

Members of the Board

Jody Breckenridge, Chair
Jeffrey DelBono
Timothy Donovan
Anthony J. Intintoli, Jr

BOARD OF DIRECTORS' MEETING
Thursday, February 5, 2015 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 sanfranciscobayferry.com/weta.

AGENDA

1. CALL TO ORDER – BOARD CHAIR
2. PLEDGE OF ALLEGIANCE/ROLL CALL
3. REPORT OF BOARD CHAIR **Information**
4. REPORTS OF DIRECTORS **Information**
5. REPORTS OF STAFF **Information**
 - a. Executive Director's Report
 - b. Monthly Review of Financial Statements
 - c. Legislative Update
6. CONSENT CALENDAR **Action**
 - a. Minutes January 8, 2015
 - b. Authorize the Executive Director to Enter into an Agreement with the Pittsburg Power Company and Lennar Mare Island, LLC to Lease Utility Ducts and Construct Modifications for Use
7. APPROVE CONTRACT AWARD TO BAY SHIP & YACHT FOR REFURBISHMENT OF FERRY VESSEL PERALTA **Action**
8. APPROVE PROPOSITION 1B PROGRAM OF PROJECTS AND AUTHORIZE AGENCY OFFICIALS TO EXECUTE PROGRAM REQUIREMENTS **Action**
9. APPROVE AMENDMENT TO AGREEMENT WITH ROMA DESIGN GROUP FOR DESIGN AND ENGINEERING SERVICES FOR THE DOWNTOWN SAN FRANCISCO FERRY TERMINAL EXPANSION PROJECT **Action**
10. AUTHORIZE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE LEASE AGREEMENT AND RIGHT OF ENTRY PERMIT WITH CITY OF ALAMEDA FOR THE CENTRAL BAY OPERATIONS AND MAINTENANCE FACILITY **Action**
11. APPROVE SPECIAL EVENT FARE POLICY MODIFICATION AND AUTHORIZE PUBLIC OUTREACH FOR THE PROPOSED 2015 GIANTS SEASON AT&T PARK FERRY FARES **Action**
12. OVERVIEW OF UPCOMING SUMMER SCHEDULE CHANGES **Information/Action**

Water Emergency Transportation Authority
February 5, 2015 Meeting of the Board of Directors

13. OPEN TIME FOR PUBLIC COMMENTS FOR NON-AGENDA ITEMS

ADJOURNMENT

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.

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 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 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: February 5, 2015

RE: Executive Director's Report

CAPITAL PROJECT IMPLEMENTATION UPDATE

Vessel Replacement –The *Encinal* and *Harbor Bay Express II* are included in the FY 2013/14 Capital Budget for replacement as they have reached the end of their useful lives (generally 25 years) and staff has secured funding commitments for replacement vessels. In December 2013, the Board of Directors approved the contract award to Aurora Marine Design (AMD) for vessel construction management services. The Request For Proposal to construct two new passenger-only vessels was released on September 26, 2014. A Pre-Proposal bidder's conference was held on October 13, 2014. Step 1 Technical Proposals were due in November and interviews were held in December. Bidders that were found to be in the competitive range were invited to submit Step 2 Complete Technical and Price Proposals, which were due in January 2015. Staff is in the process of evaluating best and final offers and anticipates being in a position to bring forward a recommendation for contract award in March.

Peralta Mid-Life Refurbishment - The ferry vessel *Peralta* was acquired by WETA from the City of Alameda in April 2011 through the transition of the Alameda Oakland Ferry Service to WETA. Built in 2001 by Nichols Brothers Boat Builders, the *Peralta* has been in service for 13 years and has reached its economic mid-life. This refurbishment project consists of replacing or overhauling the main engines, refurbishment of the passenger cabin, hull work, major system renovation, and replacement of control systems and navigation electronics and will extend the useful life of the vessel to the expected full 25 years.

The refurbishment project is separated into two phases with Phase 1 scheduled for completion by May 1, 2015, in order to make the vessel available for summer season operations. The Phase 1 scope of work includes refurbishment of main engines, generators and gear boxes, installation of new steering hydraulic pumps and rams, passenger cabin renewal including refurbishment of the restrooms, new carpets, and passenger seats, vessel drydock and exterior vessel paint and branding and provision of spare gearbox, propellers and shafts. Staff will issue an RFP for Phase 2 of the project in Fall 2015. Phase 2 will include replacement of all control systems and navigation electronics, snackbar renewal, and interior cabin paint.

Ferry Terminal Refurbishment Projects – This effort includes gangway rehabilitation and minor terminal facility improvement projects that support the continued safe operation of East Bay ferry terminals (Alameda Main Street, Harbor Bay, and Oakland Clay Street Jack London Square) and includes a variety of work ranging from pier piling replacement to repairing and replacing walkways and awnings.

The Board awarded a contract to Ben C. Gerwick, Inc. on May 23, 2013 to assist staff with technical specifications, regulatory permitting and construction management services. The Board awarded a contract to Manson Construction Co. on March 31, 2014 to undertake the majority of the project work, including construction improvements at Harbor Bay and Clay Street. The Clay Street Project was completed the weekend of November 15 and 16, 2014. A final walk-through with our Engineers was completed December 17, 2014. The Harbor Bay Project is well underway. We received an exception from the City of

Alameda's Noise Ordinance to perform work later in the evening the weekend of January 24 and 25, 2015 when final installation of the ramps was substantially completed.

The Board awarded contracts to CS Marine Constructors, Inc. and Topper Industries, Inc. on August 20, 2014 and approved an agreement with Bay Ship & Yacht to relocate the passenger float 100 feet west of the current location. The Main Street project took place December 13 and 14, 2014. The project went very smoothly and normal operations resumed on schedule for the Monday morning commute. A final walk-through with our Engineers was completed on December 17, 2014.

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 two phases. The landside phase includes site preparation and construction of a new fuel storage and delivery system along with warehouse and maintenance space. The Board of Directors awarded a design-build contract for the landside phase to West Bay Builders in August 2013 and work is anticipated to be complete in Spring 2015. The waterside phase will construct a system of modular floats and piers, gangways, and over-the-water utilities. The Board of Directors awarded a design-build contract for the waterside construction phase to Dutra Construction in July 2014. 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.

The NEPA environmental review work for the Navy waterside portion is underway on behalf of the Navy. The Navy must complete this documentation prior to entering into a lease with WETA to use the waterside portion of the site. The Draft NEPA Environmental Assessment (EA) was published for a 15-day public and agency review on August 22, 2014. Staff is coordinating with the Navy to finalize the NEPA documentation. All required permits for the waterside construction phase of the project have been received.

Regional Passenger Float Construction – This project will construct a new regional spare float that can be utilized as a backup 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 conditions. Ghirardelli Associates Inc. was selected as the project construction manager. Procurement of the passenger float construction contract was combined with the North Bay Operations and Maintenance Facility Project construction contract. The Request for Proposals for the project was released on February 28 and the construction contract was awarded to Dutra Construction on July 10, 2014. The contract was executed in July 2014. Float design is 85% designed. Final design was completed in December 2014 and float construction is anticipated to commence in Spring 2015.

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.

Staff is working with BCDC, the US Army Corps of Engineers, and National Marine Fisheries Service (NMFS) to secure the remaining permits required for the project. An item requesting authorization to execute a lease agreement with the City of Alameda for the project site is included on this month's Board agenda. The lease must then go to the Alameda City Council. The Alameda Planning Board must also issue a Use Permit for the project before BCDC can issue its final permit.

Downtown San Francisco Ferry Terminal Expansion Project – This project will expand berthing capacity at the Downtown San Francisco Ferry Terminal in order to support new and existing 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. Upon request from the FTA, this project has been included in the Federal Infrastructure Projects Permitting Dashboard, an initiative of the Federal Transit Administration to expedite federal permitting processes for nationally or regionally significant projects.

A Notice of Availability for the Final EIS/EIR and FTA's Record of Decision were published in the Federal Register on September 5, 2014. The WETA Board certified the Final EIR in October 2014. Staff has initiated discussions with the Port of San Francisco concerning a project agreement to develop the first phase of terminal expansion. An item requesting approval of a contract amendment with ROMA Design Group to develop bridging design documents for the project is included on this month's Board agenda.

SERVICE DEVELOPMENT UPDATE

Richmond Ferry Service – This service will provide an alternative transportation link between Richmond and downtown San Francisco. The conceptual design includes plans for replacement of an existing facility (float and gangway) and a phased parking plan.

The CEQA Initial Study/Mitigated Negative Declaration (IS/MND) was released on May 6, 2014. The Initial Study identified potentially significant effects; however, the implementation of mitigation measures identified in the IS/MND would reduce potentially significant effects to less-than-significant levels. In accordance with CEQA and the CEQA Guidelines, a 30-day public and agency review period for the IS/MND commenced on May 6 and concluded on June 4, 2014. The WETA Board of Directors adopted the MND and Mitigation Monitoring and Reporting Program at the September 2014 Board meeting. Staff is working with the FTA on resource agency consultation and preparation of the NEPA environmental review. Staff has also been working with City of Richmond, West Contra Costa County Transportation Advisory Committee (WCCTAC) and Contra Costa Transportation Authority (CCTA) staff to develop a Memorandum of Understanding (MOU) and Funding Agreement that defines project service levels and identifies capital and operating funding through a project funding plan. The Richmond MOU was presented to WCCTAC on January 23rd and a resolution was adopted recommending adoption by the full CCTA Commission. The CCTA Commission is scheduled to act on the MOU and Funding Agreement at its February 18th meeting.

Treasure Island Service – This project, which will be implemented by the Treasure Island Development Authority (TIDA), the San Francisco County Transportation Authority (acting in its capacity as the Treasure Island Mobility Management Authority) 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. The development agreement states that ferry operations would commence with the completion of the 50th residential unit.

WETA staff is working cooperatively with City staff on this City-led project and participating in regular meetings of the Technical Advisory Committee convened to update and further develop the Treasure Island Mobility Management Program. Staff expects to begin negotiation of a Memorandum of Understanding (MOU) with the City that would set forth the terms and conditions under which WETA would operate the future Treasure Island ferry service. The finalization and execution of an MOU for the Treasure Island service would be subject to future consideration by the WETA Board.

Berkeley Environmental Studies – 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^s 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. Similar to Richmond, a Project Memorandum of Understanding defining the project and identifying funding sources will need to be developed for adoption by the City Council and WETA Board.

The Final EIS/EIR was submitted to FTA review in early October 2012. The remaining activities include resolution of Section 7 consultation and Essential Fish Habitat Assessment with NOAA and NMFS. NOAA and NMFS will issue a Biological Opinion (BiOp) on the project. The BiOp is required prior to completion of the Final EIS/EIR. During the NMFS consultation process an issue was identified with the proposed 42-acre dredging footprint. This dredging footprint was developed in order to accommodate the standard draft vessels in the WETA fleet during all tidal conditions and included a 5,000 foot long channel. During the consultation process, NMFS identified a mitigation ratio of 3:1 to offset the dredging impacts. This mitigation ratio presents significant scope and cost challenges for the project. After this issue was identified, WETA staff explored options to reduce the dredging footprint in order to reduce the mitigation requirements. It was determined that construction and operation of shallow draft vessels for the Berkeley service would substantially reduce the required dredging footprint and mitigation requirements.

Staff has coordinated with FTA staff to discuss the process for completion of the Final EIS/EIR. FTA has recently expressed that it will not be able to complete the NEPA process and issue a Record of Decision because a long-term operational funding source is not available for the service. Regional Measure 2 (RM2) funds were identified as an operating source when the environmental review process commenced in 2006. The funding picture changed since that time and the RM2 source is no longer available. Staff is evaluating a process to complete the CEQA process in the near term. The NEPA process could be completed at a later date if an operational funding source is identified.

SYSTEM STUDIES

Alameda Terminals Access Study – Both ferry terminals in Alameda have experienced a surge in ridership beginning with the first BART strike in July 2013. As a result, parking at both terminals typically spills onto adjacent streets and informal parking lots. WETA is partnering with City of Alameda staff to prepare plans to address the immediate issue and identify mid- to long-term solutions. Staff has secured the consultant services of Nelson Nygaard through its on-call planning agreement with KPFF, Inc. to support the project.

Staff has concluded its initial public outreach efforts, including a series of public workshops, coordination with AC Transit, and an informational presentation to the City of Alameda's Transportation Commission. A subcommittee of Transportation Commission members, AC Transit staff, nearby non-profit organizations, and local transportation advocates was formed by the City of Alameda to review and advocate for future access improvements at both the Main Street and Harbor Bay terminals. A draft study including an action plan will be released in early 2015 for public comment. The study will include preliminary access improvement recommendations and funding strategies for each terminal. Pending public comments received on the draft study, a final draft will be prepared and presented to the Board at a future meeting.

Alameda Seaplane Lagoon Study - The City of Alameda has proposed a new ferry terminal located along Seaplane Lagoon at Alameda Point. Consistent with terms of the 2014 Transition Agreement executed between WETA and the City of Alameda, both parties are working together to explore the viability of a new ferry service connecting Seaplane Lagoon and San Francisco. WETA staff has met regularly with staff from the cities of Alameda and Oakland along with the Port of Oakland to prepare an operational evaluation of a Seaplane Lagoon ferry service. The goal of the evaluation is to identify the range of alternatives for ferry service in the central bay considering terminals at Seaplane Lagoon, Main Street and/or Clay Street in Oakland. The costs, service quality and ridership implications of each service scenario will be estimated. The results of the evaluation will ultimately feed into a concept engineering analysis that will estimate capital costs and permitting requirements for a new facility.

Staff is working with the City of Alameda to draft a Memorandum of Understanding (MOU) that would set forth the terms and conditions under which a Seaplane Lagoon Ferry Service would be implemented, including construction of new facilities and service operations. The finalization and execution of an MOA for

the Seaplane Lagoon service would be subject to future consideration by the WETA Board and the City of Alameda.

Mission Bay Ferry Terminal – The Golden State Warriors basketball team has identified a preferred arena site at the foot of 16th Street in the Mission Bay neighborhood of San Francisco. A Mission Bay ferry terminal has been identified in both WETA and City of San Francisco planning documents as a potential future infrastructure investment but no significant planning or development work has been conducted to date and no funding exists to develop this as a terminal site. Staff will continue to coordinate with the Port of San Francisco, and the City of San Francisco along with other relevant stakeholders, including the Warriors, to consider how the agency may play a role in integrating the development of this project with existing and/or future WETA ferry services to San Francisco as opportunities present themselves.

Site Feasibility Studies – Site feasibility reports have been prepared in cooperation with the cities of Hercules, Martinez, Antioch and Redwood City in an effort to identify site constraints and design requirements and better understand project feasibility and costs associated with development of terminals and services to these cities. The Contra Costa County Transportation Authority, as the county transportation planning and funding authority, has utilized this information to develop a Financial Feasibility of Contra Costa Ferry Service Report (completed June 2014) to assess the feasibility of implementing ferry services in the county. The report concludes that of the candidate ferry terminals in Contra Costa County, only the Richmond project is financially feasible at this time.

OTHER

Removal of Historic Shipyard Crane next to Main St Ferry Terminal – As a condition of the Agreement with the City of Alameda to transfer the Alameda/Oakland and Harbor Bay Ferry Services to WETA, the City is responsible for removing or refurbishing the historic shipyard crane that is located directly adjacent to the Main St ferry terminal. Because the Crane is a contributing element of the Historic Todd Shipyard District, the Historical Advisory Board was required to develop an Environmental Impact Report prior to entering into a contract to remove the Crane. As a result, this process has taken longer than expected. At the February 3 Council Meeting, the City of Alameda is considering approving a contract with Power Engineering for a not-to-exceed amount of \$290,000 to remove the Crane. Entering into a contract for the removal of the crane represents the last step to complete the closing obligations of the Ferry Service Operations Transfer Agreement between WETA and the City of Alameda.

MEETINGS AND OUTREACH

On January 15, Nina Rannells attended the Port of San Francisco's Maritime Commerce Advisory Committee meeting.

On January 22, Nina Rannells and Chair Breckenridge met with Rear Admiral Joseph A. Servidio, Commander, Eleventh Coast Guard District, and various other Coast Guard officials to discuss opportunities to better coordinate WETA emergency response activities with the Coast Guard in the San Francisco Bay Area.

On January 23, Nina Rannells, Kevin Connolly and Chad Mason attended the West Contra Costa Transportation Advisory Committee (WCCTAC) meeting where the proposed Richmond Ferry Service project agreement was discussed.

On January 26, Nina Rannells participated in the monthly Clipper 2/General Managers meeting to discuss the development of the next generation regional fare payment instrument.

On January 29, Nina Rannells, Lauren Gularte and Kevin Donnelly attended a meeting with various Coast Guard officials from Coast Guard Sector San Francisco to discuss respective entity emergency response plans in preparation for updating WETA's emergency response plan.

OPERATIONS REPORT

The Monthly Operating Statistics Report for December 2014 is provided as Attachment A.

Attachment A

Monthly Operating Statistics Report December 2014

			Alameda/ Oakland	Harbor Bay	South San Francisco	Vallejo*	Systemwide
Ridership	vs. last month	Total Passengers December 2014	53,139	17,864	7,014	54,979	132,996
		Total Passengers November 2014	53,817	18,152	8,140	53,752	133,861
		Percent change	-1.26%	-1.59%	-13.83%	2.28%	-0.65%
	vs. same month last year	Total Passengers December 2014	53,139	17,864	7,014	54,979	132,996
		Total Passengers December 2013	47,969	16,207	5,213	54,098	123,487
		Percent change	10.78%	10.22%	34.55%	1.63%	7.70%
	vs. prior FY to date	Total Passengers Current FY To Date	465,593	123,840	49,699	438,211	1,077,343
		Total Passengers Last FY To Date **	468,973	126,598	41,328	431,377	1,068,276
		Percent change	-0.72%	-2.18%	20.26%	1.58%	0.85%
		Avg Weekday Ridership December 2014	1,991	812	319	2,215	5,337
Ops Stats	Passengers Per Hour		127	135	43	126	115
	Revenue Hours		420	132	165	435	1,152
	Revenue Miles		5,090	2,976	2,560	11,941	22,567
Fuel	Fuel Used (gallons)		24,663	10,343	12,174	102,936	150,116
	Avg Cost per gallon		\$2.24	\$2.24	\$2.24	\$2.15	\$2.22

* Vallejo ridership includes ferry + 4655 Route 200 bus passengers.

** Includes ridership during July and October 2013 BART strikes and Sept 2013 Bay Bridge closure.

MEMORANDUM

TO: Board Members

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

**SUBJECT: Monthly Review of FY 2014/15 Financial Statements for Six Months
Ending December 31, 2014**

Recommendation

There is no recommendation associated with this informational item.

Summary

This report provides the attached FY 2014/15 Financial Statements for six months ending December 31, 2014.

Operating Budget vs. Actual

	Prior Actual	Current Budget	Current Actual
Revenues - Year To Date:			
Fare Revenue	7,020,115	7,312,462	7,042,030
Local Bridge Toll Revenue	6,740,680	9,396,099	7,616,669
Other Revenue	847	-	500
Total Operating Revenues	13,761,642	16,708,561	14,659,199
Expenses - Year To Date:			
Planning & Administration	982,647	1,512,329	979,505
Ferry Services	12,778,996	15,196,232	13,679,693
Total Operatings Expenses	13,761,642	16,708,561	14,659,199
System-Wide Farebox Recovery %	55%	48%	51%

Capital Actual and % of Total Budget

	YTD Actual	% of FY 2014/15 Budget
Revenues:		
Federal Funds	2,275,584	12.99%
State Funds	5,926,020	27.03%
Bridge Toll Revenues	303,231	5.27%
Other Local Funds	490,134	13.21%
Total Capital Revenues	8,994,969	18.39%
Expenses:		
Total Capital Expenses	8,994,969	18.39%

Fiscal Impact

There is no fiscal impact associated with this informational item.

END

San Francisco Bay Area Water Emergency Transportation Authority
FY 2014/15 Statement of Revenues and Expenses
For Six Months Ending 12/31/2014

% of Year Elapsed 50.4%

	Current Month	Year - To - Date			Budget	
		FY2013/14 Actual	FY 2014/15 Budget	FY 2014/15 Actual	FY 2014/15 Total	% of Total
OPERATING EXPENSES						
PLANNING & GENERAL ADMIN:						
Wages and Fringe Benefits	92,500	550,257	726,422	587,038	1,441,000	40.7%
Services	84,319	352,652	816,658	338,466	1,620,000	20.9%
Materials and Supplies	423	10,072	18,652	4,020	37,000	10.9%
Utilities	1,156	5,721	10,586	4,864	21,000	23.2%
Insurance	-	16,370	9,578	18,335	19,000	96.5%
Miscellaneous	6,576	49,548	55,452	34,773	110,000	31.6%
Leases and Rentals	23,882	134,509	144,175	139,390	286,000	48.7%
Admin Overhead Expense Transfer	(25,385)	(136,484)	(269,195)	(147,380)	(534,000)	27.6%
Sub-Total Planning & Gen Admin	183,471	982,647	1,512,329	979,505	3,000,000	32.7%
FERRY OPERATIONS:						
Harbor Bay FerryService						
Purchased Transportation	124,748	781,814	883,452	674,571	1,752,500	38.5%
Fuel - Diesel & Urea	23,180	257,810	298,231	203,140	591,600	34.3%
Other Direct Operating Expenses	26,396	156,965	319,454	174,011	633,700	27.5%
Admin Overhead Expense Transfer	4,957	30,567	58,981	28,590	117,000	24.4%
Sub-Total Harbor Bay	179,281	1,227,157	1,560,118	1,080,312	3,094,800	34.9%
<i>Farebox Recovery</i>	<i>40%</i>	<i>47%</i>	<i>40%</i>	<i>50%</i>	<i>40%</i>	
Alameda/Oakland Ferry Service						
Purchased Transportation	324,795	2,220,817	2,233,458	2,738,708	4,430,500	61.8%
Fuel - Diesel & Urea	55,272	715,798	931,141	662,746	1,847,100	35.9%
Other Direct Operating Expenses	54,624	393,636	623,584	342,162	1,237,000	27.7%
Admin Overhead Expense Transfer	9,748	50,450	105,359	56,565	209,000	27.1%
Sub-Total Alameda/Oakland	444,440	3,380,702	3,893,541	3,800,182	7,723,600	49.2%
<i>Farebox Recovery</i>	<i>47%</i>	<i>64%</i>	<i>56%</i>	<i>55%</i>	<i>56%</i>	
Vallejo FerryService						
Purchased Transportation	726,297	3,511,441	3,771,698	4,362,704	7,481,900	58.3%
Fuel - Diesel & Urea	221,275	2,568,833	3,213,699	2,266,332	6,375,000	35.6%
Other Direct Operating Expenses	78,567	540,455	801,383	478,818	1,589,700	30.1%
Admin Overhead Expense Transfer	4,734	24,783	36,800	27,408	73,000	37.5%
Sub-Total Vallejo	1,030,873	6,645,512	7,823,579	7,135,261	15,519,600	46.0%
<i>Farebox Recovery</i>	<i>51%</i>	<i>61%</i>	<i>54%</i>	<i>57%</i>	<i>54%</i>	
South San Francisco FerryService						
Purchased Transportation	192,886	1,004,886	1,095,833	1,139,831	2,173,800	52.4%
Fuel - Diesel & Urea	27,284	320,842	407,825	283,363	809,000	35.0%
Other Direct Operating Expenses	29,041	169,213	347,281	205,927	688,900	29.9%
Admin Overhead Expense Transfer	5,946	30,684	68,055	34,817	135,000	25.8%
Sub-Total South San Francisco	255,157	1,525,626	1,918,994	1,663,938	3,806,700	43.7%
<i>Farebox Recovery</i>	<i>17%</i>	<i>17%</i>	<i>14%</i>	<i>19%</i>	<i>14%</i>	
Total Operating Expenses	2,093,221	13,761,642	16,708,561	14,659,199	33,144,700	44.2%
OPERATING REVENUES						
Fare Revenue	851,630	7,020,115	7,312,462	7,042,030	14,505,700	48.5%
Local - Bridge Toll	1,241,591	6,740,680	9,396,099	7,616,669	18,639,000	40.9%
Local - Other Revenue	-	847	-	500	-	0%
Total Operating Revenues	2,093,221	13,761,642	16,708,561	14,659,199	33,144,700	44.2%

San Francisco Bay Area Water Emergency Transportation Authority
FY 2014/15 Statement of Revenues and Expenses
For Six Months Ending 12/31/2014

Project Description	Current Month	Project Budget	Prior Years Actual	FY 2014/15 Budget	FY 2014/15 Actual	Future Year	% of Total Project Budget
CAPITAL EXPENSES							
FACILITIES:							
Maintenance and Operations Facilities							
North Bay Operations & Maintenance Facility	765,765	30,196,000	5,132,061	19,130,939	5,803,660	5,933,000	36%
Central Bay Operations & Maintenance Facility	99,491	38,000,000	1,228,371	5,750,629	210,950	31,021,000	4%
Float Rehabilitation							
Regional Spare Float Replacement	16,980	3,862,000	58,976	2,965,024	525,214	838,000	15%
Gangway, Pier & Terminal Improvement							
Clipper Site preparation - Vallejo	4,126	300,000	148,695	151,305	13,721	-	54%
East Bay Ferry Terminal Refurbishment	847,660	2,595,400	341,509	2,253,891	1,254,949	-	62%
Electronic Bicycle Lockers	-	79,500	-	79,500	-	-	0%
Channel Dredging - Vallejo	-	1,200,000	-	75,000	4,444	1,125,000	0%
FERRY VESSELS:							
Major Component Rehabilitation / Replacement							
Vessel Engine Overhaul - Gemini Class Vessels	249,124	1,320,000	-	1,320,000	249,124	-	19%
Vessel Engine Overhaul - Solano	-	2,000,000	699,042	1,240,958	567,866	60,000	63%
Major Component Rehab - Pisces	-	200,000	-	200,000	-	-	0%
Vessel Mid-Life Repower/Refurbishment							
Vessel Mid-Life Refurbishment - Bay Breeze	-	5,015,000	4,738,923	276,077	1,448	-	95%
Vessel Mid-Life Refurbishment - Peralta	10,188	5,260,000	-	1,010,000	32,994	4,250,000	1%
Vessel Expansion/Replacement							
Purchase Replacement Vessel - Express II & Encinal	78,657	33,500,000	50,568	9,949,432	129,430	23,500,000	1%
Purchase Replacement Vessel - Vallejo	-	20,000,000	-	200,000	-	19,800,000	0%
CAPITAL EQUIPMENT / OTHER:							
Purchase 18-Tone Crane Truck	-	175,000	-	175,000	-	-	0%
Purchase Work Skiff	-	100,000	-	100,000	176	-	0%
SERVICE EXPANSION:							
Future Expansion Service Studies							
Berkeley Terminal - Environ/Concept Design	1,166	2,335,000	2,183,016	151,984	3,783	-	94%
Antioch - Environ/Concept Design	-	812,500	146,198	25,002	218	641,300	18%
Martinez - Environ/Concept Design	-	812,500	164,894	25,006	-	622,600	20%
Downtown Ferry Terminal Expansion - Environ/Concept Design	9,651	3,300,000	2,581,846	718,154	105,606	-	81%
Terminal/Berthing Expansion Construction							
SSF Terminal Oyster Mitigation Study	-	275,000	83,330	191,670	29,854	-	41%
Downtown Ferry Terminal Expansion - Bridging Design	-	3,745,000	-	1,872,500	-	1,872,500	0%
Richmond Ferry Terminal	3,756	1,862,500	559,294	1,040,706	61,533	262,500	33%
Total Capital Expenses	2,086,563	156,945,400	18,116,723	48,902,777	8,994,969	89,925,900	
CAPITAL REVENUES							
Federal Funds	741,081	64,124,919	6,622,379	17,515,330	2,275,584	38,421,985	14%
State Funds	817,683	50,330,926	8,146,559	21,924,882	5,926,020	39,935,042	28%
Local - Bridge Toll	125,367	36,457,071	2,456,805	5,753,455	303,231	10,268,872	8%
Local - Alameda Sales Tax Measure B	402,432	4,682,484	890,980	3,659,111	490,134	-	29%
Local - San Francisco Sales Tax Prop K	-	1,300,000	-	-	-	1,300,000	0%
Local - Transportation Funds for Clean Air	-	50,000	-	50,000	-	-	0%
Total Capital Revenues	2,086,563	156,945,400	18,116,723	48,902,777	8,994,969	89,925,900	

MEMORANDUM

TO: Board Members

FROM: Peter Friedmann, WETA Federal Legislative Representative
Ray Bucheger, WETA Federal Legislative Representative

SUBJECT: WETA Federal Legislative Board Report – January 27, 2015

Our previous report to the board discussed changes in Congress and provided a high-level overview of what those changes mean for our strategy going forward. This report hones in on some of the specific challenges we are addressing and possible opportunities we see going forward.

Navigating the Politics of the FHWA Ferry Formula Program

Last year, Senator Barbara Boxer, as Chairman of the Environment and Public Works (EPW) Committee, passed a surface transportation bill that increased funding for the Federal Highway Administration (FHWA) ferry program created by MAP-21 and modified the program's formula in a way that would benefit WETA. The question now is whether or not the new Chair of the EPW Committee, Oklahoma Senator Jim Inhofe, will introduce a surface transportation bill with the same funding level and same (modified) formula that Boxer did or will he come up with his own formula. Or will he seek to eliminate federal funding for ferries entirely?

That last scenario is certainly a worst-case scenario, but it is not outside the realm of possibility. During the debate over MAP-21, Senator Inhofe, representing his constituents in Oklahoma, pushed back on the notion that highway trust fund money should be spent on public ferry systems. We worked at that time with the Public Ferry Coalition to buck up Senators Boxer, Patty Murray (D-WA) and others to fight Senator Inhofe on this. The result was the "compromise" included in MAP-21, which preserved the FHWA ferry program but created a formula that dedicated most of the money to car ferries.

Senator Inhofe is now in power – will he bring the same bias to the table? To overcome this possible challenge, we are lining up political support to counter any efforts by Inhofe to eliminate funding for ferries (or undo the increase in funding included in the Boxer bill). We are working with the Alaska Governor's office and other members of the Public Ferry Coalition to ensure that newly-elected Republican Senator Dan Sullivan from Alaska appreciates the importance of ferries to his state. Having a fellow Republican be a champion of federal funding for public ferries could change Inhofe's perspective on this issue – as opposed to during MAP-21 when his position was primarily hurting systems in WA, CA and NY, states with entirely Democratic delegations.

