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Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

July 12, 2018

9:00 a.m.

James R. Mills Building
Executive Conference Room, 10th Floor
1255 Imperial Avenue, San Diego

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ACTION RECOMMENDED

- | | | |
|----|--|-----------------|
| A. | ROLL CALL | |
| B. | APPROVAL OF MINUTES - June 7, 2018 | Approve |
| C. | COMMITTEE DISCUSSION ITEMS | |
| 1. | Grantville Trolley Station Transit Oriented Development (Tim Allison and Sharon Cooney)
Action would receive a report on the Grantville Trolley Station Transit Oriented Development opportunities and provide direction. | Possible Action |
| 2. | Planning Consultant for Potential Ballot Measure - Contract Award (Denis Desmond)
Action would forward a recommendation to the Board of Directors to authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2161.0-18 with Transportation Management & Design, Inc. (TMD), for the provision of preliminary planning services for a potential ballot measure from July 2018 to June 30, 2019. | Possible Action |
| 3. | Old Town Transit Center Project Update (Denis Desmond) | Informational |
| 4. | Update on Innovative Clean Transit (ICT) Proposal (Sharon Cooney) | Informational |



- D. REVIEW OF DRAFT July 26, 2018 BOARD AGENDA
- E. REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA
Review of SANDAG Transportation Committee Agenda and discussion regarding any items pertaining to MTS, San Diego Transit Corporation, or San Diego Trolley, Inc. Relevant excerpts will be provided during the meeting. Possible Action
- F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS
- G. PUBLIC COMMENTS
- H. NEXT MEETING DATE: September 6, 2018
- I. ADJOURNMENT

DRAFT

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
EXECUTIVE COMMITTEE
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

June 7, 2018

MINUTES

A. ROLL CALL

Chair Gomez called the Executive Committee meeting to order at 9:00 a.m. A roll call sheet listing Executive Committee member attendance is attached.

B. APPROVAL OF MINUTES

Ms. Rios moved for approval of the minutes of the February 1, 2018 and May 3, 2018, MTS Executive Committee meetings. Mr. Roberts seconded the motion, and the vote was 6 to 0 in favor.

C. COMMITTEE DISCUSSION ITEMS

1. Update on Innovative Clean Transit Proposal and MTS Zero Emission Bus Pilot (Sharon Cooney and Bill Spraul)

Bill Spraul, Chief Operating Officer – Transit Services, provided a presentation on the Innovative Clean Transit (ICT) proposal and the MTS Zero Emission Bus (ZEB) pilot. He provided an update on the ZEB pilot purchase and pilot project development. Steve Clermont, with CTE, continued the presentation and provided a brief background and history of CTE. He reviewed CTE's ZEB services and projects throughout the country. Mr. Clermont discussed the processes that CTE will conduct during their work with MTS including the pilot assessment, pilot program design, pilot implementation and ZEB roadmap. Chair Gomez asked about the timeline for preparing the pilot. Mr. Clermont responded that the pilot modeling will be conducted in the fall and they will be fully prepared to launch the pilot once the buses are delivered.

Mr. Jablonski commented that MTS is going to apply for the FTA Low or No Emission Vehicle Program grant funding to help in purchasing hydrogen fuel cell buses. Mr. Clermont stated that it will be beneficial to try both hydrogen fuel cell buses and electric buses in order to compare the two technologies. He stated that CTE will be submitting the grant on behalf of MTS for the hydrogen fuel cell buses.

Mr. Roberts asked if we have contract language that says we can return the buses if they do not meet minimum required specifications. Mr. Jablonski stated that if the buses do not meet minimum performance standards or specifications as stated in the contract, then the buses will be returned. Mr. Roberts also stated his concerns on investing money to install infrastructure at facilities that will not be occupied long term. He recommended for staff to consider finding a new and larger facility a priority.

Sharon Cooney, Chief of Staff, continued the presentation and discussed the proposed California Air Resources Board (CARB) ICT rulemaking. She stated that staff has been working with the California Transit Association (CTA) on the proposed rulemaking. Ms.

Cooney reviewed the legislative bills that are being proposed in relation the ICT. She stated that CTA and its agencies are proposing a counterproposal for the ICT in order to build individual implementation plans with a goal of full electric fleets by 2040. Ms. Cooney noted that CARB is proposing to remove incentive funding once the ICT is implemented. CARB is also proposing to electrify all fleets including paratransit buses, which is problematic, because there are no electric buses of that size in operation today. Ms. Cooney stated that we would also like to see benchmarks in the ICT in case the technology does not develop as quickly as CARB is anticipating. She commented that we need to also see electric rate relief in our region with SDG&E. Ms. Cooney stated that CARB is looking to approve the ICT rulemaking by September of this year.

Chair Gomez inquired about SB 1434. Ms. Cooney replied that at this point the bill is a spot bill and states that transit agencies will work with the utility companies in relation to rate designs. Chair Gomez recommended that it may be beneficial to put more detail in SB 1434 to help influence a positive outcome with the utility companies.

Action Taken

No action taken. Informational item only.

2. Next Generation Fare Collection Update (Sharon Cooney and Israel Maldonado)

Israel Maldonado, Fare Systems Administrator, provided a presentation on the next generation fare collection system. He provided details on the fare system procurement process and noted that staff is anticipating bringing a vendor recommendation to the Board for approval in November 2018. Mr. Maldonado also provided an update on the fare study and noted that there has been regional collaboration on the fare packages and the Board's feedback has been taken into account. He stated that the goals of the fare study are to have a simplified fare structure, combine discounted fares into one fare, and keep the fare structure as simple as possible for the riders. Mr. Maldonado stated that they plan to go to the public later this year with the proposed study.

Ms. Cole inquired about the question and answer process for the fare collection system. Sam Elmer, Manager of Procurement, replied that as part of the pre-qualification process for the procurement, the bidding vendors had an opportunity to ask MTS clarifying questions as it relates to the procurement. Ms. Cole asked what type of questions will be brought to the public in relation to the fare study. Ms. Cooney replied that we are developing a unified set of fare changes and will take those proposed changes to multiple venues for public feedback. Chair Gomez asked about the timeline for the public outreach and finalizing the fare study. Mr. Maldonado replied that it will need to be concluded by the end of this year due to the pending design phase of the new fare collection system which will require an updated fare structure.

Action Taken

No action taken. Informational item only.

3. Greystar and Affirmed Grantville Trolley Station Proposal (Tim Allison and Sharon Cooney)

Ms. Cooney introduced the presentation related to the Grantville Trolley Station proposal. She reviewed the details and specifications of the station. She stated that staff previously brought two proposals to the Executive Committee in January 2018 in relation to this property. The two proposals were from Affirmed and Greystar. The Affirmed proposal included a mixed income residential development with both affordable and market rate housing. The Greystar proposal included both multi-family and student housing options. Ms. Cooney reviewed the Executive Committee's previous recommendation from that meeting which was to complete an analysis of the property by Keyser Marston, review the two proposals based on the analysis, and return to the committee with study results and recommendations. Ms. Cooney noted that we should receive the final report from Keyser Marston by next week. A revised proposal was received by MTS from Affirmed and Greystar as a joint venture. The new and revised proposal includes affordable housing and student housing. She reviewed the timeline of this proposal and stated that Affirmed and Greystar could have this project completed and opened by 2022. Ms. Cooney noted that their proposal is negotiable and can be adjusted.

Mr. Roberts asked if this proposal would be a sale or lease of the property. Ms. Cooney replied that this would be a ground lease. Mr. