



King County

King County Meeting Agenda

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

King County Ferry District

*Boardmembers: Dow Constantine, Chair; Jane Hague, Vice Chair; Reagan Dunn,
Bob Ferguson, Larry Gossett, Kathy Lambert, Julia Patterson, Larry Phillips,
Pete von Reichbauer*

Room 1001

July 20, 2009

1:30 PM

Page #

REVISED SPECIAL MEETING

- 1. Call to Order
- 2. Roll Call
- 3 3. Approval of Minutes of June 8, 2009

Discussion and Possible Action

- 6 4. **FD Resolution No. FD2009-10**
A RESOLUTION relating to financial assistance from the Federal Transit Administration and adopting a Disadvantaged Business Program for the King County Ferry District.
- 81 5. **FD Resolution No. FD2009-11**
A RESOLUTION relating to senior and disabled riders of public transportation and adopting a Memorandum of Agreement to implement Regional Reduced Fare Permits.
- 82 6. **FD Resolution No. FD2009-15**
A RESOLUTION relating to a vessel lease for the Vashon Island ferry service and approving the "Vashon Island Ferry Charter Contract."
- 84 7. **FD Resolution No. FD2009-17**
A RESOLUTION approving the King County Ferry District's Vashon Island Passenger Fare Schedule and Service Schedule.



Sign language and communication material in alternate formats can be arranged given sufficient notice (296-1000).
TDD Number 296-1024.

ASSISTIVE LISTENING DEVICES AVAILABLE IN THE COUNCIL CHAMBERS.



85

8. **FD Resolution No. FD2009-12**

A RESOLUTION relating to community revitalization financing and removing the King County Ferry District from participation in the City of Auburn's local revitalization financing of its revitalization area.

87

9. **FD Resolution No. FD2009-13**

A RESOLUTION relating to community revitalization financing and removing the King County Ferry District from participation in the City of Bellevue's local revitalization financing of its revitalization area.

89

10. **FD Resolution No. FD2009-14**

A RESOLUTION relating to community revitalization financing and removing the King County Ferry District from participation in the City of Federal Way's local revitalization financing of its revitalization area.

91

11. **FD Resolution No. FD2009-16**

A RESOLUTION relating to community revitalization financing and removing the King County Ferry District from participation in the City of Renton's local revitalization financing of two revitalization areas, Port Quendall and South Lake Washington.

93

12. Motion to approve warrants paid in 2008 and January through June 2009

95

13. Motion to approve invoice from Francis and Co., accounting firm

14. **Adjournment**



King County
Meeting Proceedings
King County Ferry District

Boardmembers: Dow Constantine, Chair; Jane Hague, Vice Chair; Reagan
Dunn,
Bob Ferguson, Larry Gossett, Kathy Lambert, Julia Patterson, Larry
Phillips,
Pete von Reichbauer

Room 1001

June 8, 2009

1:30 PM

--DRAFT MINUTES--

1. **Call to Order**

The meeting was called to order at 1:39 p.m.

2. **Roll Call**

Present: Mr. Constantine, Mr. Dunn, Mr. Ferguson, Mr. Gossett, Ms. Hague, Ms. Lambert, Ms. Patterson, Mr. Phillips and Mr. von Reichbauer

3. **Approval of Minutes of April 27, 2009**

Ms. Hague moved to approve the minutes of the April 27, 2009 meeting as presented. Seeing no objection, the Chair so ordered.

4. **Election of Vice-chair and Members of Executive Committee**

Boardmember Patterson moved to elect Boardmember Hague as vice-chair of the Board. The motion carried by the following voice vote:

Votes: Yes: 7 - Mr. Constantine, Ms. Patterson, Mr. Gossett, Ms. Lambert, Mr. Dunn, Mr. Ferguson and Ms. Hague

No: 0

Excused: 2 - Mr. Phillips and Mr. von Reichbauer

Boardmember Gossett moved to appoint Boardmembers Constantine, Hague, Ferguson and Patterson as members of the Executive Committee. The motion carried by the following voice vote:

No: 0

Excused: 1 - Mr. Phillips

5. **FD Resolution No. FD2008-15**

A RESOLUTION authorizing the payment of claims prior to approval by the Board of Supervisors.