While we work to disarm Inhofe's opposition to ferry funding, we are also working to preserve the more WETA-friendly formula that Boxer created in her bill last year. We will continue working with Senator Boxer on this, and while she is no longer chair of EPW, as the senior

Democrat on the Committee, she wields enormous clout. The key will be to get Senator Boxer and her staff to make this issue a priority.

FTA Ferry Grant Program – Focus on Bringing More Funding Back to WETA

We are similarly implementing a strategy to increase the amount of money that comes to WETA through the Federal Transit Administration (FTA) ferry grant program, which was created by MAP-21. Just like on the EPW Committee, our primary legislative champions are now in the minority party, and while they still have clout, they are no longer calling the shots. This includes Senator Chuck Schumer of New York and Senator Bob Menendez of New Jersey.

Unfortunately, neither California Senator is a member of the Senate Banking Committee, which oversees the transit title of the surface transportation bill and has jurisdiction over FTA and the FTA ferry grant program. This is why we are continuing our “partnership” with New York City, which is represented on the Banking Committee by Senators Schumer and Menendez. The Staten Island Ferry is similar to WETA’s ferries in that they are passenger-only ferries, although it should be noted that ridership on Staten Island’s system is significantly higher than WETA’s ridership, which means this is not an entirely “equal” partnership.

Our number one objective with regards to the FTA ferry grant program is to increase the amount of funding available. At \$30 million a year, this program falls woefully short of the needs that ferry systems around the country have. With that primary objective in mind, we are also exploring ways to maximize the amount of money that FTA sends to WETA. Certainly, having FTA focus on passengers would be a good start – the real question is whether a formula program or a discretionary grant program is better in this respect. Going back to the fact that Staten Island’s system has significantly more riders, any formula program will benefit that system relatively more. In fact, unless we can guarantee a minimum funding level for WETA (an objective we have been pursuing since last year), we may be better served with a better funded discretionary grant program, knowing that we are able to mobilize the entire Bay Area Congressional delegation to support any WETA grant application (as we have successfully done in the past).

It is still early in the 114th Congress, and it will take some time for the new political dynamic to take hold. But we are not waiting for things to “shake out” – we are proactively working to find ways to keep WETA competitive under this new leadership regime.

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

(January 8, 2015)

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 Jody Breckenridge called the meeting to order at 1:07 p.m. and led the pledge of allegiance. Other directors present were Director Jeff DelBono, Director Timothy Donovan and Director Anthony Intintoli.

2. REPORT OF BOARD CHAIR

Chair Breckenridge noted a feature in the Contra Costa Times listing a ride on San Francisco Bay Ferry as the number one recommendation for things to do over the holidays.

3. REPORT OF DIRECTORS

No reports.

4. REPORTS OF STAFF

Executive Director Nina Rannells referred the Board to her written report and offered to respond to any questions.

Chair Breckenridge asked for an update on the ferry terminal refurbishment projects and the results of the December 17 walkthrough. Operations Administrator Kevin Donnelly reported that everything had looked good with only minor zinc work and some plex install remaining, and that the terminal was operational for Monday morning service as scheduled. Ms. Rannells noted that the Harbor Bay Terminal project would be pushed back slightly to January 24. Director Donovan asked if there would be a cost impact as a result. Mr. Donnelly replied that there may be some minor adjustment due to the schedule change but that the project should remain within budget.

Regarding the new vessels, Director Donovan asked about break areas for crew. Ms. Rannells replied that Operations Manager Keith Stahnke had scheduled several meetings union representatives, crew members and Blue & Gold Fleet personnel on the subject and that those meetings had helped to inform the vessel design.

Chair Breckenridge referred to the Operations Report, asking if the ridership decrease was attributable to the holiday and seasonal changes. Ms. Rannells replied that that was correct, also noting that 2013 ridership had had been significantly boosted as a result of the two BART strikes and that 2014 was still strong in comparison. She added that while ridership was always impacted by regional events such as the World Series, WETA was continuing to see significant increases over recent years. Director Intintoli said that it was hard for people to get out of their cars, but once they did, they tended to prefer the ferry. Director DelBono noted that BART ridership was at record levels and asked if it was a result of highway congestion or something else. He added that if the increased ridership was a sign of sustained growth that WETA needed to be prepared for the future.

Ms. Rannells said that Manager of Planning and Development Kevin Connolly was carefully tracking ridership trends with an eye toward service planning. She noted that he was looking at ways to tweak schedules and optimize service by looking at which runs were in the “red zone” for capacity. Ms. Rannells said that vessels were the limiting factor in terms of meeting potential demand. Director DelBono recommended that the need to address anticipated capacity be added to the Strategic Plan. Chair Breckenridge noted that it was important to identify the reason behind the growth and to respond to it appropriately so that WETA was not in the position of playing catch-up in the future.

Director Intintoli asked for an update on the North Bay Operations and Maintenance Facility. Senior Planner Chad Mason reported that brick rehabilitation work had been completed, new metal warehouse building was expected to be completed within the week, some tweaks to the underground delivery systems would soon be completed, and removal of contaminated materials was at 50%. Mr. Mason added that staff would be meeting with the waterside contractor soon to review 50% design, after which 100% design would occur quickly. Mr. Mason said that staff continued to work with the US Navy on wrapping up the NEPA process and that he anticipated bringing the Navy’s lease to the Board for approval in the near future.

Chair Breckenridge asked if Mr. Mason anticipated any issues in completing the NEPA process with the Navy. Mr. Mason said that he did not, adding that the Navy had allowed WETA to utilize its own consultant to expedite the work. He said that the work would be completed but that the floats on the finger floats needed to be widened, work which required a final revision prior to signing off on NEPA.

Public Comment

Jerry Bellows of the Maritime Administration asked for an update regarding Berkeley ferry service, specifically regarding the use of low draft vessels to access the selected terminal location in lieu dredging to a lower depth.

Mr. Connolly replied that there did not appear to be any issues of performance or capacity with the use of shallow draft vessels. He added, though, that this approach would limit the accessibility of other WETA vessels to the Berkeley terminal during low tides.

Mr. Bellows said that he understood that Berkeley service was on hold until the city identified a source of funding and asked if the Richmond service was in a similar position.

Mr. Connolly replied that this was not the case with Richmond, as this service had the support of Contra Costa County Measure J transportation sales tax funds to support operations and that this project was moving forward.

Chair Breckenridge asked if there was anything significant to report in the Legislative Update. Ms. Rannells that incoming Congressman Mark DeSaulnier had replaced Congressman George Miller the prior week. Ms. Rannells noted that Mr. DeSaulnier was familiar with public transportation and WETA specifically, both as a former Board Member at MTC and as Chair of the Committee on Transportation in the California State Senate.

Director DelBono said that he planned on meeting soon with WETA Federal Legislative Representative Peter Friedmann of Lindsay Hart, LLP to offer his assistance. Chair Breckenridge said that there would not be much to do until Congress was in session. Ms. Rannells said that Mr. Friedmann would likely present an in-person report to the Board in the near future.

5. CONSENT CALENDAR

Director Intintoli made a motion to approve the consent calendar which included the Board of Directors meeting minutes of December 11, 2014.

Director DelBono seconded the motion and the consent calendar carried unanimously.

Yeas: Breckenridge, DelBono, Donovan, Intintoli. Nays: None.

6. INFORMATIONAL PRESENTATION BY WIND + WING TECHNOLOGIES

Ms. Rannells introduced Jay Gardner of Wind + Wing Technologies who delivered an informational presentation to the Board regarding a wind assisted ferry demonstration project. Ms. Rannells noted that Mr. Gardner had presented to the Board in the past and that several years earlier the Board had authorized a letter of support for Mr. Gardner's project to the Bay Area Air Quality Management District which had helped the firm obtain grant funding to construct a test vessel.

Mr. Gardner introduced Charlie Bogue, who reviewed the demonstration project and test results.

Director DelBono asked what the price difference would be for a 500 passenger vessel. Mr. Bogue said that efforts had focused on a 149 passenger vessel and that preliminary estimates were in the \$7-8 million range.

Director Donovan asked if the vessels could navigate shallow waters. Mr. Bogue said he saw no reason why they would not.

Chair Breckenridge asked if it would be a catamaran or a trimaran. Mr. Gardner said definitely a catamaran. She then asked how the vessels would perform in high wind. Mr. Bogue said that the vessel would be designed around the anticipated wind variation but that the wing could always be turned off. Mr. Gardner said the wing had feathered in 30 knot wind and had been absolutely silent. Chair Breckenridge asked if this kind of technology was being used commercially anywhere in the maritime community. Mr. Gardner referred to the University of Tokyo vessel being built with adjustable wings. He said that his technology and the wind capacity in the Bay was the ideal environment to implement this technology.

Director Donovan asked how long it would take to build and if it would be suitable for Treasure Island service. Mr. Bogue said it was an ideal service and that construction of a vessel would be 1.5 to 2.5 years. Mr. Bogue said in meeting with the City regarding Treasure Island that the City felt a 149 passenger vessel was sufficient depending on frequency and that it sounded like there would be some funding available.

Chair Breckenridge asked if it would be challenging to train crew for this type of vessel. Mr. Gardner said all that was required was the ability to operate a throttle.

Director Donovan asked what kind of maintenance these vessels would require. Mr. Gardner said that flange bearings were the only specialized maintenance required.

Chair Breckenridge asked if the hull would be composite. Mr. Gardner said that a 149 passenger vessel could be composite but that any larger would be metal. He said that there would be no need for special maintenance of the hull as long as the vessel did not crash. Chair Breckenridge asked if the hull or the wing would require maintenance first. Mr. Gardner said the hull but that he envisioned it lasting 20 years or more.

Chair Breckenridge said that it was very interesting technology. Mr. Gardner quoted the California Air Resources Board saying it was the most bang for the buck they had seen and that they suggested there would be cap and trade funding available for such technology.

Chair Breckenridge asked Mr. Gardner if he could have a wish for his next step, what would it be? Mr. Gardner said that he felt the Treasure Island service was ideal for his vessel.

7. APPROVE FY 2015/16 ADMINISTRATIVE SUPPORT PROFESSIONAL SERVICES CONTRACTS PLAN

Ms. Rannells presented this item requesting Board approval of the proposed Administrative Support Professional Services Contracts Plan and to authorize the Executive Director to enter into negotiations with firms to extend agreements through June 30, 2016 and bring contracts back for Board approval prior to July 1, 2015.

Director DelBono asked for clarification that these contracts would be presented to the Board for approval upon successful negotiation.

Director Donovan asked if these agreements were reflected on the Executive Director's financial report. Ms. Rannells replied that most were included under "services" with the exception of the marine engineer agreement, which was reported under Vallejo.

Director DelBono asked when these contracts were last put out to bid. Ms. Rannells replied that each contract was bid out at different times and that each contract recommended for extension through FY 2015/16 is explained in more detail in the memorandum. As an example, she noted that the contract for general counsel services currently provided by Nossaman LLP was originally awarded in 2004. Prior to utilizing Nossaman, WETA contracted with the State of California for general counsel services. She explained that over the years, Nossaman LLP has developed in-depth knowledge of the WETA organization and that this strong working knowledge provides value to the staff and work of the organization, and, for this reason, she recommends extending the contract with Nossaman through FY 2015/16.

Chair Breckenridge reminded the Board about previous conversations regarding the budget and the need for a strategic plan and approaching both the capital and operating budget in a systemic way so that WETA would know where the sources of funds were as WETA had no "rainy day fund" which is a vulnerability. Chair Breckenridge also noted that an update to the emergency response plan was overdue. She said that although she favors open competition in general, that it made sense to maintain the current contracts and take advantage of the accumulated specialized knowledge and support offered by these firms this year as WETA focuses work on updating its plans and work program.

Director DelBono noted that last time this topic had been discussed it had been asked if these contracts were a good value to WETA. Ms. Rannells said that she believed that they were. She said that some were fixed-fee, which was harder to assess or quantify but that these firms were on the ground, creating relationships for WETA and available as-needed.

Director Donovan asked if the dollar amount of these agreements would be increasing and if Ms. Rannells had a percentage increase in mind. Ms. Rannells replied that it was her intent to hold the contracts at or near the FY 2014/15 year rate. Director Donovan asked when these would be brought back to the Board and expressed his concern that sufficient time be allotted in the process to go out to bid for new contracts in the event that the negotiations not result in a favorable outcome.

Chair Breckenridge asked that if any significant concerns occur during negotiations that it be brought to the Board's attention as soon as possible.

Director Intintoli made a motion to approve the item. Director DelBono seconded the motion and the item carried unanimously.

Yeas: Breckenridge, DelBono, Donovan, Intintoli. Nays: None.

8. FUTURE PROJECT AGREEMENTS WITH FERRY DEVELOPMENT PARTNERS

Mr. Connolly presented this informational item to the Board, noting that staff was currently developing agreements with public agency partners for four projects that would ultimately be considered by the Board for adoption or approval. He noted that these agreements were broadly intended to define a project and its service level, establish roles for project agency partners and provide for funding responsibilities and advocacy, noting that the item at hand was intended to provide a general introduction in advance of project-specific agreements that will be brought to the Board later that year.

Chair Breckenridge asked Mr. Connolly to speak to the subject of expansion and operating funds. Mr. Connolly said that this was at the center of these documents, and that each uses a template that requires a 10-year commitment of operating funding. He used the example of the planned services for Berkeley and Richmond, noting that Richmond had worked to identify and commit a 10-year source of funding to support a new ferry service whereas Berkeley had not. Mr. Connolly said that it was impractical to plan a new service without identifying a reliable funding source.

Director DelBono asked how to respond to concerns which implied that one service was financially carrying another, as in the case of Alameda subsidizing Oakland service. He also asked if funding for all services was considered together or if it was specific to each service. Mr. Connolly first noted that each service must be able to sustain itself, and secondly, that it was essential that no individual service have a negative impact on the other services.

Regarding Alameda service, Mr. Connolly specifically noted that Alameda did not subsidize Oakland, and that if anything, Oakland subsidized service to Alameda. He noted that this was one of the reasons a project agreement was important. Mr. Connolly added that working through this process had also allowed Alameda to envision Seaplane Lagoon as an additional terminal rather than as a replacement for the Alameda Main Street Terminal.

Chair Breckenridge stated WETA needed to look at funding sources from counties and not just cities, and that engagement at all levels was essential. Ms. Rannells agreed, noting that the operating funding structure for the South San Francisco service is an example of what staff is working to avoid with any future new ferry services. In administering operating funds for South San Francisco service, MTC will only guarantee funding for three years. In the event that the new service does not meet very rigorous farebox recovery requirements, MTC reserves the right to cancel the funding or fund it on a year-by-year basis. This limited commitment does not work when you are trying to build a long-term ridership base for a completely new ferry service. She said that all project agreements will be a little different but that WETA needed a serious commitment from communities wanting new service.

Director Donovan asked if there would be multiple iterations of the project agreement for Seaplane Lagoon. Mr. Connolly said that ideally the agreement would evolve through development and analysis into what would eventually become the operating agreement.

Ms. Rannells added that the first three projects listed in Mr. Connolly's memo had already completed environmental. Ms. Rannells noted that as projects evolved, assumptions may change. By way of example, she explained that an MOU had already been in place for the environmental work on the Downtown Ferry Terminal Expansion Project, but now that the Project was moving into the design and construction phases that a second MOU was important.

Public Comment

Chad Smalley, Capital Projects Manager, City of Richmond, commended staff for moving forward with utilizing project agreements as a way of putting together a shared vision for expansion projects. He expressed confidence that a Richmond ferry service would significantly out-perform the South San Francisco service. He said that Richmond service would be WETA's first expansion project to connect with an integrated, growing commercial and residential community.

Chair Breckenridge said that WETA was looking forward to the expansion and thanked Mr. Smalley and the City of Richmond for their work moving the project forward.

9. WETA 2015 SHORT RANGE TRANSIT AND STRATEGIC PLAN OVERVIEW

Mr. Connolly presented this informational item to the Board, explaining that the Short Range Transit Plan (SRTP) was a planning document required by MTC to meet the FTA requirements of all agencies which received federal transit funding. He said that MTC administered a grant program for the production of the SRTP and generally required agencies to produce an updated SRTP every two to three years. Mr. Connolly added that the last WETA SRTP had been adopted by the Board in January 2013, and the 2015 SRTP would be scheduled to be adopted by the WETA Board in September 2015.

Director DelBono commented that the Strategic Plan was more a visionary document and that the SRTP was based on current constraints. Mr. Connolly agreed that this was an accurate characterization. Chair Breckenridge added that the SRTP was a guideline and not a limiting document but that it did provide a sense of direction and an opportunity for feedback on any points of contention.

Director Intintoli asked how the public could be involved in the process. Mr. Connolly pointed the Board to his draft schedules for both the Strategic Plan and the SRTP, noting that each contained a public component. Chair Breckenridge noted that it was an aggressive schedule. Ms. Rannells said that Mr. Connolly's schedule was based on meeting a September due date, a typical schedule issued by MTC but that this schedule could be adjusted in the event that more time is needed.

Chair Breckenridge noted that the Strategic Plan schedule included a component on emergency response and asked if emergency response coupled with passenger service would be included in the Plan. Ms. Rannells replied that a new emergency response plan would be a third plan and that Staff was currently developing a work scope for this effort. She said that emergency response was part of the Strategic Plan insofar as what WETA's strategic goal would be regarding passenger capacity and would be less specific than the emergency response plan.

Chair Breckenridge asked how the Bay Area Core Capacity Study timeline meshed with these. Mr. Connolly said that the Core Capacity study was on a longer time frame of two years. Ms. Rannells noted that WETA's Strategic Plan would be a very helpful document to have in-hand to help inform the MTC-lead Core Capacity study.

Chair Breckenridge said that in addition to the regular public ridership that WETA served, she would like to see a specific plan to engage local companies in the region to find out what kind of growth they were projecting and where they projected their future workforce would reside. She said that the larger

companies were already heavily involved in transportation arena and doing things. She said that whatever data could be obtained from municipalities or MTC could serve as a validation that WETA had complete alignment regarding where growth was occurring so that the best information would be available for the Strategic Plan and to inform WETA's vision.

Director Donovan said that the City of San Francisco had a committee on workforce investment which might have some of this information available.

Chair Breckenridge said WETA also needed to take a hard look at Hayward, Fremont, San Jose, Santa Clara and the whole South Bay tech corridor. She said that as traffic got worse, people would not live there and would move further out and that there would be more buses and that WETA needed to know how they would play into all of that.

Public Comment

Veronica Sanchez, Masters, Mates & Pilots noted that the WTA's enabling legislation required a Community Advisory Committee and asked if it the WETA had the same requirement. She said she thought that it was an effective way to receive input from policymakers.

WETA counsel Stanley Taylor of Nossaman LLP said that it was permissible but not mandatory.

Public Comment

Mr. Gardner said that Richmond would be an ideal service for wind. He said that once WETA spent funds to purchase vessels that that money would be gone but that Wind +Wing's wind assist vessel would pay for itself in three years and last as long as a traditional vessel. He said that greenhouse gas emission reductions were on the table and stressed the importance of planning for this.

Public Comment

Mr. Bellows wished the Board a happy new year and said that he thought WETA was doing a great job with the planning initiatives and agreements with stakeholders, saying it would be a very exciting year. He added that wind power was an up-and-coming technology and that MARAD was supporting a wing sail for the *Golden Bear*. He said it was not applicable to ferries but that it was helpful to vessels sailing long distances in one direction. Mr. Bellows added that wind technology deserved consideration.

Chair Breckenridge said that having a vision for where WETA wanted to be in ten years highlighted the importance of strategic planning and that she appreciated the public comments.

10. ADJOURNMENT

All business having concluded, the meeting was adjourned at 3:02 p.m.

Respectfully Submitted,

Board Secretary

MEMORANDUM

TO: Board Members

FROM: Nina Rannells, Executive Director
Kevin Connolly, Manager, Planning & Development
Chad Mason, Senior Planner

SUBJECT: Authorize the Executive Director to Enter into an Agreement with the Pittsburg Power Company and Lennar Mare Island LLC to Lease Utility Ducts and Construct Modifications for Use

Recommendation

Authorize the Executive Director to enter into a lease agreement with the Pittsburg Power Company and Lennar Mare Island, LLC for use of an existing duct bank facility and to make modifications to the duct bank to enable its use.

Background

This lease agreement with the Pittsburg Power Company (PPC) and Lennar Mare Island (LMI) is for the North Bay Maintenance Facility Project (Project) and allows for modification and use of an existing facility for routing of utility and product delivery infrastructure. Pittsburg Power Company is a California municipal Joint Powers Authority that performs as an electric and natural gas municipal utility. The PPC conducts business on Mare Island as "Island Energy" and owns utility duct banks and infrastructure throughout Mare Island. The PPC is the owner the subject duct bank and LMI is the property owner. LMI is a party to the lease agreement. WETA also has an existing lease with LMI for the Project.

After the Project transferred to WETA from the City of Vallejo, WETA explored design alternatives to reduce excavation activities for the Project. Use of the subject duct bank was identified as a means to avoid excavation in the waterfront area and to allow for utility and product delivery infrastructure connecting the landside and waterside systems. Use of the facility requires construction activities to intercept the duct bank and to connect with the utility and product delivery systems. Modifications are also required at the waterfront end of the duct bank to allow for transition of system infrastructure between the waterside and landside phases. Conduits and pipes will be installed in the duct bank to carry fuel, lube oil, bilge, electricity, and communication lines.

WETA staff and counsel have reviewed and negotiated the terms of the agreement. The term of this agreement is 30 years with an annual cost of one (1) dollar per year. The agreement is included with this item as an attachment.

Fiscal Impact

Funds to support the duck bank facility lease during construction of the Project are included in the project budget. Future years' lease cost will be budgeted accordingly.

END

AGREEMENT TO LEASE UTILITY DUCTS AND CONSTRUCT MODIFICATIONS FOR USE

This Agreement, dated _____, is made by and among PITTSBURG POWER COMPANY, a joint powers agency, doing business on Mare Island as Island Energy, hereinafter called "UTILITY," SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY, hereinafter called "APPLICANT," and LENNAR MARE ISLAND LLC, hereinafter called "OWNER." The parties to this Agreement may sometimes be referred to individually as "Party" and collectively as "Parties."

RECITALS

Whereas, UTILITY owns utility duct banks throughout its service territory as indicated in its Bill of Sale from the United States of America dated September 20, 2001, a copy of which it attached to this Agreement and incorporated by reference as **Exhibit A**; and

Whereas, APPLICANT has completed and submitted to UTILITY an "Application for Utility Project Support" along with all required supporting documents; and

Whereas, APPLICANT desires to use those certain duct banks described in **Exhibit B**, attached to this Agreement and incorporated by reference (the "Subject Duct Banks"), to enable installation of utilities in connection with the construction of a new ferry maintenance facility; and

Whereas, UTILITY is not currently using the Subject Duct Banks and is willing to lease them to the APPLICANT; and

Whereas, it is in the interests of the UTILITY to facilitate development on Mare Island, and the completion of the new ferry maintenance facility will contribute to that development; and

Whereas, Parties understand APPLICANT will use the Subject Duct Banks to install conduits and pipes for the purpose of carrying fuel, water, waste water, and electricity across the waterfront promenade between the APPLICANT's landside and waterside facilities; and,

Whereas, Parties understand the APPLICANT will need to carry out certain construction activities to intercept the Subject Duct Banks, connect them to its other facilities, inspect and maintain the Subject Duct Bank facilities, and carry out such other activities as are more fully described in **Exhibit C**, attached to this Agreement and incorporated by reference, which activities are henceforth referred to as the "Project;" and,

Whereas, it is the understanding of the Parties that APPLICANT shall be responsible for all its Project costs and will compensate UTILITY for all costs and expenses UTILITY incurs in relation to the Project, including but not limited to inspection costs, contractor costs, labor, materials, design, engineering, hazardous material testing and disposal, and internal project management and labor costs; and

Whereas, OWNER is the owner of that certain real property located in the City of Vallejo, County of Solano, State of California, commonly known as WETA lease area, and identified as Solano County Assessor's Parcel No(s). 0066-050-100 ("Owner's Property"); and

Whereas, APPLICANT desires an easement on, over, across and below portions of Owner's Property as more particularly described in **Exhibit D**, attached to this Agreement and incorporated by reference, in order to complete the Project and access the Subject Duct Banks during the term of APPLICANT's lease.

AGREEMENT

Now therefore, in consideration of the mutual promises herein, the Parties agree as follows:

1. **GENERAL.** The above recitals are hereby incorporated into this Agreement.

2. LEASE

- a. Lease Premises: Subject to the terms of this Agreement, UTILITY leases to APPLICANT and APPLICANT leases from UTILITY the Subject Duct Banks as more particularly described in **Exhibit B**.
- b. Lease Term: The term of the lease shall be thirty (30) years from the date first written above ("Lease Term"). The Lease Term may be extended by a written amendment to this Agreement executed by the Parties.
- c. Maintenance, Repairs, and Reporting Damage: APPLICANT shall, at APPLICANT's own cost and expense during the Lease Term, keep and maintain the Subject Duct Banks and appurtenances thereto in good order and repair. APPLICANT agrees to report to UTILITY in a timely manner all damage, breakage, leaks and notice of repairs to be made to the Subject Duct Banks.
- d. Alterations: APPLICANT shall not make or cause to be made any change or alteration ("Alterations") to the Subject Duct Banks that would materially alter future usefulness of the Subject Duct Banks without the prior written consent of UTILITY. Any Alterations or improvements made or caused to be made by APPLICANT shall remain the property of APPLICANT and APPLICANT may, but shall have no obligation to, remove such improvements from the Subject Duct Banks upon the expiration of the Lease Term. Any Alterations or improvements made or caused to be made by UTILITY shall not interfere with APPLICANT's use of the Subject Duct Banks and shall remain the property of UTILITY, and APPLICANT shall not be required nor have the right to remove any such Alterations or improvements during or after the Lease Term.

3. EASEMENT

a. Grant of Nonexclusive Easement:

- i. OWNER hereby grants and conveys to APPLICANT a temporary nonexclusive easement on, over and below a fifteen (15) - foot wide strip of land that extends from Point A to Point B, and which is indicated by area noted in Exhibit D (the "Project Easement Area") for the purpose of construction, reconstruction, removal, replacement, repair, maintenance, operation and inspection of fuel lines, water lines, waste water lines, electrical lines and similar facilities (the "Project Easement").
- ii. The Project Easement includes the right of ingress to, and egress from, the Project Easement Area on, over and across the OWNER's Property to perform the actions stated above, and the right to enter in, over and upon the Project Easement Area and every part thereof to perform the actions stated above by the APPLICANT, its employees, agents, and contractors with vehicles and equipment.
- iii. The term of the Project Easement shall be the same as the Lease Term ("Easement Term").
- iv. OWNER reserves the right to use the Project Easement Area, and allow others to use the Project Easement Area, for purposes which will not interfere with the full enjoyment of APPLICANT's rights and privileges granted pursuant to this Agreement.

4. COSTS, EXPENSES AND PAYMENTS

- a. Payments: APPLICANT's payment for the lease, payable to UTILITY, and the Project Easement, payable to OWNER, shall be One (1) Dollar per year for each year of the Lease Term and Easement Term, payable in advance for the entire Lease Term and entire Easement Term upon execution of this Agreement.
- b. Deposits/Fees: APPLICANT shall remit at execution of the Agreement by it to UTILITY a deposit of \$5,000.00 for this Project along with its Application ("Deposit"), of which \$1,400.00 of the Deposit is a non-refundable processing fee. The remaining \$3,600 of the Deposit is refundable when the Project is complete and APPLICANT has paid all outstanding invoices in full.
- c. Reimbursement Payments: APPLICANT is willing to provide funds to UTILITY for the UTILITY's costs and expenses incurred by UTILITY in relation to the Project ("Reimbursement Payments"). UTILITY will use

the Reimbursement Payments to offset its expenses incurred by UTILITY employees, agents, and contractors in providing supervision of the work and services necessary and relating to the Project.

- d. Monthly Invoice: UTILITY shall submit monthly invoices to APPLICANT based on costs and expenses incurred by UTILITY during the previous month, which may include, but are not limited to, contractor costs, labor, materials, design, engineering, hazardous material testing and disposal, and internal project management and labor costs. UTILITY will invoice its costs and expenses in accordance with the City of Pittsburg Master Fee Schedule, which may be amended from time to time during the term of this Agreement. Any costs or expenses not set forth in the City of Pittsburg Master Fee Schedule shall be charged at cost with a 15% surcharge.
 - e. Monthly Payments: APPLICANT shall remit payment for invoices within thirty (30) days from the receipt of an invoice that complies with the requirements of this Agreement. If payment is not timely received, UTILITY shall deduct the charges from the Deposit, and all Project work by APPLICANT shall cease until APPLICANT provides a payment in an amount sufficient to restore the Deposit to the full \$5,000 level and cover any and all outstanding bills.
 - f. If APPLICANT disputes the amount of a monthly invoice it shall promptly pay the undisputed amount, if any, and submit a detailed statement outlining the basis for its disputation. The UTILITY and APPLICANT shall meet and attempt to resolve the dispute. If the Parties are unable to resolve the dispute, the disputed amount shall be paid under protest, the APPLICANT and UTILITY reserving their respective rights.
5. **DAMAGES TO FACILITIES.** APPLICANT or APPLICANT's insurance will fully reimburse UTILITY for any damage done to UTILITY'S facilities during the Project, at any time in the Lease Term or after expiration of the Lease Term if damage is caused by the acts or omissions of the APPLICANT.
6. **CONSTRUCTION RESPONSIBILITIES.** APPLICANT shall perform at its own expense all work necessary to complete the Project.
7. **ASSIGNMENT.** This Agreement may be assigned by APPLICANT only upon the assignee's written acceptance of said assignment; and the prior approval of UTILITY as evidenced by written endorsement thereon; however, such approval shall not constitute a release of APPLICANT's obligation hereunder unless expressly so provided in said endorsement. UTILITY may refuse to accept an assignment of this Agreement unless executed on a form furnished and approved by UTILITY. The Parties understand and agree that the work to be performed by APPLICANT pursuant to this Agreement will be procured

through a third party contract and that the delegation of such work through this contract shall not constitute an assignment by APPLICANT of the Agreement.

