



Agenda Item No. 2.c.

To: Finance-Auditing Committee/Committee of the Whole  
Meeting of November 20, 2008

From: James P. Swindler, Deputy General Manager, Ferry Division  
Celia G. Kupersmith, General Manager

Subject: **BUDGET INCREASE IN THE FY 08/09 FERRY TRANSIT DIVISION  
CAPITAL BUDGET REGARDING APPROVAL OF ACTIONS  
RELATIVE TO THE PROCUREMENT OF TWO NEW HIGH-SPEED  
PASSENGER FERRIES**

### **Recommendation**

This matter is being presented to the Finance-Auditing Committee to receive the Committee's concurrence for a budget increase relative to the Procurement of two new High Speed Passenger Ferries.

The Building and Operating Committee recommends that the Board of Directors approve the following actions relative of two new High-Speed Passenger Ferries:

1. Reject the sole negotiated bid submitted by Nichols Brothers Boat Builders (NBBB) in response to the District's RFP 2008-FT-1, Construction of New High-Speed Passenger Vessel; and
2. Authorize purchase of two existing high-speed passenger vessels from Washington State Ferries (WSF) at a price of \$ 4,000,000.00 (\$2 million per vessel); and
3. Authorize a budget increase in the amount of \$11,510,000 and establish a budget of \$19.1 million for the refurbishment of the two vessels; and
4. Establish a contingency budget of \$ 310,000 for sales/use tax that may be payable to the state of California,

with the understanding that this project is included in the Fiscal Year 2007/2008 Ferry Division Capital Budget in the amount of \$12,000,000.

### **Summary**

In June 2006, the Board of Directors authorized staff to issue a Request for Proposals (RFP) for procurement of a new high-speed passenger vessel. The Board further directed that this RFP include a requirement that the main engines be Tier 2-20 to maximize emissions reduction and that staff conduct a test of biodiesel fuel within the District fleet. In response to this RFP, on

July 25, 2008, the District received only one proposal from Nichols Brothers Boat Builders (NBBB) of Freeland, WA with a bid price of \$18,618,600. The NBBB proposal contained numerous exceptions to the RFP requirements, including a number of contractual provisions, such as the required level of performance security. As such, the bid price did not account for the cost of providing any performance security.

Based on Board authorization conferred on June 23, 2006 by Board Resolution 2006-052, the RFP was structured as a negotiated procurement, versus a competitive bid where the award is based on the lowest price, and therefore allowed for negotiations to determine an agreed upon price. Over the course of two months, District staff and attorneys met with NBBB to negotiate the bid price and the contract terms and conditions, and to explore finance and insurance arrangements that may be more cost effective than the traditional performance and payment bonds. As a result, the District was able to negotiate a bid price of \$16,976,724, and we anticipate financing/bonding/insurance costs of between \$500,000 and \$750,000.

During negotiations with NBBB, we became aware of WSF's desire to sell two of their high-speed ferry vessels that have been out of use for several years. The two vessels, *M/V Snohomish* and *M/V Chinook*, are eight feet longer than our *M/V Del Norte* but are of very similar design. They were built shortly after the Del Norte but only operated for approximately three years, before being removed from service, and have been inactive since September 2003. The Snohomish operated briefly in November/December 2007, providing emergency service to Port Townsend, Washington after four aging car ferries were abruptly pulled from service. After receiving authorization from the Board of Directors on September 12, 2008, District staff submitted an offer to purchase the WSF vessels for \$2 million each. The offer was subject to a number of conditions, including Board approval of the final purchase.

Since receiving confirmation from WSF that our conditional offer was accepted, District staff and consultants have inspected the vessels to confirm that the hulls are in excellent condition and have not experienced any unusual wastage of the hull plating or other major structural components. Staff reviewed regulations to ensure the passenger capacity of each vessel can be increased to carry a minimum of 450 passengers and determined that there is sufficient space to install the necessary seating and other improvements necessary for our service. Additionally, staff has prepared a detailed estimate that identifies each improvement necessary to prepare the vessels for service.

Based on staff analysis of the two options, it is recommended that the District reject the bid of NBBB and proceed with purchase of the two WSF boats. The following cost estimates were considered in developing the staff recommendation:

**New 499 Passenger High-Speed Vessel (NBBB)**

Contract price, including bond/financing/insurance	\$ 17,601,724
Contingency for change orders (3%)	509,000
Project Management (PM)	275,000

Miscellaneous District and staff costs	<u>225,000</u>
<b>TOTAL ONE VESSEL</b>	<b>\$ 18,610,724</b>

**Two Refurbished High-Speed Vessels (WSF) – to be delivered early 2009**

Purchase price, two vessels	\$ 4,000,000
Potential Tax (Use/Sales)	310,000
Refurbishment Costs (includes 3% contingency and PM)	<u>19,100,000</u>
<b>TOTAL TWO VESSELS</b>	<b>\$23,410,000</b>
<b>Potential Carl Moyer Program Funding Offset</b>	<b>3,500,000</b>
<b>REVISED TOTAL TWO VESSELS</b>	<b>\$19,910,000</b>