Kjris Lund, Executive Director, briefed the Board.

A motion was made by Ms. Hague that this matter be Passed. The motion carried by the following vote:

Votes: Yes: 8 - Mr. Constantine, Mr. Dunn, Mr. Ferguson, Mr. Gossett, Ms. Hague, Ms. Lambert, Ms. Patterson and Mr. Phillips

No: 0

Excused: 1 - Mr. von Reichbauer

6. FD Resolution No. FD2009-06

A RESOLUTION adopting policies for the construction of public works and the acquisition of materials, equipment, supplies and services.

Kjris Lund, Executive Director, briefed the Board.

A motion was made by Ms. Hague that this matter be Passed. The motion carried by the following vote:

Votes: Yes: 9 - Mr. Constantine, Mr. Dunn, Mr. Ferguson, Mr. Gossett, Ms. Hague, Ms. Lambert, Ms. Patterson, Mr. Phillips and Mr. von Reichbauer

No: 0

Excused: 0

7. FD Resolution No. FD2009-07

A RESOLUTION relating to financial assistance from the Federal Transit Administration and adopting a Title VI Plan for the King County Ferry District.

Kjris Lund, Executive Director, briefed the Board.

Ms. Hague moved Amendment 1. The motion carried by the following vote:

Votes: Yes: 9 - Mr. Constantine, Ms. Patterson, Mr. Gossett, Ms. Lambert, Mr. Dunn, Mr. Ferguson, Mr. Phillips, Ms. Hague and Mr. von Reichbauer

No: 0

Excused: 0

A motion was made by Ms. Hague that this matter be Passed as Amended. The motion carried by the following vote:

Votes: Yes: 9 - Mr. Constantine, Mr. Dunn, Mr. Ferguson, Mr. Gossett, Ms. Hague, Ms. Lambert, Ms. Patterson, Mr. Phillips and Mr. von Reichbauer

No: 0

Excused: 0

8. FD Resolution No. FD2009-08

A RESOLUTION relating to a grant for passenger ferry services and adopting Agreement GCA6048 between the Washington State Department of Transportation and King County Ferry District.

Kjris Lund, Executive Director, briefed the Board.

Ms. Hague moved Amendment 1. The motion carried by the following vote:

Votes: Yes: 9 - Mr. Constantine, Ms. Patterson, Mr. Gossett, Ms. Lambert, Mr. Dunn, Mr. Ferguson, Mr. Phillips, Ms. Hague and Mr. von Reichbauer

No: 0

Excused: 0

A motion was made by Ms. Hague that this matter be Passed as Amended. The motion carried by the following vote:

Votes: Yes: 9 - Mr. Constantine, Mr. Dunn, Mr. Ferguson, Mr. Gossett, Ms. Hague, Ms. Lambert, Ms. Patterson, Mr. Phillips and Mr. von Reichbauer

No: 0

Excused: 0

9. FD Resolution No. FD2009-09

A RESOLUTION related to the operations and finances of the King County Ferry District; adopting the District's amended 2009 budget; amending Attachment A to the District's Resolution No. FD2008-17.3.

Kjris Lund, Executive Director, briefed the Board.

Ms. Hague moved Amendment 1. The motion carried by the following vote:

Votes: Yes: 8 - Mr. Constantine, Ms. Patterson, Mr. Gossett, Ms. Lambert, Mr. Dunn, Mr. Ferguson, Mr. Phillips and Ms. Hague

No: 0

Excused: 1 - Mr. von Reichbauer

A motion was made by Ms. Hague that this matter be Passed as Amended. The motion carried by the following vote:

Votes: Yes: 9 - Mr. Constantine, Mr. Dunn, Mr. Ferguson, Mr. Gossett, Ms. Hague, Ms. Lambert, Ms. Patterson, Mr. Phillips and Mr. von Reichbauer

No: 0

Excused: 0

10. Other Business

There was no further business to come before the Board.

