

**Members of the Board**

James Wunderman, Chair  
Monique Moyer, Vice Chair  
Jessica Alba  
Jeffrey DelBono  
Anthony J. Intintoli, Jr.

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

*Thursday, May 5, 2022 at 1:00 p.m.*

**WETA Ron Cowan Central Bay Operations & Maintenance Facility**

670 W Hornet Ave  
Alameda, CA 94501

**Face masks strongly recommended for in-person participation.**

*and*

**Videoconference**

Join WETA BOD Zoom Meeting

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**AGENDA**

1. **CALL TO ORDER**

2. **ROLL CALL/PLEDGE OF ALLEGIANCE**

3. **REPORT OF BOARD CHAIR**

a. Chair's Verbal Report

***Information***

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**

- a. Executive Director's Report on Agency Projects, Activities and Services
  - i. COVID-19 Protocol Update
  - ii. WETA Board Appointment
- b. Monthly Review of Financial Statements
- c. Federal Legislative Update
- d. State Legislative Update
- e. Monthly Ridership and Recovery Report

***Information***

6. **CONSENT CALENDAR**

- a. Adopt Resolution Regarding Remote Meetings Pursuant to Assembly Bill 361
- b. Board Meeting Minutes – April 7, 2022
- c. Authorize Release of a Request for Proposal for On-Call Professional Engineering/Consulting Services to Support Ongoing System Capital, Planning, Construction Management, and Vessel Design
- d. Authorize Release of a Request for Proposal for All Electric Vessel Construction for MV *Intintoli* Replacement Vessel

***Action***

**Water Emergency Transportation Authority  
May 5, 2022 Meeting of the Board of Directors**

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|--|------------------------------------|
| 7. <u>APPROVE CONTRACT AWARD TO ELLIOTT BAY DESIGN GROUP FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE MV <i>INTINTOLI</i> REPLACEMENT VESSEL</u>   | <b>Action</b>                      |
| 8. <u>SEA CHANGE HYDROGEN-POWERED VESSEL DEMONSTRATION PROJECT</u>   | <b>Action</b>                      |
| 9. <u>SOUTH SAN FRANCISCO-SAN FRANCISCO PILOT SERVICE</u>  | <b>Information</b>                 |
| 10. <u>TWO YEAR BUDGET OUTLOOK</u>   | <b>Information</b>                 |
| 11. <u>OVERVIEW OF WETA'S DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND SMALL BUSINESS ENTERPRISE (SBE) ELEMENT AND STRATEGIES TO INCREASE DBE AND SBE PARTICIPATION</u>   | <b>Information</b>                 |
| 12. <u>RECESS INTO CLOSED SESSION</u><br>a. Conference with Labor Negotiator<br>Pursuant to Government Code Section 54957.6<br>Position: Unrepresented Employees<br>Agency Representative: Seamus Murphy, Executive Director<br>b. Conference with Legal Counsel – Anticipated Litigation<br>Pursuant to Government Code Sections 54956.9 (d)(2)<br>One case | <b>Action<br/>To Be Determined</b> |
| 13. <u>REPORT OF ACTIVITY IN CLOSED SESSION</u><br>Chair will report any action taken in closed session that is subject to reporting at this time.   |                                    |
| 14. <u>PUBLIC COMMENTS FOR NON-AGENDA ITEMS</u>  |                                    |

**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.***

**CHANGES RELATED TO COVID-19**

Consistent with AB 361, codified in Government Code Section 54953, this meeting will be conducted through an internet-based service option. The public is invited to participate via the link provided at the top of this agenda.

**PUBLIC COMMENTS** WETA welcomes comments from the public.

*If you know in advance that you would like to make a public comment during the videoconference, please email [BoardOfDirectors@watertransit.org](mailto:BoardOfDirectors@watertransit.org) with your name and item number you would like to provide comment on no later than 15 minutes after the start of the meeting. Comments will also be accepted in real time. During the public comment period, speakers will be allotted no more than 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.*

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

**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.

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 an email with your request to: [contactus@watertransit.org](mailto:contactus@watertransit.org) or by telephone: (415) 291-3377 as soon as possible and no later than 5 days prior to the meeting and we will work to accommodate access to the meeting.

**AGENDA ITEM 1**  
**CALL TO ORDER**

**AGENDA ITEM 2**  
**ROLL CALL/PLEDGE OF ALLEGIANCE**

**AGENDA ITEM 3**  
**REPORT OF BOARD CHAIR**

**AGENDA ITEM 4**  
**REPORTS OF DIRECTORS**

**NO MATERIALS**

TO: WETA Board Members

FROM: Seamus Murphy, Executive Director

DATE: May 5, 2022

RE: Executive Director's Report

**PLANS, STUDIES & INITIATIVES****Redwood City Ferry Terminal Project**

WETA is studying the feasibility and business case of developing a new ferry terminal at the Port of Redwood City in partnership with the City and Port of Redwood City. The Feasibility Study was concluded in 2021 and determined that the project is feasible and meets WETA Expansion criteria. The San Mateo Transportation Authority now requires completion of a Business Plan before the project can move to the Concept Design and Permitting phase.

May 2022 Update: The Business Plan has been presented to the WETA Board, the Redwood City Port Commission and the Redwood City Council. The final presentation – along with a request for funding of the Concept Engineering phase – is scheduled for May 5 at the San Mateo County Transportation Authority.

**Berkeley Pier/Ferry Project**

WETA has partnered with the City of Berkeley to explore the feasibility of developing a joint project that provides for a recreation pier and a WETA ferry terminal at the Berkeley Marina. The Feasibility Study was completed in 2021 and concluded that the project is feasible from an engineering and project cost effectiveness perspective. WETA is currently concluding a business plan that is examining operational costs, fare revenue, and an equity analysis.

May 2022 Update: The Berkeley Ferry Business Plan was received by the WETA Board at the April 7 meeting. The Berkeley City Council has scheduled a closed session discussion on the project for May 10.

**OTHER BUSINESS****Assembly Bill 2807**

WETA has worked with Assemblymember Bonta (District 18) to develop a bill that clarifies ferry project eligibility for existing state programs providing funding for transit providers to transition their fleets from diesel to zero emission vehicles. WETA and the Golden Gate Bridge, Highway and Transportation District are co-sponsoring this bill. On April 18, AB 2807 passed out of the Transportation Committee and will next be considered by the Appropriations Committee.

**Employer Outreach**

On April 8, WETA staff participated in a panel with other regional transit agencies to provide information to more than two dozen transportation demand managers at major Bay Area employers in a webinar organized by the Bay Area Council and SAMCEDA. Staff is continuing to seek opportunities to provide information and resources to employers and transportation demand managers to help ease the return for transit for commuters returning to worksites.

**COVID-19 Protocols**

The Transportation Security Administration's (TSA) initial face mask requirement went into effect on February 1, 2021, with an initial expiration date of May 11, 2021. It has been extended several times since then, with the latest extension set to expire on May 3.

May 2022 Update: Prior to its expiration, a Federal court ruling struck down the mandate. The Center for Disease Control (CDC) immediately withdrew the federal mask mandate on public transportation and the TSA rescinded its corresponding mask directive. These Federal orders were the basis for the State guidance requiring masks on public transit. In response to the change in Federal directives, the California Department for Public Health revised its mask mandate to align with the CDC's announcement that its order requiring masking on public transportation and at transportation hubs is no longer in effect. The San Francisco Department of Public Health (SFPDH) took a similar action. CDC, CADPH, and SFPDH continue to strongly recommend masks on transportation conveyances. WETA joined all other transit agencies in the Bay Area by aligning its mask policy with public health guidance. WETA continues to strongly recommend that passengers wear masks.

**WETA Board Appointment**

On April 27, Governor Gavin Newsom appointed Vallejo City Councilmember Pippin Dew to the WETA Board of Directors. The appointment will be effective upon Councilmember Dew taking the oath of office. She fills the seat currently occupied by Director Tony Intintoli. Director Intintoli has served on the WETA Board since its inception. His term expired at the end of 2021. He did not seek reappointment but has continued to serve in his role until a replacement was named.

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

**MEMORANDUM**

**TO: Board Members**

**FROM: Seamus Murphy, Executive Director**  
**Erin McGrath, Chief Financial Officer**

**SUBJECT: Review of FY 2021-22 Financial Statements Ending March 31, 2022**

**Recommendation**

There is no recommendation associated with this informational item.

**Summary**

At the end of March, 75% of the fiscal year has elapsed. The two main challenges continue to be external forces impacting budget projections. In March, fuel prices continued to show extreme volatility jumping higher or lower by \$0.75 per gallon in a matter of days. The budget for fuel is now almost exhausted. Our projections of the additional budget needed vary from \$2.5 million to more than \$3.5 million for the remainder of the year. We are pleased to report that we have successfully executed a strategy of utilizing federal COVID funding to cover this cost if necessary. Fare revenue for March is still below projected amounts due to the lingering impacts of the virus on ridership growth until recently. Fortunately, revenue increased significantly following March's jump in ridership. March revenue increased by 40% over February. We anticipate April to be higher given the daily ridership and the return of baseball fans to the ridership mix. More detailed discussion of the budget will be provided as part of the two-year budget presentation later in the agenda.

**Financial Statements Summary:**

Below are high level summary charts of the information contained in the more detailed reports attached.

Operating Budget vs. Actual	Year - To - Date		Annual	
	FY2018-19 Actual Prior YTD	FY2021-22 Actual Current YTD	FY2021-22 Approved Budget	% of FY 22 Approved Budget
<b>Revenue - Year To Date:</b>				
Fare Revenue	\$15,965,368	\$5,355,038	\$ 8,268,000	65%
Federal - COVID-19 Relief Funds	-	14,564,257	22,069,400	66%
State Operating Assistance	-	-	450,000	0%
Bridge Toll Revenues	14,048,118	12,074,795	15,555,000	78%
Contra Costa Measure J	696,735	2,738,479	3,651,300	75%
Other Revenue	10,238	69,170	-	0%
<b>Total Operating Revenues</b>	<b>\$30,720,460</b>	<b>\$34,801,740</b>	<b>\$49,993,700</b>	<b>70%</b>
<b>Expense - Year To Date:</b>				
Ferry Services	\$29,038,979	\$ 33,261,041	\$46,993,700	71%
Planning & Administration	1,681,481	1,540,699	3,000,000	51%
<b>Total Operations Expenses</b>	<b>\$30,720,460</b>	<b>34,801,740</b>	<b>\$49,993,700</b>	<b>70%</b>
<b>System-Wide Farebox Recovery %</b>	<b>55%</b>	<b>16%</b>		

Capital Budget vs. Actual	FY2021-22 Actual Current YTD	FY2021-22 Approved Budget	% of FY 2021-22 Approved Budget
<b>Revenue:</b>			
Federal Funds	\$1,810,349	\$21,720,621	8%
State Funds	7,012,980	21,225,184	33%
Bridge Toll Revenues	269,334	2,894,082	9%
Other Revenues	397,735	1,711,502	23%
<b>Total Capital Revenues</b>	<b>\$9,490,397</b>	<b>\$47,551,389</b>	<b>20%</b>
<b>Expense:</b>			
<b>Total Capital Expenses</b>	<b>\$9,490,397</b>	<b>\$47,551,389</b>	<b>20%</b>

The two reports attached show operating, administrative, and capital activity for the month of March, year-to-date progress against budget for the fiscal year, and historical comparisons of operating expense.

**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 2021-22 Operating & Administration Revenues and Expenses**  
**Through the Month Ending 2/28/2022**

% of Year Elapsed 67%

	Month	Year - To - Date		Total	
	Feb-22	FY2018-19	FY2021-22	FY2021-22	Total
	Actual	Actual	Actual	Budget	Budget
<b>OPERATING EXPENSE</b>					
<b>FERRY OPERATIONS:</b>					
<b>Harbor Bay Ferry Service (AHBF)</b>					
Vessel Crew Labor	\$114,092		\$1,024,306	\$1,693,200	60%
Vessel Fuel	66,823		522,908	658,700	79%
Vessel Operations & Maintenance	49,533		250,503	673,400	37%
Facility Operations & Maintenance	41,532		318,347	758,600	42%
System Expense	54,340		430,498	897,500	48%
<b>Total Harbor Bay</b>	<b>\$326,319</b>	<b>\$2,476,398</b>	<b>\$2,546,562</b>	<b>\$4,681,400</b>	<b>54%</b>
<b>Farebox Recovery - AHBF</b>	<b>9%</b>	<b>45%</b>	<b>9%</b>	<b>15%</b>	
<b>Alameda/Oakland Ferry Service (AOFS)</b>					
Vessel Crew Labor	\$273,821		\$2,653,009	\$3,777,800	70%
Vessel Fuel	180,560		1,545,061	2,032,900	76%
Vessel Operations & Maintenance	44,901		479,335	992,700	48%
Facility Operations & Maintenance	120,560		956,191	1,262,200	76%
System Expense	161,920		1,183,960	2,387,800	50%
<b>Total Alameda/Oakland</b>	<b>\$781,762</b>	<b>\$8,529,138</b>	<b>\$6,817,555</b>	<b>\$10,453,400</b>	<b>65%</b>
<b>Farebox Recovery - AOFS</b>	<b>19%</b>	<b>60%</b>	<b>21%</b>	<b>18%</b>	
<b>Vallejo Ferry Service (Vallejo)</b>					
Vessel Crew Labor	\$308,048		\$2,834,595	\$4,427,100	64%
Vessel Fuel	452,181		3,782,259	\$4,817,300	79%
Vessel Operations & Maintenance	72,251		615,360	\$1,260,500	49%
Facility Operations & Maintenance	297,442		2,566,208	3,969,100	65%
System Expense	147,022		1,269,448	2,711,500	47%
<b>Total Vallejo</b>	<b>\$1,276,945</b>	<b>\$11,611,052</b>	<b>\$11,067,871</b>	<b>\$17,185,500</b>	<b>64%</b>
<b>Farebox Recovery - Vallejo</b>	<b>19%</b>	<b>63%</b>	<b>21%</b>	<b>23%</b>	
<b>South San Francisco Ferry Service (SSF)</b>					
Vessel Crew Labor	\$91,274		\$387,859	\$1,018,700	38%
Vessel Fuel	52,395		176,153	385,000	46%
Vessel Operations & Maintenance	42,644		213,560	585,300	36%
Facility Operations & Maintenance	40,884		314,102	709,700	44%
System Expense	34,875		179,804	568,600	32%
<b>Total South San Francisco</b>	<b>\$262,072</b>	<b>\$2,218,550</b>	<b>\$1,271,477</b>	<b>\$3,267,300</b>	<b>39%</b>
<b>Farebox Recovery - SSF</b>	<b>3%</b>	<b>31%</b>	<b>3%</b>	<b>13%</b>	
<b>Richmond Ferry Service (Richmond)</b>					
Vessel Crew Labor	\$228,184		\$1,833,700	\$2,755,300	67%
Vessel Fuel	139,629	Service launched in January 2019	1,005,467	1,146,700	88%
Vessel Operations & Maintenance	64,170		321,936	878,600	37%
Facility Operations & Maintenance	87,647		645,211	1,164,400	55%
System Expense	72,239		534,035	1,108,800	48%
<b>Total Richmond</b>	<b>\$591,870</b>	<b>\$545,826</b>	<b>\$4,340,350</b>	<b>\$7,053,800</b>	<b>62%</b>
<b>Farebox Recovery - Richmond</b>	<b>7%</b>	<b>0%</b>	<b>8%</b>	<b>8%</b>	
<b>Seaplane Lagoon Ferry Service (SPL)</b>					
Vessel Crew Labor	\$125,501		\$1,060,671	\$1,573,900	67%
Vessel Fuel	88,526	Service launched in July 2021	608,558	596,400	102%
Vessel Operations & Maintenance	27,209		252,910	546,500	46%
Facility Operations & Maintenance	41,197		314,904	618,300	51%
System Expense	60,253		510,238	1,017,200	50%
<b>Total Seaplane Lagoon</b>	<b>\$342,686</b>	<b>\$0</b>	<b>\$2,747,281</b>	<b>\$4,352,300</b>	<b>63%</b>
<b>Farebox Recovery - SPL</b>	<b>12%</b>	<b>0%</b>	<b>11%</b>	<b>19%</b>	
<b>Sub-Total Ferry Operations</b>	<b>\$3,581,654</b>	<b>\$25,380,964</b>	<b>\$28,791,096</b>	<b>\$46,993,700</b>	<b>61%</b>
<b>FAREBOX RECOVERY - SYSTEMWIDE</b>	<b>14%</b>	<b>56%</b>	<b>16%</b>	<b>18%</b>	

