less than a majority of the authorized Members. Notwithstanding the foregoing, payments owing pursuant to the terms of contracts entered into by the Authority may be made without separate Board approval, provided that the contract and all amendments thereto have been approved by the Board or Executive Director in accordance herewith.

106.5     Reimbursement of Expenses.

Expenditures for travel, conference, staff development and business-related activities and reimbursement of Members and Authority staff for such expenditures shall be governed by the Travel, Conference, and Business Expense Policy that is Chapter 3 of this Code.

106.6     Reports and Audit.

The Executive Director or his or her designee shall cause to be prepared by an independent certified public accountant retained by the Authority and shall submit to the Board, the annual audit report required by Section 66540.54 of the Act, and any other financial reports requested by the Board. The Board shall review and approve the reports.

106.7     Investment of Funds.

All funds of the Authority will be invested in the manner and upon the conditions set forth in Government Code Section 53601 and in accordance with the Investment Policy of the Authority adopted by the Board, and the receipt, transfer or disbursement of such funds during the term of the Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to governmental entities. There shall be strict accountability of all funds, and all revenues and expenditures shall be reported to the Board.

**Article VII**  
**Miscellaneous**

107.1     Partial Invalidity.

If any one or more of the terms, provisions or sections hereof shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions and sections shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

107.2     Interpretation of Sections that are Based on Provisions from Other Statutes, Applicable Ordinances or Codes.

Sections of this Code which are based upon or which paraphrase provisions of other statutes, ordinances or codes have been included herein for reference purposes only. In the event of conflict between the provision of any such statute, ordinance or code and this Code, the provision of the statute, ordinance or code shall in all events control, and no section of this Code shall change or modify any such statute, ordinance or code.

107.3     Policies and Procedures.

The policies and procedures set forth in Chapters 2 through 5 of this Code, unless otherwise expressly provided, constitute a part of this Code and have the same force and effect as Chapter 1 of this Code and shall be adopted and modified by action of the Board. To the extent that there is an inconsistency between a provision of this Chapter 1 of this Code and the provision of any policy or procedure, the provision of this Chapter 1 prevails.

107.4 Adoption and Amendment.

This Code has been adopted, and, except as otherwise expressly provided herein or in the Act, may be amended by ordinance or resolution approved by a vote of a majority of the authorized Members.

**CHAPTER 2**  
**POLICIES AND PROCEDURES FOR PAYMENTS FOR GOODS AND SERVICES**

**Article I**  
**Purpose**

201.1 Purpose.

The purpose of this Chapter 2 is to establish a set of policies and procedures relating to payments for goods and services by the Authority.

**Article II**  
**General Policies**

202.1 Purchase of Goods and Services for Authority.

The Authority, through its appropriate staff, is empowered to make purchases of goods and services necessary for the conduct of its business in accordance with the provisions of Chapter 5 hereof. Personal expense of Authority's Members or staff, such as for travel, meals, etc., shall be authorized and processed and paid for in accordance with the provisions of Chapter 3 hereof.

202.2 Payments.

Payment of invoices for purchased goods and services made by the Authority shall be made by the Authority's designated Accounts Payable Unit, except to the extent that such payments may be made out of the Petty Cash Revolving Account Fund established herein. Accounts Payable shall process invoices for payment only upon presentation to it of Authority payment vouchers that shall represent the Authority's authorization for payment of such invoices. The form of payment vouchers shall be prescribed by the Executive Director. The Executive Director shall transmit to Accounts Payable a list of Authority staff, with their specimen signatures, who are authorized to sign payment vouchers.

The designated Accounts Payable Unit will be responsible only for verifying that payment vouchers are signed by the authorized Authority staff whose names and specimen signatures are on file with Accounts Payable.

202.3 Establishment of Petty Cash Revolving Account Fund.

A petty cash fund revolving account in the amount of \$2,000.00 may be established and maintained by the Executive Director for purposes of paying miscellaneous expenses of the Authority not to exceed \$200.00 individually. Such miscellaneous expenses shall include, but not be limited to, outside photocopying expenses, expenses for office refreshments and other miscellaneous office supplies that, in the Executive Director's sole discretion, are necessary and convenient for proper office administration. The Executive Director is authorized from time to time to seek reimbursement of this account to a maximum balance of \$2,000.00.

202.4 Payment to Consultants.

(A) The following methods may be followed in compensating consultants:

(1) A lump sum or fixed price for the total project.

(2) Hourly rate plus cost reimbursement. The consultant agrees to charge only for hours utilized at an agreed rate of compensation and reimbursement of costs, subject to completion of required tasks as determined by the Executive Director, or his or her designee, with a ceiling on the total project or contract amount.

(B) To implement the methods specified above, the contract must provide for the following:

(1) The rate of compensation to be paid the consultant. Amounts to be paid depend upon the complexity and difficulty of the project, the going rate for similar work, and the qualifications and reputation of the individual or firm being awarded the contract. Proposals submitted by individuals and firms shall list the rate of compensation to be paid to staff assigned to the contract by the contractor.

(2) The reimbursement of reasonable and necessary transportation costs and a per diem allowance. These costs should be paid at rates established by the Authority so as to reasonably reimburse a contractor for traveling expenses necessarily incurred while performing work for the Authority. Such rates shall generally not exceed those amounts paid to the Authority's staff.

(3) Any other expenses. These expenses should be clearly and specifically set forth in the contract.

202.5 Progress Payments.

If a contract requires progress payments, such payments should be made not more frequently than monthly in arrears or at clearly identifiable stages of progress, based upon written progress reports submitted with the contractor's invoices. Progress or other payments should generally be based on at least equivalent services rendered and not made in advance of service rendered.

**Article III**  
**Requirements For Payment Vouchers**

203.1 Preparation of Payment Vouchers.

The payment voucher is the form that authorizes payment to vendors for purchased goods and services. The Manager, Business Services and/or his or her designee shall prepare the payment voucher for signature(s). Vouchers must be approved and signed by authorized Authority staff whose names and specimen signatures are on file with the designated Accounts Payable Unit. Payment vouchers related to invoices in excess of \$10,000.00 shall be approved and signed by two authorized staff after compliance as required with the provisions of Chapter 5 hereof. Attached to the payment voucher shall be records sufficient to justify the approval for payment of the voucher, including, but not limited to, the invoice and initialization by appropriate

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Authority staff that the delivery of the goods or the performance of the services has occurred. Payment vouchers are coded by the appropriate organization subdivisions. Once signed, the payment voucher with attached invoice is sent to the designated Accounts Payable Unit for processing.

203.2      Records Relating to Payment Vouchers.

Payment voucher information shall be maintained in a computer database by the Authority. Each month, the Manager, Business Services or his or her designee shall compare for accuracy and completeness the database with the designated Accounts Payable Unit listing of expenditures (*i.e.*, payment vouchers processed) for the previous month. The hard copy of all current year payment vouchers and invoices shall be retained by the Manager, Business Services. Previous years' payment vouchers and invoices shall be retained for a period of four years, and then destroyed.



**CHAPTER 3**  
**TRAVEL, CONFERENCE AND BUSINESS EXPENSE REIMBURSEMENT POLICIES**  
**AND PROCEDURES**

**Article I**  
**Purpose and General Policy**

301.1 Purpose.

The purpose of this Chapter 3 is to establish a set of policies relating to travel, conference and business expenses and to establish procedures for reimbursement of eligible Authority personnel for such expenses.

301.2 General Policy.

The Authority recognizes that in some instances it is necessary and/or convenient for authorized Authority personnel to expend sums and incur expenses for travel and other business purposes in connection with the official business of the Authority. Additionally, the Authority recognizes the benefit of attendance at meetings, conferences and other functions that advance professional knowledge and provide opportunities to exchange information related to transportation government operations and issues. The policy of the Authority is to pay or reimburse Authority personnel for such expenses, travel and fees that serve an Authority purpose and are deemed necessary and/or advantageous to the Authority.

**Article II**  
**Travel And Business Expense Reimbursement**

302.1 Eligibility.

The following are eligible to receive reimbursement for authorized expenses:

- (A) Members; and
- (B) Authority staff.

In order to be eligible for reimbursement, travel on Authority business or otherwise eligible for reimbursement over 100 miles shall be authorized in writing in advance. In the case of a Member, the authorization shall be approved by motion by the Board. For Authority staff, authorization shall be obtained from the Executive Director. Travel by the Executive Director shall be authorized by the Chair of the Board.

302.2 Expense Reimbursement.

Except with respect to any travel reimbursed with grant funds (in which case reimbursements shall be subject to applicable grant requirements and limitations), eligible individuals shall be entitled to claim reimbursement for actual reasonable and necessary expenses for the following items incurred in the discharge of their official duties, subject to submission of proper receipts and to the limitations set forth herein:

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(A) Air Travel. The actual cost of economy class/coach airfare will be reimbursed.

(B) Lodging. The reasonable actual cost for single person occupancy will be reimbursed or, if applicable, the negotiated rate for conference attendees.

(C) Automobiles.

(1) In instances where an eligible individual uses his or her private automobile for a trip between his or her normal work location and another designated work location (e.g., the site of a meeting or inspection), the individual shall be reimbursed for such mileage at the current authorized reimbursement rate established by the United States Internal Revenue Service. This provision shall not apply in cases where a periodic automobile allowance has been provided for such purposes. Rental car rates may not exceed the rate charged for a full-sized vehicle unless previously authorized.

(2) The Authority maintains insurance against liability for staff and Members related to use of personal or rental vehicles on Authority business. Accordingly, no reimbursement shall be permitted with respect to the cost of personal auto liability insurance or with respect to any coverages purchased by an individual in connection with the rental of a vehicle on Authority business.

(D) Meals. Meals reimbursement per person shall be for actual expenditures or on a per diem claim basis, consistent with the U.S. General Services Administration guidelines, while on official travel. The purchase of meals is authorized when an individual is required to:

(1) Attend a meeting concerning Authority business affairs because of the official position with the Authority of the individual. Other staff may also claim reimbursement for attendance in their official capacity with the Authority at such meetings.

(2) Be away from regular or normal work area during a meal hour because of a particular work assignment.

(3) Attend consecutive or continuing morning and afternoon or afternoon and evening sessions of an Authority, board, city council, commission, district or other public agency and is unable to return home for an evening meal;

(4) Act as host for official guests of the Authority, such as members of examining boards, official visitors, and speakers or honored guests at banquets or other official functions.

(5) Work more than two hours of overtime beyond a normal eight hour shift, if such overtime is authorized by the Authority for completion of work assignments;

(6) Attend on-site training events (training workshops, seminars and retreats). The Authority may, at its discretion, either provide meals to the attendees or authorize individuals to purchase their own meals and claim reimbursement in accordance with the provisions of this Chapter 3; or

(7) The cost of banquets and meals associated with conferences may be reimbursed at rates higher than those authorized in this subsection (D) above, when attendance

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at the meal is an essential part of the professional training or technical content of the event or is a periodic event (e.g., a monthly lunch meeting) with a fixed cost. For staff, such attendance must be authorized by the Executive Director of the Authority.

(E) Business Meeting Expense. Actual expenses related to conducting official Authority business with government officials, media representatives, contractors, and other similar persons will be reimbursed. Supporting detail must include receipts, names and positions of the individuals involved and a brief statement of the business necessity of the expenditure.

(F) Miscellaneous Expenses. Other expenses that may be reimbursed include:

(1) Bridge tolls and parking;

(2) Telephone charges including, but not limited to, usage of portable phones, cellular car phones, telephone credit cards and pagers and telegraph charges required in connection with Authority business;

(3) BART, bus or ferry fares; and

(4) Other reasonable travel expenses with advance approval of the Executive Director of the Authority.

(G) Non-reimbursable Expenses. These expenses include meals eaten at home; personal telephone calls; expenses which are excessive or unreasonable as determined by the Executive Director in his or her discretion.

(H) Prior Authorization. Any overnight travel and any travel by plane require prior written authorization by the Executive Director or his or her designee.

(I) Expenses Reimbursable by Grant Funds. Notwithstanding the foregoing, travel expenses incurred for grant projects will be reimbursable only to the extent that reimbursement is allowable under the terms of the grant.

302.3 Per Diem for Members.

In lieu of expense reimbursement for attendance at Board Meetings, each Member may receive a per diem of One Hundred Dollars (\$100), plus Board-authorized reimbursement of expenses that are not related to attendance at Board Meetings. No Member may receive per diem payments for more than five (5) Board Meetings in any one calendar month.

**Article III**  
**Procedures for Claiming Expense Reimbursement**

303.1 Claim Form.

Reimbursement for expenses incurred on behalf of the Authority shall be claimed on an Expense Reimbursement form prescribed by the Executive Director.

303.2 Time of Making Claim.

Individuals shall submit expense claims in a timely manner.

303.3 Nature of Claim.

Claims must be for actual and necessary expenses consistent with the policies and procedures of this Chapter and not for “constructive” expenses.

303.4 Required Information.

Each claim must clearly indicate the date, nature of expense and amount for which reimbursement is being claimed.

303.5 Reimbursement of Travel Expense.

If a claim is made for reimbursement of authorized air travel or any expenses associated with overnight travel, prior written authorization by the Authority must be attached.

303.6 Receipts.

Receipts or proof of payment must be submitted with the claim to substantiate expenditures for public-carrier fare, rental car, lodging (indicating the single rate), meals, conference or seminar registration fees in excess of \$30.00 and for any unusual items or items not specifically related to travel. Claims may be recorded on an expenses diary in lieu of receipts, when receipts are not easily obtainable or the receipt is for services rendered to a group of people from which the claim is derived.

303.7 Review.

The Executive Director shall review and approve expense claims submitted by Members up to \$250.00; the Chair of the Board shall review and approve expense claims submitted by Members which are in the amount of or greater than \$250.00; and the Chair of the Board shall review and approve expense claims submitted by the Executive Director. Claims submitted by staff, other than the Executive Director, shall be reviewed and approved by the Executive Director.

**CHAPTER 4**  
**CONFLICT OF INTEREST CODE**

**Article I**  
**Purpose And Terms**

401.1 Purpose.

The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

401.2 Terms.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the San Francisco Bay Area Water Emergency Transportation Authority (WETA).

Individuals holding designated positions shall file their statements of economic interests with the WETA, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by the WETA.

**APPENDIX A**  
**Designated Positions**

<u>Designated Positions</u>	<u>Assigned Disclosure Categories</u>
Members of the Board of Directors	1,2
Executive Director	1,2
General Counsel	1,2
Executive Administrator, Secretary to the Board	1,2
Managers	2
Consultants**	1,2

\*\*The Executive Director (or any executive officer) may determine in writing that a particular consultant, although a "designated position" is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that determination, a statement of the extent of the disclosure requirements. The Executive Director's (or any executive officer's) determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

**APPENDIX B  
DISCLOSURE CATEGORIES**

**Disclosure Categories**

1. An interest in real property is reportable if the property, or any part of it, is located within or not more than two miles from a potential terminal location that one could reasonably foresee being acquired or used to implement the plan required by Government Code Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act. An “interest in real property” includes leasehold interests.
2. A source of income, including gifts, loans and travel payments, an investment, or a management position (as a director, officer, partner, trustee, employee, or any position of management) is reportable if it falls within one or more of the following categories:
  1. The business is engaged in the provision of professional engineering, architectural, construction, environmental, transportation, economic, marine, consulting, or public relations services, or any other services that one could reasonably foresee being used to develop or implement the plan required by Government Code Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.
  2. The business is engaged in providing office equipment, furnishings, or supplies that one could reasonably foresee being used to develop or implement the plan required by Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.
  3. The business is engaged in providing legal or accounting services that one could reasonably foresee being used to develop or implement the plan required by Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.
  4. The business is engaged in the manufacture, sale, or distribution of equipment, or the offering of services, related to marine vessels, alternative fuels, or air pollution emission and water pollution discharge control technologies that one could reasonably foresee being used to develop or implement the plan required by Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.

**CHAPTER 5**  
**CONTRACT POLICIES AND PROCEDURES**

**Article I**  
**Introduction**

501.1 Purpose.

(A) This Chapter 5 sets forth the policies and procedures of the Authority for procurement, award and administration of contracts. The policies and procedures contained herein are advisory, not mandatory, and deviation therefrom shall not render any contract of the Authority void or voidable. Any deviation from the policies and procedures herein shall be authorized by the Executive Director.