11. Adjournment

The meeting was adjourned at 2:02 p.m.

Approved this _____ day of _____.

Clerk's Signature



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 16, 2009

FD Resolution

Proposed No. FD2009-10.1

1 A RESOLUTION relating to financial assistance from the Federal
2 Transit Administration and adopting a Disadvantaged Business
3 Program for the King County Ferry District.
4

5 WHEREAS, the recipients of Federal Transit Administration (FTA) financial
6 assistance must comply with 49 C.F.R. Part 26 and develop a Disadvantaged Business
7 Program (Program); and

8 WHEREAS, in accordance with 49 C.F.R. Part 26, the King County Ferry District
9 (District) has developed a Program to provide opportunities for businesses owned or
10 controlled by socially or economically disadvantaged individuals ; and

11 WHEREAS, pursuant to the Program and Interlocal Agreement between the
12 District and King County, the District will utilize employees of King County to assist
13 with the implementation of the Program; now, therefore

14

15

16 BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE KING COUNTY
17 FERRY DISTRICT:

18 Section 1. The board of supervisors approves the “King County Ferry District
19 Disadvantaged Business Program,” attached to this resolution.

20

KING COUNTY FERRY DISTRICT
KING COUNTY, WASHINGTON

ATTEST:

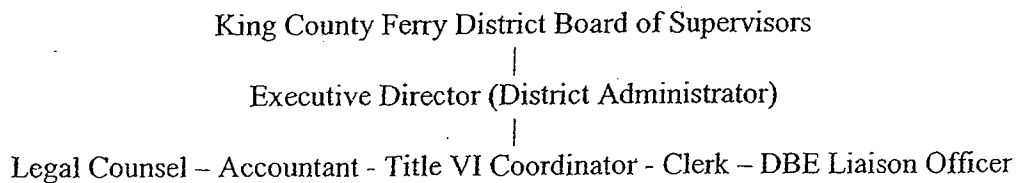
Attachments A. King County Ferry District Disadvantaged Business Program

ATTACHMENTS

Attachment A	Organizational Chart
Attachment B	RCW 39.04.250
Attachment C	Chapter 60.28 RCW
Attachment D	Monitoring and Enforcement Mechanisms
Attachment E	Methodology for Determination of DBE Goal
Attachment F	Substitution Requirements
Attachment G	Eligibility Certification
Attachment H	Regulations: 49 CFR part 26

Attachment A

Organizational Chart



Attachment B

RCW 39.04.250

Payments received on account of work performed by subcontractor -- Disputed amounts -- Remedies.

(1) When payment is received by a contractor or subcontractor for work performed on a public work, the contractor or subcontractor shall pay to any subcontractor not later than ten days after the receipt of the payment, amounts allowed the contractor on account of the work performed by the subcontractor, to the extent of each subcontractor's interest therein.

(2) In the event of a good faith dispute over all or any portion of the amount due on a payment from the state or a municipality to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state or the municipality, or the prime contractor or subcontractor, may withhold no more than one hundred fifty percent of the disputed amount. Those not a party to a dispute are entitled to full and prompt payment of their portion of a draw, progress payment, final payment, or released retainage.

(3) In addition to all other remedies, any person from whom funds have been withheld in violation of this section shall be entitled to receive from the person wrongfully withholding the funds, for every month and portion thereof that payment including retainage is not made, interest at the highest rate allowed under RCW 19.52.025. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to costs of suit and reasonable attorneys' fees.

[1992 c 223 § 5.]

Attachment D

Monitoring and Enforcement Mechanisms

The District has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract.
2. Breach of contract action, pursuant to Washington state law.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26.
2. Enforcement action pursuant to 49 CFR Part 31.
3. Prosecution pursuant to 18 USC 1001.

