

Members of the Board

Jody Breckenridge, Chair
Jeffrey DelBono
Anthony J. Intintoli, Jr.
Nicholas Josefowitz
James Wunderman, Vice Chair

**SAN FRANCISCO BAY AREA
WATER EMERGENCY TRANSPORTATION AUTHORITY
BOARD OF DIRECTORS MEETING**
Thursday, September 5, 2019 at 1:30 p.m.
Port of San Francisco
Pier 1
San Francisco, CA

The full agenda packet is available for download at weta.sanfranciscobayferry.com

AGENDA

1. CALL TO ORDER – BOARD CHAIR
2. PLEDGE OF ALLEGIANCE/ROLL CALL
3. REPORT OF BOARD CHAIR
4. REPORTS OF DIRECTORS
Directors are limited to providing information, asking clarifying questions about matters not on the agenda, responding to public comment, referring matters to committee or staff for information, or requesting a report to be made at another meeting. **Information**
5. REPORTS OF STAFF **Information**
 - a. Executive Director's Report on Agency Projects, Activities and Services
 - b. Monthly Review of Financial Statements
 - c. Legislative Update
6. CONSENT CALENDAR **Action**
 - a. Board Meeting Minutes – August 1, 2019
7. FASTER BAY AREA INITIATIVE OVERVIEW **Information**
8. PROJECT UPDATE ON ALAMEDA POINT DEVELOPMENT AND SEAPLANE LAGOON FERRY TERMINAL CONSTRUCTION **Information**
9. ADOPT BENEFIT PLANS TO RESTRUCTURE FUNDING OF EXISTING LONGEVITY STIPEND BENEFIT AND AUTHORIZE THE EXECUTIVE DIRECTOR AND FINANCE & ADMINISTRATION MANAGER TO TAKE ACTIONS TO SUPPORT IMPLEMENTATION OF THESE PLANS **Action**
10. APPROVE CONTRACT AWARD TO AECOM FOR THE HOVERCRAFT FEASIBILITY STUDY **Action**

**Water Emergency Transportation Authority
September 5, 2019 Meeting of the Board of Directors**

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|---|------------------------------------|
| 11. <u>AUTHORIZE REJECTION OF ALL PROPOSALS FOR THE MV SOLANO SERVICE LIFE EXTENSION PROJECT AND AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ACTIONS TO SUPPORT PROCUREMENT OF A NEW REPLACEMENT VESSEL</u> | Action |
| 12. <u>SOLANO TRANSPORTATION AUTHORITY WATER TRANSIT FEASIBILITY STUDY OVERVIEW</u> | Information |
| 13. <u>PUBLIC COMMENTS FOR NON-AGENDA ITEMS</u> | |
| 14. <u>RECESS INTO CLOSED SESSION</u>
a. Public Employee Performance Evaluation; Conference with Labor Negotiator (Designated Representative: Chair Breckenridge)
Pursuant to Government Code Sections 54957, 54957.6
Position: Executive Director | Action
To Be Determined |
| 15. <u>REPORT OF ACTIVITY IN CLOSED SESSION</u>
Chair will report any action taken in closed session that is subject to reporting at this time. Consideration of action pertaining to the Executive Director employment agreement. | Action
To Be Determined |

ADJOURNMENT

All items appearing on the agenda are subject to action by the Board of Directors. Staff recommendations are subject to action and change by the Board of Directors.

PUBLIC COMMENTS WETA welcomes comments from the public. Each person wishing to address the Board of Directors is requested to complete a Speaker Card. Please forward completed Speaker Card and any reports/handouts to the Board Secretary. Speakers will be allotted no more than three (3) minutes to speak and will be heard in the order of sign-up. Said time frames may be extended only upon approval of the Board of Directors.

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.

Agenda Items: Speakers on individual agenda items will be called in order of sign-up after the discussion of each agenda item.

WETA meetings are wheelchair accessible. Upon request, WETA will provide written agenda materials in appropriate alternative formats to individuals with disabilities. In addition, WETA will arrange for disability-related modifications or accommodations including auxiliary aids or services to enable individuals with disabilities to participate in public meetings. Please send a written request including your name, mailing address, telephone number and brief description of the requested materials in preferred alternative format and/or auxiliary aid or service at least five (5) days before the meeting. Requests should be made by mail to: Board Secretary, WETA, 9 Pier, Suite 111, San Francisco, CA 94111; by e-mail to: contactus@watertransit.org; or by telephone: (415) 291-3377.

MEMORANDUM

TO: WETA Board Members

FROM: Nina Rannells, Executive Director

DATE: September 5, 2019

RE: Executive Director's Report

CAPITAL PROJECT IMPLEMENTATION UPDATE

3 New Vessels – North Bay

This project will construct three new 445-passenger high-speed 34-knot jet propulsion vessels to support WETA's Vallejo and North Bay services. In December 2015, the Board of Directors approved a contract with Fast Ferry Management for vessel construction management services. On September 1, 2016 the Board of Directors approved a contract award to Dakota Creek Industries for vessel construction.

The design and engineering work for the three new vessels is complete; all structural drawings have been approved. Main engine exhaust emissions testing was completed and Environmental Protection Agency (EPA) Tier 4 compliance for emissions was demonstrated at the factory. An agreement between WETA, MTU, Pacific Power Group and Dakota Creek for field testing of these first-ever MTU Tier 4 compliant engines has been finalized.

The first vessel, the MV *Pyxis*, entered service on March 1. The second vessel, the MV *Vela* was launched on May 18. MV *Vela* arrived in Vallejo on August 20 after a safe transit from Anacortes, WA. Acceptance Trials and Tests were completed as well as a Commissioning Ceremony including Board Member Intintoli, WETA and Blue & Gold Fleet staff on August 26. A Coast Guard New to Zone certification inspection was completed on August 27. MV *Vela* entered passenger service on August 28. Work is well underway on the third vessel, the MV *Lyra*. Completion is expected in December 2019.

New Commuter Class Vessel

In December 2017, the Board of Directors approved the release of a Request for Proposals (RFP) to procure a mid-size high-speed passenger vessel, with potential options, that will establish a new class of WETA vessels with the versatility to support WETA's diverse system of services. This mid-size high speed vessel will meet WETA's needs for serving both long and short routes and facilities constrained by vessel size and water depth. On March 1, 2018, the Board of Directors approved a contract award to Glosten for Construction Management Services to support vessel construction. On October 4, 2018, the Board of Directors approved award of a contract for the vessel to Mavrik Marine, Inc. Keel laying and construction commenced on December 18.

Nearly all Mavrik resources have been assigned to the WETA project in order to expedite construction. Workmanship appeared very good on the parts under construction and Mavrik is using established procedures to meet WETA's expectations for quality. The main deck superstructure is complete and upper level of house is almost complete. Construction of

fabricated tanks has begun. Construction of the hulls have begun with frames standing up and hull stems installed. The current construction schedule anticipates Mavrik completing the MV *Dorado* in March 2020 using appropriate resource-loading and allowing enough float to account for unforeseen problems.

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. The project also includes landside improvements needed to accommodate expected service expansion, increases in ridership and to support emergency response capabilities. Project construction is being provided by Power Engineering under a Guaranteed Maximum Price contract and construction management is being provided by Jacobs Engineering.

Construction began in February 2017 and is scheduled to be fully completed by January 2020. Gates F & G are now both complete and WETA service has been fully transitioned from existing Gate E to the new gates. The construction fencing surrounding the south portion of the construction site has been removed and this area is now open to the public. The gangway and float for Gate E were removed in April and transported to local shipyard Bay Ship & Yacht for rehabilitation. The remaining on-site construction work will now be focused on the north side of the Agriculture Building where the contractor is proceeding with construction of a new plaza that will function as a passenger waiting and queuing area.

SERVICE DEVELOPMENT UPDATE

Mission Bay Ferry Landing

The Port of San Francisco released an engineering feasibility and site selection study for a future Mission Bay ferry landing in March 2016. WETA staff participated in the study and provided input regarding ferry operations and potential service models. In December 2016, the Port of San Francisco awarded a contract to COWI/OLMM to complete preliminary design, permitting and entitlement activities and began the process in partnership with WETA. To support the effort, the City and Port of San Francisco placed \$7 million in its capital budget. A project Memorandum of Understanding (MOU) between the Port and WETA was adopted by the WETA Board in January 2017, establishing roles and responsibilities for the joint development of this project. Staff has worked together with Port staff and their consultants on initial design and environmental testing activities. The environmental document and final design are now complete and final permitting is underway. The Port is working to identify funds to move the project forward to construction this fall and has submitted a request for WETA to program \$25 million in Regional Measure 3 (RM3) funding to support project construction, estimated to cost approximately \$40 million. The Board received a presentation on this project and Port request at the June 2019 meeting.

Temporary Service to Golden State Warriors Chase Center Events

WETA staff is working with the Port of San Francisco, Golden Gate Ferry and the Golden State Warriors to plan and construct a temporary ferry terminal at Pier 48 ½ for use in serving Chase Center special events prior to the construction of the planned permanent Mission Bay ferry terminal. The temporary terminal would utilize WETA's spare float currently located on Mare Island and be in place for two years – unless needed earlier for an emergency event - when it will be needed for the next dredging event in Vallejo. Engineering studies have been completed and the team has concluded that a single-sided float configuration is the only option for the terminal. The WETA Board authorized release of an Invitation for Bids for this work at the June 2019 meeting. The Board approved contract award for marine services to CS Marine at the July 2019 Board meeting. The contractor has begun preparations for the transportation and installation of the WETA equipment to the Pier 48 ½ site. The Port of San Francisco and WETA

are finalizing a lease for the new facility and a Memorandum of Understanding that also includes Golden Gate Ferry. Regulatory permits are anticipated to be secured by the end of August with work taking place in September. Service would commence in October.

Oakland Athletics Howard Terminal Stadium Proposal

WETA staff has met with the Oakland Athletics organization and the Howard Terminal stadium development team. Discussions thus far have been high level and have not been detailed to the point of developing service plans or evaluating infrastructure needs. However, WETA staff anticipates being an active participant in the project transportation discussions moving forward. WETA submitted a comment letter during the scoping phase for the anticipated Environmental Impact Report (EIR) identifying terminal capacity limitations at the existing Jack London Square terminal in Oakland for consideration during the EIR process.

Alameda Seaplane Lagoon Ferry Terminal

In April 2016, the Alameda City Council and WETA Board of Directors adopted a MOU defining a future service concept for western Alameda and identifying the terms and conditions under which a new Seaplane Lagoon Ferry Service would be implemented. The MOU defines roles and responsibilities for each party pertaining to the proposed construction of a new ferry terminal along Seaplane Lagoon on the former Naval Air Station at Alameda Point, future operation of the service and the pursuit of funds necessary to support the new service. The City contracted with Marcy Wong Donn Logan Architects to complete the final design of the ferry terminal.

The transfer of property from the City to the development team - Alameda Point Partners - included a \$10 million contribution toward the Seaplane Lagoon Ferry Terminal. The City previously secured \$8.2 million from the Alameda County Transportation Commission for the terminal and has recently committed \$2 million from City general funds. In September 2018, the WETA Board of Directors authorized a commitment of \$2 million to the project to close a funding gap and keep the project on schedule for construction. Alameda Point Partners (APP) has begun construction on the overall Site A project and a groundbreaking for construction of the new Seaplane Lagoon terminal is scheduled to take place on September 12. The terminal float will be constructed by Bay Ship & Yacht, with oversight from Power Engineering. WETA staff is working with APP and City staff to support the construction effort and to develop plans for new service. Staff is working with the City on an operational agreement for the new terminal that anticipates the start of operations in August 2020 – which will be brought forward for Board consideration this fall.

Redwood City Ferry Terminal

WETA prepared a draft Redwood City ferry terminal site feasibility report in 2012 in an effort to identify site opportunities, constraints and design requirements, and better understand project feasibility and costs associated with the development of a terminal and service to Redwood City. During the summer of 2016, staff from the Port of Redwood City (Port), WETA and Redwood City met to redefine a ferry project and pursue feasibility study funds to move the project toward implementation.

Board Chair Breckenridge, Vice Chair Wunderman and WETA staff participated in a site visit to the Port on May 25, 2018 that also included Port Commissioners, the Mayor of Redwood City, and Councilmembers from Redwood City and Burlingame. In addition, staff from multiple agencies and private sector stakeholders such as Google and Prop SF were in attendance. The two-hour site event consisted of a visit to an adjacent property to view a potential ferry terminal location and an hour of presentations and discussion among the group.

Redwood City is currently leading an effort to prepare a Financial Feasibility Study and Cost Benefit Analysis Report for the Redwood City Ferry Terminal Construction and Service utilizing \$450,000 in San Mateo County Measure A transportation sales tax funds. The City has entered into an agreement with the San Mateo County Transportation Authority to develop and adopt the Feasibility Study and Business Plan. The feasibility study, which kicked off in February 2019 with a meeting that included a consultant team and staff from the City and Port of Redwood City along with WETA, is expected to take 12 to 14 months to complete. Concurrent with this activity, Redwood City, the Port of Redwood City and WETA staff will work to develop a draft MOU for future Board consideration that defines agency roles and responsibilities for working together to advance the terminal planning and development.

Berkeley Ferry Terminal

The proposed Berkeley service will provide an alternative transportation link between Berkeley and downtown San Francisco. WETA previously worked to develop a draft environmental assessment for a project to build a new ferry terminal and service in Berkeley at a site just south of the Berkeley Fishing Pier. This work was ultimately suspended due to extraordinary mitigation measures required by National Marine Fisheries related to project dredging and due to the lack of full funding for project construction and operation; a prerequisite to Federal Transit Administration (FTA) completion of the federal environmental process (NEPA).

City of Berkeley staff recently initiated a study to explore strategies for rebuilding the city's Municipal Fishing Pier, including a concept for a dual-use pier facility that would serve as both a ferry terminal and public access space. This study seeks to address issues related to not only the City's loss of public access to the waterfront, but also conflicts that have emerged with the operation of private ferry service within the Berkeley Marina. Pursuant to terms of an MOU approved by the WETA Board and Berkeley City Council, the study will be expanded to consider WETA as the primary ferry service operator. WETA and City of Berkeley staff will work with a consultant team over the next 12 months to complete the study.

Treasure Island Ferry Service

This project - which will be implemented by the Treasure Island Development Authority (TIDA), the San Francisco County Transportation Authority (SFCTA), acting in its capacity as the Treasure Island Mobility Management Authority (TIMMA), and Lennar Urban, the prospective developer - had committed to implementing new ferry service between Treasure Island and downtown San Francisco in the 2011 Treasure Island Transportation Implementation Plan, currently posted on the SFCTA website. SFCTA recently announced that it is hoping to advance the opening of the new ferry service from 2023 to 2021.

WETA staff has worked with City of San Francisco staff over the years to support development of this project. Staff from SFCTA/TIMMA provided an update on the project and the transportation plan at the February 7 Board meeting. At that meeting, SFCTA staff indicated that the planned transportation program funds to be provided through a new Treasure Island toll program, parking fees, fare revenues and developer subsidy would not be sufficient to fully cover the cost of their planned transportation program, including ferry service - especially in the early years - with an anticipated early start date of 2021. As a result, they noted that they were looking for additional funding and that they had reached out to private operators about operating ferry service. WETA staff has met with SFCTA and discussed service operating costs and capital needs. SFCTA is working toward a toll measure for TIMMA Board consideration this summer. Both agencies are exploring the possibilities for securing grant funds for the construction of a vessel for the service. Additionally, WETA staff is working with the developer of the Treasure Island ferry terminal, Wilson Meany, to review and provide WETA comments on

terminal plans. Staff provided an update on the work to the Board in April 2019 and will plan to provide periodic updates as the project evolves.

Tideline Marine Group Private Shuttle Pilot Request for Extension

In September 2018, the WETA Board approved Tideline Marine Group's request to conduct scheduled small vessel private charter landings with the vessel *Osprey* at the Harbor Bay Ferry Terminal for the exclusive use of Exelixis employees on a six-month demonstration basis subject to meeting WETA's conditions and requirements. Tideline met all requirements and began landing at Harbor Bay on February 27, 2019. Ridership since inception has averaged 12 round trip passengers per day.

In anticipation of the August 25, 2019 expiration of the landing agreement, Tideline requested a one-year extension to continue landing its private charter service at WETA's Harbor Bay terminal. Staff presented the request to the Board in its August 2019 meeting and the Board amended the agreement extending the term for six months to February 28, 2020, with the understanding that Tideline will provide status updates on its meetings with labor and be available to provide an in-person report at the January 2020 Board Meeting.

SYSTEM PLANS/STUDIES

Solano County Water Transit Plan and Financial Feasibility Study

The Solano Transportation Authority (STA) recently adopted a financial feasibility study of potential ferry and water transit routes in and around Solano County. WETA was a partner on the study, serving on a Technical Advisory Committee and funding the necessary ridership forecasting tasks. Staff will schedule a discussion of this study and its findings on a future WETA meeting agenda.

Small Vessel Service Study

An Advisory Committee of the Board was formed and met on four occasions to initiate study of small vessels as a complement to WETA's service. The Advisory Committee consisted of Board members Josefowitz and Intintoli. A transportation consultant, ARUP, was engaged to perform the analysis and has produced a draft report. Staff also convened and met with a Technical Advisory Committee (TAC) to solicit input on the project and held meetings with individual stakeholders. An item to discuss the small vessel study work was presented by the consultant at the January 10, 2019 WETA Board of Director's meeting. The Board received the final report at its March meeting and authorized staff to begin the next steps toward implementing the plan.

Hovercraft Feasibility Study

This study will broadly consider the feasibility of operating hovercraft on San Francisco Bay as part of the WETA water transit system. A Hovercraft Stakeholder Committee will be assembled, comprised of hovercraft industry representatives, advocates from Bay Area public policy groups, environmental organizations and maritime industry representatives to guide the study. Staff will also convene a Hovercraft Technical Advisory Committee to review and provide input on preliminary results of the study. On June 24, an RFP was issued to secure consultant services for the study. Eight proposals were received in response to the RFP and a short list of five firms were interviewed by a selection panel. An item in the September Board packet recommends authorizing the Executive Director to enter a contract with the selected consultant team. Staff anticipates beginning the study in October.

Fare Program Renewal Study

WETA's current fare program was adopted in 2014 to promote consistent fare structures and implement small fare changes on an annual basis to ensure that WETA fares kept pace with the cost inflation. As WETA's current fare program ended last fiscal year, a new program will need

to be adopted to continue implementing annual fare changes in future fiscal years. WETA has contracted with Four Nines Technologies to provide consultant services to support development of a new multiyear fare program. Updates will be presented to the Board prior to a potential recommendation to adopt a new fare program in the spring of 2020.

FASTER Bay Area Program Development

WETA's Executive Director and Planning Director are participating in a coordinated effort with the Bay Area's large transit operators to develop a program approach and projects for consideration for inclusion in the potential future FASTER Bay Area funding initiative. The Board will be provided an overview of this initiative as a part of the September meeting.

EMERGENCY RESPONSE ACTIVITIES UPDATE

WETA's enabling legislation directs the agency to provide comprehensive water transportation and emergency coordination services for the Bay Area region. The following emergency response related activities are currently underway:

- WETA is participating in the development of the San Francisco Bay Area Port Recovery Plan which is the combined effort of seven Bay Area port authorities and WETA in coordination with port stakeholders at the local, state and federal levels. The goal of the plan is to establish operational capability at Bay Area port authorities in response to a disaster and to set the conditions for port recovery. This plan is intended to provide a unifying structure to all major Bay Area ports through the use of a common set of processes and principles.
- The agency will conduct its annual functional exercise on September 24, 2019 as part of a larger exercise to validate the San Francisco Bay Area Port Recovery Plan during Fleet Week activities.
- Staff participated in the second session of a series of training sessions to prepare staff for the September 24 exercise. The remaining session is scheduled right before the exercise in September.

OPERATIONS REPORT

Monthly Operating Statistics - The Monthly Operating Statistics Report for July 2019 is provided as **Attachment A**.

KEY BUSINESS MEETINGS AND EXTERNAL OUTREACH

On August 5, Chad Mason participated in a week-long value engineering study for Staten Island Ferry Facilities (SIF) Flood Protection Project. The study evaluated flood protection measures to protect SIF facilities resulting from sea level rise and increased frequency and severity of flooding events.

On August 14, Michael Gougherty and Kevin Connolly attended the Berkeley Parks & Recreation Commission meeting for an overview presentation led by City of Berkeley staff on the Ferry/Pier Feasibility Study.

On August 19, Nina Rannells attended the Clipper Executive Board meeting in Oakland.

On August 20, Nina Rannells and Thomas Hall attended the Bay Planning Coalition's Resources and Infrastructure Committee meeting in San Francisco where Nina provided a presentation on WETA and its current and future projects to members.

On August 23, Thomas Hall gave a presentation to Leadership Vallejo on WETA's history, structure and fleet.

On August 26, Board Member Intintoli, Nina Rannells, Keith Stahnke and Thomas Hall participated in the final owner's acceptance trials for the MV *Vela* and were joined by other WETA staff, Blue & Gold Fleet staff and Dakota Creek Industries staff in the afternoon at Mare Island for a small christening ceremony welcoming the new vessel into WETA's fleet.

On August 28, Vice Chair Wunderman and Nina Rannells participated in a meeting with BCDC staff, organized by Bay Planning Coalition (BPC) and including Bay Area Council and Bay Area ferry operator staffs, to discuss emerging BCDC requirements related to new ferry services in the Bay Area.

On August 29, Nina Rannells and Chad Mason received a tour of the Alameda Point development Site A currently under construction and the site of the future Seaplane Lagoon Ferry Terminal.

On August 29, Nina Rannells, Keith Stahnke, Lauren Gularte and additional WETA and Blue & Gold Fleet staff met with Coast Guard officials including Captain Marie Byrd, Sector Commander (Captain of the Port), Commander David Dixon and Captain Howard Wright, Deputy Commander to provide them with an overview of WETA, our services and emergency response mandate and a tour of the Ron Cowan Central Bay Operations and Maintenance Facility.

OTHER BUSINESS

Regional Measure 3

Senate Bill 595 (Beall), authorized a new bridge toll measure - Regional Measure 3 - to raise the tolls on the state-owned bridges to fund a program of regional transportation improvements in the San Francisco Bay Area. In June 2017, during the development of this bill, the WETA Board adopted a Regional Measure 3 Principles and Investment Program. The final measure adopted by the legislature included \$300 million in capital funds to support construction of WETA vessels, terminals and facilities and an operating subsidy of up to \$35 million annually.

On January 24, 2018, the Bay Area Toll Authority (BATA) authorized moving forward to place RM3 on the June 5, 2018 ballot. The measure, which passed by a majority of Bay Area voters in June 2018, will raise tolls by \$3 over a six-year period starting with a \$1 increase on January 1, 2019 followed by additional \$1 increases in January 2022 and January 2025.

Since its passage, RM3 has been challenged by two lawsuits in the Superior Court in the City and County of San Francisco including the *Howard Jarvis Taxpayers Association, et al v. The Bay Area Toll Authority and the California State Legislature* and *Randall Whitney v. MTC*. These cases were dismissed by the Court on April 23 and June 11, respectively. A Notice of Appeal was filed by the Howard Jarvis Taxpayers Association on May 20 and in the Whitney case on July 11. The attorney representing the Howard Jarvis Taxpayers Association has been substituted as counsel for Randall Whitney. He has filed a motion to consolidate both cases on appeal. That motion, filed on August 8, is now pending before the Court of Appeal. No briefing schedule has been set for the Howard Jarvis Taxpayers Association case. There is an October 15 filing deadline for the opening brief in the Randall Whitney case.

On January 1, 2019 BATA began collecting the first dollar of the approved toll increase. Toll revenues collected are being placed into an escrow account and will not be allocated to project

sponsors until the lawsuits are settled. Staff will work closely with MTC to prepare to secure toll measure funds, when they are available, to support WETA's projects.

END

Attachment A

Monthly Operating Statistics Report July 2019

			Alameda/ Oakland	Harbor Bay *	Richmond	South San Francisco	Vallejo**	Systemwide
Boardings	vs. last month	Total Passengers July 2019	152,153	31,596	17,453	12,462	113,389	327,053
		Total Passengers June 2019	139,376	30,097	16,499	11,575	104,596	302,143
		Percent change	9.17%	4.98%	5.78%	7.66%	8.41%	8.24%
	vs. same month last year	Total Passengers July 2019	152,153	31,596	17,453	12,462	113,389	327,053
		Total Passengers July 2018	151,869	29,780		11,742	112,812	306,203
		Percent change	0.19%	6.10%		6.13%	0.51%	6.81%
	vs. prior FY to date	Total Passengers Current FY To Date	152,153	31,596	17,453	12,462	113,389	327,053
		Total Passengers Last FY To Date	151,869	29,780		11,742	112,812	306,203
		Percent change	0.19%	6.10%		6.13%	0.51%	6.81%
		Avg Weekday Ridership July 2019	5,087	1,436	793	566	4,642	12,526
Ops Stats		Passengers Per Hour July 2019	195	169	91	126	140	158
		Revenue Hours July 2019	781	187	191	99	809	2,067
		Revenue Miles July 2019	8,610	3,165	2,751	1,806	22,180	38,513
		Farebox Recovery Year-To-Date	81%	52%	30%	37%	78%	69%
		Cost per Available Seat Mile - July 2019	\$0.33	\$0.36	\$0.54	\$0.67	\$0.26	\$0.28
		Average peak hour utilization, AM - July 2019	65%	60%	50%	51%	84%	62%
		Average peak hour utilization, PM - July 2019	87%	66%	62%	54%	81%	70%
Fuel		Fuel Used (gallons) - July 2019	69,706	18,828	16,460	14,020	184,451	303,465
		Avg Cost per gallon - July 2019	\$2.62	\$2.62	\$2.62	\$2.62	\$2.56	\$2.58

* Includes Harbor Bay-South San Francisco pilot. July ridership: 37 boardings.

**Includes backup bus boardings. July bus ridership totaled 136 for Vallejo.

MEMORANDUM

TO: Board Members

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

**SUBJECT: Monthly Review of FY 2019/20 Financial Statements for One Month
Ending July 31, 2019**

Recommendation

There is no recommendation associated with this informational item.

Summary

This report provides the attached FY 2019/20 Financial Statements for one month ending July 31, 2019.

Operating Budget vs. Actual

	Prior Actual	Current Budget	Current Actual
Revenues - Year To Date:			
Fare Revenues	\$2,427,602	\$2,043,332	\$2,535,194
Bridge Toll Revenues	1,028,965	1,845,192	1,011,967
Contra Costa Measure J	-	275,683	262,263
Other Revenues	1,700	60,950	1,960
Total Operating Revenues	\$3,458,267	\$4,225,158	\$3,811,384
Expenses - Year To Date:			
Planning & Administration	\$164,788	\$250,000	\$139,749
Ferry Services	3,293,479	3,975,158	3,671,635
Total Operations Expenses	\$3,458,267	\$4,225,158	\$3,811,384
System-Wide Farebox Recovery %	74%	51%	69%

Capital Actual and % of Total Budget

	YTD Actual	% of FY 2019/20 Budget
Revenues:		
Federal Funds	\$979,620	
State Funds	1,144,834	
Bridge Toll Revenues	249,516	
Other Revenues	2,445	
Total Capital Revenues	\$2,376,415	3.18%
Expenses:		
Total Capital Expenses	\$2,376,415	3.18%

Fiscal Impact

There is no fiscal impact associated with this informational item.