(B) These policies and procedures apply to procurements undertaken in support of capital projects completely accomplished without Federal Transit Administration (FTA) funds and to those operating and planning contracts to the extent that the Authority does not receive FTA operating and planning assistance.

(C) Anything to the contrary herein notwithstanding, any procurement involving contracts with third parties under FTA assistance programs or to the extent that the Authority receives FTA formula funds for capital projects or operating assistance shall comply with the Code of Federal Regulations Title 49, Subtitle A, Part 18 and all applicable FTA procurement requirements, including but not limited to those contained or referenced in FTA Circular C 4220.1F ("Third Party Contracting Requirements") and the FTA's Best Practices Procurement Manual. FTA procurement requirements, where applicable, shall not be waived or otherwise deviated from. If there is no local or State law on a particular aspect of procurement, the Federal contract law principles apply.

**Article II**  
**Basic Requirements and Exceptions**

502.1 Fair and Open Competition Requirement.

The underlying premise of the Authority's Contract Policies and Procedures is to foster fair and open competition and to obtain needed goods and services on a timely basis and in a cost-effective manner. The Authority should follow sound business and public policy principles in the procurement of goods and services so that these actions are performed efficiently and in a manner that serves the best interest of the Authority and the public.

502.2 Use of Non-Competitive and Emergency Procedures.

Procurement of goods and services without competition is authorized under limited conditions. Procurement of contracts may be made by non-competitive negotiation under the following circumstances:

(A) In the case of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety or protection of Authority property;

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(B) Where the Authority has advertised the contract as required by this Code and has undertaken reasonable efforts to solicit potential contractors and has obtained one bid or proposal or has otherwise determined that competition is inadequate;

(C) When the goods or services are to be provided by a government or other public entity;

(D) Where the Authority wishes to renew or extend the term of the contract and compensation provided pursuant to an existing contract under substantially the same terms and conditions, or the amendment of an existing contract that does not materially alter the terms and conditions of the contract (other than term and compensation), provided that such renewal, extension or amendment is authorized or permitted by the contract;

(E) Where, after reasonable investigation, the Authority determines that there is only a single source of supply available, or only one contractor is qualified to provide the service or product;

(F) Where the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts;

(G) Where the item to be purchased is a capital maintenance item that is available only from the original manufacturer or supplier;

(H) Where the contract is for employment services;

(I) Where the contract is one for which only per diem and travel expenses are paid and there is no payment for services rendered;

(J) Where the procurement is a Micro-Purchase involving the purchase of office supplies and materials and the amount is less than \$3,000.

(K) Where the purchase is pursuant to a joint purchase or similar arrangement whereby another public agency procures goods or services on a bulk basis pursuant to procurement policies and procedures applicable to that agency; and

(L) When the Board otherwise determines that award of a contract pursuant to competitive procedures identified in this Chapter 5 is either infeasible or would not produce an advantage, which determination shall be supported by written justification.

### 502.3 Non-Discrimination in Procurement.

Contracts entered into by the Authority shall contain clauses as required by applicable law prohibiting discrimination against any person or group of persons on account of race, color, religion, creed, national origin, ancestry, physical handicap, medical condition, age, marital status, sex or sexual orientation in the performance of the contract.

### 502.4 Types of Procurement Methods

(A) Micro-Purchases. This method, requiring only one quote, may be used for any purchase of supplies or services that does not exceed \$3,000.



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(B) Small Purchases (up to \$100,000). This informal procurement method involves obtaining price or rate quotations from an adequate number of qualified sources (generally 3) in order to determine a fair and reasonable price and make a contract award.

(C) Sealed Bids. A formal competitive sealed bid process involves procurement through an Invitation for Bid process. Generally, formal bid documents are prepared and advertised and an award is made to the lowest responsive and responsible bidder. This method and related procedures are described in more detail in Article IV of Chapter 5.

(D) Competitive Proposals. This competitively negotiated procurement method may be used for purchase of non-professional services (through a Request for Proposal process) or professional services (generally through a Request for Qualifications process). This method and related procedures are described in more detail in Article V of Chapter 5.

(E) Alternative Methods of Procurement. Alternative methods of procurement for design-build contracts, construction management at-risk contracts and public private partnerships may be utilized by the Authority in cases where it may be efficient or advantageous for the Authority to enter into contracts that include responsibility for construction services as well as other services that are not appropriate for sealed bidding and or which the Authority does not wish to use a competitive negotiation procurement process. This method of procurement and related procedures are described in more detail in Article VI of Chapter 5.

(F) Non-Competitive Purchases. These are used for the purchase of approved sole source procurements, emergency procurements, intergovernmental agreements, and other procurements as may be approved by the Executive Director or Board of Directors in light of special circumstances that justify this method of procurement as further described and discussed in Section 502.2.

502.5 Purchasing Agent Designation.

The Authority's Executive Director or his or her designee shall act as purchasing agent for and on behalf of the Authority.

502.6 Authority to Issue Requests for Proposals, Requests for Qualifications and Invitations for Bids; Exception for RFP, RFQ or IFB Consistent with Approved Budget.

Requests for Proposals (RFP), Requests for Qualification (RFQ) and Invitations for Bids (IFB) shall be prepared by or under the supervision of Staff and shall not be released until approved and authorized for release by the Board. The foregoing notwithstanding, an Invitation for Bids, Request for Proposals or Request for Qualifications may be released without Board approval if the total cost of the goods or services to be procured is estimated by Staff or the consultant preparing the IFB, RFQ or RFP to be not in excess of \$250,000, and is consistent with and not in excess of the amount allocated in an approved and current budget of the Authority.

502.7 Existing Contracts.

The policies and procedures contained herein shall not apply to any contract awarded by the Authority prior to the adoption of this Chapter 5. Any amendments to this Chapter 5 are only applicable to contracts entered into after approval of the amendments.

**Article III**  
**Approval And Award Of Contracts**

503.1 Requirement of Board Approval.

Except as otherwise provided herein, all procurements and contracts are subject to approval by the Board.

503.2 Small Contracts.

In addition to contracts approved pursuant to Section 106.4, award of Small Contracts may be authorized by the Executive Director without Board approval for Micro-Purchases and Small Purchases, as described in Section 301.3, subject to the following:

(A) Where the consideration to be rendered under a contract is other than monetary, such consideration must be valued on a monetary basis for the purpose of determining whether approval of the Board is required.

(B) If it is determined by the Executive Director that more than one contract may be awarded to a single contractor in any one fiscal year for work normally considered one undertaking and the total of the contracts exceeds \$100,000.00, all contracts awarded following such determination, regardless of amount, shall be submitted to the Board for approval; provided that purchases during a single fiscal year shall not be split into multiple contracts for the purpose of evading the Board approval requirement.

503.3 Rejection of Bids and Proposals.

Procedures for review of and rejection or award of contracts procured by IFB, RFP or RFQ are determined by the procurement document for the specific procurement and take precedence over the general provisions below. Where the procurement document does not set forth such procedures, or for procurements other than by IFB, RFP or RFQ, the following rules apply:

(A) The Authority may reject all bids and proposals received that are determined to be non-responsive or not within the competitive range, including proposals made by proposers who refuse to execute any required representations and certifications.

(B) Staff may recommend rejection by the Board for any one or more of the following reasons:

(1) All otherwise acceptable bids or proposals received exceed the funds budgeted and available for the contract or, in the case of contracts for which payment will be made to the Authority, offer inadequate compensation;

(2) The bids or proposals were not independently arrived at in open competition, were collusive or were submitted in bad faith; or

(3) Rejection is otherwise determined to be in the Authority's best interest.

(C) If, after rejecting bids, the Executive Director determines and declares that, in his or her opinion, the services, supplies, equipment, or materials may be purchased at a lower

price in the open market, the Authority may proceed to purchase these services, supplies, equipment or materials in the open market without further observance of the provisions regarding contracts, bids or advertisements.

503.4 Contracts Containing Extraordinary Provisions.

Except with respect to Small Contracts, notwithstanding any provision of this Administrative Code to the contrary, any contract containing any of the following provisions shall be subject to approval of the Board:

(A) Any provision whereby the Authority agrees to indemnify or hold harmless any party to the contract or any third person against or on account of, any claim, liability, or matter arising out of, or connected with, the contract, other than reciprocal indemnification clauses whereby the indemnifying party indemnifies the other party against liability incurred by such party arising from the acts or failure to act of the indemnifying party.

(B) Any provision whereby the Authority agrees to assume responsibility for matters beyond its control (e.g., in rental contracts, a promise to assume full responsibility for damage to rented equipment, regardless of the cause of the damage).

(C) Any provision creating a contingent liability against the Authority (e.g., vendors' boilerplate rental contracts frequently contain clauses obligating the user of rented equipment to assume responsibility for contingent liabilities).

(D) Contracts of a hazardous nature or involving the generation, transportation, disposal or other handling of hazardous or toxic wastes (e.g., contracts for grading, dredging, excavating and handling toxic materials).

**Article IV**  
**Sealed Bids**

504.1 Sealed Bids – Generally.

A competitive sealed bid process shall be used for all procurements except as otherwise provided in Section 502.2 (Use of Non-Competitive and Emergency Procedures) or in Article V (Competitively Negotiated Contracts Including Professional Services), Article VI (Alternative Method for Procurement of Contracts Including Construction and Other Services), or Article XI (Purchase Of Materials, Supplies And Equipment) of this Chapter 5. A competitive sealed bid process shall be procured through an IFB procurement process.

504.2 Use of Procedures Set Forth in Public Contract Code.

(A) Although not otherwise applicable to the Authority, the Authority hereby adopts the procedures set forth in the California Public Contract Code ("PCC") Sections 20161 through 20166 and 20170 through 20174, subject to the modifications as set forth herein, for use when sealed bids are called for by this Code.

(B) For purposes of this Article IV:

(1) All references in said PCC Sections to "city" or "state agency" or "public agency" shall mean the Authority, references to "legislative body" shall mean the Board, and references to "ordinance" shall mean action of the Board.

(2) Notwithstanding PCC Section 20162, the threshold expenditure for a "public project" that triggers the requirement for sealed bidding is \$100,000.00.

504.3 Notice and Advertisement.

Notwithstanding PCC Section 20164, the notice inviting bids shall be posted at the offices of the Authority, or other place(s) designated by the Executive Director, and advertised in a newspaper designated by the Executive Director.

**Article V**  
**Competitively Negotiated Contracts**  
**Including Professional Services**

505.1 Use of Competitively Negotiated Procurement Procedures.

This Article V outlines the Authority's procedures for competitively negotiated procurements, also known as a competitive RFP process, or in the case of the procurement of professional services on a qualifications basis, a competitive RFQ process. The procedures used in this Article V shall be used for:

(A) Contracts for professional services, including architectural, engineering, legal, legislative advocacy, planning, and accounting services;

(B) Purchases of specialized equipment, computers, telecommunications equipment, fare collection equipment, microwave equipment and other related electronic equipment and apparatus, if the Board has approved the use of the procedures set forth in this Chapter 5 for a particular procurement.

(C) Other contracts that the Board has determined are to be competitively negotiated.

505.2 Solicitation of Proposals – General.

(A) An RFP or RFQ shall be the solicitation used to communicate the Authority's requirements to prospective contractors when the negotiated method of seeking competitive proposals is used. Staff shall furnish identical information concerning a proposed procurement to all prospective contractors receiving the RFP or RFQ.

(B) In determining sources to solicit, staff shall use all means available to ensure that an adequate number of potential qualified proposers receive the solicitation in order to obtain the maximum open and competitive competition. Pre-solicitation announcement notices shall be published in a manner reasonably likely to attract proposers.

505.3 Proposal Evaluation.

(A) The evaluation factors that will be considered in evaluating proposals shall be tailored to each procurement and shall include only those factors that will have an impact on the source selection decision. The evaluation factors that apply to a particular procurement and the relative importance of those factors are within the broad discretion of the Executive Director. All factors that are to be considered in an award of a contract must be identified in the RFP or RFQ and must allow for a fair and equitable evaluation of all proposals. Evaluation criteria could include matters such as previous experience providing similar services, qualifications of team members, satisfaction of previous clients, capacity to provide personnel when needed, and approach to providing the services.

(B) The Executive Director, in his or her discretion, may establish a formal evaluation board to evaluate proposals in accordance with the stated evaluation criteria and either recommend a selection to the Executive Director or, if authorized by the Executive Director to do so, itself select the recommended source for contract award.

(C) The most qualified or "shortlisted" firms may be asked to further present their qualifications in an interview. The shortlist of firms will be determined by the Executive Director. The evaluators will consider the results of the interviews in making the selection recommendation.

505.4 Selection and Negotiations.

The methods and procedures for selection and negotiation shall be determined by the Executive Director and set forth in the RFP or RFQ. The selection decision is subject to the approval of the Board.

505.5 Special Provisions Applicable To Procurement of Professional Services Contracts.

If the procurement is for professional services listed in California Government Code Section 4525, in addition to meeting the other requirements of this Article V, the procurement process shall comply with applicable requirements of Government Code Sections 4525 *et seq.* In particular, Government Code Section 4526 states that the procurement procedures for such contracts must:

(A) assure that such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public;

(B) assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Government Code Section 14837;

(C) specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration; and

(D) specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract that would subject those employees to the prohibition of Government Code Section 87100.

**Article VI**  
**Alternative Method For Procurement**  
**Of Contracts Including**  
**Construction And Other Services**

506.1 Purpose.

In certain cases, it may be efficient or advantageous for the Authority to enter into contracts that include responsibility for construction services as well as other services that are not appropriate for sealed bidding and for which the Authority does not wish to use a competitive negotiation procurement process. Such contracts could include design-build contracts (including design services as well as construction services), construction management at-risk contracts (including professional services as well as a guarantee of the cost of construction services) and public-private partnerships (which may include professional services, construction services, finance services and/or operation and maintenance services).

506.2 Process.

Procurements under this Article VI shall be conducted in accordance with the terms, conditions, processes, rules and procedures as stated in the procurement documents. To the extent not covered in the procurement documents (and to the extent covered, not inconsistent therewith), the procurement may include any of the following:

(A) Procurement by RFP or RFQ or through a multi-stage process in which the Authority invites prospective proposers, through a Request for Information (“RFI”) or similar process, to submit statements indicating the potential proposer’s approach to the project and interest in proposing;

(B) Prequalification or short listing or a similar process whereby a shortened list of potential proposers are invited to submit proposals;

(C) Final evaluation of proposals based on qualifications and/or best value. For purposes of this Article, “best value” means a value determined by objective criteria, including, but not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the Authority. The Authority shall develop and adopt criteria for making that evaluation prior to evaluation of a proposal.

(D) Negotiations with proposers prior to award.

(E) Requests for best and final offers from proposers.

(F) Acceptance of unsolicited proposals, with issuance of requests for competing proposals. The Authority shall not award a contract to an unsolicited bidder without receiving at least one other responsible bid.

506.3 Evaluation and Award.

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To the extent not inconsistent with the provisions of the procurement documents:

(A) When evaluating a proposal submitted by the proposer, the Authority may award a contract on the basis of the proposer's qualifications, the lowest bid or best value.

(B) The proposer shall have the following qualifications:

(1) Evidence that the members of the proposer's team have completed, or have demonstrated the experience, competency, capability, and capacity to complete, a project of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the proposer's team has the capacity to complete the project.

(2) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(3) Evidence that establishes that members of the proposer's team have the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

506.4 Methods and Criteria.

(A) Use of alternative procurement procedures under this Article VI requires Board authorization. The Executive Director shall determine the methods, procedures, and criteria for selection. If the Board has authorized the solicitation of such a contract for a particular procurement, the Authority shall follow the procedures set forth in this Article VI and such other procedures as have been established by the Executive Director.

(B) The procurement documents shall include all of the following:

(1) A reasonable description of the services to be provided and work to be performed;

(2) A description of the format that proposals must follow and the elements they must contain, including the qualifications and relevant experience of the design professional and the contractor;

(3) A summary of the criteria that will be used in evaluating the submittals; and

(4) The date on which the proposals are due, and the timetable that will be used in reviewing and evaluating the proposals.

506.5 Contracts That Include Professional Services.

If a contract subject to this Article VI includes professional services of the type listed in Government Code Section 4525, the selection process for such contract shall comply with all applicable requirements of Government Code Sections 4525 *et seq.* as described in Section 505.5 of this Code. The statutory requirement to select contractors based on demonstrated competence and qualifications may be satisfied by a shortlisting step that includes evaluation of the design professional's qualifications.

