



Agenda Item 3b

Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105
TEL 415.778.6700
WEB www.mtc.ca.gov

TO: Clipper® Executive Board

DATE: April 10, 2017

FR: Carol Kuester

RE: Proposed Revisions to Clipper® Memorandum of Understanding (MOU) and Executive Board Procedures

Background

The current Amended and Restated Clipper® Memorandum of Understanding (“MOU”) established the Clipper® Executive Board and was entered into on February 19, 2016 by and among the Metropolitan Transportation Commission and the 22 transit operators participating in the Clipper® program. At the February 22, 2016 Clipper® Executive Board Meeting, the Board adopted the Board Procedures Manual which included procedures for selection and term of Board members, attendance, delegation, notices and agendas for Board meetings, and meeting business conduct.

Proposal

MTC and transit agency staff have discussed several provisions of the MOU and Board Procedures that may need to be amended or reconsidered since the establishment of the Clipper® Executive Board. The Proposed Amendment No. 1 to the MOU (Attachment A) and Executive Board Procedures Manual (Attachment B) have been revised based on the following proposals:

- The MOU calls for the Executive Board Chair and Vice Chair to be elected annually. **The Proposed Amendment No. 1 to the MOU would revise the MOU to provide for two-year terms for the Chair and Vice Chair.** The Clipper® Executive Board Procedures already provide for two-year terms for officers and would not have to be amended.
- Current MOU and Board Procedures allow two absences for members in each calendar year in which a Board Member may appoint a delegate to vote on their behalf and count towards a quorum. Thereafter, Board Members must be present to vote on items and any representative they send in their absence does not have voting rights and does not count towards a quorum. **The Proposed Amendment No. 1 to the MOU and Clipper® Executive Board Procedures Manual would revise that to allow for Board Member delegates to vote and count towards a quorum for up to four absences per calendar year.**
- The Parties to the MOU share a mutuality of interest and need for joint cooperation in legal matters relating to Clipper®. California case law recognizes a “common interest” doctrine that permits Parties with such shared legal interests to communicate confidentially through legal counsel, as long as certain conditions exist. The TransLink Interagency Participation Agreement (the first iteration of the current MOU) recognized the common interest doctrine, which enabled the members of that group to share confidential information without waiving attorney client privilege. **The Proposed Amendment No. 1 to the MOU adds a statement recognizing the Parties’ Common Interest, which will permit the Parties under circumstances in which their legal interests are aligned to communicate through counsel without waiving the attorney client, attorney work product, or the pooled information privileges.**

- The Clipper® Executive Board Procedures assumed regular Board Meetings would occur at the General Manager Conference Room at BART and that notices and agendas would be posted at both BART and the MTC offices in Oakland. **The Executive Board Procedures Manual has been revised to change references to 101 8th Street in Oakland to MTC's current location at the Bay Area Metro Center at 375 Beale Street in San Francisco, and for Board Meeting locations, notices and agenda posting requirements to reflect actual Board practice with most meetings at the BART Board Room with periodic meetings held elsewhere (mainly the Caltrain/SamTrans Board Room).**

Recommendation

Staff recommends the Executive Board approve the Proposed Amendment No. 1 to the MOU, or seek their governing boards' approval, if necessary, and adopt the Proposed Clipper® Executive Board Procedures Manual revisions. If approved, Amendment No. 1 to the MOU would then need to be signed by MTC and the 22 participating transit operators.



Carol Kuester

Attachments:

- Attachment A: Proposed Amendment No. 1 to the MOU
- Attachment B: Proposed Executive Board Procedures Manual

Amendment No. 1 to

AMENDED AND RESTATED CLIPPER® MEMORANDUM OF UNDERSTANDING

This is Amendment No. 1 ("Amendment") to the Amended and Restated Clipper® Memorandum of Understanding (the "MOU") entered into as of the 19th day of February, 2016 ("Amendment No. 1 Effective Date"), by and among the Metropolitan Transportation Commission ("MTC") and the following transit operators participating in the Clipper® program (referred to herein individually as an "Operator" or collectively as the "Operators"):