END

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San Francisco Bay Area Water Emergency Transportation Authority
FY 2019/20 Statement of Revenues and Expenses
For One Month Ending 7/31/2019

% of Year Elapsed 8%

		Year - To - Date			Total	% of
	Jul-19	FY2018/19	FY2019/20	FY2019/20	FY2019/20	Total
	Actual	Actual	Budget	Actual	Budget	Budget
OPERATING EXPENSES						
<u>PLANNING & GENERAL ADMIN:</u>						
Wages and Fringe Benefits	\$119,332	\$105,269	\$125,742	\$119,332	\$1,508,900	7.9%
Services	57,598	73,450	147,408	57,598	1,768,900	3.3%
Materials and Supplies	388	26	5,200	388	62,400	0.6%
Utilities	2,392	3,754	4,292	2,392	51,500	4.6%
Insurance	1,046	1,200	2,383	1,046	28,600	3.7%
Miscellaneous	2,120	8,681	9,133	2,120	109,600	1.9%
Leases and Rentals	31,908	30,609	32,100	31,908	385,200	8.3%
Admin Overhead Expense Transfer	(75,035)	(58,201)	(76,258)	(75,035)	(915,100)	8.2%
Sub-Total Planning & Gen Admin	\$139,749	\$164,788	\$250,000	\$139,749	\$3,000,000	4.7%
<u>FERRY OPERATIONS:</u>						
<u>Harbor Bay FerryService (AHBF)</u>						
Purchased Transportation	\$186,902	\$176,784	\$210,825	\$186,902	\$2,529,900	7.4%
Fuel - Diesel & Urea	49,609	46,664	46,375	49,609	556,500	8.9%
Other Direct Operating Expenses	40,467	41,095	65,750	40,467	789,000	5.1%
Admin Overhead Expense Transfer	8,263	6,958	8,408	8,263	100,900	8.2%
Total Harbor Bay	\$285,242	\$271,501	\$331,358	\$285,242	\$3,976,300	7.2%
Farebox Recovery - AHBF	52%	51%	45%	52%	45%	
<u>Alameda/Oakland Ferry Service (AOFS)</u>						
Purchased Transportation	\$841,477	\$806,202	\$799,042	\$841,477	\$9,588,500	8.8%
Fuel - Diesel & Urea	183,338	178,725	179,850	183,338	2,158,200	8.5%
Other Direct Operating Expenses	73,563	130,620	230,008	73,563	2,760,100	2.7%
Admin Overhead Expense Transfer	33,631	26,431	34,133	33,631	409,600	8.2%
Total Alameda/Oakland	\$1,132,009	\$1,141,978	\$1,243,033	\$1,132,009	\$14,916,400	7.6%
Farebox Recovery - AOFS	81%	77%	57%	81%	57%	
<u>Vallejo FerryService (Vallejo)</u>						
Purchased Transportation	\$977,006	\$995,329	\$988,983	\$977,006	\$11,867,800	8.2%
Fuel - Diesel & Urea	473,032	447,919	527,717	473,032	6,332,600	7.5%
Other Direct Operating Expenses	133,220	136,348	204,700	133,220	2,456,400	5.4%
Admin Overhead Expense Transfer	25,383	21,859	25,767	25,383	309,200	8.2%
Total Vallejo	\$1,608,640	\$1,601,454	\$1,747,167	\$1,608,640	\$20,966,000	7.7%
Farebox Recovery - Vallejo	78%	83%	57%	78%	57%	
<u>South San Francisco FerryService (SSF)</u>						
Purchased Transportation	\$198,421	\$207,085	\$200,492	\$198,421	\$2,405,900	8.2%
Fuel - Diesel & Urea	36,733	41,575	37,275	36,733	447,300	8.2%
Other Direct Operating Expenses	32,522	26,932	41,308	32,522	495,700	6.6%
Admin Overhead Expense Transfer	3,617	2,953	3,642	3,617	43,700	8.3%
Total South San Francisco	\$271,292	\$278,545	\$282,717	\$271,292	\$3,392,600	8.0%
Farebox Recovery - SSF	37%	29%	35%	37%	35%	
<u>Richmond FerryService (Richmond)</u>						
Purchased Transportation	\$297,354	Richmond Ferry Service was launched in January 2019	\$284,067	\$297,354	\$3,408,800	8.7%
Fuel - Diesel & Urea	43,157		46,033	43,157	552,400	7.8%
Other Direct Operating Expenses	29,800		36,475	29,800	437,700	6.8%
Admin Overhead Expense Transfer	4,141		4,308	4,141	51,700	8.0%
Total Richmond	\$374,452	\$0	\$370,883	\$374,452	\$4,450,600	8.4%
Farebox Recovery - Richmond	30%	0%	26%	30%	26%	
Sub-Total Ferry Operations	\$3,671,635	\$3,293,479	\$3,975,158	\$3,671,635	\$47,701,900	7.7%
Farebox Recovery - Systemwide	69%	74%	51%	69%	51%	
Total Operating Expenses	\$3,811,384	\$3,458,267	\$4,225,158	\$3,811,384	\$50,701,900	7.5%
OPERATING REVENUES						
Fare Revenue	\$2,535,194	\$2,427,602	\$2,043,332	\$2,535,194	\$24,520,000	10.3%
Regional - Bridge Toll	1,011,967	1,028,965	1,845,192	1,011,967	22,142,300	4.6%
Regional - Contra Costa Measure J	262,263	-	275,683	262,263	3,308,200	7.9%
Regional - Alameda Tax & Assessment	-	-	60,667	-	728,000	0.0%
Other Revenue	1,960	1,700	283	1,960	3,400	0.0%
Total Operating Revenues	\$3,811,384	\$3,458,267	\$4,225,158	\$3,811,384	\$50,701,900	7.5%

San Francisco Bay Area Water Emergency Transportation Authority
FY 2019/20 Statement of Revenues and Expenses
For One Month Ending 7/31/2019

Project Description	Jul-19 Total	Total Project Budget	Total Prior Expense	Total FY2019/20 Budget ¹	Total FY2019/20 Expense	Total Future Year	% of Total Project Budget Spent
CAPITAL EXPENSES:							
<u>FACILITIES:</u>							
Terminal Construction							
Downtown Ferry Terminal Expansion - South Basin	\$1,109,805	\$97,965,000	\$78,915,751	\$19,049,249	\$1,109,805	\$0	82%
Maintenance and Operations Facilities							
Ron Cowan Central Bay Operations & Maintenance Facility	788	69,500,000	63,197,399	6,302,601	788	-	91%
Terminal Improvement							
Install Mooring Piles - Harbor Bay Terminal	585	251,500	-	251,500	585	-	0%
Terminal Signage and Wayfinding - East Bay Terminals	-	135,000	-	135,000	-	-	0%
<u>FERRY VESSELS:</u>							
Vessel Construction							
445-Pax Expansion (Waterjet) Vessels - 2 vessels	1,232,176	46,745,000	28,771,355	17,973,645	1,232,176	-	64%
400-Pax Expansion (Propeller) Vessels - 2 vessels	-	33,400,000	32,943,928	456,072	-	-	99%
New Commuter Class High-Speed Vessel	1,287	15,300,000	7,421,609	7,878,391	1,287	-	49%
Vessel Replacement - M/V Bay Breeze	1,756	18,000,000	-	6,000,000	1,756	12,000,000	0%
Vessel Rehabilitation and Refurbishment							
Vessel Engine Overhaul - M/V Intintoli and M/V Mare Island	1,511	3,000,000	877,961	2,122,039	1,511	-	29%
Vessel Qtr-Life Refurbishment - M/V Scorpio	7,550	3,005,350	70,062	2,935,288	7,550	-	3%
Vessel Engine Overhaul - M/V Taurus	116	800,000	198,928	601,072	116	-	25%
Vessel Service Life Extension - M/V Solano	19,027	13,000,000	145,099	10,000,901	19,027	2,854,000	1%
Vessel Engine Overhaul - M/V Argo and M/V Carina	1,229	240,000	-	240,000	1,229	-	1%
Vessel Engine Overhaul - M/V Gemini ²	585	515,350	-	515,350	585	-	0%
Vessel Engine Overhaul - M/V Pyxis	-	170,000	-	170,000	-	-	0%
<u>CAPITAL EQUIPMENT / OTHER:</u>							
Purchase Service Vehicles	-	185,000	-	185,000	-	-	0%
Total Capital Expenses	\$2,376,415	\$302,212,200	\$212,542,090	\$74,816,110	\$2,376,415	\$14,854,000	
CAPITAL REVENUES:							
Federal Funds	\$979,620	\$67,437,543	\$22,485,494	\$33,068,849	\$979,620	\$11,883,200	35%
State Funds	1,144,834	184,186,792	151,568,893	31,375,649	1,144,834	1,242,250	83%
Regional - Bridge Toll	249,516	46,896,968	37,593,689	8,732,479	249,516	570,800	81%
Regional - Alameda Sales Tax Measure B / BB	1,860	2,204,397	14,014	1,032,633	1,860	1,157,750	1%
Regional - Alameda TIF / LLAD / HBBPA	585	386,500	-	386,500	585	-	0%
Regional - San Francisco Sales Tax Prop K	-	1,100,000	880,000	220,000	-	-	80%
Total Capital Revenues	\$2,376,415	\$302,212,200	\$212,542,090	\$74,816,110	\$2,376,415	\$14,854,000	

¹ FY2019/20 Budget includes adjustments to reflect actual FY2018/19 expenditures.

² On 7/11/19, Board approved project budget increase of \$165,000, bringing total project budget from \$355,350 to \$515,350.

TO: WETA Board Members

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

SUBJECT: WETA Federal Legislative Board Report – September 2019

This report covers the following topics:

1. Senators Send Letter to Committees Supporting Additional Ferry Funding
2. Key Senate Committee Passes Transportation Bill – Includes Additional Funding for Ferries
3. Federal Transit Administration Grant Program

Senators Send Letter to Committees Supporting Additional Ferry Funding

Even with Congress on August recess, we are continuing to work with members of the Public Ferry Coalition to generate support amongst key members of Congress for additional funding for the Federal Transit Administration (FTA) ferry grant program and the Federal Highway Administration (FHWA) ferry formula program. To that end, we worked to get seven Senators to send a letter supporting additional funding for public ferry systems to the leadership of the committees with jurisdiction over the FHWA formula program (Senate Environment and Public Works (EPW) Committee) and the FTA grant program (Senate Banking Committee). Among the Senators that signed the letter are both California Senators, a Republican (Senator Susan Collins from Maine) and two presidential candidates (Senators Kamala Harris and Elizabeth Warren).

The Senate letter follows up on the letter that we worked to get 19 members of the House of Representatives to send to the House Transportation and Infrastructure (T&I) Committee seeking additional funding for the FTA and FHWA programs. Seven Bay Area members of Congress signed the letter, including Reps Anna Eshoo, John Garamendi, Jared Huffman, Barbara Lee, Jackie Speier, Eric Swalwell and Mike Thompson. Just as we shared the House letter with staff for T&I Committee Chairman DeFazio, Speaker Pelosi, and House Minority Leader Kevin McCarthy, we have shared the Senate letter with key Committee and Congressional leadership offices.

Key Senate Committee Passes Transportation Bill – Includes Additional Funding for Ferries

The Senate Environment and Public Works (EPW) Committee took up and passed its portion of the surface transportation bill before the Senate adjourned for the August recess. The Senate EPW Committee's bill includes a provision (Section 1122) that increases the level of funding for the FHWA program to \$86 million through 2021 with an annual increase after that which tops out at \$90 million in 2025. The program is currently funded at \$80 million.

The Senate Banking Committee, which has jurisdiction over transit programs, including the Federal Transit Administration (FTA) discretionary grant program, has not yet taken up its portion of the surface transportation bill. We are continuing to advocate for additional funding for the FTA program, which has the highest potential for increasing overall funding for WETA. The House Transportation and Infrastructure (T&I) Committee, which has jurisdiction over FHWA and FTA, hasn't yet taken up its version of the surface transportation bill.

The current surface transportation bill (FAST Act) doesn't expire until September 30, 2020. This means that even with the potential for additional activity in 2019, the key issues pertaining to

funding will most likely get kicked to next year. Until Congress resolves the funding issues (i.e. where is the money going to come from to pay for transit, roads and bridges), Congress will not be able to send a final surface transportation bill to the President.

Federal Transit Administration Grant Program

The Federal Transit Administration (FTA) announced FY19 funding awards for the ferry grant program. For the first time since the FTA ferry grant program was created in 2013, WETA did not receive funding. FTA only awarded a total of nine grants for FY19. We expect FTA to issue a notice of funding availability for FY20 in the next several months. Not only will we seek support from the Congressional delegation (as we did for this round, and all previous rounds), we will also take into account feedback received from FTA about the FY19 application.

Respectfully Submitted,

Peter Friedmann and Ray Bucheger

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

(August 1, 2019)

The Board of Directors of the San Francisco Bay Area Water Emergency Transportation Authority met in regular session at Pier 1, Port of San Francisco.

1. CALL TO ORDER – BOARD CHAIR

Chair Jody Breckenridge called the meeting to order at 1:32 p.m.

2. PLEDGE OF ALLEGIANCE/ROLL CALL

Chair Breckenridge, Vice Chair James Wunderman, Director Anthony Intintoli, and Director Jeffrey DelBono were in attendance.

3. REPORT OF BOARD CHAIR

With Directors' concurrence Chair Breckenridge asked WETA Executive Director Nina Rannells to provide the first report.

Ms. Rannells reported that WETA's first Board Chair, Charlene Haught Johnson, in whose honor WETA's North Bay Operations and Maintenance Facility is dedicated and named, died Wednesday night after battling a long illness. She said Ms. Johnson had secured all initial funding required to create the first iteration of the agency, the Water Transit Authority (WTA), from the ground up, and had served as Chair for WTA and then WETA. Ms. Rannells read from Ms. Johnson's resignation letter sent to Governor Jerry Brown when she first fell ill, and said she was honored and grateful to have been able to work with this amazing and generous woman who worked tirelessly and exuberantly to turn her vision for a robust Bay Area ferry system into a reality. Ms. Rannells said that Ms. Johnson's dedication and efforts in the Bay Area will be felt for generations.

Chair Breckenridge thanked Ms. Rannells and said it was certain that without Ms. Johnson's vision, efforts, and leadership, no one would be sitting in the room today at this WETA Board meeting, and Bay Area residents would not have the ferry system they enjoy today.

Director Intintoli echoed what had been shared about Ms. Johnson and added that she had been a remarkable person with whom he had thoroughly enjoyed serving.

PUBLIC COMMENT

Jerry Bellows of MARAD said Ms. Johnson had been an outstanding WETA veteran and he was honored to have served on the WETA Board with her.

With all in agreement, the Agenda was reordered by moving Item 11 - Public Comments For Non-Agenda Items – ahead of the planned closed session recess in Item 9 so that meeting guests wishing to speak on non-agenda matters would be able to do so without having to wait for Directors to return from the closed session.

4. REPORTS OF DIRECTORS

Vice Chair Wunderman reported that while Regional Measure 3 (RM3) legal threats continued to wind their way through the courts, he has continued his work with leaders at SPUR, the Bay Area Council, and the Silicon Valley Leadership Group on a significant new infrastructure ballot mega measure called "FASTER Bay Area". He said that in the process of doing this work, he was hearing increasing calls for improving communication and collaboration between the more than two dozen Bay Area transportation agencies to better coordinate service, schedules, and fares for a more seamless rider experience.

Director Intintoli said a recent study involving the Solano County Transportation Authority - which he had not yet had the opportunity to read thoroughly - had studied various Solano County ferry routes and their potential ridership.

Ms. Rannells offered that staff could bring more details on those findings, along with more information about the evolving FASTER Bay Area measure work, to Directors for discussion at a future meeting.

Chair Breckenridge said that she would like to have a tentative plan and date for the anticipated event to celebrate the completion of the San Francisco Downtown Ferry Terminal Expansion Project early next year.

5. REPORTS OF STAFF

Ms. Rannells shared her written report with Directors. She said there had been a soft launch on July 29 of a new shuttle service between WETA's South San Francisco ferry terminal and the San Francisco International Airport. Ms. Rannells explained that initially, the service is intended to transport airport employees, vendors and contractors from the terminal to the airport. She said that WETA will be helping to promote the new service which could expand and be available to all in the future.

Ms. Rannells said she had hoped the lawsuits threatening RM3 would have been resolved by now, and her understanding was that they were being combined for representation by one attorney. She added that any change in status was not expected until September, when appeal briefs were required to be filed.

Ms. Rannells said that on July 25, staff provided coffee, donuts and fanfare at the Richmond Ferry Terminal to celebrate carrying WETA's 100,000th Richmond ferry rider since service launch on January 10. She noted that the Richmond weekend pilot service will launch this weekend and run through November 3.

Vice Chair Wunderman asked to be reminded of how WETA assigns names to its new vessels. Chair Breckenridge said Directors had reviewed the policy for naming vessels several years ago, and Ms. Rannells said staff named new vessels after constellations with an objective of choosing names with a maritime nexus.

PUBLIC COMMENT

Dr. John Cumbers of SynBioBeta said he runs an innovation network working to bring technology and economic development to the East Bay. Dr. Cumbers said he has been working with Nishan Degnarain, a World Economic Forum Special Advisor on Oceans, to bring small, autonomous, non-passenger carrying E boats to the northern waterfront in San Francisco for a race in the fall. He said he wanted WETA to be aware of this because he knows of the agency's interest in autonomous vessel technology. Dr. Cumbers said he also wanted to make Directors aware that Mr. Degnarain would be speaking in downtown Concord on August 22.

Chair Breckenridge referred Directors to a copy of a July 30 letter, signed by United States Senators Patty Murray, Dianne Feinstein, Angus King, Elizabeth Warren, Maria Cantwell, Kamala D. Harris and

Susan M. Collins that had been sent to the Chairs and Ranking Members of the Senate Committees on Environment and Public Works and Banking, Housing and Urban Affairs. She explained that the letter encouraged the recipients to include ample funding in their FAST Act reauthorization bills for public ferry systems around the country through the Federal Highway Administration and Federal Transit Administration ferry programs. Chair Breckenridge noted it appeared that at least one of the Senate committees would soon be working on the matter.

In response to a question about ridership from Vice Chair Wunderman, Ms. Rannells said that the South San Francisco ridership numbers were likely being affected by extensive construction going on in the area of the ferry terminal and a new policy at Genentech that provides employees more telecommuting flexibility. She said the construction was expected to go on for some time and noted that staff had done quite a bit of work related to emergency phone service and Clipper connectivity to prepare for the commercial construction project. It was noted that once the construction was completed, one result may be increased South San Francisco ridership.

PUBLIC COMMENT

Mr. Bellows said he wanted to call Directors' attention to the fact that the Richmond service farebox recovery rate was already at 36% after fewer than six months of the new service. He said at that rate, it was likely the Richmond service would reach the goal of 40% farebox recovery in its very first year of service.

Chair Breckenridge said the early robust Richmond service success is the primary reason driving the launch of the new weekend pilot service this weekend.

6. CONSENT CALENDAR

Director DelBono made a motion to approve the consent calendar:

- a. Board Meeting Minutes – July 11, 2019
- b. Authorize Travel for the WETA Chair to Attend the 2019 Ferries Conference in Seattle, WA

Director Intintoli seconded the motion and the consent calendar items passed.

Yeas: DelBono, Intintoli, Wunderman. Nays: None. Abstain: Breckenridge. Absent: Josefowitz.

7. APPROVE CONTRACT AWARD TO BAY SHIP & YACHT CO. FOR FERRY VESSEL SCORPIO QUARTER LIFE REFURBISHMENT PROJECT

Ms. Rannells referred Directors to a revised Item 7, created to replace what had been included in their Board meeting packets delivered prior to the meeting. She noted that this proposal review process had been rigorous, with very close final numbers. Answering a question from Vice Chair Wunderman, Ms. Rannells said the project's award process employed the same formula typically used for all vessel rehabilitation projects. She explained that the formula provides WETA the balance desired to ensure it can identify both a good work product *and* a good price.

Ms. Rannells introduced Engineering & Maintenance Administrator Tim Hanners who reviewed the procurement process for Directors and answered their general questions about the award to Bay Ship & Yacht Co. He noted that an important part of this refurbishment work would include upgrade of the vessel's emissions system to the most advanced technology.

In response to a question from Director Intintoli, Steve Miller from Hanson Bridgett, WETA's legal counsel, clarified that the dollar figure in the award's Resolution included the contract amount *plus* contingency.

PUBLIC COMMENT

Mr. Bellows asked what company had submitted the third proposal for this project, and for more details on the engine work related to the vessel's refurbishment.

Mr. Hanners said the third proposal had come from Mare Island Dry Dock, and the engine rebuild work for the MV *Scorpio* would be done under a separate contract the Board previously awarded to Pacific Power Group, LLC.

Director Intintoli made a motion to approve the item.

Director DelBono seconded the motion and the item passed unanimously.

Yeas: Breckenridge, DelBono, Intintoli, Wunderman. Nays: None. Absent: Josefowitz.

8. APPROVE TIDELINE MARINE GROUP'S REQUEST FOR A ONE-YEAR EXTENSION TO ITS HARBOR BAY LANDING AGREEMENT

Operations Administrator Rachel Rodriguez presented this item to approve Tideline Marine Group's request for a one-year extension to its Harbor Bay Landing Agreement with WETA which was due to expire in August 2019.

It was noted that this Agreement was the first of its kind for WETA and that Directors and staff had made a considerable investment to get it right in the beginning, before the Agreement was signed.

Directors discussed concerns about labor harmony on the Tideline vessel that is being used for landings at WETA's Harbor Bay Terminal to transport an average of 12 passengers each weekday under contract with Exelixis, a private company that relocated from South San Francisco to the Harbor Bay Business Park. Ms. Rannells noted that from a staff perspective, Tideline had met the requirements for the Agreement that had been adopted by Directors, was paying its landing fees in a timely manner, and was meeting its obligations as clarified by the Board when the Agreement was executed. She said it was her understanding that Tideline was presently in discussions with Inlandboatmen's Union (IBU) about its crews. Ms. Rannells noted that the Tideline landings had not created any interference with WETA's regular Harbor Bay service.

Director DelBono expressed concern that in the six months since the Board approved the landings, Directors never received any information from Tideline about its progress on customer service for passengers or on its crews' wages and benefits. Vice Chair Wunderman said that offering this ferry service to its employees was innovative and generous of Exelixis and he wished it was helping more than just 12 employees. Director DelBono said he was also troubled by the low ridership for the service and that using public facilities funded with public money to transport 12 passengers in a private service did not sit well with him. He asked if Tideline and Exelixis had approached other businesses in Alameda to see if they would be interested in also utilizing this service. Ms. Rannells said that it was her understanding that Tideline had approached other companies but that there were no arrangements to carry others at this time. She noted that WETA's pilot run on the same route carried just one passenger and that staff's past efforts to promote this route have not garnered much interest.

PUBLIC COMMENT

City of Alameda Development Manager Eric Fonstein extended the City's support to Exelixis in their efforts to support their employees and reduce traffic congestion on Bay Area highways. He told the Board that Alameda defers to WETA on all things waterside and trusts that Directors will make an informed decision on this Item.

Tideline Director of Business Development Danielle Weerth said Exelixis had not been able to attend the meeting but had written to Tideline to request the extension. She said the company and its employees love the service and that Tideline was in talks with other companies and has signed non-disclosure agreements with them, but those discussions have not yet yielded new riders. She said it was expected that new companies will join the Tideline service in the next few months and that Tideline would put in a request to WETA when that happens so the new companies can be added to the service. Ms. Weerth said that Tideline was in the final stages of negotiating a wage and benefits package with IBU for its crews. She said Tideline had met with IBU the prior week and had a second meeting scheduled for the following week.

Robert Estrada, San Francisco Region Director of the IBU, said that discussions with Tideline have occurred, and he expected to have more the following week, but he didn't feel that the two parties were in final stages of arriving at an agreement. He said he wanted to be clear with Directors that the discussions with Tideline have been cordial and positive in tone, and he remained hopeful.

Dr. Cumbers apologized for making his earlier comment to Directors out of turn and said he sees expansive opportunity for private entrepreneurs to turn San Francisco Bay into Sydney Harbour. He said it made no sense to him for a private company to request only a year extension because nothing can be done in that short of a time period. Dr. Cumbers said he believed Tideline should request a 3 year extension so they can plan, invest and train. He added that this agreement is a risk for the business owner, and they need more time to shine. Dr. Cumbers said he was unfamiliar with ferries, with the dock being used by Tideline for this service, and with private versus public politics in the Bay Area but he would love to see 1,000 flowers bloom and have many more private ferry companies operating out on San Francisco Bay that are picking up the tab instead of having the public paying for their public ferry service. Dr. Cumbers said he would like to see WETA do everything in its power to support public ferries and get more of them into service.

Chair Breckenridge said that when WETA reaches its future objective of providing ferry service every 15 minutes, there will not be any space at its facilities for other operators to use WETA terminals for their private services. Ms. Rannells concurred and said moving WETA vessels in and out of terminals in the tight, 15 minute interval window will provide crews with ample challenge. Director Intintoli echoed the concerns expressed by Director DelBono and said if he had not heard the positive comment from Mr. Estrada in the meeting today, that he would have likely voted to not extend the contract for any time period. He said he certainly wants to hear back from Tideline on the concerns reiterated today about their crew wages and benefits and their customer service.

Director DelBono said he was encouraged to hear that Mr. Estrada felt talks with Tideline had been positive. He emphasized that he wants assurance that Tideline crews enjoy labor harmony and that Tideline pay is competitive with WETA's contractor operator Blue & Gold Fleet if they will be providing ferry service on San Francisco Bay.

Director DelBono made a motion to approve the extension for 3 months instead of 12, with the understanding that Tideline will return at the end of the 3 months to update Directors on the progress it has made with the IBU, to confirm that their crews are being paid a Bay Area region living wage, and to share their plans to support their riders with quality customer service.

Director Intintoli seconded the motion.

PUBLIC COMMENT

Ms. Weerth said that when Tideline negotiated with Exelixis for the current service, they had budgeted with the expectation that they would be paying a higher wage, but it wasn't exactly in the realm of the current discussions. She further explained that when they bring on the new companies they hope to

secure for service, they will negotiate using the higher wage numbers and pass on all of the fees for Tideline's employee benefits to those employers. Ms. Weerth clarified that Tideline can only pay those higher wages and provide benefits when they secure those new employers' business. She reiterated that once they close the business of the next group of employers, they will be able to move closer to meeting the Board's living wage and benefit objectives. Ms. Weerth said she would prefer that the extension be a year or at least 6 months, because 3 months would not give Tideline enough time to secure the new business.

Director DelBono said the contract had already run for six months and he felt that an additional 3 on top of that was fair.

Vice Chair Wunderman voted to move the item with the amendment that WETA extend the contract for 6 months, instead of 3, with a commitment from Tideline that they will provide Directors with a report on their IBU discussions at the January 2020 WETA Board meeting. He said he wanted this process to be fair for all, including for all Bay Area ferry riders, across the region's income spectrum.

Director DelBono seconded the amended motion and the item passed unanimously.

Yeas: Breckenridge, DelBono, Intintoli, Wunderman. Nays: None. Absent: Josefowitz.