**DETAILS OF VESSEL REFURBISHMENT**

- As required by the California Air Resources Board (CARB), both vessels will be re-powered with Tier 2 engines. Consistent with District Board policy, the engines will be Tier 2-20 engines, which exceed CARB requirements.
- Other machinery to be replaced includes reduction gears; main shafting; bearings; engine controls and monitoring panels; electrical generator sets; and other miscellaneous pumps and controllers.
- The four water jets will be completely refurbished to like-new condition.
- Certain above-hull structures will be modified to accommodate additional inside seating capacity and new embarkation doors for passenger access at the upper deck.
- Each vessel will be outfitted with new accessible restrooms; snack bar; new seating and tables; bicycle racks; new deck covering (carpet and tile).
- The pilot house will be outfitted with new updated navigation equipment.
- The vessel will be completely repainted.

With procurement of the two WSF vessels, the District will begin using one of the vessels in early 2009 to substitute for the *M/V Del Norte* while it is re-powered with new Tier 2 engines being provided as part of the Carl Moyer grant program. This vessel will be cleaned up and placed into service with its existing engines and other equipment. The vessel is currently certified to carry 350 passengers, but we believe it is possible to temporarily get the vessel recertified to 390 passengers, as we did with the *Del Norte* several years ago. Based on the feedback received from ferry customers in 2007 when we repowered the *MV Mendocino*, having a fast ferry to replace the *Del Norte* while it is being repowered is critical to on-going customer satisfaction with our services.

During this same time period, staff will complete the drawings and specifications for the total refurbishment of both vessels. Based on this approach, we estimate the first fully refurbished vessel would be delivered to the District in December 2009, with the second vessel being delivered in July 2010. The significant advantage to this approach being that the District would have a back-up high-speed in its fleet almost immediately versus the 18 months it would take to construct and deliver the new high speed vessel.

Adding two high-speed vessels meets the current needs of the District and positions the organization to be able to respond to any number of potential scenarios involving increased demand. Additionally, buying two high-speed vessels at this time allows the District to fully examine the potential impacts of selling the two Spauldings as opposed to keeping them as valuable assets to the San Francisco Bay region during a time of emergency need. Staff will review this issue and present a recommendation to the Board later in 2009.

If approved to purchase the two WSF ferries, it is further recommended that the current capital funds for purchase of one new vessel be reallocated to a new capital project budget for refurbishment of the two WSF boats. Once approved by the Board, staff will develop the specifications and issue an RFP for refurbishment. It is anticipated that a recommendation regarding award of the refurbishment contract will occur by May 2009.

### **DBE**

No contract-specific Disadvantaged Business Enterprise (DBE) goal was established for 2008-FT-1, the new 499 passenger high-speed vessel. However, bidders were strongly encouraged to obtain DBE participation and were required to document their activities in the solicitation and selection of subcontractors, subconsultants, and suppliers to ensure that this process was carried out in a nondiscriminatory manner. The DBE Program Administrator has determined that NBBB has complied with the DBE requirements applicable to the contract. At this time, if the Board chooses to move forward with purchase of a single new ferry, less than 1% DBE participation would be anticipated during the performance of this contract.

If the Board chooses to move forward with purchase of the two Washington State ferries, no DBE participation is anticipated for the purchase. However, contract documents for construction/refurbishment will include the District's standard DBE requirements and language with the hope that DBE participation will be achieved during the refurbishment phase of the project.

### **Fiscal Impact**

This project is included in the FY 07/08 Ferry Division Capital Budget in the amount of \$12,000,000 and is funded with \$9,600,000 Federal Transit Administration (FTA) funds, \$2,116,322 State (I Bond) funds, and \$283,678 District funds (80% FTA/17.6% State/2.4% District). A capital budget increase in the amount of \$11,510,000 (\$6,400,000 FTA funds and

\$5,110,000 from District reserves) is required to fully fund this project at the proposed budget of \$23,510,000. Utilizing FTA funds to support the purchase of these two vessels and additional FTA funds to support the refurbishment of these two vessels was made possible by staff's creative development of an efficient and effective funding proposal, and the FTA's willingness to collaborate and achieve the best possible solution for the District.

The estimated total cost to implement this project is as follows:

Previous Expenditures		\$100,000
Purchase two vessels		4,000,000
Sales/Use Tax Due State of California		310,000
Refurbishment costs for one vessel:		
Design	200,000	
Construction	8,700,000	
Consultants (including project management)	150,000	
Staff Labor	150,000	
ICAP (75%)	100,000	
Testing, Inspection, Trials, Delivery	200,000	
Miscellaneous	50,000	
SUBTOTAL	\$9,550,000	
Refurbishment Cost for Two Vessels		19,100,000
<b>TOTAL BUDGET FOR TWO VESSELS</b>		<b>\$23,510,000</b>

The total project will be funded as follows: \$16,000,000 FTA funds (68%), \$2,116,322 State (I-Bond) funds (9%), and \$5,393,678 District funds (23%).

Please note that certain aspects of the vessel refurbishment may also be subject to California sales tax. If this occurs, the extra expense will be addressed as a budget adjustment when awarding the refurbishment contract.