8. RESPONSIBILITY FOR OBTAINING NECESSARY PERMITS AND AUTHORIZATIONS; DISCOVERY OF HAZARDOUS SUBSTANCES.

The APPLICANT is responsible for obtaining any and all required permits, licenses and regulatory authorizations necessary for the commencement and completion of work contemplated by this Agreement. If the APPLICANT or any of its employees, agents or subcontractors discover any hazardous materials during such work, it shall halt any further work in and about the affected area and notify all required parties immediately, including the UTILITY's General Manager or his assigned designee. APPLICANT hereby indemnifies and holds harmless UTILITY and its officers, officials, employees and volunteers against any costs incurred, including attorney's fees, as a result of the discovery, disturbance or discharge of any hazardous materials associated with any work performed under this Agreement, except to the extent the hazardous materials were deposited or caused by the sole negligence or willful misconduct of UTILITY or its officers, officials, employees and volunteers.

9. INDEMNIFICATION.

To the fullest extent permitted by law, APPLICANT shall hold harmless, defend (with counsel reasonable acceptable to UTILITY) and indemnify UTILITY and its officers, officials, employees, attorneys and volunteers from and against all claims, damages, losses, liability, costs and expenses, including without limitation attorney fees and costs of any legal action, arising out of or in connection with this Agreement and caused in whole or in part by any act or omission of the APPLICANT or its contractors or subcontractors, or anyone directly or indirectly employed by APPLICANT or its contractors or subcontractors, or anyone for whose acts any of them may be liable, except where caused by the sole negligence or willful misconduct of the UTILITY or its officers, officials, employees and volunteers.

10. INSURANCE REQUIREMENTS.

The following minimum insurance coverage requirements shall apply to APPLICANT during the Lease Term, and shall apply to any of APPLICANT's contractors or subcontractors retained to complete any Project work during the Lease Term:

- a. Commercial General Liability ("CGL): Coverage shall be at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- b. Automobile Liability: Coverage shall be at least as broad as ISO Form 00 01 covering any auto (symbol 1), with a limit no less than \$1,000,000 per accident for bodily injury and property damage.
- c. Workers Comp: Whenever conducting work on the Project under this Agreement, APPLICANT shall ensure that either it, or any entity performing such work on its behalf, has obtained, and during the course of the work on the Project continues to maintain, Workers' Compensation Insurance for all of its employees performing such work or the employees of any entity performing such work on its behalf, all in compliance with State laws, and to fully indemnify UTILITY from and against any and all workers compensation claims by any such employees arising out of occurrences during work on the Project. APPLICANT hereby indemnifies UTILITY for any and all costs, expenses (including attorneys' fees and disbursements of counsel), damages and liabilities incurred by UTILITY as a result of any failure of either APPLICANT or any entity performing such work on its behalf to take out and maintain such insurance. APPLICANT shall provide UTILITY with a certificate of insurance indicating Workers' Compensation coverage on the Effective Date for APPLICANT and any entity performing work on its behalf.
- d. The insurance policies above shall contain, or be endorsed to contain, the following provisions:
 - i. UTILITY, its officers, officials, employees, and volunteers shall be named as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the APPLICANT (or its contractors or subcontractors).
 - ii. For any claims related to this Agreement, APPLICANT's (or its contractor's or subcontractor's) insurance policy shall be primary insurance as respects the UTILITY, its officers, officials, employees or volunteers. Any insurance or self-insurance maintained by UTILITY, its officers, officials, employees or volunteers shall be excess of the APPLICANT's (or its contractor's or subcontractor's) insurance and shall not contribute with it.
 - iii. Each insurance policy shall provide that coverage shall not be cancelled except with thirty (30) days' notice to UTILITY.
 - iv. APPLICANT (or its contractor or subcontractor) agrees to waive any right to subrogation which any insurer of APPLICANT (or its contractor or subcontractor) may acquire against UTILITY by virtue of the payment of any loss under such insurance. This provision applies whether or not APPLICANT (or its contractor

or subcontractor) has received a waiver of subrogation endorsement from its insurer.

- e. APPLICANT shall furnish UTILITY with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by UTILITY before the Project commences. However, failure to obtain the required documents prior to the commencement of the Project shall not waive the APPLICANT's obligation to provide them.

11. COMPLIANCE WITH LAWS. APPLICANT, at its sole cost and expense, shall comply with all applicable local, state and federal laws pertaining to the use, operation and management of the Subject Duct Banks by APPLICANT. APPLICANT shall not itself use the Subject Duct Banks for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the Subject Duct Banks or Project Easement Area which would result in a nuisance or a violation of law. APPLICANT shall use its best efforts to not permit any permittees, licensees, guests or invitees to use the Subject Duct Banks or Project Easement Area for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the Subject Duct Banks or Project Easement Area which would result in a nuisance or a violation of law.

12. EVENT OF DEFAULT. An "Event of Default" under this Agreement shall occur if any Party fails to comply with any of the covenants or obligations hereunder and does not cure such failure within thirty (30) days after receipt of written notice thereof (or fails to commence to cure such default within such thirty (30) day period and thereafter fails to proceed with due diligence to cure such default). Upon the occurrence of an Event of Default hereunder, the aggrieved non-breaching Party may immediately terminate this Agreement, and any Party may pursue all remedies at law or in equity, expressly including the remedy of specific performance of this Agreement.

13. AUTHORIZED SIGNATURE. If any Party hereto is a corporation, partnership, joint venture or a group of individuals, the subscriber hereto represents that he has the authority to bind said corporation, partners, joint venture or individuals as the case may be.

14. NOTICES. All notices, reports or demands required or permitted to be given under this Agreement shall be in writing and shall be deemed to be given when delivered personally to the party designated below, or when delivered by the United States mail in a sealed envelope, with registered or certified mail, postage prepaid thereon, or delivered by express mail or nationally recognized overnight air courier addressed to the party to which notice, report or demand is being given, as follows:

If to UTILITY: General Manager
Island Energy
440 Walnut Avenue
Vallejo, CA 94592-0001

If to APPLICANT: Executive Director
Water Emergency Transportation Authority
Pier 9, Suite 111, The Embarcadero
San Francisco, CA 94111

If to OWNER: Brian McDonough
Lennar Mare Island
690 Walnut Ave, Suite 100
Vallejo, CA 94592

15. MODIFICATIONS. Any and all modifications or amendments to this Agreement shall be in writing and shall be executed by the Parties.

16. VENUE; GOVERNING LAW. In the event that any Party brings any action against another under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Solano or in the United States District Court for the Eastern District of California. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

17. SEVERABILITY. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect.

18. NO IMPLIED WAIVER OF BREACH. The waiver of any breach of a specific provision of this Agreement does not constitute waiver of any other breach of that term or any other term of this Agreement.

19. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

20. INTEGRATION; INCORPORATION. This Agreement, including all exhibits attached hereto, represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

21. COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall

constitute one agreement.

22. CONSTRUCTION. Each Party has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

23. NO THIRD PARTY BENEFICIARIES. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.

In witness whereof, the Parties hereto have executed this Agreement as of the date first set forth above.

APPLICANT:

San Francisco Bay Area Water
Emergency Transportation
Authority

By _____

[name and title]

OWNER

Lennar Mare Island, LLC

By: _____

[name and title]

UTILITY:

Pittsburg Power Company

By _____

Joe Sbranti, Executive Director

Attest:

Alice Evenson, Secretary

Approved as to Form:

Ruthann G. Ziegler, Legal Counsel

EXHIBIT A
BILL OF SALE

The United States of America, acting by and through the Commanding Officer, Engineering Field Activity West, hereinafter called "GOVERNMENT," for valuable consideration provided to GOVERNMENT by Pittsburg Power Company, J.P.A. (d.b.a. "Island Energy"), hereinafter called "ISLAND ENERGY" of P. O. Box 1518, Pittsburg, California, 94565, receipt of which is hereby acknowledged and accepted, has, in conformance with Navy's Solicitation No. ITJV-96-001, as amended, granted a non-exclusive easement in, upon, over, under and across that certain real property described as the former Mare Island Naval Shipyard, Vallejo, California and by this Bill of Sale and in conformance with Navy's Solicitation No. ITJV-96-001, as amended, does hereby grant, transfer, assign, and set over to ISLAND ENERGY, their representatives, successors, and assigns, all of its right, title and interest in those certain goods and chattels which together comprise the existing electric and gas utility distribution systems located at said Mare Island Naval Shipyard and further described in Exhibit "A" attached hereto and made a part hereof (the "Distribution Systems").

To have, own and to hold the same unto ISLAND ENERGY, their representatives, successors, and assigns forever.

ISLAND ENERGY acknowledges and accepts that said Distribution Systems are being transferred on an "as is where is" basis provided, however, GOVERNMENT hereby warrants covenants, and represents that it has the right, authority and power to execute this Bill of Sale and transfer the Distribution Systems; that the Distribution Systems are free from security interests, liens or other encumbrances; that ISLAND ENERGY'S possession of the Distribution Systems will not be disturbed; that no suit, action, arbitration or legal, administrative or other proceeding or government investigation is pending or threatened against or affecting the

transaction contemplated under this Bill of Sale; ISLAND ENERGY understands that GOVERNMENT makes no warranty of fitness for a particular purpose.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement on the dates set forth below.

SELLER:

September 20, 2001
The United States of America, acting by
and through the Commanding Officer,
Engineering Field Activity West

By: 

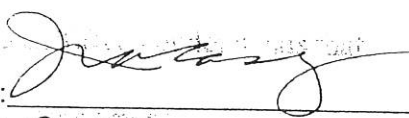
Its: _____

William R. Carsillo

Real Estate Contracting Officer
Base Realignment and Closure Office
Department of the Navy

BUYER:

November 27, 2000
ISLAND ENERGY

By: 

Its: City Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

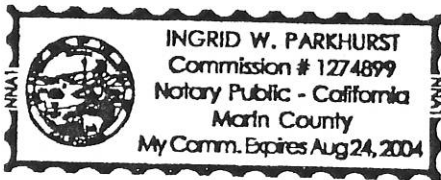
County of Solano } SS.

On September 20, 2001 before me, Ingrid W. Parkhurst, Notary
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared William R. Carrillo
Name(s) of Signer(s)

- personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Ingrid W. Parkhurst
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Bill of Sale / Island Energy

Document Date: _____ Number of Pages: 22

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Contra Costa

On 11-27-00 before me, Kathleen C. Meidinger, Notary
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Willis A. Casey
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Kathleen C. Meidinger
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Bill of Sale / Island Energy

Document Date: _____ Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

EXHIBIT B

Description of Subject Duct Banks

Twenty-one northern most ducts as described in Exhibit B-2 in the duct bank located in the project area noted in Exhibit B-1

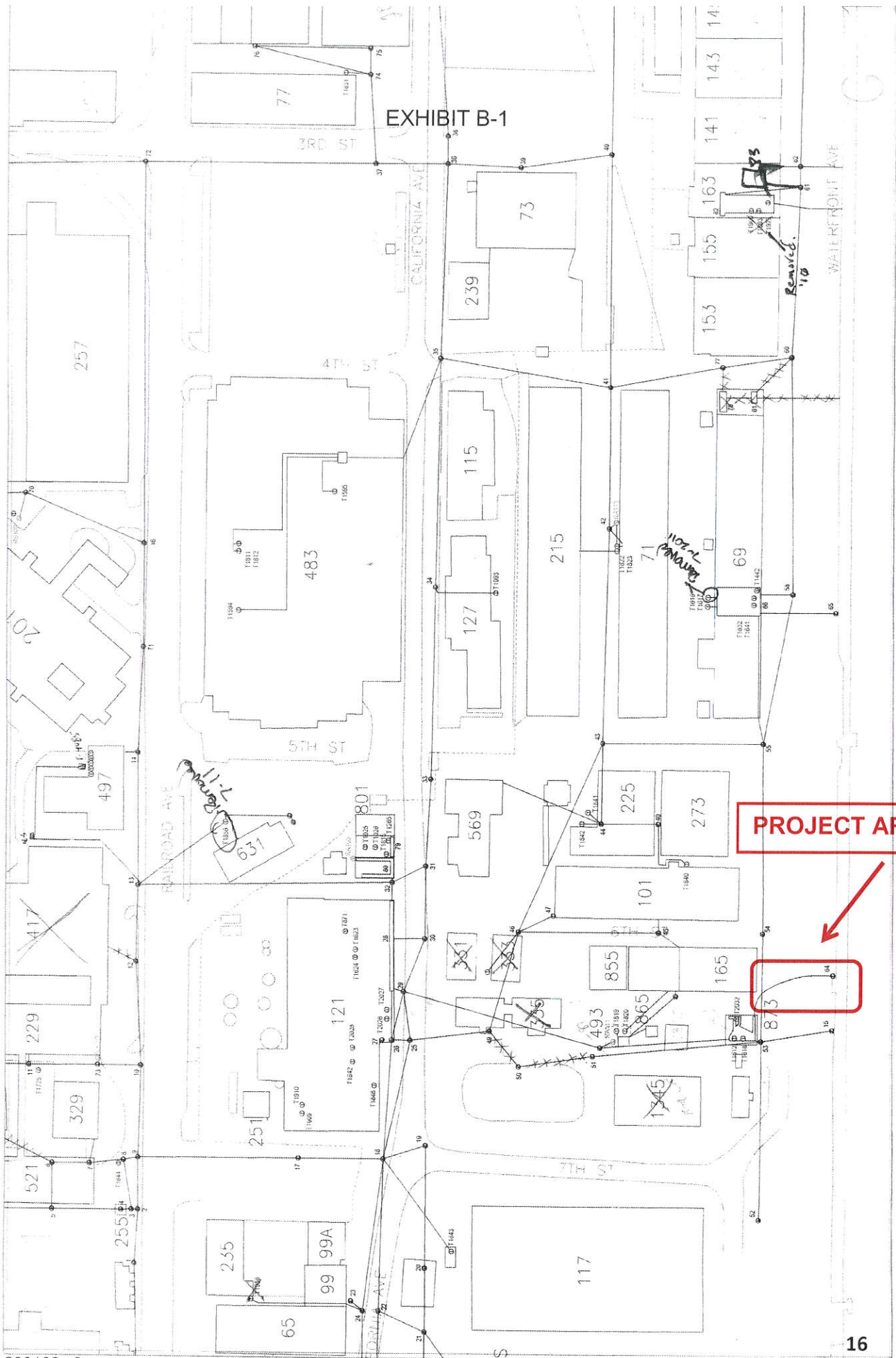
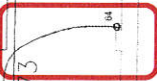


EXHIBIT B-1

PROJECT AREA



1-1-2-1-1
RAILROAD AVE

Removal
110
2-2-1-1-1

EXHIBIT B-2

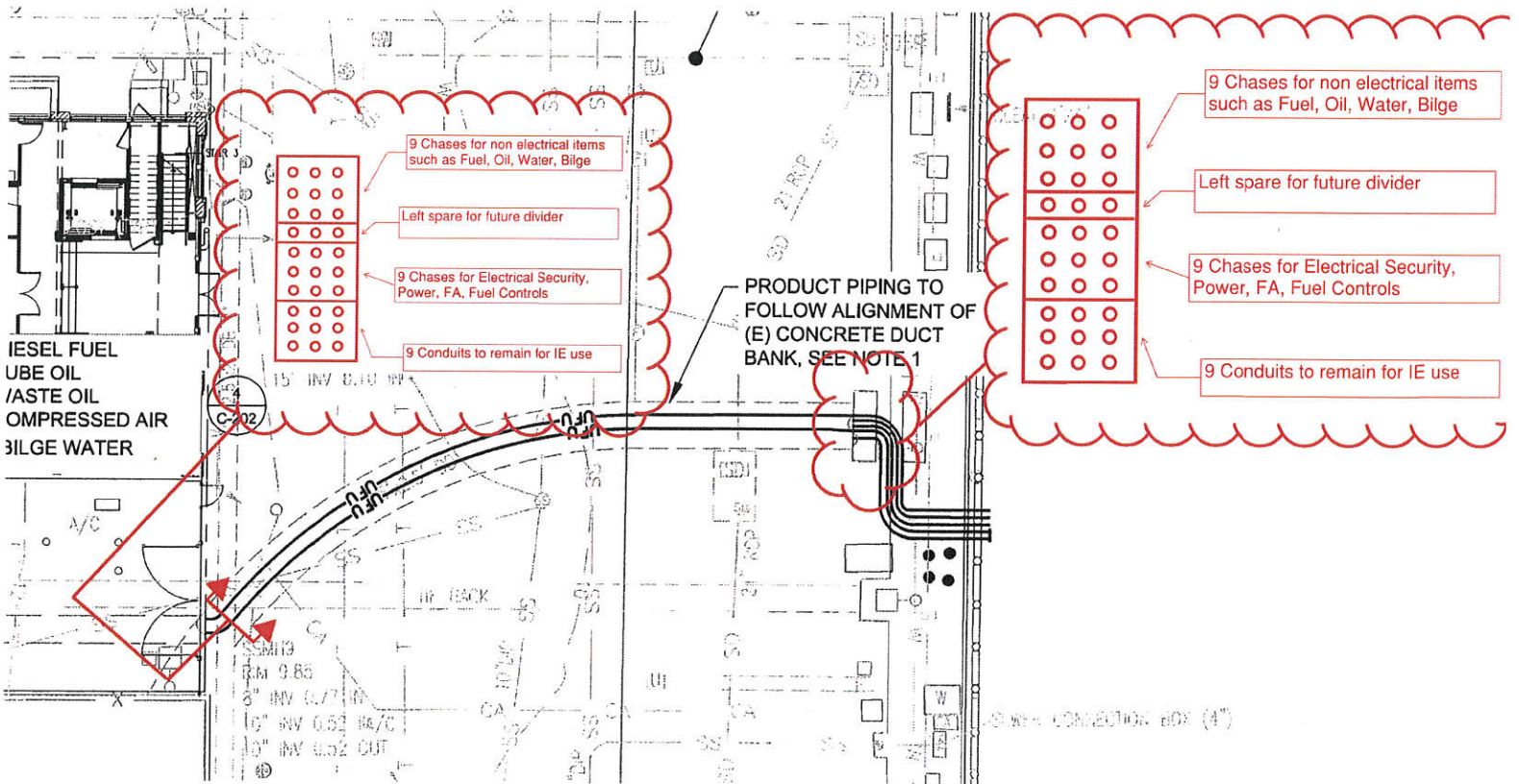


EXHIBIT C

Description of the Project

APPLICANT's Project Activities include:

Construction, reconstruction, removal, replacement, repair, maintenance, operation and inspection of fuel lines, water lines, waste water lines, electrical lines and similar facilities.

EXHIBIT D

Description of Project Area Easement

Fifteen (15) – foot wide strip from Point A to Point B noted section on attached sheet 27 of 76 of EXHIBIT PLATS For UNSURVEYED ELECTRICAL AND GAS EASEMENTS ON MARE ISLAND.

2360691.1

SEE SHEET 25

483 SEE SHEET 26

4TH ST

SURVEYED EASEMENT SHOWN IN PLAT FOR ELECTRICAL LINES ALONG RAILROAD AVE FROM NORTH PIER ST TO SEVENTH ST.

ELECTRICAL EASEMENT

215

71

69

SURVEYED EASEMENT SHOWN IN PLAT FOR GAS LINES ALONG CALIFORNIA AVE FROM G ST. TO BERTH 20

SURVEYED EASEMENT SHOWN IN PLAT FOR ELECTRICAL LINES ALONG WATERFRONT AVE FROM B ST TO SIXTH ST

ELECTRICAL EASEMENT

ELECTRICAL EASEMENT BERTH 9

ELECTRICAL EASEMENT

SURVEYED EASEMENT SHOWN IN PLAT FOR ELECTRIC LINES ALONG CEDAR AVE FROM I ST TO JOHNSON ST

225

273

101

WATERFRONT AVENUE

MARE ISLAND STRAIT

SEE SHEET 27

322-01

108

SURVEYED EASEMENT SHOWN IN PLAT FOR GAS LINES ALONG RAILROAD FROM 12TH ST TO MARE ISLAND CAUSEWAY

331

333

3350

6TH ST

165

PROJECT EASEMENT AREA

Point A

Point B

SEE SHEET 28

DLFR REIMER

420 WALNUT AVENUE
QUARTERS 19
MARE ISLAND NSY
VALLEJO, CA 94592
PHONE (707) 562-7176
FAX (707) 562-7177

Easement for:
Island Energy

440 Walnut Avenue
P.O. BOX 2001
Mare Island CA 94592

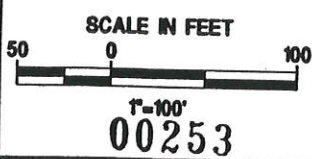


EXHIBIT PLATS
For
UNSURVEYED
ELECTRICAL AND GAS
EASEMENTS ON MARE ISLAND
Sht. 27 of 76

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RESOLUTION NO. 2015-01

**AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO LEASE AGREEMENT WITH
THE PITTSBURG POWER COMPANY AND LENNAR MARE ISLAND**

WHEREAS, the North Bay Maintenance Facility Project (Project) was transferred to San Francisco Bay Area Water Emergency Transportation Authority (WETA) from the City of Vallejo (City) under the Ferry Service Operations Transfer Agreement approved in October 2011; and

WHEREAS, the WETA explored design alternatives to reduce excavation activities for the Project and identified a utility duct bank ("subject duct bank") for installation of utility system connections to the waterfront area the Project; and

WHEREAS, the subject duct bank is property of the Pittsburg Power Company, a Joint Powers Agency doing business on Mare Island as Island Energy; and

WHEREAS, the Pittsburg Power Company is willing to lease a portion of the subject duct bank to facilitate development of the Project and installation of utility systems; and

WHEREAS, Lennar Mare Island is owner of the property surrounding the subject duct bank and a party to the lease agreement; and

WHEREAS, the WETA staff has negotiated the lease with the Pittsburg Power Company and Lennar Mare Island for a 30-year term in the amount of \$1 per year; now, therefore, be it

RESOLVED, that the Board of Directors hereby authorizes the Executive Director to enter into a lease agreement with the Pittsburg Power Company and Lennar Mare Island for a 30-year term in the amount of \$1 per year.

CERTIFICATION

The undersigned, Board Secretary, does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the San Francisco Bay Area Water Emergency Transportation Authority held on February 5, 2015.

YEA:

NAY:

ABSTAIN:

ABSENT:

/s/ Board Secretary

2015-01

END

MEMORANDUM

TO: Board Members

FROM: Nina Rannells, Executive Director
Ernest Sanchez, Manager, Public Information & Marketing

SUBJECT: Approve Contract Award to Bay Ship & Yacht for Refurbishment of Ferry Vessel Peralta

Recommendation

Approve contract award to Bay Ship & Yacht for the refurbishment of the MV *Peralta* in an amount not to exceed \$3,387,385 and authorize the Executive Director to negotiate and execute an agreement and all other documents necessary to support this work.

Background/Discussion

The City of Alameda transferred the MV *Peralta* to WETA in 2011 as part of the transfer of the Alameda Oakland Ferry Service. Built in 2001 by Nichols Brothers Boat Builders, the *Peralta* has passed its economic mid-life. In order to provide for continued safe and reliable operation, the vessel needs major refurbishment. The refurbishment project is separated into two phases with Phase 1 scheduled for completion by May 1, 2015, in order to make the vessel available for summer season operations. The Phase 1 scope of work includes:

- Main engines, generators, and gear boxes will be removed, refurbished, and reinstalled
- Installation of new steering hydraulic pumps and rams
- Passenger cabin renewal including refurbishment of the restrooms, new carpets, and passenger seats
- Vessel drydock and exterior vessel paint, and branding
- Provision of spare gearbox, propellers, and shafts

Staff will issue an RFP for Phase 2 of the project in Fall 2015. Phase 2 will include replacement of all control systems and navigation electronics, snackbar renewal, and interior cabin paint.

Procurement Process:

A Best Value procurement process was utilized for this project consistent with the Authority's Administrative Code and Federal Transit Administration requirements. A Best Value procurement process considers both price and qualitative components of a proposal where the award is based on the combination of price and qualitative components that are deemed the most advantageous and of the greatest value to the procuring agency.

The Request for Proposals (RFP) was released on December 5, 2014. Notice of this RFP was sent to WETA's mailing list, posted on the Agency's website, and advertised with the Passenger Vessel Association, the San Francisco Examiner, and in the Regional DBE Business Outreach Committee quarterly newsletter.

On December 16, 2014, WETA hosted a mandatory Proposers' conference at Pier 9 and onboard the vessel which was attended by nine individuals representing two shipyards. WETA staff issued three addenda to the original RFP clarifying the specifications set forth in the RFP, and responding to pre-bid questions. Proposals were due to WETA on or before January 7, 2015.

Evaluation Process:

The RFP required proposers to submit technical qualifications for review and scoring, as well as a separate price proposal that was reviewed if the proposer met the technical requirements. The technical portion of the evaluation process amounted to 75% of the total possible score. Technical scores considered each proposer's technical approach, ability to meet the project schedule, understanding of the project, management plan, experience in similar projects, references, qualifications of its proposed team, and its facilities and equipment.

A total of two proposals were received by the January 7 deadline. Submitting shipyards were Bay Ship & Yacht and Marine Group Boat Works. On January 11, the proposal evaluation committee consisting of Patrick Murphy, Jason Covell, and Kent McGrath from Blue & Gold Fleet, Charlie Walther from Walther Engineering, and Ernest Sanchez, met to review and score the two proposals. The committee first scored the technical portion of the proposals, both of which met the technical requirements, and then reviewed and scored the price proposals. Table 1 below provides the scoring totals for each proposal.

Table 1 Proposal Scoring			
FIRM	Technical	Price	Total
Bay Ship & Yacht	57.48	40.00	97.48
Marine Group	50.46	29.11	79.57

While both shipyards received high technical marks for their ability to perform the required work, Bay Ship & Yacht received the higher overall score as a) the cost proposal of \$2,945,552 was \$802,043 less than the \$3,747,595 proposed by Marine Group, and b) Bay Ship & Yacht committed to completing all Phase 1 work by the May 1, 2015 target date whereas Marine Group could not complete the required work by that date and instead proposed to complete the work in two parts.

Accordingly, staff recommends awarding a contract to Bay Ship & Yacht to refurbish the *Peralta* and proposes that this award include a 15% owner's contingency to allow for additive changes for work not yet identified but that may be necessary to satisfactorily complete the project. The recommended award including owner's 15% contingency is \$3,387,385. If approved, staff will issue the Notice to Proceed for design activities on February 11, 2015. Phase 1 work of the project will be completed by May 1, 2015.

DBE/SBE Participation:

The Authority's overall annual Disadvantaged Business Enterprise (DBE) goal and Small Business Enterprise (SBE) goal for Federal Fiscal Year 2014/2015 is 1.36% for FTA-assisted contracts. Bay Ship & Yacht was not able to commit to any DBE or SBE participation on this contract.

Fiscal Impact

The Mid-Life Refurbishment of the *Peralta* is included in the FY 2014/15 Capital Budget with a total (Phase 1 and 2) budget of \$5,260,000, and is funded with a combination of Federal Transit Administration (FTA) grant funds and Local Bridge Toll revenues.

END

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RESOLUTION NO. 2015-02

APPROVE THE AWARD OF A CONTRACT WITH BAY SHIP & YACHT FOR SHIPYARD SERVICES TO REFUBISH THE FERRY PERALTA AND AUTHORIZE THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE THE AGREEMENT

WHEREAS, the San Francisco Bay Area Water Emergency Transportation Authority (WETA) seeks to enter into an agreement with Bay Ship & Yacht to provide shipyard services to refurbish the ferry vessel *Peralta* (Project); and

WHEREAS, WETA has Federal Transit Administration (FTA) and local match funds to support the Project; and

WHEREAS, WETA has established procedures in its Administrative Code relating to the selection and contracting of Construction Services, including projects where FTA funds will be used; and,

WHEREAS, on September 26, 2014, WETA issued an Request for Proposals (RFP) for shipyard work for the Project; and

WHEREAS, WETA followed the procedures in its Administrative Code, consistent with an FTA project regarding solicitation and evaluation of qualifications; and,

WHEREAS, WETA staff has recommended the award of these services, which would commit the Authority to a contract in an amount not to exceed \$3,387,385 which includes a 15% owners contingency; now, therefore, be it

RESOLVED, that the Board of Directors hereby approves an agreement with Bay Ship & Yacht to provide shipyard services to refurbish the ferry vessel *Peralta* for an amount not to exceed \$3,240,107 which includes a 10% owners contingency; and be it further

RESOLVED, that the Board of Directors authorizes the Executive Director to negotiate and execute a contract for this work and to take all other actions and execute all other documents as are necessary to complete the work.

CERTIFICATION

The undersigned, Board Secretary, does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the San Francisco Bay Area Water Emergency Transportation Authority held on February 5, 2015.

YEA:

NAY:

ABSTAIN:

ABSENT:

/s/ Board Secretary

2015-02

END

MEMORANDUM

TO: Board Members

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

SUBJECT: Approve Proposition 1B Program of Projects and Authorize Agency Officials to Execute Program Requirements

Recommendation

Authorize the following actions related to the FY2013/14 and FY2014/15 Proposition 1B Waterborne grant programs:

- 1) Approve a list of FY2013/14 Proposition 1B Waterborne projects for transmittal to the California Governor's Office of Emergency Services; and
- 2) Approve a list of FY2014/15 Proposition 1B Waterborne projects for transmittal to the California Governor's Office of Emergency Services; and
- 3) 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 per year were authorized as a part of the FY2013/14 and FY2014/15 State Budget. The funds made available in these two years represent the seventh and eighth year increments 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 Governor's Office of Emergency Services (Cal OES).

Discussion

Cal EMA has issued program guidelines for the FY2013/14 and FY2014/15 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:

<u>Project</u>	<u>FY2013/14</u>	<u>FY2014/15</u>
1. WETA Ferry Vessels	\$ 5,000,000	\$ 13,000,000
2. Downtown San Francisco Ferry Terminal Expansion	12,000,000	12,000,000
3. Operations and Maintenance Facilities	8,000,000	0
Total	\$ 25,000,000	\$ 25,000,000

Funds from the FY2013/14 and FY2014/15 programs will support delivery of key vessel and operating facility projects that have been under development in recent years and that 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 OES'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 OES.

While Cal OES'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 FY2013/14 and \$25 million FY2014/15 Proposition 1B funds to support WETA's capital program.