9. PUBLIC COMMENTS FOR NON-AGENDA ITEMS

No additional public comments were shared.

10. RECESS INTO CLOSED SESSION

The meeting was recessed into closed session at 2:39 p.m.

11. REPORT OF ACTIVITY IN CLOSED SESSION

Directors reconvened from the closed session at 4:23 p.m.

Chair Breckenridge said there were no actions to report from the closed session.

With all business concluded, the meeting was adjourned at 4:23 p.m.

- Board Secretary

END

MEMORANDUM

TO: Board Members

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

SUBJECT: FASTER Bay Area Initiative Overview

Recommendation

There is no recommendation with this information item.

Background/Discussion

A group of policy, government, business, transportation and community members lead by the Bay Area Council, Silicon Leadership Group and SPUR is creating a plan to make the Bay Area's transportation system seamless, faster, reliable and predictable. This coalition of transportation thought leaders is evaluating bringing forward a nine-county funding measure – titled FASTER Bay Area – for consideration by Bay Area voters in November 2020 that would raise up to \$100 billion over 40 years. As envisioned, the measure would fund a program of transformational projects that help to connect, integrate and modernize Bay Area transportation systems and services for area travelers. A one-page information sheet from the FASTER Bay Area website (fasterbayarea.com) summarizing the types of strategies to be evaluated and considered for the measure is provide as **Attachment A**.

Staff has been working with a group of Bay Area transit operators in recent months to develop a transit proposition for inclusion in the FASTER Bay Area proposal. A representative from the FASTER Bay Area coalition will be present at the meeting to provide an overview of their work to date and solicit input from the WETA Board on this initiative.

Fiscal Impact

There is no fiscal impact associated with this informational item.

END



FASTER Bay Area

A SEAMLESS TRANSPORTATION SYSTEM PROVIDING:
Freedom. **A**ffordability. **S**peed. **T**ransparency. **E**quity. **R**eliability.

In the Bay Area, our tight-knit communities are home to over seven million residents in nine counties and over 100 cities and towns. Despite our region's strong economy, our local transit network is outdated and falls short of the modern, world-class transportation system the Bay Area needs.

Unreliable Transit Networks Need Improvement

The Bay Area's transportation system was ahead of its time when it was first built, but improvements have not been made to keep services integrated over the past 50 years.

This leaves driving as the only option for many commuters — leading to congested roads and lives dominated by traffic. Bay Area residents should be able to travel across our region stress-free and without unpredictable travel times completely controlling our schedules. **We need a public transit network that is reliable, coordinated and easy-to-use.**





Building a Modern Transportation System

Today, a group of policy, government, business, transportation and community leaders is creating a plan to make the Bay Area's transportation system seamless, faster, reliable and predictable. Doing so can help provide more affordable transportation options, reduce climate pollution and improve access to jobs and economic opportunity for low- and middle-income residents. The types of strategies that will be evaluated for the measure include:

- ➔ Creating transit hubs around the region and connecting major cities by rail for frequent service and travel times of no more than 60 minutes between two points in the Bay Area's inner core
- ➔ Creating a modern transportation system that integrates traditional transit, cars and active transportation with the future of automated and connected vehicles
- ➔ Connecting rail around the Bay by linking and expanding BART, Caltrain, ACE, SMART, Amtrak and Capitol Corridor to make a fully integrated rail network
- ➔ Modernizing and repairing our current trains and buses to be faster, cleaner, safer and more reliable
- ➔ Building more public transit options in communities that are currently underserved
- ➔ Expanding rail, bus and ferry service networks to allow commuters to get out of their cars and connect local cities to regions outside the Bay Area, like Sacramento and the Central Valley
- ➔ Creating safe walking and biking paths to allow easier access to public transit
- ➔ Upgrading existing transit networks to reduce emissions and be more environmentally friendly

Creating a FASTER Bay Area

For more information about the plan to revolutionize transportation in the Bay Area, please contact info@FASTERBayArea.org.

MEMORANDUM

TO: Board Members

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

SUBJECT: Project Update on Alameda Point Development and Seaplane Lagoon Ferry Terminal Construction

Recommendation

There is no recommendation with this information item.

Background/Discussion

The concept of a ferry terminal located at Alameda Point on the former Naval Air Station Alameda site dates to the early planning that occurred after the Navy announced the base was closing in the late 1990s. An Alameda Point ferry terminal was included in the 2003 Implementation and Operations Plan produced by the Water Transit Authority and it was a feature of the transition agreement between the City of Alameda and WETA in 2011.

Early City of Alameda concepts envisioned closing the Main Street Terminal once a new terminal located at Seaplane Lagoon was open. However, the City of Alameda, WETA and the Port of Oakland engaged in a year-long planning process in 2014 to investigate alternative concepts and eventually arrived at a structure where both the Main Street and Seaplane Lagoon terminals would be operational. This concept would help WETA address forecast capacity limitations on vessels, at the single-sided Main Street float and in the Main Street parking supply. The concept relied upon additional service to activate Seaplane, meaning that Oakland would not have to sacrifice if service was “bifurcated” between the Oakland Estuary and Seaplane Lagoon.

The planning process in 2014-2015 led to a Memorandum of Understanding (MOU) between the City of Alameda and WETA that was adopted by the WETA Board and Alameda City Council in April 2016. Prior to adoption of the MOU, the City had received a commitment of \$10 million from the developer of the first phase of the base redevelopment, known as Site A. The MOU led to additional funding commitments from the Alameda County Transportation Commission, WETA and the City itself to fully fund construction of the \$22 million terminal.

With the terminal and first residential units expected to be complete by the summer of 2020, WETA and City of Alameda staff have begun developing an Operating Agreement that will define the details of ferry service for the Seaplane Lagoon ferry terminal. The Operating Agreement is expected to be presented for consideration by the Alameda City Council and WETA Board this fall.

Staff from the City of Alameda will present a status report on construction progress for the Site A development and the Seaplane Lagoon Ferry Terminal at the September meeting.

Fiscal Impact

There is no fiscal impact associated with this informational item.

END



City of Alameda California

August 28, 2019

Sent via E-mail and USPS

Nina Rannells, Executive Director
San Francisco Bay Area Water Emergency Transportation Authority (WETA)
Pier 9, Suite 11, The Embarcadero
San Francisco, CA 94111

RE: Update on Seaplane Lagoon Ferry Terminal and Request for Confirmation of Operational Funding for 2020.

Dear Ms. Rannells:

The City of Alameda (City) is pleased to present an update on the construction of the Seaplane Lagoon ferry terminal and the Site A construction at Alameda Point at your September 5th Board meeting. We are making significant progress on both fronts and want to share our excitement with you.

In my February 27, 2019 letter (attached) to you and the WETA Board, I requested that WETA allocate \$1.2 million for operation of six (6) daily peak-hour morning and evening trips to and from San Francisco in FY 19/20 for the first year of operations and to commit to continue funding the operations each year until RM3 funding is restored. I attended the March 7th WETA Board meeting where the *5-year Outlook* was presented. Seaplane Lagoon ferry service was discussed as an additional service with a target start date of spring 2020. I am happy to report that the Seaplane ferry project is on schedule to complete construction in summer 2020, as planned.

In addition, at the March 7th meeting, the *Overview of Agency Funding*, showed over \$25 million in Carryover Fund Balance Reserves, including annual flexible funds coming from Regional Measure 1 (\$3 million), Alameda County Measure B/BB (\$1.8 million), Alameda Transportation Improvement Funds (\$500,000), Alameda Lighting and Landscape Assessment District (\$78,000), and Alameda Harbor Bay Business Park Association Subsidy (\$150,000). My takeaway was that there was sufficient funding to operate the Seaplane Lagoon ferry for up to five years or until RM3 funding is restored, especially given that the funds described above are replenished annually.

The completion of the Seaplane Lagoon ferry terminal is especially timely as current ridership at Alameda's Main Street ferry terminal is above 90% on weekdays and on Mondays and Wednesdays are consistently at capacity and have on occasion left riders behind. In line with WETA's System Service Policy, which requires "corrective" action at a maximum of 80% peak occupancy, the Seaplane Lagoon ferry service will bring a much needed solution by increasing capacity and allowing WETA to make other structural changes to enhance the Oakland-Alameda service to meet the rising demand.

Office of the Mayor

2263 Santa Clara Avenue, Room 320
Alameda, California 94501
510.747.4701

Nina Rannells, Executive Director
San Francisco Bay Area Water Emergency Transportation Authority (WETA)
August 28, 2019


Page # 2

Our respective staff have been working for the last few months on an Operating and License Agreement which will memorialize the ownership, roles and responsibilities of the City and WETA for landside and waterside components of the Seaplane Lagoon ferry terminal. I appreciate your support in finalizing this document so that it may be considered by the City Council and WETA Board in October.

I value our continued partnership with WETA which has facilitated one the most fundamental transportation services necessary for Alamedans to travel to and from the island to areas throughout the greater Bay Area, while also reducing the number of cars on the roads, through the tunnels and greenhouse gas impacts.

I would be happy to meet with you and discuss any information you may need in consideration of this request or the upcoming presentation at the September 5th Board meeting. Also please feel free to contact Eric Levitt or Debbie Potter with any questions.

Best Regards,


Marilyn Ezzy Ashcraft
Mayor of Alameda

Cc: City of Alameda – Eric J. Levitt, Debbie Potter, Michelle Giles

WETA Board Members – Chair Jody Brekenridge, Vice Chair James Wunderman, Jeff DelBono, Anthony Intintoli Jr., Nicholas Josefowitz



City of Alameda California

February 27, 2019

Sent via E-mail and USPS

Nina Rannells, Executive Director
San Francisco Bay Area Water Emergency Transportation Authority (WETA)
Pier 9, Suite 11, The Embarcadero
San Francisco, CA 94111

RE: Request for Temporary Alternative Funding for Seaplane Lagoon Ferry Terminal Operations

Dear Ms. Rannells:

The City of Alameda (City) and WETA have enjoyed a productive and positive relationship in the operation of the Main Street and Harbor Bay ferry terminals in Alameda and with the planned Seaplane Lagoon (SPL) Ferry Terminal at Alameda Point. The Memorandum of Understanding (MOU) for the Seaplane Lagoon Ferry Terminal Project approved by both the City Council and WETA in April 2016, was a commitment to continue our partnership and address the growing demand for ferry service in Alameda by constructing a new ferry terminal at Alameda Point. In light of the uncertainty of RM3 funding in the next 3-5 years, which was to be the funding source for an operational subsidy for the ferry, the City requests that WETA identify and commit funds to ensure the new ferry is operational at the planned opening of the ferry terminal in February 2020, and until such time RM3 funds are available.

It is our understanding that the SPL ferry's operating cost for six (6) daily peak-hour morning and evening trips to and from San Francisco is estimated to be \$2.4 million annually. The City is asking WETA to allocate \$1.2 million in FY 19/20 for the first year of operations of the ferry and to commit to continue funding the operations each year until RM3 funding is restored.

The SPL Ferry Terminal project has received all local approvals and is currently responding to requests for information from State permitting agencies. The critical float component has been ordered and is being constructed and assembled in Alameda by Power Engineering and Bay Ship and Yacht. The project is on schedule to begin landside and waterside construction in July 2019, and is anticipated to meet the 2019 in-water work window (June 1 – November), which is critical to a February 2020 opening.

Office of the Mayor

2263 Santa Clara Avenue, Room 320
Alameda, California 94501
510.747.4701

On September 6, 2018, the WETA Board approved \$2 million to close the construction funding gap of \$4 million dollars, with the City providing the additional \$2 million. City and WETA staff are working on an update to the MOU which will become the basis for certain agreements between the parties to include: the conditions of WETA's gap funding, capital and operating funding, construction of the ferry terminal, ownership and maintenance of landside and waterside elements of the ferry terminal, and a license to operate the ferry service.

In WETA's Strategic Plan, the SPL ferry terminal is one of the key facilities that will help create a robust regional network of ferries to meet the Bay Area's demand for a safe transportation alternative. We understand that the SPL ferry will make possible new service improvement for three markets – Alameda to San Francisco, Alameda to Oakland and Oakland to San Francisco. The SPL ferry also plays a critical role in the growing demand for ferry service in Alameda. The ferry terminal is being planned in conjunction with the first phase development of the Site A project which is now under construction and includes 800 housing units, 600,000 square feet of commercial and 15 acres of parks, which is just a subset of the larger plans for all of Alameda Point that call for hundreds of housing units and 5.5 million square feet of commercial development and 9,000 jobs. The SPL ferry terminal is strategically located ¼ mile from the new Site A development and in the center of the planned Enterprise District, which is the major employment center in Alameda Point and significantly increases the possibility of attracting major commercial users.

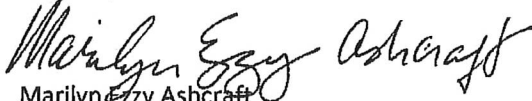
The new ferry terminal has important benefits to both WETA and the City:

- Locates service within walking distance of major development, which will maximize demand for service from residents and employees located at Alameda Point.
- Creates new parking facilities (450 spaces) for existing residents since available parking at Main Street is close to reaching capacity.
- Allows WETA to easily coordinate the Main Street and Seaplane Lagoon services as one West End service (i.e. boats can be moved in and out of both terminals) to meet shifting demands from each terminal and from Oakland, creating long-term flexibility for WETA, without compromising the viability of the Oakland service.
- Positions WETA for an increase in service in the Transbay corridor, where the ferry is one of the best options given capacity limitations on the bridge and BART.
- Maximizes opportunities for the residents and employees who locate at Alameda Point to be transit users.

We are grateful for our partnership and WETA's support of the SPL ferry terminal and continued commitment to bring the project to fruition. I look forward to attending the March 7th WETA Board meeting to speak on behalf of this important project. At your convenience, I would be happy to meet with

you and discuss any additional information you may need in consideration of this important request. Also, please feel free to contact Debbie Potter at (510) 747-6899 or dpotter@alamedaca.gov with any questions.

Sincerely,

A handwritten signature in black ink, reading "Marilyn Ezzy Ashcraft". The signature is fluid and cursive, with the first name "Marilyn" being the most prominent.

Marilyn Ezzy Ashcraft
Mayor of Alameda

MEA:mk

cc: City of Alameda – Debbie Potter, Michelle Giles
WETA Board Members – Chair Jody Brekenridge, Vice Chair James Wunderman, Jeff DelBono,
Anthony Intintoli Jr. , Nicholas Josefowitz

MEMORANDUM

TO: Board Members

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

SUBJECT: Adopt Benefit Plans to Restructure Funding of Existing Longevity Stipend Benefit and Authorize the Executive Director and Finance & Administration Manager to Take Actions to Support Implementation of these Plans

Recommendation

Authorize, by resolution, the following associated with WETA's Longevity Stipend benefit:

1. The San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan as set forth in the document attached hereto is adopted.
2. The Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan is adopted.
3. The San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan as set forth in the document attached hereto is adopted.
4. The Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan is adopted.
5. The San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement (HRA) as set forth in the document attached hereto is adopted.
6. The Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement is adopted.
7. Effective upon adoption of this resolution the authority is delegated to the Executive Director and the Finance and Administration Manager: (a) to implement the Retirement Plan and its related Retirement Plan Trust Agreement, the Replacement Benefits Plan and its related Replacement Benefits Plan Trust Agreement, and the HRA its related HRA Trust Agreement, adopted in Items 1 through 6 above; (b) to make any filings with the Internal Revenue Service that are deemed necessary or desirable to ensure the intended tax consequences for the Retirement Plan and its related Retirement Plan Trust Agreement; (c) to amend the Retirement Plan and its related Retirement Plan Trust Agreement, the Replacement Benefits Plan and its related Replacement Benefits Plan Trust Agreement, or the HRA and its related HRA Trust Agreement as necessary or desirable to obtain or continue to maintain compliance with the Internal Revenue Code (Code) and to comply with any other applicable local or federal laws (including any accounting requirements); (d) to enter into agreements with trustees or third party administrators to provide trustee, custodian, or administrative services for the Retirement Plan, the Replacement Benefits Plan, or the HRA and their related Trust Agreements; and to modify WETA's Human Resources Guide to reflect these arrangements.

Background

In 2001, the San Francisco Bay Area Water Transit Authority (WTA) Board of Directors contracted with Local Government Services (LGS), a joint powers authority in the State of California created to provide employment contract services to new and small government agencies, to provide agency staff. Through this arrangement, LGS provided WTA with contract staff and arranged for their pay and benefits.

In September 2007, the WTA Board authorized staff to prepare actions necessary to transition WTA away from LGS to a direct-hire organization. For purposes of keeping the development and administration of the transition process as simple and straight-forward as possible, and to provide consistency to the employees, WTA carried forward the same medical and retirement benefits from LGS to WTA employees, who are now WETA employees.

WETA provides two levels of medical retirement benefits to employees retiring from WETA and CalPERS concurrently. First, as required by the Public Employees' Medical and Hospital Care Act (PEMHCA), WETA contributes the state minimum (PEMHCA Minimum) under Government Code Section 22892(b)(1) towards the medical benefit premium for retirees who elect to purchase continued medical coverage through CalPERS in retirement. Second, employees who retire concurrently from WETA and CalPERS with ten or more years of service at WETA are provided a supplemental retirement benefit (Longevity Stipend) that provides a monthly stipend to be paid to the retiree to support medical costs in retirement. The Longevity Stipend is intended to be made available as a taxable cash payment and provides the equivalent of the full cost of employee-only medical coverage. Table 1 below summarizes these two levels of benefits:

Table 1
WETA Medical Retirement Benefits

	PEMHCA Minimum	Longevity Stipend
Eligibility Requirements		
Status at Retirement	Concurrent WETA and CalPERS Retirement	Concurrent WETA and CalPERS Retirement
Minimum Years of WETA Service	No Minimum	10 Years
Benefit Amount (2019)	\$136.00 monthly [1]	\$1,131.68 monthly [2][3]
Restrictions	Only available to retirees purchasing continuing medical coverage from CalPERS	Available to all eligible retirees
Payment Process	WETA pays CalPERS directly	The subject of this Board item

Notes:

1. Amount is established annually by CalPERS consistent with PEMHCA.
2. Amount is established annually and is equal to the monthly Employee Only PERSCare medical coverage premium offered through CalPERS.
3. The total benefit does not exceed the Longevity Stipend amount. For employees receiving the PEMHCA Minimum, the Longevity Stipend is reduced by this amount.

In January 2010, the WETA Board approved actions to allow staff to begin prefunding these medical retirement benefits by authorizing participation in the Other Post-Employment Benefits (OPEB) program offered through CalPERS California Employers' Retiree Benefit Trust (CERBT). As of this date, WETA has three (3) retirees participating in the PEMHCA Minimum program and there are no retirees participating in the Longevity Stipend program.

Discussion

In the course of reviewing the Longevity Stipend retirement benefit with WETA's Legal Counsel, staff was advised that the current structure for delivering the Longevity Stipend benefit to WETA retirees could raise potential employment tax issues for both WETA and the retiree recipients. Also, due to legal restrictions on the types of benefits that can be offered to public employees that were enacted as a part of the California's Public Employees' Pension Reform Act of 2013 (PEPRA), the options for correcting the potential employment tax issue for WETA and its retirees will have to be different for employees hired prior to January 1, 2013 (Classic Employees) and employees hired on or after January 1, 2013 (PEPRA Employees). Staff has worked closely with Legal Counsel to develop a path forward to restructure the funding of the Longevity Stipend benefit in a manner that is consistent with the original intent of the program while addressing the potential unintended tax exposure associated with the current program and restrictions to post-employment benefits enacted as a part of PEPRA.

Staff recommends that the Board of Directors authorize the following three plans and associated trusts and related actions in order to restructure the funding of WETA's Longevity Stipend benefit.

Retirement Plan

The recommended solution for Classic Employees is for WETA to adopt a tax-qualified defined benefit pension plan (Retirement Plan) as a funding vehicle for the Longevity Stipend. This Retirement Plan would provide the Longevity Stipend benefit through an annuity payment from the plan for the life of eligible retirees. This would allow the operation of the program to remain as similar as possible to the current structure and avoid the adverse employment tax issues for the Classic Employees and WETA. The plan and trust documents for the Retirement Plan are provided as **Attachment A**.

Replacement Benefits Plan

Upon retirement, some Classic Employees may be prohibited by the limitations of the Code Section 415(b) (IRC §415) from receiving all or a portion of the already promised benefits through the Retirement Plan. A Replacement Benefits Plan allows WETA to fund, and eligible participants to receive, any benefits over the limits of IRC §415. (This is the same structure used by CalPERS to fund its retirement benefits.) WETA recommends funding and paying any benefits over the limits of IRC §415 through the use of a Replacement Benefits Plan, meeting the requirements of Code section 415(m) in order to pay the promised Longevity Stipend to all Classic Employees. The plan and trust documents for the Replacement Benefits Plan are provided as **Attachment B**.

Retiree Health Reimbursement Arrangement

With respect to the PEPRA Employees, a tax-qualified defined benefit supplemental retirement plan like the one recommended for Classic Employees is specifically prohibited under the terms of California Government Code section 7522.18(c) enacted as part of PEPRA. This means that another method of delivering something comparable to the Longevity Stipend would need to be used for PEPRA Employees. The recommended solution for PEPRA Employees is for WETA to make contributions to a Health Reimbursement Arrangement (HRA) account for the eligible retiree. An HRA account will be established for each eligible retiree to deliver the Longevity Stipend benefit amount that may be used only to cover IRS-qualified medical expenses incurred. The plan and trust documents for the Retiree HRA are provided as **Attachment C**.

WETA will establish separate Trust Fund accounts for each of the three plans listed above. All assets held in these trusts may only be used for the exclusive benefit of the plans' participants.

Fiscal Impact

Sufficient funds are available in the FY 2019/20 Operating Budget to support the required actuarial services, estimated to be \$12,000, to determine the amount necessary to fund to each plan in order to provide the promised Longevity Stipend over each employee's expected lifetime. The FY 2019/20 Operating Budget also includes funds for the current year's OPEB obligation based on the most recent actuarial estimate of WETA's OPEB liability.

Staff will work with CalPERS to transfer WETA funds held in the CERBT to establish and fund the new trust fund accounts. The trust fund accounts to be established are structured to meet the GASB accounting requirements so that amounts in the trust fund will offset the liability for promised benefits on WETA's financial statements.

END

Attachment A

THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RETIREMENT PLAN

(Effective September 5, 2019)

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1: ESTABLISHMENT AND PURPOSE OF THE PLAN.....	1
SECTION 2: DEFINITIONS	1
SECTION 3: PARTICIPATION.....	3
SECTION 4: CONTRIBUTIONS TO FUND THE PLAN.....	4
SECTION 5: VESTING	5
SECTION 6: PLAN BENEFITS	5
SECTION 7: FORM OF BENEFIT.....	7
SECTION 8: EFFECT OF DEATH ON BENEFITS.....	7
SECTION 9: ADMINISTRATION OF THE PLAN	7
SECTION 10: BENEFIT LIMITATIONS.....	100
SECTION 11: GENERAL PROVISIONS	100
SECTION 12: MODIFICATION AND TERMINATION OF THE PLAN	111

THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RETIREMENT PLAN

(Effective September 5, 2019)

SECTION 1: ESTABLISHMENT AND PURPOSE OF THE PLAN

The San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan (the "Plan") is being established as the means of funding supplemental benefits provided to eligible retirees of the San Francisco Bay Area Water Emergency Transportation Authority (the "Authority") that have been referred to as the Longevity Stipend. The Longevity Stipend was established by the Authority at its inception in 2008. The Longevity Stipend was intended to provide to eligible retirees a monthly payment determined on an annual basis equal to the amount of the monthly PERS Care single rate. The monthly amount was to be reduced by the monthly minimum required contribution under the California Public Employees Medical and Hospital Care Act ("PEMHCA") for retiree health costs required under Government Code section 22892(b)(1) for that year if the retiree was covered by PEMHCA coverage, since that amount would be paid directly to CalPERS on the retiree's behalf. The purpose of the benefit was to supplement retiree healthcare costs and to allow those retirees who do not use the CalPERS PEMHCA coverage flexibility to apply the payment amounts in any manner they chose. The Plan and the Trust Fund established pursuant to the Plan are intended to provide a tax efficient method of funding this already existing benefit obligation and are intended to qualify under the applicable provisions of section 401 and related sections of the Internal Revenue Code (the "Code"). It also is intended that the Plan will be a governmental plan under Code section 414(d).

The Authority's primary retirement benefits are provided to employees through coverage under the CalPERS retirement system. The Plan is intended to provide supplemental benefits equal to the amount that would be due under the Longevity Stipend under a retirement system sponsored by the Authority for those employees hired prior to January 1, 2013 and who retire in the future with ten years of qualifying service and begin receiving retirement allowances under the CalPERS retirement system.

This Plan has been established to transition the funding vehicle for the Longevity Benefit, an existing program to supplement retiree medical benefits that the Authority put in place prior to the enactment of California's Public Employees' Pension Reform Act of 2013 ("PEPRA"). The Plan represents a continuation of a supplemental defined benefit plan offered prior to PEPRA's enactment on January 1, 2013 and is available only to employees hired before that date.

SECTION 2: DEFINITIONS

- (a) **Authority** means the San Francisco Bay Area Water Emergency Transportation Authority.
- (b) **CalPERS** means the California Public Employees' Retirement System, of which the Authority is a participating agency.

- (c) **Code** means the Internal Revenue Code of 1986, as amended from time to time, and all applicable rules and regulations issued thereunder pertinent to the tax qualification of this Plan and the tax-exempt status of the Trust Fund.
- (d) **Contributions** means amounts paid by the Authority to the Trust Fund to fund benefits under the Plan.
- (e) **Effective Date** for this Plan means September 5, 2019. This Plan was originally effective as of date of inception for the Employer's predecessor agency, the San Francisco Bay Water Transit Authority in 2008, and is amended and restated as of this Effective Date. In the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Code, any contributions made incident to that initial qualification by the Authority must be returned to the Authority within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Authority's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe. If the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Code, the Authority may terminate the Plan at that time with no further obligations under the Plan whatsoever.
- (f) **Eligible Retiree** means the following:
- Any Employee or former Employee hired prior to January 1, 2013 by the Authority or a Partner Organization who, at the time of retirement:
- has performed at least ten years of service, including any service with the Authority or a Partner Organization; and
 - is eligible to receive and begins to receive retirement benefits under CalPERS.
- An individual's status as an Eligible Retiree shall be determined solely by the Plan Administrator, and such determination shall be conclusive and binding upon all persons.
- (i) **Employee** means an individual employed by the Authority, who is on the regular payroll of the Authority as a non-retired employee, for whom the Authority withholds employment taxes, and for whom the Authority issues an IRS form W-2. Therefore, for example, a common-law employee for whom the Authority does not issue a form W-2 is not an Employee. An individual's status as an Employee shall be determined solely by the Plan Administrator, and such determination shall be conclusive and binding upon all persons. To the extent applicable, an employee for purposes of calculating plan benefits and contributions, is also any individual employed by the Authority who receives differential wage payments from the Authority that are associated with being called to active military duty in the uniformed services.
- (j) **Participant** means an individual who meets the requirements for participation in the Plan as provided under Section 3 of the Plan.
- (k) **Partner Organization** means the Authority's predecessor agency, the San Francisco Bay Water Transit Authority, and the Authority's former partner, Local Government Services.