**Article VII**  
**Standard Form Contracts**

507.1 Preparation of Standard Form Contracts.

For Small Contracts and other procurements where standard specifications for goods or services to be procured are available, the Executive Director shall prepare, or cause to be prepared, standard agreements for procurement of goods and services. The standard agreements shall be approved as to form by legal counsel.

507.2 Criteria for Preparation of Contracts.

Each standard agreement and every other contract entered into by the Authority shall be prepared utilizing the following criteria:

- (A) A clear and accurate identification of the parties.
- (B) A clear and complete statement of the work, services, or product to be performed, rendered, or provided.
- (C) A clear expression of the maximum amount to be paid, if any, and the basis upon which payment is to be made.
- (D) A statement of the time for performance or completion of the contract.

507.3 Purchase Orders.

In lieu of a standard agreement form, the Executive Director may prepare or cause to be prepared a form of purchase order for the purchase of materials, supplies and equipment procured in accordance with Article XI below.



**Article VIII**  
**Supporting Documents**

508.1 Responses to Solicitations.

Unless the procurement documents make them a part of the contract, bids and proposals received together with documents comprising the solicitation request may, but are not required to, accompany the contract to final approval by the Board.

508.2 Explanation of Failure to Obtain Three Bids.

In those instances where sealed bidding is provided for hereunder and fewer than three bids are obtained, or an award is made not to the lowest bidder, a full explanation and justification must accompany the contract for final approval.

508.3 Local Government Entity/Cooperative Agreements.

If deemed necessary or advisable upon consultation with legal counsel, where one of the contracting parties is a county, city, district, or other local public body, the contract shall be accompanied by a copy of the resolution, order, motion, or ordinance of the local governing body granting authority to enter into the proposed contract and approving and authorizing execution of the agreement.

508.4 Authorized Signatures.

Authority to execute contracts is limited to those officers, staff and members of the board who have been duly authorized by the Board. The Authority will maintain a record for audit purposes of all Members who have been authorized to execute contracts on behalf of Authority. The Executive Director may execute on behalf of the Authority and without formal Board approval, those contracts he or she is authorized to approve pursuant to this Chapter 5.

508.5 Public Entity Expending Authority Funds Right to Audit.

Every Authority contract wherein a government entity is receiving Authority funds shall require that the government entity place in each of its contracts involving an expenditure of Authority funds in excess of \$100,000.00, a provision which indicates that the contracting parties may be subject to an examination and audit by the Authority's Executive Director or his or her designee for a period of not less than three years after final payment under the contract.

508.6 Retention of Evaluations.

Unless otherwise provided in the procurement documents, all proposals and any evaluations and rating sheets regarding such proposal, shall be retained for a period of one year from the date a contract is awarded. Copies shall be made available to the Board upon request, provided that if such documents would thereby become public information, they shall be redacted as appropriate to maintain confidentiality of any information (such as the names of the evaluators and the identity of references contacted) that would not otherwise be required to be disclosed publicly.

**Article IX**  
**Modification Or Amendment Of Contracts**

509.1 **Contracts Subject to Board Approval.**

Contracts subject to the approval of the Board must also have such approval for a modification or amendment thereto, with the exception of:

(A) Amendments to contracts limited to an extension of the date of completion of performance for a period of one year or less. The Executive Director may approve such amendments. A contract may only be amended once under this provision.

(B) Amendments that change the amount of the contract, provided that the amendment does not increase the contract amount by more than 10%. Multiple amendments of a contract that in the aggregate increase the contract amount by more than 25%, shall, upon the aggregate amendments exceeding such amount, be subject to Board approval.

(C) Contracts let or awarded on the basis of any law requiring competitive bidding may be modified or amended only if the contract so provides and if authorized by the law requiring competitive bidding.

509.2 **Modifications or Amendments Taking Contracts Outside Scope of Exemption.**

If an amendment to a contract has the effect of taking the contract as amended outside the scope of an exemption from the approval by the Board, such as an increase in monetary amount, or an agreement by the Authority to indemnify or save harmless any person or entity, the amendment must be approved by the Board.

509.3 **Modifications or Amendments Subjecting Contract to Lease/Purchase Analysis Requirements.**

If the amendment has the effect of making the contract subject to the lease/purchase analysis requirements contained in Section 510.5 of this Code, the provisions of these policies and procedures related to lease/purchase analysis shall be complied with.

**Article X**  
**Contracts For Lease And Rental Of Equipment**

510.1 **Application of Article.**

The provisions of this Article X shall apply to all equipment leased or rented by the Authority except automobiles provided to Authority staff under the terms of a separate employment agreement.

510.2 **Contract Provisions.**

Contracts for lease and rental of equipment must clearly provide that the Authority does not have responsibility for loss or damage to the rented equipment arising from a cause beyond the control of the Authority. Any provision obligating the Authority to return the equipment in good condition, subject to reasonable wear and tear, must also except or exclude loss or damage

arising from causes beyond the control of the Authority. The contract must clearly restrict the Authority's liability for damage or loss to that resulting from the negligent act or omission of the Authority or its officers, staff, or agents acting within the course and scope of their employment with the Authority. If the Authority does not elect to maintain the equipment, the contract shall place the obligation on the contractor, as lessor, to keep the equipment in good working order and to make all necessary repairs and adjustments without qualification, with a clear right in the Authority to terminate or cease payment for repairs and adjustments without qualification, to terminate or cease paying rent should the contractor fail to maintain the equipment properly. For this purpose, the contractor's representatives shall be given full and adequate access to the equipment at reasonable times.

510.3 Renewal Options.

For the purpose of determining whether contracts containing renewal options are subject to approval of the Board, the total cost and term of the rental contract shall be computed by including the cost and term of all renewal options included in the contract.

510.4 Purchase Options.

Approval by the Board of the rental agreement does not include approval for the exercise of the option to purchase. The Board must approve any exercise of the option to purchase equipment in advance.

510.5 Lease/Purchase Analysis.

A lease/purchase analysis shall be prepared for each contract to lease equipment where the contract exceeds \$25,000.00 or the duration of the lease exceeds twelve months. This requirement does not apply to contracts for equipment leased or rented from government agencies. If the lease/purchase analysis indicates that it is more economical to purchase, it will be necessary to include a justification explaining why it is in the Authority's best interest that the equipment be leased. A lease/purchase analysis based on a "zero" salvage value of the equipment will normally be acceptable only when mechanical useful life and program useful life are the same. When bids are obtained, prices for both leasing and purchasing will be secured to facilitate the making of the analysis.

**Article XI**  
**Purchase Of Materials, Supplies And Equipment**

511.1 Purchase of Materials, Supplies and Equipment with Unit or System Prices up to \$100,000.00.

In lieu of issuing a written request for bids or proposals, and consistent with the definition of a Small Purchase under Section 301.3, the Executive Director may obtain a minimum of three oral or telephone quotations from vendors selected by the Executive Director, for acquisition of materials, supplies and equipment having a unit or system price of not more than \$100,000.00 and for which there are standard specifications (e.g., certain paper supplies, building materials). The Executive Director or his or her designee shall solicit quotations. Written confirmation shall be obtained from each vendor submitting an oral quotation. Purchases may be documented through purchase orders rather than other standard form or customized contracts.

511.2 Purchase of Materials, Supplies and Equipment with Unit or System Prices of more than \$100,000.00.

Purchases of materials, supplies or equipment having a unit or system price of more than \$100,000.00 should be made in accordance with the sealed bidding, competitive negotiations or alternative procurement processes identified in Articles IV, V and VI of this Chapter 5. Purchases may be documented through standard or customized contract forms.

**Article XII**  
**Protests**

512.1 Right to File Protests.

A person that has indicated an interest in proposing or bidding on a contract, or that has timely submitted a bid or proposal in response to any procurement of the Authority may file, in the case of a protest prior to award of the contract, a protest objecting to the form or content of the RFP, RFQ or IFB within the time periods and in accordance with the procedures outlined in Sections 512.2(A) and (B) below. In the case of a protest filed after award of a contract, the protest shall be filed in accordance with the procedures and within the time periods stated in Section 512.2(C) below. The following procedures apply in the event that the RFP, RFQ or IFB does not contain relevant protest procedures or to the extent that a procedure set forth below is not set forth in the RFP, RFQ or IFB. To the extent that any provision below conflicts or is otherwise inconsistent with a process or procedure set forth in an RFP, RFQ or IFB, the provision in the RFP, RFQ or IFB will prevail. To the extent that a provision of an RFP, RFQ or IFB does not permit protests, that prohibition will prevail over and negate a process permitted below that is inconsistent with that prohibition.

512.2 Requirements for Protests.

(A) For protests filed in advance of submittal of proposals, statements or qualifications or bids, the following procedures shall apply:

(1) Prospective proposers and bidders are encouraged to suggest changes, modifications, and improvements to the RFP, RFQ or IFB. The deadline for submitting suggested changes, modifications, and proposals shall be five (5) Working Days after the pre-proposal conference if any, and if not no later than 20 Working Days prior to the date that submittals are due. Such changes, modifications and proposals shall be made in writing to the Authority representative identified in the RFP, RFQ or IFB.

(2) If a proposed change, modification, or improvement is accepted by the Authority, said change, modification or improvement shall be incorporated into the RFP, RFQ or IFB through an addendum sent to all potential proposers or bidders that have received the RFP, RFQ or IFB.

(3) Protests dealing with restrictive specifications or alleged improprieties in solicitation of proposals or bids must be filed no later than ten (10) Working Days prior to the date for submittal of proposals, statements of qualifications or bids. Protests shall be in writing and addressed to the Executive Director.

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(4) The protest shall contain a statement describing the reasons for the protest and any supporting documentation. Additional materials in support of the initial protest will only be considered if filed within the time limit specified above. The protest shall indicate the ruling or relief desired from the Executive Director.

(5) Materials submitted by a protester or bidder will not be withheld from any interested party, except to the extent that the withholding of information is permitted or required by law or regulation. If the protest contains proprietary material, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears. Notwithstanding a designation of material as proprietary, the Executive Director shall have the discretion to determine whether or not such material should be withheld from the other interested parties and if the Executive Director determines that the material should be made available, the protesting potential proposer or bidder waives any claim based on such disclosure.

(B) For protests filed after submittal of proposals, statements or qualifications or bids, but prior to award of the contract, the following procedures shall apply

(1) Except as otherwise provided herein, proposals will not be opened prior to resolution of the protest, and the Executive Director shall follow the review and decision process outline herein, modified as deemed necessary in the Executive Director's sole discretion. Where the protest is filed before award, the Award will not be made prior to resolution of the protest, unless the Executive Director determines that:

(a) Items to be procured are urgently needed, or delivery or performance of the contract will be unduly delayed by failure to make Award promptly; or

(b) Failure to make award will cause undue harm to the Authority.

(2) In the event an award is to be made while a protest is pending, the FTA shall be notified if the procurement is subject to FTA procurement rules.

(C) For protests filed after award of a contract, the following procedures shall apply:

(1) The protest shall be filed in writing with the Executive Director of the Authority, by hand delivery, not later than the close of business on the day that is three (3) Working Days after the day on which the Board takes formal action awarding a contract.

(2) The protest shall be filed by an actual bidder or proposer responding to the procurement. No other party has standing to protest.

(3) The protest shall identify the specific procurement involved.

(4) The protest shall identify the specific recommended action or decision being protested.

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(5) The protest shall specify in detail the grounds of the protest, the facts supporting the protest and the status of the protester.

(6) The protest shall include all relevant supporting documentation with the protest at the time of submittal.

(D) Except as modified by the procurement documents, if a protest does not comply with the above requirements, the protest will not be considered and will be returned to the protester.

(E) Except with respect to supporting materials the protester asserts contain confidential material or information, the protester shall concurrently file a copy of the detailed statement with the other proposed or, in the case of a protest after award, actual bidders or proposers.

(F) Evidentiary statements, if any, shall be submitted under penalty of perjury. The protester shall have the burden of proving its protest by clear and convincing evidence. Failure to file a protest within the applicable period shall constitute a waiver of the right to protest the determination, authorization or award, as applicable, other than any protest based on facts not reasonably ascertainable as of such date.

512.3 Statements by Other Parties.

Other potential or actual bidders or proposers may file by hand delivery to the Authority statements in support of or in opposition to the protest within five (5) Working Days of the filing of the protest described in Section 512.2. The Authority shall promptly forward copies of any such statements to the protester. Any evidentiary statements shall be submitted under penalty of perjury.

512.4 Resolution of Protest.

(A) The Executive Director of the Authority will respond to protests within five (5) Working Days of receiving the protest, acknowledging receipt of the protest. A conference on the merits of the protest may be held with the protester and the Executive Director will promptly attempt to resolve a properly filed protest or perform additional fact-finding.

(B) If the Executive Director is able to resolve the protest at this stage, a letter confirming resolution shall be sent to the protester.

(C) If the Executive Director is unable to resolve the protest within seven (7) Working Days after receipt of the protest, he or she may establish an independent team to evaluate the merits of the protest. The Executive Director will determine the timeline for such evaluation.

(D) Within ten (10) Working Days of his or her receipt of a recommendation of the

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evaluation team, the Executive Director will review the recommendation and notify the protester in writing of the decision on the protest.

(E) If at any time during this process, additional information is required by the Authority from the protester, such additional information shall be submitted by the protester as expeditiously as possible, but no later than three (3) Working Days after receipt of a request.

(F) Subject to FTA review as outlined in Section 512.5 below, for protests involving award of the contract, if the Executive Director's decision is to deny the protest, the contract shall be executed.

(G) For protests involving award of the contract, if the Executive Director's decision is to uphold the protest, a recommendation will be made to the Board to either:

- (1) Reject all proposals or bids, cancel the procurement and solicit new proposals or bids, or
- (2) Proceed with the procurement consistent with the decision in response to the protest.

512.5 FTA Review.

(A) If a protester is not satisfied with the decision made by the Authority, and the procurement is subject to FTA procurement rules and requirements, the protester may file protest with the FTA. Review by FTA will be limited to:

- (1) Violation of federal law or regulations;
- (2) Violation of the Authority's protest procedures described herein, or failure by the Authority to review the protest consistent with such procedures.

(B) Protests must be filed with FTA (with a concurrent copy filed with the Authority) within five (5) Business Days after the Authority renders a final decision, or five (5) Business Days after the protester knows, or has reason to know, that the Authority failed to render a final decision. After five (5) Business Days, the Authority will confirm to FTA that FTA has not received protest on the contract in question.

(C) FTA Circular 4220.1F is available for review at the Authority's office. A copy and additional information may also be obtained from the FTA at the following address:

Federal Transit Administration  
Region IX  
201 Mission Street – Suite 2210  
San Francisco, California 94105

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(D) The Authority shall not be responsible for responding to any protest that is subject to FTA review, if the protest is not filed in accordance with FTA protest procedures or in a timely manner with FTA.



# Attachment 1 - Redline Version

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## ADMINISTRATIVE CODE OF THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

Ordinance #01-01  
Adopted March 31, 2008

(Updated as of ~~September 30, 2010~~ June 27, 2013)

San Francisco Bay Area Water Emergency Transportation Authority  
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**CHAPTER 1**  
**ADMINISTRATIVE CODE**

**Article I**  
**Title and Authority**

101.1 Title and Authority.

This ordinance is enacted pursuant to the provisions of California Government Code Title 7.10, commencing with Section 66540, and may be referred to as the “San Francisco Bay Area Water Emergency Transportation Authority Administrative Code.” This ordinance prescribes the powers and duties of the Authority officers, the method of appointing Authority staff, and methods, procedures and systems of operation and management of the Authority.

**Article II**  
**Definitions**

102.1 Definitions.

(A) For purposes hereof, the following words shall have the following meanings:

(1) “Act” means San Francisco Bay Area Water Emergency Transportation ~~Authority~~Response and Disaster Recovery Act, California Government Code Title 7.10, commencing with Section 66540, as amended from time to time.

(2) ~~—Auditor means the person acting as Auditor to the Authority.~~ (3) “Authority” means the San Francisco Bay Area Water Emergency Transportation Authority.

(43) “Board” means the Board of the Authority. The Board is the legislative body of the Authority as defined under provisions of Section 54952 of the Brown Act.