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**San Francisco Bay Area Water Emergency Transportation Authority**  
**FY 2021-22 Operating & Administration Revenues and Expenses**  
**Through the Month Ending 2/28/2022**

% of Year Elapsed      67%

	Month	Year - To - Date		Total	
	Feb-22	FY2018-19	FY2021-22	FY2021-22	Total
	Actual	Actual	Actual	Budget	Budget
<b>OPERATING EXPENSE (continued)</b>					
<b><u>PLANNING &amp; GENERAL ADMIN:</u></b>					
Wages and Fringe Benefits	\$131,458	\$832,980	\$1,147,773	\$1,601,600	72%
Services	85,159	\$664,325	641,938	2,054,200	31%
Materials and Supplies	1,214	\$37,544	38,646	59,800	65%
Utilities	7,975	\$29,154	21,545	43,800	49%
Insurance	1,307	\$1,200	10,458	17,100	61%
Miscellaneous	939	\$162,322	27,923	94,700	29%
Leases and Rentals	19,834	\$254,382	157,668	326,400	48%
Admin Overhead Expense Transfer	(76,683)	(496,107)	(688,111)	(1,197,600)	57%
<b>Sub-Total Planning &amp; Gen Admin</b>	<b>\$171,204</b>	<b>\$1,485,800</b>	<b>\$1,357,840</b>	<b>\$3,000,000</b>	<b>45%</b>
<b>Total Operating Expense</b>	<b>\$3,752,858</b>	<b>\$26,866,764</b>	<b>\$30,148,936</b>	<b>\$49,993,700</b>	<b>60%</b>
<b>OPERATING REVENUE</b>					
Fare Revenue	\$507,113	\$14,291,359	\$4,645,943	\$8,268,000	56%
Federal Operating Assistance	1,448,871	\$0	12,514,998	22,069,400	57%
State Operating Assistance		\$0	-	450,000	0%
Regional - Bridge Toll	1,213,534	\$12,152,190	10,368,222	15,555,000	67%
Regional - Contra Costa Measure J	545,882	\$416,466	2,550,602	3,651,300	70%
Other Revenue	37,458	\$6,750	69,170	-	0%
<b>Total Operating Revenue</b>	<b>\$3,752,858</b>	<b>\$26,866,764</b>	<b>\$30,148,936</b>	<b>\$49,993,700</b>	<b>60%</b>

**San Francisco Bay Area Water Emergency Transportation Authority**  
**FY 2021-22 Capital Revenues and Expenses**  
**Through the Month Ending 3/31/2022**

Project Description	Mar-22 Total	Total Project Budget	Total Prior Expense	Total FY2021/22 Budget	YTD FY2021/22 Actual	Total Future Year	% of Total Project Budget Spent
<b>CAPITAL EXPENSES:</b>							
<b><u>FACILITIES:</u></b>							
<b>Operations and Maintenance Facilities</b>							
North Bay Facility Fuel System Improvement	13,331	\$ 530,450	\$ 220,680	\$ 309,770	\$ 96,729	\$ -	60%
Central Bay Facility Oil System Modification	5,205	650,000	-	650,000	273,047	-	42%
<b>Terminal Improvement</b>							
Terminal Rehabilitation - Alameda Main Street	43,116	6,127,700	21,269	2,429,831	409,721	3,676,600	7%
Shoreside Infrastructure for All-Electric Vessel	6,883	4,760,000	-	2,002,000	8,223	2,758,000	0%
Passenger Float Rehabilitation - South San Francisco	3,817	908,500	-	908,500	5,265	-	1%
Terminal Dredging - Vallejo		2,787,600	-	2,787,600	1,294,760	-	46%
<b><u>FERRY VESSELS:</u></b>							
<b>Vessel Construction</b>							
New Commuter Class High-Speed Vessels - 2 each	617,301	30,082,500	18,583,816	11,498,684	4,595,883	-	77%
New All-Electric Vessel	1,341	4,300,000	-	1,834,000	1,341	2,466,000	0%
Replacement Vessels - MV Bay Breeze and MV Solano	13,741	34,600,000	3,277,919	17,825,781	92,399	13,496,300	10%
Replacement Vessel - MV Intintoli	12,721	26,446,700	-	500,000	26,848	25,946,700	0%
<b>Vessel Rehabilitation and Refurbishment</b>							
Vessel Engines Conversion - Gemini Class Vessels	176,490	5,982,500	61,869	3,891,431	2,251,191	2,029,200	39%
Vessel Engines Overhaul - MV Argo and MV Carina		240,000	125,730	114,270	85,607	-	88%
Vessel Engines Overhaul - MV Cetus		419,100	-	419,100	-	-	0%
Vessel Engines Overhaul - MV Hydrus		419,100	-	419,100	-	-	0%
Vessel Reduction Gears Overhaul - MV Pisces		120,000	3,728	116,272	48,175	-	43%
Vessel Engines & Reduction Gears Overhaul - MV Bay Breeze	140,536	491,400	49	491,351	140,719	-	29%
Vessel Engines & Fuel Injectors Overhaul - MV Pyxis	78,610	613,200	-	613,200	78,610	-	13%
Vessel Engines & Fuel Injectors Overhaul - MV Vela	58,024	613,200	-	613,200	58,024	-	9%
Vessel Fuel Injectors Overhaul - MV Intintoli	23,855	127,300	-	127,300	23,855	-	19%
<b>Total Capital Expenses</b>	<b>\$1,194,972</b>	<b>\$120,219,250</b>	<b>\$22,295,061</b>	<b>\$47,551,389</b>	<b>\$9,490,397</b>	<b>\$50,372,800</b>	
<b>CAPITAL REVENUES:</b>							
Federal Funds	\$299,537	\$58,684,860	\$2,725,949	\$21,720,621	\$1,810,349	\$34,238,290	8%
State Funds	779,429	47,543,850	13,583,816	21,225,184	7,012,980	12,734,850	43%
Regional - Bridge Toll	78,218	9,078,490	5,298,448	2,894,082	269,334	885,960	61%
Regional - Alameda Sales Tax Measure B / BB	37,788	4,912,050	686,848	1,711,502	397,735	2,513,700	22%
<b>Total Capital Revenues</b>	<b>\$1,194,972</b>	<b>\$120,219,250</b>	<b>\$22,295,061</b>	<b>\$47,551,389</b>	<b>\$9,490,397</b>	<b>\$50,372,800</b>	

**TO: WETA Board Members**

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

**SUBJECT: WETA Federal Legislative Board Report – May 2022**

This report covers the following topics:

- WETA Seeks Funding through the FY23 Federal Appropriations Process
  - WETA Project-Specific Funding Request
  - WETA Programmatic Funding Requests

**WETA Seeks Funding through the FY23 Federal Appropriations Process**

The House and Senate Appropriations Committees kicked off the FY23 appropriations process in late March by seeking funding requests from members of the United States Senate and U.S. House of Representatives. Each individual Senator and Congressperson in turn sought out funding requests from their constituents.

There are two types of funding requests:

- Funding for specific projects, referred to as Community Project Funding Requests in the House and Congressionally Directed Spending Requests in the Senate; and
- Programmatic Funding Requests.

Community Project Funding and Congressionally Directed Spending requests were formally referred to as earmarks prior to Congress banning the practice in 2011. When Congress reintroduced project-specific funding as part of the FY22 appropriations process, the Appropriations Committee included numerous limitations, including with respect to the type of organization that can seek funding, the types of projects that can be funded and the amount of money that can be obtained through the process. Furthermore, members of the U.S. House of Representatives are limited to submitting 15 requests to the Appropriations Committee.

Programmatic funding requests seek increased funding for specific government programs, rather than for specific projects.

WETA submitted two programmatic requests to the Bay Area Congressional delegation and one project specific request, all of which are detailed below. We worked with WETA staff to generate letters of support from local and state elected officials, business groups

and other key stakeholders; and we met (virtually) with each Congressional office to promote WETA's requests.

### ***WETA Project-Specific Funding Request***

WETA submitted a request for \$1.5 million from the Transportation-HUD Appropriations bill to install diesel particulate filters (DPFs) on two of WETA's vessels under construction. Each vessel has 4 engines and will require 2 DPFs/engine. A total of 16 DPFs will be required. WETA's newest vessels are the first passenger vessels in the country to achieve EPA's Tier 4 emission standard, the most environmentally advanced rating. Installing DPFs will provide an 85% further reduction in particulate matter (PM). DPFs are an exhaust after treatment device that trap PM such as soot. Installing the DPFs is an interim step that WETA can take while it finalizes its zero-emissions vessel and infrastructure study, secures funds to purchase new zero emission vessels, and converts existing diesel boats to zero emissions. The installation of DPFs will allow WETA to achieve 85% emission reductions while it works to implement its plan to shift 50% of its vessels to zero emissions by 2035.

### ***WETA Programmatic Funding Requests***

WETA submitted two programmatic funding requests – in both cases, WETA is seeking additional funding for a grant program for which the agency will seek project-specific funding in FY23. The two programmatic requests submitted by WETA are as follows:

- Funding for the Electric or Low-Emitting Ferry Pilot Program authorized by Section 71102 of the Infrastructure Investment and Jobs Act (IIJA). The IIJA provided advanced appropriations for this program (\$50 million per year for five years for a total of \$250 million) and authorized additional funding which is subject to annual appropriations. WETA requested funding the entire authorized amount for FY23, which is \$50 million.
- Additional funding for the FTA 5307(h) ferry program. WETA has received numerous grants through this competitive grant program, which is funded at \$30 million per year. WETA requested the Appropriations Committee "plus-up" the FTA 5307(h) ferry program by \$10 million. The FY21 and FY22 THUD bill also provided additional money for the FTA program.

Respectfully Submitted,  
Peter Friedmann and Ray Bucheger



# NOSSAMAN LLP | Memorandum

**TO:** WETA Board of Directors

**FROM:** Nossaman LLP - Nate Solov  
Jennifer M. Capitolo & Associates – Jennifer Capitolo

**DATE:** April 26, 2022

**RE:** May - Legislative Update

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## **Legislative Update**

April 29 is the deadline for Policy Committee to pass most bills to the Appropriations Committee. Appropriations has until May 20 to pass bills to the Floor. Then each house must pass bills to the other house by May 27. Updates on bills of interest to WETA:

1. SB 922 (Wiener - CEQA streamlining for zero emission transit projects) includes shore-side charging infrastructure for ferries. This bill is an extension of SB 288 (2020).
  - We submitted a support letter highlighting the benefits this bill would have on streamlining our shore-side ZE charging infrastructure projects. Passed the Senate Environmental Quality Committee and is pending on the Senate Floor.
2. AB 2807 (Bonta) – Clarifies that ferries are eligible to apply to existing state programs providing funding for transit providers to transition their fleets from diesel to zero emission vehicles.
  - Passed the Assembly Transportation Committee and is pending in the Appropriations Committee.
3. AB 1919 (Holden) – Requires transit agencies to offer free youth transit passes to all persons 25 years of age and under with California residency, regardless of immigration status, in order to be eligible for state funding under the Mills-Deddeh Transit Development Act, the State Transit Assistance Program, or the Low Carbon Transit Operations Program, subject to a determination by the Controller that a legislative appropriation and the funding from local authorities is sufficient to cover the lost farebox revenue as a result of offering free youth transit passes.
  - WETA opposed AB 1919 unless amended to provide funding to transit agencies to cover the lost fare revenue. Amendments are currently being discussed to provide the funding necessary to offer free transit to individuals age 25 and under. Pending on the Assembly Appropriations Suspense File.

## **Legislator Budget Funding Letter for Mission Bay Ferry Landing**

Nossaman worked with the following legislative offices on a support letter to the Governor, legislative leaders, budget chairs, and budget subcommittee chairs in support of the \$37 million necessary to complete the Mission Bay Ferry Landing: Senators Wiener, Becker, Cortese and Assemblymembers Berman, Bonta, Levine, Mullin, Quirk, and Wicks. The letter will be formally submitted by April 29.

## **Making Ferries Eligible for State Budget Funding**

Nossaman is working with budget committee staff to make sure that ferries can apply for \$600 million being made available for clean trucks, buses, and off-road equipment consistent with last year's budget language. This year's budget contains the word "freight" which is restrictive in the off-road space where we have emerging zero-emission opportunities including: non-freight marine vessels (i.e. ferries).

"\$600,000,000 for clean trucks, buses, and off-road *freight* equipment including the Hybrid and Zero Emission Truck and Bus Voucher Incentive Project, advanced technology freight demonstration and pilot commercial deployment projects."

**Governor's Free Transit Proposal**

Earlier this month Governor Newsom unveiled language detailing his free transit proposal highlighted in his budget. He is proposing to provide \$750 million from the General Fund to cover the cost of three months of free transit provided proportionally to transit providers throughout the state. The summary reads:

This bill would appropriate \$750,000,000 from the General Fund to the Transportation Agency for allocation under a grant program to transit and rail agencies to provide free transit service to all passengers for at least 3 consecutive months, as provided. The bill would require the agency to allocate these moneys to each transit or rail agency in an amount that is proportional to the agency's percentage of overall transit and intercity rail fare revenues in the 2019–20 fiscal year.

This proposal will be negotiated in May and early June, with a final decision reached by June 15.

MEMORANDUM

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**TO:** Board Members

**FROM:** Seamus Murphy, Executive Director  
Kevin Connolly, Planning & Development Manager  
Ossmand Ruano, Transportation Planning Intern

**SUBJECT:** Monthly Ridership and Recovery Report

**Background**

The WETA Pandemic Recovery Plan (Plan) began on July 1, 2021 with the enhancement of the Vallejo, Oakland & Alameda, and Richmond routes, the restart of the suspended Harbor Bay route, and the launch of the new Alameda Seaplane route. The following weekend also marked the relaunch of weekend service on the Vallejo, Oakland & Alameda, and Richmond routes. The South San Francisco service was relaunched in November 2021.

The Plan lowered fares across the WETA system. Future modifications in service will generally follow state guidelines for reopening the economy and subsequent changes in demand. The Plan calls for a monthly evaluation of ridership demand together with other measures relating to how the Bay Area is responding to the COVID-19 health crisis. The Monthly Ridership and Recovery Report presents a status report of the WETA system along with anticipated service adjustments for the upcoming weeks.