- (l) **Plan Administrator** means the Authority or its designated agent.
- (m) **Plan Year** means the calendar year.
- (n) **Required Beginning Date** means April 1 of the calendar year following the later of the calendar year in which the employee attains age 70 1/2, or the calendar year in which the Employee retires.
- (o) **Trust Agreement** means the agreement entered into between the Authority and the Trustee pursuant to this Plan.
- (q) **Trust Fund** means all monies, securities, and properties of whatever character held by the Trustee pursuant to the Trust Agreement.
- (r) **Trustee** means such person or financial institution(s) as shall be designated in the Trust Agreement to hold in trust any assets of the Plan for the purpose of providing benefits under the Plan, and shall include any successor to the trustee initially designated thereunder.

SECTION 3: PARTICIPATION

(a) Eligibility and Commencement of Participation

Each Eligible Retiree shall be a Participant in this Plan beginning on the first day of the month coinciding with or next following the date he becomes an Eligible Retiree.

Notwithstanding any provision to the contrary, no key employee (as defined in Code section 416) may participate in this Plan. (The term key employee as defined in Code section 416 does not include an officer or employee of an entity referred to in section 414(d) (relating to governmental plans).)

All persons who are Eligible Retirees on the Effective Date shall become Participants in this Plan on that date.

(b) Termination of Participation

A person terminates Participation in this Plan on the earlier of: the date of death; or the date of the person's rehire as an Employee by the Authority.

(c) Rehire as an Employee

If an Eligible Retiree again becomes an Employee, he shall become a Participant in this Plan on the date that he again becomes an Eligible Retiree.

(d) Plan is Binding

Upon becoming a Participant, each Eligible Retiree shall be bound by the terms of this Plan and the Trust Agreement including all amendments to the Plan and the Trust Agreement made in the manner authorized by the Plan or Trust Agreement. No amendment to this Plan or to the Trust Agreement shall reduce the benefits earned by any Participant prior to the time of amendment.

SECTION 4: CONTRIBUTIONS TO FUND THE PLAN

(a) Contributions by the Authority

From time to time, the Authority may contribute to fund the Plan the amount which the Plan Administrator determines is necessary or appropriate to fund the benefits provided under the Plan and any expenses thereof which are to be paid out of the Trust Fund. Contributions shall be made to the Trust Fund. Such Contributions may be made on a monthly, quarterly, semiannual or annual basis, as the Plan Administrator deems necessary or desirable.

(b) Use of Forfeitures

Notwithstanding any provision of the Plan to the contrary, any amounts forfeited by Participants under the Plan shall be applied to reduce the contributions otherwise due from the Authority and shall not be used to increase the benefit of any Participant under the Plan.

(c) Valuation of Plan Benefits

The Plan Administrator shall engage an actuary to conduct periodic valuations of the Plan benefits and to advise the Plan Administrator in determining the amount of contributions to be made to the Plan by the Authority.

(d) Trust Agreement and Payments to and From the Plan

(i) Trust Agreement

The Authority has entered into a Trust Agreement with the Trustee under which the Trustee will receive and invest Contributions made under the Plan. The Trust Agreement may specifically provide, among other things, for the investment and reinvestment of the Trust Fund and the income thereof, the management of the Trust Fund, the responsibilities and immunities of the Trustee, removal of the Trustee and appointment of a successor, accounting by the Trustee and the disbursement of the Trust Fund.

Such Trust Agreement is incorporated by reference as a part of the Plan, and the rights of all persons hereunder are subject to the terms of the Trust Agreement. If there is a conflict between the terms of the Plan and the Trust Agreement, the terms of the Plan shall control.

The Trustee shall, in accordance with the terms of the Trust Agreement, accept and receive all sums of money paid to it from time to time by the Authority, and shall hold, invest, reinvest and manage such moneys and the increment, increase, earnings and income thereof for the exclusive benefit of the Participants and for the payment of reasonable expenses of administering the Plan.

(ii) Contributions to the Plan

All Contributions to the Plan by the Authority shall be deposited with the Trustee, to be held and invested as part of the Trust Fund in accordance with the terms of the Trust Agreement.

(iii) Benefits Payments From the Plan

All benefits payable under the Plan shall be paid out of the Trust Fund by the Trustee pursuant to the directions of the Plan Administrator and the terms of the Trust Agreement. Expenses of the Plan and Trust shall be paid out of the Trust Fund to the extent provided by the terms of the Trust Agreement.

(e) Mistake of Fact

If due to a mistake of fact, a Contribution to the Trust Fund for any Plan Year exceeds the amount intended to be contributed, as soon as such mistake of fact is discovered the Plan Administrator shall notify the Trustee of the mistake. The Plan Administrator shall direct that the Trustee return such excess to the Authority, provided such return is made within one year of the date on which the Contribution is made. However, the Plan Administrator may direct that the funds be held by the Trustee in lieu of the next Contribution. Earnings attributable to the excess Contribution shall not be returned to the Authority. Losses attributable thereto must reduce the amount to be so returned.

(f) Contributions Conditioned on Initial Tax Qualification

All contributions to this Plan are expressly conditioned on the initial qualification of the Plan under section 401(a) of the Code. If the Plan is submitted to the Internal Revenue Service within the period prescribed by section 401(b) of the Code for a determination as to its initial qualification, and the Internal Revenue Service determines that the Plan is not so qualified, all such Contributions, together with all earnings thereon, shall be returned to the Authority within one (1) year following such determination by the Internal Revenue Service.

SECTION 5: VESTING

A Participant shall be 100% vested in the benefits provided under this Plan.

SECTION 6: PLAN BENEFITS

(a) Eligibility for Benefits

If an Employee terminates employment and has satisfied the requirements to be an Eligible Retiree, then (and only then) he shall be entitled to receive benefits under this Plan.

(b) Amount of Benefits

The benefit paid under this Plan shall be determined for each month of a Plan Year as equal to the amount of the monthly PERS Care single rate under the CalPERS PEMHCA program for that Plan Year; provided, however, that if an Eligible Retiree is covered by the PEMHCA program for such Plan Year, the monthly benefit for such Plan Year shall be reduced by the minimum required contribution under PEMHCA for retiree health required under Government Code section 22892(b)(1) for that Plan Year. The amount of the monthly benefit for each Plan Year for each Eligible Retiree shall be determined by the Plan Administrator based on the announced PERS Care single rate and the minimum required retiree health contribution under Government Code section

22892(b)(1) which is communicated to all participating entities in CalPERS PEMHCA program during open enrollment with sufficient time for election of benefits by employees prior to the beginning of each calendar year.

(c) When Payments Begin and Terminate

Payments shall begin under this Plan on the first day of the month coincident with or next following the date that the Participant retires from the Authority when meeting the requirements for an Eligible Retiree. In the event the minimum distribution provisions of section 401(a)(9) of the Code become applicable to a Participant, a "Minimum Required Distribution" shall be paid as of his Required Beginning Date. The Minimum Required Distribution will require the Participant's interest will be distributed, or begin to be distributed, no later than the Member's Required Beginning Date. Such Minimum Required Distribution shall be an amount determined under the requirements of section 401(a)(9) of the Code and the regulations thereunder as in effect on the date such distributions are required to be paid. Distributions shall be made in accordance with section 401(a)(9) of the Code, including the incidental benefit rule, and regulation sections 1.401(a)(9)-2 through 1.401(a)(9)-9.

The provisions reflecting Code section 401(a)(9) override any distribution options in the plan inconsistent with Code section 401(a)(9).

Payments under this Plan shall terminate on the first day of the month after the death of the Participant.

(d) Payments to the Participant

Benefits are payable to the Participant for his or her life.

(e) Incompetent Participant

If, in the opinion of the Plan Administrator, any individual becomes unable to properly handle property distributable to him under the Plan, the Plan Administrator may, in its sole discretion, make any arrangement for distribution on such individual's behalf that it determines will be beneficial to such individual, including, without limitation, distribution to such individual's guardian, conservator, spouse, domestic partner, or dependent.

(f) Unclaimed Benefits

If the Plan Administrator is unable to ascertain the whereabouts or identity of a Participant or legal representative thereof, who is entitled to a distribution which is due or required to commence under this Plan, after having sent proper notification by registered mail to such person's last known address and when no claim for such benefits has been filed with the Plan Administrator before the end of five (5) years following the date distribution is due or required to commence, then, unless otherwise prohibited by law, the distribution otherwise payable shall be forfeited and such forfeiture shall be applied to reduce Contributions otherwise made to this Plan. In the event that the Participant requests a distribution after a forfeiture has occurred, the amount of such forfeiture shall be restored.

(g) USERRA Benefits

An Employee who dies while performing qualified military service, as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), must be treated as being reemployed and then dying for purposes of entitlement to any additional benefits, such as survivor benefits, that are available only when an employee dies while an active Employee of the Authority. This provision applies to the determination of whether an Employee is entitled to Death Benefits under Section 8 and any other Plan benefits available only when an Employee dies while an active Employee.

SECTION 7: FORM OF BENEFIT

The only form of retirement benefit that will be paid under this Plan is a single life annuity providing monthly benefit payments in the amount computed under Section 6(b), *Amount of Benefits*.

SECTION 8: EFFECT OF DEATH ON BENEFITS

(a) Death After Commencement of Benefits

If a Participant dies after he has begun to receive benefits under this Plan, then no further benefits are payable beyond the month of the death of the Participant.

(b) Death Before Commencement of Benefits

If an Employee dies before he has begun to receive benefits under this Plan and he was eligible to retire from the Employer on or before the date of death and would have then become an Eligible Retiree at that time under the Plan, he or she is immediately eligible for participation in this Plan; provided, however, that benefits shall only be payable for the month in which Eligible Retiree dies.

SECTION 9: ADMINISTRATION OF THE PLAN

(a) General

Each fiduciary shall discharge his/her duties solely in the interest of the Participants and for the exclusive purpose of providing such benefits as are provided herein to such persons, or defraying reasonable expenses of administering the Plan. Each fiduciary, in carrying out such duties and responsibilities, shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use.

A fiduciary may serve in more than one fiduciary capacity and may employ one or more persons to render advice with regard to his fiduciary responsibilities. If the fiduciary is serving as such without compensation, all expenses reasonably incurred by such fiduciary shall be paid from the assets of the Plan.

A fiduciary may allocate and delegate any of his responsibilities for the operation and administration of the Plan to the extent consistent with the California Constitution.

(b) Authority

The Authority shall supply such full and timely information for all matters relating to the Plan as the Plan Administrator and the Trustee may reasonably require for the effective discharge of their respective duties.

(c) Trustee

The Trustee, in accordance with the Trust Agreement, shall have exclusive authority and discretion to manage and control the assets of the Plan except that the Plan Administrator may in its discretion employ at any time and from time to time qualified investment manager(s) to direct the Trustee with respect to all or a designated portion of the assets comprising the Trust Fund.

(d) Plan Administrator

The Plan Administrator shall have plenary authority to administer the Plan.

The Plan Administrator shall have power to construe the Plan and to determine all questions that may arise thereunder relating to (a) the eligibility of individuals to participate in the Plan and (b) the amount of benefits to which any Participant may become entitled hereunder, and (c) any other issues that may arise under the Plan. All disbursements by the Trustee, except for the ordinary expenses of administration of the Trust Fund or the reimbursement of reasonable expenses at the direction of the Plan Administrator, as provided herein, shall be made upon, and in accordance with, the written directions of the Plan Administrator. When the Plan Administrator is required in the performance of its duties hereunder to administer or construe, or to reach a determination, under any of the provisions of the Plan, it shall do so on a uniform, equitable and non-discriminatory basis.

The Plan Administrator shall establish rules and procedures to be followed by the Participants in filing applications for benefits and for any other matters required in order to establish their rights to benefits in accordance with the Plan.

The Plan Administrator may employ such counsel, accountants, and other agents as it shall deem advisable. The Authority shall pay, or cause to be paid from the assets of the Plan, the reasonable compensation of such counsel, accountants, and other agents and any other expenses incurred by the Plan Administrator in the administration of the Plan and the Trust Agreement.

The Authority shall indemnify the Plan Administrator who is an Authority officer or Employee to the maximum extent allowed by law against any and all claims, loss, damage, expense and liability arising from any act or failure to act relating to the Plan Administrator's duties and powers unless the same is determined by a court of competent jurisdiction to be solely the result of the Plan Administrator's gross negligence or willful misconduct.

(e) Claims Procedures

The Plan Administrator shall receive all claims filed for benefits under the Plan. Upon receipt, the Plan Administrator shall review the claims and determine whether the claimant is entitled to receive any benefits pursuant to such claim. The Plan Administrator shall notify the claimant in writing of any adverse decision with respect to

his claim within ninety (90) days after its submission. The notice of any adverse decision shall be written in a manner calculated to be understood by the claimant and shall include:

- (i) The specific reason or reasons for the denial;
- (ii) Specific references to the pertinent Plan provisions on which the denial is based;
- (iii) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation why such material or information is necessary; and
- (iv) An explanation of the Plan's claim review procedures.

If the circumstances require an extension of time for processing the initial claim, a written notice of the extension shall be furnished to the claimant before the end of the initial ninety (90) day period. In no event shall such extension exceed a period of ninety (90) days from the last day of the initial ninety (90) day period. The extension notice shall indicate the circumstances requiring an extension of time.

In the event a claim for benefits is denied or if the Plan Administrator has given no response to such claim within the time period set out in the above paragraph (in which case the claim for benefits shall be deemed to have been denied), the claimant or his duly authorized representative, at the claimant's sole expense, may appeal the denial by submitting written notice of such appeal to the Plan Administrator within ninety (90) days of the receipt of written notice of the denial or sixty (60) days from the date such claim is deemed to be denied. Upon request, the Plan Administrator will provide the claimant the right of a hearing with respect to any finding of fact or determination within thirty (30) days of receipt of the notice of appeal. In pursuing such appeal the claimant or his duly authorized representative:

- (v) may, upon request, review all documents, records and other information relating to the claim; and
- (vi) may submit written comments, documents, records, and other information relating to the claim.

The claimant shall be notified of the decision on review within sixty (60) days of receipt of the request for review or thirty (30) days following the hearing, unless circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than one hundred and twenty (120) days after receipt of a request for review. If such an extension of time is required, written notice of the extension shall be furnished to the claimant before the end of the original sixty (60) day period. The notice of decision on review shall be made in writing, shall be written in a manner calculated to be understood by the claimant, and shall include specific references to the provisions of the Plan on which such denial is based. If the decision on review is not furnished within the time specified above, the claim shall be deemed denied on review.

(f) Records

All acts and determination of the Plan Administrator shall be duly recorded and all such records together with such other documents as may be necessary in exercising its duties under the Plan shall be preserved for no less than six (6) years. Such records and documents shall at all times be open for inspection and for the purpose of making copies by any person designated by the Plan Administrator. The Plan Administrator shall provide such timely information, resulting from the application of its responsibilities under the Plan, as needed by the Authority for the effective discharge of its duties.

SECTION 10: BENEFIT LIMITATIONS

The limitations of section 415(b) of the Code and section 401(a)(17) of the Code are incorporated herein. The limitations of section 415(b) shall be applied by aggregating the benefits paid under this Plan, by CalPERS, and by any other defined benefit plan maintained by the Authority that covers Participants in this Plan. To the extent that the limitations of section 415(b) would be exceeded by paying benefits under this Plan, such benefits shall not be paid and the Authority shall make up such benefits in accordance with the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan, a plan established under Code section 415(m).

SECTION 11: GENERAL PROVISIONS

(a) Governing Law

The Plan shall be construed, regulated and administered according to the laws of the State of California, and shall also be construed to the maximum extent possible in accordance with the Code in order for the Plan to be tax qualified.

(b) Construction

The headings and subheadings in the Plan have been inserted for convenience of reference only and shall not affect the construction of the provisions hereof. In any necessary construction the masculine shall include the feminine and the singular the plural, and vice versa.

(c) Plan Administration Expenses

The expenses of administering this Plan and the Trust Fund may be paid from the Trust Fund.

(d) Participant's Rights

No Participant in the Plan shall acquire any right to be retained in the Authority's employment by virtue of the Plan, nor, upon his dismissal, or upon his voluntary termination of employment, shall he have any right or interest in and to the Trust Fund other than as specifically provided herein. Except as otherwise specifically provided herein, the Authority shall not be liable for the payment of any benefit provided for herein; all benefits hereunder shall be payable only from the Trust Fund.

(e) Prohibition Against Assignment and Alienation of Benefits

No right or claim to, or interest in, any part of any payment from this Plan shall be subject to anticipation, alienation, sale, transfer, assignment, mortgage, pledge, garnishment, encumbrance, hypothecation, commutation, garnishment, charge, or any other process of any court except to such extent required by law. No benefit payable from this Plan to any person shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, except to such extent required by law. Any attempt to anticipate, alienate, sell, transfer, assign, mortgage, pledge, garnish, encumber, charge, or levy against any benefit under this Plan shall be void, except as required by law. No portion of the benefits payable under this Plan shall be subject to the bankruptcy estate of any Participant in the Plan, except as required by law.

(f) Merger, Consolidation or Transfer

In the event of the merger or consolidation of the Plan with another plan or transfer of assets or liabilities from the Plan to another plan, each then Participant shall not, as a result of such event, be entitled on the day following such merger, consolidation or transfer under the termination of the Plan provisions to a lesser benefit than the benefit he/she was entitled to on the date prior to the merger, consolidation or transfer if the Plan had then terminated.

(g) Counterparts

The Plan and the Trust Agreement may be executed in any number of counterparts, each of which shall constitute but one and the same instrument and may be sufficiently evidenced by any one counterpart.

(h) Provisions Applicable During Periods of Military Service

Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided as required by section 414(u) of the Code.

(i) Providing Information

A Participant may be required to furnish such information as may be required by the Plan Administrator in the administration of the Plan. If the Plan Administrator determines that a Participant furnished erroneous information, the Plan Administrator may make such adjustment in any benefit payable hereunder as it deems appropriate to correct such error.

SECTION 12: MODIFICATION AND TERMINATION OF THE PLAN

(a) Amendment of the Plan

The Authority shall have the right at any time to modify, alter or amend the Plan in whole or in part, subject to the following limitations: (1) the duties, powers and liability of the Trustee hereunder shall not be increased without its written consent;(2) no such modification, alteration or amendment shall have the effect of (i) reverting to the Authority any part of the principal or income of the Trust Fund (except as otherwise

provided in the Plan or the Trust Agreement); (ii) decreasing a Participant's accrued benefit; (iii) directly or indirectly decreasing the vested percentage of a Participant's benefits or (iv) permitting any part of the corpus or income of the Trust Fund to be used for, or diverted to, purposes other than the exclusive benefit of the Participants and defraying the reasonable expenses of administering the Plan. In any event and without limitation of any type, the Authority shall have the right to make any modifications, alterations or amendments necessary or appropriate to maintain the tax qualification of the Plan. To the extent that the Authority makes modifications to the Plan in accordance with any memorandum of understanding between the Authority and any of the unions representing the Authority's employees, such modifications shall supersede and override any "vested rights" that any person may otherwise have under California law with respect to benefits under this Plan.

(b) Termination of the Plan

In accordance with the requirements of a tax-qualified plan, the Authority has established this Plan with the expectation that it will be continued, but continuance is not a contractual or other obligation of the Authority and no employee of the Authority shall have any vested right to continuance of the Plan or to continuance of contributions thereto. The Authority reserves the right at any time to terminate the Plan. To the extent the termination of the Plan is undertaken in accordance with any memorandum of understanding between the Authority and any of the unions representing the Authority's employees, such termination shall supersede and override any "vested rights" that any person may otherwise have with respect to benefits under this Plan. In the event of termination of the Plan, the Plan Administrator shall direct the Trustee to compute the value of the Trust Fund as of the date of termination. The vested accrued benefits of the Participants affected by the termination, as determined by the Plan Administrator, shall continue to be administered as a part of the Trust Fund or distributed in a lump sum to such Participants as deemed appropriate by the Plan Administrator in its sole discretion.

Upon termination of the Plan, the right of each Participant to his accrued benefit under the Plan shall, to the extent funded, be one hundred percent (100%) vested and non-forfeitable. Upon a partial termination of the Plan (as defined under IRS rulings and regulations that govern defined benefit retirement plans that are tax-qualified), the right of each person affected by such partial termination to such person's accrued benefit under the Plan shall, to the extent funded, be one hundred percent (100%) vested and non-forfeitable. Upon termination or partial termination of the Plan, the Trust shall continue until the Trust Fund or the appropriate portion thereof has been distributed as provided in this section.

(c) Allocation of Trust Fund Upon Termination of the Plan

Upon termination of the Plan, the assets of the Trust Fund shall be allocated among those Participants in the ratio that the present value of the accrued benefit of each such person on the effective date of such termination bears to the present value of the accrued benefits of all such persons on the effective date of such termination; provided that the assets allocated to any person shall in no event exceed the present value of such person's accrued benefit under the Plan as of such date.

The Plan Administrator shall direct the Trustee to distribute to each Participant such person's allocable share of the assets of the Trust Fund in the form of an individual

annuity contract issued by an insurance company selected by the Plan Administrator or in the form of a single distribution of cash, as may be determined by the Plan Administrator. At its sole discretion, the Plan Administrator may allow each Participant to choose between receiving an individual annuity contract or a single cash distribution. Any single cash distribution shall be the present value of the appropriate individual life annuity, calculated on the basis of actuarial assumptions that are recommended by the Plan's actuary.

In the case of a partial termination of the Plan, the provisions of this Section shall be applied to those Participants who are affected by such partial termination.

If after all assets held in the Trust Fund are distributed pursuant to this Section (so the percent value of Participants' benefits have been paid and all Plan and Trust Fund expenses have been paid), there are assets remaining in the Trust Fund, such remaining assets shall be paid to the Authority.

(d) Limitation of Obligations

Notwithstanding any other provision hereof, the Authority shall have no obligation to continue to make contributions to the Plan after the Plan's termination. Neither the Authority nor any other person shall have any liability or obligation to provide benefits hereunder after the termination of the Plan. Upon termination of the Plan, all Participants and other persons who may claim an interest therein shall look solely to the Trust Fund for their benefits. In the event of a partial termination of the Plan, this Section shall apply only with respect to those Participants and other persons who are affected by such partial termination.

ADOPTION OF PLAN

To record the adoptions of the Plan as set forth herein, the Authority has caused its authorized representative to execute this restated document effective September 5, 2019.

SAN FRANCISCO BAY AREA WATER
EMERGENCY TRANSPORTATION AUTHORITY

By: _____

Name: _____

Title: _____

Date: _____

TRUST AGREEMENT
FOR THE SAN FRANCISCO BAY AREA WATER EMERGENCY
TRANSPORTATION AUTHORITY
RETIREMENT PLAN
(Effective September 5, 2019)

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. ESTABLISHMENT AND PURPOSE OF THE TRUST	1
SECTION 2. DEFINITIONS AND CONSTRUCTION.....	1
SECTION 3. ESTABLISHMENT OF THE TRUST FUND	2
SECTION 4. DUTIES AND POWERS OF THE TRUSTEE	3
SECTION 5. REPLACEMENT OF THE TRUSTEE	5
SECTION 6. AMENDMENT OF THE TRUST AGREEMENT AND TERMINATION OF THE TRUST FUND	6
SECTION 7. MISCELLANEOUS.....	6

TRUST AGREEMENT
FOR THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION
AUTHORITY
RETIREMENT PLAN

(Effective September 5, 2019)

SECTION 1. ESTABLISHMENT AND PURPOSE OF THE TRUST

The San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan (the "Plan") is being established as the means of funding supplemental benefits provided to eligible retirees of the San Francisco Bay Area Water Emergency Transportation Authority (the "Authority") that have been referred to as the Longevity Stipend. The Longevity Stipend was established by the Authority at its inception in 2008. The Longevity Stipend was intended to provide to eligible retirees a monthly payment determined on an annual basis equal to the amount of the monthly PERS Care single rate. The monthly amount was to be reduced by the monthly minimum required contribution under the California Public Employees Medical and Hospital Care Act ("PEMHCA") for retiree health costs required under Government Code section 22892(b)(1) for that year if the retiree was covered by PEMHCA coverage, since that amount would be paid directly to CalPERS on the retiree's behalf. The purpose of the benefit was to supplement retiree healthcare costs and to allow those retirees who do not use the CalPERS PEMHCA coverage flexibility to apply the payment amounts in any manner they chose. The Plan and the Trust Fund established pursuant to the Plan are intended to provide a tax efficient method of funding this already existing benefit obligation and are intended to qualify under the applicable provisions of section 401 and related sections of the Internal Revenue Code (the "Code"). It also is intended that the Plan will be a governmental plan under Code section 414(d). Under the Plan, all assets must be held in trust and may be used only for the exclusive benefit of the Participants. This Trust Agreement shall be effective September 5, 2019, or as of such later date which this document is approved and made effective by the Authority.

The Authority's primary retirement benefits are provided to employees through coverage under the CalPERS retirement system. The Plan is intended to provide supplemental benefits equal to the amount that would be due under the Longevity Stipend under a retirement system sponsored by the Authority for those employees hired prior to January 1, 2013 and who retire in the future with ten years of qualifying service and begin receiving retirement allowances under the CalPERS retirement system.

This Plan has been established to transition the funding vehicle for the Longevity Benefit, an existing program to supplement retiree medical benefits that the Authority put in place prior to the enactment of California's Public Employees' Pension Reform Act of 2013 ("PEPRA"). The Plan represents a continuation of a supplemental defined benefit plan offered prior to PEPRA's enactment on January 1, 2013 and is available only to employees hired before that date.

SECTION 2. DEFINITIONS AND CONSTRUCTION

Definitions

Authority means the San Francisco Bay Area Water Emergency Transportation Authority.

Code means the Internal Revenue Code of 1986, as amended from time to time, and all applicable rules and regulations issued thereunder pertinent to the tax qualification of the Plan and the tax-exempt status of the Trust Fund.

Effective Date means September 5, 2019.

Participant means a Participant in the Plan as determined under Section 2 of the Plan.

Plan means the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan as amended from time to time.

Plan Administrator means the person or persons with authority to administer the Plan.

Plan Year means the calendar year.

Trust means the legal entity resulting from the Trust Agreement between the Authority and the Trustee.

Trust Agreement means this instrument, as amended from time to time.

Trust Fund means all monies, securities, and properties of whatever character held by the Trustee pursuant to this Trust Agreement.

Trustee means the financial institution(s) designated in the Trust Agreement to hold in trust any assets of the Plan for the purpose of providing benefits under the Plan, and shall include any successor to the trustee initially designated hereunder.

SECTION 3. ESTABLISHMENT OF THE TRUST FUND

(a) Establishment of the Trust Fund

As of the Effective Date, the Authority shall contribute one hundred dollars (\$100.00) to the Trust Fund for the Plan, to be held in accordance with the terms of the Plan and the Trust Agreement, together with any income, gains or profits and taking account of any losses. All investments under the Plan shall be titled in the name of the Trust and shall be deemed part of the Trust Fund.

(b) Exclusive Benefit of Participants

The Trust Fund shall be maintained for the exclusive benefit of Participants and in accordance with the terms of the Plan and governing California and federal law. No part of the Trust Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of such Participants, except as is provided in section 3(d) below and sections 4 and 12 of the Plan.