(54) “Brown Act” means the Ralph M. Brown Act, Government Code Sections 54950 *et seq.*, as it may be amended from time to time.

(65) “Chair” means the person designated to preside at meetings of the Authority pursuant to Section 104.1(D) (1) of this Chapter 1.

(6) “Chief Financial Officer” means the chief financial officer of the Authority.

(7) “Code” means the San Francisco Bay Area Water Emergency Transportation Authority Administrative Code.

(8) “Community Advisory Committee” shall have the meaning set forth in Section 104.4 of this Code.

(9) “Executive Director” means the chief executive and operating officer selected by the Board to manage the day-to-day activities of the Authority.

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(10) “Fiscal Year” means July 1 to and including the following June 30.

(11) “General Counsel” means the attorney(s) acting as general counsel to the Authority.

(12) “Holiday” means any day observed by the Authority as a holiday, other than a Saturday or Sunday.

(13) “Invitation for Bids” or “IFB” means a procurement process pursuant to which the Authority procures goods or services on a low bid basis.

(14) “Local Jurisdiction” means any local agency as defined in Government Code Section 15501, the boundaries of which are within the nine Bay Area counties of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Solano, Napa, Sonoma and Marin.

(~~14~~15) “Locally Elected Official” means a duly elected and serving official of the legislative body of a Local Jurisdiction having an elected legislative body.

(~~15~~16) “Manager, Business Services” means the person designated by the Executive Director as such. In the absence of such designation, the Executive Director will be deemed to hold the position.

(17) “Member” means a person serving as a member of the Board.

(~~16~~18) “Official Acts” means all substantive actions taken by the Board, excluding matters that are procedural in nature.

(~~17~~19) “Request for Proposals” or “RFP” means a procurement process whereby the Authority seeks proposals and enters into a contract for goods, services, construction or related activities. Contracts may be procured on a low bid, best value or similar basis.

(20) “Request for Qualifications” or “RFQ” means a procurement process in which the Authority obtains professional and other services on a qualifications basis that does not consider or considers as only one element, the cost of the services to be provided.

(21) “Small Contract” shall mean any contract or other procurement involving expenditures equal to or less than \$~~25,000.00~~,100,000.00.

(~~18~~22) “Staff” means an employee or the employees of the Authority.

(~~19~~23) “Standing Board Committee” shall have the meaning set forth in Section 104.3 of this Code.

(~~20~~24) “Technical Advisory Committee” shall have the meaning set forth in Section 104.5 of this Code.

(~~21~~25) “Vice Chair” has the meaning set forth in Section 104.1(D)(2) of this Code.

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(~~22~~26) "Working Day" means any day other than a Saturday, Sunday or Holiday.

**Article III**  
**Powers, Authority And Duties Of The Governing Board**

103.1 Powers.

The Board shall exercise all of the powers and authority of the Authority in furtherance of the purposes of the Authority as defined in the Act. Without limiting the generality of the foregoing, the Board shall have the power to do the following on behalf of the Authority:

(A) The Board shall determine all questions of Authority policy, shall determine what water-transportation facilities shall be acquired or constructed by the Authority, and shall supervise, regulate, and set all charges for the use of such facilities.

(B) ~~The~~ Subject to Chapter 5, the Board shall contract for or employ professional services required by the Authority or for the performance of work and services which in the opinion of the Board cannot be satisfactorily be performed by its officers and employees.

(C) The Board shall approve and supervise the implementation of annual budgets for the Authority. The Board may cause the Authority to incur any form of indebtedness that is authorized by the Act on the terms and conditions that the Board in its discretion determines will further any of the Authority's purposes.

(D) The Board shall cause the Authority to contract with an independent certified public accountant for an annual audit of the financial records and books of the Authority. The accountant shall submit a report of the audit to the Board, and the Board shall make copies of the report available to the public.

(E) The Board shall prescribe a method of securing necessary staff for the Authority, and shall adopt rules and regulations governing the employment of staff including the establishment of a retirement system. If the Board determines that it is in the best interests of the staff of the Authority, the Board may cause the Authority to enter into a contract with the Public Employees' Retirement System.

(F) The Board may appoint committees from its membership and delegate such authority to such committees as it deems advisable and may appoint advisory committees ~~from other interested public and private groups~~ to advise on issues related to carrying out the mission of the Authority.

(G) The Authority shall employ an Executive Director who shall have charge of administering the day-to-day affairs and responsibilities of the Authority, subject to the policy direction of the Board. The Executive Director, subject to the approval of the Board, shall oversee the hiring of staff necessary to carry out the functions of the Authority.

(H) The Authority shall appoint a general counsel, responsible for managing the legal affairs of the Authority and the Board may employ additional legal staff, contract for private legal counsel and contract with state agencies for legal services.



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(I) The Authority shall employ ~~an Auditor~~/a Chief Financial Officer}.

(J) The Authority has all authority necessary to carry out its mandate as set forth in the Act.

103.2 Organization.

(A) The Board shall consist of Members in accordance with the Act commencing with Section 66540.12, as amended from time to time.

103.3 Principal Office.

The principal office of the Authority shall be at Pier 9, Suite 111, The Embarcadero, San Francisco, California. The Board may change said principal office from one location to another.

103.4 Meetings.

(A) The Board shall meet at the principal office of the Authority or at such other place as may be designated by motion of the Board or by direction of the Chair.

(B) Matters to be placed on the agenda for any regular meeting may be ~~filed~~ ~~with~~ submitted to the Chair, or his or her designee, by any Member no later than ten (10) Working Days prior to the date of the meeting. The notice of an agenda for each regular meeting shall be prepared by or under the direction of the Executive Director, who shall cause copies to be posted, mailed and/or delivered to members and posted, all in accordance with applicable law.

(C) Regular, adjourned, and special meetings of the Board, and any Standing Board Committee meeting shall be conducted in accordance with the provisions of the Brown Act.

(D) Unless otherwise specified herein, Robert's Rules of Order shall govern the conduct of Authority meetings and the Chair's decision on any procedural question shall be final. No person shall address the Board at any meeting until he or she has first been recognized by the Chair. The decision of the Chair to recognize a person may be changed by vote of a majority of the Members present at the meeting, provided that the rights of members of the public to address comments to the Board as provided under the Brown Act or other applicable law shall not be abridged. The Chair may, in the interest of facilitating the business of the Board, limit the amount of time that a person may use in addressing the Board.

(E) At any regular meeting not held because of a lack of a quorum, the Members present, if less than a quorum of the Board, may, by vote of a majority of the Members present, constitute themselves a "Committee of the Whole" for the purposes of discussing agenda matters or any other matter of interest to the Members present. The committee shall automatically cease to exist if a quorum of the Board is present at the meeting. No formal Board action may be taken by Members of the Board acting as a Committee of the Whole.

(F) The Board may act either by ordinance or resolution. The Board may adopt and enforce rules and regulations for the administration, maintenance, operation and use of the Authority's facilities and services, including but not limited to rates, charges and fees for such purposes.

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103.5 Quorum and Voting Requirements for Action by the Board.

~~Three~~A majority of the authorized Members of the Board shall constitute a quorum for the purposes of the transaction of business relating to the Authority, and, except as otherwise provided herein, all Official Acts of the Authority shall require the ~~affirmative vote of a~~recorded majority vote of the ~~Members~~total authorized membership of the Board.

103.6 Minutes.

The Secretary to the Board shall cause to be kept minutes of regular, adjourned regular, and special meetings of the Board, and shall cause a copy of the minutes to be forwarded to each Member. If the Secretary has not been appointed or is not present, the Board shall appoint an acting secretary at each meeting to keep official minutes for such meeting, provided that the Board may delegate to the Secretary, if one has been appointed, authority to appoint an acting secretary in his or her absence. Such acting secretary may be a person other than a Member.

103.7 Member Compensation.

Members shall be compensated in accordance with the provisions of Section 66540.15 of the California Government Code as amended from time to time.

**Article IV**  
**Officers and Duties**

104.1 In General.

(A) The Officers of the Authority. The Officers of the Authority shall consist of the Chair and Vice Chair, each of whom shall be a Member, an Executive Director, a General Counsel, ~~an Auditor~~a Chief Financial Officer, and such other officers as the Board may appoint.

(B) Appointment of Executive Director, General Counsel, AuditorChief Financial Officer, and Other Officers. The Executive Director, General Counsel, ~~Auditor~~Chief Financial Officer, and such other officers as the Board may deem necessary shall be appointed by the affirmative votes of a majority of the Members.

(C) Removal of Officers and Staff. Officers of the Authority other than officers who are Members shall serve at the pleasure of the Board and may be removed by the affirmative vote of a majority of the Members.

(D) Duties of Various Officers.

(1) Duties of Chair. The Chair shall

(a) ~~Prepare the agenda for each meeting of the Board.~~ ~~(b)~~  
Preside over all meetings of the Board, including, but not limited to, setting the dates and times of meetings, declaring the opening and closing of each proceeding of the board, ruling on points of order, regulating the individuals that, except for board members, may address the board at its meetings, and putting issues to the vote and announcing decisions following those votes.

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(~~eb~~) Appoint Members to committees and serve as an ex officio member of all committees.

(~~dc~~) Propose the annual budget for the Authority.

(~~ed~~) Sign all orders issued by the Board and contracts and grant documents as approved by the board.

(~~fe~~) Represent the Authority at all proceedings. The Chair may appoint individuals to represent the Board on other boards or commissions, subject to ratification by the Board. Appointees serve at the pleasure of the Board and those appointments will be subject to review by the Board at least once every two years.

(~~gf~~) Have such other powers and duties as may be prescribed from time to time by the Board.

The Chair may delegate any of the powers described in this section, other than the power to delegate, to any Member of the Board

(2) Duties of the Vice Chair. The Vice Chair shall perform the duties of the Chair in that person's absence or disability and, when so acting, shall have all the powers of and be subject to all the restrictions upon the Chair, and shall exercise and perform such other powers and duties as may from time to time be ~~assigned that person~~ prescribed by the Board.

(3) Chair Pro Tempore. In the event of the absence, or inability to act, of the Chair and Vice Chair, the Members present at any meeting of the Board, by order entered in the minutes, shall select one of their members to act as Chair Pro Tempore, who, while so acting, shall have all of the authority of the Chair.

(4) Duties of Executive Director. The Executive Director shall be a full-time officer of the Authority. The powers and duties of the Executive Director are:

(a) To have full charge of the administration of the day-to-day business affairs of the Authority, within policy guidelines established by the Board;

(b) To administer the personnel system of the Authority within policy guidelines established by the Board, including hiring, controlling, supervising, promoting, transferring, suspending with or without pay or discharging any employee;

(c) Subject to any limitation and to the terms and conditions set forth in Chapter 5 hereto, to act as the purchasing agent for the Authority;

(d) To keep the Board advised as to the needs and the status of operations of the Authority;

(e) To see that all rules, regulations, ordinances, policies, procedures and resolutions of the Authority are observed and enforced;

(f) ~~To~~ Except as otherwise provided herein or in the Act, to execute and deliver contracts and agreements on behalf of the Authority following such

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approvals as may be required hereunder and to administer Authority contracts in accordance with and subject to the limitations set forth in Chapter 5 attached hereto;

(g) To authorize, approve and make expenditures in accordance with and subject to the limitations set forth in Chapters 2 and 3 hereof.

(h) To prepare or cause to be prepared and distributed the agenda for all Board meetings;

(i) To undertake such other duties, powers and responsibilities as may from time to time be assigned to him by the Board;

(j) To accept and consent to deeds or grants conveying any interest in or easement upon real estate to the Authority pursuant to California Government Code Section 27281 and to prepare and execute certificates of acceptances therefor from time to time as the Executive Director determines to be in furtherance of the purposes of the Authority. Such authority shall be limited to actions of a ministerial nature necessary to carry out conveyances authorized by the Board; and

(k) Unless specifically delegated to an officer appointed by the Executive Director with the approval of the Board, to assume the responsibilities of a Secretary to the Board. Until such time as the Board appoints a Secretary, any reference in this Code to such officer shall be deemed to be a reference to the Executive Director or his or her appointee.

If the Executive Director is absent or incapacitated, or if there is no Executive Director, the Board Chair may appoint any person to serve as an interim Executive Director until the Executive Director's return or until the next meeting of the Board. The interim Executive Director shall perform the duties of the Executive Director in that person's absence and, when so acting, shall have all the powers of and be subject to all the restrictions upon the Executive Director, and shall exercise and perform such other powers and duties as may from time to time be assigned that person by the Board. The Board may appoint an Executive Director or interim Executive Director at any meeting; provided, however, that at no time shall there be more than one person appointed to act as the Executive Director.

104.2 Compensation.

Compensation shall be as provided and covered in the Personnel and Salary Manual and Procedures ~~which~~that is Chapter 6 of this Code.

104.3 Standing Board Committees.

The Chair of the Board may, as he or she deems appropriate, appoint Standing Board Committees consisting of ~~not less than three or more than five Members~~a quorum of the Board, to accomplish the purposes set forth herein. Committee members serve at the pleasure of the Chair of the Board.

(A) Organization of Standing Board Committees. Standing Board Committees shall be organized and operate as follows:

(1) The Chair of the Board shall appoint a chairman for each Standing Board Committee.

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(2) Any meeting of such a committee shall be deemed to be a meeting of the Authority for purposes of compensation.

(3) A majority of the authorized members of the Standing Board Committee shall constitute a quorum and approval of any action shall require the affirmative vote of a majority of Members present at the meeting and constituting a quorum.

(4) All Standing Board Committee meetings shall be open to all Members, unless the presence of Members who are not members of such committee would violate the provisions of the Brown Act.

(5) Subject to (6) below, if a Standing Board Committee member is absent, the Chair shall attend as an ex officio Member, or if the Chair is not available to attend, the Standing Board Committee chair may appoint one or more nonmember Members present to serve as temporary members of the Standing Board Committee. The number of nonmember Members who may be appointed shall not exceed the fully authorized complement of the Standing Board Committee. Nonmember Members and the Chair serving as an ex officio Member shall serve with full powers for the duration of the meeting only. However, if during the meeting ~~in~~at which the Chair is serving ex officio or a nonmember ~~Members are~~Member is appointed pursuant to this provision, the number of regular Standing Board Committee members present plus the ~~member of~~Chair serving ex officio and any nonmember Members appointed would exceed the total number of authorized Standing Board Committee members, then the Chair and any nonmember Members shall relinquish their Standing Board Committee membership status so as to assure that the total Standing Board Committee membership at no time exceeds total authorized Standing Board Committee membership. In such event the order of relinquishment of Standing Board Committee member status by nonmember Members shall be the reverse order of appointment and prior to relinquishment by the Chair.

(6) To allow full participation by Board members at meetings of Standing Board Committees and in addition to the right of the Board to convene as a Committee of the Whole in the absence of a quorum of the entire Board at a regular or special Board Meeting pursuant to Section 103.4(E) hereof, each Standing Board Committee meeting ~~shall~~may also be noticed as a Committee of the Whole. ~~If so noticed and in~~ the event that a quorum of the entire Board is present, the Standing Board Committee will automatically convert to a Committee of the Whole. Likewise if after convening as a Committee of the Whole, there is no longer a quorum of the full Board present, then the Committee of the Whole will automatically convert back into a Standing Board Committee. The Chair of the Standing Board Committee will serve as Chair of the Committee of the Whole. ~~The~~If noticed as a Committee of the Whole, the agenda for ~~each~~the Standing Board Committee shall include the following footnote: “

This Standing Board Committee may be attended by Members who do not serve on the Standing Board Committee. In the event that a quorum of the entire Board is present, this Standing Board Committee shall act as a Committee of the Whole. Any item acted upon by the Standing Board Committee or the Committee of the Whole shall be advisory only and shall require consideration and action by the full Board as a prerequisite to its enactment.”

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104.4 Community Advisory Committee.

(A) Meetings. The Board may convene a community advisory committee to assist and advise the Board in carrying out its functions. The Community Advisory Committee shall meet on a regular basis.

(B) Membership. The Community Advisory Committee shall include members in conformance with Section ~~66540.17~~66540.315 of the Act.

(C) Term of Membership. The members of the Community Advisory Committee serve at the pleasure of the Board.

(D) Mission. The mission of the Community Advisory Committee is to assist and advise the Board in carrying out its functions. The Community Advisory Committee's members are an important link between the Authority and their respective communities with reference to the Authority's planning process and recommendations. The Community Advisory Committee serves as a sounding board for ideas generated or solicited by the Authority, as well as proposals presented by Authority staff and consultants.

104.5 Technical Advisory Committee.

(A) Meetings. The Board may convene a technical advisory committee to assist and advise the Board in carrying out its functions. The Technical Advisory Committee shall meet on an as needed basis.

(B) Membership. The Technical Advisory Committee shall include members ~~in conformance with Section 66540.17 of the Act~~as determined by the Board. Members of the Technical Advisory Committee should have technical skills, education and training and experience relevant to the function of the Technical Advisory Committee.

(C) Mission. The mission of the Technical Advisory Committee, meeting as a whole or through ad-hoc subcommittees, is to provide review and comment to Authority staff and to the Board on the myriad of technical reports and studies that will be prepared in the development of new ferry services. Representatives from government agencies will review the findings of the recommendations for consistency to promote inter-agency cooperation and integration with ongoing planning efforts.

**Article V**  
**Contracts**

105.1 In General.

The Authority may enter into contracts of any nature whatsoever, including, but not limited to, contracts to indemnify and hold harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of its powers. The Authority may contract with any public agency or with any entity, public or private, or person upon such terms and conditions as the Board finds are in the best interests of the Authority.

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105.2 Contracting Procedures.

Authority contracts shall be procured and awarded in accordance with the ~~requirements~~provisions of Chapter 5 hereof.

105.3 Agreements with Other Public Agencies and Procedures for Award of Cooperative Agreements.

The Board may make and perform any agreement to join with any other agency, district, authority, city or county, in the planning, designing, financing, acquisition and construction of projects or to otherwise carry out the mission of the Authority. The Authority may agree to provide services to or obtain services from such other agencies, districts, authorities, cities or counties ~~upon~~subject to the approval of a majority of the authorized Members of the Board, pursuant to a written agreement.

**Article VI**  
**Budgets, Reports, Investments And Disbursements**

106.1 Annual Budget, Notice, Hearing and Adoption.

Each year no later than the Authority's June Board meeting, the Board shall adopt by ~~motion~~ordinance or resolution the Annual Budget(s) for the ensuing fiscal year. Approval of a majority of the authorized Members shall be required for adoption of the Annual Budget and any amendments thereto.

106.2 Purchases and Payment Procedures.

~~Purchases and payment~~Payment procedures for goods and services shall be governed by Chapter 2 of this Code. A voucher system to be administered by the Authority for payment of Authority expenses ~~shall~~may also be established.

106.3 Books and Accounts.

Full books and accounts shall be maintained by the ~~Auditor~~Chief Financial Officer of the Authority in accordance with generally accepted accounting principles as adopted by the Government Accounting Standards Board of the Financial Accounting Foundation for both public-reporting purposes and for reporting of activities to the Controller of the State of California.

106.4 Contracts.

The Board's approval of an Annual Budget shall be deemed approval of any contract made within the budgeted amounts in accordance with the approved budget. All contracts in excess of the ~~designations and~~ limitations of the approved Annual Budget shall be made only upon the approval of not less than a majority of the authorized Members, ~~except that contracts up to \$500,000.00 may be made upon the approval of a majority of the Members of the Authority present at a regular meeting, provided there is a quorum of the Board present at the meeting.~~ Notwithstanding the foregoing, payments owing ~~under~~pursuant to the terms of contracts entered into by the Authority may be made without separate Board approval, provided that the contract

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and all amendments thereto have been approved by the Board or Executive Director in accordance herewith.

106.5 Reimbursement of Expenses.

Expenditures for travel, conference, staff development and business-related activities and reimbursement of Members and Authority staff for such expenditures shall be governed by the Travel, Conference, and Business Expense Policy that is Chapter 3 of this Code.

106.6 Reports and Audit.

The Executive Director or his or her designee shall cause to be prepared by an independent ~~auditor~~, certified public accountant retained by the Authority and shall submit to the Board, the annual audit report required by Section 66540.54 of the Act, and any other financial reports requested by the Board. The Board shall review and approve the reports.

106.7 Investment of Funds.

All funds of the Authority will be invested in the manner and upon the conditions set forth in Government Code Section 53601 and in accordance with the Investment Policy of the Authority adopted by the Board, and the receipt, transfer or disbursement of such funds during the term of the Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to governmental entities. There shall be strict accountability of all funds, and all revenues and expenditures shall be reported to the Board.

**Article VII**  
**Miscellaneous**

107.1 Partial Invalidity.

If any one or more of the terms, provisions or sections hereof shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions and sections shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

107.2 Interpretation of Sections that are Based on Provisions from Other Statutes, Applicable Ordinances or Codes.

Sections of this Code which are based upon or which paraphrase provisions of other statutes, ordinances or codes have been included herein for reference purposes only. In the event of conflict between the provision of any such statute, ordinance or code and this Code, the provision of the statute, ordinance or code shall in all events control, and no section of this Code shall change or modify any such statute, ordinance or code.

107.3 Policies and Procedures.

The policies and procedures set forth in Chapters 2 through ~~65~~ of this Code, unless otherwise expressly provided, constitute a part of this Code and have the same force and effect as Chapter 1 of this Code and shall be adopted and modified by action of the Board. To the extent



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that there is an inconsistency between a provision of this Chapter 1 of this Code and the provision of any policy or procedure, the provision of this Chapter 1 prevails.

107.4     Adoption and Amendment.

This Code has been adopted, and, except as otherwise expressly provided herein or in the Act, may be amended by ordinance or resolution approved by a vote of a majority of the authorized Members.

**CHAPTER 2**  
**POLICIES AND PROCEDURES FOR PAYMENTS FOR GOODS AND SERVICES**

**Article I**  
**Purpose**

201.1 Purpose.

The purpose of this Chapter 2 is to establish a set of policies and procedures relating to payments for goods and services by the Authority.

**Article II**  
**General Policies**

202.1 Purchase of Goods and Services for Authority.

The Authority, through its appropriate staff, is empowered to make purchases of goods and services necessary for the conduct of its business in accordance with the provisions of Chapter 5 hereof. Personal expense of Authority's Members or staff, such as for travel, meals, etc., shall be authorized and processed and paid for in accordance with the provisions of Chapter 3 hereof.

202.2 Payments.

Payment of invoices for purchased goods and services made by the Authority shall be made by the Authority's designated Accounts Payable Unit, except to the extent that such payments may be made out of the Petty Cash Revolving Account Fund established herein. Accounts Payable shall process invoices for payment only upon presentation to it of Authority payment vouchers that shall represent the Authority's authorization for payment of such invoices. The form of payment vouchers shall be prescribed by the Executive Director. The Executive Director shall transmit to Accounts Payable a list of Authority staff, with their specimen signatures, who are authorized to sign payment vouchers.

The designated Accounts Payable Unit will be responsible only for verifying that payment vouchers are signed by the authorized Authority staff whose names and specimen signatures are on file with Accounts Payable.

202.3 Establishment of Petty Cash Revolving Account Fund.

A petty cash fund revolving account in the amount of \$2,000.00 ~~shall~~may be established and maintained by the Executive Director for purposes of paying miscellaneous expenses of the Authority not to exceed \$200.00 individually. Such miscellaneous expenses shall include, but not be limited to, outside photocopying expenses, expenses for office refreshments and other miscellaneous office supplies that, in the Executive Director's sole discretion, are necessary and convenient for proper office administration. The Executive Director is authorized from time to time to seek reimbursement of this account to a maximum balance of \$2,000.00.

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202.4 Payment to Consultants.

(A) The following methods may be followed in compensating consultants:

(1) A lump sum or fixed price for the total project.

(2) Hourly rate plus cost reimbursement. The consultant agrees to charge only for hours utilized at an agreed rate of compensation and reimbursement of costs, subject to completion of required tasks as determined by the Executive Director, or his or her designee, with a ceiling on the total project or contract amount.

(B) To implement the methods specified above, the contract must provide for the following:

(1) The rate of compensation to be paid the consultant. Amounts to be paid depend upon the complexity and difficulty of the project, the going rate for similar work, and the qualifications and reputation of the individual or firm being awarded the contract. Proposals submitted by individuals and firms shall list the rate of compensation to be paid to staff assigned to the contract by the contractor.

(2) The reimbursement of reasonable and necessary transportation costs and a per diem allowance. These costs should be paid at rates established by the Authority so as to reasonably reimburse a contractor for traveling expenses necessarily incurred while performing work for the Authority. Such rates shall generally not exceed those amounts paid to the Authority's staff.

(3) Any other expenses. These expenses should be clearly and specifically set forth in the contract.

202.5 Progress Payments.

If a contract requires progress payments, such payments should be made not more frequently than monthly in arrears or at clearly identifiable stages of progress, based upon written progress reports submitted with the contractor's invoices. Progress or other payments should generally be based on at least equivalent services rendered and not made in advance of service rendered.

**Article III**  
**Requirements For Payment Vouchers**

203.1 Preparation of Payment Vouchers.

The payment voucher is the form that authorizes payment to vendors for purchased goods and services. The Manager, Business Services and/or his or her designee shall prepare the payment voucher for signature(s). Vouchers must be approved and signed by authorized Authority staff whose names and specimen signatures are on file with the designated Accounts Payable Unit. Payment vouchers related to invoices in excess of \$10,000.00 shall be approved and signed by two authorized staff after compliance as required with the provisions of Chapter 5 hereof. Attached to the payment voucher shall be records sufficient to justify the approval for payment of the voucher, including, but not limited to, the invoice and initialization by appropriate

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Authority staff that the delivery of the goods or the performance of the services has occurred. Payment vouchers are coded by the appropriate organization subdivisions. Once signed, the payment voucher with attached invoice is sent to the designated Accounts Payable Unit for processing.

203.2     Records Relating to Payment Vouchers.

Payment voucher information shall be maintained in a computer database by the Authority. Each month, the Manager, Business Services or his or her designee shall compare for accuracy and completeness the database with the designated Accounts Payable Unit listing of expenditures (*i.e.*, payment vouchers processed) for the previous month. The hard copy of all current year payment vouchers and invoices shall be retained by the Manager, Business Services. Previous years' payment vouchers and invoices shall be retained for a period of four years, and then destroyed.

**CHAPTER 3**  
**TRAVEL, CONFERENCE AND BUSINESS EXPENSE REIMBURSEMENT POLICIES**  
**AND PROCEDURES**

**Article I**  
**Purpose ~~And~~ and General Policy**

301.1 Purpose.

The purpose of this Chapter 3 is to establish a set of policies relating to travel, conference and business expenses and to establish procedures for reimbursement of eligible Authority personnel for such expenses.

301.2 General Policy.

The Authority recognizes that in some instances it is necessary and/or convenient for authorized Authority personnel to expend sums and incur expenses for travel and other business purposes in connection with the official business of the Authority. Additionally, the Authority recognizes the benefit of attendance at meetings, conferences and other functions that advance professional knowledge and provide opportunities to exchange information related to transportation government operations and issues. The policy of the Authority is to pay or reimburse Authority personnel for such expenses, travel and fees that serve an Authority purpose and are deemed necessary and/or advantageous to the Authority.

**Article II**  
**Travel And Business Expense Reimbursement**

302.1 Eligibility.

The following are eligible to receive reimbursement for authorized expenses:

- (A) Members; and
- (B) Authority staff.

In order to be eligible for reimbursement, travel on Authority business or otherwise eligible for reimbursement over 100 miles shall be authorized in writing in advance. In the case of a Member, the authorization shall be approved by motion by the Board. For Authority staff, authorization shall be obtained from the Executive Director. Travel by the Executive Director shall be authorized by the Chair of the Board.

302.2 Expense Reimbursement.

Except with respect to any travel reimbursed with grant funds (in which case reimbursements shall be subject to applicable grant requirements and limitations), eligible individuals shall be entitled to claim reimbursement for actual reasonable and necessary expenses for the following items incurred in the discharge of their official duties, subject to submission of proper receipts and to the limitations set forth herein:

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(A) Air Travel. The actual cost of economy class/coach airfare will be reimbursed.

(B) Lodging. The reasonable actual cost for single person occupancy will be reimbursed or, if applicable, the negotiated rate for conference attendees.

(C) Automobiles.

(1) In instances where an eligible individual uses his or her private automobile for a trip between his or her normal work location and another designated work location (e.g., the site of a meeting or inspection), the individual shall be reimbursed for such mileage at the current authorized reimbursement rate established by the United States Internal Revenue Service. This provision shall not apply in cases where a periodic automobile allowance has been provided for such purposes. Rental car rates may not exceed the rate charged for a full-sized vehicle unless previously authorized.

(2) The Authority maintains insurance against liability for staff and Members related to use of personal or rental vehicles on Authority business. Accordingly, no reimbursement shall be permitted with respect to the cost of personal auto liability insurance or with respect to any coverages purchased by an individual in connection with the rental of a vehicle on Authority business.

(D) Meals. Meals reimbursement per person shall be for actual expenditures ~~not to exceed \$15.00 for breakfast, \$20.00 for lunch and \$30.00 for dinner. Meals reimbursement costs shall be updated on a periodic basis by resolution of the Board of the Authority~~ or on a per diem claim basis, consistent with the U.S. General Services Administration guidelines, while on official travel. The purchase of meals is authorized when an individual is required to:

(1) Attend a meeting concerning Authority business affairs because of the official position with the Authority of the individual. Other staff may also claim reimbursement for attendance in their official capacity with the Authority at such meetings.

(2) Be away from regular or normal work area during a meal hour because of a particular work assignment.

(3) Attend consecutive or continuing morning and afternoon or afternoon and evening sessions of an Authority, board, city council, commission, district or other public agency and is unable to return home for an evening meal;

(4) Act as host for official guests of the Authority, such as members of examining boards, official visitors, and speakers or honored guests at banquets or other official functions.

(5) Work more than two hours of overtime beyond a normal eight hour shift, if such overtime is authorized by the Authority for completion of work assignments;

(6) Attend on-site training events (training workshops, seminars and retreats). The Authority may, at its discretion, either provide meals to the attendees or authorize individuals to purchase their own meals and claim reimbursement in accordance with the provisions of this Chapter 3; or

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(7) The cost of banquets and meals associated with conferences may be reimbursed at rates higher than those authorized in this subsection (D) above, when attendance at the meal is an essential part of the professional training or technical content of the event or is a periodic event (e.g., a monthly lunch meeting) with a fixed cost. For staff, such attendance must be authorized by the Executive Director of the Authority.

(E) Business Meeting Expense. Actual expenses related to conducting official Authority business with government officials, media representatives, contractors, and other similar persons will be reimbursed. Supporting detail must include receipts, names and positions of the individuals involved and a brief statement of the business necessity of the expenditure.

(F) Miscellaneous Expenses. Other expenses that may be reimbursed include:

(1) Bridge tolls and parking;

(2) Telephone charges including, but not limited to, usage of portable phones, cellular car phones, telephone credit cards and pagers and telegraph charges required in connection with Authority business;

(3) BART, bus or ferry fares; and

(4) Other reasonable travel expenses with advance approval of the Executive Director of the Authority.

(G) Non-reimbursable Expenses. These expenses include meals eaten at home; personal telephone calls; expenses which are excessive or unreasonable as determined by the Executive Director in his or her discretion.

(H) Prior Authorization. Any overnight travel and any travel by plane require prior written authorization by the Executive Director or his or her designee.

(I) Expenses Reimbursable by Grant Funds. Notwithstanding the foregoing, travel expenses incurred for grant projects will be reimbursable only to the extent that reimbursement is allowable under the terms of the grant.

302.3 Per Diem for Members.

In lieu of expense reimbursement for attendance at Board Meetings, each Member may receive a per diem of One Hundred Dollars (\$100), plus Board-authorized reimbursement of expenses that are not related to attendance at Board Meetings. No Member may receive per diem payments for more than five (5) Board Meetings in any one calendar month.

**Article III**  
**Procedures for Claiming Expense Reimbursement**

303.1 Claim Form.

Reimbursement for expenses incurred on behalf of the Authority shall be claimed on an Expense Reimbursement form prescribed by the Executive Director.

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303.2 Time of Making Claim.

Individuals shall submit expense claims in a timely manner.

303.3 Nature of Claim.

Claims must be for actual and necessary expenses consistent with the policies and procedures of this Chapter and not for “constructive” expenses.