**Discussion**

Systemwide ridership grew significantly in July as WETA launched the Plan. Ridership grew through October and November, dropping through December and January potentially due to the impact of COVID variants, inclement weather, and the holidays. Ridership numbers have seen steady growth through February and mid-March. Ridership fell below WETA's budget projections in the months of January and February but continue to compare favorably to other regional transit operators (measured as a percent of pre-pandemic ridership) who have recently seen similar declines in ridership. Beginning in March, the system saw the largest increases in ridership since the start of the pandemic thanks to significant increases in weekday peak-hour ridership as more employers began implementing return-to-office plans.

**Highlights:**

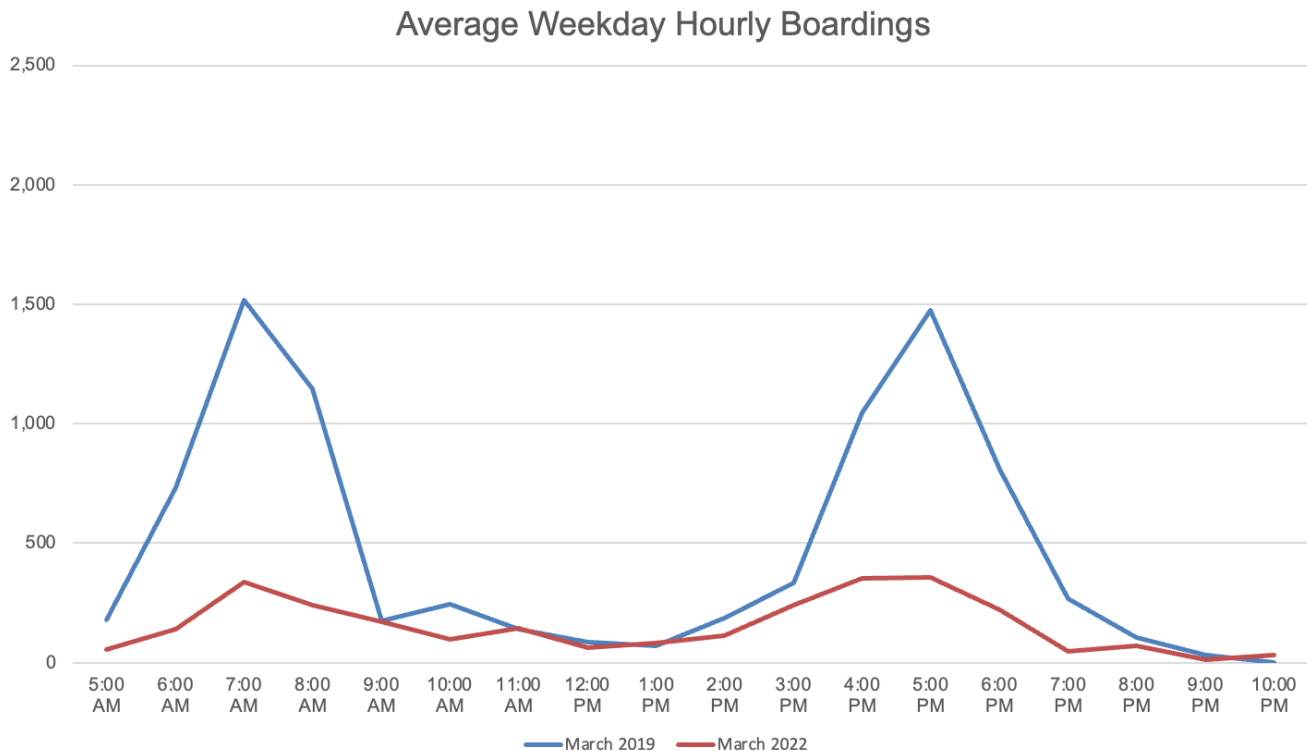
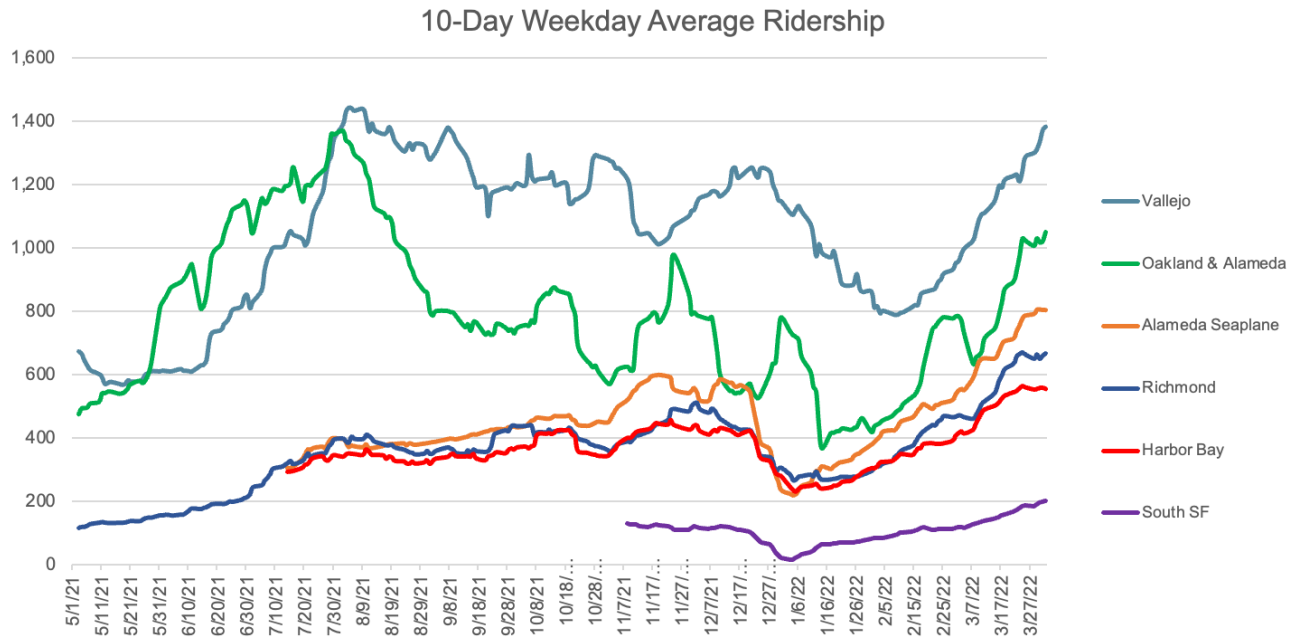
- Weekend ridership has remained a strong component of ridership through March. Average weekend ridership in March 2022 exceeded levels of weekend ridership in March 2019, continuing the trend of strong weekend ridership with the launch of the Plan.
- The South San Francisco route relaunched on Monday November 8 after nearly two years of suspension due to COVID. The route saw a decline in ridership in early January but has seen steady ridership growth through March and into mid-April, averaging 175 daily riders.
- The Oakland & Alameda, Alameda Seaplane, Richmond, and Harbor Bay routes all saw ridership drop in December of 2021 and January of this year. The routes have seen significant growth through March and mid-April.
- The Vallejo route remains WETA's busiest route with an average of 1,300 daily riders.
- Special event service to Chase Center from Oakland & Alameda averaged over 350 daily boardings on service days in March. Service to Oracle Park, which began in April, has averaged approximately 350 daily boardings on service days.

- Actual ridership is above the projected budget assumption for the first time since December of 2021.

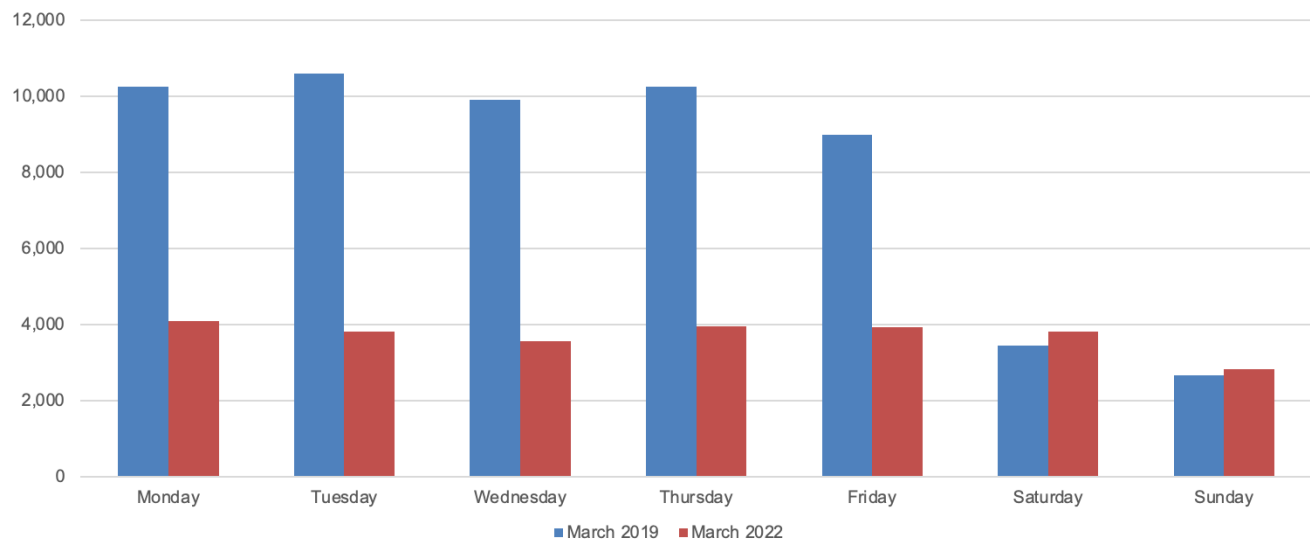
**Recommendations**

There are no proposed service adjustments at this time.

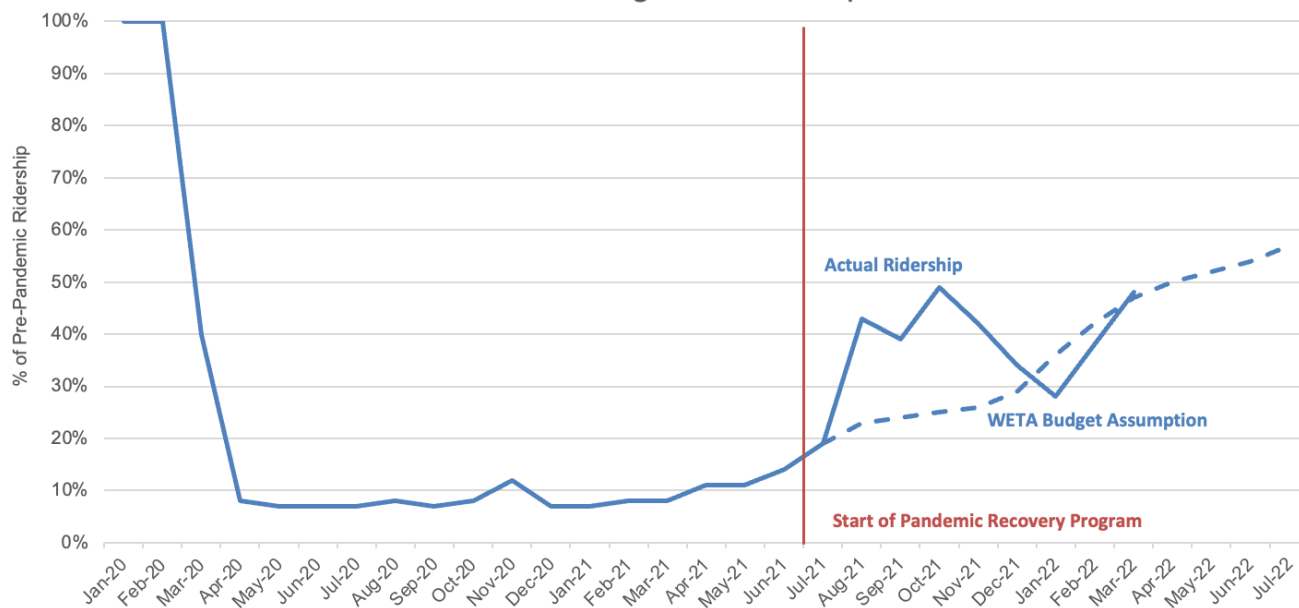




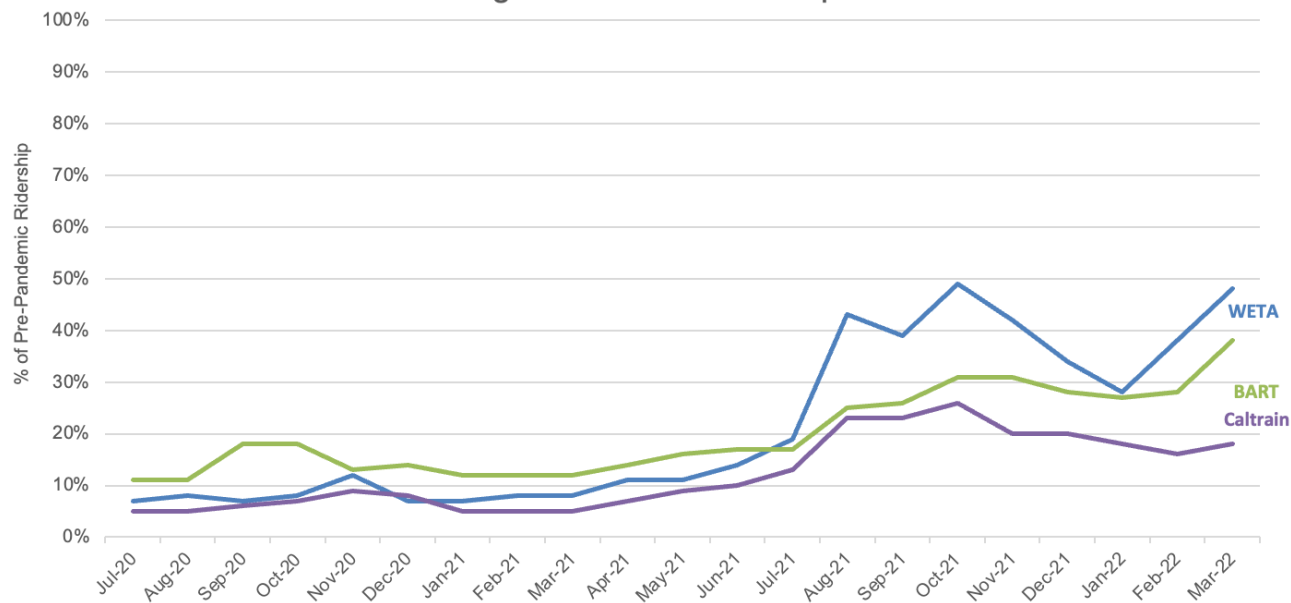
Average Boardings by Day of Week  
Systemwide



Actual vs. Budgeted Ridership



Regional Transit Ridership



**Water Emergency Transportation Authority**  
**Monthly Ridership & Recovery Report**

**May 5, 2022**  
**Page 6**

**Monthly Operating Statistics Report**

March 2022		Oakland & Alameda*	Vallejo*	Richmond	Harbor Bay	Alameda Seaplane	South San Francisco**	Systemwide
Boardings	vs. last month	Total Passengers March 2022	35,729	42,560	15,758	12,412	17,074	130,188
		Total Passengers February 2022	30,123	29,509	10,771	7,393	2,187	91,839
		Percent change	18.61%	44.23%	46.30%	67.89%	72.94%	41.76%
	vs. same month last year	Total Passengers March 2022	35,729	42,560	15,758	12,412	2,187	125,720
		Total Passengers March 2021	8,891	11,656	2,106	-	-	22,653
		Percent change	301.86%	265.13%	648.24%	-	-	454.98%
	vs. prior FY to date	Total Passengers Current FY To Date	321,402	318,696	100,724	72,157	89,567	910,230
		Total Passengers Last FY To Date	43,615	46,380	12,154	-	-	102,149
		Percent change	636.91%	587.14%	728.73%	-	-	791.08%
	Ops Stats	Avg Weekday Ridership March 2022	1,553	1,850	685	540	742	5,371
		Passengers Per Hour March 2022	77	58	45	59	86	62
		Revenue Hours March 2022	466	729	354	211	199	2,104
		Revenue Miles March 2022	6,566	19,812	6,356	4,352	3,289	42,905
		Farebox Recovery Year-To-Date	20%	19%	8%	17%	12%	16%
		Peak hour utilization, AM – March 2022	10%	29%	29%	25%	24%	22%
Fuel		Peak hour utilization, PM – March 2022	21%	36%	27%	30%	22%	14%
		Fuel Used (gallons) – March 2022	61,379	149,784	47,790	23,340	32,079	17,382
		Avg Cost per gallon – March 2022	\$2.94	\$3.02	\$2.92	\$2.86	\$2.94	\$3.01

\* Includes special event ridership to/from Oracle Park and/or Chase Center

\*\* Service suspended on the South San Francisco route until November 2021

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

**MEMORANDUM**

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**TO: Board Members**

**FROM: Seamus Murphy, Executive Director**

**SUBJECT: Adopt Resolution Regarding Remote Meetings Pursuant to Assembly Bill 361**

**Recommendation**

Adopt resolution authorizing the WETA Board to meet remotely pursuant to the provisions of AB 361.