(c) No Reversion to the Employer

Except as provided in section 3(d) below and sections 4 and 12 of the Plan, it shall be impossible, at any time, for any part of the Trust Fund, other than such part as is required to pay taxes and administrative expenses, to be returned to, or revert to, the Authority, to be recoverable by the Authority, or to be used for, or diverted to, purposes other than for the exclusive benefit of the Participants.

(d) Reversion if IRS Does Not Issue Favorable Determination Letter

All contributions made to the Trust Fund prior to the issuance of a letter from the Internal Revenue Service ("IRS") that the Plan is tax qualified under section 401(a) of the Code are expressly conditioned on the initial qualification of the Plan under section 401(a) of the Code. If the Plan is submitted to the IRS within the period prescribed by section 401(b) of the Code for a determination as to its initial qualification, and the IRS determines that the Plan is not so qualified, all such contributions, together with all earnings thereon, shall be returned to the Authority within one (1) year following such determination by the IRS.

(e) Receipt of Contributions

The Trustee shall receive all contributions made under the Plan. However, the Plan Administrator may elect to have all contributions paid directly to a custodian or insurance company engaged by the Authority to receive contributions. The Trustee shall not be responsible in any way for the administration of the Plan and shall be under no duty to determine whether the amount of any contribution is in accordance with the Plan or to collect or enforce payment of any contribution.

(f) Distributions

Distributions from the Trust Fund shall be made by the Trustee only to such persons, in such manner, at such times, and in such amounts as the Plan Administrator shall direct in writing from time to time. The Plan Administrator may also direct in writing the payment or reimbursement of expenses of administering the Plan or this Trust Agreement. The Trustee shall be fully protected in making payments in accordance with directions of the Plan Administrator without ascertaining whether such payments are in compliance with the terms of the Plan. All payments of benefits under the Plan shall be made solely and exclusively from the assets of the Trust Fund as they may exist at the time or times of payment, and no person shall be entitled to look to any other source for such payments.

SECTION 4. DUTIES AND POWERS OF THE TRUSTEE

(a) General Powers of the Trustee

The Trustee shall have all of the powers necessary or desirable to perform properly the duties herein set forth.

(b) Investment Powers of the Trustee.

Notwithstanding any Plan provisions that give the exclusive authority and discretion to the Trustee to manage and control the assets of the Plan, the Authority and the Trustee acknowledge and agree that the Trustee shall be directed with respect to all investments. Such direction shall be pursuant to the Plan and shall be either by the Plan Administrator or by investment managers chosen pursuant to the Plan.

(c) Agents

With the prior written approval of the Plan Administrator, and subject to applicable state law, the Trustee may employ such counsel, accountants, brokers, actuaries and other agents and provide for such clerical, accounting, actuarial and other services as the Trustee may deem advisable to perform its duties under this Trust Agreement, or as may be directed by the Plan Administrator.

(d) Settlement of Claims

With the prior written approval of the Plan Administrator, the Trustee shall have the power and authority to settle, compromise or submit to arbitration, any claims, debts or damages due or owing to or from the Trust Fund; to commence or defend suits or legal or administrative proceedings whenever, in its judgment, any interest of the Trust Fund so requires, and to represent the Trust Fund in all suits or legal or administrative proceedings in any court of law or equity or before any other body or tribunal. The Trustee shall inform the Authority and the Plan Administrator as soon as possible about any such claims, debts or damages, and shall fully cooperate with the Authority and the Plan Administrator with respect to any suits or legal or administrative proceedings that result from or arise out of such claims, debts or damages.

(e) Accounting

(i) The Trustee shall keep appropriate and accurate accounts of, and records reflecting all transactions concerning the Trust Fund, including but not limited to contributions, gains, losses, expenses, and distributions of benefits. However, if the Plan Administrator elects to have all contributions paid directly to a custodian or insurance company to receive contributions, then the Trustee shall be entitled to rely on the records of accounts provided to it by such custodians or insurance companies, and by the Authority, with respect to contributions, gains, losses, expenses, distributions of benefits and all other transactions involving the Trust Fund. The Trustee shall be entitled to be reimbursed for its actual and reasonable expenses incurred in preparing any accounting.

(ii) The Trustee shall furnish the Plan Administrator a written account of the transactions concerning and status of the Trust Fund at such times and from time to time as agreed to with the Plan Administrator, but no less than annually, as soon as practical after the close of the Plan Year. The Trustee and Plan Administrator shall agree on the format and contents of such accounting. At any time, the Plan Administrator may (but is not required to) engage an independent certified public accountant to examine the Plan's financial statements or internal control procedures. If the Plan Administrator engages an independent accountant, the Plan Administrator shall require that such engagement provide that the examination be made according to generally accepted auditing standards (or according to other agreed-upon procedures that the Trustee approves in writing), and that the Trustee is entitled to rely upon the accountant's examination and opinion and all reports relating to the examination.

(iii) Except as otherwise ordered by a court having jurisdiction, no person other than the Plan Administrator may require an accounting by the Trustee.

(iv) Notwithstanding anything in this Trust Agreement to the contrary, the Trustee shall have the right at any time to petition any appropriate court for a settlement of the

Trust Fund's accounts or for the court's instructions in executing the Trustee's obligations under the Trust Fund created by this Trust Agreement.

(f) Compensation

The Trustee shall be paid such compensation and expenses that are agreed to, from time to time, by it and the Plan Administrator.

(g) Fiduciary Standards

The Trustee shall discharge its duties under this Trust Agreement solely in the interest of the Participants and Beneficiaries of the Plan and in accordance with governing state and federal law and the terms of the Plan and the Trust Agreement. Such duties shall be discharged for the exclusive purpose of providing benefits to the Participants and Beneficiaries and paying expenses of the Plan. In addition, the Trustee shall discharge its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and as defined by applicable state law.

SECTION 5. REPLACEMENT OF THE TRUSTEE

(a) Replacement of the Trustee

(i) The Authority may remove and replace the Trustee at any time and from time to time with a written notice to the Trustee of removal and replacement. Except where necessary to protect the rights and benefits of Plan participants and beneficiaries, the Authority shall give at least 60 days written notice of removal and replacement to the Trustee.

(i) In the event another entity or person replaces the Trustee, the Trustee shall take all necessary and appropriate steps to transfer to its successor trustee the entire Trust Fund as soon as possible. The Trustee may undertake a reasonable accounting of the Trust Fund prior to such transfer but such accounting shall not cause unreasonable delay in any transfer of the Trust Fund.

(ii) The replacement of the Trustee shall not result in the termination of this Trust Agreement. A successor Trustee shall have the same powers and duties as those herein conferred upon the Trustee.

(b) Resignation of the Trustee

The Trustee may resign at any time by giving one hundred twenty (120) days advance written notice to the Plan Administrator and the Authority.

SECTION 6. AMENDMENT OF THE TRUST AGREEMENT AND TERMINATION OF THE TRUST FUND

(a) Term of the Trust Agreement

This Trust Agreement shall continue as long as the Plan is in full force and effect. If the Plan ceases to be in full force and effect, this Trust Agreement shall thereupon terminate unless expressly extended by the Authority.

(b) Amendment of the Trust Agreement

(i) Any and all amendments to this Trust Agreement which may be required or suggested by the Internal Revenue Service for the purpose of the approval of the Plan under the Code as a tax-qualified plan may be made retroactively to the extent permitted by law. Such amendments shall be made by the Authority with the written consent of the Trustee.

(ii) This Trust Agreement may otherwise be amended by the Authority with the written consent of the Trustee, but may only be amended if there is no reduction in the then existing benefits of any Participant as a result of such amendment. This Trust Agreement may also be amended to change the party that serves as Trustee without the consent of the then Trustee.

(iii) Amendments to this Trust Agreement shall be made by the Authority.

(c) Termination of the Trust Fund

The Authority reserves the right to terminate the Trust Fund at any time for any reason. Upon termination of the Trust Fund, the Authority shall determine the manner in which the assets of the Trust Fund shall be disposed of in accordance with the terms of the Plan. On the termination of the Trust Fund, all assets held therein shall be paid to the Plan Participants in accordance with the terms of the Plan governing benefits upon termination in Section 12.

SECTION 7. MISCELLANEOUS

(a) Reliance

The parties hereto shall be protected in acting upon any notice, resolution, request, consent order, certificate, report, opinion, statement or other document which they reasonably believed to be genuine and to have been signed by the proper party or parties or by a person or persons authorized to act on its behalf.

(b) Person Dealing with the Trustee

No person dealing with the Trustee shall be under any obligation to inquire into the validity, expediency or propriety of any action by the Trustee or of any exercise by it of any of the powers conferred upon it by this Trust Agreement. The execution by the Trustee of any instrument, document or paper in connection with the exercise of any of the powers enumerated herein shall, of itself, be conclusive evidence to all persons of

the authority of the Trustee to execute the same and to exercise the powers incident thereto.

(c) Advice of the Plan Administrator

If at any time or times the Trustee is in reasonable doubt as to the course which it should follow in any matter relating to the administration of this Trust Agreement, it may request the Plan Administrator to advise it with respect thereto, and it shall be protected in relying upon the advice or direction which may be given it by the Plan Administrator in response to such request.

(d) Anti-Alienation

No right or claim to, or interest in, any part of any payment from the Plan or Trust Fund shall be subject to anticipation, alienation, sale, transfer, assignment, mortgage, pledge, garnishment, encumbrance, hypothecation, commutation, charge, or any other process of any court except to such extent required by law. No benefit payable from the Plan or Trust Fund to any person shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, except to such extent required by law. Any attempt to anticipate, alienate, sell, transfer, assign, mortgage, pledge, garnish, encumber, charge, or levy against any benefit under the Plan or Trust Fund shall be void, except as required by law. No portion of the benefits payable under this Plan or Trust Fund shall be subject to the bankruptcy estate of any Participant in the Plan, except as required by law.

(e) Notices

All orders, requests, directions and instructions of the Plan Administrator to the Trustee shall be in writing, signed by a person authorized to act on its behalf. Unless the Trustee knows or has reason to know (through its exercise of its fiduciary duties or otherwise) that the direction constitutes a breach of the Plan Administrator's duties or responsibilities under the Plan, the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, directions and instructions. In the absence of knowledge of, or reason to know, that the direction constitutes such a breach, the Trustee shall be entitled to rely conclusively on such direction, and shall have no further duty to make any investigation or inquiry before acting upon any such direction of the Plan Administrator.

(f) Law

This Trust Agreement is made in the State of California, and shall be construed in accordance with the laws thereof

(g) Invalidity

In the event any provision of this Trust Agreement shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof, and this Trust Agreement shall thereafter be construed and enforced as if said illegal or invalid provision had never been included therein.

EXECUTION OF TRUST

The parties have caused this Trust Agreement to be executed by their representatives to be effective as of September 5, 2019.

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

(signature)

(name)

(title)

Date:_____

TRUSTEE

(signature)

(name)

(title)

Date:_____

Attachment B

THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

REPLACEMENT BENEFITS PLAN

(Effective September 5, 2019)

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1 Establishment and Status of Plan.....	1
ARTICLE 2. Definitions.....	3
ARTICLE 3. Participation.....	5
ARTICLE 4. Retirement Benefits Payable	5
ARTICLE 5. Assignments Prohibited.....	8
ARTICLE 6. Administration.....	8
ARTICLE 7. Source of Benefits	10
ARTICLE 8. Miscellaneous.....	12
ARTICLE 9. Amendment or Termination of Plan	12

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

REPLACEMENT BENEFITS PLAN

ARTICLE 1. Establishment and Status of Plan

1.1 Establishment

The San Francisco Bay Area Water Emergency Transportation Authority (the "Employer") has previously established a plan or program to provide certain retirement benefits to its eligible employees known as the Longevity Stipend plan or program. The Longevity Stipend payments were promised payments upon retirement for life under certain circumstances and have been promised since the Employer's inception in 2008. This documentation of the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan (the "Plan") is a restatement of existing plan benefits that were established prior to the effective date of the Public Employees' Pension Reform Act of 2013 ("PEPRA"). Benefits under this Plan are intended to provide retirement benefits otherwise earned by and payable to certain retirees of the Employer but which are limited by the rules of Section 415(b) of the Internal Revenue Code of 1986, as amended ("Code"), and permitted under PEPRA since the original plan and program was established prior to PEPRA and only provides benefits to those Employees who were already covered by the Longevity Stipend plan prior to PEPRA.

The San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan (the "Retirement Plan") was established as a means of funding and providing already promised supplemental benefits to eligible retirees of the Employer. The Employer's primary retirement benefits are provided through coverage under the CalPERS retirement system. The Retirement Plan provides supplemental benefits already promised to certain of the Employer's retirees and this Plan is intended to provide benefits that cannot be provided under the Retirement Plan due to the tax law limitations for tax-qualified plan so that the full amount of promised benefit can be provided.

The Plan and the Trust Fund established pursuant to the Plan will provide the benefits otherwise earned by and payable under the Retirement Plan that are limited under Section 415(b) of the Code, as intended since the inception of the Longevity Stipend retirement benefit plan in 2008. This Plan is designed to be a "qualified governmental excess benefit arrangement" under Code Section 415(m) and will be operated and construed in accordance with the foregoing provisions.

1.2 Effective Date

This Plan was originally effective as of date of inception for the Employer's predecessor agency, the San Francisco Bay Water Transit Authority in 2008, and is amended and restated effective September 5, 2019.

1.3 "Portion of the Retirement Plan"

This Plan shall be deemed a "portion" of the Retirement Plan solely to the extent required by, and within the meaning of, Section 415(m)(3) of the Code, and not for any other purpose.

1.4 Purpose and Tax Status of this Plan

- (a) In accordance with Section 415(m) of the Code, this Plan is solely for the purpose of providing to certain retirees of the Employer that part of the annual benefit otherwise payable under the Retirement Plan that exceeds the limitations on benefits imposed by Section 415(b) of the Code.
- (b) It is intended that this Plan be treated as an "exempt governmental deferred compensation plan" described in Section 3121(v)(3) of the Code; therefore payments under this Plan are not included as wages subject to Social Security and Medicare taxes.
- (c) This Plan is not an "eligible deferred compensation plan" described in Section 457(b) of the Code because inter alia, the amount of deferred income under this Plan is not subject to the limits of section 457(b) of the Code.

ARTICLE 2. Definitions

2.1 Plan Definitions

Terms used in this Plan shall have the meaning set out below.

- (a) *Beginning Date* means the first date during a Plan Year with respect to which payment begins under this Plan as set out in Section 4.4 hereof.
- (b) *CalPERS* means the California Public Employees' Retirement System, of which the Employer is a participating agency.
- (c) *Code* means the Internal Revenue Code of 1986, as amended, and any rules and regulations issued thereunder pertinent to this Plan and the tax-exempt status of the Trust Fund.
- (d) *Contributions* means the amounts paid by the Employer to the Trust Fund to fund benefits under the Plan.
- (e) *Commencement Date* means the date of commencement of participation in this Plan as set out in Section 3.2 hereof.
- (f) *Effective Date* for this Plan, means the restated effective date of September 5, 2019.
- (g) *Employer* means the San Francisco Bay Area Water Emergency Transportation Authority.
- (h) *Eligible Retiree* means an Employee who is determined to be an Eligible Retiree under the terms of the Retirement Plan.
- (i) *Employee* means an individual employed by the Employer, who is on the regular payroll of the Employer as a non-retired employee, for whom the Employer withholds employment taxes, and for whom the Employer issues an IRS form W-2. Therefore, for example, a common-law employee for whom the Employer does not issue a form W-2

is not an Employee. An individual's status as an Employee shall be determined solely by the Employer, and such determination shall be conclusive and binding upon all persons. To the extent applicable, an Employee for purposes of calculating plan benefits is also any individual employed by the Employer who receives differential wage payments from the Employer that are associated with being called to active military duty in the uniformed services.

(j) *Participant* means an Eligible Retiree who participates in this Plan pursuant to Article 3 hereof.

(k) *Partner Organization* means the Employer's predecessor agency, the San Francisco Bay Water Transit Authority, and the Employer's former partner, Local Government Services.

(l) *PEPRA* means the Public Employees' Pension Reform Act of 2013.

(m) *Plan* means this San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan.

(n) *Plan Administrator* means the Employer or its designated agent.

(o) *Plan Year* means the calendar year.

(p) *Retirement Plan* means the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan.

(q) *Section 415* means Section 415 of the Code.

(r) *Trust Agreement* means the agreement entered into between the Employer and the Trustee pursuant to this Plan.

(s) *Trust Fund* means all monies, securities, and properties of whatever character held by the Trustee pursuant to the Trust Agreement.

(t) *Trustee* means such financial institution(s) as shall be designated in the Trust Agreement to hold in trust any assets of the Plan for the purpose of providing benefits under the Plan, and shall include any successor to the trustee initially designated thereunder.

ARTICLE 3. Participation

3.1 Limited to Eligible Retirees Under the Retirement Plan

Participation in this Plan is limited solely to Eligible Retirees whose benefits payable by the Retirement Plan are limited by Section 415(b) for periods on and after the Effective Date.

3.2 Commencement of Participation

An Eligible Retiree shall commence participation in this Plan on the first date, on or after the Effective Date, with respect to which his or her benefits payable from the Retirement Plan cannot be fully paid because of the limits of Section 415(b). This date is the Commencement Date.

3.3 Cessation of Participation

Participation in this Plan shall cease as of the first date for which benefits payable to the Eligible Retiree from the Retirement Plan are no longer limited by Section 415(b) and therefore can be fully paid by the Retirement Plan. Participation shall also cease on the Eligible Retiree's death or when the Eligible Retiree's eligibility for benefits under the Retirement Plan cease.

3.4 Recommencement of Participation

If a Participant has ceased participation in this Plan but at a later date the full payment of his or her Retirement Plan benefits is again limited by Section 415(b), he or she shall again commence participation as provided in Section 3.2 hereof and shall cease participation as provided in Section 3.3 hereof.

3.5 No One Else Shall Receive Benefits

No one other than a person described in Section 3.1 shall receive any benefits under this Plan, except as required by applicable law.

ARTICLE 4. Retirement Benefits Payable

4.1 Amount of Benefit - Initial Determination

(a) The benefit paid under this Plan in any Plan Year shall be initially determined for each Participant at the Participant's Commencement Date under the following steps.

(i). Determine the Participant's benefits payable at the time of the Commencement Date under the Retirement Plan without regard to the limits of Section 415(b).

(ii). Determine the maximum benefits payable to the Participant from the Retirement Plan under the then current benefit payment limits of Section 415(b). The determination under this step shall take into account items such as the applicable dollar limits, the date that the Participant first became an Eligible Retiree, and whether he or she qualifies for special limits under Section 415(b).

(iii) Subtract the amount determined under (ii) from the amount determined under (i). If the amount in (i) is greater than that in (ii), the difference is the initial benefit paid under this Plan. If the amount in (ii) is equal to or greater than the amount in (i), then no benefits are payable under this Plan.

(b) The total retirement benefit paid to a Participant in any year will include the sum of the benefit paid under this Plan and the benefit paid under the Retirement Plan. However, this Plan and the Retirement Plan shall be separate entities and shall be administered separately. In addition, separate checks will be paid for the benefits under this Plan and the Retirement Plan; the Plan Administrator shall provide separate tax

reporting for the benefits paid under this Plan; and no assets of the Retirement Plan shall be used, directly or indirectly, to pay for benefits or administration or any other costs of this Plan.

(c) The Plan Administrator shall rely on the determination by the Retirement Plan as to the amounts under steps (i) through (ii) in paragraph (a) of this Section 4.1 for purposes of administering the Plan in accordance with Section 415(m).

4.2 Amount of Benefit – Re-determinations

(a) As of each January 1 following the Participant's Commencement Date, the Participant's benefit under this Plan shall be re-determined under Section 4.1(a) using the then current amounts determined by applying any applicable changes, including changes (if any) to the maximum benefit limits established by the IRS for Section 415(b).

(b) At the Plan Administrator's discretion and after consultation with the Plan Administrator for the Retirement Plan, the amount of every Participant's benefits may be re-determined at a date other than January 1 for administrative convenience or if there is a material change in the rules governing the maximum benefit limits established under Section 415(b) or a material change in the Retirement Plan benefits.

(c) The Plan Administrator shall rely on the re-determination of the amounts under Section 4.1 (a) (i) and (ii) by the Plan Administrator for the Retirement Plan, for purposes of administering this Plan in accordance with Sections 415(b) and 415(m).

4.3 Effect of Death on Benefits

(a) If a Participant dies after becoming eligible for participation under this Plan under Section 3.1, then no further benefits under the Plan are payable beyond the month of the death of the Participant.

(b) If an Employee dies before beginning to receive benefits under this Plan and he or she was eligible to retire from the Employer on or before the date of death and would have then become an Eligible Retiree at that time under the Retirement Plan, he or she is immediately eligible for participation in this Plan under Section 3.1; provided, however, that benefits shall only be payable for the month in which the Eligible Retiree dies.

4.4 Timing of Payments

(a) In any Plan Year, benefits shall only be paid under this Plan to a Participant after the date in the Plan Year that the benefits paid to such person have reached the maximum annual benefit that can be paid under Section 415(b) for that Plan Year under the Retirement Plan. The day after the maximum annual benefit payment is reached is the Beginning Date for the Participant for that Plan Year. The Beginning Date may change from Plan Year to Plan Year as the amount payable under this Plan is re-determined.

(b) The amount of benefits provided under this Plan shall be paid monthly starting as of the Beginning Date for that Plan Year and continuing through the end of the Plan Year, or (if earlier) the date that participation in the Plan ceases.

(c) If a retired Participant is reemployed by the Employer and on reemployment his or her Retirement Plan benefits cease, then his or her benefits under this Plan shall cease at the same time. Benefits shall resume (if at all) under this Plan only when the Employee again starts to receive benefits under the Retirement Plan as an Eligible Retiree. At that time, a recalculation shall be made under Section 4.2 hereof, treating the first month for which Retirement Plan benefits resume as if it were a date of recalculation under Section 4.2.

4.5 Form of Benefit Paid

The benefit paid to a Participant under this Plan shall be paid in the same form as benefits are paid to him or her under the Retirement Plan. No election shall be provided at any time to the Participant, directly or indirectly, to defer compensations under the Plan.

4.6 Taxes

The Plan Administrator shall have full authority to withhold any and all taxes that are or may be due from any and all amounts paid under the Plan (including but not limited to income and payroll taxes), to pay them to the appropriate government agency, and to file and distribute necessary or appropriate tax reports and forms.

4.7 Determination Solely By Plan Administrator

Subject to Sections 4.1 and 4.2 hereof, the Plan Administrator shall have sole authority and discretion to determine the amount of benefits (if any) payable under this Plan.

ARTICLE 5. Assignments Prohibited

5.1 Prohibition Against Assignment

No benefit payable from the Plan to any Participant or any other person shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void. No such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to execution, attachment or any process whatsoever for or against such person, except to such extent as may be permitted by Section 704.110 of the Code of Civil Procedure or as required by law.

ARTICLE 6. Administration

6.1 Powers of the Plan Administrator

The Employer or its designated agent shall administer the Plan, and in such capacity shall be the Plan Administrator. In addition to the powers of the Plan Administrator specified elsewhere in the Plan, the Plan Administrator shall be responsible for the general administration and interpretation of the Plan and for carrying out its provisions, and shall have such powers as may be necessary or appropriate to discharge its duties hereunder, including, without limitation, the following:

- (a) The Plan Administrator may adopt such Plan regulations, interpretations and procedures as it deems are necessary or appropriate for the effective operation of the Plan;
- (b) The Plan Administrator shall have the right to delegate administrative duties with regard to the management and operation of the Plan except that no employee or agent of the Plan Administrator shall have the authority to modify this Plan or to make representations, warranties, or inducements that may provide benefits or any other payment other than as set forth in this Plan and the applicable Plan regulations (any such representations, warranties, or inducements shall be null and void);
- (c) The Plan Administrator shall act with respect to this Plan separately and apart from any duties that he or she may have with respect to any other retirement plan;
- (d) The Plan Administrator shall determine all issues relating to the rights of Participants and any other persons, and any legal representatives thereof, under the terms of the Plan, including but not limited to eligibility, the amount and time of payment of the benefit (if any) and the calculation of any benefit under the Plan;
- (e) The Plan Administrator shall determine any factual questions arising in connection with the Plan's operation or administration after such investigation or hearing as the Plan Administrator deems necessary and appropriate;
- (f) The Plan Administrator may engage legal, administrative, actuarial, investment, accounting, consulting or other services as the Plan Administrator deems necessary or appropriate, and the Authority shall pay, or cause to be paid from the assets of the Plan held in trust, the reasonable compensation of such counsel, accountants, and other agents and any other expenses incurred by the Plan Administrator in the administration of the Plan and the Trust Agreement;
- (g) The Plan Administrator may request and receive from Employees and Participants and other appropriate persons such information as necessary or appropriate for the proper administration of the Plan, including, without limitation, information to determine each Participant's eligibility to participate in the Plan and the benefits payable to each Participant; and
- (h) The Employer shall indemnify the Plan Administrator who is an officer or Employee of the Employer to the maximum extent allowed by law against any and all claims, loss, damage, expense and liability arising from any act or failure to act relating to the Plan Administrator's duties and powers unless the same is determined by a court of competent jurisdiction to be solely the result of the Plan Administrator's gross negligence or willful misconduct.

6.2 Absolute Discretion of the Administrator.

The Plan Administrator (or any individual acting on its behalf) shall, in its sole and absolute discretion, construe and interpret the terms and conditions of the Plan, and any issue arising out of, relating to, or resulting from the administration and operation of the Plan, which interpretation or construction shall be final and binding on all parties, including, without limitation, any Employee or Participant. When making a determination or

calculation, the Plan Administrator shall, in its sole and absolute discretion, be entitled to rely upon information furnished by Employees and Participants, or other individuals acting on their behalf.

6.3 Costs of Administration

The costs of administration of the Plan shall be paid by the Employer or from any separate trust fund maintained for the Plan. Such expenses shall include, but are not limited to, expenses for professional, legal, accounting, and other services and other necessary or appropriate costs of administration. No costs or expenses of administering this Plan shall be paid, directly or indirectly, by the Retirement Plan and no assets of the Retirement Plan shall be used, directly or indirectly, to pay for benefits or administration or any other costs (direct or indirect) of this Plan.

6.4 Claims Review Procedure

Any person who has a claim for benefits under this Plan and who does not receive such benefits must make a written claim for benefits with the Plan Administrator at the time and in the form and manner determined by the Plan Administrator. The Plan Administrator shall provide notice in writing to any person whose claim for benefits under the Plan is denied, and the Plan Administrator shall provide such person a review of its decision with respect to such claim, if requested in writing by the person who has made the claim. The decision of the Plan Administrator shall be final and binding on all parties.

6.5 Correction of Errors

If an error or omission is discovered in the administration of the Plan, the Plan Administrator shall take such necessary or appropriate and equitable action as may be necessary or appropriate to correct the error. Such action shall include but not be limited to taking all reasonable or necessary action to recover overpayments of benefits under the Plan.

6.6 Written Communications Mailed

All written notices or communications to Participants and any other person who may be entitled to benefits under this Plan shall be effective when sent by first class United States mail to the individual's last known address. Any notice or document required to be given to or filed with the Plan Administrator shall be properly given or filed if delivered or sent by first class United States mail, postage prepaid, to the Employer's Executive Director.