Attachment E

Section 26.45: Overall Goal Calculation

Step One -- Determination of Base-Figure for FTA Recipients Overall Goal

Step one determines a base-figure that is a measurement of the relative availability of Disadvantaged Business Enterprises (DBEs), to perform the types of contracts (both prime and

subcontractors) that the District intends to let. This figure is the number and proportion of DBEs in the District's market area that are ready, willing and able to compete for Federal Transit Administration, (FTA) assisted District contracts. The base figure for relative availability of DBEs is calculated as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing and able}}$$

The Department of Transportation (USDOT) guidance to recipients indicates a need for flexibility with fundamental guidance on measurements of availability based on market conditions. In determining relative availability, the District used the following data sources:

- US Census Bureau County Business Pattern (CBP) Database for all firms.
- Washington State Office of Minority and Women's Business Enterprises Directory.

The Office of Minority and Women Business Enterprise¹ (OMWBE) is the exclusive authority for certification of Disadvantaged, Minority and Women Business Enterprises in Washington State. The OMWBE Directory contains a list of all certified firms in Washington State. The Directory is a data resource that the District uses to develop its overall DBE goal. The District uses the Directory to identify certified firms in the any relevant contracting categories. The District also uses the most recent Economic Census Bureau County Business Pattern data (2001) to determine the relative availability of all firms for predominate contract categories. The District also presents information that provides for adjustment of the overall annual DBE Goal.

The District's Market Area

For the purpose of this analysis, the District has determined its market area includes Western Washington State. This area (west of the Cascade Mountains) represents the urbanized region from which the District will draw the majority of its contractors.

The District's Industries

The District likely plans on using FTA assistance in contracts for marine, vessel, and ship related work, including the North American Industry Classification System Code categories of Heavy and Civil Engineering Construction, including Marine Ship Building and Repair; Finish Carpentry Contractors, including Ship joinery contractors; Painting and Wall Covering Contractors; and other specialty trade contractors.

Base Figure for District Contracts by Industry

¹ OMWBE is the Unified Certification Provider (UCP) authority for participation in the USUSDOT Disadvantaged Business Enterprise ("DBE") program in the state of Washington in accordance with 49 CFR Part 26 and chapter 39.19 RCW.

The step one Base Figure for an industry is determined using a calculation that aggregates the number of certified Minority/Women and Disadvantaged Business Enterprises (M/W/DBEs) using the OMWBE Directory of certified firms. Next, the District calculates the number of (M/W/DBEs) with business addresses located in Western Washington, using the same NAICS codes for all three counties.

In addition, the District uses the Census Bureau County Business Pattern (CBP) database to obtain information on the availability of all businesses. The District assesses the number of ready, able and willing minority and women-owned businesses (firms that could be certified as DBEs) in the CBP database that is located within its market area. The assessment includes only those firms that are directly or indirectly involved in that industry or and industry-related activities. This was accomplished by sorting the number of firms by the North American Industrial Classification System Codes² corresponding to the industry and industry-related for contracts that King County intends to let.

Step Two - Adjustment of the Overall Goal

After calculating a base figure of the relative availability of DBEs, evidence will be examined to determine what adjustment is needed to the base figure in order to arrive at the overall goal. The District recognizes certain limitations may be inherent in the use of the Step One Base Figure of the Overall DBE Goal for the federal fiscal year. Further analysis and adjustment may be necessary to account for circumstances, such as the following:

The passage of Initiative 200 in Washington State has had the effect of negatively influencing and substantially decreasing the number of firms certified by the OMWBE. Therefore, the availability of DBE firms in the OMWBE's directory may be decreased artificially in the base figure. The USDOT's goal-setting methodology requires that entities consider evidence resulting from disparity studies conducted in the state.

To determine the final goal, the District will identify data to determine the adjustment to the base figure, the rationale for adjusting the figure using that data, and then adjust the base figure accordingly.