Alameda-Contra Costa Transit District ("AC Transit"); Golden Gate Bridge Highway and Transportation District ("GGBHTD"); the San Francisco Bay Area Rapid Transit District ("BART"); the City and County of San Francisco, acting by and through its Municipal Transportation Agency ("SFMTA"); the San Mateo County Transit District ("SamTrans"); the Santa Clara Valley Transportation Authority ("VTA"); the Peninsula Corridor Joint Powers Board ("Caltrain"); Central Contra Costa Transit Authority; City of Fairfield, as the operator of Fairfield and Suisun Transit; City of Petaluma; Eastern Contra Costa Transit Authority; Livermore/Amador Valley Transit Authority; Marin County Transit District; Napa County Transportation and Planning Agency; Solano County Transit; Sonoma County Transit; Sonoma-Marin Area Rail Transit; Vacaville City Coach; Western Contra Costa Transit Authority; San Francisco Bay Area Water Emergency Transportation Authority; City of Santa Rosa; and City of Union City; and any other transit operators that implement Clipper® and execute a Supplemental Agreement to the MOU.

MTC and the Operators are referred to herein collectively as the "Parties" or individually as a "Party".

1. The Parties hereto agree to amend the MOU as follows: Article IV, **Clipper® Executive Board**, is amended in part as follows:

- a. Subarticles H, Board Chair; Committees, and I, Delegates, are amended to read:

- H. Board Chair; Committees. The Executive Board shall bi-annually elect a Chair and Vice Chair from its members. The Chair shall provide administrative staff support to the Executive Board, as needed as determined by the Chair and the Clipper® Executive Director. The Chair may appoint advisory committees or working groups for specified projects of limited duration. The Executive Board may establish standing committees from time to time.

- I. Delegates. Executive Board members may appoint, in writing, delegates to vote on their behalf in the event of a member's absence from any Executive Board meeting, for up to four (4) meetings per calendar year. No voting rights are accorded to delegates, nor do delegates count toward a quorum of the Executive Board, when they are representing an Executive Board member for meetings after four (4) missed meetings in a calendar year.

2. A new Article XII, **Common Interest**, is added to the MOU, as follows:

ARTICLE XII
Common Interest

The Parties recognize a mutuality of interest, and a need for joint cooperation in legal matters relating to Clipper®. In furtherance of this common interest, any communications among Parties and counsel for any of the Parties shall be confidential and protected from disclosure to any third party by each and every privilege – including, but not limited to, the attorney-client privilege, the attorney work product privilege, and the pooled information privilege – notwithstanding the dissemination of the communications and work product among Parties by the counsel that made the information available in the first instance. If information covered by the privileges is requested by a third party pursuant to a subpoena or other discovery request, then counsel receiving the request shall notify in a timely fashion the counsel who disclosed the information so that the privileges against disclosure may be asserted.

Should any Party withdraw from or otherwise terminate its participation in the Clipper® program, such withdrawal or termination shall not impair the privileges that protect any information that has been shared prior to such action. Any Party that withdraws or terminates its participation in the Clipper® program shall promptly return all privileged materials that the Party has received.

3. All other terms of the MOU not amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment has been duly authorized and executed by the Parties hereto on the dates specified below by their duly authorized representatives.

Metropolitan Transportation Commission

Approved as to form:

Name: Steve Heminger
Title: Executive Director

Adrienne Weil, General Counsel

Date: _____

Alameda-Contra Costa Transit District

Approved as to form:

Name: Michael A. Hursh
Title: General Manager

Denise C. Standridge, General Counsel

Date: _____

**Golden Gate Bridge, Highway and
Transportation District**

Approved as to form:

Name: Denis J. Mulligan

Title: General Manager

Date:_____

Kimon Manolius, General Counsel

San Francisco Bay Area Rapid Transit District

Approved as to form:

Name: Grace Crunican

Title: General Manager

Date:_____

Matthew Burrows, General Counsel

**City and County of San Francisco
Municipal Transportation Agency**

Approved as to form:
Dennis J. Herrera, City Attorney

Name: Edward D. Reiskin

Title: Director of Transportation

Date:_____

Municipal Transportation Agency Board of Directors

Resolution No. _____

Dated: _____

Secretary, SFMTAB

Name: Robin M. Reitzes, Deputy City Attorney

San Mateo County Transit District

Approved as to form:

Name: Jim Hartnett

Title: General Manager/CEO

Date:_____

Joan L. Cassman, General Counsel

Santa Clara Valley Transportation Authority

Approved as to form:

Name: Nuria I. Fernandez
Title: General Manager/ Chief Executive Officer
Date:_____

Robert Fabella, General Counsel

Peninsula Corridor Joint Powers Board

Approved as to form:

Name: Jim Hartnett
Title: Executive Director
Date:_____

Joan L. Cassman, General Counsel

Central Contra Costa Transit Authority

Approved as to form:

Name: Rick Ramacier
Title: General Manager
Date:_____

Madeline Chun, General Counsel

**City of Fairfield
Fairfield and Suisun Transit**

Approved as to form:

Name: David A. White
Title: City Manager
Date:_____

Trisha Ortiz, General Counsel

City of Petaluma

Approved as to form:

Name: John C. Brown
Title: City Manager
Date:_____

_____, General Counsel

Eastern Contra Costa Transit Authority

Approved as to form:

Name: Jeanne Krieg

Title: CEO

Date:_____

Ben Stock, General Counsel

Livermore/Amador Valley Transit Authority

Approved as to form:

Name: Michael S. Tree

Title: Executive Director

Date:_____

Michael N. Conneran, General Counsel

Marin County Transit District

Approved as to form:

Name: Nancy E. Whelan

Title: General Manager

Date:_____

Brian Case, General Counsel

Napa County Transportation and Planning Agency

Approved as to form:

Name: Kate Miller

Title: Executive Director

Date:_____

Janice Killian, General Counsel

Solano County Transit

Approved as to form:

Name:_____

Title:_____

Date:_____

Bernadette Curry, General Counsel

Sonoma County Transit

Approved as to form:

Name: Bryan Albee
Title: Transit Systems Manager

Date:_____

Adam Brand, General Counsel

Sonoma-Marin Area Rail Transit District

Approved as to form:

Name: Farhad Mansourian
Title: General Manager

Date:_____

Thomas Lyons, General Counsel

Vacaville City Coach

Approved as to form:

Name: Steven L. Hartwig
Title: Public Works Director

Date:_____

Gerald L. Hobrecht, General Counsel

Western Contra Costa Transit Authority

Approved as to form:

Name: Charles Anderson
Title: General Manager

Date:_____

Michael N. Conneran, General Counsel

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

Approved as to form:

Name: Nina Rannells
Title: Executive Director

Date:_____

Stanley S. Taylor III, General Counsel

City of Santa Rosa

Approved as to form:

Name: Gloria Hurtado
Title: Deputy City Manager

Date:_____

_____, General Counsel

City of Union City

Approved as to form:

Name: Antonio E. Acosta
Title: City Manager

Date:_____

Benjamin T. Reyes, II, General Counsel

DRAFT – 4/6/17

Additions underlined; deletions struck.

ATTACHMENT A

CLIPPER® EXECUTIVE BOARD

PROCEDURES MANUAL

Adopted **February 22, 2016**

Amended, 2017

CLIPPER® EXECUTIVE BOARD

PROCEDURES MANUAL

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CLIPPER® EXECUTIVE BOARD
PROCEDURES MANUAL

INTRODUCTION

The Clipper® Executive Board (the “Board”) was established by Article IV, Section A, of the Amended and Restated Clipper® Memorandum of Understanding, entered into as of the **19th day of February, 2016** (the “MOU”), by and among the Metropolitan Transportation Commission (“MTC”) and the following transit operators participating in the Clipper® electronic fare collection program:

Alameda-Contra Costa Transit District (“AC Transit”); Golden Gate Bridge Highway and Transportation District (“GGBHTD”); the San Francisco Bay Area Rapid Transit District (“BART”); the City and County of San Francisco, acting by and through its Municipal Transportation Agency (“SFMTA”); the San Mateo County Transit District (“SamTrans”); the Santa Clara Valley Transportation Authority (“VTA”); the Peninsula Corridor Joint Powers Board (“Caltrain”); Central Contra Costa Transit Authority; City of Fairfield, as the operator of Fairfield and Suisun Transit; City of Petaluma; Eastern Contra Costa Transit Authority; Livermore/Amador Valley Transit Authority; Marin County Transit District; Napa County Transportation and Planning Agency; Solano County Transit; Sonoma County Transit; Sonoma-Marin Area Rail Transit; Vacaville City Coach; Western Contra Costa Transit Authority; San Francisco Bay Area Water Emergency Transportation Authority; City of Santa Rosa; and City of Union City; and any other transit operators that implement Clipper® and execute a Supplemental Agreement to the MOU.