**Background/Discussion**

In March 2020, the Governor of California issued several executive orders in response to the COVID-19 pandemic suspending portions of the Ralph M. Brown (Brown) Act to allow Board members to participate remotely in Board meetings without complying with the Brown Act's restrictions on such remote attendance. (Executive Order N-25-20 and N-29-20)

The Governor's executive order that specifically waived certain requirements of the Brown Act expired on September 30, 2021. On September 16, 2021, the Governor signed Assembly Bill (AB) 361 into law, effective on October 1, 2021. AB 361 amends the Brown Act to allow legislative bodies to meet remotely without complying with traditional teleconference meeting rules, provided there is a state of emergency and either (1) state or local officials have imposed or recommended measures to promote social distancing or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees.

The Governor-declared state of emergency continues to be in effect and both state and local officials continue to recommend measures to promote physical distancing. WETA's Board meetings therefore are in accordance with AB 361's requirements.

In order to qualify for AB 361, the Board must, within 30 days of its first meeting under AB 361, and every 30 days thereafter, make findings that it has reconsidered the circumstances of the state of emergency and that either or both (a) the state of emergency continues to directly impact the ability to meet safely in person and/or (b) state or local officials continue to impose or recommend measures to promote social distancing.

The Executive Director recommends that the Board adopt these findings with the understanding that the Board would need to approve a similar resolution every 30 days if it wishes to continue to meet under AB 361's requirements for teleconference Board meetings.

**Fiscal Impact**

There is no fiscal impact associated this recommendation.

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

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

## **RESOLUTION NO. 2022-16**

### **FINDINGS PURSUANT TO AB 361 TO CONTINUE REMOTE PUBLIC MEETINGS**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19; and

**WHEREAS**, the State of Emergency remains in effect; and

**WHEREAS**, the California Department of Public Health and the Department of Industrial Relations have imposed or recommended measures to promote social distancing, and the San Francisco Public Health Department continues to recommend measures to promote social distancing in combination with other safety precautions when activities occur in shared indoor spaces to mitigate the risk of COVID-19 transmission; and

**WHEREAS**, on September 16, 2021, the Governor signed Assembly Bill 361 into law as urgency legislation that went into effect on October 1, 2021, amending Government Code Section 54953 of the Brown Act to allow legislative bodies to continue to meet remotely without conforming to Brown Act teleconferencing rules if the legislative body holds a meeting during a proclaimed state of emergency, and if state or local officials have imposed or recommended measures to promote social distancing; now, therefore, be it

**RESOLVED** that the Board of Directors has considered the circumstances of the State of Emergency and finds that:

- a. The factors triggering the State of Emergency continue to directly impact the ability of the members of the Board and members of the public to meet safely in person; and
- b. state or local officials continue to recommend measures to promote social distancing; and be it further

**RESOLVED**, that the Board of Directors will reconsider the circumstances of the state of emergency and revisit the need to conduct meetings remotely within 30 days of the adoption of this resolution.

### **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 May 5, 2022.

YEA:

NAY:

ABSTAIN:

ABSENT:

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/s/ Board Secretary

2022-16

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

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

*(April 7, 2022)*

The Board of Directors of the San Francisco Bay Area Water Emergency Transportation Authority met in regular session at WETA Central Bay Operations & Maintenance Facility at 670 W Hornet Ave, Alameda, CA and via videoconference consistent with AB 361 as codified in Government Code Section 54953.

**1. CALL TO ORDER**

Chair James Wunderman called the meeting to order at 1:01 p.m.

**2. ROLL CALL**

Chair James Wunderman, Vice Chair Monique Moyer, Director Jessica Alba, and Director Anthony Intintoli were in attendance.

Chair Wunderman led the Pledge of Allegiance. He welcomed directors, staff, and meeting guests and noted that the meeting was being conducted in person and by videoconference and was being recorded. He advised guests about offering public comment and how guests could sign up to speak throughout the meeting.

He noted that WETA would be holding a public hearing on the extension of the Fiscal Year 2022 Pandemic Recovery Program later in the meeting, in conjunction with the presentation of the item, before considering adoption of the program consistent with its outreach materials.

**3. REPORT OF BOARD CHAIR**

Chair Wunderman commented that companies have begun to stipulate that their employees return to the office at least one day a week. He said that he has noticed this with the increase in commute traffic and the visibility of people on the streets. He stated that it was incumbent upon WETA to encourage, enable, and accommodate the increased commute traffic.

**4. REPORTS OF DIRECTORS**

Vice Chair Moyer recognized the passing of business leader and philanthropist Richard Blum, who she noted was a big supporter of water transit in the Bay.

Director Alba reported that she had attended a conference on the collaboration between the Nordic countries and the United States for a green transition initiative aimed to support and increase the adoption of sustainable technologies and innovation.

**5. REPORTS OF STAFF**

Executive Director Seamus Murphy began by introducing new WETA team members: Grant & Budgets Administrator Lynda Viray, Transportation Planner Gabriel Chan, and Marine Operations Supervisor Catherine Parson.

Mr. Murphy reported that the Transportation Security Administration (TSA) has continued the mask mandate at transit facilities through April 18. He said that there is an advocacy effort by the public transit community throughout the country to separate the TSA mask mandate on transit from the airline industry.

Mr. Murphy said that Government & Regulatory Affairs Manager Lauren Gularte pushed for the creation of the Passenger Vessel Association (PVA) Public Ferry Caucus comprised of both private and public sector ferry operators and was promptly elected as Chair of the Caucus.

Mr. Murphy commented that WETA had been participating in several efforts led by employer coalitions to connect WETA services and information with employees.

With that, he turned it over to Ms. Gularte to provide a legislative update and to Planning & Development Manager Kevin Connolly to provide a ridership update. Ms. Gularte reported that the Governor is proposing to provide \$750 million to transit agencies to implement a free or heavily reduced fare program. She noted in separate legislation that the proposed AB 1919 would require every California transit agency to provide free transit service to individuals 25 years or younger in order to receive funding from the Transportation Development Act, local transportation fund, State Transit Assistance programs, and Low Carbon Transit Operations programs. She added that the bill, as introduced, does not provide funding to offset the increased costs of providing free transit, so WETA had testified in opposition to the bill on April 4.

Mr. Connolly provided a ridership update and stated that WETA would change its method of comparing ridership from the highest ridership year of 2019 to averaging the last five years. Mr. Connolly stated that WETA was averaging 40 to 50 passengers per trip but would like to be at 100 passengers per trip in response to a question from Vice Chair Moyer.

The Directors thought that it made sense to continue comparing ridership to WETA's best year 2019 based on the budget and expectations going forward.

Mr. Murphy provided five written reports and offered to answer questions.

Chair Wunderman called for public comments, and there were none.

## **6. CONSENT CALENDAR**

Director Alba made a motion to approve the consent calendar:

- a. Adopt a Resolution Regarding Remote Meetings Pursuant to Assembly Bill 361
- b. Board Meeting Minutes – March 3, 2022

Chair Wunderman called for public comments on the consent calendar, and there were none.

Vice Chair Moyer seconded the motion, and the consent calendar carried unanimously.

Yeas: Alba, Intintoli, Moyer, Wunderman. Nays: None. Absent: DelBono.

## **7. APPROVE EXTENSION OF FISCAL YEAR 2022 PANDEMIC RECOVERY PROGRAM**

Mr. Murphy introduced this item recommending extension of the Fiscal Year (FY) 2022 Pandemic Recovery Program for up to one year through FY 2023. He commented that the recommendation was for up to one year but that the Board could choose to do something else including reverting back to the original fare program. He noted that there was a revenue cost associated with keeping the Pandemic Recovery Program fares in place but that doing so would increase the relevance of the agency. Mr. Murphy said that WETA had received an additional \$26 million in federal funding allowing WETA to be in position to be able to offer the fares for another year.

Mr. Murphy asked Public Information & Marketing Manager Thomas Hall to talk about the ridership growth and outreach efforts over the last year under the Pandemic Recovery Program and Principal Planner Michael Gougherty to present the fiscal impact on behalf of Chief Financial Officer Erin McGrath. Mr. Hall shared the presentation and reminded the Board that WETA adopted the



Pandemic Recovery Principles last February which were used to guide the Pandemic Recovery Program. He said that the principles were designed to incentivize the return of riders to the WETA system, accommodate changes in travel patterns, and attract a new and diversified ridership base.

Mr. Gougherty noted that the ridership projections for the next fiscal year used three scenarios: a base case, a conservative case, and an optimistic case and applied a methodology that is used by BART.

Mr. Gougherty said approval of the item would continue the current fares for up to 12 months and if no other action is taken at the end of the 12 months or FY 2023, fares would revert back to the 2019 fares and followed up with the next steps. He reminded everyone that there was a lot of discussion at the regional level about furthering fare coordination and integration for regional transit operators and initiatives that could have an impact on future fares.

At the conclusion of the presentation, Chair Wunderman opened the public hearing to receive comments.

#### **PUBLIC COMMENT**

Bay Area Council Policy Director Emily Loper, Seamless Bay Area Advocacy Director Adina Levin, and Redwood City Port Commission Chair Lorianne Kastrop spoke in support of extending the program.

With no further public comments, Chair Wunderman closed the public hearing.

The Directors thanked the team for their work and reiterated several positive reasons for continuing the program.

Director Intintoli made a motion to adopt Resolution No. 2022-14 approving this item.

Chair Wunderman called for any additional public comments, and there were none, which concluded the public comment period.

Director Alba seconded the motion, and the item passed unanimously.

Following up on Vice Chair Moyer's comments, WETA General Counsel Madeline Chun from Hanson Bridgett LLP stated that all the materials that pertained to this effort including all of the public outreach efforts, notices, surveys, as well as the PowerPoint presentation would be included as part of the public record.

Yeas: Alba, Intintoli, Moyer, Wunderman. Nays: None. Absent: DelBono.

#### **8. RECEIVE BERKELEY FERRY SERVICE BUSINESS PLAN**

Mr. Gougherty presented this item recommending receipt of the Berkeley Ferry Service Business Plan.

Before Mr. Gougherty shared his presentation, he began by acknowledging the consultant team and partners CDM Smith Bill Hurrell, Economic & Planning Systems Associate Rosanna Ren on behalf of Executive Vice President Ashleigh Kanat, and City of Berkeley Department of Parks, Recreation, and Waterfront Supervising Civil Engineer Nelson Lam and Senior Management analyst Roger Miller.

Mr. Gougherty explained the goals of the plan, noting that a written summary of the plan was included in the staff report and that the full plan was available online for download and review. He and Ms. Ren went through the PowerPoint presentation highlighting some of the major findings, the economic development opportunities, and equity considerations.

## **PUBLIC COMMENT**

Mr. Lam spoke in support of the plan and looked forward to continued collaboration with WETA staff on the next step of the Berkeley Ferry Terminal Project.

Berkeley resident David Fielder, Berkeley resident, sailor, and windsurfer Gordon Stout, and Berkeley Parks, Recreation, Waterfront Commission marina district member Claudia Kawczynska, and Kelly Hammargren asked clarifying questions and stated their skepticism and concerns of building a ferry terminal at the Berkeley Marina.

Tideline Marine Group Chief Executive Officer stated that Tideline was running the current Berkeley ferry service.

Berkeley resident Gerald Bellows thanked the staff for the report, thought the issues were thoroughly researched, and supported moving forward with the plan.

Mr. Gougherty and Mr. Hurrell addressed the shift in ridership from other services, stating that the Alameda County Regional Transportation model was used to project the ridership forecast to include existing ferry services as well as the proposed Berkeley service.

In response to Chair Wunderman, Mr. Hurrell and Mr. Gougherty explained factors that led to the determination for weekend only service to Larkspur.

Director Intintoli commented that challenges currently exist, that the plan is a living document, and that between now and the expected 2026 start of operations, there would be changes.

The Directors thanked the staff and consultants for their efforts and the public for their comments and involvement. They acknowledged the issues that were discussed, stated their concerns on omissions in the report, and expressed their interest in continuing with the efforts.

Ms. Chun noted that the resolution to be acted upon by the Board was to receive the initial version of the Berkeley Ferry Service Business Plan and that any periodic updates that were major would come back to the Board.

Director Intintoli made a motion to adopt Resolution No. 2022-15 approving this item.

Director Alba seconded the motion, and the item passed unanimously.

Yeas: Alba, Intintoli, Moyer, Wunderman. Nays: None. Absent: DelBono.

## **9. SEA CHANGE HYDROGEN-POWERED VESSEL DEMONSTRATION PROJECT**

Mr. Murphy introduced the informational item seeking input and direction from the Board to guide the considerations that should be taken into account for a six-month demonstration project to operate the hydrogen powered vessel, *Sea Change*, in public ferry service. He asked Operations & Maintenance Manager Timothy Hanners to describe the service plan and breakdown of the cost.

Mr. Hanners said that the nation's first hydrogen-powered vessel, *Sea Change*, had recently completed sea trials and received Coast Guard approvals and was expected to be delivered to the San Francisco Bay Area by the end of April.

The Directors expressed their interest and excitement in the project.

Mr. Murphy stated that there were some private and public sector partners who had expressed some interest in partnering with WETA to share the cost of the demonstration project during the six-month period.

**PUBLIC COMMENT**

SWITCH Maritime LLC Founder/Chief Executive Officer Pace Ralli commented that he was up in Bellingham, WA and was on board the vessel earlier in the day.

Director Alba expressed her excitement of the demonstration, emphasized the educational awareness opportunity, and to be conscious of the costs.

**10. WETA 2050 SERVICE VISION & BUSINESS PLAN WORK PLAN**

Mr. Connolly presented this informational item on the status of the business plans and the scope for the next year.

Chair Wunderman thanked the staff, Vice Chair Moyer, and Director Alba for all their work and efforts.

Chair Wunderman called for public comments, and there were none.

**11. PUBLIC COMMENTS FOR NON-AGENDA ITEMS**

No further public comments were shared.

With all business concluded, Chair Wunderman adjourned the meeting in honor of Mr. Blum and his lifetime of service at 3:38 p.m.