6.7 Trustee

The Trustee, in accordance with the Trust Agreement, shall have exclusive authority and discretion to manage and control the assets of the Plan except that the Plan Administrator may in its discretion employ at any time and from time to time qualified investment manager(s) to direct the Trustee with respect to all or a designated portion of the assets comprising the Trust Fund.

ARTICLE 7. Source of Benefits

7.1 Funding through the Trust

(a) From time to time, the Employer may, but is not required to, contribute to fund benefits under the Plan and any reasonable expenses thereof which are to be paid out of the Trust Fund. Any Contributions shall be made to the Trust Fund.

(b) All Contributions to the Plan by the Employer shall be deposited with the Trustee, to be held and invested as part of the Trust Fund in accordance with the terms of the Trust Agreement.

7.2 Trust Agreement and Payments to and From the Plan

(a) The Employer has entered into a Trust Agreement with the Trustee under which the Trustee will receive and invest any Contributions made to fund benefits under the Plan. The Trust Agreement may specifically provide, among other things, for the investment and reinvestment of the Trust Fund and the income thereof, the management of the Trust Fund, the responsibilities and immunities of the Trustee, removal of the Trustee and appointment of a successor, accounting by the Trustee and the disbursement of the Trust Fund.

Such Trust Agreement is incorporated by reference as a part of the Plan, and the rights of all persons hereunder are subject to the terms of the Trust Agreement. If there is a conflict between the terms of the Plan and the Trust Agreement, the terms of the Plan shall control.

The Trustee shall, in accordance with the terms of the Trust Agreement, accept and receive all sums of money paid to it from time to time by the Employer, and shall hold, invest, reinvest and manage such moneys and the increment, increase, earnings and income thereof for the exclusive benefit of the Participants and for the payment of reasonable expenses of administering the Plan.

(b) All contributions to the Plan by the Employer shall be deposited with the Trustee, to be held and invested as part of the Trust Fund in accordance with the terms of the Trust Agreement.

(c) All benefits payable under the Plan shall be paid out of the Trust Fund by the Trustee pursuant to the directions of the Plan Administrator and the terms of the Trust Agreement to the extent benefits are funded under the Trust Fund. Expenses of the Plan and Trust shall be paid out of the Trust Fund to the extent provided by the terms of the Trust Agreement.

7.3 No Employee Deferrals

No employee contributions or deferrals shall be made or allowed under the Plan at any time. In accordance with Section 415(m), no election to defer compensation under this Plan shall be provided, at any time or in any manner, to any person.

7.4 No Use of Retirement Plan Assets

Assets used to provide benefits under this Plan shall not be commingled with the monies of the Retirement Plan or any other qualified plans, nor shall this Plan ever receive or use any assets of the Retirement Plan.

ARTICLE 8. Miscellaneous

8.1 Applicable Law

This Plan shall be governed by the laws of the State of California and applicable federal law.

8.2 No Employment Rights

Nothing in this Plan or in any resolution or regulation concerning this Plan shall be construed as giving to a Participant any right to be retained in the employment of the Employer.

8.3 Unclaimed Benefits and Accumulations

In any situation where benefits are payable under this Plan, a reasonable search, including mailing of a registered letter to the last known address, shall be made to ascertain the whereabouts of the Participant.

If the person or persons entitled thereafter come forward and request payment and establish such entitlement, the amounts then due, including appropriate retroactive payments from the Commencement Date, but without payment of any interest thereon, shall be paid accordingly.

8.4 Benefit Limits

(a) Nothing in this Plan shall be construed as creating an entitlement to any benefits greater than the difference between the amount of benefits that can be paid by the Retirement Plan without regard to the limitations of Code Section 415 and what can be provided the Retirement Plan taking into account the limitations of Code Section 415.

(b) Payment of a benefit under this Plan does not create any eligibility for any additional benefits from the Employer.

ARTICLE 9. Amendment or Termination of Plan

9.1 Right to Amend

The Employer has the right to amend this Plan at any time and in any manner for any reason whatsoever and may do so in its sole discretion. However, any amendment to this Plan that affects benefits paid shall be commensurate with the purposes of this Plan to provide Participants with retirement benefits that are otherwise earned by and payable to an Eligible Retiree under the Retirement Plan but which are limited by the rules of Section 415 of the Code.

9.2 Right to Terminate

Notwithstanding any other provisions of this Plan, the Employer has the right to terminate this Plan at any time and in any manner for any reason whatsoever and may do so in its sole discretion, subject to compliance with applicable California law. This right to terminate includes, but is not limited to, the right to terminate any or all benefits under the Plan for

any or all persons who may be Participants or otherwise may be entitled to benefits under the Plan to the extent permitted under applicable California law.

9.3 Allocation of Trust Fund Upon Termination of the Plan

Upon termination of the Plan, the assets of the Trust Fund shall be allocated among those Participants in the ratio that the present value of the accrued benefit of each such person on the effective date of such termination bears to the present value of the accrued benefits of all such persons on the effective date of such termination.

9.4 Preservation of Section 415(m) Status

The Employer shall have the authority to make appropriate amendments to the Plan in order to accommodate changes in the Internal Revenue Code and United States Treasury Regulations in a manner that will preserve the status of the Plan under Section 415(m).

9.5 State Law

The Employer shall have the authority to make appropriate amendments to the Plan in order to comply with changes in California State law.

ADOPTION OF PLAN

To record the restatement of the Plan as set forth herein, the Employer has caused its authorized representative to execute this document effective September 5, 2019.

**San Francisco Bay Area Water Emergency
Transportation Authority**

By: _____

Name: _____

Title: _____

Date: _____

TRUST AGREEMENT

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

REPLACEMENT BENEFITS PLAN

(Effective September 5, 2019)

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. ESTABLISHMENT AND PURPOSE OF THE TRUST	1
SECTION 2. DEFINITIONS AND CONSTRUCTION.....	1
SECTION 3. ESTABLISHMENT OF THE TRUST FUND	2
SECTION 4. DUTIES AND POWERS OF THE TRUSTEE	3
SECTION 5. REPLACEMENT OF THE TRUSTEE	5
SECTION 6. AMENDMENT OF THE TRUST AGREEMENT AND TERMINATION OF THE TRUST FUND	5
SECTION 7. MISCELLANEOUS.....	6

TRUST AGREEMENT
FOR THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION
AUTHORITY
REPLACEMENT BENEFITS PLAN

(Effective September 5, 2019)

SECTION 1. ESTABLISHMENT AND PURPOSE OF THE TRUST

The San Francisco Bay Area Water Emergency Transportation Authority (the "Employer") has previously established a plan or program to provide certain retirement benefits to its eligible employees known as the Longevity Stipend plan or program. The Longevity Stipend payments were promised payments upon retirement for life under certain circumstances and have been promised since the Employer's inception in 2008. This documentation of the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan (the "Plan") is a restatement of existing plan benefits that were established prior to the effective date of the Public Employees' Pension Reform Act of 2013 ("PEPRA"). Benefits under this Plan are intended to provide retirement benefits otherwise earned by and payable to certain retirees of the Employer but which are limited by the rules of Section 415(b) of the Internal Revenue Code of 1986, as amended ("Code"), and permitted under PEPRA since the original plan and program was established prior to PEPRA and only provides benefits to those Employees who were already covered by the Longevity Stipend plan prior to PEPRA.

The San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan (the "Retirement Plan") was established as a means of funding and providing already promised supplemental benefits to eligible retirees of the Employer. The Employer's primary retirement benefits are provided through coverage under the CalPERS retirement system. The Retirement Plan provides supplemental benefits already promised to certain of the Employer's retirees and this Plan is intended to provide benefits that cannot be provided under the Retirement Plan due to the tax law limitations for tax-qualified plan so that the full amount of promised benefit can be provided.

The Plan and the Trust Fund established pursuant to the Plan will provide the benefits otherwise earned by and payable under the Retirement Plan that are limited under Section 415(b) of the Code, as intended since the inception of the Longevity Stipend retirement benefit plan in 2008. This Plan is designed to be a "qualified governmental excess benefit arrangement" under Code Section 415(m) and will be operated and construed in accordance with the foregoing provisions. Under the Plan, all assets must be held in trust and may be used only for the exclusive benefit of the Participants and their Beneficiaries. This Trust Agreement shall be effective September 5, 2019.

SECTION 2. DEFINITIONS AND CONSTRUCTION

Definitions

Code means the Internal Revenue Code of 1986, as amended from time to time, and all applicable rules and regulations issued thereunder pertinent to the tax qualification of the Plan and the tax-exempt status of the Trust Fund.

Effective Date means September 5, 2019.

Employer means the San Francisco Bay Area Water Emergency Transportation Authority.

Participant means a Participant in the Plan as defined under Section 2 of the Plan.

Plan means the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan as amended from time to time.

Plan Administrator means the person or persons with authority to administer the Plan.

Plan Year means the calendar year.

Retirement Plan means the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan as amended from time to time.

Trust means the legal entity resulting from the Trust Agreement between the Authority and the Trustee.

Trust Agreement means this instrument, as amended from time to time.

Trust Fund means all monies, securities, and properties of whatever character held by the Trustee pursuant to this Trust Agreement.

Trustee means the financial institution(s) designated in the Trust Agreement to hold in trust any assets of the Plan for the purpose of providing benefits under the Plan, and shall include any successor to the trustee initially designated hereunder.

SECTION 3. ESTABLISHMENT OF THE TRUST FUND

(a) Establishment of the Trust Fund

As of the Effective Date, the Employer shall contribute one hundred dollars (\$100.00) to the Trust Fund for the Plan, to be held in accordance with the terms of the Plan and the Trust Agreement, together with any income, gains or profits and taking account of any losses. All investments under the Plan shall be titled in the name of the Trust and shall be deemed part of the Trust Fund.

(b) Exclusive Benefit of Participants

The Trust Fund shall be maintained for the exclusive benefit of Participants and in accordance with the terms of the Plan and governing California and federal law. No part of the Trust Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of such Participants.

(c) No Reversion to the Employer

Except as provided in section 3(d) below, it shall be impossible, at any time, for any part of the Trust Fund, other than such part as is required to pay taxes and administrative expenses, to be returned to, or revert to, the Employer, to be recoverable by the Employer, or to be used for, or diverted to, purposes other than for the exclusive benefit of the Participants.

(d) Reversion if IRS Does Not Issue Favorable Determination Letter for Retirement Plan

All contributions made to the Trust Fund prior to the issuance of a letter from the Internal Revenue Service ("IRS") that the Retirement Plan is tax qualified under section 401(a) of the Code are expressly conditioned on the initial qualification of the Retirement Plan under section 401(a) of the Code. If the Retirement Plan is submitted to the IRS within the period prescribed by section 401(b) of the Code for a determination as to its initial qualification, and the IRS determines that the Plan is not so qualified, all such contributions, together with all earnings thereon, shall be returned to the Employer within one (1) year following such determination by the IRS.

(e) Receipt of Contributions

The Trustee shall receive all contributions made under the Plan. However, the Plan Administrator may elect to have all contributions paid directly to a custodian or insurance company engaged by the Employer to receive contributions. The Trustee shall not be responsible in any way for the administration of the Plan and shall be under no duty to determine whether the amount of any contribution is in accordance with the Plan or to collect or enforce payment of any contribution.

(f) Distributions

Distributions from the Trust Fund shall be made by the Trustee only to such persons, in such manner, at such times, and in such amounts as the Plan Administrator shall direct in writing from time to time. The Plan Administrator may also direct in writing the payment or reimbursement of expenses of administering the Plan or this Trust Agreement. The Trustee shall be fully protected in making payments in accordance with directions of the Plan Administrator without ascertaining whether such payments are in compliance with the terms of the Plan. All payments of benefits under the Plan shall be made solely and exclusively from the assets of the Trust Fund as they may exist at the time or times of payment, and no person shall be entitled to look to any other source for such payments.

SECTION 4. DUTIES AND POWERS OF THE TRUSTEE

(a) General Powers of the Trustee

The Trustee shall have all of the powers necessary or desirable to perform properly the duties herein set forth.

(b) Investment Powers of the Trustee.

Notwithstanding any Plan provisions that give the exclusive authority and discretion to the Trustee to manage and control the assets of the Plan, the Employer and the Trustee acknowledge and agree that the Trustee shall be directed with respect to all investments. Such direction shall be pursuant to the Plan and shall be either by the Plan Administrator or by investment managers chosen pursuant to the Plan.

(c) Agents

With the prior written approval of the Plan Administrator, and subject to applicable state law, the Trustee may employ such counsel, accountants, brokers, actuaries and other agents and provide for such clerical, accounting, actuarial and other services as the

Trustee may deem advisable to perform its duties under this Trust Agreement, or as may be directed by the Plan Administrator.

(d) Settlement of Claims

With the prior written approval of the Plan Administrator, the Trustee shall have the power and authority to settle, compromise or submit to arbitration, any claims, debts or damages due or owing to or from the Trust Fund; to commence or defend suits or legal or administrative proceedings whenever, in its judgment, any interest of the Trust Fund so requires, and to represent the Trust Fund in all suits or legal or administrative proceedings in any court of law or equity or before any other body or tribunal. The Trustee shall inform the Authority and the Plan Administrator as soon as possible about any such claims, debts or damages, and shall fully cooperate with the Employer and the Plan Administrator with respect to any suits or legal or administrative proceedings that result from or arise out of such claims, debts or damages.

(e) Accounting

(i) The Trustee shall keep appropriate and accurate accounts of, and records reflecting all transactions concerning the Trust Fund, including but not limited to contributions, gains, losses, expenses, and distributions of benefits. However, if the Plan Administrator elects to have all contributions paid directly to a custodian or insurance company to receive contributions, then the Trustee shall be entitled to rely on the records of accounts provided to it by such custodians or insurance companies, and by the Authority, with respect to contributions, gains, losses, expenses, distributions of benefits and all other transactions involving the Trust Fund. The Trustee shall be entitled to be reimbursed for its actual and reasonable expenses incurred in preparing any accounting.

(ii) The Trustee shall furnish the Plan Administrator a written account of the transactions concerning and status of the Trust Fund at such times and from time to time as agreed to with the Plan Administrator, but no less than annually, as soon as practical after the close of the Plan Year. The Trustee and Plan Administrator shall agree on the format and contents of such accounting. At any time, the Plan Administrator may (but is not required to) engage an independent certified public accountant to examine the Plan's financial statements or internal control procedures. If the Plan Administrator engages an independent accountant, the Plan Administrator shall require that such engagement provide that the examination be made according to generally accepted auditing standards (or according to other agreed-upon procedures that the Trustee approves in writing), and that the Trustee is entitled to rely upon the accountant's examination and opinion and all reports relating to the examination.

(iii) Except as otherwise ordered by a court having jurisdiction, no person other than the Plan Administrator may require an accounting by the Trustee.

(iv) Notwithstanding anything in this Trust Agreement to the contrary, the Trustee shall have the right at any time to petition any appropriate court for a settlement of the Trust Fund's accounts or for the court's instructions in executing the Trustee's obligations under the Trust Fund created by this Trust Agreement.

(f) Compensation

The Trustee shall be paid such compensation and expenses that are agreed to, from time to time, by it and the Plan Administrator.

(g) Fiduciary Standards

The Trustee shall discharge its duties under this Trust Agreement solely in the interest of the Participants and Beneficiaries of the Plan and in accordance with governing state and federal law and the terms of the Plan and the Trust Agreement. Such duties shall be discharged for the exclusive purpose of providing benefits to the Participants and paying expenses of the Plan. In addition, the Trustee shall discharge its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and as defined by applicable state law.

SECTION 5. REPLACEMENT OF THE TRUSTEE

(a) Replacement of the Trustee

(i) The Employer may remove and replace the Trustee at any time and from time to time with a written notice to the Trustee of removal and replacement. Except where necessary to protect the rights and benefits of Plan Participants, the Employer shall give at least 60 days written notice of removal and replacement to the Trustee.

(i) In the event another entity or person replaces the Trustee, the Trustee shall take all necessary and appropriate steps to transfer to its successor trustee the entire Trust Fund as soon as possible. The Trustee may undertake a reasonable accounting of the Trust Fund prior to such transfer but such accounting shall not cause unreasonable delay in any transfer of the Trust Fund.

(ii) The replacement of the Trustee shall not result in the termination of this Trust Agreement. A successor Trustee shall have the same powers and duties as those herein conferred upon the Trustee.

(b) Resignation of the Trustee

The Trustee may resign at any time by giving one hundred twenty (120) days advance written notice to the Plan Administrator and the Employer.

**SECTION 6. AMENDMENT OF THE TRUST AGREEMENT
AND TERMINATION OF THE TRUST FUND**

(a) Term of the Trust Agreement

This Trust Agreement shall continue as long as the Plan is in full force and effect. If the Plan ceases to be in full force and effect, this Trust Agreement shall thereupon terminate unless expressly extended by the Employer.

(b) Amendment of the Trust Agreement

(i) This Trust Agreement may be amended by the Employer with the written consent of the Trustee, but may only be amended if there is no reduction in the then existing benefits of any Participant as a result of such amendment. This Trust Agreement may also be amended to change the party that serves as Trustee without the consent of the then Trustee.

(ii) Amendments to this Trust Agreement shall be made by the Employer.

(c) Termination of the Trust Fund

The Employer reserves the right to terminate the Trust Fund at any time for any reason. Upon termination of the Trust Fund, the Employer shall determine the manner in which the assets of the Trust Fund shall be disposed of in accordance with the terms of the Plan. On the termination of the Trust Fund, all assets held therein shall be paid to the Plan Participants in accordance with the terms of the Plan governing benefits upon termination in Section 9.

SECTION 7. MISCELLANEOUS

(a) Reliance

The parties hereto shall be protected in acting upon any notice, resolution, request, consent order, certificate, report, opinion, statement or other document which they reasonably believed to be genuine and to have been signed by the proper party or parties or by a person or persons authorized to act on its behalf.

(b) Person Dealing with the Trustee

No person dealing with the Trustee shall be under any obligation to inquire into the validity, expediency or propriety of any action by the Trustee or of any exercise by it of any of the powers conferred upon it by this Trust Agreement. The execution by the Trustee of any instrument, document or paper in connection with the exercise of any of the powers enumerated herein shall, of itself, be conclusive evidence to all persons of the authority of the Trustee to execute the same and to exercise the powers incident thereto.

(c) Advice of the Plan Administrator

If at any time or times the Trustee is in reasonable doubt as to the course which it should follow in any matter relating to the administration of this Trust Agreement, it may request the Plan Administrator to advise it with respect thereto, and it shall be protected in relying upon the advice or direction which may be given it by the Plan Administrator in response to such request.

(d) Anti-Alienation

No right or claim to, or interest in, any part of any payment from the Plan or Trust Fund shall be subject to anticipation, alienation, sale, transfer, assignment, mortgage, pledge, garnishment, encumbrance, hypothecation, commutation, charge, or any other process of any court except to such extent required by law. No benefit payable from the Plan or Trust Fund to any person shall in any manner be liable for, or subject to, the debts,

contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, except to such extent required by law. Any attempt to anticipate, alienate, sell, transfer, assign, mortgage, pledge, garnish, encumber, charge, or levy against any benefit under the Plan or Trust Fund shall be void, except as required by law. No portion of the benefits payable under this Plan or Trust Fund shall be subject to the bankruptcy estate of any Participant in the Plan, except as required by law.

(e) Notices

All orders, requests, directions and instructions of the Plan Administrator to the Trustee shall be in writing, signed by a person authorized to act on its behalf. Unless the Trustee knows or has reason to know (through its exercise of its fiduciary duties or otherwise) that the direction constitutes a breach of the Plan Administrator's duties or responsibilities under the Plan, the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, directions and instructions. In the absence of knowledge of, or reason to know, that the direction constitutes such a breach, the Trustee shall be entitled to rely conclusively on such direction, and shall have no further duty to make any investigation or inquiry before acting upon any such direction of the Plan Administrator.

(f) Law

This Trust Agreement is made in the State of California, and shall be construed in accordance with the laws thereof

(g) Invalidity

In the event any provision of this Trust Agreement shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof, and this Trust Agreement shall thereafter be construed and enforced as if said illegal or invalid provision had never been included therein.

EXECUTION OF TRUST

The parties have caused this Trust Agreement to be executed by their representatives to be effective as of September 5, 2019.

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

(signature)

(name)

(title)

Date:_____

TRUSTEE

(signature)

(name)

(title)

Date:_____

Attachment C

THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RETIREE HEALTH REIMBURSEMENT ARRANGEMENT

(Effective September 5, 2019)

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I ESTABLISHMENT AND PURPOSE OF THE HRA	1
ARTICLE II DEFINITIONS	1
ARTICLE III ELIGIBILITY, PARTICIPATION, AND COVERAGE.....	3
ARTICLE IV VESTING AND BENEFITS	4
ARTICLE V BENEFIT FUNDING	5
ARTICLE VI ADMINISTRATION OF THE HRA.....	5
ARTICLE VII AMENDMENT AND TERMINATION OF THE HRA.....	7
ARTICLE VIII GENERAL PROVISIONS.....	8
APPENDIX A: HIPAA COMPLIANCE	A-1

THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RETIREE HEALTH REIMBURSEMENT ARRANGEMENT

(Effective September 5, 2019)

ARTICLE I ESTABLISHMENT AND PURPOSE OF THE HRA

The San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement (the "HRA"), is being established as the means of replacing supplemental benefits provided to eligible retirees of the San Francisco Bay Area Water Emergency Transportation Authority (the "Employer") that have been referred to as the Longevity Stipend. The Longevity Stipend was established by the Employer at its inception in 2008. The Longevity Stipend was intended to provide to eligible retirees a monthly payment equal to the amount of the monthly PERS Care single rate under CalPERS Health for that year, unless the individual were covered under CalPERS Health for that year, in which case the monthly amount would be reduced by the minimum required contribution under CalPERS Health for retiree health costs required under Government Code section 22892(b)(1). The purpose of the benefit was to supplement retiree healthcare costs. The HRA and accompanying Trust Fund are intended to provide a tax efficient alternative to the Longevity Stipend and to satisfy the requirements under the Internal Revenue Code for tax-free reimbursement of retiree health care expenses. The HRA and its related trust are also intended to satisfy GASB 74 and 75, such that the amounts held in trust can be used to offset any liability for such benefits on the financial statements of the Employer. Since the type of benefit provided under the Longevity Stipend is not permitted for Employees who are considered "new members" for purposes of CalPERS retirement benefits following the enactment of California's Public Employees' Pension Reform Act of 2013 ("PEPRA"), the Employer has determined to establish this HRA, which is available only to employees hired on or after PEPRA's enactment on January 1, 2013. Any Employee who is eligible for benefits under this HRA is excluded from participation in the supplemental defined benefits offered under the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan in accordance with PEPRA requirements.

The HRA is intended to qualify as a health reimbursement arrangement within the meaning of Internal Revenue Service Notice 2002-45 and any subsequent guidance, and it is intended that the benefits under the HRA be tax-free to the maximum extent permitted under the Internal Revenue Code and the regulations issued thereunder. The HRA will be administered and interpreted to accomplish that objective. Capitalized terms used in this HRA that are not otherwise defined have the meanings set forth in Article II.

ARTICLE II DEFINITIONS

- 2.1 "Beneficiary"** means an Eligible Retiree's Spouse or Eligible Dependent.
- 2.2 "Board of Directors"** means the governing body of the Employer.
- 2.3 "CalPERS"** means the California Public Employees' Retirement System which administers CalPERS Retirement benefits and CalPERS Health.

2.4 “CalPERS Health” means the health care program made available by the Employer to Eligible Retirees under the Public Employees’ Medical and Hospital Care Act (PEMHCA), codified under sections 22750 - 22948 of the California Government Code, which program provides health insurance under various coverage options from which covered individuals may select.

2.5 “COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

2.6 “Code” means the Internal Revenue Code of 1986 and the Treasury Regulations and guidance issued thereunder, as amended.

2.7 “Effective Date” means September 5, 2019.

2.8 “Eligible Retiree” means an Employee who has met the eligibility requirements in Article III. An individual’s status as an Eligible Retiree will be determined solely by the Employer.

2.9 “Eligible Dependent” means an individual who is a dependent, as defined in Code section 152 (determined without regard to subsection (b)(1), (b)(2) and (d)(1)(B) thereof), of an Eligible Retiree. An Eligible Dependent also may be a child of an Eligible Retiree who is the subject of a "qualified medical child support order" (as defined in Section 609 of the Employee Retirement Income Security Act of 1974, as amended), even if the child is not otherwise a "dependent" under Code section 152.

2.10 “Employee” means a person whom the Employer classifies as a common-law employee and who is on the Employer's W-2 payroll, but does not include the following: (a) any leased employee (including but not limited to those individuals defined as leased employees in Code Section 414(n) or an individual classified by the Employer as a contract worker, independent contractor, temporary employee, or casual employee for the period during which such individual is so classified, whether or not any such individual is on the Employer's W-2 payroll or is determined by the IRS or others to be a common-law employee of the Employer; and (b) any individual who performs services for the Employer but who is paid by a temporary or other employment or staffing agency for the period during which such individual is paid by such agency, whether or not such individual is determined by the IRS or others to be a common-law employee of the Employer.

2.11 “Employer” means the San Francisco Bay Area Water Emergency Transportation Authority.

2.12 “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended.

2.13 “HRA” means this San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement, as set forth herein and amended from time to time.

2.14 “HRA Administrator” means the Employer unless the Employer designates another person or organization to hold the position of HRA Administrator. The Employer may alternatively designate another person or organization to perform certain duties assigned to the HRA Administrator under this HRA.

2.15 "HRA Year" means the calendar year (i.e., the 12-month period commencing January 1 and ending on December 31).

2.16 "Partner Organization" means the Employer's predecessor agency, the San Francisco Bay Water Transit Authority, and the Employer's former partner, Local Government Services.

2.17 "Spouse" means an individual who is legally married to an Eligible Retiree or a domestic partner of an Eligible Retiree, provided that the domestic partnership is registered in accordance with California Family Code section 297.

2.18 "Trust" means the legal entity that the Employer may establish and/or adopt to hold any assets it has irrevocably set aside to pay benefits under the HRA.

ARTICLE III ELIGIBILITY, PARTICIPATION, AND COVERAGE

3.1 Eligibility. Any Employee or former Employee hired on or after January 1, 2013 is eligible to participate in the HRA if, at the time of retirement:

- a) the Employee has performed at least ten years of service, including any service with the Employer or a Partner Organization; and
- b) the Employee is eligible for and begins receiving retirement benefits under CalPERS.

3.2 No Benefits Unless Eligible. An Employee will not have any interest under the HRA unless he or she meets all of the requirements under Section 3.1. Any person who does not meet these requirements will not be entitled to any benefits under the HRA. An individual's status as eligible shall be determined solely by the HRA Administrator, and such determination shall be conclusive and binding upon all persons.

3.3 Commencement of Participation. Each Eligible Retiree on the Effective Date will participate in the HRA beginning on that date. Each person who becomes an Eligible Retiree after the Effective Date will begin participation in the HRA on the first day of the month coincident with or next following the date that he or she becomes an Eligible Retiree.

3.4 Period of Coverage. Coverage under this HRA for an Eligible Retiree will begin on the first day of the calendar month he or she meets all of the requirements under Section 3.1.