END

Attachment A

Proposition 1B - Program of Projects

Project	Recommended FY2013/14 FY2014/15 for Funding		Project Description
1. WETA Ferry Vessels	\$5,000,000	\$13,000,000	<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>
2. Downtown San Francisco Ferry Terminal Expansion	\$12,000,000	\$12,000,000	<i>This project will construct up to three new ferry terminals at the Downtown San Francisco 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>
3. Operations and Maintenance Facilities	\$8,000,000		<i>This project will provide funds to support the construction of operations and maintenance facilities in the Central (Alameda) and North (Vallejo) 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>
Total Recommended Program	\$25,000,000	\$25,000,000	

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RESOLUTION NO. 2015-03

APPROVAL OF PROPOSITION 1B PROGRAM OF PROJECTS AND AUTHORIZE AGENCY OFFICIALS TO EXECUTE PROGRAM REQUIREMENTS

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 authorizes the issuance of general obligation bonds for specified purposes, including but not limited to, funding made available for capital projects that provide increased protection against security and safety threats, and for capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems; and

WHEREAS, the California Governor's Office of Emergency Services (Cal OES) administers such funds deposited in the Transit System Safety, Security, and Disaster Response Account under the California Transit Security Grant Program (CTSGP); and

WHEREAS, the San Francisco Bay Area Water Emergency Transportation Authority (WETA) is eligible to receive CTSGP funds; and

WHEREAS, WETA will apply for FY 2013/14 and FY 2014/15 CTSGP funds in an amount up to \$50 million to construct Operations and Maintenance Facilities, Passenger Vessels and Expanded Berthing Facilities; and

WHEREAS, WETA recognizes that it is responsible for compliance with all Cal OES CTSGP grant assurances, and state and federal laws, including, but not limited to, laws governing the use of bond funds; and

WHEREAS, Cal OES requires WETA to complete and submit a Governing Body Resolution for the purposes of identifying agent(s) authorized to act on behalf of WETA to execute actions necessary to obtain CTSGP funds from Cal OES and ensure continued compliance with Cal OES CTSGP assurances, and state and federal laws, therefore be it

RESOLVED, by WETA Board of Directors that the Executive Director, Attorney or the Finance and Grants Manager, is hereby authorized to execute for and on behalf of the San Francisco Bay Area Water Emergency Transportation Authority, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining financial assistance provided by the California Governor's Office of Emergency Services under the CTSGP.

CERTIFICATION

The undersigned, Board Secretary, does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the San Francisco Bay Area Water Emergency Transportation Authority held on February 5, 2015.

YEA:

NAY:

ABSTAIN:

ABSENT:

/s/ Board Secretary

2015-03

END

MEMORANDUM

TO: Board Members

FROM: Nina Rannells, Executive Director
Kevin Connolly, Manager, Planning & Development
Mike Gougherty, Senior Planner

SUBJECT: Approve Amendment to Agreement with ROMA Design Group for Design and Engineering Services for the Downtown San Francisco Ferry Terminal Expansion Project

Recommendation

Approve Amendment No. 3 to Agreement #10-005 with ROMA Design Group in the amount of \$3,620,000 to provide Phase II Preliminary and Final Design services for the Downtown San Francisco Ferry Terminal Expansion Project and authorize the Executive Director to execute the amendment.

Background/Discussion

In April 2010, WETA released a Request for Qualifications (RFQ) to provide design and engineering services for the Downtown San Francisco Ferry Terminal Expansion Project. Firms were invited to submit qualifications to provide both Phase I Conceptual Design and Phase II Final Design services in support of the project. Based on the submittals received, ROMA Design Group was selected as the most qualified firm to provide the scope of services requested. In June 2010, the WETA Board approved a contract award with ROMA Design Group for an amount not-to-exceed \$1,380,000 to provide Phase I Conceptual Design services to support approval of the project under the California Environmental Quality Act and the National Environmental Protection Act.

The agreement with ROMA Design Group has been amended twice to extend the term due to delays in the environmental review process. Despite these delays, ROMA Design Group has completed the Phase I Conceptual Design work within the initial budget approved for the project. In October 2014, WETA completed its environmental review of the Downtown San Francisco Ferry Terminal Expansion Project and now seeks to initiate Phase II Final Design work to continue development of the project.

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 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.

The Phase II Final Design work that WETA seeks to initiate includes the development of bridging design documents for all South Basin improvements proposed by the project and design support during project construction. The South Basin improvements will represent the first construction phase of the project and are planned to consist of new Gates F & G,

expanded passenger waiting areas, and other terminal-related improvements to support existing and near-term expansion services provided by WETA. The total project cost for South Basin improvements is estimated to be close to \$80 million, including environmental, design, construction, project mitigation and construction administration support services, with construction costs estimated to be \$65 million of this amount. Final design work for a second construction phase, consisting of all proposed North Basin improvements, would be undertaken at a future date and is not included under the proposed scope of work for this amendment.

To date, ROMA Design Group has demonstrated a consistent ability to deliver high-quality professional design and engineering services for the project. Additionally, ROMA Design Group is uniquely familiar with the current project design and WETA's programmatic needs for its Downtown San Francisco Ferry Terminal having prepared the conceptual design for the project. A breakout of the Phase II Final Design work scope and budget for the South Basin improvements is provided below:

Bridging Design Services - \$3,010,000

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 Bridging Design/Build Construction Bid Documents, which would be completed over an estimated 12-month period. PS&E sets will be developed for each major component of the project, including marine, site, and mechanical elements, as well as dredging and demolition work. The consultant will provide constructability reviews and construction cost budget estimates at key points throughout development of the preliminary and final bridging design documents. The budget for these services includes a 7% contingency to cover unanticipated expenses.

Construction Design Support Services - \$610,000

The design consultant will be required to provide support services during project construction. 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. The budget for these services includes a 7% contingency to cover unanticipated expenses.

The budget of \$3,010,000 requested for Preliminary and Final Bridging Design Services represents approximately 5% of the construction cost estimate. Additionally, a budget of \$610,000 is being requested for design support services during construction. Staff has determined that the total budget of \$3,620,000 for Phase II Final Design services for the South Basin work is reasonable based on actual expenditures for similar work on the Central Bay Operations & Maintenance Facility and South San Francisco Ferry Terminal projects, as well as benchmark budget ranges for similar projects undertaken by other agencies.

Staff recommends that the Board approve Amendment #3 to Agreement #10-005 with ROMA Design Group for a not-to-exceed amount of \$3,620,000 to provide Phase II Final Design work for the South Basin improvements and extend the term of the agreement to June 30, 2019. All actual expenditures for work completed under this agreement would be pre-authorized through task orders issued by staff for this project.

Fiscal Impact

Final Design for the Downtown San Francisco Ferry Terminal Expansion project is included in the FY2014/15 Capital Budget in the amount of \$3,745,000 and is funded with a combination

of State Proposition 1B funds and Local RM2 Bridge Toll revenues. Sufficient funds are included in the project budget to support this amendment.

END

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RESOLUTION NO. 2015-04

APPROVAL OF AMENDMENT NO. 3 TO THE AGREEMENT WITH ROMA DESIGN GROUP FOR DESIGN AND ENGINEERING SERVICES FOR THE DOWNTOWN SAN FRANCISCO FERRY TERMINAL EXPANSION PROJECT AND AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE THE AMENDMENT

WHEREAS, the San Francisco Bay Area Water Emergency Transportation Authority entered into Agreement #10-005 with ROMA Design Group in on July 1, 2010 to provide Phase I Conceptual Design and Engineering services for the Downtown San Francisco Ferry Terminal Expansion project for an amount not-to-exceed \$1,380,000; and

WHEREAS, WETA authorized Amendment No. 1 to Agreement #10-005 with ROMA Design Group in May 2013 to extend the term of the agreement to June 30, 2014; and

WHEREAS, WETA authorized Amendment No. 2 to Agreement #10-005 with ROMA Design Group in May 2014 to extend the term of the agreement to June 30, 2015; and

WHEREAS, WETA seeks to authorize additional budget authority for Phase II Final Design and Engineering services as included in the original project solicitation; and

WHEREAS, WETA has followed established provisions and procedures in its Administrative Code relating to the authorization of contract amendments to existing agreements; and

WHEREAS, WETA staff has recommended the approval of Amendment No. 3 to Agreement #10-005 with ROMA Design Group to increase the total not-to-exceed contract amount from \$1,380,000 to \$5,000,000 and to extend the agreement to June 30, 2019; now, therefore, be it

RESOLVED, the Board of Directors hereby approves Amendment No. 3 to Agreement #10-005 with ROMA Design Group to increase the total not-to-exceed contract amount from \$1,380,000 to \$5,000,000 and to extend the agreement to June 30, 2019 and authorizes the Executive Director to execute the amendment.

CERTIFICATION

The undersigned, Board Secretary, does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the San Francisco Bay Area Water Emergency Transportation Authority held on February 5, 2015.

YEA:
NAY:
ABSTAIN:
ABSENT:

/s/ Board Secretary

2015-04

END

MEMORANDUM

TO: Board Members

FROM: Nina Rannells, Executive Director
Kevin Connolly, Manager, Planning & Development
Mike Gougherty, Senior Planner

SUBJECT: Authorize Executive Director to Negotiate and Execute Lease Agreement and Right of Entry Permit with City of Alameda for the Central Bay Operations and Maintenance Facility

Recommendation

Authorize the Executive Director to negotiate and execute a Lease Agreement and a Right of Entry Permit with the City of Alameda and take any other such related actions to acquire property for the Central Bay Operations and Maintenance Facility.

Background/Discussion

The Central Bay Operations and Maintenance Facility is being planned and developed by WETA to serve as one of two maintenance bases for WETA's existing and future ferry fleet. The Facility will include a 4-story building, diesel fuel storage tanks, upland work yard, and a 12-slip ferry berthing facility extending from the site shoreline into San Francisco Bay. The total project cost is estimated to be between \$45 and \$50 million including environmental, design, construction, mitigation, shop outfitting, construction management and support activities, which includes approximately \$35 million for construction activities.

The project site for the proposed facility is located southeast of the intersection of West Hornet Avenue and Ferry Point Road near Pier 3 on property owned by the City of Alameda. The site includes 0.73 acre of undeveloped upland real property, 3.4 acres of submerged lands on San Francisco Bay, and a 75-vehicle paved parking area.

Staffs representing WETA and the City have drafted terms and conditions of a Lease Agreement that would grant WETA property rights to the proposed Alameda Point site for the purpose of constructing and operating its future Central Bay Operations and Maintenance Facility. Keys terms of the proposed Lease Agreement are as follows:

- Sixty year term commencing upon approval of Lease Agreement;
- Initial monthly rent of \$5,125, commencing upon receipt of Certificate of Occupancy and subject to annual adjustment based on the Consumer Price Index;
- WETA will provide defined infrastructure improvements in lieu of City Development Impact Fees required for new development at Alameda Point; and
- A Right of Entry Permit approved concurrent with approval of Lease Agreement for WETA to construct public access improvements within the adjacent park area as required by BCDC as a part of the project permit. These improvements will be transferred to either the East Bay Regional Park District or City upon completion.

Pending authorization for the Executive Director to execute the Lease Agreement, the Alameda City Council is tentatively scheduled to consider approval of the Lease Agreement in early March. Upon execution of the Lease Agreement by both parties, WETA can proceed with securing project approval from the Bay Conservation Development Commission as early as spring 2015, and potentially release a Request for Proposals to construct the project, subject to subsequent Board approval, by late-summer 2015.

Fiscal Impact

The initial monthly base rent payment of \$5,125, subject to annual CPI adjustment, will begin when the Certificate of Occupancy is received. Funds to support the annual lease cost for the Central Bay Operations and Maintenance Facility will be budgeted accordingly.

Attachments:

- 1) Lease Agreement for Central Bay Operations and Maintenance Facility
- 2) Right of Entry Permit for Construction Work

END

LEASE AGREEMENT

BY AND BETWEEN

CITY OF ALAMEDA,

a charter city and municipal corporation
AS LANDLORD

and

**SAN FRANCISCO BAY AREA WATER EMERGENCY
TRANSPORTATION AUTHORITY**

a California public entity created pursuant to Government Code
Section 66540 *et seq.*
AS TENANT

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LEASE AGREEMENT

BASIC LEASE INFORMATION

<i>Lease Date:</i>	_____, 2015
<i>Landlord:</i>	City of Alameda, a charter city and municipal corporation
<i>Landlord's Address:</i>	City of Alameda City Hall 2263 Santa Clara Ave Alameda, CA 94501 Tel: (510) 748-4509 Attn: City Manager Notice Copy to: PM Realty Group, L.P., as Agent for City of Alameda 101 W. Atlantic Avenue Alameda, CA 94501 Tel: (510) 749-0304
<i>Tenant:</i>	San Francisco Bay Area Water Emergency Transportation Authority, a California public entity created pursuant to Government Code Section 66540 <i>et seq.</i>
<i>Tenant's Address:</i>	San Francisco Bay Area Water Emergency Transportation Authority Pier 9 Suite 111, The Embarcadero San Francisco, CA 94111 Attn: Executive Director Tel: (415) 364-3192
<i>Premises:</i>	Those certain premises located at the southern end of West Hornet Avenue (670 W. Hornet Avenue), Alameda, as depicted on Exhibit A-1 . (Exhibit A-1 is comprised of two (2) drawings, entitled "Site Context Plan" and "Site Plan".) The Premises include certain (i) upland real property (A) south of W. Hornet Avenue (0.51 acres) and (B) north of W. Hornet Avenue (0.22 acres (referenced as "WETA Fuel Tank Area" on the Site Context Plan attached hereto as part of Exhibit A-1)) (jointly, the " Landside Lease Area ") and (ii) submerged lands (3.4 acres) (the

	“ Waterside Lease Area ”), each as depicted on such Exhibit A-1 .
<i>Building:</i>	Tenant to construct a four-story building on the Premises (the “ Building ”)
<i>Length of Term:</i>	Sixty (60) years
<i>Estimated Commencement Date:</i>	_____, 20__
<i>Estimated Expiration Date:</i>	_____, 20__
<i>Base Rent:</i>	Initial Monthly Base Rent shall be equal to \$5,125 and shall be subject to the CPI Rent Adjustment under Section 4.1(a) below.
<i>Taxes and Utilities:</i>	Tenant shall pay directly all costs for Utilities under Section 8.1 below. Tenant shall pay all Taxes (as defined in Section 5.1(a) below) and Tenant Taxes (as defined in Section 9.1 below).
<i>Security Deposit:</i>	None
<i>Permitted Use:</i>	To the extent permitted by the Use Permit (as defined in Section 6.4 below), the following uses shall be permitted: Fuel storage, maintenance shops, dispatch and administrative support, and office and meeting facilities, as well as vessel mooring, fueling, servicing and provisioning and other functions related to a regional ferry and maintenance facility; which facility shall be secured with no public access permitted to the Premises without the prior written permission of Tenant. The facility will also serve as an Emergency Operations Center (“ EOC ”) during emergency events and will have the capability of boarding passengers during these events.
<i>Parking:</i>	Tenant shall have the right, on a nonexclusive basis, to have its employees and visitors park in a paved 75-vehicle parking area within One Thousand Five Hundred (1,500) feet of the Premises as identified on Exhibit A-2 attached hereto, as further set forth in Section 2.2 herein below.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between CITY OF ALAMEDA, a charter city and municipal corporation (“**Landlord**”) and SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY, a California public entity created pursuant to Government Code Section 66540 *et seq.* (“**Tenant**”). The Basic Lease Information, the Exhibits and this Lease Agreement are and shall be construed as a single instrument and are referred to herein as the “**Lease**”.

1. DEMISE.

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, Landlord does hereby lease to Tenant and Tenant does hereby hire and take from Landlord, the Premises described below, upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. PREMISES.

2.1 Premises. The Premises demised by this Lease are as specified in the Basic Lease Information. The Premises are located on property commonly referred to as Terminal 1 (“**Property**”). The Premises has the address and includes the area depicted in the Basic Lease Information and **Exhibit A-1** attached hereto; provided, however, that any statement of square footage set forth in this Lease is an approximation which Landlord and Tenant agree is reasonable and no economic terms based thereon shall be subject to revision whether or not the actual square footage is more or less.

2.2 Parking.

(a) Tenant and its employees, agents, suppliers, and invitees shall have the nonexclusive right to use a paved 75-vehicle parking area within 1,500 feet of the Premises as identified on **Exhibit A-2** attached hereto (the “**Parking Area**”) for parking purposes, which Parking Area may be relocated to within 1,500 feet of the Premises as the Property is redeveloped. Landlord shall not be required to enforce Tenant’s right to use such parking spaces, but Tenant shall be permitted to add signage, numbering, or other identification that reflects Tenant’s right to use such parking spaces, subject to Landlord’s reasonable consent. Landlord reserves the right, from time to time, to stripe, re-stripe or otherwise designate the Parking Area; provided, however, that at all times Landlord provides the Parking Area, Landlord shall comply with all Laws (as defined below) concerning the Parking Area. Under no circumstances may the Parking Area be utilized for the storage, repair or maintenance of any vehicles. Should Tenant or its agents, employees or invitees use the Parking Area or any portion thereof, in violation of this Section 2.2, Landlord shall have the right, upon reasonable prior notice to Tenant, in addition to such other rights and remedies that it may have, to tow away any vehicle involved and charge the cost of towing and storage to the owner of such vehicle.

(b) Except in the case of Landlord’s or Landlord Related Parties’ (as defined in Section 14.1 below) negligence or willful misconduct, in no event shall Landlord or any

Landlord Related Parties be liable for (i) loss or damage to any vehicle or other personal property parked or located upon or within the Parking Area, whether pursuant to this license or otherwise and whether caused by fire, theft, explosions, strikes, riots or other cause whatsoever or (ii) injury to or death of any person in, about or around any parking spaces or any portion of the Parking Area or any vehicle parked thereon whether caused by fire, theft, assault, explosion, riot or any other cause whatsoever and Tenant hereby waives any claims for, or in respect to, the above.

(c) Except in conjunction with a Transfer (as defined in Section 13.5 below) of all of Tenant's rights and obligations under this Lease, Tenant shall not assign any of its rights under this Section 2.2.

2.3 [Intentionally deleted].

2.4 Possession. Tenant accepts the Premises in "AS IS" "WITH ALL FAULTS" condition and configuration without any representations or warranties by Landlord, and with no obligation of Landlord to make alterations or improvements to the Premises. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the suitability of the Premises or the Building for the conduct of Tenant's business. Landlord shall not be liable for any latent or patent defects in the Premises. Tenant shall be responsible for requesting an inspection and obtaining a Certificate of Occupancy from the City of Alameda for the Building. This shall include, but is not limited to installation of any necessary fire sprinklers and other life-safety improvements, compliance with the ADA (as defined in Section 6.2 below), and any other requirements mandated by the Certificate of Occupancy inspection.

2.5 [Intentionally deleted].

2.6 Other Access.

(a) Hornet Avenue. Landlord shall maintain Hornet Avenue, which is a public street, in accordance with other City-maintained public streets in the vicinity, which Tenant may use, nonexclusively and in common with the public and other tenants, for vehicular access to and from the Premises.

(b) Waterside. Landlord shall provide and maintain an unencumbered waterside access route for transit by Tenant's ferry vessels to the Premises from San Francisco Bay. Tenant shall be prohibited, and Landlord shall prohibit other parties from stationing vessels in or otherwise placing obstructions within the "Shared Vessel Access Area" designated on the Site Context Plan attached hereto as part of **Exhibit A-1** attached hereto that would impede access to the Tenant's berths.

(c) East Bay Regional Park District Site. Concurrently with the execution of this Lease, Landlord and Tenant shall execute that certain Right of Entry for Construction Work (Park Improvements) ("**Park Right of Entry**") for construction of certain improvements more particularly described therein (collectively, the "**Park Improvements**") within certain adjacent premises leased by the East Bay Regional Park District ("**EBRPD**") from Landlord pursuant to that certain City of Alameda Lease Agreement dated for reference purposes as December 1,

2006. The Park Right of Entry shall require the consent of EBRPD, pursuant to which Landlord shall request that EBRPD maintain such Park Improvements following completion of construction by Tenant.

3. TERM.

3.1 Term. The term of this Lease (“**Term**”) shall be for the period specified in the Basic Lease Information, commencing on the later of (a) the Estimated Commencement Date (specified in the Basic Lease Information), or (b) one (1) day after this Lease has been approved by the City Council, the date of which approval shall be deemed to be the effective date of an ordinance approving this Lease as required by the City Charter (“**Commencement Date**”). This Lease shall terminate at midnight on the last day of the sixtieth (60th) year following the Commencement Date (“**Expiration Date**”), unless sooner terminated or extended as hereinafter provided. Promptly following the Commencement Date, Landlord and Tenant shall enter into a letter agreement substantially in the form attached hereto as **Exhibit B**, specifying and confirming the Commencement Date and the Expiration Date; if Tenant fails to execute and deliver such letter agreement to Landlord within ten (10) business days after Landlord’s delivery of the same to Tenant, such letter agreement will be deemed final and binding upon Tenant.

3.2 [Intentionally deleted].

4. RENT; DEVELOPMENT IMPACT FEES.

4.1 Base Rent.

(a) Generally. From and after the date Tenant receives the earlier of a temporary or final Certificate of Occupancy for the Building (the “**Rent Commencement Date**”), Tenant shall pay to Landlord, in advance of the first day of each calendar month, without any setoff or deduction and without further notice or demand, the monthly installment of rent in an amount equal to \$5,125.00, plus the CPI Rent Adjustment (as defined below), and as modified in accordance with this Lease (“**Base Rent**”). If the Rent Commencement Date should be on a date other than the first day of a calendar month, the monthly Base Rent installment paid for any fractional month during the Term shall be prorated based upon a thirty (30) day calendar month. The CPI Rent Adjustment shall be calculated on each anniversary of the Rent Commencement Date (each an “**Adjustment Date**”). The “**CPI Rent Adjustment**” shall be an amount equal to the lesser of (i) the product of the Percentage Change and the Base Rent and (ii) one hundred three percent (103%) of the Base Rent, in each instance calculated at the last Adjustment Date. The “**Percentage Change**” shall be a fraction, the denominator of which shall be the Price Index (as defined below) for the first month after the Rent Commencement Date, or the Price Index used for the immediately preceding Adjustment Date, as applicable (the “**Base Month**”), and numerator of which shall be the Price Index for the most recent period prior to the current Adjustment Date. “**Price Index**” shall mean the Consumer Price Index-All Urban Consumers for the San Francisco-Oakland-San Jose Metropolitan Statistical Area, as prepared by the U.S. Bureau of Labor Statistics. In the event the Price Index is no longer prepared by the U.S. Bureau of Labor Statistics, Landlord and Tenant shall reasonably agree upon a replacement Price Index.

(b) Development Impact Fees.

(i) Landlord and Tenant acknowledge that final plans and specifications for development and construction of the Building, as well as for development of those portions of the Property to be served by infrastructure improvements that may also serve the Premises, have not been developed. In conjunction with its planning and development of the Building, Tenant has determined, in consultation with Landlord, to construct certain infrastructure improvements to a level or size in excess of that required for Tenant's use and operation of the Premises in order to serve other development within the Property listed on **Exhibit H** attached hereto as the "Off-site Infrastructure Improvements" (collectively, the "**Infrastructure Improvements**"). A construction cost estimate for the Infrastructure Improvements and other infrastructure improvements is attached hereto as **Exhibit H**. Tenant agrees to execute such reasonable documentation as may be necessary to publicly dedicate those portions of the Infrastructure Improvements within public rights of way.

(ii) Landlord and Tenant acknowledge that under the City of Alameda's Development Impact Fee Program (or its replacement program, if any), Tenant's project would be subject to a fee rate of \$978,956 per acre ("**Tenant's Impact Fee**"). If Tenant constructs the Infrastructure Improvements, Landlord shall waive Tenant's Impact Fee for Tenant's development of the Building. Landlord shall have deemed to have waived Tenant's Impact Fee upon completion of all of the Infrastructure Improvements and acceptance of all of the Infrastructure Improvements. Landlord shall, upon Tenant's request, provide a written waiver of Tenant's Impact Fee.

(iii) Landlord and Tenant acknowledge that improvements constructed in the future that are not replacement, restoration or reconstruction of Tenant's initial project, including development of the Building and the Infrastructure Improvements, may be subject to impact fees under the City of Alameda's Development Impact Fee Program (or its replacement program, if any), as determined at the time of such improvements (if any).

4.2 Additional Rent. As used in this Lease, the term "**Additional Rent**" shall mean all sums of money, other than Base Rent, that are due and payable by Tenant under the terms of this Lease including, but not limited to, Utilities in accordance with Article 8 of this Lease. The term "**Rent**," as used herein, shall mean all Base Rent, Additional Rent and all other amounts payable hereunder from Tenant to Landlord. Unless otherwise specified herein, all items of Rent other than Base Rent shall be due and payable by Tenant on or before the date that is thirty (30) days after billing by Landlord.

4.3 Late Charge. Other remedies for non-payment of Rent notwithstanding, if any Monthly Base Rent installment or Additional Rent is not received by Landlord on or before the fifth (5th) day following the due date, or any payment due Landlord by Tenant which does not have a scheduled date is not received by Landlord on or before the thirtieth (30th) day following the date Tenant was invoiced for such charge, a late charge of five percent (5%) of such past due amount shall be immediately due and payable as Additional Rent.

4.4 Interest. Any installment of Rent and any other sum due from Tenant under this Lease which is not received by Landlord within five (5) days from when the same is due shall

bear interest from the date such payment was originally due under this Lease until paid at the lesser of: (a) an annual rate equal to the maximum rate of interest permitted by law, or (b) ten percent (10%) per annum. Payment of such interest shall not excuse or cure any Default by Tenant.

5. TAXES.

5.1 Definitions. For purposes of this Article 5, the following terms shall have the meanings hereinafter set forth:

(a) **“Taxes”** shall mean all taxes, assessments, fees (other than Tenant’s Impact Fee), impositions and charges levied (if at all) upon or with respect to the Building, other than personal property or possessory interest taxes. Taxes shall include, without limitation and whether now existing or hereafter enacted or imposed, all general real property taxes, all general and special assessments, all charges, fees and levies for or with respect to transit, housing, police, fire or other governmental or quasi-governmental services or purported benefits to or burdens attributable to the Building or any occupants thereof, all service payments in lieu of taxes, and any tax, fee or excise on the act of entering into this Lease, on the use or occupancy of the Building, on the rent payable this Lease, that are now or hereafter levied or assessed against Landlord or the Building by the United States of America, the State of California, the City of Alameda, or any other political or public entity, and shall also include any other tax, fee or other excise, however described, that may now or hereafter be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Taxes, whether or not now customary or in the contemplation of the parties on the date of this Lease. Notwithstanding the foregoing, in the event Landlord has the right to elect to have assessments amortized over different time periods, Landlord will elect (or will charge such assessment through to Tenant as if Landlord had elected) to have such assessment amortized over the longest period permitted by the assessing authority, and only the amortized portion of such assessment (with interest at the lesser of the actual interest rate paid by Landlord or the then maximum rate of interest not prohibited or made usurious by Law) shall be included in Taxes on an annual basis. Taxes shall not include any franchise, transfer or inheritance or capital stock taxes, or any income taxes measured by the net income of Landlord from all sources, unless due to a change in the method of taxation any such taxes are levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise constitute a Tax. Taxes shall also include reasonable legal fees and other costs and disbursements incurred by Landlord in connection with successful proceedings to contest, determine or reduce Taxes provided, however, that Landlord shall pay to Tenant promptly after receipt by Landlord an amount equal to any refunded or recovered Tax previously paid by Tenant.

5.2 [Intentionally deleted]

5.3 Tenant Rights to Claim Exemption from Taxes. Landlord and Tenant acknowledge that Tenant is a public agency, and Tenant asserts that its operations on the Premises are for a public purpose. Landlord agrees that Tenant may apply for and receive exemptions from various Taxes due to its status and use of the Premises, and Landlord shall not oppose or delay Tenant’s application and receipt of any such exemptions. Landlord agrees to

reasonably cooperate in any such applications, so long as Landlord is not required to pay out of pocket expenses.

6. USE; COMPLIANCE WITH LAWS.

6.1 Use. The Premises shall be used for the Permitted Use specified in the Basic Lease Information and for no other use whatsoever. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Premises, Building or with respect to the suitability or fitness of either for the conduct of Tenant's business or for any other purpose.

6.2 Compliance with Laws. Tenant shall comply with all laws, ordinances, rules, regulations and codes, of all municipal, county, state and federal authorities, including the Americans With Disabilities Act, as amended, (42 U.S.C. Section 1201 et seq. (the "ADA")) (collectively, "Laws") pertaining to Tenant's use and occupancy of the Premises and the conduct of its business. Tenant shall be responsible for making all improvements necessary to comply with applicable ADA requirements and to ensure that the Premises remain in compliance throughout the Term of this Lease. Tenant shall not commit, or suffer to be committed, any waste upon the Premises or any public or private nuisance. Tenant shall not permit any objectionable odor to escape or be emitted from the Premises and shall ensure that the Premises remain free from infestation from rodents or insects. Tenant shall not do or permit anything to be done on or about the Premises or bring or keep anything into the Premises which will in any way invalidate or prevent the procuring of any insurance, protecting against loss or damage to the Building or any of its contents by fire or other casualty or against liability for damage to property or injury to persons in or about the Building.

6.3 [Intentionally deleted]

6.4 Use Permit and Related Approvals. Tenant and any of its subtenants shall maintain a City of Alameda Use Permit and other applicable City permits and approvals for the intended use of the Premises (collectively "Use Permit"). Landlord agrees that it shall join Tenant as co-applicant for the required San Francisco Bay Conservation and Development Commission permit (the "BCDC Permit") required for construction of the improvements on the Premises, subject to Landlord's review and reasonable approval of the BCDC Permit application.

7. INTENTIONALLY DELETED.

8. UTILITIES.

8.1 Payments for Utilities and Services. Tenant shall contract directly with the providers of, and shall pay all charges for, water, sewer, gas, electricity, heat, cooling, telephone, refuse collection, janitorial, pest control, security and monitoring services furnished to the Premises, together with all related installation or connection charges or deposits (collectively, "Utilities"). If any such Utilities are not separately metered, Tenant shall cause such Utilities to be separately metered to the Premises as an element of improvements to be constructed by Tenant pursuant to Section 4.1(b) above.

8.2 No Liability of Landlord. Except in the case of Landlord's negligence or willful misconduct, in no event shall Landlord be liable or responsible for any loss, damage, expense or liability, including, without limitation, loss of business or any consequential damages, arising from any failure or inadequacy of any service or utility provided to the Premises or Building, whether resulting from any change, failure, interference, disruption or defect in supply or character of the service or utility provided to the Premises or Building, or arising from the partial or total unavailability of the service or utility to the Premises or Building, from any cause whatsoever, or otherwise, nor shall any such failure, inadequacy, change, interference, disruption, defect or unavailability constitute an actual or constructive eviction of Tenant, or entitled Tenant to any abatement or diminution of Rent or otherwise relive Tenant from its obligations under this Lease.