- Board Secretary

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

MEMORANDUM

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**TO: Board Members**

**FROM: Seamus Murphy, Executive Director  
Tim Hanners, Operations & Engineering Manager**

**SUBJECT: Authorize Release of a Request for Proposal for On-Call Professional Engineering/Consulting Services to Support Ongoing System Capital, Planning, Construction Management, and Vessel Design**

**Recommendation**

Authorize release of a Request for Proposal (RFP) for On-Call Professional Engineering/Consulting Services to Support Ongoing System Capital, Planning, Construction Management, and Vessel Design

**Background**

Over the next five years WETA will be implementing several new capital programs for implementation of WETA's zero emissions goals. This includes electric vessel design, RFP development, construction management, and shoreside infrastructure charging that will require the support and oversight of a maritime professional experienced in such activities. Having the ability to consult with one firm, on an as-needed basis, to plan and implement our capital plans and future engineering tasks will allow staff to develop a solid foundation as WETA transitions to zero emissions.

**Discussion**

This RFP would solicit proposals for engineering/consulting services from firms with prior experience and knowledge of ferry transportation operations with particular emphasis on vessel design, construction management, and zero emission technology. A strong background in marine engineering is required. The work to be provided will include, but will not necessarily be limited to, the following:

- Planning, development and implementation of capital maintenance projects and preventative maintenance programs involving existing and new WETA-owned ferry vessels and facilities;
- Implementing greenhouse gas emissions reductions across the fleet by operating zero emissions vessels;
- Assist agency with continued development of WETA's Alternative Compliance Plan;
- Research and development of future zero emissions technologies including battery, solar, and hydrogen;
- Management support for planning, organization and analysis to meet WETA's zero emissions goals; and
- Maritime planning and support for system review and optimization of ongoing ferry operations, protocols, and logistics.

This RFP will solicit proposals from qualified firms to assist with this work in the coming years. Once the best qualified proposer is identified, staff will return to the Board to propose a contract award for this work.

**Fiscal Impact**

There is no fiscal impact associated with the release of this RFP.

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

MEMORANDUM

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**TO:** Board Members

**FROM:** Seamus Murphy, Executive Director  
Tim Hanners, Operations & Maintenance Manager  
Jeff Powell, Engineering & Maintenance Administrator

**SUBJECT:** Authorize Release of a Request for Proposal for All Electric Vessel Construction for MV *Intintoli* Replacement Vessel

**Recommendation**

Authorize staff to release a Request for Proposal (RFP) for All Electric Vessel Construction for MV *Intintoli* Replacement Vessel.

**Background**

The MV *Intintoli* is reaching the replacement age of 25 years, qualifying it for Federal Transit Administration (FTA) replacement funds available through the Metropolitan Transportation Commission in accordance with their Transit Capital Priorities process. Staff has worked to secure both FTA and local match funds to support this Project, which is included in the FY 2021/22 Capital Budget.

The MV *Intintoli* is a 350-passenger vessel that operates as a part of WETA's North Bay fleet. This vessel is utilized predominantly for the Vallejo to San Francisco service as it has a service speed to meet the demanding route. With the recently ordered high speed high-capacity vessels supporting the Vallejo to San Francisco service, it is staff's assessment that the MV *Intintoli* replacement vessel should be a zero-emissions vessel designed to meet the growing service needs.

The MV *Intintoli* Replacement vessel construction project is funded in part with FTA funds and requires approval of a Disadvantaged Business Enterprise (DBE) project goal. WETA submitted the DBE project goal setting methodology and analysis to FTA on November 1, 2021. FTA approved WETA's 1.72% DBE project goal on January 7, 2022. Staff conducted an extensive analysis of available DBE firms and an active outreach effort to potential shipyards, subcontractors, DBE firms, as well as community-based organizations working with small businesses. WETA worked with staff from the Golden Gate Bridge, Highway & Transportation District (GGBHTD) to partner on outreach efforts since GGBHTD is also building a vessel. WETA co-hosted a webinar with GGBHTD on October 13, 2021 to provide information on this vessel construction project, assist interested shipyards with attaining DBE participation by providing an opportunity to network in advance of the project and information on how to find DBEs. Invitees included shipyards within the geographic market area with experience building similar vessels, 2,016 people on WETA's contracting notification list, and 1,354 California and Washington state DBE firms. The webinar was advertised on WETA and GGBHTD's website and ads were placed in e-newsletters for two of the largest trade organizations/publications for the passenger vessel industry and the Small Business Exchange. 42 individuals representing 31 different firms attended. A recording of the webinar and a copy of the registration list was also posted on WETA's website for those who were not able to attend.

**Discussion**

This item authorizes staff to prepare and release an RFP to solicit proposals from qualified firms for the construction of an all electric ferry. The preparation of the RFP will take into consideration the ongoing WETA Zero Emission Study to ensure WETA is in alignment with the transition to zero-emission vessels. Once the best qualified proposer is identified, staff will return to the Board with a recommendation for contract award.

**Fiscal Impact**

There is no fiscal impact associated with this release of a Request for Proposals. Funding for the project was approved in the FY2021-22 budget and will be included in the FY 2022-23 budget proposal.

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

**MEMORANDUM**

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**TO: Board Members**

**FROM: Seamus Murphy, Executive Director**  
**Tim Hanners, Operations & Maintenance Manager**  
**Jeff Powell, Engineering and Maintenance Administrator**

**SUBJECT: Approve Contract Award to Elliott Bay Design Group for Construction Management Services for the MV *Intintoli* Replacement Vessel**

**Recommendation**

Approve contract award to Elliott Bay Design Group for construction management services for the MV *Intintoli* Replacement project in an amount not to exceed \$1,322,355 and authorize the Executive Director to negotiate and execute an agreement for these services and take any other such related actions to support this work.

**Background**

The MV *Intintoli* has met the replacement age of 25 years, qualifying it for Federal Transit Administration (FTA) replacement funds available through the Metropolitan Transportation Commission in accordance with their Transit Capital Priorities process. Staff has worked to secure both FTA and local match funds to support this replacement project, which was included in the FY 2021-22 Capital Budget for implementation.

The MV *Intintoli* is a 350-passenger vessel that operates as a part of WETA's North Bay fleet. This vessel is utilized predominantly for the Vallejo to San Francisco services as it has a service speed to meet the demanding route. With additional high speed, high-capacity vessels arriving soon to operate on these services, it is staff's assessment that the MV *Intintoli* replacement should be designed as a zero-emission vessel consistent with WETA's proposed fleet plan designed to meet recently approved California Air Resources Board (CARB) rules governing emissions from harbor craft.

**Discussion**

On November 4, 2021, the Board of Directors authorized staff to release a Request for Proposals (RFP) to identify and select a qualified firm to assist with shipyard selection, vessel construction management oversight and warranty administration once the new vessel is put into service. On January 11, 2022, WETA issued the RFP for services and on March 11, 2022, WETA received a total of five proposals in response to the RFP.

Selection criteria for the contract, as established within the RFP, included the following:

**1. Project Understanding and Approach**

Criteria - understanding of services required, proposed approach to providing the services and working with WETA staff, organization chart of proposed team, and staffing plan for the project.

## **2. Proposer's Qualifications and Experience**

Criteria – Proposers qualifications to perform the services, relevant experience performing work that is the same or similar to the services, including the scope and dollar value of prior projects completed and proposer's references, as well as financial strength and stability.

## **3. Qualifications and Experience of Key Personnel**

Criteria – qualifications and relevant experience to perform the same or similar services as required by the RFP.

All five of the proposals were professionally presented and determined to be responsive. WETA established an Evaluation Committee to review and score the proposals against the review criteria included in the RFP. The scoring results of the review are summarized in Table 1 below.

**Table 1 – Scoring**

	Firms				
	Hornblower	Maritime Consulting	Knud E Hansen	Incat Crowther	Elliott Bay Design Group
Project Understanding and Approach	15.21	22.71	18.02	20.83	21.88
Proposers Qualifications and Experience	35.14	40.83	35	38.06	40.56
Qualifications and Experience of Key Personnel	17.08	20.42	17.08	20	21.67
Technical Score	67.43	83.96	70.1	78.89	84.1

Based upon the evaluation and scoring of proposals, Elliott Bay Design Group was the highest-ranked proposer. While the scoring was close between the two top-ranked firms, Elliott Bay Design Group's score reflects that it had the most applicable experience and knowledge regarding zero emissions vessels. The Elliott Bay Design Group team has extensive experience working on similar projects for WETA and other organizations. The work under this contract will include such items as preparation of technical specifications, vessel construction management, and warranty administration. The construction management tasks will include inspection and testing services throughout all phases of construction.

Pursuant to the RFP, and consistent with State and federal law for the procurement of design services like these, price was not considered as an evaluation criteria. After completion of the scoring process, staff initiated negotiations with Elliott Bay Design Group and was able to agree upon a not-to-exceed contract amount of \$1,322,355 which represents approximately 5 percent of the budgeted vessel construction cost. Staff determined that Elliott Bay Design Group's rates are fair and reasonable compared with other similar service contracts and in particular with other contracts WETA has entered into with Elliott Bay Design Group. The work under this contract will be managed by task orders issued by WETA staff within the overall contract limit.



**FTA Disadvantaged Business Enterprise Project Goal**

The MV *INTINTOLI* Replacement vessel construction project is funded in part with FTA funds and required approval of a Disadvantaged Business Enterprise (DBE) project goal. WETA submitted the DBE project goal setting methodology and analysis to FTA on November 1, 2021. FTA approved WETA's 1.72% DBE goal on January 7, 2022. In developing this goal, Staff conducted an extensive analysis of available DBE firms and an active outreach effort to potential shipyards, subcontractors, DBE firms, as well as community-based organizations working with small businesses. WETA worked with staff from the Golden Gate Bridge, Highway & Transportation District (GGBHTD) to partner on outreach efforts since GGBHTD is also building a vessel. WETA co-hosted a webinar with GGBHTD on October 13, 2021 to provide information on this vessel construction project, assist interested shipyards with attaining DBE participation by providing an opportunity to network in advance of the project and information on how to find DBEs. Invitees included shipyards within the geographic market area with experience building similar vessels, 2,016 people on WETA's contracting notifications list, and 1,354 California and Washington state DBE firms. The webinar was advertised on WETA and GGBHTD's website and ads were placed in e-newsletters for two of the largest trade organizations/publications for the passenger vessel industry and the Small Business Exchange. 42 individuals representing 31 different firms attended. A recording of the webinar and a copy of the registration list was also posted on WETA's website for those who were not able to attend.

Staff has reviewed the DBE materials provided by Elliot Bay Design Group and has determined that they have complied with the DBE requirements for this contract. Elliot Bay Design Group has committed 0 percent DBE participation and 84 percent SBE participation during the performance of this contract.

**Fiscal Impact**

The *MV INTINTOLI Replacement* project was included in the FY 2021-22 Capital Budget with a total project budget of \$26,446,700, funded with a combination of Federal Transit Administration (80 percent), and State Transit Assistance (20 percent) funds. Sufficient funds are in the total project budget to support the award of the Construction Management contract to Elliott Bay Design Group for a total amount not to exceed \$1,322,355.

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

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

**RESOLUTION NO. 2022-17**

**APPROVE CONTRACT AWARD TO ELLIOTT BAY DESIGN GROUP FOR  
CONSTRUCTION MANAGEMENT SERVICES FOR THE  
MV *INTINTOLI*/REPLACEMENT VESSEL**

**WHEREAS**, the San Francisco Bay Area Water Emergency Transportation Authority (WETA) requires construction management services relative to the MV Intintoli Replacement Vessel Project; and

**WHEREAS**, WETA issued a Request for Proposals (RFP) for the required construction management services in January, 2022; and

**WHEREAS**, in accordance with the RFP and WETA's Administrative Code, WETA established an evaluation committee that reviewed all proposals received by the RFP's due date; and

**WHEREAS**, based on the evaluation criteria in the RFP, the Evaluation Committee determined Elliott Bay Design Group was the highest-ranked proposer; and

**WHEREAS**, after completion of the ranking process, WETA staff negotiated an agreement with Elliot Bay Design Group at rates determined to be fair and reasonable; and

**WHEREAS**, WETA staff recommends the Board award a contract to Elliott Bay Design Group for a total not to exceed amount of \$1,322,355; now, therefore, be it

**RESOLVED**, that the Board of Directors hereby approves entering into an agreement with Elliott Bay Design Group for construction management services for the MV Intintoli Replacement Vessel Project in an amount not to exceed \$1,322,355; and be it further

**RESOLVED**, that the Board of Directors authorizes the Executive Director to execute an agreement with Elliott Bay Design Group and take any other necessary actions consistent with this action.

**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 May 5, 2022.

YEA:

NAY:

ABSTAIN:

ABSENT:

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/s/ Board Secretary

2022-17

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

**MEMORANDUM**

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**TO: Board Members**

**FROM: Seamus Murphy, Executive Director**  
**Kevin Connolly, Planning & Development Manager**  
**Tim Hanners, Operations & Engineering Manager**  
**Erin McGrath, Chief Financial Officer**

**SUBJECT: Sea Change Hydrogen-powered Vessel Demonstration Project**

**Recommendation**

Approve the implementation of a demonstration project to operate the Sea Change hydrogen-powered vessel as a part of the San Francisco Bay Ferry network for a total of six months (Demonstration Project), and authorize the Executive Director to take steps to facilitate the project including:

- Adopt an amendment to the Fiscal Year (FY) 2022 Operating Budget in the amount of \$281,500 to fund the current fiscal year cost of the Demonstration Project. The remaining costs of the Demonstration Project will be included in the FY 2023 Operating Budget.
- Execute an amendment to WETA's Operating Contract that allows Blue and Gold Fleet to lease the vessel and operate it in WETA service
- Negotiate and execute agreements with private and public sector project sponsors to secure funding that supports project implementation

**Background**

The Sea Change is the first vessel funded by SWITCH Maritime, a private equity firm based in New York that is working to build and lease zero-emission hydrogen-powered vessels. The Sea Change is the first vessel funded by SWITCH.

The Sea Change was constructed in the Seattle area and is being prepared for transit to the Bay Area after recently completing sea trials. The vessel is expected to be delivered in May.

The Sea Change is powered by hydrogen fuel cell batteries, a proven technology in other modes but untested in ferry vessels in the United States. The Sea Change was funded through private equity financing along with public sources from the Bay Area Air Quality Management District (BAAQMD), the California Air Resources Board (CARB), and loan guarantees from the Nor-Cal Financial Development Corporation. As a condition of its funding, the vessel must provide data for its first three months of operations.

WETA staff has been in conversation with SWITCH officials and Blue and Gold Fleet to explore the possibility of deploying Sea Change as part of the San Francisco Bay Ferry system. While the Sea Change vessel was designed for passenger ferry operations, passenger capacity and operational constraints make it challenging to deploy in many parts of the WETA system.

- **Limited passenger capacity** – Virtually all of WETA's services feature per trip capacity above 150 passengers. The passenger capacity of the Sea Change is 70.

- **Maximum speed** – WETA services require a minimum speed of 28 knots. Vessels serving Vallejo ideally have a minimum speed of 34 knots. The maximum speed of the Sea Change is 11 knots.
- **Refueling requirement** – WETA vessels typically operate for 16-hour days, many with minimal downtime between crew shifts. The Sea Change will be able to operate for 8 hours before refueling is needed.
- **New technology** – Sea Change is a new vessel operating with a new, unproven propulsion system, creating a higher risk of service outages due to unforeseen mechanical or operational disruptions.
- **Cost** – The cost of the Sea Change lease is nearly half of the total demonstration project cost. To place Sea Change into WETA operations, Blue & Gold will lease the vessel and then train crews on the new, unique operational environment. These factors combine to create a much higher expense than a comparable service that utilized an existing WETA vessel.

### **Discussion**

Despite the challenges in deploying Sea Change into WETA service, the demonstration project is a unique opportunity for WETA to gain real world experience operating a vessel with cutting edge zero-emissions technology. Moving forward will provide WETA with a chance to evaluate the current state of hydrogen vessel integration, to better plan for the incorporation of zero-emissions technology in the longer term, and to emphasize WETA's commitment to transitioning to zero-emission propulsion.

To realize these benefits, staff has worked with Blue and Gold Fleet and SWITCH officials to develop a service concept that would effectively test the new technology while also efficiently supplementing WETA ferry service.

The service concept eventually developed by WETA staff proposes to operate the Sea Change in afternoon service as a part of the Pier 41 Short Hop Route between Downtown San Francisco Ferry Building and Pier 41. The service would be deployed on both weekends and weekdays during the summer months. Service to special events at either Chase Center or Oracle Park would also be incorporated into weeknight operations, providing an option for people heading to events from Downtown San Francisco.

This service would supplement existing trips between points on the San Francisco waterfront to meet travel demands and avoid service disruptions during WETA's peak season. Service along the San Francisco waterfront does not require top speeds and is generally patronized by recreational passengers less concerned with travel time.

Operating the Sea Change along a San Francisco waterfront route will maximize the public visibility of the demonstration project. Staff has had initial conversations with waterfront partners about strategies to increase public awareness. There is great interest in developing onboard and landside public education opportunities about climate change, zero-emission applications to the maritime and broader mobility industries, and the commitment of WETA and other stakeholders toward making our systems cleaner.

The total estimated expense for a six-month demonstration project utilizing Sea Change for the service described above is \$1,689,060. This amount is reasonable given the unusual and untested technology, the need for special training for the Blue and Gold Fleet crews, and the lease of a unique vessel from a sole source. Blue and Gold Fleet is passing through its costs without any additional mark-up or profit. Also of note, this estimate assumes \$417,400 for

hydrogen fuel. Given the volatility of all fuel prices, this assumption is subject to change. The expense is summarized in Table 1.0 below.

**Table 1.0**  
Summary of Expenses, Sea Change Vessel Demonstration Project

Sea Change Bareboat Lease	\$785,000
Maintenance	\$37,500
Berthing	\$8,700
Fueling	\$417,400
Blue & Gold Crew	\$440,460
Total Expenses	\$1,689,060

The proposed fare will be WETA's standard Clipper short-hop fare of \$1.00. Like other vessels operating on the Pier 41 Short Hop route, the fare will be free for passengers connecting to another San Francisco Bay Ferry service either before or after their trip on the Sea Change.

WETA staff modeled projected ridership for the Sea Change using the same methodology used to develop FY 2023 ridership projections. It is estimated that the demonstration project will generate 59,000 total riders, with an average of 648 trips/day. Average fare is assumed to be \$0.85, generating \$50,000 toward the total cost of the project.

Remaining revenue to support full implementation of the project will come from a combination of public and private sector funding sources. WETA has engaged several stakeholders about the opportunity to help ensure that the project moves forward. The discussions are ongoing and staff estimates potential to raise as much as \$700,000 in third-party support for the project. Combining third-party sources and the anticipated fare revenue, the net expenses for the demonstration project will be approximately \$940,000.

**Fiscal Impact**

Revenues not generated from fares and third-party sponsors for the \$1,689,060 project will be covered by WETA revenues. The fiscal impact will be split between the current FY 2022 and next year, FY 2023. FY 2022 costs of \$281,500 cover one-sixth of the total cost. FY 2022 and FY 2023 costs will be supported by Federal funding provided by pandemic relief legislation approved by Congress in 2021. A combination of Federal pandemic relief funding and potentially WETA reserves will be needed to support WETA services while ridership and fare revenue continues to return to the system. In March 2022, WETA services generated \$709,000 in fare revenue. Prior to the pandemic, fare revenue averaged ~\$1.87 million/month.

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

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

**RESOLUTION NO. 2022-18**

**APPROVE IMPLEMENTATION OF THE HYDROGEN VESSEL DEMONSTRATION PROJECT**

**WHEREAS**, WETA has an opportunity to implement a Demonstration Project that would place into WETA service for up to six months a new cutting-edge hydrogen-powered vessel, the Sea Change; and

**WHEREAS**, the Demonstration Project would afford WETA the opportunity to evaluate the current state of hydrogen vessel integration, to better plan for the incorporation of zero-emissions technology, and to emphasize WETA's commitment to transitioning to zero-emissions propulsion; and

**WHEREAS**, to implement the Demonstration Project, WETA will need to amend its agreement with its operator, Blue and Gold Fleet, to allow Blue and Gold Fleet to lease the Sea Change and operate it in WETA service as per WETA direction and at WETA's cost; and

**WHEREAS**, other private and public entities have expressed an interest in assisting WETA in helping fund the Demonstration Project; and

**WHEREAS**, in order to start the Demonstration Project before the end of the current fiscal year, an amendment to the Fiscal Year 2021-2022 (FY 2022) Operating Budget will be required to add \$281,500 to fund the portion of the Demonstration Project that will occur in the current fiscal year; and

**WHEREAS**, the Executive Director recommends that the Board (a) authorize the Demonstration Project, (b) approve an amendment to the FY 22 Operating Budget in the amount of \$281,500 to fund the portion of the Demonstration Project that will occur in the current fiscal year, (c) authorize the Executive Director to enter into an amendment to the agreement with Blue and Gold Fleet to authorize Blue and Gold Fleet to lease the Sea Change and operate it in WETA service, with the understanding that most of the cost of the amendment will be included in the Fiscal Year 2022-2023 Operating Budget, and (d) authorize the Executive Director to negotiate and execute funding agreements with private and public project sponsors to help support the implementation of the Demonstration Project. now, therefore, be it

**RESOLVED**, that the Board of Directors hereby authorizes the Demonstration Project as more particularly described in the attached Staff Report; and be it further

**RESOLVED**, that the Board of Directors adopts an amendment to the FY 2022 Operating Budget in the amount of \$281,500, increasing the FY2022 Operating Budget from \$49,993,700 to \$50,275,200, to fund the portion of the Demonstration Project that will occur in FY 2022; and be it further

**RESOLVED**, that the Board of Directors authorizes the Executive Director to take additional actions necessary to implement the Demonstration Project, including (a) entering into an amendment to the agreement with Blue and Gold Fleet to authorize Blue and Gold Fleet to lease the Sea Change and operate it in WETA service, and (b) negotiating and executing funding agreements with private and public project sponsors to help support the implementation of the Demonstration Project

### **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 May 5, 2022.

YEA:

NAY:

ABSTAIN:

ABSENT:

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/s/ Board Secretary

2022-18

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

**MEMORANDUM**

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**TO: Board Members**

**FROM: Seamus Murphy, Executive Director**  
**Kevin Connolly, Planning & Development Manager**  
**Tim Hanners, Operations & Engineering Manager**  
**Erin McGrath, Chief Financial Officer**

**SUBJECT: South San Francisco-San Francisco Pilot Service**

**Recommendation**

There is no recommendation associated with this informational item.

Staff is providing an update to the Board on efforts to explore a six-month pilot service connecting San Francisco and South San Francisco. Staff had been targeting Summer 2022 for pilot implementation, but South San Francisco employers are recommending that implementation of this pilot be paused until there is more certainty about return-to-office participation from likely riders. Given the considerable costs of subsidizing service for which the timing of ridership is still a question, Staff is not seeking Board authorization to implement pilot service this summer, but will continue to monitor return-to-office travel patterns and evaluate potential opportunities to expand San Francisco Bay Ferry service in South San Francisco.

**Background**

The Board authorized release of a Request for Proposals (RFP) for a private operator to operate a pilot commuter ferry service between San Francisco and South San Francisco in July 2021. At the time, no WETA-owned vessels were available to pilot new services. Contracting with a private operator would allow the agency to test the market for a new service, connecting rapidly growing employment centers at a time when employers were preparing to initiate return-to-office plans.

The RFP was cancelled in August 2021 to allow WETA staff and potential proposers to discuss more flexible service options and labor standards that would inform an eventual scope and procurement. Over the next several months, WETA staff identified and evaluated various service delivery models, vessel criteria, and contracting options with a broad group of potential contractors.

In early 2022, the Omicron variant delayed return-to-office plans for several key employers. This delay allowed staff to consider operating the pilot service using a WETA-owned vessel as the delivery of the Dorado has allowed for improved spare capacity within the WETA fleet.

**Discussion**

WETA Staff engaged in discussions with private ferry providers interested in operating a six-month pilot service linking San Francisco and South San Francisco. As part of those discussions, WETA evaluated the types of vessel that might be used and the compatibility of



those vessels with the WETA fleet and terminals, proposed schedules that met WETA service criteria, and ridership estimates.

WETA Staff has been in touch regularly with employers in South San Francisco whose workers would comprise the vast majority of any potential ridership. Recent discussions with those employers reveal that employee participation in voluntary return-to-office plans has been slower than expected. Recent surveys of employees reinforce the low ridership projections included in the private operator proposals. Ridership on WETA's current service to South San Francisco has also seen slower growth relative to other routes. Employers have indicated a willingness to contribute to the subsidy needed to implement a pilot program, but employers are reluctant to contribute to a service starting in Summer 2022 due to lower than expected return-to-office numbers and uncertainty about when those numbers might increase.

Based on discussions between the private operators and employers, WETA received estimates of ridership and expected fare revenue generated by the private operators for the six-month pilot service. WETA also compared the expense of private operators to the cost of WETA providing the service with its own vessel operated by Blue and Gold Fleet crews.

There was a range of estimated costs, service profiles and anticipated fare revenue associated with the Pilot Program, depending on unknowns such as vessel type, the exact route and ridership projections. Ultimately, WETA estimated the total cost to WETA of implementing the pilot program as between approximately \$825,000 and \$1,900,000, with option of delivering the service with a WETA-owned vessel being the most expensive. Ridership estimates provided by the private operators range between 20-30 riders per day, resulting in a farebox recovery of approximately 3 percent. As a result, a significant subsidy of between approximately \$800,000 and \$1,880,000 over the six month term would be required to implement the pilot service.

### ***Next Steps***

Given the indications that near-term implementation of a pilot service would not result in significant ridership, and employer's suggestion that implementation be paused, staff cannot recommend that the Board commit resources to the effort at this time.

Despite this outcome, the work that staff has done with private operators to evaluate options for operating a pilot service using a new business model has been productive. It has led to a better understanding of the options available to WETA through partnership with a small vessel operator and the corresponding opportunities and challenges. It has also led to a more universal set of labor standards and agreements between private operators and labor unions representing current San Francisco Bay Ferry crews.

Moving forward, staff will:

- Work with South San Francisco employers to monitor travel patterns and the evolution of return-to-office planning to help inform potential future implementation of the pilot
- Evaluate other potential opportunities to partner with private operators in a way that expands the relevance of San Francisco Bay Ferry service to a broader number of stakeholders, communities, and riders.

### **Fiscal Impact**

There is no fiscal impact associated with this information item. Staff evaluated the potential cost of implementing the pilot. Before accounting for private sector contributions, cost of the service to WETA would vary significantly depending on the option selected. The fiscal impact

would have occurred in Fiscal Year (FY) 2023. Staff identified Regional Measure 2 revenues as the most viable source of funds to cover these costs. The impact of committing those funds to the pilot would be a proportional reduction in the availability of Federal pandemic relief funds to support other WETA services beyond FY 23

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

**MEMORANDUM**

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**TO: Board Members**

**FROM: Seamus Murphy, Executive Director**  
**Erin McGrath, Chief Financial Officer**

**SUBJECT: Two Year Budget Outlook**

**Recommendation**

There is no recommendation with this item, for information only.

**Background**

The Fiscal Year 2022 budget, as adopted by the Board, assumed total Revenue and Expense for annual operations and administration of \$49,993,700. Major funding for the budget was provided by fare revenues, Regional Measure 2 (RM2) Bridge Tolls, Contra Costa's Measure J and Federal COVID relief funds. Expenditures consisted of \$47 million for operations and \$3 million for Planning and Administration. This item provides estimates for year-end budget revisions related to operations and presents an outlook for both Fiscal Years 2023 and 2024.

Thanks to implementation of the Pandemic Recovery Program, WETA has outpaced peer agencies in ridership return and associated fare revenue. The agency has also been successful securing additional competitive federal COVID relief funding and benefits from a relatively healthy amount of reserve funds.

But the near and long-term return of ridership to transit systems continues to be uncertain. It remains possible that full recovery of per-pandemic ridership will take many years, exhausting WETA's COVID relief funds and reserves. In that scenario, the agency would eventually need to identify new funding to maintain operations.

**Discussion**

**Fiscal Year 2022 Expectations for Year End:**

Given the uncertainty surrounding the pandemic, it would be expected that the year-end budget for Fiscal Year 2022 would require revision as a result of changes throughout the year. Surprisingly, there are fewer changes than one would expect given the volatility of the past year. Major changes anticipated at the end of the year are as follows:

**1. Fare Revenue Adjustment:**

The budget assumed \$8,268,000 in fare revenue for the year based on return to work schedules anticipated last year at this time. In the Fall, the service was on pace to exceed budget estimates, but the impact of the Delta and Omicron variants on ridership halted this trend and fare revenue is now projected to be slightly below budget. Fortunately, beginning in March, ridership quickly rebounded and that growth has continued. With ridership well above 50% of pre-pandemic levels in March and April, WETA continues to outperform other regional transit operators. Each month provides further data. It is possible that fare revenue will still meet budget estimates, but current projections indicate that WETA would end the fiscal year approximately \$350,000 below budgeted amounts.

2. Fuel Expenditure Authority:

As the Board has been briefed at prior meetings, fuel costs have been extremely volatile as a result of global supply chain issues and the war in Ukraine. The original budget anticipated a fuel cost of \$3 per gallon for the Fiscal Year. On April 20 the WETA paid for fuel was \$4.46 per gallon and it has fluctuated significantly higher and lower over the past several months. The budget also anticipated usage of 3.2 million gallons of fuel for the fiscal year. This projection was based on estimates for operation of an entirely new Pandemic Recovery Program service plan with little historical reference to use as guidance. Updated estimates project that actual fuel consumption will exceed budget estimates by 16%. The combination of these two factors means that the fuel budget may need approximately \$3.5 million in additional budget authority for Fiscal Year 2022.

At the outset of this problem, staff began working with WETA's fuel supplier to amend their existing contract to include the federal requirements. This will allow WETA to cover most of the increased fuel costs with Federal pandemic relief funding. RM1 funding is also available to cover fuel costs incurred prior to the contract amendment. Finally, as the fiscal year draws to a close, the projections for operating costs include savings that would mitigate some of these costs, as outlined in the operating cost section below.