303.4 Required Information.

Each claim must clearly indicate the date, nature of expense and amount for which reimbursement is being claimed.

303.5 Reimbursement of Travel Expense.

If a claim is made for reimbursement of authorized air travel or any expenses associated with overnight travel, prior written authorization by the Authority must be attached.

303.6 Receipts.

Receipts or proof of payment must be submitted with the claim to substantiate expenditures for public-carrier fare, rental car, lodging (indicating the single rate), meals, conference or seminar registration fees in excess of \$30.00 and for any unusual items or items not specifically related to travel. Claims may be recorded on an expenses diary in lieu of receipts, when receipts are not easily obtainable or the receipt is for services rendered to a group of people from which the claim is derived.

303.7 Review.

The Executive Director shall review and approve expense claims submitted by Members up to \$250.00; the Chair of the Board shall review and approve expense claims submitted by Members which are in the amount of or greater than \$250.00; and the Chair of the Board shall review and approve expense claims submitted by the Executive Director. Claims submitted by staff, other than the Executive Director, shall be reviewed and approved by the Executive Director.



**CHAPTER 4**  
**CONFLICT OF INTEREST CODE**

**Article I**  
**Purpose And Terms**

401.1 Purpose.

The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

401.2 Terms.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the San Francisco Bay Area Water Emergency Transportation Authority (WETA).

Individuals holding designated positions shall file their statements of economic interests with the WETA, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by the WETA.

**APPENDIX A**  
**Designated Positions**

<u>Designated Positions</u>	<u>Assigned Disclosure Categories</u>
Members of the Board of Directors	1,2
Executive Director	1,2
General Counsel	1,2
Executive Administrator, Secretary to the Board	1,2
Managers	2
Consultants**	1,2

\*\*The Executive Director (or any executive officer) may determine in writing that a particular consultant, although a "designated position" is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that determination, a statement of the extent of the disclosure requirements. The Executive Director's (or any executive officer's) determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

**APPENDIX B  
DISCLOSURE CATEGORIES**

**Disclosure Categories**

1. An interest in real property is reportable if the property, or any part of it, is located within or not more than two miles from a potential terminal location that one could reasonably foresee being acquired or used to implement the plan required by Government Code Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act. An “interest in real property” includes leasehold interests.
2. A source of income, including gifts, loans and travel payments, an investment, or a management position (as a director, officer, partner, trustee, employee, or any position of management) is reportable if it falls within one or more of the following categories:
  1. The business is engaged in the provision of professional engineering, architectural, construction, environmental, transportation, economic, marine, consulting, or public relations services, or any other services that one could reasonably foresee being used to develop or implement the plan required by Government Code Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.
  2. The business is engaged in providing office equipment, furnishings, or supplies that one could reasonably foresee being used to develop or implement the plan required by Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.
  3. The business is engaged in providing legal or accounting services that one could reasonably foresee being used to develop or implement the plan required by Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.
  4. The business is engaged in the manufacture, sale, or distribution of equipment, or the offering of services, related to marine vessels, alternative fuels, or air pollution emission and water pollution discharge control technologies that one could reasonable foresee being used to develop or implement the plan required by Section 66540.32 of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.

**CHAPTER 5**  
**CONTRACT POLICIES AND PROCEDURES**

**Article I**  
**Introduction**

501.1 Purpose.

(A) This Chapter 5 sets forth the policies and procedures of the Authority for procurement, award and administration of contracts. The policies and procedures contained herein are advisory, not mandatory, and deviation therefrom shall not render any contract of the Authority void or voidable. Any deviation from the policies and procedures herein shall be authorized by the Executive Director.

(B) These policies and procedures apply to procurements undertaken in support of capital projects completely accomplished without Federal Transit Administration (FTA) funds and to those operating and planning contracts to the extent that the Authority does not receive FTA operating and planning assistance.

(C) Anything to the contrary herein notwithstanding, any procurement involving contracts with third parties under FTA assistance programs or to the extent that the Authority receives FTA formula funds for capital projects or operating assistance shall comply with the Code of Federal Regulations Title 49, Subtitle A, Part 18 and all applicable FTA procurement requirements, including but not limited to those contained or referenced in FTA Circular C 4220.1 ~~E~~F ("Third Party Contracting Requirements") and the FTA's Best Practices Procurement Manual. FTA procurement requirements, where applicable, shall not be waived or otherwise deviated from. If there is no local or State law on a particular aspect of procurement, the Federal contract law principles apply.

**Article II**  
**Basic Requirements and Exceptions**

502.1 Fair and Open Competition Requirement.

The underlying premise of the Authority's Contract Policies and Procedures is to foster fair and open competition and to obtain needed goods and services on a timely basis and in a cost-effective manner. The Authority should follow sound business and public policy principles in the procurement of goods and services so that these actions are performed efficiently and in a manner that serves the best interest of the Authority and the public.

502.2 Use of Non-Competitive and Emergency Procedures.

Procurement of goods and services without competition is authorized under limited conditions. Procurement of contracts may be made by non-competitive negotiation ~~only~~ under the following circumstances:

(A) In the case of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety or protection of Authority property;

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(B) ~~When~~Where the Authority has advertised the contract as required by this Code and has undertaken reasonable efforts to solicit potential contractors ~~but has~~and has obtained one bid or proposal or has otherwise determined that competition is inadequate;

(C) When the goods or services are to be provided by a government or other public entity;

(D) ~~The~~Where the Authority wishes to renew or extend the term of the contract and compensation provided pursuant to an existing contract under substantially the same terms and conditions, or the amendment of an existing contract that does not materially alter the terms and conditions of the contract (other than term and compensation), provided that such renewal, extension or amendment is authorized or permitted by the contract;

(E) ~~There~~Where, after reasonable investigation, the Authority determines that there is only a single source of supply available, or only one contractor is qualified to provide the service or product;

(F) ~~The~~Where the equipment to be purchased is of a technical nature and the procurement thereof ~~without~~ advertising is necessary in order to assure standardization of equipment and interchangeability of parts;

(G) ~~The~~Where the item to be purchased is a capital maintenance item that is available only from the original manufacturer or supplier;

(H) ~~The~~Where the contract is for employment services;

(I) ~~The~~ Where the contract is one for which only per diem and travel expenses are paid and there is no payment for services rendered; ~~and~~

(J) Where the procurement is a Micro-Purchase involving the purchase of office supplies and materials and the amount is less than \$3,000.

(K) Where the purchase is pursuant to a joint purchase or similar arrangement whereby another public agency procures goods or services on a bulk basis pursuant to procurement policies and procedures applicable to that agency; and

(L) When the Board otherwise determines that award of a contract pursuant to competitive procedures identified in this Chapter 5 is either infeasible or would not produce an advantage, which determination shall be supported by written justification.

### 502.3 Non-Discrimination in Procurement.

Contracts entered into by the Authority shall contain clauses as required by applicable law prohibiting discrimination against any person or group of persons on account of race, color, religion, creed, national origin, ancestry, physical handicap, medical condition, age, marital status, sex or sexual orientation in the performance of the contract.

~~502.4 — Verifying Corporate Qualification to do Business in California.~~ 502.4 Types of Procurement Methods

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~~In order to insure all obligations due the Authority are fulfilled, the Authority shall obtain verification from all contractors and vendors doing business with the Authority that they are currently licensed as applicable and as required to perform the services or provide the materials or products as provided in the contract, and qualified to do business in California and are in compliance with and in good standing under applicable laws and regulation. Verification shall be obtained prior to the award of any contract to a contractor or vendor.~~

(A) Micro-Purchases. This method, requiring only one quote, may be used for any purchase of supplies or services that does not exceed \$3,000.

(B) Small Purchases (up to \$100,000). This informal procurement method involves obtaining price or rate quotations from an adequate number of qualified sources (generally 3) in order to determine a fair and reasonable price and make a contract award.

(C) Sealed Bids. A formal competitive sealed bid process involves procurement through an Invitation for Bid process. Generally, formal bid documents are prepared and advertised and an award is made to the lowest responsive and responsible bidder. This method and related procedures are described in more detail in Article IV of Chapter 5.

(D) Competitive Proposals. This competitively negotiated procurement method may be used for purchase of non-professional services (through a Request for Proposal process) or professional services (generally through a Request for Qualifications process). This method and related procedures are described in more detail in Article V of Chapter 5.

(E) Alternative Methods of Procurement. Alternative methods of procurement for design-build contracts, construction management at-risk contracts and public private partnerships may be utilized by the Authority in cases where it may be efficient or advantageous for the Authority to enter into contracts that include responsibility for construction services as well as other services that are not appropriate for sealed bidding and or which the Authority does not wish to use a competitive negotiation procurement process. This method of procurement and related procedures are described in more detail in Article VI of Chapter 5.

(F) Non-Competitive Purchases. These are used for the purchase of approved sole source procurements, emergency procurements, intergovernmental agreements, and other procurements as may be approved by the Executive Director or Board of Directors in light of special circumstances that justify this method of procurement as further described and discussed in Section 502.2.

502.5 Purchasing Agent Designation.

The Authority's Executive Director or his or her designee shall act as purchasing agent for and on behalf of the Authority.

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502.6 Authority to Issue Requests for Proposals, Requests for Qualifications and Invitations for Bids; Exception for RFP, RFQ or IFB Consistent with Approved Budget.

Requests for Proposals (RFP), Requests for Qualification (RFQ) and Invitations for Bids (IFB) shall be prepared by or under the supervision of Staff and shall not be released until approved and authorized for release by the Board. The foregoing notwithstanding, an Invitation for Bids, Request for Proposals or Request for Qualifications may be released without Board approval if the total cost of the goods or services to be procured is estimated by Staff or the consultant preparing the IFB, RFQ or RFP to be not in excess of \$~~100,000~~, 250,000, and is consistent with and not in excess of the amount allocated in an approved and current budget of the Authority.

502.7 Existing Contracts.

The policies and procedures contained herein shall not apply to any contract awarded by the Authority prior to the adoption of this Chapter 5. Any amendments to this Chapter 5 are only applicable to contracts entered into after approval of the amendments.

**Article III**  
**Approval And Award Of Contracts**

503.1 Requirement of Board Approval.

Except as otherwise provided herein, all procurements and contracts are subject to approval by the Board.

503.2 Small Contracts.

~~Procurement and~~ In addition to contracts approved pursuant to Section 106.4, award of Small Contracts may be authorized by the Executive Director without Board approval, ~~for Micro-Purchases and Small Purchases, as described in Section 301.3,~~ subject to the following:

(A) Where the consideration to be rendered under a contract is other than monetary, such consideration must be valued on a monetary basis for the purpose of determining whether approval of the Board is required.

(B) If it is determined by the Executive Director that more than one contract may be awarded to a single contractor in any one fiscal year for work normally considered one undertaking and the total of the contracts exceeds \$~~25,000.00~~, 100,000.00, all contracts awarded following such determination, regardless of amount, shall be submitted to the Board for approval; provided that purchases during a single fiscal year shall not be split into multiple contracts for the purpose of evading the Board approval requirement.

503.3 Rejection of Bids and Proposals.

Procedures for review of and rejection or award of contracts procured by IFB, RFP or RFQ are determined by the procurement document for the specific procurement and take precedence over the general provisions below. Where the procurement document does not set forth such procedures, or for procurements other than by IFB, RFP or RFQ, the following rules apply:

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(A) The Authority may reject all bids and proposals received that are determined to be non-responsive or not within the competitive range, including proposals made by proposers who refuse to execute any required representations and certifications.

(B) Staff may recommend rejection by the Board ~~because~~ for any one or more of the following reasons:

(1) All otherwise acceptable bids or proposals received exceed the ~~anticipated cost~~ funds budgeted and available for the contract or, in the case of contracts for which payment will be made to the Authority, offer inadequate compensation;

(2) The bids or proposals were not independently arrived at in open competition, were collusive or were submitted in bad faith; or

(3) Rejection is otherwise determined to be in the Authority's best interest.

(C) If, after rejecting bids, the ~~Authority~~ Executive Director determines and declares that, in ~~its~~ his or her opinion, the services, supplies, equipment, or materials may be purchased at a lower price in the open market, the Authority may proceed to purchase these services, supplies, equipment or materials in the open market without further observance of the provisions regarding contracts, bids or advertisements.

503.4 Contracts Containing Extraordinary Provisions.

~~Any~~ Except with respect to Small Contracts, notwithstanding any provision of this Administrative Code to the contrary, any contract containing any of the following provisions shall be subject to approval of the Board ~~regardless of the monetary amount of the contract:~~

(A) Any provision whereby the Authority agrees to indemnify or hold harmless any party to the contract or any third person against or on account of, any claim, liability, or matter arising out of, or connected with, the contract, other than reciprocal indemnification clauses whereby the indemnifying party indemnifies the other party against liability incurred by such party arising from the acts or failure to act of the indemnifying party.

(B) Any provision whereby the Authority agrees to assume responsibility for matters beyond its control (e.g., in rental contracts, a promise to assume full responsibility for damage to rented equipment, regardless of the cause of the damage).

(C) Any provision creating a contingent liability against the Authority (e.g., vendors' boilerplate rental contracts frequently contain clauses obligating the user of rented equipment to assume responsibility for contingent liabilities).

(D) Contracts of a hazardous nature or involving the generation, transportation, disposal or other handling of hazardous or toxic wastes (e.g., contracts for grading, dredging, excavating and handling toxic materials).

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**Article IV**  
**Sealed Bids**

504.1 Sealed Bids – Generally.

A competitive sealed bid process shall be used for all procurements except as otherwise provided in Section 502.2 (Use of Non-Competitive and Emergency Procedures) or in Article V (Competitively Negotiated Contracts Including Professional Services), Article VI (Alternative Method for Procurement of Contracts Including Construction and Other Services), or Article XI (Purchase Of Materials, Supplies And Equipment) of this Chapter 5. [A competitive sealed bid process shall be procured through an IFB procurement process.](#)

504.2 Use of Procedures Set Forth in Public Contract Code.

(A) Although not otherwise applicable to the Authority, the Authority hereby adopts the procedures set forth in the California Public Contract Code ("PCC") Sections 20161 through 20166 and 20170 through 20174, subject to the modifications as set forth herein, for use when sealed bids are called for by this Code.

(B) For purposes of this Article IV:

(1) All references in said PCC Sections to "city" or "state agency" or "public agency" shall mean the Authority, references to "legislative body" shall mean the Board, and references to "ordinance" shall mean action of the Board.

(2) Notwithstanding PCC Section 20162, the threshold expenditure for a "public project" that triggers the requirement for sealed bidding is ~~\$25,000.00.~~ [100,000.00.](#)

504.3 Notice and Advertisement.

Notwithstanding PCC Section 20164, the notice inviting bids shall be posted at the offices of the Authority, or other place(s) designated by the Executive Director, and advertised in a newspaper designated by the Executive Director.

**Article V**  
**Competitively Negotiated Contracts**  
**Including Professional Services**

505.1 Use of Competitively Negotiated Procurement Procedures.

This Article V outlines the Authority's procedures for competitively negotiated procurements, also known as a competitive ~~Request for Proposals ("RFP")~~ [RFP process, or in the case of the procurement of professional services on a qualifications basis, a competitive RFQ process.](#) The procedures used in this Article V shall be used for:

(A) Contracts for professional services, including architectural, engineering, legal, legislative advocacy, planning, and accounting services;

(B) Purchases of specialized equipment, computers, telecommunications equipment, fare collection equipment, microwave equipment and other related electronic



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equipment and apparatus, if the Board has approved the use of the procedures set forth in this Chapter 5 for a particular procurement.

(C) Other contracts that the Board has determined are to be competitively negotiated.

505.2 Solicitation of Proposals – General.

(A) An RFP or RFQ shall be the solicitation used to communicate the Authority's requirements to prospective contractors when the negotiated method of seeking competitive proposals is used. Staff shall furnish identical information concerning a proposed procurement to all prospective contractors receiving the RFP or RFQ.

(B) In determining sources to solicit, staff shall use all means available to ensure that an adequate number of potential qualified proposers receive the solicitation in order to obtain the maximum open and competitive competition. Pre-solicitation announcement notices shall be published in a manner reasonably likely to attract proposers.