9. PERSONAL PROPERTY AND POSSESSORY INTEREST TAXES.

9.1 Tenant's Tax Obligation. Tenant shall pay all Tenant Taxes (as hereinafter defined) levied or imposed against the Premises or Tenant's personal property or trade fixtures placed by Tenant in or about the Premises during the Term. "**Tenant Taxes**" shall mean all taxes, assessments and governmental charges, whether federal, state, county or municipal, and whether general or special, ordinary or extraordinary, foreseen or unforeseen, imposed upon, the Premises, the Building, any possessory interest therein, or their operation, whether or not directly paid by Landlord, but excluding those Taxes paid by Landlord as defined in Section 5.1(a) above.

9.2 Possessory Interest Taxes. The interest created by this Lease may at some time be subject to property taxation under the laws of the State of California. If property taxes are imposed, the party in whom the possessory interest is vested may be subject to the payment of the taxes levied on such interest. This notice is included in this Lease pursuant to the requirements of section 107.6 (a) of the Revenue and Taxation Code of the State of California.

9.3 Payment. Tenant shall pay the Tenant Taxes directly imposed upon it for its personal property or trade fixtures or possessory interests in accordance with the instructions of the taxing entity. Tenant shall pay the Taxes originally imposed upon Landlord, upon Landlord's election, either (a) annually within thirty (30) days after the date Landlord provides Tenant with a statement setting forth in reasonable detail such Taxes, or (b) monthly in advance based on estimates provided by Landlord based upon the previous year's tax bill. All Taxes originally imposed upon Landlord and payable by Tenant with respect to the Premises shall be prorated on a per diem basis for any partial tax year included in the Term. Tenant's obligation to pay Tenant Taxes during the last year of the Term shall survive the termination of this Lease.

10. ALTERATIONS.

10.1 Landlord Consent Required. Tenant shall not make any alterations, improvements, removals, or additions to the Premises, including construction of the Building, other than those specifically included within and contemplated by the Use Permit (collectively, the "**Alterations**"), without Landlord's prior written consent in each and every instance, which consent may be conditioned upon criteria and/or requirements deemed reasonably necessary by Landlord, which may include, but not be limited to, compliance with the Use Permit obtained in

accordance with Section 6.4 above. In the event Tenant desires to perform any Alterations, Tenant shall first submit to Landlord a written description of the proposed Alterations, and, if Landlord requires, plans and specifications relating thereto, and obtain Landlord's written approval prior to commencing it. Approval of Alterations may be conditioned upon providing Landlord with a performance and payment bond satisfactory to Landlord in all respects in addition to other requirements deemed reasonably necessary to protect the interests of Landlord. Notwithstanding the foregoing, Tenant shall have the right to make Alterations to the Premises with prior written notice to, but without the consent of, Landlord provided that such Alterations (a) do not require the procurement of a building permit, (b) do not affect the structural portion of the Buildings or the systems serving the Buildings, (c) do not involve excavations below the surface of the Premises, (d) are performed below the ceiling and above the raised floor of the Premises, (e) the reasonably estimated costs of the Alterations, together with the costs of any other Alteration made during the immediately preceding twelve (12) months period, do not exceed Ten Thousand Dollars (\$10,000) and, (f) are performed in full compliance with the Use Permit, building permit for the Building, and the terms Sections 10.2 and 10.4 below.

10.2 Alterations. Any Alterations to the Premises shall be made in compliance with all applicable Laws and all reasonable requirements requested by Landlord. Prior to undertaking any Alterations, to the extent required by applicable Laws, Tenant agrees to submit an application to the applicable governmental authorities, for review and obtaining approval of such plans and proposals for such Alterations to the Premises. In addition, Tenant shall also submit to Landlord a narrative description of all proposed Alterations on the Premises, with the projected schedule and costs thereof. All Alterations shall be done at the expense of Tenant without any costs or obligation to Landlord. No Alterations shall be undertaken by Tenant on the Premises, unless such Alterations have been approved by all applicable governmental authorities and all requisite permits have been obtained, including, without limitation any encroachment or other permit required by EBRPD. Upon completion of construction of any Alterations, including the Building and related improvements, Tenant shall timely file or cause to be filed a notice of completion. Landlord may post upon the leased Premises a notice of non-responsibility.

10.3 Excavations. In the event Tenant intends to perform any Alterations requiring excavations below the surface of the Premises, Tenant must determine the actual location of all utilities using standard methods (i.e., potholing, metal fish line, etc.) and submit this information with an application to excavate or application to build a permanent structure to Landlord for approval (which shall also include the approval of other applicable governmental authorities). The application shall include a site plan showing the location of utilities and that construction will not take place above the utility line or within the utility easement, specifically showing that no permanent structure will be constructed in these areas. Tenant shall be responsible for complying with the provisions of the City of Alameda's Marsh Crust Ordinance, and if required, shall obtain a Marsh Crust Permit.

10.4 Liens. Tenant shall pay when due all claims for labor or materials furnished Tenant for use in the Premises. Tenant shall not permit any mechanic liens or any other liens against the Premises for any labor or materials furnished to Tenant in connection with work performed on or about the Premises by or at the direction of Tenant. Tenant shall indemnify, hold harmless and defend Landlord (by counsel reasonably satisfactory to Landlord) from any liens and encumbrances arising out of any work performed or materials furnished by or at the

direction of Tenant. In the event that Tenant shall not, within ten (10) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein or by law, the right, but not the obligation, to cause the same to be released by such means as it may deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and expenses reasonably incurred in connection therewith, including attorneys' fees and costs, shall be payable to Landlord by Tenant on demand.

10.5 Construction of New Building. Construction of the Building and improvements to be located on the Premises shall be completed at Tenant's sole cost and expense and in accordance with the terms and conditions of this Lease, including, without limitation, the provisions of Section 10 above. The term "**City**" as used in this Section 10.5 shall mean the City of Alameda in its regulatory capacity, as distinguished from the City of Alameda as the Landlord under this Lease. During construction of the Building, Tenant shall have reasonable access to reasonably available areas under the control of Landlord in the vicinity of the Premises, as reasonably agreed to by Landlord and Tenant, which includes the area specified on **Exhibit A-2** (Parking Area), as construction staging for the purpose of mobilization, lay-down, coordination, preconstruction and construction activities.

(a) Tenant shall commence construction in an expeditious manner following receipt of all required permits by the City and all governmental authorities having jurisdiction over the Premises for the construction of the Building and in accordance with the schedule of performance attached hereto as **Exhibit G** (as updated from time to time by reasonable mutual agreement by the Landlord and Tenant, the "**Schedule of Performance**"). If Tenant does not commence construction and diligently continue to construct, subject to Force Majeure (as defined below), within five (5) years after full execution of this Lease, then Landlord shall have the right to terminate this Lease.

(b) Landlord and the City assume no liability or responsibility for any defect in any structure by their approval of plans and specifications for the Building and related improvements.

(c) Tenant shall require any and all contractors engaged by Tenant to construct the Building and related improvements on the Premises must comply with all applicable Laws, including without limitation, applicable Prevailing Wage Laws and Hazardous Materials Laws.

(d) Tenant shall provide Landlord two (2) complete sets of final approved "as built" plans within ninety (90) days after completion of the Building and related improvements.

(e) Tenant shall, until expiration or termination of this Lease, own the physical improvements constituting the Building. Subject to restrictions (if any) required by Tenant's funding sources, upon the expiration or earlier termination of this Lease, the physical improvements constituting the Building shall be the property of the Landlord free and clear of any and all liens, encumbrances or claims of any kind and the City shall have no obligation to reimburse Tenant for any portion of the value or cost.

11. MAINTENANCE AND REPAIR OF PREMISES.

11.1 Maintenance and Repair by Tenant. Tenant shall, at its sole cost and expense, keep and maintain the Premises in good order and repair, taking into consideration the industrial nature of the Permitted Use. Tenant, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices. Tenant shall maintain the grounds of the Premises, including paving, the mowing of grass, care of shrubs and general landscaping. Tenant's obligations shall include restorations, replacements and renewals when necessary, as reasonably determined by Tenant to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(a) Debris and materials not intended to be used as part of Tenant's operations on the Premises shall be promptly removed from the Premises, and the area of work shall be kept reasonably clean and free of such unused materials at all times.

(b) Tenant shall provide for all security and safety within the Premises. Any crimes or other offenses, involving damage to or theft of Landlord property shall be reported to the appropriate authorities for their investigation and disposition and to Landlord as property owner and lessor. Notwithstanding the foregoing, Tenant shall have no responsibility for any personal property of Landlord that Landlord has stored or located on the Premises, and Landlord shall be solely responsible for its safety and security.

(c) Tenant shall be responsible, at its cost and expense, for obtaining and providing any and all other services which may be required in connection with Tenant's use or occupancy of the Premises.

11.2 Maintenance and Repair by Landlord.

(a) Landside Lease Area. Landlord shall have no responsibility for maintenance or repair of any portion of the Building or the Landside Lease Area, except to the extent Landlord is required to make repairs pursuant to Section 12 below. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932, and Sections 1941 and 1942 of the California Civil Code or any similar or successor Laws now or hereby in effect.

(b) Waterside Lease Area. Tenant shall be solely responsible for all dredging and similar maintenance activities within the Waterside Lease Area. Tenant shall also be permitted to, but shall not be required, to complete dredging within the area depicted on the attached **Exhibit F**. Notwithstanding the terms of Section 2.6(b) herein, Landlord has no obligation to dredge and/or otherwise maintain the Premises, any channels, or any turning basins, and Landlord provides no warranty that the water depth will be sufficient for Tenant to conduct its activities on or to or from the Premises. Landlord, in its sole discretion, may notify Tenant that Landlord is dredging the channel directly adjacent to the Waterside Lease Area, and Tenant, in its sole discretion, may request that Landlord dredge the subaqueous portion of the Premises at the same time as the channel is being dredged, at the cost and expense of Tenant, in order to achieve cost savings and economies of scale. In such event, Landlord and Tenant shall execute a separate letter agreement setting forth the costs and liabilities for such actions.

12. ENVIRONMENTAL PROTECTION PROVISIONS.

12.1 Hazardous Materials. “**Hazardous Materials**” shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive, flammable, explosive, radioactive or corrosive, including, without limitation, petroleum, solvents, lead, acids, pesticides, paints, printing ink, PCBs, asbestos, materials commonly known to cause cancer or reproductive problems and those materials, substances and/or wastes, including wastes which are or later become regulated by any local governmental authority, the state in which the Premises are located or the United States Government, including, but not limited to, substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “hazardous wastes” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Resource Conservation and Recovery Act; all environmental laws of the state where the Property is located, and any other environmental law, regulation or ordinance now existing or hereinafter enacted. “**Hazardous Materials Laws**” shall mean all present and future federal, state and local laws, ordinances and regulations, prudent industry practices, requirements of governmental entities and manufacturer's instructions relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, presence, disposal or transportation of any Hazardous Materials, including without limitation the laws, regulations and ordinances referred to in the preceding sentence.

12.2 Reportable Uses Required Consent. Except as permitted in this Article 12, Tenant hereby agrees that Tenant and Tenant's officers, employees, representatives, agents, contractors, subcontractors, successors, assigns, subtenants, concessionaires, invitees and any other occupants of the Premises (for purposes of this Article 12, referred to collectively herein as “**Tenant Representatives**”) shall not cause or permit any Hazardous Materials to be used, generated, manufactured, refined, produced, processed, stored or disposed of, on, under or about the Premises or Building or transport to or from the Premises or Building without the express prior written consent of Landlord, which consent may be limited in scope and predicated on strict compliance by Tenant of all applicable Hazardous Materials Laws and such other reasonable rules, regulations and safeguards as may be required by Landlord (or any insurance carrier, environmental consultant or lender of Landlord, or environmental consultant retained by any lender of Landlord) in connection with using, generating, manufacturing, refining, producing, processing, storing or disposing of Hazardous Materials on, under or about the Premises or the Building. In connection therewith, Tenant shall, at its own expense, procure, maintain in effect and comply with all conditions of any and all permits, licenses and other governmental and regulatory approvals required for the storage or use by Tenant or any of Tenant's Representatives of Hazardous Materials on the Premises or the Building, including without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the Premises or the Building. The foregoing notwithstanding, Tenant may use ordinary and customary materials reasonably required to be used in the course of the Permitted Use, ordinary office supplies (copier, toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Hazardous Materials Laws and does not expose Landlord to any liability therefor. In conjunction with the foregoing, Landlord expressly authorizes Tenant to install and use fuel storage facilities, subject to the following requirements: Any fuel tanks Tenant constructs on the Premises are required to be double-walled. Such fuel

tanks and any fuel dock must contain adequate measures to prevent and detect any fuel spills or leaks, as reasonably determined by Tenant. All fuel tank construction and use shall be in compliance with all Laws, including without limitation, Hazardous Materials Laws.

12.3 Remediation Obligations. If at any time during the Term, any contamination of the Premises and/or Parking Area by Hazardous Materials in violation of Hazardous Materials Laws shall occur where such contamination is caused by the act or omission of Tenant or Tenant's Representatives (“**Tenant's Contamination**”), then Tenant, at Tenant's sole cost and expense, shall promptly and diligently remove such Hazardous Materials from the Premises or the groundwater underlying the Premises to the extent required to comply with applicable Hazardous Materials Laws. Tenant shall not take any required remedial action in response to any Tenant's Contamination in or about the Premises or enter into any settlement agreement, consent, decree or other compromise in respect to any claims relating to any Tenant's Contamination without first obtaining the prior written consent of Landlord, which may be subject to conditions imposed by Landlord as determined in Landlord's sole discretion. Such prior written consent shall not be required to the extent the delay caused by the requirement to obtain consent may increase the damage to the Premises or the risk of harm to human health, safety or security caused by the Tenant Contamination. Landlord and Tenant shall jointly prepare a remediation plan in compliance with all Hazardous Materials Laws and the provisions of this Lease. In addition to all other rights and remedies of Landlord hereunder, if Tenant does not promptly and diligently take all steps to prepare and obtain all necessary approvals of a remediation plan for any Tenant's Contamination, and thereafter commence the required remediation of any Hazardous Materials released or discharged in connection with Tenant's Contamination within thirty (30) days after all necessary approvals and consents have been obtained, and thereafter continue to prosecute such remediation to completion in accordance with the approved remediation plan, then Landlord, at its sole discretion, shall have the right, but not the obligation, to cause such remediation to be accomplished, and Tenant shall reimburse Landlord within fifteen (15) business days of Landlord's demand for reimbursement of all amounts reasonably paid by Landlord (together with interest on such amounts at the highest lawful rate until paid), when such demand is accompanied by proof of payment by Landlord of the amounts demanded. Tenant shall promptly deliver to Landlord, copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises as part of Tenant's remediation of any Tenant's Contamination. The foregoing notwithstanding, “Tenant's Contamination” shall not refer to or include any Preexisting Contamination (as defined in Section 12.8 below) or other Hazardous Materials that were not clearly introduced to the Premises by Tenant or Tenant's Representatives. As an example, if lead dust or asbestos are found on the Premises, unless there is clear evidence that Tenant introduced those Hazardous Materials to the Premises, those Hazardous Materials shall not be considered “Tenant's Contamination,” and it shall not be Tenant's responsibility to take remedial action relating to such Hazardous Materials.

12.4 Environmental Permits. Tenant, its contractors, assigns or subtenants shall be solely responsible for obtaining and complying with, at their cost and sole expense, any environmental permits required for Tenant's operations under the Lease, independent of any existing permits held by Landlord. Tenant shall not conduct operations or activities under any environmental permit that names Landlord as a secondary discharger or co-permittee. Tenant shall provide prior written notice to Landlord of all environmental permits and permit

applications required for any of Tenant's operations or activities. Tenant acknowledges that Landlord will not consent to being named a secondary discharger or co-permittee for any operations or activities of Tenant, its contractors, assigns or subtenants. Tenant shall strictly comply with any and all environmental permits (including any hazardous waste permit required under the Resource Conservation and Recovery Act or its state equivalent) and must provide, at its own expense, any hazardous waste management facilities complying with all Hazardous Material Laws.

12.5 Landlord's Inspection Right. Landlord shall have the right to inspect, upon reasonable notice, the Premises for compliance with environmental, safety, and occupational health laws and regulations, regardless of whether Landlord is responsible for enforcing or complying with them. Landlord normally will give Tenant twenty-four (24) hours' prior notice of its intention to enter the Premises unless it determines the entry is required for exigent circumstances related to health, safety, or security; provided, however, Landlord agree to use its best commercial efforts to provide Tenant with the maximum advance notice of any such entrance and will, without representation or warranty, attempt to structure such entrance in the least intrusive manner possible. Tenant shall have no claim against Landlord, or any officer, agent, employee, contractor or subcontractor of Landlord by reason of entrance of such Landlord officer, agent, employee, contractor or subcontractor onto the Premises.

12.6 Hazardous Materials Handling Plan. Prior to the execution of this Lease, Tenant shall complete, execute and deliver to Landlord an Environmental Questionnaire Disclosure Statement (the "**Environmental Questionnaire**"), in the form of **Exhibit E** attached hereto. To the extent Tenant intends to store, use, treat or dispose of Hazardous Materials on the Premises, Tenant shall prepare and submit together with the Environmental Questionnaire a Hazardous Materials Handling Plan (the "**Hazardous Materials Handling Plan**"). For a period of fifteen (15) days following Landlord's receipt of the Environmental Questionnaire and Hazardous Materials Handling Plan, if applicable, Landlord shall have the right to approve or disapprove such documents. The failure of Landlord to approve such documents shall be deemed Landlord's disapproval thereof. Landlord approval of the Environmental Questionnaire and the Hazardous Materials Handling Plan shall constitute approval for Tenant's use of the Hazardous Materials set forth therein in compliance with Hazardous Materials Laws and the Hazardous Materials Handling Plan. Following approval of the Hazardous Materials Handling Plan, Tenant shall comply therewith throughout the Term. To the extent Tenant is permitted to utilize Hazardous Materials upon the Premises, such use shall be limited to the items set forth in the Environmental Questionnaire, shall comply with Hazardous Materials Laws and the Hazardous Materials Handling Plan and Tenant shall promptly provide Landlord with complete and legible copies of all the following environmental items relating thereto: reports filed pursuant to any self-reporting requirements; permit applications, permits, monitoring reports, workplace exposure and community exposure warnings or notices and all other reports, disclosures, plans or documents relating to water discharges, air pollution, waste generation or disposal, and underground storage tanks for hazardous materials; orders, reports, notices, listing and correspondence of or concerning the release, investigation of, compliance, cleanup, remedial and corrective actions, and abatement of hazardous materials; and all complaints, pleadings and other legal documents filed by or against Tenant related to Tenant's use, handling, storage or disposal of hazardous materials. If, in conjunction with Tenant's Permitted Use of the Premises, Tenant desires to commence the use, treatment, storage or disposal of previously undisclosed Hazardous Materials,

prior to such usage thereof, Tenant shall notify Landlord thereof, by written summary detailing the scope of such proposed usage and updating the Hazardous Materials Handling Plan to the extent required by such proposed usage. For a period of fifteen (15) days following Landlord's receipt of such notice, Landlord shall have the right to approve or disapprove of such documents. The failure of Landlord to approve of such documents within such time period shall be deemed Landlord's disapproval thereof.

12.7 Hazardous Materials Indemnity. In addition to any other provisions of this Lease, Tenant shall, and does hereby agree, to, indemnify and hold harmless Landlord from any costs, expenses, liabilities, fines or penalties resulting from discharges, emissions, spills, storage or disposal arising from Tenant's occupancy, use or operations, or any other action by Tenant or its contractors, employees, agents, assigns, invitees, or subtenants giving rise to liability, civil or criminal, or any other action by Tenant or its contractors, employees, agents, assigns, or subtenants giving rise to responsibility under any Hazardous Materials Laws. Tenant's obligations hereunder shall apply whenever Landlord incurs costs or liabilities for Tenant's activities or for the activities of Tenant's contractors, employees, agents, assigns, invitees, or subtenants as provided hereunder. This provision shall survive the expiration or termination of this Lease.

12.8 Preexisting Contamination. Tenant acknowledges that preexisting, undisclosed contamination by Hazardous Materials in violation of Hazardous Materials Laws may exist at the Premises or the final designated Parking Area shown on **Exhibit A-2** attached hereto prior to the Commencement Date ("**Preexisting Contamination**"). If during development of the Premises, Tenant or Tenant's Representatives discover Preexisting Contamination, Tenant's sole remedy under the Lease shall be to remediate the Preexisting Contamination in accordance with the procedures set forth in Section 12.3 above with respect to remediation of Tenant's Contamination (except that such remediation shall be subject to reimbursement as set forth in Section 12.8(a) below and Tenant shall not be obligated to commence remediation within thirty (30) days after receiving all necessary approvals and consents, but shall perform such remediation in conjunction with Tenant's construction of the Infrastructure Improvements and/or the Building), and either:

(a) (i) (A) request that Landlord make a claim for the costs of such remediation against the U.S. Department of the Navy ("**Navy**"), which Landlord shall be obligated to undertake, and (B) pay the proceeds of such action to the Tenant or its environmental insurance carrier if Tenant has procured insurance, made a claim with its carrier for such costs, and received reimbursement from its carrier, or (ii) request that Landlord allow the Tenant, or if applicable, its environmental insurance carrier, to make the claim directly against the Navy on behalf of Landlord; or

(b) terminate the work if the costs exceed the original estimates for the Preexisting Contamination remediation and terminate the Lease.

13. ASSIGNMENT AND SUBLETTING.

13.1 Landlord Consent Required. Subject to Sections 13.5 and 13.6 below, Tenant shall not voluntarily (a) mortgage, pledge, hypothecate or encumber this Lease or any interest

therein, or (b) assign or transfer this Lease or any interest herein, sublease the Premises or any part thereof or any right or privilege appurtenant thereto, or allow any other person (the employees and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent shall not be withheld unreasonably provided that (i) Tenant is not then in Default under this Lease nor is any event then occurring, with the giving of notice or the passage of time, or both, would constitute a Default hereunder; and (ii) Tenant has not previously assigned or transferred this Lease or any interest herein or subleased the Premises or any part thereof. A transfer of greater than fifty percent (50%) interest (whether stock, partnership interest, membership interest or otherwise) of Tenant, either in one (1) transaction or a series of transactions shall be deemed to be an assignment under this Lease. For the purpose of this Article 13, Landlord's consent shall not be required for an assignment or transfer by Tenant mandated by the California legislature.

13.2 Intentionally deleted.

13.3 Reasonable Consent.

(a) If Tenant intends to assign this Lease or sublet the Premises or any part thereof, Tenant shall give Landlord written notice of such intent. Tenant's notice shall be accompanied by a copy of the proposed assignment or sublease between Tenant and the proposed assignee or subtenant, together with current financial statements for the proposed assignee or subtenant, which financial statement shall be prepared in accordance with generally accepted accounting principles (or the Governmental Accounting Standards Board, if applicable). Tenant shall provide Landlord with any additional information or documentation reasonably requested by Landlord within ten (10) business days after receiving Landlord's request.

(b) Landlord shall then have a period of thirty (30) days following receipt of such additional information (or thirty (30) days after receipt of Tenant's notice if no additional information is requested) within which to notify Tenant in writing that Landlord elects either (i) to permit Tenant to assign this Lease or sublet such space, subject, however, to prior written consent to the proposed assignment or sublease, or (ii) deny Tenant's request to assign this Lease or sublet such space.

(c) Among other factors upon which Landlord may base a withholding of consent, taking into account the nature of Tenant's status as a governmental agency, are the following: (i) the use of the Premises by such proposed assignee or subtenant would not be a Permitted Use; (ii) the financial condition of the proposed assignee or subtenant is such that, in Landlord's reasonable determination, it would be unable to perform its obligations under the proposed sublease or assignment; (iii) the portion of the Premises proposed to be sublet is irregular in shape and/or does not permit safe or otherwise appropriate means of ingress and egress, or does not comply with other Laws or regulations; (iv) Landlord or Landlord's agents have negotiated with the proposed assignee or subtenant regard the leasing of space, at any time within the preceding six (6) months; or (v) any other reasonable basis that Landlord may assert.

13.4 Transfer Premium. If Landlord consents to any requested assignment or sublease (each "**Transfer**") and the assignee or subtenant pays to Tenant an amount in excess of the Rent

due under this Lease (after deducting Tenant's reasonable, actual expenses in obtaining such assignment or sublease, such expenses being limited to: (a) any Alterations to the subject space made in order to achieve the Transfer, or contributions to the cost thereof, amortized in equal monthly installments over the then remainder of the Term; and (b) any commercially reasonable brokerage commissions, reasonable attorneys' fees and reasonable advertising and marketing costs incurred by Tenant in connection with the Transfer) ("**Transfer Premium**"). Tenant shall pay fifty percent (50%) of such Transfer Premium to Landlord as and when the monthly payments are received by Tenant.

13.5 Tenant Affiliates. Notwithstanding anything to the contrary contained in Section 13.1, Tenant may, without obtaining the prior consent of Landlord, and without the payment of any amounts pursuant to Section 13.4, sublet or license the use of all or any part of the Premises or assign this Lease to a Tenant Affiliate, provided that (a) Tenant shall give not less than thirty (30) days' prior written notice thereof to Landlord (to the extent such notice is permitted by applicable Law), (b) Tenant shall continue to be fully obligated under this Lease, and (c) any such assignee or sublessee shall expressly assume and agree to perform all the terms and conditions of this Lease to be performed by Tenant and to use the Premises only for a Permitted Use (but with respect to a sublease, only with respect to that portion of the Premises that is the subject of the sublease and excluding all rental obligations of Tenant hereunder). As used herein, "Tenant Affiliate" means (i) an entity controlling, controlled by or under common control with Tenant, (ii) a successor entity related to Tenant by merger, consolidation, nonbankruptcy reorganization, or government action, or (iii) a purchaser of substantially all of Tenant's assets located in the Premises; and a party shall be deemed to "control" another party for purposes of the definition contained in the aforesaid clause (i) only if the first party owns more than fifty percent (50%) of the stock or other beneficial interests of the second party or has the power to direct or cause the direction of the management or policy of the second party, or the first and second party share the same, or substantially the same (defined as a majority of directors on the "controlled" entity's board are also on the other entity's board), board of directors.

13.6 No Release. No Transfer shall release or discharge Tenant of or from any liability, whether past, present or future, under this Lease, and Tenant shall continue to be fully liable hereunder. Each subtenant or assignee shall agree, in a form reasonably satisfactory to Landlord, to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease. The assignment or sublease agreement, as the case may be, after approval by Landlord, shall not be amended without Landlord's prior written consent, and shall contain a provision directing the assignee or subtenant to pay the rent and other sums due thereunder directly to Landlord upon receiving written notice from Landlord that Tenant is in default under this Lease with respect to the payment of Rent. In the event that, notwithstanding the giving of such notice, Tenant collects any rent or other sums from the assignee or subtenant, then Tenant shall hold such sums in trust for the benefit of Landlord and shall immediately forward the same to Landlord. Landlord's collection of such rent and other sum shall not constitute an acceptance by Landlord of attornment by such assignee or subtenant. Tenant shall deliver to Landlord promptly after execution an executed copy of each Transfer and an agreement of compliance by each such subtenant or assignee.

13.7 Expenses and Attorneys' Fees. Tenant shall pay to Landlord all costs and expenses (including without limitation, the reasonable fees of Landlord's counsel) incurred in

connection with Landlord's review and processing of documents regarding any proposed Transfer.

13.8 Limitations on Transfer Reasonable. Tenant acknowledges and agrees that the restrictions, conditions, and limitations imposed by this Article 13 on Tenant's ability to assign or transfer this Lease or any other interests herein, to sublet the Premises or any part thereof, are, for purposes of California Civil Code Section 1951.4, as amended from time to time, and for all other purposes, reasonable at the time this Lease was entered into and shall be deemed to be reasonable at the time that Tenant seeks to assign or transfer this Lease or any interest herein, to sublet the Premises or any part thereof, or to transfer or assign any right or privilege appurtenant to the Premises.

14. INDEMNITY AND WAIVER OF CLAIMS.

14.1 Indemnification by Tenant of Landlord. Tenant shall indemnify, defend and hold Landlord and Landlord Related Parties harmless against and from all liabilities, obligations, damages, penalties, claims, actions, costs, charges, judgment and expenses (including reasonable attorneys' fees, costs and disbursements) (collectively referred to as "**Losses**"), arising from or growing out of any injury to persons or damage to the Premises caused by any act, neglect, fault, willful misconduct of Tenant or Tenant's employees, agents servants, guests, invitees, contractors, or sublessees. However, this indemnity shall not extend to damages due to the negligence or willful misconduct of Landlord or Landlord Related Parties (as defined below). If any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. As a material part of the consideration to Landlord, Tenant hereby releases Landlord and its trustees, members, principles, beneficiaries, partners, officers, directors, employees, property managers, Mortgagees and agents ("**Landlord Related Parties**") from responsibility for, waives its entire claim of recovery for and assumes all risks of damage to property or injury to person in or about the Premises or the Building from any cause whatsoever except to the extent caused by the negligence or willful misconduct of Landlord or Landlord Related Parties.

14.2 Waiver of Claims. Except in the event of its own negligence or willful misconduct, Landlord shall not be liable to Tenant and Tenant hereby waives all claims against Landlord and Landlord Related Parties for any injury or damage to any person or property occurring or incurred in connection with or in any way relating to the Premises or Building from any cause. Without limiting the foregoing, neither Landlord nor any Landlord Related Parties shall be liable for and there shall be no abatement rent for (a) any damage to Tenant's property stored with or entrusted to any Landlord Related Parties, (b) loss of or damage to any property by theft or any other wrongful or illegal act, or (c) any injury or damage to person or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Premises or Building or from the pipes, appliances, appurtenance or plumbing works thereof or from the roof, street or surface or from any other place or resulting from dampness or any other cause whatsoever or from the acts or omissions of other tenants, occupants or other visitors to the Premises or Building or from any other cause whatsoever, (d) any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Premises or (e) any latent or other defects in the Premises or the Building.

Tenant agrees that no case shall Landlord or any Landlord Related Parties be responsible or liable on any theory for any injury to Tenant's business, loss of profits, loss of income or any other form of consequential damage.