3. Operating Costs:

Total operating and administration costs for Fiscal Year 2022, *with the exception of fuel*, are anticipated to be within or below the total budget as approved in June of 2021. Some balancing adjustments may be needed in June to align actual costs within given costs categories, details of which will be provided in the June briefing. In addition, staff anticipates savings in two major areas that will be used to offset fuel costs before a final budget amendment is requested. They are:

- Vessel Operations: Vessel Operations are anticipated to be below budget by \$1.7 million. The following factors contribute to this anticipated savings:
  - Routine dry docks were budgeted but not needed in FY22.
  - WETA's contracted engine mechanics had one FTE position unfilled through the fiscal year.
  - Two Dorado vessels were budgeted and expected to be delivered in FY22 and only one will arrive in that timeframe.
  - Several vessels' main engines are still under warranty and maintenance was performed without cost.
  - Continued focus on preventative maintenance which has proven to reduce emergency repairs and unscheduled dry dockings.
  - The budget contains funding for non-routine maintenance related to conditions in the water. The winter run-off was more mild resulting in fewer debris strikes and damage to props, shafts, and water jets.
- Facility Operations: Facility Operations are currently anticipated to be below budget by \$807,000. The main reasons for these savings in the current year are:
  - WETA's contractor Blue and Gold Fleet was unable to fill all engineering positions. This provided a substantial savings in labor.
  - Due to COVID-19, training and emergency response were limited to what could be accomplished virtually.
  - Contracted services are lower due to increased use of in-house labor for maintenance and repair activities.

Fiscal Year 2023 and 2024 Projections:

The evolution of return-to-office plans are still unknown and the volatility of inflationary trends makes any longer-term projection of revenues and expenses extremely difficult. Between ridership and gas price volatility, it is difficult to rely with any certainty on our current knowledge. However, utilizing assumptions outlined below, the following chart summarizes *preliminary* projections covering the next two fiscal years:

			FY23	FY24
<b>Revenue</b>				
	Fare Revenue		\$ 11,178,927	\$ 15,948,264
	Bridge Toll Revenue (Operations & Administration)		\$ 17,550,000	\$ 19,500,000
	Local - Contra Costa Measure J		\$ 3,651,300	\$ 3,651,300
	Federal - COVID-19 Relief Funds		\$ 25,790,700	\$ 18,576,667
			<b>\$ 58,170,927</b>	<b>\$ 57,676,231</b>
<b>Expense</b>				
	Vessel Crew Labor		\$ 15,703,380	\$ 16,174,481
	Vessel Fuel		\$ 15,540,000	\$ 13,875,000
	Vessel Operations & Maintenance		\$ 5,233,220	\$ 5,364,051
	Facility Operations & Maintenance		\$ 8,991,238	\$ 9,216,019
	System Expense		\$ 9,348,793	\$ 9,615,162
	Planning and Administration		\$ 3,354,296	\$ 3,431,518
			<b>\$ 58,170,927</b>	<b>\$ 57,676,231</b>

**REVENUE ASSUMPTIONS:**

Revenue assumptions are based on the following projections:

**Fare Revenue:** Staff developed ridership estimates for the next two years utilizing tools and methods commonly used by transit agencies. Staff has developed three different scenarios for each year. The projections represent conservative, optimistic, and base-case scenarios. For FY 2023, the estimates range from ridership only reaching 57.8% of pre-emergency levels to an optimistic 81.4% by the end of FY 2023. Similarly, in FY 2024, ridership could potentially never equal more than 66.3% of pre-pandemic levels or be as high as 107% of levels reached in 2019.

For this Two Year Outlook, staff has utilized the “base case” estimate, which assumes steady, realistic growth of ridership to 70.3% in FY23 and 93% in FY24. This results in the fare revenue of \$11.1 million in FY23 and \$15.9 million in FY24. For sensitivity analysis purposes, every 5% increase in the annual ridership projected results in \$560,000 in additional revenue in FY23. If the conservative estimate was used in each case, the fare revenue would be reduced by \$1 million in FY23 and \$3 million in FY24. An optimistic scenario would mean an additional \$1 million in FY23 and \$3 million in FY24.

**Bridge Toll Revenue:**

Bridge Toll Revenue is estimated to be 90% of what is normally allocated to WETA in FY23 and 100% in FY24. WETA has not received allocations from MTC bridge traffic data and informal discussions with MTC support this projection.

**Contra Costa Measure J:**

Support for Richmond ferry service is projected to remain at \$3.65 million, equal to FY22 levels. This amount will likely change as a result of the final budget expenditures, but the change will not be significant.

**Federal COVID Relief Funds:**

WETA has received funding through several different COVID relief packages. Through the regular funding allocated to every transit agency, WETA received CARES, CRRSAA and ARP funding. The first two programs provided WETA with funding to help support operations until the final months of Fiscal Year 2022. Approximately \$3.7 million in ARP funding will be needed to close this Fiscal Year. In FY 2023 WETA projects that expenditure of the remaining \$21 million in ARP formula funds in addition to \$4.5 million in competitive ARP funds that WETA was awarded in March. In Fiscal Year 2024, staff anticipates utilizing \$18.3 million in ARP competitive funds, leaving \$3 million remaining to support the FY 2025 budget. The \$26 million infusion provided by the competitive funds that WETA successfully obtained this spring will be critical to supporting the next two years of operations. However, in the absence of a full return to pre-pandemic farebox recovery, additional funding will be needed to maintain current operations beyond FY 2024.

**Regional Measure 3 (RM3):**

Because of the ongoing litigation related to RM3, no funds are assumed in this forecast from the RM3 program. The outlook would change dramatically if RM3 funds are allocated to WETA following a successful legal outcome.

**EXPENSE ASSUMPTIONS:**

**Labor:** For purposes of this projection, staff has utilized a 3% cost-of-living adjustment (COLA) for Blue & Gold Fleet (B&GF) and WETA staff in each of the coming two years. This is primarily due to the fact that this amount is memorialized in the operating contract and labor negotiations have not concluded. For this projection, every 1% increase in salary for the B&GF contract requires an additional \$230,365 in funding. For WETA administrative staff, every 1% increase in salary ranges results in an additional \$35,000 in costs.

**Fuel:** For this exercise, staff has projected fuel costs of \$4.20 a gallon for Fiscal Year 2023, and \$3.75 a gallon for Fiscal Year 2024. This is based on an assumption that fuel costs will remain high in the early months of the next fiscal year but will normalize as supply chains resolve and supply increases over time. Each \$0.25 increase in fuel costs increases costs by \$925,000 annually. Staff is continuing to evaluate ways to minimize fuel costs, including investigating a fix-priced contract as well as savings that might be utilized when new, more efficient vessels are placed into service.

**Non-salary:** Non-salary costs are escalated by 5% in FY23 and 2.5% in FY24. While inflation has remained above that, not every input in the budget is affected by these cost increases. However, it's worth noting that every 1% increase in non-salary costs raises costs by \$184,000.

**RESERVES:**

WETA has reserves available that it can rely on to support of operations if needed once COVID relief funds are exhausted. The Agency's fund balance, which is held at Local Agency Investment Fund (LAIF), is currently \$11 million. This funding is available at any time for any purpose going forward. In addition, there are allocations in the RM1 and State Transit Assistance (STA) program that can be used for operations following a request to MTC for allocation. WETA has \$12 million in accrued State STA funds as of Fiscal Year 2023 which are available for operating needs. In addition, WETA has \$23 million in RM1

funding available for use, with approximately \$14 million of those funds targeted for anticipated capital projects over the next three years. Those funds historically have been utilized as matching funds for federal capital maintenance and expansion projects which require a 20% match. However, they can be used for operations if needed. These balances are one-time funds and funds held in LAIF should be protected for cashflow and emergency operating needs. The STA and RM1 programs receive allocations every year so those balances will increase unless called upon for operating or capital needs.

**SUMMARY:**

This analysis is intended to inform upcoming Board budget decisions as WETA continues to manage unprecedented levels of financial uncertainty. The sensitivity analysis showing how small changes to revenues and expenses impact the overall outlook demonstrates the difficulty of accurately predicting the agency's financial future.

More information, including labor costs, will be available when the Board is asked to consider the FY 2023 Budget. WETA's successful application for supplemental ARP funding combined with a relatively healthy level of reserves should provide confidence that operations can be sustained in the near-term. Longer-term assumptions about ridership return and inflationary pressures are nearly impossible to predict, but the agency has demonstrated an ability to respond nimbly and effectively to these challenges.

Given the uncertainty, staff recommends that reevaluating our long term outlook on a regular basis, specifically at the 6-month mark of the fiscal year to allow time for adjustment of projections and briefings on options at that time.

**Fiscal Impact**

There is no fiscal impact associated with this briefing.

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

**MEMORANDUM**

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**TO: Board Members**

**FROM: Seamus Murphy, Executive Director  
Lauren Gularte, Government & Regulatory Affairs Manager  
Terence Candell, Government & Regulatory Affairs Specialist**

**SUBJECT: Overview of WETA's Disadvantaged Business Enterprise (DBE)  
Program and Small Business Enterprise (SBE) Element and Strategies  
to Increase DBE and SBE Participation**

**Recommendation**

There is no recommendation associated with this informational item. Staff is providing this overview of the DBE Program and SBE Element in an effort to inform the Board of the complexity and challenges of the Program and to receive direction on strategies WETA could pursue to increase DBE participation.

**Background**

As a recipient of federal funding and in accordance with the U.S. Department of Transportation (DOT) Disadvantaged Business Enterprise (DBE) regulations, 49 Code of Federal Regulations (CFR) Part 26.21, the Water Emergency Transportation Authority (WETA) is required to have a DBE Program. As part of the DBE Program, WETA is required to implement a Small Business Enterprise (SBE) Element to foster small business concern participation. The purpose of the DBE Program and SBE Element is to create a level playing field on which DBEs and SBEs can compete fairly for DOT-assisted contracts by removing barriers to DBEs and SBEs participating in the bidding, award and administration of federally funded contracts.

By definition, a DBE is a for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own the corporation. In WETA's DBE Program, an SBE is defined by the Small Business Administration (SBA) regulations 13 CFR Part 121 for the appropriate types of work that a firm performs and whose average annual gross receipts over the previous three years does not exceed a maximum cap of \$28.48 million (or as adjusted for inflation by the Secretary of DOT).

WETA's DBE Program applies only to federally funded contracts. As a result of California's Proposition 209, passed in 1996, which prohibits public agencies from granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in public contracting, WETA cannot apply the DBE Program to contracts funded exclusively with state and/or local funds. (Cal. Const., art. I, § 31.)



DBE Triennial Goals:

DOT requires federal grant recipients (Grantees) to set overall DBE goals on a three-year basis (Triennial DBE Goal) for the participation of DBE firms. The Grantee must meet their Triennial DBE Goal each year of the triennial period or conduct corrective measures to start meeting the goal. The Triennial DBE Goal includes all federally funded contracts anticipated in the next 3 years, except for new vessel construction projects. As a result of the changes to the DBE Program requirements in 2014, WETA must set a separate DBE project goal for contracts associated with new vessel construction. Grantees establish Triennial DBE Goals by conducting a DBE availability analysis consisting of forecasting all federally assisted contracts that are expected to be awarded in the next three-year period, determining all of the areas of work that are included in each of these contracts, and then looking at how many certified DBE firms are available to perform work in each of these areas in comparison to how many non-DBE firms are available to perform the same work.

Triennial DBE Goals are expressed in race-neutral and/or race-conscious percentages. DOT regulations require that the maximum feasible portion of the overall DBE goal be achieved using race-neutral measures such as activities or programs that benefit and assist all small businesses equally, including DBEs. Such activities include providing assistance in overcoming limitations related to bonding and insurance requirements and providing technical assistance. In contrast, race-conscious measures focus on efforts to specifically assist DBEs only, such as the use of contract goals, which require bidders to obtain a specified percentage of DBE participation or demonstrate good faith efforts to meet the specified percentage of DBE participation. If a Grantee is unable to meet their Triennial DBE Goal through race-neutral measures, then race-conscious measures can be employed.

The United States Supreme Court has held that racial classifications imposed by government agencies, such as race-conscious measures to implement a DBE Program, are constitutional only if they are narrowly tailored to further a compelling governmental interest. The Ninth Circuit has established a more rigorous legal standard: for a race-conscious measure to be constitutional, the government must demonstrate that there is disparate treatment in the jurisdiction, and that the race-conscious measure is narrowly tailored to satisfy a compelling government interest in addressing such disparate treatment. As a result, 100% of WETA's DBE goals must be achieved using race-neutral means unless there is racially disparate treatment in the jurisdiction (as shown, for instance, by a disparity study), that supports the use of narrowly tailored race-conscious means to satisfy the compelling government interest in addressing such disparate treatment.

Disparity studies determine if inequities exist in public procurement and contracting that adversely affect DBEs. The primary goal of the study is to assess, quantify, and evaluate the prevalence, significance (degree and weight) and scope of discrimination in the marketplace, if any, against minority and women owned business enterprises. If a disparity study conducted by WETA were to establish strong evidence of significant discrimination against DBEs in the marketplace, that would establish the "compelling interest" necessary for WETA to use a race-conscious method for meeting its Triennial DBE Goal, such as setting a contract specific DBE goal.

WETA has never conducted a disparity study, and therefore WETA's DBE program currently does not include race-conscious measures such as contract specific DBE goals. WETA's race-neutral efforts are facilitated through active participation in educational and outreach events organized by the San Francisco Bay Area Regional Business Outreach Committee (BOC); a committee comprised of over 26 Bay Area transit and transportation agencies. Each year the BOC sponsors at least four events focused on increasing DBE participation

including, how to become DBE certified, "Meet the Buyers" or "Meet the Primes" networking events, technical and educational workshops. During goal setting years, the BOC holds consultation meetings with trade and business organizations as well as DBE firms to receive their feedback on agencies' draft overall Triennial DBE Goals. The BOC also produces a quarterly newsletter listing upcoming contracting opportunities for all member agencies, tips for successful bids and contact information for DBE Administrators at each agency. This newsletter is posted on WETA's website, the BOC's website, other BOC members' websites and distributed to a list of 7,900 DBE and non-DBE firms.

**WETA's SBE Element:**

As required by changes to the DBE regulations, in February 2012, WETA developed a SBE Element as part of its DBE Program. The SBE Element requires setting an overall SBE goal, on the same schedule as the Triennial DBE Goal, based upon an evaluation of SBE contracting opportunities for upcoming projects and an assessment of WETA's history of attracting SBE participation.

**Challenges of the DBE Program:**

WETA has identified four overarching challenges associated with achieving DBE participation. Each challenge is explained in detail below:

**1. There is limited availability of DBE firms in the marine industry:**

WETA is a single mode transit agency, only operating, maintaining or expanding maritime related facilities and vessels. There are very few DBE firms in the trades associated with vessel construction, refurbishment and waterside construction/marine construction. This is in part because there are very few firms in general in the marine industry and because this area of work is highly specialized. Firms performing work on vessel projects must have the required certifications, training, knowledge, and expertise specific to the marine environment and regulations. These requirements limit the number of available DBE firms capable of performing work in areas applicable to vessel and marine construction. The table below shows some of the most commonly used work areas, indicated by North American Industrial Code System (NAICS Code), and the availability of DBEs in these fields. The number of DBEs listed in column C include all DBEs, not specifically DBEs that have the certifications or knowledge required to work in the marine industry (as noted in challenge #3).

**Availability of DBEs in the Marine Fields:**

<b>A. NAICS Code</b>	<b>B. NAICS Description</b>	<b>C. Number of DBEs</b>	<b>D. Number of All Firms</b>	<b>E. Relative DBE Availability (E = C / D+C)</b>
336611	Ship Building and Repairing (prime)	0	60	0.00%
238210	Electrical Contractors and Other Wiring Installation Contractors	43	5,292	0.81%
238220	Plumbing, Heating, and Air-Conditioning Contractors	11	5,886	0.19%
238310	Drywall and Insulation Contractors	14	1,379	1.01%
336360	Manufacturing	0	0	0.00%
238330	Flooring Contractors	3	1,379	0.22%
238320	Painting and Wall Covering Contractors	19	3,190	0.59%
541330	Engineering services	184	7,222	2.48%
334220	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing	0	125	0.00%
335313	Switchgear and Switchboard Apparatus Manufacturing	0	12	0.00%
238350	Finish Carpentry Contractors	17	1,640	1.03%
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing	0	52	0.00%

In years dominated with contracts awarded for these types of projects, obtaining DBE participation has been a challenge. Typically, WETA only obtains DBE participation on contracts that include landside work such as facility/terminal design and construction. Other ferry operators such as Golden Gate Ferry or Kitsap Transit have the same challenge with obtaining DBE participation on their ferry related contracts, however, these ferry operators also operate bus service and are able to achieve DBE participation through bus-related contracts.