3.5 Termination of Participation. An Eligible Retiree's participation in the HRA terminates upon the earlier of:

- a) the date he or she ceases to be an Eligible Retiree;
- b) the date that the Eligible Retiree is reemployed by the Employer, as provided in Section 3.6; or
- c) the Eligible Retiree's death, except reimbursements under Section 4.2 may continue to the Eligible Retiree's Spouse or Eligible Dependent until any funds remaining funds in the Eligible Retiree's account at death have been used for reimbursements in accordance with Sections 4.2 and 4.4.

3.6 Reemployed Retirees. If the Employer reemploys an Eligible Retiree, any benefits provided under the HRA to that Eligible Retiree will cease effective on the reemployment date and his or her HRA participation will cease. The Eligible Retiree will be entitled to benefits under the HRA upon subsequent termination of employment only if he or she is then eligible under this Article III.

ARTICLE IV VESTING AND BENEFITS

4.1 Amount of Benefits. Each Eligible Retiree will be entitled to receive health care reimbursements from an account that will be established for each Eligible Retiree upon commencement of participation in the HRA. As of the date participation commences, the account of an Eligible Retiree will be credited with an amount equal to the monthly PERS Care single rate under CalPERS Health for that HRA. Notwithstanding the foregoing, if an Eligible Retiree is covered by CalPERS Health coverage for any HRA Year, each monthly amount for that HRA Year will be reduced by the minimum required contribution under CalPERS Health for retiree health costs required under Government Code section 22892(b)(1) because that monthly amount will be paid directly to CalPERS on behalf of the CalPERS Health-covered Eligible Retiree. Prior to the beginning of each subsequent month, an Eligible Retiree will be credited with an amount equal to the monthly PERS Care single rate under CalPERS Health for that HRA Year, reduced by the minimum required contribution under CalPERS Health for retiree health costs required under Government Code section 22892(b)(1) for any Eligible Retiree participating in CalPERS Health. Amounts in an Eligible Retiree's account will be used to reimburse Eligible Retirees, Spouses or Eligible Dependents for qualified medical expenses incurred under Code section 213. Such reimbursements may include paying for additional premium costs under the CalPERS Health retiree medical program, as well as other medical costs that may not be covered under the CalPERS Health program. A list of reimbursable expenses can be found in Internal Revenue Service Publication 502, entitled "Medical and Dental Expenses" or similar guidance from the Internal Revenue Service.

4.2 Reimbursements Under the HRA. Benefits under the HRA will be provided in the form of cash reimbursements of Code section 213 qualified medical expenses. Any such qualified medical expenses (including any premium costs) may not be paid or reimbursed from any other source and must be substantiated in accordance with Section 4.3. To the extent permitted under the applicable tax rules, unused amounts for any HRA Year may be applied to costs in any subsequent HRA Year and unused amounts may roll over to any subsequent HRA Year. The Eligible Retiree will be solely responsible for paying the cost of any amounts required for health care coverage that are not reimbursed under this HRA or otherwise paid by the Employer.

4.3 Substantiation of Expenses. Reimbursements of health care premium expenses under the HRA must be properly documented and substantiated at the time and in the manner determined by the HRA Administrator. The HRA Administrator has authority to establish rules and procedures to be followed by individuals in filing applications for benefits, for furnishing and verifying proofs necessary to establish their rights to benefits under the HRA, or for any other reason it deems necessary for the efficient administration of the HRA. Upon satisfactory documentation and substantiation, the HRA Administrator will direct payment to the Eligible Retiree (or Beneficiary) as soon as administratively feasible.

4.4 Death Benefits. If an Eligible Retiree dies, reimbursements under Section 4.2 may be made under the HRA to the Eligible Retiree's Spouse or Eligible Dependents only to the extent of the amounts remaining in the Eligible Retiree's account upon the date of death.

ARTICLE V BENEFIT FUNDING

5.1 Employer Contributions. All benefits under the HRA will be paid by Employer contributions and earnings thereon. Employee contributions are not permitted. The HRA is intended to be funded to provide an amount to be credited on a monthly basis for each account for each Eligible Retiree equal to the amount of the monthly PERS Care single rate under CalPERS Health for that year. Notwithstanding the foregoing, if an Eligible Retiree is covered by CalPERS Health coverage for an HRA Year, the monthly amount is reduced by the minimum required contribution under CalPERS Health for retiree health costs required under Government Code section 22892(b)(1) and that amount will be paid directly to CalPERS on behalf of the CalPERS Health-covered Eligible Retiree. In determining the amount of any pre-funding of contributions to the Trust, the Employer may engage an actuary to conduct actuarial experience studies and periodic actuarial valuations of the HRA benefits and to recommend to the Employer the amount of contributions that are needed in order to fund the HRA's benefits. The Employer may, but is not required, to pre-fund the annual HRA contribution amounts.

5.2 Trust. The Employer may establish or adopt a Trust to receive and invest assets set aside by the Employer to pay benefits under the HRA. The Trust may specifically provide, among other things, for the investment and reinvestment of the Trust assets and the income thereof, the management of the Trust assets, the responsibilities and immunities of the trustee, removal of the trustee and appointment of a successor, accounting by the trustee and the disbursement of the Trust assets. The trustee will, in accordance with the terms of the Trust, accept and receive all contributions paid to it from time to time, and shall hold, invest, reinvest and manage such moneys and any increment, increase, earnings and income thereof for the exclusive benefit of Eligible Retirees and Beneficiaries and for the payment of reasonable expenses of administering the HRA and the Trust.

ARTICLE VI ADMINISTRATION OF THE HRA

6.1 HRA Administrator. The administration of this HRA will be under the supervision of the HRA Administrator. It is the principal duty of the HRA Administrator to see that this HRA is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in this HRA.

The Employer shall indemnify the HRA Administrator who is an officer or Employee of the Employer to the maximum extent allowed by law against any and all claims, loss, damage, expense and liability arising from any act or failure to act relating to the HRA Administrator's duties and powers unless the same is determined by a court of competent jurisdiction to be solely the result of the HRA Administrator's gross negligence or willful misconduct.

6.2 Powers of the HRA Administrator. The HRA Administrator will have such duties and powers as it considers necessary or appropriate to discharge its duties. It will have the exclusive right to interpret the HRA and to decide all matters thereunder, and all determinations of the HRA Administrator with respect to any matter hereunder will be conclusive and binding on

all persons. Without limiting the generality of the foregoing, the HRA Administrator will have the following discretionary authority:

- a) to construe and interpret the HRA, including all possible ambiguities, inconsistencies, and omissions in the HRA and related documents, and to decide all questions of fact, questions relating to eligibility and participation, and questions of benefits under the HRA;
- b) to prescribe procedures to be followed and the forms to be used by Eligible Retirees, Surviving Spouses and Eligible Dependents to claim reimbursements under the HRA;
- c) to prepare and distribute information explaining the HRA and the benefits under the HRA in such manner as the HRA Administrator determines to be appropriate;
- d) to request and receive from all Eligible Retirees, Surviving Spouses and Eligible Dependents such information as the HRA Administrator will from time to time determine to be necessary for the proper administration of the HRA;
- e) to furnish each Eligible Retiree, Surviving Spouse, and Eligible Dependent with such reports with respect to the administration of the HRA as the HRA Administrator determines to be reasonable and appropriate;
- f) to receive, review, and keep on file such reports and information regarding the benefits covered by the HRA as the HRA Administrator determines from time to time to be necessary and proper;
- g) to appoint and employ such individuals or entities to assist in the administration of the HRA as it determines to be necessary or advisable, including legal counsel and benefit consultants;
- h) to sign documents for the purposes of administering the HRA, or to designate an individual or individuals to sign documents for the purposes of administering the HRA;
- i) to secure or require such evidence as it deems necessary to decide any claim for benefits under the HRA; and
- j) to maintain the books of accounts, records, and other data in the manner necessary for proper administration of the HRA and to meet any applicable disclosure and reporting requirements.

6.3 Fiduciary Duties. Each HRA fiduciary shall discharge its duties solely in the interest of Eligible Retirees and Beneficiaries and for the exclusive purpose of providing benefits under the HRA, or defraying reasonable expenses of administering the HRA. Each HRA fiduciary, in carrying out such duties and responsibilities, shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use. A fiduciary may serve in more than one fiduciary capacity and may employ one or more persons to render advice with regard to its fiduciary responsibilities. If the fiduciary is serving as such without compensation, all expenses

reasonably incurred by such fiduciary will be paid by the Employer. The Employer may, however, elect to have those expenses paid from Trust assets.

6.4 Provision for Third-Party HRA Service Providers. The HRA Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection with the operation of the HRA. Unless otherwise provided in the service agreement, obligations under the HRA shall remain the obligation of the Employer or HRA Administrator, as applicable.

6.5 Inability to Locate Payee. If the HRA Administrator is unable to make payment to any person to whom a payment is due under the HRA because it cannot ascertain the identity or whereabouts of such person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such person will be forfeited following a reasonable time after the date any such payment first became due.

6.6 COBRA and HIPAA Compliance. The HRA will comply with the applicable requirements of COBRA, and with the applicable requirements of HIPAA in accordance with the rules set out in Appendix A.

ARTICLE VII AMENDMENT AND TERMINATION OF THE HRA

7.1 No Vested Rights. The Employer may at any time amend or terminate the HRA as provided in Sections 7.2 and 7.3. Nothing in the HRA is intended to or will be construed to entitle any Eligible Retiree or other person to vested or non-terminable benefits.

7.2 Amendment of the HRA. The Employer may amend all or any part of this HRA at any time for any reason by resolution of the Board of Directors or by any person or persons authorized by the Board of Directors to take such action. Any such amendment will supersede and override any claim to "vested rights" that any person may otherwise have with respect to benefits under the HRA.

7.3 Termination of the HRA.

- a) The Employer has established the HRA with the expectation that it will be continued, but continuance is not a contractual or other obligation of the Employer and no Employee of the Employer or other person will have any vested right to continuance of the HRA or to continuance of any Employer contributions to the HRA. The Employer reserves the right at any time to terminate the HRA without prejudice and for any reason, and such termination will supersede and override any claim to "vested rights" that any person may otherwise have with respect to benefits under the HRA. Such decision to terminate the HRA will be made in writing and must be approved by the Board of Directors.
- b) If the HRA is terminated, the Employer shall direct the Trustee to compute the value of the HRA assets under the Trust as of the date of termination. Those assets will continue to be held in the Trust, and will be distributed to pay any remaining benefits owed under the HRA until those benefits are satisfied.
- c) The "partial termination" rules of the Code that apply to tax-qualified retirement plans will not apply under this HRA, and no action will be taken with respect to

this HRA in connection with any event or events that would be a partial termination for a tax-qualified plan.

7.4 Determination of Effective Date of Amendment or Termination. Any such amendment, discontinuance or termination will be effective as of the date the Employer determines.

7.5 Assets After Termination. Any assets remaining in the Trust after all HRA expenses have been paid will be used to provide reimbursements to Eligible Retirees, Spouses and Eligible Dependents.

7.6 Limitation of Obligations. The Employer must provide all benefits accrued by Eligible Retirees under the HRA through its termination. Once those benefits are satisfied, the Employer will not have any remaining obligations to provide any benefit under the HRA. No one will accrue benefits under the HRA after its termination.

ARTICLE VIII GENERAL PROVISIONS

8.1 Governing Law. The provisions of the HRA will be construed, administered and enforced according to applicable federal law and, to the extent not preempted, the laws of the State of California.

8.2 Requirement for Proper Forms. All communications in connection with the HRA made by an Eligible Retiree or Beneficiary will become effective only when duly executed on any forms as may be required and furnished by, and filed with, the Employer or HRA Administrator, as applicable.

8.3 No Guarantee of Tax Consequences. This HRA is intended to permit an Eligible Retiree to obtain reimbursement benefits under this HRA on a non-taxable basis. Neither the Employer nor any HRA Administrator, however, makes any warranty or other representation as to whether any benefits under the HRA will be treated as excludable from gross income for federal, state, or local income tax purposes. If for any reason it is determined that any amount paid for the benefit of an Eligible Retiree or Beneficiary is includable in gross income for federal, state or local income tax purposes, then under no circumstances will the recipient have any recourse against the Employer or HRA Administrator with respect to any increased taxes or other losses or damages suffered by the Eligible Retiree or Beneficiary as a result thereof. To the extent required by the Code, the Employer will follow the tax withholding and reporting requirements applicable to benefits paid under this HRA to or for a non-dependent domestic partner.

8.4 Compliance With Code and Other Applicable Laws. It is intended that this HRA meet all applicable requirements of the Code and all regulations and guidance issued thereunder. This HRA will be construed, operated and administered accordingly, and in the event of any conflict between any part, clause, or provision of this HRA and the Code, the provisions of the Code will be deemed controlling, and any conflicting part, clause, or provision of this HRA will be deemed superseded to the extent of the conflict. In addition, the HRA will comply with the requirements of all other applicable laws.

8.5 Headings. The headings of the various articles and sections are inserted for convenience of reference and are not to be regarded as part of the HRA or as indicating or controlling the meaning or construction of any provision.

8.6 Severability. Should any part of this HRA subsequently be invalidated by a court of competent jurisdiction, the remainder of the HRA will be given effect to the maximum extent possible.

8.7 Administration Expenses. The Employer will pay the reasonable expenses of administering the HRA, including but not limited to the reasonable compensation of any counsel, accountants, and other agents hired by the Employer, HRA Administrator, or Board of Directors, as well as any other expenses incurred in administering the HRA. The Employer may, however, elect to have those expenses paid from Trust assets to the extent permissible under applicable law.

8.8 Effect of Mistake. In the event of a mistake as to the eligibility or participation of an individual, or the allocations made with respect to any Eligible Retiree, or the amount of distributions made or to be made to an Eligible Retiree or other person, the Employer or HRA Administrator will, to the extent it deems possible, cause to be allocated or cause to be withheld or accelerated, or otherwise make adjustment of, such amounts as will in its judgment accord to such Eligible Retiree or other person that to which he or she is properly entitled under the HRA.

8.9 No Contract of Employment. The HRA does not provide any person with any right to be retained in the Employer's employment or service. An Eligible Retiree's sole rights under the HRA are limited to those described in this document.

8.10 HRA Provisions Controlling. The HRA encompasses the benefits provided by the Employer to Eligible Retirees. In the event that the terms or provisions of any summary or description of this HRA are interpreted as being in conflict with the provisions of this HRA as set forth in this document, the provisions of this HRA will be controlling.

8.11 Non-Assignability of Rights. The right of any Eligible Retiree or Beneficiary to receive any reimbursement under this HRA will not be alienable by the Eligible Retiree or Beneficiary by assignment or any other method and will not be subject to claims by his or her creditors by any process whatsoever. Any attempt to cause such right to be so subjected will not be recognized, except to the extent required by law.

8.12 Provisions Applicable During Periods of Military Service. Notwithstanding any HRA provision to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided as required by any law concerning veterans' rights.

ADOPTION OF HRA

To record the adoption of the HRA, the Employer has caused its authorized representative to execute this document effective September 5, 2019.

San Francisco Bay Area Water Emergency Transportation Authority

By: _____

Title: _____

Date: _____

APPENDIX A: HIPAA COMPLIANCE

A.1 Provision of Protected Health Information to Employer

Members of the Employer's workforce may, from time to time, have access to the individually identifiable health information of HRA participants for administrative functions of the HRA. When this health information is provided from the HRA to the Employer, it is Protected Health Information (PHI). The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations restrict the Employer's ability to use and disclose PHI. The following HIPAA definition of PHI applies:

Protected Health Information. Protected health information means information that is created or received by the HRA and relates to the past, present, or future physical or mental health or condition of a participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. Protected health information includes information of persons living or deceased.

The Employer will have access to PHI from the HRA only as permitted under the HRA or as otherwise required or permitted by HIPAA. HIPAA and its implementing regulations were modified by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), the statutory provisions of which are incorporated herein by reference.

A.2 Permitted Disclosure of Enrollment/Disenrollment Information

The HRA may disclose to the Employer information on whether the individual is participating in the HRA.

A.3 Permitted Uses and Disclosure of Summary Health Information

The HRA may disclose Summary Health Information to the Employer, provided that the Employer requests the Summary Health Information for the purpose of modifying, amending, or terminating the HRA.

"Summary Health Information" means information (a) that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor had provided health benefits under a health plan; and (b) from which the information described at 42 CFR Section 164.514(b)(2)(i) has been deleted, except that the geographic information described in 42 CFR Section 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.

A.4 Permitted and Required Uses and Disclosure of PHI for HRA Administration Purposes

Unless otherwise permitted by law, and subject to the conditions of disclosure described in Section A.5 and obtaining written certification pursuant to Section A.7, the HRA may disclose PHI to the Employer, provided that the Employer uses or discloses such PHI only for HRA administration purposes. "HRA administration purposes" means administration functions performed by the Employer on behalf of the HRA, such as quality assurance, claims processing, auditing, and monitoring. HRA administration functions do not include functions performed by

the Employer in connection with any other benefit or benefit plan of the Employer, and they do not include any employment-related functions.

Notwithstanding the provisions of this HRA to the contrary, in no event will the Employer be permitted to use or disclose PHI in a manner that is inconsistent with 45 CFR Section 164.504(f).

A.5 Conditions of Disclosure for HRA Administration Purposes

The Employer agrees that with respect to any PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) disclosed to it by the HRA, the Employer will:

- not use or further disclose the PHI other than as permitted or required by the HRA or as required by law;
- ensure that any agent, including a subcontractor, to whom it provides PHI received from the HRA agrees to the same restrictions and conditions that apply to the Employer with respect to PHI;
- not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer;
- report to the HRA any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware;
- make available PHI to comply with HIPAA's right to access in accordance with 45 CFR Section 164.524;
- make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR Section 164.526;
- make available the information required to provide an accounting of disclosures in accordance with 45 CFR Section 164.528;
- make its internal practices, books, and records relating to the use and disclosure of PHI received from the HRA available to the Secretary of Health and Human Services for purposes of determining compliance by the HRA with HIPAA's privacy requirements;
- if feasible, return or destroy all PHI received from the HRA that the Employer still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
- ensure that the adequate separation between the HRA and the Employer (i.e., the "firewall"), required in 45 CFR Section 504(f)(2)(iii) is satisfied.

The Employer further agrees that if it creates, receives, maintains, or transmits any electronic PHI (other than enrollment/disenrollment information and Summary Health Information, which

are not subject to these restrictions) on behalf of the HRA, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agree to implement reasonable and appropriate security measures to protect the information. The Employer will report to the HRA any security incident of which it becomes aware.

A.6 Adequate Separation Between HRA and Employer

The Employer will allow the following persons access to PHI: the Executive Director, the Finance and Administration Manager, the Human Resources Manager, the HRA Administrator, and any other Employee who needs access to PHI in order to perform HRA administration functions that the Employer performs for the HRA (such as quality assurance, claims processing, auditing, and monitoring). No other persons will have access to PHI. These specified employees (or classes of employees) will only have access to and use PHI to the extent necessary to perform the HRA administration functions that the Employer performs for the HRA. In the event that any of these specified employees does not comply with the provisions of this Section, that employee will be subject to disciplinary action by the Employer for non-compliance pursuant to the Employer's employee discipline and termination procedures.

The Employer will ensure that the provisions of this Section A.6 are supported by reasonable and appropriate security measures to the extent that the designees have access to electronic PHI.

A.7 Certification of Plan Sponsor

The HRA will disclose PHI to the Employer only upon the receipt of a certification by the Employer that the HRA incorporates the provisions of 45 CFR Section 164.504(f)(2)(ii), and that the Employer agrees to the conditions of disclosure set forth in Section A.5. Execution of the HRA by the Employer will serve as the required certification.

A.8 Privacy Official

The Employer will designate a Privacy Official, who will be responsible for the HRA's compliance with HIPAA. The Privacy Official may contract with or otherwise utilize the services of attorneys, accountants, brokers, consultants, or other third party experts as the Privacy Official deems necessary or advisable. In addition and notwithstanding any provision of this HRA to the contrary, the Privacy Official will have the authority to and be responsible for:

- accepting and verifying the accuracy and completeness of any certification provided by the Employer under this Appendix;
- transmitting the certification to any third parties as may be necessary to permit them to disclose PHI to the Employer;
- establishing and implementing policies and procedures with respect to PHI that are designed to ensure compliance by the HRA with the requirements of HIPAA;
- establishing and overseeing proper training of personnel who will have access to PHI; and

- any other duty or responsibility that the Privacy Official, in his or her sole capacity, deems necessary or appropriate to comply with the provisions of HIPAA and the purposes of this Appendix.

A.9 Interpretation and Limited Applicability

This Appendix serves the sole purpose of complying with the requirements of HIPAA and will be interpreted and construed in a manner to effectuate this purpose. Neither this Appendix nor the duties, powers, responsibilities, and obligations listed herein will be taken into account in determining the amount or nature of the benefits provided to any person covered under the HRA, nor will they inure to the benefit of any third parties. To the extent that any of the provisions of this Appendix are no longer required by HIPAA or do not apply to the HRA because the HRA is otherwise excepted from HIPAA, they will be deemed deleted and will have no force or effect.

A.10 Service Performed for the Employer

Notwithstanding any other provisions of this HRA to the contrary, all services performed by a business associate for the HRA in accordance with the applicable service agreement will be deemed to be performed on behalf of the HRA and subject to the administrative simplification provisions of HIPAA contained in 45 CFR Parts 160 through 164, except services that relate to eligibility and enrollment in the HRA. If a business associate of the HRA performs any services that relate to eligibility and enrollment in the HRA, these services will be deemed to be performed on behalf of the Employer in its capacity as Plan Sponsor and not on behalf of the HRA.

TRUST AGREEMENT

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

RETIREE HEALTH REIMBURSEMENT ARRANGEMENT

(Effective September 5, 2019)

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. ESTABLISHMENT AND PURPOSE OF THE TRUST	1
SECTION 2. DEFINITIONS AND CONSTRUCTION.....	1
SECTION 3. ESTABLISHMENT OF THE TRUST FUND	2
SECTION 4. DUTIES AND POWERS OF THE TRUSTEE	3
SECTION 5. REPLACEMENT OF THE TRUSTEE	4
SECTION 6. AMENDMENT OF THE TRUST AGREEMENT AND TERMINATION OF THE TRUST FUND	5
SECTION 7. MISCELLANEOUS.....	5

TRUST AGREEMENT
FOR THE SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION
AUTHORITY
RETIREE HEALTH REIMBURSEMENT ARRANGEMENT

(Effective September 5, 2019)

SECTION 1. ESTABLISHMENT AND PURPOSE OF THE TRUST

The San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement (the "HRA"), is being established as the means of replacing supplemental benefits provided to eligible retirees of the San Francisco Bay Area Water Emergency Transportation Authority (the "Employer") that were previously referred to as the Longevity Stipend benefit. The HRA and the Trust Fund established pursuant to this Trust Agreement are intended to provide a tax efficient manner of funding comparable benefits to those that were to be provided under the Longevity Stipend. The HRA and the Trust Fund are intended to satisfy the requirements under the Internal Revenue Code for tax-free reimbursement of retiree health care expenses. The HRA and Trust Fund also are intended to satisfy the requirements of GASB 74 and 75, such that the amounts held in the Trust Fund can be used to offset any liability for such benefits on the financial statements of the Employer. Under the HRA, all assets may be used only for the exclusive benefit of the Eligible Retirees and their Spouses or Eligible Dependents.

The HRA and its related Trust Fund have been established to transition from the Longevity Stipend, an existing program to supplement retiree medical benefits that was put in place prior to the enactment of California's Public Employees' Pension Reform Act of 2013 ("PEPRA"). The HRA is available to Employees hired on or after PEPRA's enactment on January 1, 2013, such that benefits that comply with PEPRA limitations can be provided to such Employees.

This Trust Agreement shall be effective September 5, 2019.

SECTION 2. DEFINITIONS AND CONSTRUCTION

Definitions

Code means the Internal Revenue Code of 1986, as amended from time to time, and all applicable rules and regulations issued thereunder pertinent to the tax-free treatment of benefits provided under the HRA and the tax-exempt status of the Trust Fund.

Effective Date means September 5, 2019.

Employer means the San Francisco Bay Area Water Emergency Transportation Authority.

HRA means the San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement, as amended from time to time.

HRA Administrator means the person or persons with authority to administer the HRA, which shall be the Employer unless the Employer has duly authorized a person or entity to act as the Administrator for the HRA.

HRA Year means the calendar year.

Participant means any Eligible Retiree, Spouse or Eligible Dependent as defined under the HRA who is eligible to receive reimbursements under the HRA as determined under the terms of the HRA.

Trust means the legal entity resulting from the Trust Agreement between the Employer and the Trustee.

Trust Agreement means this instrument, as amended from time to time.

Trust Fund means all monies, securities, and properties of whatever character held by the Trustee pursuant to this Trust Agreement.

Trustee means the person or financial institution(s) designated in the Trust Agreement to hold in trust any assets of the HRA for the purpose of providing benefits under the HRA, and shall include any successor to the trustee initially designated hereunder.

SECTION 3. ESTABLISHMENT OF THE TRUST FUND

(a) Establishment of the Trust Fund

As of the Effective Date, the Employer shall contribute one hundred dollars (\$100.00) to implement the terms of the HRA through this Trust Fund, together with any income, gains or profits and taking account of any losses. All future contributions by the Employer held as investments under the HRA shall be titled in the name of the Trust and shall be deemed part of the Trust Fund.

(b) Exclusive Benefit of Participants

The Trust Fund shall be maintained for the exclusive benefit of Participants and in accordance with the terms of the HRA and governing California and federal law. No part of the Trust Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of such Participants.

(c) No Reversion to the Employer

It shall be impossible, at any time, for any part of the Trust Fund, other than such part as is required to pay taxes and administrative expenses, to be returned to, or revert to, the Employer, to be recoverable by the Employer, or to be used for, or diverted to, purposes other than for the exclusive benefit of the Participants.

(d) Receipt of Contributions

The Trustee shall receive all contributions made under the HRA. However, the HRA Administrator may elect to have all contributions paid directly to a custodian or insurance company engaged by the Employer to receive contributions. The Trustee shall not be responsible in any way for the administration of the HRA and shall be under no duty to determine whether the amount of any contribution is in accordance with the HRA or to collect or enforce payment of any contribution.

(e) Distributions

Distributions from the Trust Fund shall be made by the Trustee only to such persons, in such manner, at such times, and in such amounts as the HRA Administrator shall direct in writing from time to time. The HRA Administrator may also direct in writing the payment or reimbursement of expenses of administering the HRA or this Trust Agreement. The Trustee shall be fully protected in making payments in accordance with directions of the HRA Administrator without ascertaining whether such payments are in compliance with the terms of the HRA. All payments of benefits under the HRA shall be made solely and exclusively from the assets of the Trust Fund as they may exist at the time or times of payment, and no person shall be entitled to look to any other source for such payments.

SECTION 4. DUTIES AND POWERS OF THE TRUSTEE

(a) General Powers of the Trustee

The Trustee shall have all of the powers necessary or desirable to perform properly the duties herein set forth.

(b) Investment Powers of the Trustee.

Notwithstanding any HRA provisions that give the exclusive authority and discretion to the Trustee to manage and control the assets of the HRA, the Employer and the Trustee acknowledge and agree that the Trustee shall be directed with respect to all investments. Such direction shall be pursuant to the HRA and shall be either by the HRA Administrator or by investment managers chosen pursuant to the HRA.

