

Resolution 06-09

of the

San Mateo County Harbor District

To Approve a Settlement Agreement with the Department of Boating and Waterways and the San Francisco Bay Area Water Emergency Transportation Authority Regarding Refinancing of Harbor District Debt Service and Construction and Operation of the Oyster Point Marina Ferry Terminal and Authorize Execution by the General Manager

Whereas, the San Mateo County Harbor District (District) operates Oyster Point Marina/Park in the City of South San Francisco (City), San Mateo County for the City; and

Whereas, the District has debt service obligations to the California Department of Boating and Waterways (DBW) for loan funds used to construct the Marina, and desires to modify these debt service obligations with respect to its debt retirement schedule; and

Whereas, the San Francisco Bay Area Water Emergency Transportation Authority (WETA) desires to enter into a Lease Agreement with the District to construct and operate the Oyster Point Marina Ferry Terminal (Terminal); and

Whereas, construction of the Terminal will require elimination of DBW's collateral in the form of docks, berths and related revenue stream and for which, as a condition of DBW approval of said Lease Agreement, DBW requires WETA to make a one-time lump sum payment to DBW of three million six hundred sixty thousand dollars (\$3,660,000) which DBW shall allocate completely to reducing the District's outstanding loan principal balance; and

Whereas, the parties have agreed to approve a Settlement Agreement which sets forth the terms and conditions of each party's obligations with respect to said Lease Agreement, debt service schedule, payments to DBW, and approval of documents.

Therefore, be it resolved that the Board of Harbor Commissioners hereby approves the Settlement Agreement attached hereto and incorporated by reference herein, and does hereby adopt this Resolution 06-09.

Approved this 17th Day of June, 2009 at the regular meeting of the Board of Harbor Commissioners by a recorded vote as follows:

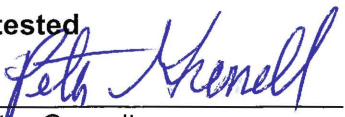
For: Campbell, Lundie, Tucker, Padreddii

Against: None


Abstaining: None

Absent: Parravano

Attested


Peter Grenell
Acting Deputy Secretary

DISTRICT


Leo Padreddii
President

Settlement Agreement

WHEREAS, the Department of Boating and Waterways (hereinafter referred to as "DBW") has made 18 loans to the San Mateo County Harbor District (hereinafter referred to as "SMCHD") for construction and rehabilitation of the Oyster Point Marina in San Francisco Bay and the Pillar Point Marina in Half Moon Bay; and

WHEREAS, the 18 construction loans were consolidated in 2004 into one loan, in the amount of \$19,777,000.00, in State of California Agreement Number 96-102-288, which became effective on October 12, 2004, which Agreement Number 96-102-288 is hereby incorporated by reference; and

WHEREAS, the San Francisco Bay Area Water Emergency Transportation Authority (hereinafter referred to as "WETA") desires to lease a portion of the Oyster Point Marina in San Francisco Bay from SMCHD in order to construct and operate the Oyster Point Ferry Terminal; and

WHEREAS, the construction of the Oyster Point Ferry Terminal will require the destruction of docks 9 and 10 of the current Oyster Point Marina, thus eliminating the revenues received by SMCHD from docks 9 and 10, which were constructed with funds loaned to SMCHD by DBW; and

WHEREAS, the loss of revenues from docks 9 and 10 decrease SMCHD's ability to repay the outstanding balance of the loan from State of California Agreement Number 96-102-288; and

WHEREAS, DBW must approve the lease of docks 9 and 10 of the Oyster Point Marina by SMCHD to WETA before any such lease may become effective; and

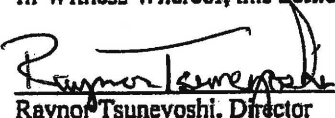
WHEREAS, DBW has prepared Amendment Number One to the State of California Agreement Number 96-102-288 between DBW and SMCHD.

NOW, THEREFORE, DBW, SMCHD and WETA all mutually agree to all of the following terms and conditions:

1. This Settlement Agreement (hereinafter referred to as "the SA"), which shall be signed by authorized representatives of DBW, SMCHD, and WETA, shall be incorporated into and shall become part of the Amendment Number One to the State of California Agreement Number 96-102-288 between DBW and SMCHD (hereinafter referred to as "the Amended Contract"), and neither the SA nor the Amended Contract shall be effective until both have been signed by all of the parties to each respective agreement.
2. The sum of \$3,660,000.00 (three million six hundred sixty thousand dollars and zero cents) principal payment shall be paid to DBW no later than December 31, 2009, which payment shall consist of one \$3,660,000.00 (three million six hundred sixty thousand dollars) payment made by WETA to DBW, or by any other entity on behalf of WETA or SMCHD to DBW, no later than December 31, 2009.
3. Assuming that payment is made pursuant to paragraph #2 above, the outstanding balance, including accumulated 2009 interest, on the State of California Agreement Number 96-102-288, and thus the Amended Contract, on December 31, 2009, (before SMCHD makes payment) is \$16,091,002.56.