14.3 Survival/No Impairment. The obligations of the parties under this Article 14 shall survive any termination of this Lease. The foregoing indemnity obligations shall not relieve any insurance carrier of its obligations under any policies required to be carried by either party pursuant to this Lease, to the extent that such policies cover the peril or currents that results in the claims that is subject to the foregoing indemnity.

15. INSURANCE.

15.1 Tenant's Insurance.

(a) Commercial Marine Liability Insurance. Tenant shall maintain in full force throughout the Term, commercial general liability insurance providing coverage that includes maritime operations, contractual liabilities, and products/completed operations liability exposures, on an occurrence form basis with limits of not less than Four Million Dollars (\$4,000,000.00) each occurrence for bodily injury and property damage combined, or such larger amount as Landlord may prudently require from time to time, covering bodily injury and property damage liability. Each policy of liability insurance required by this Section shall: (i) contain a cross liability endorsement or separation of insureds clause; (ii) provide that any waiver of subrogation rights or release prior to a loss does not void coverage; (iii) provide that it is primary to and not contributing with, any policy of insurance carried by Landlord covering the same loss; (iv) provide that any failure to comply with the reporting provisions shall not affect coverage provided to Landlord, its partners, property managers and Mortgagees; and (v) name Landlord, and such other parties in interest as Landlord may from time to time reasonably designate to Tenant in writing, as additional insureds. Such additional insureds shall be provided at least the same extent of coverage as is provided to Tenant under such policies.

(b) Property Insurance. Tenant shall obtain and keep in full force and affect a policy or policies in Tenant's name insuring loss or damage to the Premises and the Building and any other Alterations, with Landlord as a named additional insured. The amount of such insurance shall be equal to the full insurable replacement costs of the Premises, as the same shall exist from time to time, but in no event more than the commercially reasonable and available insurable value thereof. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage, including coverage for debris removal and enforcement of any applicable Laws requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as a result of a covered loss. Such policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause and inflation guard protection causing an increase in the annual property insurance amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose.

(c) Wharfingers Legal Liability. Tenant shall maintain in full force throughout the Term, wharfingers legal liability insurance providing coverage on an occurrence form basis with limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence for

the care, custody, and control coverage for damage to vessels and the vessels' cargo while moored at the owner/operator's facility for which the owner/operator is legally liable.

(d) Protection and Indemnity Coverage. Tenant shall maintain or cause to be maintained through its system operator (presently Blue & Gold Fleet, L.P.) in full force throughout the Term, protection and indemnity insurance providing coverage on an occurrence form basis with limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence, endorsed to include pollution legal liability, covering bodily injury, property damage and remediation costs arising from the use of a vessel. A vessel pollution liability policy with a minimum of \$5,000,000.00 per occurrence, with provision for remediation costs, may be substituted for the pollution legal liability policy endorsement on the protection and indemnity policy.

(e) Worker's Compensation Insurance; Employer's Liability Insurance. Tenant shall, at Tenant's expense, maintain in full force and effect during the Term of this Lease, worker's compensation insurance with not less than the minimum limits required by law, and employer's liability insurance with a minimum limit of coverage of One Million Dollars (\$1,000,000.00).

(f) Commercial Pollution Legal Liability. Commercial Pollution Legal Liability Insurance with coverage limits of not less than Five Million Dollars (\$5,000,000) covering remediation liability, defense costs, bodily injury and property damage arising out of the operations of Tenant. Coverage shall include all costs associated with remediation of the Premises, and risks associated with transportation and disposal of any dredge spoils or Hazardous Materials. All fuel storage tanks and associated piping shall be scheduled on the policy. Such coverage shall be for a period of not less than ten (10) years, shall not contain a self-insured retention amount in excess of \$250,000, and shall be renewed in a timely fashion so as to preclude any gaps in coverage during the Term of this Lease.

(g) Automobile Liability. Tenant shall, at Tenant's expense, maintain in full force and effect during the Term of this Lease, Commercial Automobile Liability providing coverage for any vehicle owned by Tenant and used in the conduct of its business. Such policy shall be in an amount of not less than One Million Dollars (\$1,000,000) combined singled limit. Such policy of insurance shall be issued by an insurance company authorized to do business in the state of California and rated A-: VII or better in the Best's Key Rating Guide.

(h) Builder's Risk Insurance. During construction of the Building and related improvements, Tenant shall maintain Special Form coverage for "builder's risk" insurance.

15.2 Requirements For All Policies. Each policy of insurance required under Section 15.1 shall: (a) be in a form, and written by an insurer, reasonably acceptable to Landlord, (b) be maintained at Tenant's sole cost and expense and (c) endeavor to provide at least fifteen (15) days' written notice to Landlord prior to any cancellation, nonrenewal or modification of insurance coverage. Insurance companies issuing such policies shall have rating classifications of "A-" or better and financial size category ratings of "VII" or better according to the latest edition of the Best Key Rating Guide. All insurance companies issuing such policies shall be admitted carriers licensed to do business in the state where the Property is located, unless any

such policy is solely available through a non-admitted insurance company. Tenant shall provide to Landlord, upon request, evidence that the insurance required to be carried by Tenant pursuant to this Section, including any endorsement affecting the additional insured status, is in full force and effect and that premiums therefore have been paid. Tenant shall furnish Landlord with certificates of renewal thereof and shall provide Landlord with at least thirty days prior written notice of any cancellation or modification. Landlord and Tenant agree, to the extent such waivers are commercially reasonable, to have their respective insurance companies waive any rights of subrogation that such company may have against Landlord or Tenant, as the case may be.

15.3 Certificates of Insurance. Upon execution of this Lease by Tenant, and not less than thirty (30) days prior to expiration of any policy thereafter, Tenant shall furnish to Landlord a certificate of insurance reflecting that the insurance required by this Article is in force, accompanied by an endorsement(s) showing the required additional insureds satisfactory to Landlord in substance and form.

16. DAMAGE OR DESTRUCTION.

16.1 Definitions.

(a) “**Insured Loss**” shall mean damage or destruction to improvements on the Premises, other than Tenant-owned trade fixtures, which was caused by an event required to be covered by the insurance described in Section 15.1, irrespective of any deductible amounts or coverage limits involved.

(b) “**Premises Partial Damage**” shall mean damage or destruction to the improvements on the Premises, which can reasonably be repaired in six (6) months or less from the date of the damage or destruction. Tenant shall notify Landlord in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is Partial or Total and the estimated time for repairing such damage.

(c) “**Premises Total Destruction**” shall mean damage or destruction to the Premises, which cannot reasonably be repaired in six (6) months or less from the date of the damage or destruction. Tenant shall notify Landlord in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is partial or total.

16.2 Partial Damage - Insured Loss. If Premises Partial Damage has occurred, Tenant shall, at Tenant’s expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, Tenant shall promptly contribute the shortage in proceeds (except as to the deductible which is Tenant’s responsibility) as and when required to complete such repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Tenant shall have no obligation to fully restore the unique aspects of the Premises.

16.3 Partial Damage - Uninsured Loss. If Premises Partial Damage has occurred that is not an Insured Loss occurs, Tenant may either: (a) repair such damage as soon as reasonably

possible at its expense, in which event this Lease shall continue in full force and effect, or (b) terminate this Lease by giving written notice to Landlord within thirty (30) days after receipt by Tenant of knowledge of the occurrence of such damage. Such termination shall be effective sixty (60) days following the date of such notice.

16.4 Total Destruction. Notwithstanding any other provision hereof, if Premises Total Destruction occurs, Tenant may either: (a) repair such damage as soon as reasonably possible at its expense, in which event this Lease shall continue in full force and effect, or (b) terminate this Lease by giving written notice to Landlord within thirty (30) days after receipt by Tenant of knowledge of the occurrence of such damage. Such termination shall be effective sixty (60) days following the date of such notice.

16.5 Rent Abatement. In the event of Premises Partial Damage or Premises Total Destruction not caused by an act or omission of Tenant, the Rent payable by Tenant for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired. All other obligations of Tenant hereunder shall be performed by Tenant, and Landlord shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

17. INTENTIONALLY DELETED.

18. DEFAULT.

18.1 Events of Default. The occurrence of any of the following shall constitute a "Default" by Tenant:

(a) Tenant fails to make any payment of Rent when due, if payment in full is not received by Landlord within five (5) days after written notice that it is past due.

(b) Tenant abandons the Premises as defined in Section 1951.3 of the California Civil Code.

(c) Tenant fails timely to deliver any subordination document or estoppel certificate requested by Landlord within the applicable time period specified hereinbelow.

(d) Tenant violates the restrictions on Transfer set forth in Article 13.

(e) Tenant ceases doing business as a going concern; makes an assignment for the benefit of creditors; is adjudicated an insolvent, files a petition (or files an answer admitting the material allegations of a petition) seeking relief under any state or federal bankruptcy or other statute, law or regulation affecting creditors' rights; all or substantially all of Tenant's assets are subject to judicial seizure or attachment and are not released within thirty (30) days, or Tenant consents to or acquiesces in the appointment of a trustee, receiver or liquidator for Tenant or for all or any substantial part of Tenant's assets.

(f) Tenant fails to perform or comply with any provision of this Lease other than those described in (a) through (e) above, and does not fully cure such failure within fifteen (15) days after notice to Tenant or, if such failure cannot be cured within such fifteen (15) day

period, Tenant fails within such fifteen (15)-day period to commence, and thereafter diligently proceed with, all actions necessary to cure such failure as soon as reasonably possible but in all events within ninety (90) days of such notice.

18.2 Remedies. Upon the occurrence of any Default under this Lease, whether enumerated in Section 18.1 or not, Landlord shall have the option to pursue any one or more of the following remedies without any notice (except as expressly prescribed herein) or demand whatsoever. Without limiting the generality of the foregoing, Tenant hereby specifically waives notice and demand for payment of Rent or other obligations, and waives any and all other notices or demand requirements imposed by applicable Law:

(a) Terminate this Lease and Tenant's right to possession of the Premises and recover from Tenant an award of damages equal to the sum of the following:

- (i) The Worth at the Time of Award of the unpaid Rent which had been earned at the time of termination;
- (ii) The Worth at the Time of Award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant affirmatively proves could have been reasonably avoided;
- (iii) (The Worth at the Time of Award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant affirmatively proves could be reasonably avoided discounted to the then present value;
- (iv) Any other amount necessary to compensate Landlord for all the detriment either proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom; and
- (v) All such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under applicable law.

The "**Worth at the Time of Award**" of the amounts referred to in parts (i) and (ii) above, shall be computed by allowing interest at the lesser of a per annum rate equal to: (A) the greatest per annum rate of interest permitted from time to time under applicable law, or (B) the Prime Rate plus 5% as determined by Landlord.

(b) Employ the remedy described in California Civil Code § 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations);
or

(c) Notwithstanding Landlord's exercise of the remedy described in California Civil Code § 1951.4 in respect of an event or events of default, at such time thereafter as Landlord may elect in writing, to terminate this Lease and Tenant's right to possession of the Premises and recover an award of damages as provided above.

18.3 No Waiver. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No waiver by Landlord of any breach hereof shall be effective unless such waiver is in writing and signed by Landlord.

18.4 Waiver of Redemption, Reinstatement, or Restoration. Tenant hereby waives any and all rights conferred by Section 3275 of the Civil Code of California and by Sections 1174 (c) and 1179 of the Code of Civil Procedure of California and any and all other laws and rules of law from time to time in effect during the Lease Term or thereafter providing that Tenant shall have any right to redeem, reinstate or restore this Lease following its termination as a result of Tenant's breach.

18.5 Remedies Cumulative. No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing by agreement, applicable Law or in equity. In addition to other remedies provided in this Lease, Landlord shall be entitled, to the extent permitted by applicable Law, to injunctive relief, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease, or to any other remedy allowed to Landlord at law or in equity. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of Default shall not be deemed or construed to constitute a waiver of such Default.

18.6 Landlord's Right to Perform Tenant's Obligations. If Tenant is in Default of any of its non-monetary obligations under this Lease, in addition to the other rights and remedies of Landlord provided herein, then Landlord may at Landlord's option, but without any obligation to do so and without further notice to Tenant, perform any such term, provision, covenant or condition or make any such payment and Landlord by reason of doing so shall not be liable or responsible for any loss or damage thereby sustained by Tenant. If Landlord performs any of Tenant's obligations hereunder in accordance with this Section 18.6, the full amount of the costs and expense incurred or the payments so made or the amount of the loss so sustained shall be immediately be owed by Tenant to Landlord, and Tenant shall promptly pay to Landlord upon demand, as Additional Rent, the full amount thereof with interest thereon from the day of payment by Landlord the lower of ten percent (10%) per annum, or the highest rate permitted by applicable law.

18.7 Severability. This Article 18 shall be enforceable to the maximum extent such enforcement is not prohibited by applicable Law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion.

19. LIMITATION OF LIABILITY.

Notwithstanding anything to the contrary contained in this Lease, the liability of Landlord (and of any successor landlord) shall be limited to the interest of Landlord in the Building and the Premises as the same may from time to time be encumbered. Tenant shall look solely to Landlord's interest in the Building or Premises for the recovery of any judgment. Neither Landlord nor any Landlord Related Parties shall be personally liable for any judgment or deficiency, and in no event shall Landlord or any Landlord Related Parties be liable to Tenant for any lost profit, damage to or loss of business or a form of special, indirect or consequential damage. Before filing suit for an alleged default by Landlord, Tenant shall give Landlord and the Mortgagee(s) whom Tenant has been notified hold mortgages (defined in Article 22 below), notice and reasonable time to cure the alleged default.

20. SURRENDER OF PREMISES.

At the termination of this Lease or Tenant's right of possession, Tenant shall remove Tenant's personal property from the Premises, and quit and surrender the Premises to Landlord, broom clean, and in good order, condition and repair, ordinary wear and tear and damage excepted. If Tenant fails to remove any of Tenant's personal property, or to restore the Premises to the required condition, Landlord, at Tenant's sole cost and expense, shall be entitled (but not obligated) to remove and store Tenant's property and/or perform such restoration of the Premises. Landlord shall not be responsible for the value, preservation or safekeeping of Tenant's personal property. Tenant shall pay Landlord, upon demand, the expenses and storage charges incurred. If Tenant fails to remove Tenant's personal property from the Premises or storage, within 30 days after notice, Landlord may deem all or any part of Tenant's personal property to be abandoned and, at Landlord's option, title to Tenant's personal property shall vest in Landlord or Landlord may dispose of Tenant's personal property in any manner Landlord deems appropriate.

21. HOLDING OVER.

If Tenant fails to surrender all or any part of the Premises at the termination of this Lease, occupancy of the Premises after termination shall be that of a tenancy at sufferance. Tenant's occupancy shall be subject to all the terms and provisions of this Lease and Tenant shall pay an amount (on a per month basis without reduction for partial months during the holdover) equal to 150% of the sum of the Base Rent due for the period immediately preceding the holdover. No holding over by Tenant shall operate to extend the Term. If Tenant does not surrender possession at the end of the Term or sooner termination of this Lease, Tenant shall indemnify and hold Landlord harmless from and against any and all losses or liability resulting from delay in Tenant so surrendering the Premises including, without limitations, any loss or liability resulting from any claim against Landlord made by any succeeding tenant or prospective tenant founded on or resulting from such delay. Any holding over by Tenant with the written consent of Landlord shall thereafter constitute a lease from month to month.

22. MORTGAGES; ESTOPPEL CERTIFICATE.

22.1 Subordination to Mortgages. Tenant accepts this Lease subject and subordinate to any mortgage(s), deed(s) of trust, ground lease(s) or other lien(s) now or subsequently arising upon the Premises and any ground lease(s) or other agreements or covenants running with the land now or subsequently arising upon the Premises, and to renewals, modifications, refinancing and extensions thereof (collectively referred to as a “**Mortgage**”). The party having the benefit of a Mortgage shall be referred to as a “**Mortgagee**”. This clause shall be self-operative, but upon request from a Mortgagee, Tenant shall, within ten (10) days written request therefor from Landlord, execute a commercially reasonable subordination agreement in favor of the Mortgagee. Landlord shall use commercially reasonable efforts to obtain for Tenant a non-disturbance provision in any such subordination agreement. As an alternative, a Mortgagee shall have the right at any time to subordinate its Mortgage to this Lease. Upon request, Tenant, shall attorn to any successor to Landlord’s interest in this Lease.

22.2 Mortgage Protection. Tenant shall give to any Mortgagee, in accordance with the Notice Requirements of Article 25 below, at the same time as it is given to Landlord, a copy of any Notices of Default given to Landlord, provided that, prior to such notice, Tenant has been notified in writing (by way of notice of assignment of rent and leases, or otherwise) of the address of such Mortgagee. Tenant further agrees that, if Landlord shall have failed to cure such default within the time provided for in this Lease, then the Mortgagee shall have an additional reasonable period of time within which to cure such default, or if such default cannot be cured without Mortgagee pursuing its remedies against Landlord, then such additional time as may be necessary to commence and complete a foreclosure proceeding. If, in connection with obtaining financing for the Project, or a portion thereof, Landlord’s lender shall request reasonable modifications to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent to such modifications, provided that such modifications do not materially adversely affect Tenant’s rights or increase Tenant’s obligations under this Lease.

23. TENANT’S ESTOPPEL CERTIFICATE.

Within ten (10) days after written request therefor, Tenant shall execute and deliver to Landlord, in a form provided by or satisfactory to Landlord, an estoppel certificate stating, that this Lease is in full force and effect, describing any amendments or modifications thereto, acknowledging that this Lease is subordinate or prior, as the case may be, to any Mortgage and stating any other information Landlord may reasonably request, including the Term, the monthly Base Rent, the date to which Rent has been paid, the amount of any security deposit or prepaid rent, whether either party hereto is in default under the terms of the Lease, and whether Landlord has completed any construction obligations hereunder. Any such estoppel certificate may be relied upon by any person or entity purchasing, acquiring an interest in or extending finance with respect to the Project, or any part thereof. If Tenant fails to provide such certificate within ten (10) days as herein provided, such failure shall at Landlord’s election, constitute a Default and Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee or deed of trust holder.

24. [INTENTIONALLY OMITTED]

25. NOTICE.

All notices shall be in writing and delivered by hand or sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service, or sent by overnight or same day courier service at the party's respective Notice Address(es) set forth in the Basic Lease Information. Each notice shall be deemed to have been received on the earlier to occur of actual delivery or the date on which delivery is refused, or, if Tenant has vacated the Premises or any other Notice Address of Tenant without providing a new Notice Address, 3 days after notice is deposited in the U.S. mail or with a courier service in the manner described above. Either party may, at any time, change its Notice Address (other than to a post office box address) by giving the other party written notice of the new address.

26. LABOR PROVISIONS.

26.1 Equal Opportunity. During the Term of this Lease, and with respect only to employment or employees at the Premises, Tenant agrees as follows:

(a) Tenant will not discriminate against any employee of Tenant or applicant for employment because of race, color, religion, sex or national origin. The employees of Tenant shall be treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, selection for training, including apprenticeship. Tenant agrees to post in conspicuous places, notices to be provided by the applicable government agencies, setting forth the provisions of this nondiscrimination provision.

(b) Tenant will, in all solicitations or advertisements for employees placed by or on behalf of Tenant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) tenant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by Landlord, advising the labor union or worker's representative of Tenant's commitments under this Equal Opportunity Clause and shall post copies of notice in conspicuous places available to employee and applications for employment.

26.2 Convict Labor. In connection with the performance of work required by this Lease, Tenant agrees not to employ any person undergoing a sentence of imprisonment at hard labor.

27. MISCELLANEOUS.

27.1 Governing Law. This Lease shall be interpreted and enforced in accordance with the Laws of the State of California and Landlord and Tenant hereby irrevocably consent to the jurisdiction and proper venue of such state.

27.2 Severability. If any section, term or provision of this Lease is held invalid by a court of competent jurisdiction, all other sections, terms or severable provisions of this Lease shall not be effected thereby, but shall remain in full force and effect.

27.3 Attorneys' Fees. In the event of an action, suit, arbitration or proceeding brought by Landlord or Tenant to enforce any of the other's covenants and agreements in this Lease, the prevailing party shall be entitled to recover from the non-prevailing party any costs, expenses (including out of pocket costs and expenses) and reasonable attorneys' fees incurred in connection with such action, suit or proceeding. Without limiting the generality of the foregoing, if Landlord utilizes the services of an attorney for the purpose of collecting any Rent due and unpaid by Tenant or in connection with any other breach of this Lease by Tenant following a written demand by Landlord pursuant to Section 18.1 above to pay such amount or cure such breach and Tenant is in Default with respect to such payment or such breach, Tenant agrees to pay Landlord reasonable actual attorneys' fees for such services, irrespective of whether any legal action may be commenced or filed by Landlord.

27.4 Force Majeure. Whenever a period of time is prescribed for the taking of an action by Landlord or Tenant (other than the payment of Rent), the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, terrorist acts, pandemics, civil disturbances and other causes beyond the reasonable control of the performing party, or act or failure to act of any public or governmental agency or entity having jurisdiction over the Premises (other than the act or failure to act of Landlord which shall not excuse performance by Landlord unless such performance is beyond Landlord's control) ("**Force Majeure**").

27.5 Sale. Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations under this Lease and in the Building. Upon transfer, Landlord shall be released from any further obligations hereunder and Tenant agrees to look solely to the successor in interest of Landlord for the performance of such obligations, provided that any successor pursuant to a voluntary, third party transfer (but not as part of an involuntary transfer resulting from a foreclosure or deed in lieu thereof) shall have assumed Landlord's obligations under this Lease.

27.6 Signs. Tenant shall not place any sign upon the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. All signage shall comply with Landlord's signage design criteria, as exist from time to time. In addition, any style, size, materials and attachment method of any such signage shall be subject to Landlord's prior written consent. The installation of any sign on the Premises by or for Tenant shall be subject to the provisions of this Lease. Tenant shall maintain any such signs installed on the Premises.

27.7 Brokers. Landlord and Tenant each represents and warrants to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker in the negotiating or making of this Lease. Each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including attorneys' fees, incurred by the indemnified party in conjunction with any such claim or claims of any broker or

brokers to a commission in connection with this Lease as a result of the actions of the indemnifying party.

27.8 Access by Landlord. In addition to access provided by this Lease, Landlord shall be allowed access to the Premises at all reasonable times throughout the term of this Lease, for any reasonable purpose upon prior written notice to Tenant. Landlord will normally give Tenant a minimum twenty-four (24) hours prior notice of an intention to enter the Premises, unless the entry is reasonably required on an emergency basis for safety, environmental, operations or security purposes. Tenant shall ensure that a telephone roster is maintained at all times for on-call persons representing Tenant who will be available on short notice, twenty-four (24) hours a day, 365 days per year, and have authority to use all keys necessary to gain access to the Premises to facilitate entry in time of emergency. Tenant shall ensure that Landlord has a current roster of such on-call personnel and their phone numbers. Tenant shall not change any existing locks, or attach any additional locks or similar devices to any door or window, without providing to Landlord one set of keys therefor. All keys must be returned to Landlord at the expiration or termination of this Lease. Tenant shall have no claim against Landlord for exercise of its rights of access hereunder. Portions of the utilities systems serving the Property may be located within the Premises. Tenant agrees to allow Landlord and its utility supplier reasonable access to the Premises for operation, maintenance, repair and replacement of these utilities systems as may be required. In executing operation, maintenance, repair or replacement of these systems, Landlord agrees to take commercially reasonable steps to limit interference with the use of the Premises by Tenant.

27.9 Waiver of Right to Jury Trial. To the extent permitted by applicable Law, Landlord and Tenant waive their respective rights to trial by jury of any contract or tort claim, counterclaim, cross-complaint, or cause of action in any action, proceeding, or hearing brought by either party against the other on any matter arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Leased Premises, including without limitation any claim of injury or damage or the enforcement of any remedy under any current or future law, statute, regulation, code, or ordinance. Landlord and Tenant agree that this paragraph constitutes a written consent to waiver of trial by jury within the meaning of California Code of Civil Procedure Section 631(f)(2), and Tenant does hereby authorize and empower Landlord to file this paragraph and/or this Lease, as required, with the clerk or judge of any court of competent jurisdiction as a written consent to waiver of jury trial. If the waiver set forth in this Section 27.9 is determined by any court to be invalid because it was executed prior to the commencement of any action, then Landlord and Tenant each covenant and agree to execute and deliver to the other, within five (5) days of a written request by the other, a waiver of the right to trial by jury similar in terms and scope to the waiver set forth in this Section 27.9 at such time following the commencement of such action as such waiver, if then made, would be valid.

27.10 Recordation. Tenant acknowledges that the Premises is a portion of a larger parcel and that recordation of a memorandum of lease in connection with this Lease would affect the title of the entire parcel, therefore Tenant agrees that if Landlord subdivides the entire parcel, then Landlord and Tenant shall execute and Tenant shall record a memorandum of this lease in the Official Records of Alameda County, California, in form and substance reasonably satisfactory to the parties.

27.11 Paragraph Titles. The paragraph titles use herein are not to be consider a substantive part of this Lease, but merely descriptive aids to identified the paragraph to which they referred. Use of the masculine gender includes the feminine and neuter, and vice versa.

27.12 Authority. If Tenant is a corporation, partnership, trust, association or other entity, Tenant and each person executing this Lease on behalf of Tenant does hereby covenant and warrant that (a) Tenant is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation, (b) Tenant has and is duly qualified to do business in California, (c) Tenant has full corporate, partnership, trust, association or other power and authority to enter into this Lease and to perform all Tenant's obligations hereunder, and (d) each person (and all of the persons if more than one signs) signing this Lease on behalf of Tenant is duly and validly authorized to do so. Upon execution hereof, Tenant shall provide to Landlord a written certification of its Corporate Secretary, a resolution certified by Tenant's Board Secretary, or other appropriate authorizing officer or partner attesting that at meeting of its Board of Directors or other governing body a resolution has been adopted approving or authorizing execution of this Lease by the Executive Director or other authorized officer of Tenant, thereby binding Tenant to the terms of this Lease and identifying the person(s) authorized to execute this Lease on behalf of Tenant.

27.13 Quiet Possession. Landlord covenants and agrees with Tenant that, upon Tenant's payment of Rent and observing and performing all of the terms, covenants, conditions, provisions and agreements of this Lease on Tenant's part to be observed or performed, Tenant shall have the quiet possession of the Premises throughout the Term.

27.14 Asbestos Notification for Commercial Property Constructed Before 1979. Tenant acknowledges that Landlord has advised Tenant that, because of their age, the preexisting improvements, such as concrete, within the Premises and Parking Area may contain asbestos-containing materials ("ACMs"). If ACMs are likely to be disturbed in the course of developing the Building, Tenant shall encapsulate or remove the ACMs in accordance with an asbestos-removal plan reasonably approved by Landlord and otherwise in accordance with all applicable Hazardous Materials Laws, including giving all notices required by California Health & Safety Code Sections 25915-25919.7.

27.15 Lead Warning Statement. Tenant acknowledges that Landlord has advised Tenant that soils within the Premises and Parking Area may contain lead-based paints ("LBP"). Lead from paint, paint chips and dust can pose health hazards if not managed properly. Tenant may at its sole cost and expense, have a state-certified LBP Inspector complete a LBP inspection and abatement and, if Tenant completes such inspection, shall provide an abatement certification to Landlord. Landlord has no specific knowledge of the presence of LBP in the Premises and Parking Area.

27.16 OFAC Certification. Tenant represents, warrants and covenants that: (a) Tenant and its principals are not acting, and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "**Specially Designated and Blocked Person,**" or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; (b) Tenant acknowledges that

the breach of this representation, warranty and covenant by Tenant shall be an immediate Default under the Lease.

27.17 Certified Access Specialist Disclosure. In accordance with Civil Code Section 1938, Landlord hereby discloses that the Premises have not undergone inspection by a Certified Access Specialist for purposes of determining whether the property has or does not meet all applicable construction related accessibility standards pursuant to Civil Code Section 55.53.

27.18 Time of the Essence. Time is of the essence of this Lease and each and all of its provisions.

27.19 Entire Agreement. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understandings pertaining to any such matter shall be effective for any purpose. It is specifically understood and agreed that this Lease supersede and replaces the Original Lease. No provision of this Lease may be amended or added except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

27.20 Rules and Regulations. Tenant shall faithfully observe and comply with the non-discriminatory rules and regulations attached hereto as **Exhibit F** and incorporated herein by this reference, as the same may be modified from time to time by Landlord. Any additions or modifications to those rules shall be binding upon Tenant's upon Landlord's delivery of a copy to Tenant.

27.21 Intentionally deleted.

27.22 Relocation Benefits. Tenant acknowledges that upon the expiration or earlier termination of this Lease, Tenant shall, and hereby does, waive any and all claims for relocation benefits, assistances and/or payments under Government Code Sections 7260 et seq., California Code of Regulations Sections 600 et seq., 42 U.S.C. 4601 et seq., 29 C.F.R. Sections 121 et seq. and 49 C.F.R Sections 24.1 et seq. (collectively the "**Relocation Assistance Laws**"). Tenant further acknowledges and agrees that upon the expiration or earlier termination of this Lease for any reason, other than a Taking as hereinabove defined, no claim shall arise, nor shall Tenant assert any claim for loss of business goodwill (as that term is defined at CCP §1263.510) and no compensation for loss of business goodwill shall be paid by Landlord.

27.23 Prevailing Wages. Tenant acknowledges and agrees that Tenant is presently subject to the requirements of California Labor Code section 1720 *et seq.* Accordingly, Tenant shall comply with all applicable prevailing wage policies as set forth in applicable California Labor Code sections pertaining to "public works" (California Labor Code sections 1720 et seq., as amended from time to time and implementing regulations), the Davis-Bacon Act (sec. 1-7, 46 Stat. 1949, as amended; Pub. L. 74-403, 40 U.S.C. 27a-27a-7, as amended from time to time in implementing regulations, and other applicable laws, statutes, rules, regulations or ordinances now or hereinafter in effect addressing the payment of prevailing wages (the "**Prevailing Wage Laws**") in connection with the initial construction of the Building and any other improvements that constitute "public works." If Landlord is required by applicable Laws to maintain or provide evidence of Tenant's compliance with Prevailing Wage Laws, upon request by Landlord Tenant

shall provide to Landlord all necessary documentation evidencing such compliance. Tenant shall defend, indemnify and hold harmless Landlord and all Landlord Related Parties from and against any and all present and future liabilities, obligations, orders, claims, damages, finds, penalties and expenses (including attorney's fees and costs) (collectively, "Claims") arising out of or in any way connected with Tenant's obligation to comply with all laws, statutes, rules, regulations or ordinances now or hereinafter in effect with respect to Prevailing Wage Laws, including all Claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code section 1726. Tenant hereby waives, releases and discharges Landlord and all Landlord Related Parties from any and all present and future claims arising out of or in any way connected with Tenant's obligations to comply with Prevailing Wage Laws.