Additionally, limited DBE availability is partially influenced by the fact that there is no impetus for firms to become certified as a DBE unless there is a benefit to doing so – such as having a greater chance of receiving work due to the use of DBE contract goals.

**2. DBE achievement is influenced by the type of contracts WETA programs federal funds towards:**

With the exception of the recent COVID relief funds, WETA programs the majority of its federal funds towards vessel replacement, refurbishment or terminal rehabilitation projects. These projects are all areas with very little DBE participation. This is in part due to the type of projects that are eligible under these federal funding programs as well as the limited availability of other funds to support these critical projects that keep the service operating. In Federal Fiscal Year (FFY)17-19, WETA programmed 75% of its federal funds included in the agency's triennial goal to vessel overhaul/refurbishment or terminal rehabilitation projects and the remaining 25% to terminal expansion projects. In FFY 20-22, WETA programmed 100% of its federal funds to vessel overhaul/refurbishment and terminal rehabilitation projects excluding the federal COVID relief funds the agency received.

Additionally, the majority of the vessel refurbishment projects are for engine overhaul projects which include prime work that must be performed by the Original Engine Manufacturer (OEM) in order to maintain the engine's warranty. The only authorized OEM is not a DBE.

**3. Lack of granularity of the DBE database results in inaccurate DBE availability:**

Only DBEs certified through the state Unified Certification Program (UCP) are eligible to be counted toward DBE participation. FTA directs Grantees to establish their Triennial DBE Goal by conducting an availability analysis using the state UCP. Unfortunately, this database does not provide the level of detail required to determine if a firm specializes in maritime trades, resulting in higher DBE availability levels than is realistic. For example, there is no way to determine if the DBE electricians, painters or plumbers listed in the UCP, and included in the table above, are capable of performing work on vessels. Marine electrical requirements, unlike land-based electrical installations, do not have a "ground" for electrical circuits and require special training and expertise. The UCP database considers all painting the same, however hull paint for vessels is chemically designed to discourage marine growth and requires special handling, surface preparation, and application. Not all painters have this expertise. Plumbing on a vessel requires specific knowledge since standard copper and plastic piping found in homes and buildings are prohibited for most shipboard applications.

The UCP database is not granular enough to determine if firms listed can actually perform work in the marine environment and results in a higher percentage of DBE availability for types of projects that involve this type of specialty work.

**4. Restrictions on counting DBE participation:**

DOT requires recipients to only report on the federal share of funds awarded to DBE firms. Each of WETA's projects has a particular mix of funds. Generally vessel refurbishment and terminal rehabilitation projects, areas with very little DBE availability, have an 80% federal cost share. Historically, WETA's landside construction contracts, areas with the most DBE availability, have a lower federal cost share. For example, the Downtown San Francisco Terminal Expansion project included 12% federal funds, the Richmond Ferry Terminal included 15% federal funds, and Central Bay Operations & Maintenance Facility included 19% federal funds. This influences the amount of DBE participation WETA can claim. When calculating WETA's DBE goal achievement, WETA can only include the federal share awarded to the DBE firm. In the case of the Downtown San Francisco Ferry Terminal, WETA could only report 12% of the funds actually awarded to DBEs because that was the federal cost share for that project. Another factor affecting DBE goal performance in WETA's contracts is that WETA can only include federally funded contracts in the calculation of WETA's DBE goal achievement reported to FTA. There have been several times in the past where a non-federal contract was awarded to a DBE prime or subcontractor which could not be counted toward WETA's DBE goal achievement.

Lastly, WETA is restricted to only count DBEs certified by the State of California's UCP. While this issue is most pertinent for new vessel construction, it can be a factor for large vessel refurbishment projects that are awarded to firms out of state. Even if WETA is able to receive DBE participation from a Washington state DBE, we cannot include their participation in our DBE achievement. The out of state DBE must apply and become certified through the California UCP even if all of the work is conducted in the DBEs home state. WETA has been working since 2016 to convince FTA headquarters to

allow grantees to count DBE participation from out of state DBEs on projects that are wholly conducted in the DBEs home state.

WETA's DBE and SBE Achievement:

While the DBE Triennial Goal is based on the expected schedule for the award of federally funded contracts for the next three years, the amount of actual DBE participation depends on the type of contracts the agency is able to award during each year, whether any prime contracts are awarded to DBE or SBE firms, and whether there are subcontracting opportunities for DBEs in prime contracts.

If DBE participation is less than the overall goal applicable to that fiscal year, WETA must analyze in detail the reasons for the shortfall in that fiscal year and establish specific steps and milestones to correct problems identified in WETA's analysis to enable the agency to meet its overall DBE goal for the next fiscal year. WETA cannot be penalized, or found as being in noncompliance with this rule, if DBE participation falls short of the overall goal, unless WETA has failed to administer its program in good faith.

WETA has only met or exceeded the Triennial DBE Goal in four of the last ten years.

	Federal \$ Awarded	Federal \$ to DBEs	DBE Goal	DBE % Actual	+/- DBE Goal
FFY 12	\$655,840	\$8,000	2.00%	1.22%	-0.78%
FFY 13	\$5,245,625	\$323,724	2.00%	6.17%	4.17%
FFY 14	\$13,494,179	\$545,108	1.36%	4.04%	2.68%
FFY 15	\$21,338,111	\$124,721	1.36%	0.58%	-0.78%
FFY 16	\$16,444,500	\$364,122	1.36%	2.21%	0.85%
FFY 17	\$17,592,912	\$135,844	1.78%	0.77%	-1.01%
FFY 18	\$9,916,135	\$19,365	1.78%	0.20%	-1.58%
FFY 19	\$4,649,974	\$0	1.78%	0.00%	-1.78%
FFY 20	\$7,204,924	\$0	0.24%	0.00%	-0.24%
FFY 21	\$14,622,260	\$37,685	0.24%	0.26%	0.02%
FFY 22	TBD	TBD	0.24%	TBD	TBD

The COVID pandemic impacted WETA's ability to achieve DBE participation in FFY20 as WETA released fewer contracts than expected. DBE attainment in FFY22 will also be impacted by the infusion of COVID relief federal funds, which will dilute DBE participation on project contracts because those funds are used on our operating contract and fuel. After FFY22 is complete, staff will brief the Board on WETA's achievement of the Triennial DBE Goal for FFY20-22.

In contrast, as shown in the table below, WETA has been able to meet its SBE goal until the last 3 years. SBE participation was less in 2019 and 2020 because the majority of contracts released were either sole source contracts to OEMs for engine overhaul work or had no subcontracting opportunities. In 2021, SBE participation was diluted by the amount of federal COVID relief funds utilized that year.

	Federal \$ Awarded	Federal \$ to SBEs	SBE Goal	SBE % Actual	+/- SBE Goal
FFY 12	-	-	-	-	-
FFY 13	\$5,245,625	\$2,279,724	2.00%	43.46%	41.46%
FFY 14	\$13,494,179	\$1,370,922	1.36%	10.16%	8.80%
FFY 15	\$21,338,111	\$436,149	1.36%	2.04%	0.68%
FFY 16	\$16,444,500	\$856,854	1.36%	5.21%	3.85%
FFY 17	\$17,592,912	\$1,790,281	5.04%	10.18%	5.14%
FFY 18	\$9,916,135	\$1,433,272	5.04%	14.45%	9.41%
FFY 19	\$4,649,974	\$0	5.04%	0.00%	-5.04%
FFY 20	\$7,204,924	\$385,619	7.50%	5.35%	-2.15%
FFY 21	\$14,622,260	\$803,569	7.50%	5.50%	-2.00%
FFY 22	TBD	TBD	7.50%	TBD	TBD

\*FFY13 was the first year of the SBE Element

**DBE Project Goals for New Vessel Construction and Achievement:**

Per changes to the DBE regulation in 2014, Grantees must establish separate DBE project goals for new vessel construction, which are developed in the same manner as Triennial DBE Goals. Vessel construction projects highlight the challenges of achieving DBE participation in the marine fields. WETA has never achieved DBE participation on a vessel construction project.

DBE Participation on Vessel Construction	DBE Goal	DBE Achievement
2022 Vessel Construction Project Vessels: Intintoli Replacement	1.72%	TBD
2019 Vessel Construction Project Vessels: Dorado 3 & 4	1.58%	0.00%*
2016 Vessel Construction Project Vessels: Pyxis, Vela, Lyra	0.00%	0.00%
2014 Hydrus Class Vessels Vessels: Hydrus, Cetus	N/A**	0.00%
2007 South San Francisco Vessels Vessels: Scorpio, Taurus	N/A**	0.00%
* The CM is expected to execute a subcontract with a DBE firm, which would amount to 0.06%		
** These projects were included in WETA's Triennial DBE Goal		

As noted in the table, there is a potential for a small amount of DBE achievement on the 2019 vessel construction project, but that has not yet been confirmed. Contracts for the 2022 vessel construction project have not been awarded, however a recommendation for award of the construction management contract is included in this meeting agenda.

Strategies to Increase DBE Participation:

The years that WETA awarded several federally funded construction contracts for landside projects, which included Central Bay and North Bay Operations & Maintenance Facilities, Downtown San Francisco Terminal Expansion, and Richmond Ferry Terminal provided opportunities to gain DBE participation because the contracts included landside/non-marine work. Since 2016, WETA has added seven new vessels to the fleet, retired three and have four vessels under construction. As the fleet grows, so does the number of routine engine overhauls, vessel quarterlife and vessel midlife projects – projects that are both a priority for federal formula funds and that have very little DBE availability. The current Triennial DBE Goal of 0.24% was developed in recognition of the fact that the majority of federal funds during the FFY20-22 period would be programmed toward these engine overhaul or vessel refurbishment projects and the lack of DBE availability in these areas of work.

With the growing number of vessels in WETA's fleet, the trend of programming federal formula funds towards vessel engine overhauls and refurbishment projects will likely not diminish and achieving DBE participation will become increasingly difficult unless federal funds are secured for landside projects. Staff has been working to develop a series of strategies that could be employed to either increase the demand for DBEs or increase the availability of DBEs in the marine fields. A description of each strategy is provided below for the Board to review.

Strategies to increase the demand for DBEs:

- 1. Establish DBE Contract Goals:** In order to set DBE goals on a contract, an agency first must prove that discrimination exists in the marketplace through conducting a disparity study. If discrimination is proven, then WETA could begin to set DBE contract goals, which would require prime contractors to either meet the DBE goal or show good faith efforts that they tried to meet the goal by providing proof that they took all reasonable steps to meet the goal.
  - Pros:
    - Forces primes to obtain DBE participation or show good faith efforts to meet the goal.
  - Cons:
    - If there are no DBEs available then setting contract goals will not increase DBE participation.
    - A disparity study has been estimated to cost \$350,000-\$400,000 and will take approximately 12 months to complete.
    - The DBE availability analysis conducted as a part of the disparity study is developed from the UCP database, the same database that is used to set Triennial DBE Goals. As noted above, this database is not granular enough to determine if firms listed can actually perform work in the marine environment and results in an inflated DBE availability percentage.
    - If no disparity is found, WETA cannot set contract goals.
    - These studies depend on an availability analysis of DBEs in the marketplace, and therefore have a shelf life between 3 and 5 years.
    - Setting contract goals requires more work from both the agency and the proposers.
    - Could result in procurement delays if a proposer challenges the agency's decision and an administrative reconsideration is required.

- 2. Establish SBE Contract Goals:** WETA could opt to set SBE goals on contracts instead of DBE goals. This is considered a race neutral measure and does not require a disparity study. SBE contract goals are established and evaluated in the same manner as DBE contract goals.
- Pros:
    - DBEs are SBEs by definition. Setting SBE contract goals could increase the use of DBEs through race neutral means.
    - Forces primes to obtain SBE participation or show good faith efforts to meet the goal.
  - Cons:
    - Setting contract goals requires more work from both the agency and the proposers.
    - Could result in procurement delays if a proposer challenges the agency's decision and an administrative reconsideration is required.

Strategies to increase the availability of DBEs:

- 1. Conduct outreach to marine firms:** Conduct extensive outreach to existing marine firms in California and out of state to see if they are eligible and willing to become certified as a DBE. WETA has conducted targeted outreach in the past to the marine construction firms in the region but found that most were not eligible. This effort would include outreach to multiple other types of work in the marine industry.
- Pros:
    - Targeted outreach to firms already in the marine field including those that actively participate on WETA's contracts.
  - Cons:
    - Firms may not find value in becoming certified as a DBE unless there is a benefit in gaining DBE certification.
- 2. Host a workshop(s) to overcome barriers to entering marine fields:** Hold workshop(s) with shipyards, ferry operators, marine insurance, trade representatives and SBE/DBEs to educate them on the types of certifications or requirements they would need to obtain to start working in the marine industry (marine painting & welding certifications, marine based electrical & pipefitting experience, United States Longshore and Harbor Workers Insurance).
- Pros:
    - This effort specifically targets overcoming barriers for small businesses to start working in the marine industry and has the potential to increase DBE availability.
    - Provides an opportunity for the industry to work together on workforce development efforts.
  - Cons:
    - Depending on the number of workshops, this strategy could require significant effort for a period of time, however, this effort could be shared by the organizations listed above who have expressed interest in co-hosting this type of effort.
- 3. Establish a Mentor Protégé Program:** Establish a mentor protégé program with shipyards or larger firms to help get DBEs/SBEs into the marine industry. WETA would act as a match maker, pairing a larger firm with a DBE or SBE firm. The larger firm would act as an advisor to the smaller firm for a period of time (e.g. 2 years) to



help the small firm overcome barriers to entering into marine fields or gain experience. Periodic check ins would be required.

- Pros:
  - This program allows for DBE and SBE subcontractor firms to get in-depth knowledge from prime contractors on what kind of experience, qualifications, and equipment they would need to increase their chances of being awarded a contract.
  - The partnership program pairs prime contractor firms with DBE and SBE firms they may have not known about, establishing working relationships between firms and increasing the chance those prime firms choose DBE and SBE firms as subcontractors.
- Cons:
  - Tracking the success of the program could be a challenge.
  - Establishing, maintaining, and monitoring this program would result in increased time and effort that cannot currently be absorbed by existing staffing levels.

Staff is providing this overview of the DBE Program and SBE Element in an effort to inform the Board of the complexity and challenges of the program and to receive direction on what types of strategies WETA should pursue to increase DBE participation. Staff believes that implementing the first and second strategy to increase the availability of DBEs, specifically conducting outreach to marine firms and hosting a workshop to overcome barriers to entering marine fields, is the most efficient use of limited resources and has the most potential for increasing DBE participation on WETA's contracts. Based on the direction provided at this meeting, staff plans to bring forward a future item with more detail on the specific strategies the Board is interested in pursuing.

Staff would measure success by monitoring whether DBE participation increased relative to the goal. If unsuccessful, staff will evaluate strategies to increase the demand for DBE participation in WETA contracts.

**Fiscal Impact**

There is no fiscal impact associated with this item.

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