Under the MOU, the Board shall designate one of the parties to the MOU to serve as “Contracting Agency” under the MOU. Per Article IV, Section D, of the MOU, MTC serves as the initial Contracting Agency.

I. THE BOARD AND BOARD MEMBERS

1.01. Board Members. Per Article IV, Section A of the MOU, the Board shall be comprised of nine members: one representative each from SFMTA, BART, Caltrain/SamTrans, AC Transit, VTA, GGBHTD and MTC, and two representatives who are selected to represent all other Operators (the “Small Operators”) in the sole discretion of the Small Operators. Each representative shall be at the Executive Director/General Manager or Senior Management level; provided, however, that it is the intent of the Board that members be at the Executive Director/General Manager level whenever practicable.

1.02. Selection. In the event the Executive Director or General Manager, as applicable, of SFMTA, BART, Caltrain/SamTrans, AC Transit, VTA, GGBHTD or MTC wishes to appoint someone other than herself or himself to the Board, she or he shall issue a letter to the then-current Board Chair indicating the name and title of the appointed Board member representing the agency. The Board members representing the Small Operators shall be selected by the Small Operators at their monthly meeting, and the identity of those Board members shall be communicated in writing to the then-current Board Chair.

1.03. Term of Office. There is no limit to the term of office of Board members.

1.04. Delegates. Per Article IV, Section I, of the MOU, Board members may appoint, in writing, delegates to vote on their behalf in the event of a member's absence from any Board meeting, for up to ~~two~~ four (24) meetings per calendar year. Such written appointment may be made via electronic mail sent to the Chair, Vice Chair and Clipper® Executive Director prior to the applicable Board meeting. Each delegate appointed in accordance herewith and with Article IV, Section I, of the MOU shall count toward a quorum of the Board.

~~A Board member may send an alternate to attend in such member's absence for the third and subsequent meetings from which such member is absent in a given calendar year.~~ Per Article IV, Section I, of the MOU, no voting rights are accorded to ~~alternates~~ delegates, nor do ~~alternates~~ delegates count toward a quorum of the Board, when ~~alternates~~ delegates are representing a Board member for meetings after ~~two~~ four (24) missed meetings in a calendar year.

1.05. Reimbursement. Board members serve without receiving any compensation or reimbursement from the Clipper® program for such service.

1.06. Telephonic Attendance. Per Article IV, Section F, of the MOU, in the absence of a quorum, a smaller number of Board members may secure the attendance of absent members by video conference, teleconference or other means compliant with the Brown Act to establish a quorum. In addition, Board members may attend any regular or special Board meeting by video conference or teleconference. In either such case, a Board member who plans to attend a meeting telephonically shall notify the Board Chair and the Clipper® Executive Director in writing at least one (1) week prior to the scheduled meeting date.

II. OFFICERS

2.01. Board Officers. There are two (2) Board officers: a Chair and a Vice Chair. Any Board member is eligible to hold the office of Chair or Vice Chair.

2.02. Term. After the initial term of the initial Chair and Vice Chair, which shall end in February 2018, the Chair and Vice Chair shall serve two-year terms commencing upon elections at the regular Board meeting in February of even numbered years. A Board member may serve as Chair or Vice Chair without restriction as to number of terms, but shall not serve more than two (2) consecutive terms as Chair or Vice Chair. The Chair and Vice Chair shall serve as such until their successors are elected.