27.24 Counterparts. This Lease may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

28. RIGHT OF FIRST NEGOTIATION.

Provided Tenant is not in Default hereunder and conditioned on this Lease being in full force and effect, Tenant shall have the right of first negotiation to enter into a new lease with Landlord of the Premises, provided Tenant shall provide to Landlord written notice at least six (6) months prior to the expiration of the Term that Tenant so desires (the "Tenant's Notice"). Landlord and Tenant shall negotiate in good faith the terms of the new lease for a period not to exceed four (4) months from the date Landlord's receipt of the Tenant's Notice (the "Negotiation Period"), which Negotiation Period may be extended by mutual written agreement of Landlord and Tenant. If at the end of the Negotiation Period (as such may be extended in accordance with this Section 28), Landlord and Tenant have not agreed upon the terms of a new lease, Tenant's right of first negotiation shall be terminated.

Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

City of Alameda,
a charter city and municipal corporation

By: _____
John A. Russo
City Manager

Date: _____

Approved as to Form

By: _____
Janet Kern

TENANT:

San Francisco Bay Area Water Emergency
Transportation Authority, a California public
entity created pursuant to Government Code
Section 66540 *et seq.*

By: _____
Name: _____
Title: _____

Date: _____

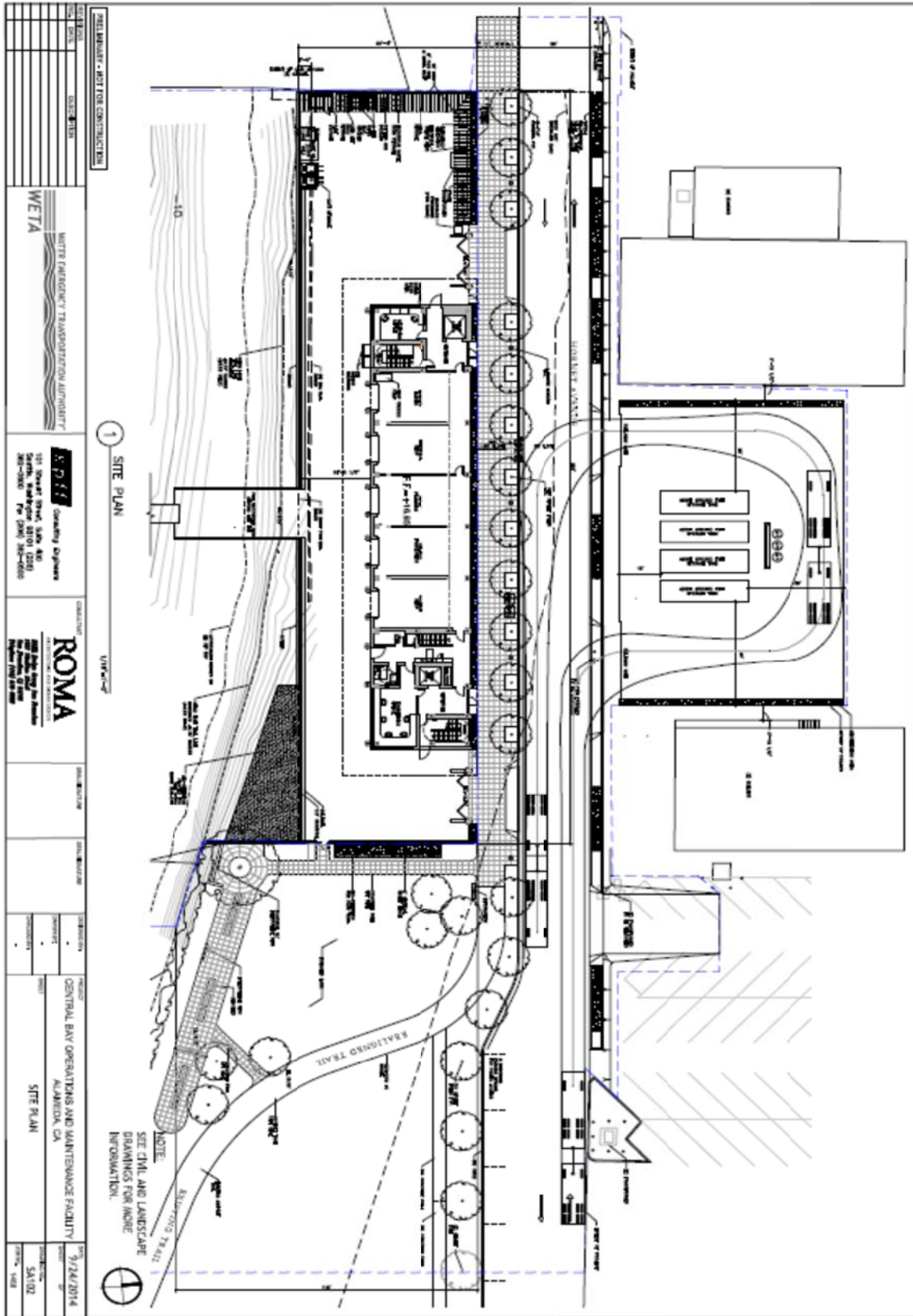
By: _____
Name: _____

City Attorney

Title: _____

Date: _____

EXHIBIT A-1 - PREMISES





SITE CONTEXT PLAN
WETA Central Bay Operations and Maintenance Facility

Prepared for the Water Emergency Transportation Authority by KPFF Consulting Engineers and ROMA Design Group

OCTOBER 16, 2014

EXHIBIT A-2
PARKING AREA

[Attached]

EXHIBIT A-3

[INTENTIONALLY DELETED]

EXHIBIT B

COMMENCEMENT LETTER

Date: _____

Re: Lease dated as of _____, ____, by and between _____, as Landlord, and _____, a(n) _____ as Tenant, for _____ rentable square feet on the _____ floor of the Building located at _____.

Dear _____:

In accordance with the terms and conditions of the above referenced Lease, Tenant accepts possession of the Premises and agrees:

1. The Commencement Date of the Lease is _____;
2. The Expiration Date of the Lease is _____.

Please acknowledge your acceptance of possession and agreement to the terms set forth above by signing all 3 counterparts of this Commencement Letter in the space provided and returning 2 fully executed counterparts to my attention.

Sincerely	Agreed and Accepted:
_____ Property Manager	Tenant: _____ By: _____ Name: _____ Title: _____ Address: _____

[Exhibit Do not sign]

EXHIBIT C

[INTENTIONALLY DELETED]

EXHIBIT D

[INTENTIONALLY DELETED]

EXHIBIT E

ENVIRONMENTAL QUESTIONNAIRE

The purpose of this form is to obtain information regarding the use, if any, of hazardous substances in the process proposed on the premises to be leased. Any such use must be approved in writing by Landlord. Prospective tenants should answer the questions in light of their proposed operations on the premises. Existing tenants should answer the questions as they relate to ongoing operations on the premises and should update any information previously submitted. If additional space is needed to answer the questions, you may attach separate sheets of paper to this form.

Your cooperation in this matter is appreciated. Any questions should be directed to, and when completed, the form should be mailed to:

PM Realty Group L.P.
Attn: Property Manager
101 West Atlantic Avenue
Alameda, California 94501
(510) 749-0304; (510) 749-1095 fax

1. General Information.

Name of Responding Company: _____

Check the Applicable Status: _____

Prospective Tenant Existing Tenant

Mailing Address: _____

Contact Person and Title: _____

Telephone Number: (____) _____

Alameda Point Address of Proposed Premises to be Leased: _____

Length of Lease Term: _____

Your Standard Industrial Classification (SIC) Code Number: _____

Describe the proposed operations to take place on the property, including principal products manufactured, services and a brief process flow description to be conducted. Existing tenants should describe any proposed changes to ongoing operations.

2. Use and/or Storage of Hazardous Materials.

2.1 Will any hazardous materials be used or stored onsite?

Hazardous Wastes Yes No
Hazardous Chemical Products Yes No

2.2 Attach the list of any hazardous materials/wastes to be used, stored, or generated the quantities that will be onsite at any given time, and the location and method of storage (e.g., 55-gallon drums on concrete pad).

2.3 Does your company handle hazardous materials in a quantity equal to or exceeding an aggregate of 500 pounds, 55 gallons, or 200 cubic feet?

Yes No

If yes please provide Material Safety Data Sheets (MSDS) on such materials.

2.4 Has your business filed for a Consolidated Hazardous Materials Permit from the Alameda County Environmental Management Department?

Yes No

If so, attach a copy of the permit application.

2.5 Are any of the chemicals used in your operations regulated under Proposition 65?

Yes No

If so, describe the actions taken, or proposed to be taken, to comply with Proposition 65 requirements. _____

2.6 Do you store or use or intend to store or use acutely hazardous materials above threshold quantities requiring you to prepare a risk management plan (RMP)?

Yes No

2.7 Describe the procedures followed to comply with OSHA Hazard Communication Standard requirements. _____

3. Storage Tanks and Pumps.

3.1 Are any above or below ground storage of gasoline, diesel, or other hazardous substances in tanks or pumps being used as a part of your present process or proposed for use on this leased premises?

Yes No

If yes, describe the materials to be stored, and the type, size and construction of the pump or tank. Attach copies of any permits obtained for the storage of such substances. _____

3.2 If you have an above ground storage tank (AST), do you have a spill prevention containment and countermeasures (SPCC) plan?

Yes No Not Applicable

3.3 Have any tanks, pumps or piping at you existing facilities been inspected or tested for leakage?

Yes No Not Applicable

If so, attach the results.

3.4 Have any spills or leaks occurred from such tanks, pumps or piping?

Yes No Not Applicable

If so, describe. _____

3.5 Were any regulatory agencies notified of any spills or leaks?

Yes No Not Applicable

If so, attach copies of any spill reports filed, any clearance letters or other correspondence from regulatory agencies relating to the spill or leak.

3.6 Have any underground storage tanks, sumps or piping been taken out of service or removed at the proposed facility or facilities that you operate?

Yes No Not Applicable

If yes, attach copies of any closure permits and clearance obtained from regulatory agencies relating to closure and removal of such tanks.

4. Spills.

4.1 During the past year, have any spills occurred on any site you occupy?

Yes No Not Applicable

If so, please describe the spill and attach the results of any process conducted to determine the extent of such spills.

4.2 Were any agencies notified in connection with such spills?

Yes No Not Applicable

If no, attach copies of any spill reports or other correspondence with regulatory agencies.

4.3 Were any clean-up actions undertaken in connection with the spills?

Yes No Not Applicable

If so, briefly describe the actions taken. Attach copies of any clearance letters obtained from any regulatory agencies involved and the results of any final soil or

groundwater sampling done upon completion of the clean-up work _____

5. Waste Management.

5.1 Has your business filed a Hazardous Material Plan with the Alameda County Environmental Management Department?

Yes No

5.2 Has your company been issued an EPA Hazardous Waste Generator I.D. Number?

Yes No

If yes: EPA ID# _____

5.3 Has your company filed a biennial report as a hazardous waste generator?

Yes No

If so, attach a copy of the most recent report filed.

5.4 Are hazardous wastes stored in secondary containments?

Yes No

5.5 Do you utilize subcontractors for lighting/electrical, plumbing, HVAC, pest services, landscaping and/or building maintenance services?

Yes No

If yes, do any of these subcontractors store, mix or utilize chemicals on site?

Yes No

If yes, what types and quantities? _____

Attach the list of the hazardous waste, if any, generated or to be generated at the premises, its hazard class and the quantity generated on a monthly basis.

Describe the method(s) of disposal for each waste. Indicate where and how often disposal will take place. _____

Indicate the name of the person(s) responsible for maintaining copies of hazardous waste manifests completed for offsite shipments of hazardous waste. _____

Is any treatment, processing and recycling of hazardous wastes currently conducted or proposed to be conducted at the premises:

Yes No

If yes, please describe any existing or proposed treatment, processing or recycling methods. _____

Attach copies of any hazardous waste permits or licenses issued to your company with respect to its operations on the premises.

6. Wastewater Treatment/Discharge.

6.1 Will your proposed operation require the discharge of wastewater to (answer Yes or No to each of the following)?

_____ storm drain _____ sewer
_____ surface water _____ no industrial discharge

6.2 Does your business have a Sewer Use Questionnaire on file with Alameda County Sanitation District?

Yes No

6.3 Is your wastewater treated before discharge?

Yes No Not Applicable

If yes, describe the type of treatment conducted.

6.4 Does your business conduct operations outside the building or store materials outside?

Yes No Not Applicable

6.5 Do you have a Storm Water Pollution Prevention Plan (SWPPP)?

Yes No Not Applicable

6.6 Does your business have a General Permit for storm water discharge associated with industrial activity?

Yes No Not Applicable

6.7 Does your business operate under a National Pollution Discharge Elimination System (NPDES) Permit?

Yes No Not Applicable

Attach copies of any wastewater discharge permits issued to your company with respect to its operations on the premises.

7. Air Discharges.¹

7.1 Do you have or intend to have any air filtration systems or stacks that discharge into the air?

Yes No

7.2 Do you operate or plan to operate any of the following types of equipment, or any other equipment requiring an air emissions permit (answer Yes or No to each of the following)?

Spray booth	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Dip tank	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Drying oven	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Incinerator	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Other (please describe)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Boiler	Yes <input type="checkbox"/>	No <input type="checkbox"/>
I/C Engine	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Emergency Backup Generator	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Processes that apply coatings, inks, adhesives or use solvents	Yes <input type="checkbox"/>	No <input type="checkbox"/>

7.3 Do you emit or plan to emit any toxic air contaminants?

Yes No

7.4 Are air emissions from your operations monitored?

Yes No

If so, indicate the frequency of monitoring and a description of the monitoring results. _____

Attach copies of any air emissions permits pertaining to your operations on the premises.

8. Enforcement Actions, Complaints.

8.1 Has your company, within the past five years, ever been subject to any agency enforcement actions, administrative orders, or consent decrees?

Yes No

If so, describe the actions and any continuing compliance obligations imposed as a result of these actions. _____

¹ NOTE: Businesses will have to comply with prohibitory rules regardless of whether they have or need a permit.

8.2 Has your company ever received requests for information, notice or demand letters, or any other inquiries regarding its operations?

Yes No

8.3 Have there ever been, or are there now pending, any lawsuits against the company regarding any environmental or health and safety concerns?

Yes No

8.4 Has any environmental audit ever been conducted at your company's current facility?

Yes No

If so, discuss the results of the audit. _____

8.5 Have there been any problems or complaints from neighbors at the company's current facility?

Yes No

Please describe: _____

The undersigned hereby certifies that all of the information contained in this questionnaire is accurate and correct.

a _____

By: _____

Title: _____

Date: _____

EXHIBIT F

RULES AND REGULATIONS

Any terms not otherwise defined herein shall have the meanings ascribed to them in the Lease (as amended from time to time) to which these Rules and Regulations are attached as **Exhibit F**.

Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the non-performance of any of such Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Building. In the event of any conflicts between the Rules and Regulations and other provisions of this Lease, the latter shall control.

1. Landlord shall have the right to control and operate the public facilities within the Premises in such manner as it deems best for the benefit of the users of such public facilities generally.

2. No advertisements, pictures or signs of any sort shall be displayed on or outside the Premises or Building without the prior written consent of Landlord pursuant to the City signage program for Alameda Point. This prohibition shall include any portable signs or vehicles placed within the Parking Area or on streets adjacent thereto for the purpose of advertising or display. Landlord shall have the right to remove any such unapproved item without notice and at Tenant's Expense.

3. Storage of forklift propane tanks, whether interior or exterior, shall be in secured and protected storage and enclosure approved by the local fire department and, if exterior, shall be located in areas specifically designated by Landlord. Tenant shall protect electrical panels and building mechanical equipment from damage from forklift trucks.

4. Machinery, equipment and apparatus belonging to Tenant which causes noise or vibration that may be transmitted to such a degree as to be objectionable beyond the Premises or to Landlord shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate the transmission of such noise and vibration. Tenant shall cease using any such machinery which causes objectionable noise and vibration which cannot be sufficiently mitigated.

5. All goods, including materials used to store goods, delivered to the Premises shall be immediately moved within the confines the Premises.

6. Tractor trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks of sufficient size to prevent damage to any asphalt paving surfaces. No parking or storage of such trailers will be permitted in the Parking Area or on streets adjacent thereto.

7. Tenant is responsible for the safe storage and removal of all pallets within the confines of the Premises.

8. No displays or sales of merchandise shall be allowed in the Parking Area.

9. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored within the confines of the Premises.

10. [Intentionally omitted.]

11. If Tenant shall so use the Premises such that noxious or objectionable fumes, vapors and/or odors are created that are detectable beyond the Premises, then Tenant shall provide proper ventilation equipment for the discharge of such fumes, vapors and odors so that they shall not be discharged into other vents or flues of any other building or annoy any of the other tenants of adjacent property. The design, location and installation of such equipment shall be subject to the Landlord's approval, which shall not be unreasonably withheld, conditioned or delayed.

12. All window coverings installed by Tenant and visible from the outside of the Building require the prior written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

13. [Intentionally omitted.]

14. [Intentionally omitted.]

15. No awnings or other projections over or around the windows or entrances of the Premises shall be installed by any tenant without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

16. Tenant shall not permit any animals, including, but not limited to, household pets (but excluding service animals, which are permitted), to be brought or kept in or about the Premises or Building.

17. Tenant hereby acknowledges that Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises or Building. Tenant hereby assumes all responsibility for the protection of Tenant and its agents, employees, contractors, invitees and guests, and the property thereof, from acts of third parties, including keeping doors locked and other means of entry to the Premises closed.

18. No auction, liquidation, fire sale, going out of business or bankruptcy sale shall be conducted in or about the Premises without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

19. No tenant shall use or permit the use of any portion of the Premises for living quarters, sleeping apartments or lodging rooms.

20. Tenant, Tenant's agents, servants, employees, contractors, licensees, or visitors shall not park any vehicles in or areas posted as no parking.

21. If the Premises is or becomes infested with vermin as a result of the use or any misuse or neglect of the Premises by Tenant, its agents, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant's expenses, cause the same to be exterminated from time to time to the satisfaction of Landlord and shall employ such licensed exterminators as shall be approved in writing in advance by Landlord.

22. [Intentionally omitted.]

23. No smoking shall be permitted in or around the Premises.

24. [Intentionally omitted.]

25. Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's judgment may from time to time be necessary for protecting Landlord's interest in the Premises, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants thereof. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition to its occupancy of the Premises.

EXHIBIT G
SCHEDULE OF PERFORMANCE

BCDC Permit Issued – April 2015

Construction Contract Award – September 2015

Start Construction – January 2016

In-Water Construction Start – August 2016

In-Water Construction End – November 2016

End Construction – March 2017

Closeout & Commissioning – May 2017

EXHIBIT H

CONSTRUCTION COST ESTIMATE



Rev: 10/31/2014

WETA Central Bay Operations & Maintenance Facility, Alameda
DRAFT Infrastructure Improvements Cost Estimates for Discussion (approx 30% design level)

Off-Site Infrastructure Improvements

Off-Site Improvements - W. Hornet Ave. / E. portion Enterprise Park (see attachment #1)	\$ 740,000
Water Main Extension - New 12" Water Main from Central Ave. (allowance)	\$ 1,000,000
Main St. Improvements - Street Reconfiguration (allowance)	\$ 250,000
	\$ 1,990,000

On-Site Infrastructure Improvements

Dredging/Fill Removal (see attachment #2)	\$ 560,000
Earthwork/Fill - Elevate site to meet future projected sea-level rise (see attachment #3)	\$ 95,000
Ground Improvements - seismic upgrades to develop site (see attachment #4)	\$ 1,140,000
Shoreline - Remove and replace dilapidated seawall, new rip-rap (see attachment #5)	\$ 1,230,000
	\$ 3,025,000

Subtotal	\$ 5,015,000
Mobilization and Demobilization (8%)	\$ 402,000
Design and Construction Contingency (15%)	\$ 753,000
Escalation to Feb 2017 (11%)	\$ 552,000
Total Cost	\$ 6,722,000

Note: Doesn't include sales tax

**RIGHT OF ENTRY FOR CONSTRUCTION WORK
(Park Improvements)**

This Right of Entry for Construction Work (Park Improvements) (the “**Permit**”) is entered into for reference purposes as of _____, 2015, by and between the CITY OF ALAMEDA, a charter city and municipal corporation (the “**City**”), and SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY, a California public entity created pursuant to Government Code Section 66540 *et seq.* (“**Permittee**”).

RECITALS

This Permit is entered into upon the basis of the following facts, understandings and intentions of the City and Permittee.

A. The East Bay Regional Park District (“**EBRPD**”) leases that certain shoreline area of the City of Alameda (the “**Park**”) pursuant to that certain City of Alameda Lease Agreement with the City dated for reference purposes as December 1, 2006 (the “**Park Lease**”). The Park is depicted on Exhibit A attached hereto and incorporated herein by this reference.

B. Permittee has agreed to realign the San Francisco Bay Trail within a portion of the Park and construct other related public access amenities in the area depicted on Exhibit B attached hereto and incorporated herein by this reference (collectively, the “**Park Improvements**”). The Park Improvements are to be constructed on that portion of the Park depicted on Exhibit B as the “**Park Site**” and on that portion of adjacent property owned by the City but not subject to the Park Lease depicted on Exhibit B as the “**Offsite Area**”. The Park Site and the Offsite Area are jointly referred to herein as the “**Work Site**”.

C. To accomplish the Work (as defined in Section 2(a) below), it is necessary for Permittee to enter the Work Site.

D. It is in the best interests of the City and EBRPD (as to its interest in the Park Site only) to permit Permittee to enter the Work Site to perform the Work to be done as described in this Permit.

NOW, THEREFORE, the City hereby grants to Permittee a right to enter the Work Site based upon the conditions set forth in this document, all as more fully described below.

1. License. The City hereby grants to Permittee for use by Permittee and its employees, officers, agents, consultants, and contractors (collectively, “**Agents**”) a personal, nonexclusive and nonpossessory right and license to enter upon and use the Work Site, for the purposes and subject to the terms, conditions and restrictions set forth below. This Permit gives Permittee a license only and notwithstanding anything to the contrary herein, this Permit does not constitute a deed or grant by the City of any ownership, leasehold, easement or other similar real property interest or estate whatsoever in the Work Site, or any portion thereof. This Permit is nonexclusive and shall be subject and subordinate to the rights of the City and EBRPD to use the Park at their reasonable discretion for any use that does not materially interfere with

Permittee's performance of the Work. The City and Permittee shall cooperate in the use of the Work Site during the term of this Permit.

2. Purposes.

a. Permittee may, but shall not be obligated to, enter and use the Work Site to construct the Park Improvements in the Work Site (collectively, the "**Work**") in accordance with permits issued by the City in its regulatory capacity for such Work and by the San Francisco Bay Conservation and Development Commission ("**BCDC**").

b. The Work Site shall not be used by Permittee for any other purpose, without the express prior written consent of the City.

3. Term. The license conferred to Permittee pursuant to this Permit shall commence on the date Permittee provides written notice to the City that it intends to commence mobilization for the Work (the "**Effective Date**") and shall terminate on the date on which (a) the Work has been approved by BCDC and (b) the Park Improvements have been accepted as complete by the City, subject to delays due to Force Majeure Events (as defined in Section 10(c) below) which shall automatically extend the time for performance under this Permit. After commencement of the Work, Permittee shall complete the Work in an expeditious manner.

4. Performance, Approvals; Due Care.

a. Permittee shall obtain all approvals and permits, including without limitation approvals and permits from the City and all other governmental entities having jurisdiction over the Work Site, including, if applicable, BCDC, and, if applicable, pay all fees (including, without limitation, inspection fees) required by all City departments, including the Department of Public Works, and any other governmental agencies having or claiming jurisdiction over the Work Site that are required to commence and complete the Work. Prior to commencement of the Work, Permittee shall provide proof of all such required permits and approvals, and business licenses to the City, to the extent the City was not the entity issuing the applicable permits and approvals. Permittee shall perform, or cause to be performed, all Work in compliance with such permits and approvals.

b. Permittee shall use, and shall cause its Agents to use, due care at all times in performing the Work to avoid any damage or harm to the City's property and adjoining property and any facilities, in, under, or on the Work Site, unless such property or facilities are to be demolished, removed or replaced in connection with the Work.

c. All Work shall be performed in a workmanlike manner and in accordance with all applicable requirements of State and local law, including without limitation the Alameda Municipal Code, or any subsequent revisions thereof, and according to the plans filed in the office of the City's Public Works Director. Permittee shall protect all existing facilities not required to be demolished in accordance with the Work. Permittee shall repair any damage to the Work Site caused by its Work or use of the Work Site, including but not limited to landscaping, curb, gutter, sidewalk and roadways; provided, however, Permittee shall not be

required to repair any property or facilities that are required by the City to be, or otherwise are to be, demolished or removed in connection with the Work. Permittee is responsible for daily clean up of all rubbish, excess material, temporary structures and equipment used to accomplish the Work. Permittee shall comply, and cause compliance, with all requirements of the State Water Resources Control Board Construction Activity Storm Water National Pollutant Discharge Elimination System General Permit with respect to removal of all dirt, mud, gravel and refuse from any public street pavement adjoining the Work Site daily and prior to rain.

d. Permittee shall at all times during the term of this Permit, use commercially reasonable efforts to maintain, or cause to be maintained, the Work Site in a safe and secure condition.

e. Permittee shall require all of its Agents to comply with the terms of this Permit. Upon the City's request, evidence of such requirement shall be provided to the City.

f. Prior to commencement of any intrusive Work, as applicable, Permittee shall contact Underground Service Alert and comply with its protocols to locate all utilities. Permittee shall take all necessary precautions to avoid contact with, or damage to, any existing utilities. Permittee shall promptly repair any damage to any utilities caused by its Work or use of the Work Site (other than utilities that are to be removed, terminated, or relocated in connection with the Work (unless required to be operable during the Work) and shall bear all costs and expenses related to any such damage and repairs (excluding consequential damages).

g. Permittee shall provide competent personal supervision of the Work or have a competent contractor, foreman or superintendent on the Work at all times during progress with authority to act for Permittee. Permittee shall provide to the City emergency telephone numbers of personnel authorized to act on behalf of Permittee during non-business hours.

h. Permittee shall be responsible for the cost of all utilities used by Permittee and/or its Agents in connection with the Work.

i. On completion of the Work, Permittee shall provide to the City a digital AutoCAD-formatted complete set of "as-built" drawings showing clearly all changes, revisions and substitutions during the Work, including, without limitation, field changes and the final location of all utility lines.

5. Fire Protection Plans. If required by applicable law, prior to commencement of the Work, Permittee shall submit a fire protection plan for the Work for approval by the City's office of the Fire Marshall ("**Fire Marshall**") and shall comply with the fire protection plan as approved by the Fire Marshall.

6. Insurance.

a. Permittee shall maintain throughout the term of this Permit, at no cost to the City, insurance as follows:

i. Commercial, broad form general liability insurance, in an amount not less than Two Million Dollars (\$2,000,000), combined single limit. At least \$1,000,000 shall be primary and the remainder may be maintained, as applicable, as umbrella or excess liability coverage.

ii. Workers' compensation, as required by law, and employer's liability in an amount not less than One Million Dollars (\$1,000,000).

iii. Automobile liability insurance for owned, hired or non-owned vehicles, in an amount not less than One Million Dollars (\$1,000,000), combined single limit.

iv. Pollution liability insurance, in an amount not less than Five Million Dollars (\$5,000,000), per pollution incident and in the aggregate.

v. Permittee shall cause the contractors and subcontractors to provide the following insurance coverages:

A. Commercial, broad form general liability insurance, including contractual liability, products and completed operations, in an amount not less than One Million Dollars (\$1,000,000), combined single limit. If such insurance is provided under a blanket policy, a separate general liability and completed operations aggregate limit shall apply to the Work Site; at least \$1,000,000 shall be primary and the remainder may be maintained, as applicable, as umbrella or excess liability coverage. Permittee shall use its reasonable efforts to cause the completed operations coverage to be maintained for at least five (5) years following completion of construction.

B. Liability insurance for owned, hired and non-owned vehicles, in an amount not less than One Million Dollars (\$1,000,000), combined single limit.

C. Workers' compensation, as required by law, and employer's liability in an amount not less than One Million Dollars (\$1,000,000).

D. Solely with respect to the contractor or subcontractor which will be handling Hazardous Materials while performing Work on the Work Site, contractor's pollution liability insurance, in an amount not less than Two Million Dollars (\$2,000,000), per pollution incident and in the aggregate. The phrase "handling Hazardous Materials" as used herein shall include without limitation containing, labeling and removal.

vi. Permittee shall cause its geotechnical and civil engineering consultants to maintain professional liability insurance. Permittee shall use its reasonable efforts to cause such professional liability insurance to have an inception date or a retroactive date coinciding with or prior to the date such consultant's services are first performed and to cause coverage to continue uninterrupted until at least five (5) years after the date such work or services are accepted.

b. General Requirements.

i. All insurance provided for under this Permit shall be effected under valid enforceable policies issued by insurers of recognized responsibility having a rating of at least A-VII in the most current edition of Best's Insurance Reports, or otherwise acceptable to the City's Risk Manager.

ii. The professional and pollution legal liability policies required pursuant to this Section 6 shall be written on a "claims made" form with a "thirty day extended reporting provision" that survives this Permit. All other liability policies required hereunder shall be written on an occurrence basis. The required coverage may be provided by a blanket, multi-location policy, if such policy provides a separate aggregate limit per occurrence for the benefit of the Work Site and off-site areas subject to this Permit.

iii. Should any of the required insurance be provided under form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregates limit shall double the occurrence or claims limits specified.

iv. Commercial general and automobile liability insurance policies shall be endorsed or otherwise provide the following:

A. Name the City and its commissions, boards, departments including the electric utility Alameda Municipal Power, officers, agents and employees, as additional named insureds, as their respective interests may appear hereunder.