505.3 Proposal Evaluation.

(A) The evaluation factors that will be considered in evaluating proposals shall be tailored to each procurement and shall include only those factors that will have an impact on the source selection decision. The evaluation factors that apply to a particular procurement and the relative importance of those factors are within the broad discretion of the Executive Director. All factors that are to be considered in an award of a contract must be identified in the RFP or RFQ and must allow for a fair and equitable evaluation of all proposals. Evaluation criteria could include matters such as previous experience providing similar services, qualifications of team members, satisfaction of previous clients, capacity to provide personnel when needed, and approach to providing the services.

(B) The Executive Director, in his or her discretion, may establish a formal evaluation board to evaluate proposals in accordance with the stated evaluation criteria and either recommend a selection to the Executive Director or, if authorized by the Executive Director to do so, itself select the recommended source for contract award.

(C) The most qualified or "shortlisted" firms may be asked to further present their qualifications in an interview. The shortlist of firms will be determined by the Executive Director. The evaluators will consider the results of the interviews in making the selection recommendation.

505.4 Selection and Negotiations.

The methods and procedures for selection and negotiation shall be determined by the Executive Director and set forth in the ~~request for proposals (RFP)~~ RFP or RFQ. The selection decision is subject to the approval of the Board.

505.5 Special Provisions Applicable To Procurement of Professional Services Contracts.

If the procurement is for professional services listed in California Government Code Section 4525, in addition to meeting the other requirements of this Article V, the procurement process shall comply with applicable requirements of Government Code Sections 4525 *et seq.* In

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particular, Government Code Section 4526 states that the procurement procedures for such contracts must:

(A) assure that such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public;

(B) assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Government Code Section 14837;

(C) specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration; and

(D) specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract that would subject those employees to the prohibition of Government Code Section 87100.

**Article VI**  
**Alternative Method For Procurement**  
**Of Contracts Including**  
**Construction And Other Services**

506.1 Purpose.

In certain cases, it may be efficient or advantageous for the Authority to enter into contracts that include responsibility for construction services as well as other services that are not appropriate for sealed bidding and for which the Authority does not wish to use a competitive negotiation procurement process. Such contracts could include design-build contracts (including design services as well as construction services), construction management at-risk contracts (including professional services as well as a guarantee of the cost of construction services) and public-private partnerships (which may include professional services, construction services, finance services and/or operation and maintenance services).

506.2 Process.

Procurements under this Article VI shall be conducted in accordance with the terms, conditions, processes, rules and procedures as stated in the procurement documents. To the extent not covered in the procurement documents (and to the extent covered, not inconsistent therewith), the procurement may include any of the following:

(A) Procurement by RFP or RFQ or through a multi-stage process in which the Authority invites prospective proposers, through a Request for Information ("RFI") or similar process, to submit statements indicating the potential proposer's approach to the project and interest in proposing;

(B) Prequalification or short listing or a similar process whereby a shortened list of potential proposers are invited to submit proposals;

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(C) Final evaluation of proposals based on qualifications and/or best value. For purposes of this Article, "best value" means a value determined by objective criteria, including, but not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the Authority. The Authority shall develop and adopt criteria for making that evaluation prior to evaluation of a proposal.

(D) Negotiations with proposers prior to award.

(E) Requests for best and final offers from proposers.

(F) Acceptance of unsolicited proposals, with issuance of requests for competing proposals. The Authority shall not award a contract to an unsolicited bidder without receiving at least one other responsible bid.

506.3 Evaluation and Award.

To the extent not inconsistent with the provisions of the procurement documents:

(A) When evaluating a proposal submitted by the proposer, the Authority may award a contract on the basis of the proposer's qualifications, the lowest bid or best value.

(B) The proposer shall have the following qualifications:

(1) Evidence that the members of the proposer's team have completed, or have demonstrated the experience, competency, capability, and capacity to complete, a project of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the proposer's team has the capacity to complete the project.

(2) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(3) Evidence that establishes that members of the proposer's team have the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

~~506.2~~ 506.4 ~~Methods, Procedures~~ and Criteria.

(A) Use of alternative procurement procedures under this Article VI requires Board authorization. The Executive Director shall determine the methods, procedures, and

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criteria for selection. If the Board has authorized the solicitation of such a contract for a particular procurement, the Authority shall follow the procedures set forth in this Article VI and such other procedures as have been established by the Executive Director.

(B) The procurement documents shall include all of the following:

(1) A reasonable description of the services to be provided and work to be performed;

(2) A description of the format that proposals must follow and the elements they must contain, including the qualifications and relevant experience of the design professional and the contractor;

(3) A summary of the criteria that will be used in evaluating the submittals; and

(4) The date on which the proposals are due, and the timetable that will be used in reviewing and evaluating the proposals.

~~506.3~~506.5      Contracts That Include Professional Services.

If a contract subject to this Article VI includes professional services of the type listed in Government Code Section 4525, the selection process for such contract shall comply with all applicable requirements of Government Code Sections 4525 *et seq.* as described in Section 505.5 of this Code. The statutory requirement to select contractors based on demonstrated competence and qualifications may be satisfied by a shortlisting step that includes evaluation of the design professional's qualifications.

**Article VII**  
**Standard Form Contracts**

507.1      Preparation of Standard Form Contracts.

~~The~~For Small Contracts and other procurements where standard specifications for goods or services to be procured are available, the Executive Director shall prepare, or cause to be prepared, standard agreements for procurement of goods and services. The standard agreements shall be approved as to form by legal counsel.

507.2      Criteria for Preparation of Contracts.

Each standard agreement and every other contract entered into by the Authority shall be prepared utilizing the following criteria:

(A) A clear and accurate identification of the parties.

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(B) A clear and complete statement of the work, services, or product to be performed, rendered, or provided.

(C) A clear expression of the maximum amount to be paid, if any, and the basis upon which payment is to be made.

(D) A statement of the time for performance or completion of the contract.

507.3 Purchase Orders.

In lieu of a standard agreement form, the Executive Director may prepare or cause to be prepared a form of purchase order for the purchase of materials, supplies and equipment procured in accordance with Article XI below.

**Article VIII**  
**Supporting Documents**

508.1 Responses to Solicitations.

**Bids** Unless the procurement documents make them a part of the contract, bids and proposals received together with documents comprising the solicitation request may, but are not required to, accompany the contract to final approval by the Board.

508.2 Explanation of Failure to Obtain Three Bids.

In those instances where sealed bidding is provided for hereunder and fewer than three bids are obtained, or an award is made not to the lowest bidder, a full explanation and justification must accompany the contract for final approval.

508.3 Local Government Entity/Cooperative Agreements.

If deemed necessary or advisable upon consultation with legal counsel, where one of the contracting parties is a county, city, district, or other local public body, the contract shall be accompanied by a copy of the resolution, order, motion, or ordinance of the local governing body granting authority to enter into the proposed contract and approving and authorizing execution of the agreement.

508.4 Authorized Signatures.

Authority to execute contracts is limited to those officers, staff and members of the board who have been duly authorized by the Board. The Authority will maintain a record for audit purposes of all Members who have been authorized to execute contracts on behalf of Authority. The Executive Director may execute on behalf of the Authority and without formal Board approval, those contracts he or she is authorized to approve pursuant to this Chapter 5.

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508.5 Public Entity Expending Authority Funds Right to Audit.

Every Authority contract wherein a government entity is receiving Authority funds shall require that the government entity place in each of its contracts involving an expenditure of Authority funds in excess of ~~\$25,000.00~~, 100,000.00, a provision which indicates that the contracting parties may be subject to an examination and audit by the Authority's Executive Director or his or her designee for a period of not less than three years after final payment under the contract.

508.6 Retention of Evaluations.

~~All~~ Unless otherwise provided in the procurement documents, all proposals and any evaluations and rating sheets regarding such proposal, shall be retained for a period of one year from the date a contract is awarded. Copies shall be made available to the Board upon request, provided that if such documents would thereby become public information, they shall be redacted as appropriate to maintain confidentiality of any information (such as the names of the evaluators and the identity of references contacted) that would not otherwise be required to be disclosed publicly.

**Article IX**  
**Modification Or Amendment Of Contracts**

509.1 Contracts Subject to Board Approval.

Contracts subject to the approval of the Board must also have such approval for a modification or amendment thereto, with the exception of:

(A) Amendments to contracts limited to an extension of the date of completion of performance for a period of one year or less. The Executive Director may approve such amendments. A contract may only be amended once under this provision.

(B) Amendments that change the amount of the contract, provided that the amendment does not increase the contract amount by more than 10%. Multiple amendments of a contract that in the aggregate increase the contract amount by more than 25%, shall, upon the aggregate amendments exceeding such amount, be subject to Board approval.

(C) Contracts let or awarded on the basis of any law requiring competitive bidding may be modified or amended only if the contract so provides and if authorized by the law requiring competitive bidding.

509.2 Modifications or Amendments Taking Contracts Outside Scope of Exemption.

If an amendment to a contract has the effect of taking the contract as amended outside the scope of an exemption from the approval by the Board, such as an increase in monetary amount, or an agreement by the Authority to indemnify or save harmless any person or entity, the amendment must be approved by the Board.

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509.3 Modifications or Amendments Subjecting Contract to Lease/Purchase Analysis Requirements.

If the amendment has the effect of making the contract subject to the lease/purchase analysis requirements contained in Section 510.5 of this Code, the provisions of these policies and procedures related to lease/purchase analysis shall be complied with.

**Article X**  
**Contracts For Lease And Rental Of Equipment**

510.1 Application of Article.

The provisions of this Article X shall apply to all equipment leased or rented by the Authority except automobiles provided to Authority staff under the terms of a separate employment agreement.

510.2 Contract Provisions.

Contracts for lease and rental of equipment must clearly provide that the Authority does not have responsibility for loss or damage to the rented equipment arising from a cause beyond the control of the Authority. Any provision obligating the Authority to return the equipment in good condition, subject to reasonable wear and tear, must also except or exclude loss or damage arising from causes beyond the control of the Authority. The contract must clearly restrict the Authority's liability for damage or loss to that resulting from the negligent act or omission of the Authority or its officers, staff, or agents acting within the course and scope of their employment with the Authority. If the Authority does not elect to maintain the equipment, the contract shall place the obligation on the contractor, as lessor, to keep the equipment in good working order and to make all necessary repairs and adjustments without qualification, with a clear right in the Authority to terminate or cease payment for repairs and adjustments without qualification, to terminate or cease paying rent should the contractor fail to maintain the equipment properly. For this purpose, the contractor's representatives shall be given full and adequate access to the equipment at reasonable times.

510.3 Renewal Options.

For the purpose of determining whether contracts containing renewal options are subject to approval of the Board, the total cost and term of the rental contract shall be computed by including the cost and term of all renewal options included in the contract.

510.4 Purchase Options.

Approval by the Board of the rental agreement does not include approval for the exercise of the option to purchase. The Board must approve any exercise of the option to purchase equipment in advance.

510.5 Lease/Purchase Analysis.

A lease/purchase analysis shall be prepared for each contract to lease equipment where the contract exceeds \$25,000.00 or the duration of the lease exceeds twelve months. This requirement does not apply to contracts for equipment leased or rented from government

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agencies. If the lease/purchase analysis indicates that it is more economical to purchase, it will be necessary to include a justification explaining why it is in the Authority's best interest that the equipment be leased. A lease/purchase analysis based on a "zero" salvage value of the equipment will normally be acceptable only when mechanical useful life and program useful life are the same. When bids are obtained, prices for both leasing and purchasing will be secured to facilitate the making of the analysis.

**Article XI**  
**Purchase Of Materials, Supplies And Equipment**

511.1 Purchase of Materials, Supplies and Equipment with Unit or System Prices ~~Between \$25,000.00 and \$50,000.00~~ up to \$100,000.00.

In lieu of issuing a written request for bids or proposals, and consistent with the definition of a Small Purchase under Section 301.3, the Executive Director may obtain a minimum of three oral or telephone quotations from vendors selected by the Executive Director, for acquisition of materials, supplies and equipment having a unit or system price of ~~more than \$25,000.00 and~~ not more than ~~\$50,000.00~~100,000.00 and for which there are standard specifications (e.g., certain paper supplies, building materials). The Executive Director or his or her designee shall solicit quotations. Written confirmation shall be obtained from each vendor submitting an oral quotation. Purchases may be documented through purchase orders rather than other standard form or customized contracts.

511.2 Purchase of Materials, Supplies and Equipment with Unit or System Prices of more than ~~\$50,000.00~~100,000.00.

Purchases of materials, supplies or equipment having a unit or system price of more than ~~\$50,000.00~~100,000.00 should be made in accordance with the sealed bidding, competitive negotiations or alternative procurement processes identified in Articles IV, V and VI of this Chapter 5. Purchases may be documented through standard or customized contract forms.

**Article XII**  
**Protests**

512.1 Right to File ~~Protest~~Protests.

A ~~party~~person that has indicated an interest in proposing or bidding on a contract, or that has timely submitted a bid or proposal in response to any procurement of the Authority may file, in the case of a protest prior to award of the contract, a protest objecting to the ~~award of a contract.~~form or content of the RFP, RFQ or IFB within the time periods and in accordance with the procedures outlined in Sections 512.2(A) and (B) below. In the case of a protest filed after award of a contract, the protest shall be filed in accordance with the procedures and within the time periods stated in Section 512.2(C) below. The following procedures apply in the event that the RFP, RFQ or IFB does not contain relevant protest procedures or to the extent that a procedure set forth below is not set forth in the RFP, RFQ or IFB. To the extent that any provision below conflicts or is otherwise inconsistent with a process or procedure set forth in an RFP, RFQ or IFB, the provision in the RFP, RFQ or IFB will prevail. To the extent that a provision of an RFP, RFQ or IFB does not permit protests, that prohibition will prevail over and negate a process permitted below that is inconsistent with that prohibition.



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~~512.2~~ ~~Requirements for Protest.~~ 512.2 Requirements for Protests.

~~In order for a protest to be considered properly and timely filed, the protest must:~~

(A) For protests filed in advance of submittal of proposals, statements or qualifications or bids, the following procedures shall apply:

(1) Prospective proposers and bidders are encouraged to suggest changes, modifications, and improvements to the RFP, RFQ or IFB. The deadline for submitting suggested changes, modifications, and proposals shall be five (5) Working Days after the pre-proposal conference if any, and if not no later than 20 Working Days prior to the date that submittals are due. Such changes, modifications and proposals shall be made in writing to the Authority representative identified in the RFP, RFQ or IFB.

(2) If a proposed change, modification, or improvement is accepted by the Authority, said change, modification or improvement shall be incorporated into the RFP, RFQ or IFB through an addendum sent to all potential proposers or bidders that have received the RFP, RFQ or IFB.

(3) Protests dealing with restrictive specifications or alleged improprieties in solicitation of proposals or bids must be filed no later than ten (10) Working Days prior to the date for submittal of proposals, statements of qualifications or bids. Protests shall be in writing and addressed to the Executive Director.

(4) The protest shall contain a statement describing the reasons for the protest and any supporting documentation. Additional materials in support of the initial protest will only be considered if filed within the time limit specified above. The protest shall indicate the ruling or relief desired from the Executive Director.

(5) Materials submitted by a protester or bidder will not be withheld from any interested party, except to the extent that the withholding of information is permitted or required by law or regulation. If the protest contains proprietary material, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears. Notwithstanding a designation of material as proprietary, the Executive Director shall have the discretion to determine whether or not such material should be withheld from the other interested parties and if the Executive Director determines that the material should be made available, the protesting potential proposer or bidder waives any claim based on such disclosure.

(B) For protests filed after submittal of proposals, statements or qualifications or bids, but prior to award of the contract, the following procedures shall apply

(1) Except as otherwise provided herein, proposals will not be opened prior to resolution of the protest, and the Executive Director shall follow the review and decision process outline herein, modified as deemed necessary in the Executive Director's sole discretion. Where the protest is filed before award, the Award will not be made prior to resolution of the protest, unless the Executive Director determines that:

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(a) Items to be procured are urgently needed, or delivery or performance of the contract will be unduly delayed by failure to make Award promptly; or

(b) Failure to make award will cause undue harm to the Authority.

(2) In the event an award is to be made while a protest is pending, the FTA shall be notified if the procurement is subject to FTA procurement rules.

(C) For protests filed after award of a contract, the following procedures shall apply:

~~(A) Be 1~~ The protest shall be filed in writing with the Executive Director of the Authority, by hand delivery, not later than ~~three~~ the close of business days on the day that is three (3) Working Days after the day on which the Board takes formal action awarding a contract.