2.03. Nomination/Election of Board Officers. The existing Chair, or the Vice Chair in the absence of the Chair, shall preside over the meeting as Acting Chair until the election of the new officers. The Acting Chair shall seek nominations (including self-nominations) for the role of Chair, and a vote for Chair shall be held in accordance with the MOU. Upon the motion of any Committee member, a vote by ballot may be held in lieu of a voice vote. The Acting Chair shall then seek nominations (including self-nominations) for the role of Vice Chair, and a vote for Vice Chair shall be held in accordance with the MOU. Upon the motion of any Committee member, a vote by ballot may be held in lieu of a voice vote. Upon the election of new officers, the new Chair shall take over the gavel and conduct the remaining business of the meeting.

2.04. Duties of Chair. The Chair shall preside at all meetings of the Board, state each question for vote, announce the decision, and decide all questions of order subject to appeal to the Board. The Chair is a voting ex-officio member of any standing committees of the Board. In such capacity the Chair shall vote only when necessary to attain a quorum of voting members of a committee. The Chair shall execute any resolutions adopted by the Board and any other documents that may require the signature of the Chair.

The Chair shall appoint, subject to approval of the Board, members of standing committees. The Chair shall select the Chair and Vice Chair of each committee subject to approval of the Board.

The Chair shall also appoint, subject to the approval of the Board, Board members of special committees.

In years when a new Chair is elected, then current committee members, chairs, and vice chairs shall continue to serve as such until the new Chair makes new committee appointments. To the extent necessary to carry out committee business, the Chair may appoint temporary committee chairs, vice chairs, and members, pending confirmation of committee appointments.

The Chair shall perform such functions as may be delegated by action of the Board. Where circumstances warrant, the Chair may, in the absence of existing policy, act as necessary for the Board between its scheduled meetings and shall report that action at the next Board meeting.

The Chair shall select a temporary chair of a committee when that committee's chair and vice chair are both unable to attend that committee's meeting(s).

2.05. Duties of Vice Chair. The Vice Chair shall assume the Chair's duties in the Chair's absence. In addition, the Vice Chair is a voting ex-officio member of any standing committees of the Board. In such capacity the Vice Chair shall vote only when necessary to attain a quorum of voting members of a committee.

2.06. Chair Pro Tem. If both the Chair and Vice Chair are or will be absent from a Board meeting or other functions, or if duties of the Chair (including, but not limited to, the execution of documents) must be performed in the absence of both the Chair and Vice Chair, then the Chair shall designate a Board member to perform such functions and duties as Chair Pro Tem, or, absent such a designation, the Board members present at the Board meeting or other function shall select a Chair Pro Tem from among themselves.

2.07. Vacancies During Term of Office.

A. Chair. In the event the office of Chair is vacated during the term, the vacancy shall be filled for the unexpired balance of the term by the Vice Chair.

B. Vice Chair. In the event the office of Vice Chair is vacated during the term, the vacancy may be filled for the unexpired balance of the term by a special election.

C. Chair and Vice Chair. In the event the office of Chair and Vice Chair are both vacated simultaneously during their terms, the vacancy for Chair and Vice Chair shall be filled for the unexpired balance of the term by a special election.

2.08 Executive Director. Under Article V the MOU, the Clipper® Executive Director shall be selected and appointed by the Contracting Agency following consultation with the Board to factor in any Board concerns, and Carol Kuester, an employee of MTC, is the initial Clipper® Executive Director. The Board shall designate an employee of one of the agencies represented on the Board to act as Secretary of the Board for the purpose of keeping its minutes. The Contracting Agency shall keep any resolutions adopted by the Board.

III. BOARD MEETINGS AND CONDUCT OF BUSINESS

3.01. Principal Offices. The principal offices of the Board shall be the offices of the then-current Contracting Agency, which currently are: Clipper® Executive Board, c/o Metropolitan Transportation Commission, ~~Joseph P. Bort~~Bay Area Metro Center, ~~101–8th375~~Beale Street, Suite 800, OaklandSan Francisco, CA 94607-4700105, or at such other location as may be determined by Board action.

3.02. Regular Board Meetings. Regular Board meetings shall take place according to a schedule which shall be adopted by the Board for each calendar year no later than the first meeting of such calendar year. Board meetings shall be held in the ~~General Manager's Conference~~Bay Area Rapid Transit Board Room at ~~30044 Lakeside Drive~~20th Street, 23rd Floor, Oakland, California, or in alternate locations within the Bay Area that are easily available to the public and accessible to persons with disabilities; provided that, if such an alternative location is chosen, it shall be publicly announced, if possible, at the preceding regular Board meeting.