4. If, and only if, all payments in Section 2, above, are made by the deadline dates listed in that Section, then the terms of the Amended Contract shall become effective, and SMCHD's payment schedule under the Amended Contract shall be extended by three (3) years, to 2019, and the annual payments due from SMCHD to DBW shall be \$1,399,598.22, beginning on December 31, 2009, and ending on December 31, 2019.
5. Neither destruction of any docks at the Oyster Point Marina, nor any construction on the Oyster Point Ferry Terminal, shall commence until all payments have been made pursuant to Section 2 of the SMCHD/ DBW/ SMCHD Settlement Agreement and Section a. of the Amended Contract.
6. If WETA or any entity paying on behalf of WETA or SMCHD fails to make payment of the entire \$3,660,000.00 to DBW pursuant to the terms of paragraph 2 of this Settlement Agreement by midnight on December 31, 2009, then this Settlement Agreement, the Amended Contract, and the Ferry Terminal lease agreement between WETA, SMCHD and the City of South San Francisco are all rendered null, void, and without legal effect, and the State of California Agreement Number 96-102-288 of October 12, 2004 shall be reinstated in full force and effect.
7. Notwithstanding any other agreement between SMCHD, WETA, or any other entity, to the contrary, if SMCHD defaults on any of the requirements of the Amended Contract, DBW shall, among all other remedies available to DBW under the terms of the Amended Contract and by law, be granted title by SMCHD to the Oyster Point Ferry Terminal as liquidated damages, and shall continue the ferry terminal lease with WETA as Leasor.
8. The amortization table attached to this agreement is hereby incorporated by reference and made part of this agreement. If the payment of \$3,660,000.00 is made pursuant to the terms of paragraph 2, above, on a date earlier than December 31, 2009, DBW agrees to modify the amortization schedule accordingly.

In Witness Whereof, this Settlement Agreement has been executed by the parties hereto:



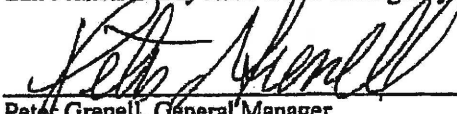
Raynor Tsuneyoshi, Director
California Department of Boating and Waterways

Date: 6/24/09



Nina Rannells, Executive Director
San Francisco Bay Area Water Emergency Transportation Authority

Date: JUN 18, 2009



Peter Grenell, General Manager
San Mateo County Harbor District

Date: June 7, 2009

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San Mateo County Harbor District, Settlement Agreement Amortization Schedule

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Compound Period Monthly
 Nominal Annual Rate 4.5 %
 Effective Annual Rate 4.594 %
 Periodic Rate 0.375 %
 Daily Rate 0.01233 %

Event	Start Date	Amount	Number	Period	End Date
1 Loan	12/31/2008	17,784,252.68		1	
2 Payment	12/31/2008	2,400,000.00		1	
3 Payment	12/31/2009	1,407,373.85		1	
4 Payment	12/31/2009	3,660,000.00		1	
5 Payment	12/31/2010	1,399,598.22		10 Annual	12/31/2019

AMORTIZATION SCHEDULE - Normal Amortization

#	Date	Payment	Interest	Principal	Principal Balance	Balance Including Interest
Loan	12/31/2008				17,784,252.68	
1	12/31/2008	2,400,000.00	-	2,400,000.00	15,384,252.68	
2008 Totals		2,400,000.00	-	2,400,000.00		
2009 Accrued Interest:	12/31/2009		706,749.88		15,384,252.68	16,091,002.56
2	12/31/2009	1,407,373.85	706,749.88	700,623.97	14,683,628.71	
3	12/31/2009	3,660,000.00	-	3,660,000.00	11,023,628.71	
2009 Totals		5,067,373.85	706,749.88	4,360,623.97		
4	12/31/2010	1,399,598.22	506,423.57	893,174.65	10,130,454.06	
2010 Totals		1,399,598.22	506,423.57	893,174.65		
5	12/31/2011	1,399,598.22	465,391.29	934,206.93	9,196,247.13	
2011 Totals		1,399,598.22	465,391.29	934,206.93		
6	12/31/2012	1,399,598.22	422,473.98	977,124.24	8,219,122.89	
2012 Totals		1,399,598.22	422,473.98	977,124.24		
7	12/31/2013	1,399,598.22	377,585.07	1,022,013.15	7,197,109.74	
2013 Totals		1,399,598.22	377,585.07	1,022,013.15		
8	12/31/2014	1,399,598.22	330,633.96	1,068,964.26	6,128,145.48	
2014 Totals		1,399,598.22	330,633.96	1,068,964.26		
9	12/31/2015	1,399,598.22	281,525.93	1,118,072.29	5,010,073.19	
2015 Totals		1,399,598.22	281,525.93	1,118,072.29		
10	12/31/2016	1,399,598.22	230,161.89	1,169,436.33	3,840,636.86	
2016 Totals		1,399,598.22	230,161.89	1,169,436.33		

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	#	Date	Payment	Interest	Principal	Principal Balance	Balance Including Interest
	11	12/31/2017	1,399,598.22	176,498.19	1,223,160.03	2,617,476.83	
2017 Totals			1,399,598.22	176,498.19	1,223,160.03		
	12	12/31/2018	1,399,598.22	120,246.43	1,279,351.79	1,338,125.04	
2018 Totals			1,399,598.22	120,246.43	1,279,351.79		
	13	12/31/2019	1,399,598.22	61,473.18	1,338,125.04	-	
2019 Totals			1,399,598.22	61,473.18	1,338,125.04		
Grand Totals			21,463,356.05	3,679,103.37	17,784,252.68		

Last Interest amount decreased by 0.05 due to rounding.