~~(B) Be 2~~ The protest shall be filed by an actual bidder or proposer responding to the procurement. No other party has standing to protest.

~~(C) Identify 3~~ The protest shall identify the specific procurement involved.

~~(D) Identify 4~~ The protest shall identify the specific recommended action or decision being protested.

~~(E) Specify 5~~ The protest shall specify in detail the grounds of the protest, the facts supporting the protest and the status of the protester.

~~(F) Include 6~~ The protest shall include all relevant supporting documentation with the protest at the time of submittal.

~~If~~ (D) Except as modified by the procurement documents, if a protest does not comply with ~~each and all of~~ the above ~~six~~ requirements, the protest will not be considered and will be returned to the protester. ~~The~~

(E) Except with respect to supporting materials the protester asserts contain confidential material or information, the protester shall concurrently file a copy of the detailed statement with the other proposed or, in the case of a protest after award, actual bidders or proposers.

(F) Evidentiary statements, if any, shall be submitted under penalty of perjury. The protester shall have the burden of proving its protest by clear and convincing evidence. Failure to file a protest within the applicable ~~three-day~~ period shall constitute a waiver of the right to protest the determination, authorization or award, as applicable, other than any protest based on facts not reasonably ascertainable as of such date.

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512.3 Statements by Other Parties.

Other potential or actual bidders or proposers may file by hand delivery to the Authority statements in support of or in opposition to the protest within five ~~business days~~ (5) Working Days of the filing of the ~~detailed statement of~~ protest described in Section 512.2. The Authority shall promptly forward copies of any such statements to the protester. Any evidentiary statements shall be submitted under penalty of perjury.

512.4 Resolution of Protest.

(A) The Executive Director of the Authority will respond to protests within five (5) Working Days of receiving the protest, acknowledging receipt of the protest. A conference on the merits of the protest may be held with the protester and the Executive Director will promptly attempt to resolve a properly filed protest or perform additional fact-finding.

(B) If the Executive Director is able to resolve the protest at this stage, a letter confirming resolution shall be sent to the protester.

(C) If the Executive Director is unable to resolve the protest within seven ~~business days~~ (7) Working Days after receipt of the protest, he or she may establish an independent team to evaluate the merits of the protest. The Executive Director will determine the timeline for such evaluation.

(D) Within ~~two business days~~ ten (10) Working Days of his or her receipt of ~~the~~ recommendation of the evaluation team, the Executive Director will review the recommendation and notify the protester in writing of the decision on ~~whether or not to deny~~ the protest.

(B) If (E) If at any time during this process, additional information is required by the Authority from the protester, such additional information shall be submitted by the protester as expeditiously as possible, but no later than three (3) Working Days after receipt of a request.

(F) Subject to FTA review as outlined in Section 512.5 below, for protests involving award of the contract, if the Executive Director's decision is to deny the protest, the contract shall be executed, ~~subject to resolution of the protest. If,~~

(G) For protests involving award of the contract, if the Executive Director's decision is to uphold the protest, a recommendation will be made to the Board to ~~reject~~ either:

(1) Reject all proposals or bids, cancel the procurement and solicit new proposals or bids, or ~~to proceed~~

(2) Proceed with the procurement consistent with the decision in response to the protest.

CHAPTER 12

CHAPTER 13

~~CHAPTER~~ \_\_\_\_\_ ~~14.~~  
~~PERSONNEL AND SALARY MANUAL AND PROCEDURES~~ 512.5 FTA Review.

*In progress*

(A) If a protester is not satisfied with the decision made by the Authority, and the procurement is subject to FTA procurement rules and requirements, the protester may file protest with the FTA. Review by FTA will be limited to:

- (1) Violation of federal law or regulations;
- (2) Violation of the Authority's protest procedures described herein, or failure by the Authority to review the protest consistent with such procedures.

(B) Protests must be filed with FTA (with a concurrent copy filed with the Authority) within five (5) Business Days after the Authority renders a final decision, or five (5) Business Days after the protester knows, or has reason to know, that the Authority failed to render a final decision. After five (5) Business Days, the Authority will confirm to FTA that FTA has not received protest on the contract in question.

(C) FTA Circular 4220.1F is available for review at the Authority's office. A copy and additional information may also be obtained from the FTA at the following address:

Federal Transit Administration  
Region IX  
201 Mission Street – Suite 2210  
San Francisco, California 94105

(D) The Authority shall not be responsible for responding to any protest that is subject to FTA review, if the protest is not filed in accordance with FTA protest procedures or in a timely manner with FTA.

MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director**

**SUBJECT: Consider Approval of a Project Labor Agreement for the North Bay Operations and Maintenance Facility Project Construction**

**Recommendation**

Consider approval of a Project Labor Agreement with the Napa-Solano Building & Construction Trades Council for use in the construction of the North Bay Operations and Maintenance Facility Project.

**Background**

Project Labor Agreements (PLA) are generally a contractually binding agreement negotiated between a construction project owner and the building and trades labor unions. It is a form of pre-hire agreement, negotiated before any employees are hired, and becomes a part of the bid specification that all winning contractors must follow. Once negotiated, a PLA remains in effect for the duration of a project. While the language of every PLA is different, PLA's typically guarantee pre-established wages, work rules, and benefits across the multiple crafts employed on a project which results in leveling the playing field for bidders. They also generally provide grievance procedures for settling disputes and include no-strike and no-lockout provisions in order to promote labor harmony and allow for quick resolution of issues.

**Discussion**

The Authority has recently been approached by the Napa-Solano Building & Construction Trades Council (Council) to develop and utilize a PLA as a part of the upcoming construction of the North Bay Operations and Maintenance Facility project (Project) on Mare Island in Solano County. The Council has indicated that prior to this project transferring from the City of Vallejo (City) to the Authority for implementation they had been working with the City to utilize a similar agreement for the Project

At the May 23, 2013 meeting of the Board of Directors (Board), staff identified this request, acknowledging Director Donovan's interest in utilizing such an agreement, if allowable, and indicated that we would work with the Council with the objective of developing an agreement for Board consideration at the June meeting in order to maintain the ability to utilize such an agreement for Package 1 Landside work. This work is scheduled to be released for bid on June 28 and is on an expedited delivery schedule due to the fact that certain project funds transferred from the City to the Authority for use are due to expire if they are not awarded as a part of a construction contract by August 31, 2013.

Staff has worked diligently with the Council over the past several weeks to develop a PLA satisfactory to all parties, but is not yet in a position to recommend a final form of agreement. Staff hopes to have a final agreement completed for Board consideration at the June 27 meeting.

**Fiscal Impact**

The fiscal impact of this item is unknown at this time.

\*\*\*END\*\*\*

MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director  
Lynne Yu, Manager, Finance & Grants**

**SUBJECT: Approve FY 2012/13 Proposition 1B Program of Projects and  
Authorize Agency Officials to Execute Program Requirements**

**Recommendation**

Authorize the following actions related to the FY 2012/13 Proposition 1B Waterborne grant program:

- 1) Approve a list of FY 2012/13 Proposition 1B Waterborne projects for transmittal to the California Emergency Management Agency; and
- 2) Authorize the Executive Director, Attorney and Finance and Grants Manager to execute grant program documents and to take all other actions as may be required to obtain funding.

**Background**

The Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 was approved by voters as Proposition 1B (Prop 1B) on November 7, 2006. Prop 1B authorizes the issuance of general obligation bonds for the specified purposes, for projects that 1) provide increased protection against a security or safety threat and 2) increase the capacity of waterborne transit agencies to provide disaster response.

Prop 1B funds in the amount of \$25 million were authorized as a part of the FY 2012/13 State Budget. The funds made available in FY 2012/13 represent the sixth year increment of a total of \$250 million authorized for the waterborne element of the Prop 1B program, California Transit Security Grant Program – Regional Public Waterborne Transit (CTSGP-RPWT). Pursuant to California Government Code Section 66540.8, as set forth in SB 976, WETA is the designated recipient of these funds which are managed through the California Emergency Management Agency (Cal EMA).

**Discussion**

Cal EMA has issued program guidelines for the \$25 million FY 2012/13 CTSGP-RPWT funds made available to support WETA's efforts to develop a regional waterborne emergency response capability for the San Francisco Bay Area. As required in Phase I of the grant process, staff has identified the following recommended program of projects for the FY 2012/13 grant funds:

<u>Project</u>	<u>Amount</u>
1. Operations and Maintenance Facilities	\$ 2,000,000
2. WETA Ferry Vessels	\$10,000,000
3. San Francisco Berthing Facilities	<u>\$13,000,000</u>
Total	\$25,000,000

This program focuses on providing: 1) the final funding needed to construct the Central Bay and North Bay Operations and Maintenance Facilities; 2) funds to support the procurement of new (expansion and replacement) ferry vessels; and 3) funds to support the construction of expanded berthing capacity in downtown San Francisco to support existing and expanded services. These projects are integral to WETA's mandate to develop and operate a regional ferry system to serve regular and emergency response transportation needs. A more detailed description of these projects is provided in **Attachment A** to this report.

Phase II of the grant process includes Cal EMA's review and approval of the program of projects and WETA's submittal of the Financial Management Forms Workbook, Board Resolution and program Grant Assurances to Cal EMA.

While Cal EMA's program schedule provides for award of funds in the coming months, the actual availability of project funds is subject to future state bond sales which are not yet scheduled at this time.

**Fiscal Impact**

This item supports actions necessary to secure \$25 million FY 2012/13 Proposition 1B funds to support WETA's capital program.

\*\*\*END\*\*\*

**Attachment A**  
**Proposition 1B Program of Projects**

	<b>Recommended FY2012-13 Prop 1B Project Totals</b>	<b>FY2012-13 Project Notes</b>
<b>Projects Recommended for Funding</b>		
<b>1. Operations &amp; Maintenance Facilities</b>	\$2,000,000	<i>This project will provide funds to support the construction of operations and maintenance facilities in the Central and North San Francisco Bay. These facilities will handle all routine servicing and maintenance work for WETA's fleet of passenger only vessels as well as support emergency response services. These facilities are critical components for WETA's ability to respond effectively to regional disasters.</i>
<b>2. WETA Ferry Vessels</b>	\$10,000,000	<i>This project will provide funds to construct passenger only vessels to enhance WETA's regional ferry system and its ability to provide waterborne emergency response in the event of a regional disaster. The funds will support the construction of new expansion vessels as well as replacements for end-of-life vessels.</i>
<b>3. San Francisco Berthing Facilities</b>	\$13,000,000	<i>This project will construct up to three new ferry terminals at the San Francisco Downtown Ferry Building. The new terminals are intended to serve future WETA services as well as to provide expanded emergency response capabilities on the Bay. A critical component included in the design of the new terminals is the development of emergency and disaster recovery functionalities at the site which includes ferry patron staging areas and queuing facilities for both commuter and disaster recovery services WETA is charged with providing.</i>
<b>Total Recommended Program</b>	<b>\$25,000,000</b>	



**MEMORANDUM**

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director**  
**Kevin Connolly, Manager, Planning & Development**  
**Mike Gougherty, Senior Planner**

**SUBJECT: Approve Amendment to Agreement with KPFF, Inc. for Design and Engineering Services for the Central Bay Operations and Maintenance Facility**

**Recommendation**

Approve Amendment No. 4 to Agreement #09-007 with KPFF, Inc. in the amount of \$4,000,000 to provide Phase II Preliminary and Final Design services for the Central Bay Operations and Maintenance Facility and authorize the Executive Director to execute the amendment.

**Background**

In August 2009, WETA released a Request for Qualifications (RFQ) to provide design and engineering services for the Central Bay Operations and Maintenance Facility project. Firms were invited to submit qualifications to provide both Phase I Conceptual Design and Phase II Preliminary and Final Design services in support of the project. Based on the submittals received, KPFF, Inc. was selected as the most qualified firm to provide the scope of services requested. In November 2009, the WETA Board approved a contract award with KPFF, Inc. for an amount not-to-exceed \$200,000 to provide Phase I Conceptual Design services in support of environmental review of the project under CEQA and NEPA.

The agreement between KPFF has been amended three times to increase the not-to-exceed contract amount from \$200,000 to \$725,000 and extend the term of the agreement to November 15, 2013. The contract amount was increased to provide additional design and engineering services required to complete environmental review of the project, which required a greater timeframe and level of effort than originally estimated. Specifically, design modifications were necessary to satisfy regulatory requirements of the National Marine Fisheries and US Fish and Wildlife Services, whose Biological Opinions concerning the project were required by FTA prior to making its NEPA determination.

Additionally, the contract budget was enhanced to advance project permitting work thereby minimizing overall delays to the project during the on-going environmental review process. As a result of the additional work undertaken by the design team, permitting processes were successfully initiated with the Army Corps of Engineers, Regional Water Quality Control Board, and the Bay Conservation and Development Commission and a suitability determination was made by the Dredged Material Management Office for the disposal of sediment dredged from the project area.

In May 2013, WETA completed environmental review of the project under both CEQA and NEPA. In order to continue development of this project, Phase II Preliminary and Final Design will need to be initiated.

### **Discussion**

As indicated during the procurement of design services for this project and noted during contract award for the Phase I Design services, WETA explicitly retains the option to authorize Phase II Preliminary and Final Design work with the selected consultant following completion of Phase I work. Alternatively, WETA could initiate a new procurement process to request qualifications or proposals from other firms for this work.

To date, KPFF, Inc. has demonstrated a consistent ability to deliver high-quality professional design and engineering services for the project. Additionally, KPFF is uniquely familiar with the current project design and WETA's programmatic needs for its future Central Bay Operations and Maintenance Facility, having prepared the conceptual design for the project. On this basis, staff recommends that the Board approve Amendment #4 to Agreement #09-007 with authorize KPFF, Inc. to provide Phase II Preliminary and Final Design services. Approval of Amendment #4 would increase the total not-to-exceed budget amount of Agreement #09-007 by \$4,000,000 and extend the term of the agreement to November 15, 2017. A breakdown of the Phase II work scope and budget is provided below:

#### **Preliminary Design Services - \$400,000**

This task will be comprised of providing design services that are largely required due to the unique nature and complexity of the project, such as verification of WETA's vessel, maintenance, fuel storage and distribution, employee and building needs, and green building programs. This work will confirm, and in some instances, establish requirements for each of these programs and include an analysis of relevant building code requirements, as well as preliminary space planning work. Additionally, the consultant will provide services to further support project permitting, lease negotiations, and the completion of geotechnical analysis.

#### **Final Design Services - \$2,800,000**

This work will include the development of 30% and 60% Plans, Specifications, and Estimates (PS&E) sets that will serve as the basis for the Construction Bid Documents. PS&E sets will be developed for each major component of the project, including marine, building, site, and mechanical elements, as well as dredging and demolition work. This task also includes budget for the preparation of 100% construction documents by the consultant should WETA decide to utilize an integrated project delivery approach. Should WETA decide to utilize an alternative project delivery approach, such as bridging design/build, then the budget for this task would likely be decreased.

#### **Construction Support Services - \$800,000**

The design consultant will be required to provide construction support services should WETA utilize either an integrated or bridging design/build project delivery approach, as anticipated. This work will include assisting WETA and its Construction Manager in preparing responses to RFIs, reviewing submittals, shop drawings and mock-ups, and undertaking a limited number of field observations at key points during the construction process. Should WETA decide to not utilize an integrated project delivery approach, then the budget for this task would likely be decreased.

The total budget of \$3.2 million requested for Preliminary and Final Design Services represents 10.6% of the total construction cost budget estimate of approximately \$30 million for the project. Additionally, a budget of \$800,000 is being requested for construction support services. Staff has determined that the total budget of \$4,000,000 for Phase II Preliminary and Final Design services is reasonable based on actual expenditures for similar work on the North Bay Operations & Maintenance Facility and South San Francisco Ferry Terminal projects, as well as benchmark budget ranges for similar projects undertaken by other agencies. All actual expenditures for work completed under this agreement would be pre-authorized through task orders issued by staff and reviewed, as appropriate and necessary, by WETA's future Construction Manager for this project.

**Fiscal Impact**

Approval of the amendment would increase the total not-to-exceed budget amount for the contract by \$4,000,000, from \$725,000 to \$4,725,000. Sufficient funds are included in the Central Bay Operations and Maintenance Facility project budget, funded with Proposition 1B funds, to support this amendment.

\*\*\*END\*\*\*