The Chair may cancel or reschedule a regular Board meeting if a quorum cannot be obtained, or if there is insufficient business to warrant a meeting. Notice of cancellation of a meeting shall be given, if possible, not later than seven (7) days prior to the meeting date to those persons who receive formal notice of regular meetings.

3.03. Special Board Meetings. The Chair may call special meetings of the Board when warranted by the business of the Board. In addition, upon written request of four (4) Board members, a special meeting shall be held upon the call of the Chair.

3.04. Notice Regarding Board Meetings. Notice of Board meetings shall be given as follows:

A. Regular Meetings. Notice of all regular Board meetings shall be given in compliance with applicable provisions of the Ralph M. Brown Act (Government Code Section 54950 *et seq.*, as may be amended from time to time; hereinafter "Brown Act"). The notice shall at a minimum specify the date, hour, and location of the meeting and may be a preliminary agenda for the meeting. The final agenda shall be posted at 300 Lakeside Drive, Oakland, California, or at the designated alternate location within the Bay Area and ~~in at the MTC library~~Bay Area Metro

Center, 401—8th 375 Beale Street, ~~Oakland~~ San Francisco California, not later than 72 hours prior to the date of the meeting.

B. Special Meetings. Notice of special meetings shall be given in compliance with applicable provisions of the Brown Act. Notice of special meetings shall specify the date, time, and location of the meeting and the matters to be considered by the Board. No matters other than those specified in the notice of special meetings may be considered. Notice of special meetings shall be given to those persons who receive notice of regular meetings. Unless otherwise provided by the Brown Act, at least twenty-four (24) hours' written notice shall be given by electronic or U.S. postal mail or personal delivery to each Board member and to each local newspaper of general circulation, radio or television station requesting notice in writing, and by posting such notice **at 300 Lakeside Drive, Oakland, California, or at the designated alternate location and inat the MTC library Bay Area Metro Center, 401—8th 375 Beale Street, ~~Oakland~~ San Francisco** California.

C. Recipients of Notice. Notice of Board meetings may be received by any person or organization requesting notice. Designated Contracting Agency staff shall maintain a database of persons and organizations who have requested notice or to whom, in designated staff's judgment, notice shall be sent. The database is updated on an ongoing basis.

D. Brown Act. In providing notice of Board meetings, Contracting Agency staff shall at all times comply at least with all minimum applicable notice requirements of the Brown Act.

3.05. Open Meetings. In accordance with the provisions of the Brown Act, all meetings of the Board shall be open to the public except matters that may be discussed in closed session pursuant to the Brown Act. Members of the public shall have an opportunity to directly address the Board on matters before it, subject to limitations on the total amount of time allocated for public testimony on particular issues and for each individual speaker.

3.06. Quorum. Five (5) Board members shall constitute a quorum for any meeting of the Board. No official action shall be taken by the Board unless a quorum is present either in person or using other methods compliant with the Brown Act. Per Article IV, Section G, of the MOU, a vote of a majority of the Board is required for approval.

3.07. Voting. Each Board member shall have one (1) vote. Voting shall be by voice; provided that a roll call shall be taken at the Chair's discretion or upon the request of one (1) Board member. Board members may not abstain from voting on any matter before the Board, except in cases of conflicts of interest.

3.08. Conduct of Meetings. Robert's Rules of Order, as revised, except when inconsistent with these procedures, law, or specific resolutions of the Board, shall govern the conduct of meetings of the Board and its established committees.

3.09. Agenda. The Board may take no action on any item not appearing on the agenda except as allowed under the Brown Act. All items on Board agendas shall be subject to action.

A preliminary agenda shall be distributed electronically or by regular or express mail prior to the date of the meeting, consistent with the Brown Act. (See Subsection 3.04, Notice Regarding Board Meetings.) A final agenda will be prepared and posted at 300 Lakeside Drive, Oakland, California, or at the designated alternate location and ~~in at~~ the ~~MTC library~~ Bay Area Metro Center, 401—8th 375 Beale Street, Oakland-San Francisco California, in accordance with the Brown Act. Copies of the final agenda will be available at the meeting.