(c) Agents

With the prior written approval of the HRA Administrator, and subject to applicable state law, the Trustee may employ such counsel, accountants, brokers, actuaries and other agents and provide for such clerical, accounting, actuarial and other services as the Trustee may deem advisable to perform its duties under this Trust Agreement, or as may be directed by the HRA Administrator.

(d) Settlement of Claims

With the prior written approval of the HRA Administrator, the Trustee shall have the power and authority to settle, compromise or submit to arbitration, any claims, debts or damages due or owing to or from the Trust Fund; to commence or defend suits or legal or administrative proceedings whenever, in its judgment, any interest of the Trust Fund so requires, and to represent the Trust Fund in all suits or legal or administrative proceedings in any court of law or equity or before any other body or tribunal. The Trustee shall inform the Employer and the HRA Administrator as soon as possible about any such claims, debts or damages, and shall fully cooperate with the Employer and the HRA Administrator with respect to any suits or legal or administrative proceedings that result from or arise out of such claims, debts or damages.

(e) Accounting

(i) The Trustee shall keep appropriate and accurate accounts of, and records reflecting all transactions concerning the Trust Fund, including but not limited to contributions, gains, losses, expenses, and distributions of benefits. However, if the HRA Administrator elects to have all contributions paid directly to a custodian or insurance company to receive contributions, then the Trustee shall be entitled to rely on the records of accounts provided to it by such custodians or insurance companies, and by the Employer, with respect to contributions, gains, losses, expenses, distributions of benefits and all other transactions involving the Trust Fund. The Trustee shall be entitled to be reimbursed for its actual and reasonable expenses incurred in preparing any accounting.

(ii) The Trustee shall furnish the HRA Administrator a written account of the transactions concerning and status of the Trust Fund at such times and from time to time as agreed to with the HRA Administrator, but no less than annually, as soon as practical after the close of the HRA Year. The Trustee and HRA Administrator shall agree on the format and contents of such accounting. At any time, the HRA Administrator may (but is not required to) engage an independent certified public accountant to examine the HRA's financial statements or internal control procedures. If the HRA Administrator engages an independent accountant, the HRA Administrator shall require that such engagement provide that the examination be made according to generally accepted auditing standards (or according to other agreed-upon procedures that the Trustee approves in writing), and that the Trustee is entitled to rely upon the accountant's examination and opinion and all reports relating to the examination.

(iii) Except as otherwise ordered by a court having jurisdiction, no person other than the HRA Administrator may require an accounting by the Trustee.

(iv) Notwithstanding anything in this Trust Agreement to the contrary, the Trustee shall have the right at any time to petition any appropriate court for a settlement of the Trust Fund's accounts or for the court's instructions in executing the Trustee's obligations under the Trust Fund created by this Trust Agreement.

(f) Compensation

The Trustee shall be paid such compensation and expenses that are agreed to, from time to time, by it and the HRA Administrator.

(g) Fiduciary Standards

The Trustee shall discharge its duties under this Trust Agreement solely in the interest of the Participants of the HRA and in accordance with governing state and federal law and the terms of the HRA and the Trust Agreement. Such duties shall be discharged for the exclusive purpose of providing benefits to the Participants and paying expenses of the HRA. In addition, the Trustee shall discharge its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and as defined by applicable state law.

SECTION 5. REPLACEMENT OF THE TRUSTEE

(a) Replacement of the Trustee

(i) The Employer may remove and replace the Trustee at any time and from time to time with a written notice to the Trustee of removal and replacement. Except where necessary to protect the rights and benefits of Participants, the Employer shall give at least 60 days written notice of removal and replacement to the Trustee.

(i) In the event another entity or person replaces the Trustee, the Trustee shall take all necessary and appropriate steps to transfer to its successor trustee the entire Trust Fund as soon as possible. The Trustee may undertake a reasonable accounting of the Trust Fund prior to such transfer but such accounting shall not cause unreasonable delay in any transfer of the Trust Fund.

(ii) The replacement of the Trustee shall not result in the termination of this Trust Agreement. A successor Trustee shall have the same powers and duties as those herein conferred upon the Trustee.

(b) Resignation of the Trustee

The Trustee may resign at any time by giving one hundred twenty (120) days advance written notice to the HRA Administrator and the Employer.

**SECTION 6. AMENDMENT OF THE TRUST AGREEMENT
AND TERMINATION OF THE TRUST FUND**

(a) Term of the Trust Agreement

This Trust Agreement shall continue as long as the HRA is in full force and effect. If the HRA ceases to be in full force and effect, this Trust Agreement shall thereupon terminate unless expressly extended by the Employer.

(b) Amendment of the Trust Agreement

(i) This Trust Agreement may be amended by the Employer with the written consent of the Trustee, but may only be amended if there is no reduction in the then existing benefits of any Participant as a result of such amendment. This Trust Agreement may also be amended to change the party that serves as Trustee without the consent of the then Trustee.

(ii) Amendments to this Trust Agreement shall be made by the Employer.

(c) Termination of the Trust Fund

The Employer reserves the right to terminate the Trust Fund at any time for any reason. Upon termination of the Trust Fund, the assets of the Trust Fund shall be disposed of in accordance with the terms of the HRA. On the termination of the Trust Fund, all assets held therein shall be paid to the Participants in accordance with the terms of the HRA governing benefits upon termination in Article VII of the HRA.

SECTION 7. MISCELLANEOUS

(a) Reliance

The parties hereto shall be protected in acting upon any notice, resolution, request, consent order, certificate, report, opinion, statement or other document which they reasonably believed to be genuine and to have been signed by the proper party or parties or by a person or persons authorized to act on its behalf.

(b) Person Dealing with the Trustee

No person dealing with the Trustee shall be under any obligation to inquire into the validity, expediency or propriety of any action by the Trustee or of any exercise by it of any of the powers conferred upon it by this Trust Agreement. The execution by the Trustee of any instrument, document or paper in connection with the exercise of any of the powers enumerated herein shall, of itself, be conclusive evidence to all persons of the authority of the Trustee to execute the same and to exercise the powers incident thereto.

(c) Advice of the HRA Administrator

If at any time or times the Trustee is in reasonable doubt as to the course which it should follow in any matter relating to the administration of this Trust Agreement, it may request the HRA Administrator to advise it with respect thereto, and it shall be protected in relying upon the advice or direction which may be given it by the HRA Administrator in response to such request.

(d) Anti-Alienation

No right or claim to, or interest in, any part of any payment from the HRA or Trust Fund shall be subject to anticipation, alienation, sale, transfer, assignment, mortgage, pledge, garnishment, encumbrance, hypothecation, commutation, charge, or any other process of any court except to such extent required by law. No benefit payable from the HRA or Trust Fund to any person shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, except to such extent required by law. Any attempt to anticipate, alienate, sell, transfer, assign, mortgage, pledge, garnish, encumber, charge, or levy against any benefit under the HRA or Trust Fund shall be void, except as required by law. No portion of the benefits payable under this HRA or Trust Fund shall be subject to the bankruptcy estate of any Participant, except as required by law.

(e) Notices

All orders, requests, directions and instructions of the HRA Administrator to the Trustee shall be in writing, signed by a person authorized to act on its behalf. Unless the Trustee knows or has reason to know (through its exercise of its fiduciary duties or otherwise) that the direction constitutes a breach of the HRA Administrator's duties or responsibilities under the HRA, the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, directions and instructions. In the absence of knowledge of, or reason to know, that the direction constitutes such a breach, the Trustee shall be entitled to rely conclusively on such direction, and shall have no further

duty to make any investigation or inquiry before acting upon any such direction of the HRA Administrator.

(f) Law

This Trust Agreement is made in the State of California, and shall be construed in accordance with the laws thereof

(g) Invalidity

In the event any provision of this Trust Agreement shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof, and this Trust Agreement shall thereafter be construed and enforced as if said illegal or invalid provision had never been included therein.

EXECUTION OF TRUST

The parties have caused this Trust Agreement to be executed by their representatives to be effective as of September 5, 2019.

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

(signature)

(name)

(title)

Date:_____

TRUSTEE

(signature)

(name)

(title)

Date:_____

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RESOLUTION NO. 2019-20

ADOPT BENEFIT PLANS TO RESTRUCTURE FUNDING OF EXISTING LONGEVITY STIPEND BENEFIT, INCLUDING ADOPTION OF RETIREMENT PLAN AND RELATED TRUST AGREEMENT, ADOPTION OF REPLACEMENT BENEFITS PLAN, ADOPTION OF HEALTH REIMBURSEMENT ARRANGEMENT AND ADOPTION OF RELATED TRUST AGREEMENTS; DELEGATE AUTHORITY TO IMPLEMENT, MAKE REQUIRED FILINGS WITH INTERNAL REVENUE SERVICE, MAKE AMENDMENTS TO COMPLY WITH REGULATORY REQUIREMENTS AND ENTER INTO RELATED VENDOR AGREEMENTS FOR NEW BENEFIT PLANS

WHEREAS, WETA desires to continue to provide the currently available Longevity Stipend benefit to employees who meet the eligibility requirements in the most tax effective manner for WETA and its employees; and

WHEREAS, in order to best provide the Longevity Stipend benefit in a tax effective manner, WETA has determined that it will sponsor certain new employee benefit plans for its employees and their beneficiaries; and

WHEREAS, WETA has determined to transition funding for the Longevity Stipend benefit for eligible employees who were hired prior to January 1, 2013 (who will be referred to as "Classic Employees") to benefits provided through a newly adopted defined benefit pension plan and related trust fund; and

WHEREAS, WETA's Classic Employees who satisfy the requirements to receive a Longevity Stipend upon retirement will now have that benefit funded and provided to the extent possible under applicable tax rules through the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan (the "Retirement Plan"); and

WHEREAS, WETA is required to establish a trust fund for the Retirement Plan and has determined to establish the Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan (the "Retirement Plan Trust Agreement"); and

WHEREAS, some Classic Employees who satisfy the requirements to receive a Longevity Stipend upon retirement may be prohibited by the limitations of the Internal Revenue Code of 1986, as amended or replaced from time to time and the regulations issued thereunder (the "Code") section 415(b) from receiving all or a portion of such already promised benefits through the Retirement Plan, WETA has determined to fund this already existing entitlement to those Code section 415(b) limited benefits through use of an excess benefits plan meeting the requirements of Code section 415(m), which shall be known as the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan (the "Replacement Benefits Plan"); and

WHEREAS, WETA has determined to establish a trust fund to allow pre-funding of all or a portion of the amounts required to pay benefits under the Replacement Benefits Plan through the Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan (the "Replacement Benefits Plan Trust Agreement"); and

WHEREAS, WETA has determined to transition funding and benefit payments for the Longevity Stipend benefit for eligible employees who were hired on or after January 1, 2013

(who will be referred to as "PEPRA Employees") through a newly adopted health reimbursement arrangement ("HRA"); and

WHEREAS, WETA has determined to establish a trust fund to allow pre-funding of all or a portion of the amounts required to pay benefits under the HRA through the Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Health Reimbursement Arrangement (the "HRA Trust Agreement"); and

WHEREAS, the Retirement Plan and its related Retirement Plan Trust Agreement, the Replacement Benefits Plan and its related Replacement Benefits Plan Trust Agreement, and the HRA and its related HRA Trust Agreement are all intended to comply with the applicable requirements of the Code; and

WHEREAS, it is desirable and necessary under applicable CalPERS requirements to make certain filings with the Internal Revenue Service to ensure that the Retirement Plan and its related Retirement Plan Trust Agreement comply with the requirements of the Code; and

WHEREAS, it is desirable to ensure that benefits under the Retirement Plan, the Replacement Benefits Plan and the HRA, and their related trust agreements, continue to comply with the requirements of the Code so that benefits are provided with maximum tax efficiency; now, therefore, be it

RESOLVED, that effective as of September 5, 2019, the following actions are authorized:

1. The San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan as set forth in the document attached hereto is adopted.
2. The Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Retirement Plan as set forth in the document attached hereto is adopted.
3. The San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan as set forth in the document attached hereto is adopted.
4. The Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Replacement Benefits Plan as set forth in the document attached hereto is adopted.
5. The San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement as set forth in the document attached hereto is adopted.
6. The Trust Agreement for the San Francisco Bay Area Water Emergency Transportation Authority Retiree Health Reimbursement Arrangement as set forth in the document attached hereto is adopted.
7. Effective upon adoption of this resolution the authority is delegated to the Executive Director and the Finance and Administration Manager: (a) to implement the Retirement Plan and its related Retirement Plan Trust Agreement, the Replacement Benefits Plan and its related Replacement Benefits Plan Trust Agreement, and the HRA its related HRA Trust Agreement, adopted in Items 1 through 6 above of this resolution; (b) to make any filings with the Internal Revenue Service that are deemed necessary or desirable to ensure the intended tax consequences for the Retirement Plan and its related Retirement Plan Trust Agreement; (c) to amend the Retirement Plan and its

related Retirement Plan Trust Agreement, the Replacement Benefits Plan and its related Replacement Benefits Plan Trust Agreement, or the HRA and its related HRA Trust Agreement as necessary or desirable to obtain or continue to maintain compliance with the Code and to comply with any other applicable local or federal laws (including any accounting requirements); (d) to enter into agreements with trustees or third party administrators to provide trustee, custodian, or administrative services for the Retirement Plan, the Replacement Benefits Plan, or the HRA and their related Trust Agreements; and to modify WETA's Human Resources Guide to reflect these arrangements.

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 September 5, 2019.

YEA:

NAY:

ABSTAIN:

ABSENT:

/s/ Board Secretary

2019-20

END

MEMORANDUM

TO: Board Members

FROM: Nina Rannells, Executive Director
Kevin Connolly, Planning & Development Manager
Mike Gougherty, Senior Planner/Project Manager
Taylor Rutsch, Transportation Planner

SUBJECT: Approve Contract Award to AECOM for the Hovercraft Feasibility Study

Recommendation

Approve the following related actions for the award of a professional services contract:

1. Approve a contract award to AECOM for a not-to-exceed budget amount of \$475,000 to provide professional services for the Hovercraft Feasibility Study; and
2. Authorize the Executive Director to negotiate and enter into a contract for this work and take any other related actions as may be necessary to support this work.

Background

In January 2019, the Board received a letter from Bay Area Council President Jim Wunderman requesting a study of hovercraft as a possible alternate technology for delivering new ferry service in San Francisco Bay. In February, the Board indicated general support for the concept and further discussed a potential study in the context of WETA's larger work program during its March workshop. In April, staff presented a preliminary scope for a Hovercraft Feasibility Study and received input from the WETA Board and comments from the public, including suggestions to pursue a more extensive study, to consider the possibility of smaller hovercraft technology as a component of the small vessel program, and to evaluate the opportunity to implement hovercraft on existing WETA routes. In June, staff presented a revised scope to the Board and received authorization to release a Request for Proposals (RFP) for professional services in support of the Study.

Discussion

On June 24 the RFP was released and a Pre-proposal Conference was hosted by WETA on July 9 to provide additional information about the study and RFP process. On August 1 a total of eight technical proposals were received with accompanying cost proposals submitted in separate sealed envelopes. After a preliminary review of all technical proposals, the WETA Evaluation Committee determined that five proposals were sufficiently viable for further consideration and thus within the competitive range. The Committee conducted in-person interviews with all five teams within the competitive range. After reviewing each technical proposal and considering information provided during the interview process, the Committee scored each proposer based on the criteria listed in the RFP, including project understanding, staff capabilities, and management approach. Scores are weighted as follows: project

understanding 20%, team capabilities 30%, and management approach 50%. The scores for each proposer are presented below.

Proposer	Project Understanding	Team Capabilities	Management Approach	Total Score (Weighted)
AECOM	9.75	9.50	9.75	96.80
KPFF	9.75	9.25	9.50	94.75
Navigating Preparedness	9.00	8.25	9.00	87.80
Arcadis	8.75	8.25	9.00	87.30
Cambridge Systematics	8.50	9.00	8.50	86.50

Based on the scores above, AECOM was identified as the highest-ranked proposer. The AECOM proposal was particularly comprehensive and specifically excelled in terms of their approach to incorporating input from project stakeholders, the relevant experience of their staff, and the professionalism and cohesion of their team. Pursuant to provisions of the RFP, staff initiated negotiations with AECOM based on their Cost Proposal and was able to successfully establish a final scope and not-to-exceed budget of \$475,000 for the project. Staff recommends that the Board approve the award of a contract to AECOM for a not-to-exceed budget of \$475,000 to provide professional services in support of the Hovercraft Feasibility Study.

Pending contract award by the Board, staff anticipates issuing a Notice to Proceed to begin the Study in early October and completing the study over a 12-month duration.

Fiscal Impact

WETA has sufficient operating funds to support award of this contract, which will span two fiscal years. It is estimated that \$360,000 of the total \$475,000 contract will be spent in FY 2019/20 and that the remainder will be budgeted and spent as a part of the FY 2020/21 budget.

END

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RESOLUTION NO. 2019-21

APPROVE CONTRACT AWARD TO AECOM FOR HOVERCRAFT FEASIBILITY STUDY

WHEREAS, WETA issued a Request for Proposals for the Hovercraft Feasibility Study on June 24, 2019; and

WHEREAS, WETA staff has evaluated the proposals submitted for this project through a competitive procurement process;

WHEREAS, WETA staff recommends the award to AECOM for the Hovercraft Feasibility Study; now, therefore, be it

RESOLVED, that the Board of Directors hereby approves entering into an agreement with AECOM for Professional Services in an amount not to exceed \$475,000; and be it further

RESOLVED, that the Board of Directors authorizes the Executive Director to negotiate and execute the agreement and take any other related actions to support this 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 September 5, 2019.

YEA:

NAY:

ABSTAIN:

ABSENT:

/s/ Board Secretary

2019-21

END

MEMORANDUM

TO: Board Members

FROM: Nina Rannells, Executive Director
Keith Stahnke, Operations & Maintenance Manager

SUBJECT: Authorize Rejection of All Proposals for the MV *Solano* Service Life Extension Project and Authorize the Executive Director to Take Actions to Support Procurement of a New Replacement Vessel

Recommendations

Authorize the following actions associated with the Solano Service Life Extension Project:

1. Authorize rejecting all proposals received in response to WETA's Request for Proposals (RFP) 18-021, Solano Service Life Extension Project; and
2. Authorize the Executive Director to take all actions necessary to sell the MV *Solano* consistent with all state and federal requirements.

Background

The vessel MV *Solano* was built for the City of Vallejo by Dakota Creek Industries in 2004. The vessel has been in service for 15 years and is now approaching the end of its useful life given the California Air Resources Board (CARB) regulations requiring the removal of the vessel's originally installed marine engines by December 31, 2019, and replacement of these engines with new EPA Tier 4 engines.

The WETA Board authorized release of a RFP for shipyard services for the Solano Service Life Extension Project in September 2018. Over the last year, as EPA Tier 4 engines have been in development, WETA developed the Solano Service Life Extension Project specifications and prepared the project for bid. In order to install the larger Tier 4 engines required by CARB, none of which were known to be able to fit within the available space and weight constraints of the vessel, extensive hull modifications were required, and the project moved beyond a normal vessel repower project. Accordingly, the RFP scope of services included the rebuild or replacement of major components throughout the vessel with an increase in passenger capacity to 445 passengers to match the new North Bay *Pyxis* class vessels.

This major rebuild project would have taken place over the span of 16 to 20 months with work anticipated to begin in January 1, 2020, completing in 2021. At the end of the project, the MV *Solano* would essentially be in like-new condition, with an extended useful life.

Discussion

RFP Solicitation and Proposals

Because of the complexity of this project, a Two Step best value procurement process was utilized consistent with the Authority's Administrative Code and Federal Transit Administration

requirements. Under this process, the First Step determines if the proposer has the experience and capability to successfully complete the project. The Second Step considers both price and qualitative components of a proposal that are deemed the most advantageous and of the greatest value to the procuring agency.

The RFP was released on April 12, 2019. Notice of the RFP was sent to WETA's mailing list, posted on the Agency's website, and advertised with the Passenger Vessel Association member email update. On May 29, 2019, WETA hosted a mandatory Proposers' conference at the Vallejo Operations and Maintenance Facility which was attended by eight 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. Step One Proposals were due to WETA on or before May 6, 2019.

Evaluation Process

Step One Proposals were received from two bidders. Both proposals were determined to be responsive. Each proposal was scored and both proposers were found to be qualified to perform the work and invited to submit a Step Two Proposal. WETA staff issued three additional addenda, which included extending the deadline for submitting Step Two Proposals by one week to July 26. Step Two Proposals were received from two proposers. Both proposals were determined to be responsive. The price proposal for each is shown below.

Price Proposals

Nichols Brothers Boat Builders	\$20,792,928
Dakota Creek Industries	\$18,967,705

WETA's FY 2019/20 Capital Budget includes \$13,000,000 for the Solano Service Life Extension Project. Both proposals far exceed the available funds for the project. In fact, the proposed prices are equivalent to the cost of purchasing a new vessel. Project engineering consultants and staff analyzed project options including scope reductions and determined that without a significant increase in budget the project could not be delivered. Nor does it appear, based on WETA's extensive competitive process, that resoliciting the project will result in a different outcome.

As a result, staff recommends rejecting all proposals in response to the RFP for the Solano Service Life Extension Project.

Actions to Support Procurement of a New Replacement Vessel

Step 1: Sale of Solano

The MV *Solano* will be out of compliance with CARB regulations on December 31, 2019 and cannot be operated in the state of California past that date. As discussed above, it does not appear that the rebuild project is a viable option for continued use of the vessel. The extensive rebuild was specifically designed to accommodate the larger engines required by CARB to provide service speed suitable for WETA. Smaller engines, with a more limited vessel refurbishment, are therefore not a solution.

In considering options for replacing the MV *Solano*, a necessary first step is selling the vessel to maximize available funding for a replacement. As the vessel has no use to WETA beginning in 2020, deciding now to sell the vessel makes sense. Outside of California, where CARB requirements do not apply, the vessel may be a desired asset due to its condition, age, and the limited availability of similar vessels.

If sale proceeds are added to the existing grant, enough funds may be available to fully fund the purchase of a new replacement vessel.

Step 2: New Vessel Procurement

If the Board approves rejecting all proposals for the Solano Service Life Extension Project and authorizes the sale of the vessel, staff will immediately begin assessing alternatives for replacing the vessel, seeking to maximize existing grant funds to the greatest extent possible. Options include a new procurement process or leveraging existing vessel procurement contracts. After exploring all options for new replacement vessel procurement in an expedited manner, staff will identify a preferred option for Board consideration at a future meeting.

Fiscal Impact

There is no fiscal impact associated with the recommended Board action.

END

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

RESOLUTION NO. 2019-22

**AUTHORIZE REJECTION OF ALL PROPOSALS FOR THE MV SOLANO SERVICE LIFE
EXTENSION PROJECT AND AUTHORIZE THE EXECUTIVE DIRECTOR
TO TAKE ACTIONS TO SUPPORT PROCUREMENT OF A NEW REPLACEMENT VESSEL**

WHEREAS, the MV *Solano* vessel is at the end of its useful life; and

WHEREAS, WETA has established the *Solano Service Life Extension Project* (Project) as a part of its FY 2019/20 Capital Budget and program of projects; and

WHEREAS, WETA issued a Request for Proposals (RFP) for the Project and, by the proposal due date of July 26, 2019 received two proposals, both of which included price proposals that were beyond WETA's funding for the project; and

WHEREAS, staff has determined that the Project cannot be re-scoped in order to reduce pricing for the project and that a re-solicitation will not produce a different result; and

WHEREAS, pursuant to the terms of the RFP and WETA's Administrative Code, WETA retains the authority to reject all Proposals if deemed in WETA's best interest; and

WHEREAS, the Executive Director recommends that WETA reject all proposals received in response to the RFP for the Project and plan instead on selling the vessel and re-purposing funds, all to support procurement of a new replacement vessel of similar size and speed, in accordance with all applicable federal and state requirements and subject to Board approval of any preferred option for procuring a new vessel; now, therefore, be it

RESOLVED, that the Board of Directors hereby authorizes rejecting all proposals received in response to RFP 18-021, *Solano Service Life Extension Project*; and, be it further

RESOLVED, that the Board of Directors hereby authorizes the Executive Director to take all actions necessary to sell the MV *Solano* consistent with all state and federal requirements.

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 September 5, 2019.

YEA:

NAY:

ABSTAIN:

ABSENT:

/s/ Board Secretary

2019-22

END

MEMORANDUM

TO: Board Members

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

SUBJECT: Solano Transportation Authority Water Transit Feasibility Study Overview

Recommendation

There is no recommendation with this information item.

Background

The Solano Transportation Authority (STA) initiated a study of potential ferry service in April 2018. The final study was adopted by the STA Board in July 2019. The study scope was modeled on the Ferry Financial Feasibility Study produced by the Contra Costa Transportation Authority (CCTA) in partnership with WETA in 2014. That study led to CCTA prioritizing Richmond as the most feasible of the candidate Contra Costa ferry terminals. Similar to the Contra Costa effort, WETA contributed the necessary funding -- roughly \$30,000 -- to pay for travel demand modeling tasks to support the Solano study. In addition, WETA staff served on a Project Development Team regularly meeting with the study consultant and STA staff as the study progressed.

Discussion

The STA Study performed ridership and financial feasibility analyses for both new ferry services and enhancements to the existing Vallejo service. The study focused on the Solano County cities of Benicia, Rio Vista and Vallejo.

The Benicia and Rio Vista service scenarios assumed small vessel service provided by private operators to destinations in both Solano and Contra Costa counties. The study assumed that private operators serving Benicia or Rio Vista could offer service from existing facilities such as marinas or public docks so there was no need to include the cost of new infrastructure. The study also assumed that private operators would not be as expensive as WETA-provided service, although the study acknowledges that there was limited contact with private operators and those companies would not provide operational expenses.

The services tested for Rio Vista included Antioch, Martinez, Benicia and Vallejo. For Benicia, the study looked at connector service to Vallejo and service across the Carquinez Strait to Martinez. Ridership forecasts estimated that there would be no riders for any of the Rio Vista service scenarios. Benicia service performed moderately better. Benicia-Martinez service generated 84 riders per day (8.40 per trip) while Benicia service to Vallejo only attracted 44 riders per day (3.14 per trip). The study concluded that service from both cities is not financially viable at this time given the limited ridership potential.

All services from the existing WETA Vallejo terminal assumed WETA service, using WETA costs in determining financial feasibility. The study noted that Golden Gate Ferry could also provide service between Vallejo and Larkspur. The study tested Vallejo-origin service to three destinations: enhanced San Francisco service, new service to Larkspur and new service to Oakland. Additional service to San Francisco was estimated to generate 667 new

riders per day, assuming an additional two peak period trips in both the AM and PM. Peak period only service to Larkspur generated only 168 riders per day. Oakland peak service was forecast to generate 43 riders per day.

The study concluded that additional service between Vallejo and San Francisco was financially viable and warranted as demand increases. For Larkspur service, the study concluded that ridership estimates were low and attributed the poor performance to poor transit connections in Larkspur and the challenges of bridging the “last mile” gap. However, the study recommends that STA should continue to investigate ferry service to Larkspur, particularly in the context of planning for reconstruction of State Route 37.

A full copy of this study is available on STA's website at:

https://sta.ca.gov/documents_and_report/sta-water-transit-services-feasibility-study/

Fiscal Impact

There is no fiscal impact associated with this informational item.

END