B. All policies shall be endorsed to endeavor to provide at least fifteen (15) days' written notice to City's Risk Manager prior to any cancellation, nonrenewal or modification of insurance coverage. Permittee covenants and agrees to give the City reasonable notice in the event that it learns or has any reason to believe that any such policy may be canceled or that the coverage of any such policy may be reduced.

v. All insurance provided for under this Permit are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Permit, and that insurance applies separately to each insured against whom claim is made or suit is brought. All policies shall include provisions denying such respective insurer the right of subrogation and recovery against the City. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

vi. Permittee agrees that in the event of loss due to any of the perils for which it has agreed to provide commercial general and automotive liability insurance and workers' compensation, Permittee shall look solely to its insurance for recovery. Permittee hereby grants to the City, on behalf of any insurer providing comprehensive general and

automotive liability insurance and workers' compensation to either Permittee or the City with respect to the Work, a waiver of any right to subrogation which any such insurer of said Permittee may acquire against the City by virtue of the payment of any loss under such insurance.

c. Permittee shall deliver to the City certificates of insurance and additional insured endorsements in form reasonably satisfactory to the City's Risk Manager, evidencing the coverages required hereunder, on or before the Effective Date of this Permit ("**Evidence of Insurance**"), and Permittee shall provide the City with Evidence of Insurance thereafter before the expiration dates of expiring policies. In addition, Permittee shall deliver to the City complete copies of the relevant policies upon request therefor from the City. If Permittee shall fail to procure such insurance, or fails to deliver Evidence of Insurance as required herein, and such failure continues for more than ten (10) days following written notice from the City to Permittee, the City may, at its option, procure the same for the account of Permittee, and the reasonable cost thereof shall be paid to the City within thirty (30) days after delivery to Permittee of bills therefor. The City shall notify Permittee within thirty (30) days of its receipt of Evidence of Insurance whether Evidence of Insurance is not acceptable to the City.

d. Notwithstanding anything to the contrary in this Permit, Permittee's compliance with this Section 6 shall in no way relieve or decrease liability of Permittee under Section 13 below, or any other provision of this Permit, and no insurance carried by the City shall be called upon to satisfy the Permittee's indemnification obligations under Section 13 or any other obligations of Permittee or its Agents under this Permit.

7. Compliance with Laws and Agreements.

a. All activities and operations of Permittee and/or its Agents under this Permit shall be in compliance with all applicable federal, state and local laws and regulations, including without limitation, the City's Marsh Crust ordinance and all applicable federal and state labor laws and standards, including prevailing wage requirements (to the extent applicable). All contracts Permittee enters into for performance of the Work shall make appropriate provision for compliance with this Section 7.

b. Permittee herein covenants for itself and for all persons claiming in or through it that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, age, sex, marital status, sexual orientation, disability, national origin or ancestry in the use, occupancy or enjoyment of the Park. Permittee shall require its Agents to ensure that all consultant contracts and construction contracts for the Work, contain this provision against discrimination or provide that its consultants and contractors shall comply with all applicable laws which would include laws prohibiting discrimination on these bases.

8. Signs. Permittee shall not place, erect, or maintain any sign, advertisement, banner or similar object on the Work Site, except for temporary safety and warning signs or construction signs associated with the Work and as approved by the City. Informational signage

shall be subject to the approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed.

9. Condition/Restoration of Condition of Property.

a. The Work Site is accepted “as is” and entry upon the Work Site by Permittee is an acknowledgment by Permittee that all dangerous places and defects in the Work Site, except latent defects and dangerous places, are known to it and are to be made secure and kept in such secure condition by Permittee, which shall include, without limitation, installing and maintaining security fencing and signage, conducting regular inspections of the Work Site and if applicable, buildings situated thereon, and promptly contacting the City’s police and/or fire department as necessary at (510) 522-2423, or if normal telephone lines are inoperable at (510) 337-8340. Permittee shall vacate the Work Site, remove any and all of its personal property located thereon, and restore any portion of the Work Site affected by Permittee’s Work to a neat, safe and secure condition. The City shall have the right upon not less than fifteen (15) days’ notice to Permittee to dispose of any property left by Permittee on the Work Site and/or the Park after termination of this Permit or after the Permittee has vacated the Work Site.

b. If any soils investigation permitted hereby involves the drilling of holes or other excavation having a dimension that could create a safety hazard for persons, said holes and excavation shall during any drilling operations be carefully safeguarded and shall upon the completion of said drilling operations be refilled (and compacted to the extent necessary) to the level of the original surface penetrated by the drilling and shall be approved by Permittee’s geotechnical engineer. All soils test data and reports prepared based thereon, obtained from these activities shall be provided to the City upon request.

c. Prior to completion of the Work pursuant to this Permit, Permittee, at its sole cost and expense, shall appropriately contain and label Hazardous Materials (as defined below) extracted from or introduced in, on, under or about the Work Site by Permittee or its Agents in compliance with all laws, including California Environmental Protection Agency regulations and guidelines for Hazardous Materials handling and management (including the management of PCB-containing materials and mercury-containing materials), and cause to be removed, any and all Hazardous Materials extracted from or introduced in, on, under or about the Work Site by Permittee or its Agents. All costs of storage, shipping and disposal of extracted soils and groundwater introduced in, on, under or about the Work Site by Permittee or its Agents shall be the responsibility of Permittee including, without limitation, the costs of preparation of shipping papers. Permittee shall promptly inform the City that such actions have been performed. For purposes herein, the term “**Hazardous Materials**” shall mean any substance, material or waste which is (i) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” or “restricted hazardous waste” under any provision of California law; (ii) petroleum; (iii) asbestos; (iv) polychlorinated biphenyls; (v) radioactive materials; (vi) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317); (vii) defined as a “hazardous waste” pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903) or its implementing regulations; (viii) defined as a “hazardous substance” pursuant to

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601); or (ix) determined by California or federal governmental authority to be capable of posing an unacceptable risk to human health or the environment due to environmental exposures. If the following is applicable to Permittee, then notwithstanding the foregoing provisions of this Section to the contrary, in no event shall Permittee or its Agents be liable for the mere discovery by Permittee of any preexisting condition of Hazardous Materials in, on, under or about the Work Site that Permittee did not extract from or introduce in, on, under or about the Work Site, provided Permittee promptly notifies the City of such discovery and properly documents and handles any Hazardous Materials actually extracted by Permittee or its Agents in accordance with this Section 9(c).

d. The City makes no representations or warranties, express or implied, with respect to the environmental condition of the Work Site or the surrounding property (including, without limitation, all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), or compliance with any applicable laws pertaining to Hazardous Materials, and gives no indemnification, express or implied, for any costs of liabilities arising out of or related to the presence, discharge, migration or release or threatened release of Hazardous Materials in or from the Work Site.

e. Permittee recognizes that, in entering upon the Work Site and performing work under this Permit, its Agents may be working with, or be exposed to, substances or conditions which are toxic or otherwise hazardous. Permittee shall provide prior written notice to its Agents of the potential presence and exposure to such toxic or hazardous substances or conditions. Permittee agrees that it is assuming full responsibility for such risks.

f. All excavation, backfilling or other earthwork shall be performed in accordance with the recommendations of Permittee's geotechnical engineer.

10. Defaults by Permittee; Force Majeure Events.

a. Default by Permittee shall include, but not be limited to, Permittee's failure to timely commence or complete construction of the Work in accordance with this Permit, subject to delays due to Force Majeure Events; Permittee's failure to cure any default or any defect in the Work within thirty (30) days from the date of written notice thereof from the City; Permittee's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which Permittee fails to discharge within sixty (60) days; or Permittee's failure to perform any other obligation under this Permit within the applicable notice and cure periods.

b. Permittee shall notify the Public Works Director of Permittee's insolvency, appointment of a receiver, the filing of a petition for bankruptcy, the commencement of a foreclosure action, or any correspondence in lieu thereof.

c. In addition to specific provisions of this Permit, performance by either party shall not be deemed to be in default where delays or defaults are for reasons beyond the reasonable control of such party due to war; insurrection or acts of civil disobedience; strikes;

lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; the pendency of any mediation, arbitration, litigation or other administrative or judicial proceeding affecting the Work or a party's ability to perform its obligations under this Permit; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the City shall not excuse performance by the City) or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform which substantially interferes with such party's performance under this Permit (collectively, "**Force Majeure Events**").

11. Right to Cure Defaults; Remedies.

a. Except as provided in Section 11(b) below, if Permittee fails to cure any default under this Permit within thirty (30) days after its receipt of written notice thereof from the City, the City may, but shall not be obligated to, remedy such failure for Permittee's account and at Permittee's cost by providing Permittee fifteen (15) days' prior written notice of the City's intention to cure such default; provided, however, if more than thirty (30) days is reasonably required to complete the cure, Permittee shall not be in default so long as Permittee has commenced the cure within such thirty (30) day period and is diligently prosecuting such cure to completion. No such prior notice by the City shall be required in the event of an emergency as reasonably determined by the City. Such action by the City shall not be construed as a waiver of any rights or remedies of the City under this Permit, and nothing herein shall imply any duty of the City to do any act that Permittee is obligated to perform. Permittee shall pay to the City within fifteen (15) days following the City's written demand, all reasonable, out-of-pocket costs and expenses incurred by the City, including, without limitation reasonable attorneys' fees, in remedying or attempting to remedy such default. Permittee's obligations under this Section 11 shall survive the termination of this Permit. In the event of Permittee's default (beyond any applicable notice and cure periods and subsequent to the City's written notice to Permittee of such default):

i. Any remedies specified herein are in addition to, and not in lieu of, other remedies available to the City. Permittee agrees that the City has full discretion in choosing the remedy or remedies to pursue and that the failure of the City to take enforcement action shall not be construed as a waiver of that or any subsequent default or breach.

ii. Permittee shall reimburse the City for its reasonable costs and expenses (including reasonable attorneys' fees and costs) including interest thereon at the maximum rate allowed by law from the date of notification of such cost and expense until paid. Such obligation for reimbursement shall not be limited by the amount of the estimates set forth or by such security as may have been provided to the City in connection with this Permit.

b. The City reserves to itself all remedies available to it at law or in equity, including without limitation, the right, without limiting any of its other rights and remedies, to issue a stop work order, remove Permittee from the Work Site and revoke and terminate this

Permit if Permittee fails to comply with any terms of this Permit. If the issue triggering the stop work order (the “failure”) can be cured and is not a safety or health hazard and is not considered an emergency, Permittee may have up to fifteen (15) days to cure after receiving written notice from the City, provided, however, if more than fifteen (15) days is reasonably required to complete the cure, the City shall not issue a stop work order and remove Permittee from the Work Site so long as Permittee has commenced the cure within such fifteen (15) day period and Permittee is diligently prosecuting such cure to completion not to exceed thirty (30) days.

12. Costs. Permittee shall bear all costs or expenses of any kind or nature in connection with its use of the Work Site, including, without limitation, any fines or penalties related to, or arising from, performance of the Work and any other costs incurred by the City caused by Permittee’s failure to comply with this Permit.

13. Indemnification.

a. Permittee shall indemnify, defend and hold harmless the City and its boards, commissions, councils, departments including the electric utility Alameda Municipal Power, officers, employees, and agents from and against any and all claims, demands, losses, liabilities, damage, liens, obligations, interest, injuries, penalties, fines, lawsuits or other proceedings, judgments and awards and costs and expenses (including reasonable attorneys’ fees and costs and consultant fees and costs and court costs), including the reasonable costs to the City of carrying out the terms of any judgment, settlement, consent, decree, stipulated judgment or other partial or complete termination of an action or procedure that requires the City to take any action, arising from or as a result of the following (collectively, “**Indemnified Claims**”): (i) any injury to or death of any person or damage to or destruction of any property occurring in, on or about the Work Site, or any part thereof, whether to the person or property of Permittee or its Agents, their invitees, guests or business visitors (collectively, “**Invitees**”), or third persons, resulting from any use or activity by Permittee or its Agents under this Permit, (ii) any failure by Permittee to faithfully observe or perform any of the terms, covenants or conditions of this Permit, or (iii) the use of the Work Site or any activities conducted thereon under this Permit by Permittee, its Agents or Invitees. The foregoing indemnity shall exclude any Indemnified Claims to the extent they result from (y) the negligence or willful or other actionable misconduct of the City or its boards, commissions, councils, departments including the electric utility Alameda Municipal Power, officers, employees, and agents, or (z) the mere discovery by Permittee or its Agents of any preexisting condition of Hazardous Materials in, on, under or about the Work Site, provided Permittee promptly notifies the City of such discovery and properly documents and handles such Hazardous Materials actually extracted by Permittee or its Agents in accordance with Section 9(c) above. Permittee agrees to defend the indemnified parties against any claims that is actually within the scope of the indemnity provisions of this instrument, even if such claims may be groundless, fraudulent or false.

b. Permittee, jointly and severally for itself, its successors, and Agents, agrees to indemnify, defend (with counsel acceptable to the City) and hold harmless the City and its boards, commissions, councils, departments including the electric utility Alameda Municipal Power, officers, employees, agents and any successors to the City’s interest in the Work Site from and against any and all damages, liability, claims, suits, fines, penalties, charges,

administrative and judicial proceedings and orders, judgments, remedial actions of any kind and all costs and cleanup actions of any kind, reasonable attorney's fees, and all costs and expenses incurred in connection therewith, (including, without limitation, costs of defense, any and all fines, penalties, costs, damages, or consultant's fees related to encountering, threatened release, releasing, exposing, disposing or otherwise impacting Hazardous Materials or "pesticides" as those terms might be defined in any federal, state or local legislation currently existing or enacted in the future) (collectively, "**Claims**") to the extent caused directly by the Work conducted or performed within and under this Permit by Permittee or its Agents. Provided, however, that such indemnification, defense and hold harmless obligation shall not apply to any Claims due to (i) the negligence or willful or other actionable misconduct of the City or its boards, commissions, councils, departments including the electric utility Alameda Municipal Power, officers, employees, or agents, or (ii) the mere discovery by Permittee or its Agents of any preexisting condition of Hazardous Materials in, on, under or about the Work Site, provided Permittee promptly notifies the City of such discovery and properly documents and handles such Hazardous Materials actually extracted by Permittee or its Agents in accordance with Section 9(c) above.

c. Permittee shall not permit any mechanics' or material supplier's liens to be levied against the Work Site for any labor or material furnished to Permittee or claimed to have been furnished to Permittee or to its Agents. Permittee shall, within ten (10) days following the imposition of any such lien, either cause the same to be released of record or provide City with insurance against the same issued by a major title insurance company or such other protection against the same as City shall accept, City shall have the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by City and all expenses incurred by it in connection therewith shall be payable to City by Permittee on demand. In addition, Permittee shall indemnify, defend and hold the City free and harmless from any and all cost or expense connected with or arising from any Work undertaken on the Work Site by Permittee.

d. For the purposes of this Section 13, Permittee's operations and activities include, but are not limited to, those of its Agents.

e. Permittee's obligations under this Section 13 shall survive the expiration or other termination of this Permit.

14. Notices. Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed received upon personal delivery or upon delivery by facsimile by 5:00 p.m. Pacific Time and is followed by delivery of a "hard" copy to the addresses listed below or, if sent by mail, three (3) business days following its deposit in the United States mail, postage prepaid, certified mail, return receipt requested, or, if sent by FedEx or other reliable overnight courier, on the next business day following dispatch, and in any such events addressed to the City or Permittee, as the case may be, at the addresses set forth below (or such other address as a party may specify by notice given pursuant to this Section):

City: City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attention: City Manager
Telephone: (510) 747-4700
Facsimile: (510) 747-4704

with copy to: City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attention: City Attorney
Telephone: (510) 747-4750
Facsimile: (510) 747-4767

with copy to: City of Alameda
950 West Mall Square, Room 110
Alameda, CA 94501
Attention: City Engineer
Telephone: (510) 747-7937
Facsimile: (510) 769-6030

Permittee: San Francisco Bay Area Water Emergency Transportation Authority
Pier 9 Suite 111, The Embarcadero
San Francisco, CA 94111
Attention: Executive Director
Telephone: (415) 364-3192
Facsimile: (415) 291-3388

15. No Assignment by Permittee. This Permit is personal to Permittee and shall not be transferred by Permittee without the City's prior written consent, which may be granted or denied in the City's sole discretion. Any attempt by Permittee to transfer this Permit in violation of the immediately preceding sentence shall be null and void and cause the immediate termination and revocation of this Permit. Notwithstanding the foregoing, the City acknowledges that some or all of the Work may be performed by Permittee's Agents, and such performance shall not be construed as an assignment or transfer by Permittee of this Permit.

16. Strictly Construed. This Permit is to be strictly construed and no use other than that specifically stated herein is authorized hereby.

17. Non-Liability of Officials, Employees and Agents. Notwithstanding anything to the contrary in this Permit, no elective or appointive board, commission, member, officer, employee or agent of the City shall be personally liable to Permittee, its successors and assigns, in the event of any default or breach by the City or for any obligation of City under this Permit or a judgment obtained against the City, nor shall any officer, director, shareholder, partner, member, trustee, employee, or beneficiary of Permittee be personally liable to the City, or its

successors or assigns, in the event of any default or breach by Permittee or for any obligation of Permittee under this Permit or a judgment obtained against Permittee.

18. No Joint Venturers or Partnership; No Authorization. This Permit does not create a partnership or joint venture between the City and Permittee as to any activity conducted by Permittee on, in or relating to the Work Site. Except as provided in this Permit, the giving of this Permit by the City does not constitute authorization or approval by the City of any activity conducted by Permittee on, in, or relating to the Work Site.

19. Taxes. Permittee agrees to pay taxes of any kind, including possessory interest taxes, if any, in the event that this Permit creates a possessory interest subject to property taxation, that may be lawfully assessed on Permittee's interest under this Permit or use of the Work Site pursuant hereto and to pay any other taxes, excises, licenses, permit charges or assessments based on Permittee's usage of the Work Site that may be imposed upon Permittee by applicable law. Permittee shall pay all such charges when they become due and payable and before delinquency. Nothing in this Section 19 shall be construed as indicating an intent to create a possessory interest subject to taxation, and the City agrees that it will cooperate with Permittee in efforts to lawfully minimize or avoid any such assessments.

20. Contractor Licensing. The City acknowledges and agrees that Permittee shall be deemed to be the owner of the Work Site solely for purposes of California contractor licensing laws and Permittee shall be responsible for the payment of all costs relating to the performance of the Work described in the Permit.

21. General Provisions.

a. This Permit may not be amended or modified except by a written instrument signed by an officer or other authorized representative of all parties hereto.

b. No waiver by any party of any of the provisions of this Permit shall be effective unless in writing and signed by the party granting the waiver, and only to the extent expressly provided in such written waiver.

c. All approvals and determinations of the City required or permitted hereunder shall be made in the reasonable discretion of the City.

d. The section and other headings of this Permit are for convenience of reference only and shall be disregarded in the interpretation of this Permit.

e. Time is of the essence.

f. This Permit shall be construed and governed in accordance with the laws of the State of California.

g. If either party institutes any action or proceeding in court or before an arbitrator to enforce any provision hereof or for damages by reason of an alleged breach of any

provision of this Permit, the prevailing party shall be entitled to receive from the other party court or arbitration costs or expenses incurred by the prevailing party including, without limitation, expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and such amount as the court or arbitrator may judge to be reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding.

h. Permittee may not record this Permit or any memorandum hereof.

i. Subject to the limitations on assignments or other transfers by Permittee hereunder, this Permit shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.

j. Each of the exhibits referenced in this Permit is attached hereto and incorporated herein.

k. For purposes herein, the designated representative for the City shall be the City Manager or his or her designee.

l. This Permit may be executed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Permit as of the date first written above.

CITY:

City of Alameda,
a charter city and municipal corporation

By: _____
John A. Russo
City Manager

Approved as to Form:
By: _____
Janet Kern
City Attorney

Recommended for Approval:

By: _____
Name: _____
Title: _____

[Remainder of page intentionally blank; signature follows.]

PERMITTEE:

San Francisco Bay Area Water Emergency Transportation Authority,
a California public entity created pursuant to Government Code Section 66540 *et seq.*

By: _____
Name: _____
Title: _____

Approved as to Form:

By: _____
Stanley S. Taylor III, General Counsel

Exhibit A

Depiction of the Park

[Attached]

Exhibit B



EXHIBIT B: PARK AND PUBLIC ACCESS IMPROVEMENT AREA

CONSENT OF EAST BAY REGIONAL PARK DISTRICT

The East Bay Regional Park District, a California special district (“**EBRPD**”) is the Tenant under that certain City of Alameda Lease Agreement dated for reference purposes as December 1, 2006 by and between EBRPD and the City of Alameda, a municipal corporation (“**City**”), for certain premises more particularly described therein (the “**Park**”).

EBRPD:

The undersigned hereby acknowledges and consents to the foregoing Right of Entry for Construction Work (Park Improvements) (the “**Right of Entry**”) to which this Consent of East Bay Regional Park District is attached and agrees to maintain the Park Improvements (as defined in the Right of Entry) to be constructed in the Park pursuant to the Right of Entry following completion of construction of the Park Improvements. EBRPD’s consent extends only to the Park Site (as defined in the Right of Entry).

East Bay Regional Park District,
a California special district

By: _____
Name: _____
Title: _____

MEMORANDUM

TO: Board Members

**FROM: Nina Rannells, Executive Director
Kevin Connolly, Manager, Planning & Development
Mike Gougherty, Senior Planner**

SUBJECT: Approve Special Event Fare Policy Modification and Authorize Public Outreach for the Proposed 2015 Giants Season AT&T Park Ferry Fares

Recommendation

Approve an updated fare policy for WETA special event services and authorize staff to conduct public outreach on proposed 2015 Giants season AT&T Park ferry fares.

Background/Discussion

In November 2011, WETA adopted a Fare Policy for WETA services that was developed to support system cost recovery and promote system ridership. Based on its Fare Policy, WETA recently approved a FY2015-2020 Fare Program that standardizes fare categories, establishes common fare products, promotes consistent discount pricing and provides for regular fare increases over a multi-year period for regular WETA services. Because the 2011 Fare Policy identified a separate objective for special event services - to recover the full incremental cost of these through farebox or other special revenues - these services were not included as a component of the FY2015-2020 Fare Program.

Upon the conclusion of the recent, and successful, San Francisco Giants baseball season, staff conducted a review of the performance of its seasonal service to AT&T Park to serve Giants games and to assess its consistency with WETA's 2011 Fare Policy. The findings of this effort are summarized below along with a recommendation to update the Fare Policy for special event services and to initiate public outreach associated with establishing AT&T Park "special event" fares for the 2015 Giants season.

Service Assessment

In 2014, WETA provided ballpark service for its Vallejo and Alameda/Oakland routes to two pre-season, 82 regular season, and eight playoff home games. For Vallejo, WETA operated direct roundtrip service for weekend, holiday, and weekday day games; direct return service only is provided for weekday night games. For Alameda/Oakland, direct roundtrip service was provided for weekend, holiday, and weekday night games, no direct service was provided for weekday day games. In general, these services were highly utilized, with vessel occupancy often exceeding 90% on individual trips.

Staff recently completed a financial analysis of the services to assess whether each service met the WETA Fare Policy goal of recovering its full incremental operating costs. As a whole, these services achieved the policy goal of recovering the incremental cost of

providing the services, with Alameda/Oakland service fully recovering its costs and Vallejo service falling just beneath the threshold (within 10%) of full recovery.

Staff also reviewed fare structures for the Alameda/Oakland and Vallejo ballpark ferry services to assess whether discount rates offered are consistent. A summary of ballpark fares are summarized alongside commuter fares for each respective service in Table 1 below.

Table 1: Comparison of Ballpark and Regular Service Fares

	Adult	Youth Discount	Senior/ Disabled Discount	Military Discount
Vallejo Ballpark	\$13.50	\$6.75 (50%)	\$6.75 (50%)	N/A
Vallejo Regular	\$13.00	\$6.50 (50%)	\$6.50 (50%)	N/A
AOSF Ballpark	\$7.50	\$4.75 (37%)	\$5.25 (30%)	\$6.25 (17%)
AOSF Regular	\$6.25	\$3.10 (50%)	\$3.10 (50%)	N/A

In general, ballpark fares are consistently higher than commuter fares for each service, with a greater premium imposed for Alameda/Oakland ballpark service compared to Vallejo. For both ballpark services, eligibility criteria for youth discounts are more restrictive than those for regular services. Additionally, discount rates for youth/senior/disabled Alameda/Oakland fares are less robust than regular service discounts rates. Base fares for the Vallejo ballpark service were last raised by the City of Vallejo from \$13.00 to \$13.50 in April 2011; base fares for Alameda/Oakland were last raised by WETA Board from \$7.25 to \$7.50 in January 2011. In general, there is a high degree of inconsistency between fares structures for the two ballpark services.

Lastly, staff reviewed fare and pricing policy for other ballpark services. The fare structure for Golden Gate Ferry ballpark services likewise includes a premium fare for ballpark services in relation to its commuter fares, but unlike the Alameda/Oakland or Vallejo ferry services, Golden Gate Ferry does not offer discounts for Youth, Senior, or Disabled fare categories. Furthermore, it should be noted that the San Francisco Giants do not offer reduced ticket rates for Youth, Senior or Disabled customers.

Based upon this review, staff proposes refining WETA's fare policy to clarify the intent and process for establishing special event fares. Additionally, staff proposes modification of the Giants ballpark fare structure; moving to a flat price per passenger, thereby eliminating discount pricing for these services.

Proposed Fare Policy Changes

Staff recommends that the Board amend the Fare Policy for special event services to include the following clarifying provisions:

- WETA's objective is to recover, *at a minimum*, the full incremental cost of special event services through farebox or other special revenues.
- Fare pricing and service planning for special event ferry services shall be assessed on an annual basis and changes proposed as necessary to meet the intent of the policy.

- Youth, Senior and Disabled fare category discounts, if provided, shall be internally consistent between WETA special event services and externally consistent with similar special event services provided by other operators, to the extent feasible.

Proposed 2015 Giants Season AT&T Park Ferry Fares

Staff recommends that the Board authorize the initiation of public outreach efforts to solicit input on the following proposed fare structure for the FY 2015 Giants season AT&T park ferry service fares:

Establish a flat fare per-passenger for the Alameda/Oakland and Vallejo ballpark services as follows:

- Alameda/Oakland - \$7.50
- Vallejo Ballpark Fare - \$13.50

This proposal would hold pricing consistent with the Adult fare prices charged during the 2014 season on each route, but would eliminate Youth, Senior and Disabled and Military discounts. The proposal would also eliminate the use of the monthly Vallejo pass in lieu of a Giants ballpark service ticket.

With the proposed changes, staff anticipates that the ballpark services would cumulatively recover their full incremental operating costs through farebox revenue, despite anticipated increases in operating costs for the 2015 season due to inflation and other factors. Transitioning the fare to a single price per seat would foster consistency between the fare structures for Vallejo and Alameda/Oakland ballpark services, and would bring WETA's ballpark fares in line with the pricing model used by Golden Gate Ferry and the Giants whereby tickets are sold on a flat, per-person basis.

Next Steps

Provided Board approval, staff will begin the outreach process for soliciting comment on the proposed 2015 Giants season AT&T park ferry fares by notifying the general public and WETA passengers through on-board flyers, email and information on the WETA/San Francisco Bay Ferry web site. After a period of 30 days, the following steps would be taken:

- February 2015: Consider public input and develop a final recommended fare for the 2015 Giants season;
- March 2015: Hold public hearing to receive input on the final draft 2015 Giants season AT&T park ferry fare proposal and present a final recommendation to the Board for approval; and
- March/April 2015: Implement 2015 AT&T park ferry fare program

Fiscal Impact

There is no fiscal impact associated with this item as staff anticipates that the proposed restructured ticket pricing will fully cover the cost of providing ballpark ferry services during the 2015 season.

END

MEMORANDUM

TO: Board Members

FROM: Nina Rannells, Executive Director
Kevin Connolly, Manager, Planning & Development

SUBJECT: Overview of Upcoming Summer Schedule Changes

Recommendation

There is no recommendation associated with this informational item.

Background/Discussion

Ferry ridership continues to increase as the Bay Area economy experiences sustained economic growth. Ridership levels have sharply increased not just on WETA services but also for BART and Transbay buses as well. San Francisco has seen significant job growth over the past year along with record number of tourists and visitors. San Francisco's job base increased 6.1 percent in calendar year 2014, the highest growth rate among large US Cities. Also, visitors to San Francisco increased for the fourth year in a row. San Francisco hotel rates have increased 40 percent in the past year. The hot job market has fueled housing demand in the east bay. Housing prices in Alameda have increased over 30 percent over the past two years, for example.

Ferry schedules typically change in the beginning of May (the "summer" schedule), with increased service planned for the busy summer period. This year will feature a number of small schedule adjustments developed to respond to increasing demand for ferry service while maximizing system efficiencies and utilization of vessels and crews as summarized below:

- Additional peak period departures for Harbor Bay (one morning and one evening) to alleviate vessel overcrowding and allow for vessel rotation into this service;
- Adjustments to the Vallejo mid-morning schedule to offer trips in the most desired departure times around the 10:00 hour to alleviate vessel crowding;
- Additional mid-morning and mid-afternoon departures in Alameda Oakland service to complete the service schedule and alleviate vessel overcrowding on certain trips; and
- Adjustment of the South San Francisco evening schedule (last trip) to accommodate interlined service with Harbor Bay

The proposed changes would rely more than previously on interlining vessels and crews as well as making use of and managing deadhead trips. The practice of "interlining" refers to distributing vessels and crews among multiple terminals rather than dedicating them to specific lines. "Deadhead" trips are non-revenue trips that reposition boats and crews for peak trips. Interlining and better management of deadhead trips are features of a transit network, where resources are distributed within a system as opposed to dedicating specific resources to defined lines and terminals.

The result is anticipated to be a more robust schedule, addressing peak demand needs with an increase in overall system wide cost of less than 1 percent. With expected ridership increases, staff is confident that productivity will improve and there will be an overall improvement in ferry service throughout the Bay Area.

The specific schedule associated with these changes is still undergoing final tests to determine exact departure times and to ensure that connecting transportation services can accommodate proposed changes. Once a final summer schedule is developed, staff will initiate public outreach efforts to inform regular riders of the summer schedule and associated adjustments and provide an opportunity for input.

The schedule adjustments proposed for summer 2015 should be viewed as a pilot program due to the rapidly changing travel market in the Bay Area. Trends such as continued job growth, shifts in housing patterns and commute habits will likely continue and require further modification. Vessel availability and compatibility will also continue to change as the fleet goes through regular maintenance and replacement cycles. As a result, it is likely that the summer 2016 schedule will require the same level of modification.

Fiscal Impact

Staff estimates that the overall systemwide impact of the 2015 summer schedule will result in an increase in expenses below 1 percent. It is expected that increases in ridership and fare revenue will offset this increase.

END