If, in the Chair's judgment, it is necessary to maintain the orderly flow of business, public comment may be restricted by any one or a combination of the following procedures:

1. limiting the time each speaker may testify per agenda item. The limit may not be less than one (1) minute for each speaker, and may range, at the discretion of the Chair, up to three (3) minutes per speaker.
2. requiring a speaker who plans to speak on more than one agenda item to combine his or her testimony on all agenda items to one appearance. The limit for a combined appearance may not be less than three (3) minutes per speaker, and may range, at the discretion of the Chair, up to seven (7) minutes per speaker.
3. establishing the maximum amount of time available during the meeting for public comment so as to permit the meeting agenda to be completed before the loss of a quorum; provided, however, that each speaker be permitted to speak at least one (1) minute.

4. establishing a single period of time during a meeting to take all public testimony before proceeding with the agenda, when there are multiple requests to speak on multiple items on the agenda.

5. rearranging the order of items on the agenda to accommodate public testimony.

Any decision of the Chair regarding the taking of public testimony made pursuant to this Board Procedures Manual shall govern for the meeting unless overruled by a two-thirds vote of the quorum present.

The order of agenda items may also be changed, if, in the Chair's judgment, there are other reasons to do so.

3.10. Resolutions. Resolutions may be considered by the Board at any regular or special Board meetings. All resolutions shall be in writing. The original of a resolution adopted by the Board is the one signed by the Chair and shall be the official text of that resolution.

3.11. Recording of Meetings. If possible, Board meetings shall be recorded. Copies of any recordings (in accessible formats, for persons with disabilities) shall be made available to the public upon request. Further, any citizen may record a Board meeting or parts thereof, if such recording is done in a reasonable manner.

3.12. Minutes of Meetings. The Board shall keep accurate minutes of all meetings and make them available to the public. Minutes shall include a record of attendance, a summary of motions, resolutions, consensus items, discussion on motions receiving a split vote and/or resulting in a direction to staff or a Board committee, other business, and public comment. The approved minutes shall be the evidence of action taken at a meeting.

3.13. Meeting Conduct. In the event that any Board or committee meeting is willfully interrupted or disrupted by a person or by a group or groups of persons so as to render the orderly conduct of the meeting unfeasible, the Chair may order the removal of those individuals who are willfully disrupting the meeting. Such individuals may be subject to arrest. If order cannot be restored by such removal, the members of the Board may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue on matters appearing on the agenda.

IV. BOARD COMMITTEES

4.01. Types. Board committees are designated as standing committees, special committees, or advisory committees.

4.02. Policy. It is the general policy of the Board to receive comments from the public on specific items at committee meetings. Summaries of these comments shall be included in the committee minutes and forwarded to all Board members.

4.03. Standing Committees. Each standing committee is charged with subject matter responsibility over specific element(s) of the Board's overall mission and/or organizational functions. Standing committees shall be composed solely of Board members. Notwithstanding that there may be a quorum of the Board (five (5) or more members) in attendance at a standing committee meeting, no standing committee may act for the full Board unless the meeting is noticed, in accordance with the Brown Act, as a Board meeting.

4.04. Special Committees. The Board may establish special committees to supervise the development of a specific task or project. Membership of special committees is not limited to Board members. Composition of special committees will depend upon the task to be performed and may involve the participation of private citizens or representatives of other public agencies.

4.05. Appointments to Committees.

A. Manner of Appointment. The Chair of the Board, subject to the approval of the Board, shall appoint members of standing committees and special committees. The Board Chair shall designate the Chair and Vice Chair of the committee, subject to approval of the Board. In the event the Chair and Vice Chair of a committee are not present at a committee meeting, the committee members present shall select a Chair Pro Tem for that meeting from among themselves.

B. Term. Subject to Section 2.04, appointments to committees shall be for the term of the Board Chair.

4.06. Quorum. The quorum for committees established by the Board shall be a majority of the committee's non-ex-officio voting membership. If necessary to establish a quorum of a committee at a meeting, the Chair and Vice Chair of the Board, as ex-officio members of the

committee, shall become voting members for that meeting. Unless otherwise approved by the Board, standing committees shall have at least four (4) voting members, as approved by the Board, plus the Chair and Vice Chair as ex-officio, voting members.