ATTACHMENT F

E. Substitutions (Construction Contracts)

The contractor must notify and obtain the written approval by WSDOT Office of Equal Opportunity (OEO) (for local agency projects, WSDOT Highways and Local Programs Service Center) prior to replacing a DBE or making any change in the participation. Approval for replacement will be granted only if it is demonstrated that the DBE is unable or unwilling to perform and that the contractor exercised a good faith effort (see: XXIII "Contractors Good Faith Efforts") to enable the DBE to perform.

Any deviation from the DBE condition of award letter or contract specifications must be approved by Change Order issued by the WSDOT Olympia Service Center (OSC) Construction Office or with the Highways and Local Programs Service Center for subrecipients with the concurrence of the OEO. Affected DBEs shall be notified in writing of any changes in the scope of work which result in a reduction in the dollar amount of Condition of Award (COA) to the contract. The contractor must make the request for approval of the reduction of the amount awarded through a Change Order signed by the prime contractor with a copy to be sent to the COA subcontractor.

The contractor's ability to negotiate a more advantageous bid with another subcontractor will not be considered a valid basis for replacement. Requests to substitute committed DBEs will be scrutinized closely.

The contractor must document efforts made at the time of commitment to determine that the DBE was capable of performing the work and subsequent efforts were made to enable the DBE to perform. The evidence must show that the contractor investigated the DBE's capacity and capability of performing at the time of the commitment. The DBE must have possessed or have had access to adequate resources and work force. The evidence must also show that the contractor assisted the DBE with supportive actions to enable the DBE to perform.

F. Substitutions may be required under the following conditions:

1. The elimination of an item of work which was a Condition of Award (COA) to a DBE. The DBE firm originally proposed to perform the work must be notified in writing when the elimination of the item of work is proposed by the prime contractor;
2. The DBE firm COA to the contract goes out of business prior to the completion of the work;
3. Poor or slow performance of the items of work assigned to the DBE can result in the prime contractor requesting a substitution of the DBE. However, prior approval of the DBE substitution by OEO is required. Substituting the prime contractor's own work force and equipment to complete any items of work assigned to the DBE as a COA requires prior approval from OEO and a change order;
4. Failure of a DBE to perform a CUF in the execution of its items of the work, may be remedied by substitution, with prior approval of OEO; and

5. The apparent low bidder with a DBE decertified or who became ineligible after bid opening, but prior to contract award, will be required to substitute another DBE firm or firms to perform the same dollar value COA to the project.

WSDOT must approve all substitutions of DBE subcontractors after bid opening and during the execution of the contract.

G. Substitutions will not be permitted under the following conditions:

1. If the successful low bidder fails to inform the DBE prior to bid submittal that the bidder's union agreements require the bidder's subcontractors to have their own union agreements.
2. The successful low bidder fails to inform the DBE prior to bid submittal of bonding requirements that the bidder will impose on its subcontractors.

H. Exceptions to the above conditions:

1. If the substitution is initiated by the DBE, and the prime contractor has exceeded the established DBE goal, WSDOT may not request substitution provided the excess DBE amount covers the COA DBE portion and a CUF review has been performed on such firm(s);
2. If the deletion of the DBE work is initiated by the State, and insufficient work remains on the contract, WSDOT may relieve the prime contractor from attainment of that portion of the goal; and
3. After award, and throughout the life of the contract, any DBE firm that is found by OMWBE to be ineligible, or becomes unable or unwilling to perform their work, shall be replaced by the contractor with another certified DBE to meet the project goal, at no additional cost to the Contracting Agency. Documentation of a "good faith effort" (see: XXIV. Contractors "Good Faith Effort") may be accepted in lieu of an actual substitution of another firm.

I. Substitutions (Consultant Agreements)

The above substitution requirements and procedures are the same with the exception of:

1. There is no condition of award requirement. Consultants will be held accountable for DBE commitment as reflected by their DBE Utilization Plan submittal (see Appendix 2).
2. A supplemental agreement replaces the change order requirement.

XVII. Use of Set-Asides or Quotas

A. Quotas

Pursuant to 49 CFR Part 26.43, WSDOT and its subrecipients are not permitted to use quotas for DBEs on USDOT-assisted contracts.