Every member of the Board who is not a voting member of a committee is an ad hoc non-voting member. Although a quorum of the Board may be in attendance at a meeting of a committee, the committee may take action only on those matters delegated to it. The committee may not take any action as the full Board unless a meeting has been previously noticed as a Board meeting.

An ad hoc non-voting committee member who is also a voting member of the Board may be designated by the committee chairperson as a voting member at a particular committee meeting if an additional voting member is needed for a committee quorum.

4.07. Open Meetings. It is recognized that “legislative body” as defined in the Brown Act does not include committees composed solely of Board members when they number less than a quorum of the Board or a quorum of a standing committee. It is the intention of the Board to apply the Brown Act to include all non-ad-hoc committees created by the Board, not just those identified as advisory commissions or committees. All meetings of non-ad-hoc committees created by the Board, with the exception of closed sessions permitted by the Brown Act, shall be open meetings properly announced in accordance with the provisions of the Brown Act.

4.08. Notice of Meetings. Notice of regular committee meetings shall be given consistent with applicable provisions of the Brown Act and posted at 300 Lakeside Drive, Oakland, California, or at the designated alternate location and ~~inat~~ the ~~MTC library~~Bay Area Metro Center, 401—8th 375 Beale Street, ~~Oakland-San Francisco~~ California, not less than 72 hours, preceding the date of the meeting. If a special meeting is called on short notice, then notice shall comply with the requirements of Subsection 3.04 B of these procedures. The notice shall announce the date, time, and location of the meeting together with an agenda. This notice shall be sent to all Board members and to media representatives, concerned citizens, and organizations who have filed a request for receipt of notice of committee meetings, and posted at 300 Lakeside Drive, Oakland, California, or at the designated alternate location and ~~inat~~ the ~~MTC library~~Bay Area Metro

~~Center, 401—8th 375 Beale Street, Oakland-San Francisco~~ California. Special meetings of committees shall comply with the minimum notice provisions of the Brown Act. Notices of postponed or canceled committee meetings shall be posted at 300 Lakeside Drive, Oakland, California, or at the designated alternate location and ~~inat~~ the ~~MTC library~~Bay Area Metro Center, 401—8th 375 Beale Street, ~~Oakland-San Francisco~~ California, not less than 72 hours prior to the regular date of the meeting and shall state the date, time, and location of the next committee meeting if possible. Notices of meetings held earlier than the regular meeting date shall be sent out and posted at 300 Lakeside Drive, Oakland, California, or at the designated alternate location and ~~inat~~ the ~~MTC library~~Bay Area Metro Center, 401—8th 375 Beale Street, ~~Oakland-San Francisco~~ California, as soon as possible.

4.09. Recording of Meetings. Standing and special committee meetings, if possible, shall be recorded and follow the procedures as stated in Subsection 3.11 of this document.

4.10. Minutes of Committee Meetings. Minutes of all committee meetings shall be kept and made available to the public. Minutes shall include a record of attendance, a summary of motions, resolutions, consensus items, discussion on motions receiving a split vote and/or resulting in a direction to staff or a Board committee, other business, and public comment.

V. MISCELLANEOUS

5.01 Authority. The Clipper® Executive Board finds that these procedures are necessary to carry out the purposes of the MOU. These procedures are adopted pursuant to the Board's authority under the MOU.

5.02 Emergency Notice Provision. In the event a postal strike or other calamity makes it impossible to give notice of meetings by mail as required in these procedures, notice of meetings of the Board and its committees shall be given to Board and committee members, respectively, with such time and by such means as may be practical, which may include, but not be limited to, personal service, facsimile, email and posting at the Contracting Agency's website. In such event, the general public and those requesting notice of Board and committee meetings shall be notified, if possible, by publication of notice in a newspaper or newspapers of general circulation in the region. The timing and content of such published notice shall conform, if possible, to the requirements pertaining to mailed notice set forth in these procedures.

5.03 Severability. Should any part, term, portion, or provision of these procedures be finally decided to be in conflict with any law of the United States or the State of California or otherwise be ineffectual or unenforceable, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, providing such remaining portions or provisions can be construed to stand as the Board intended.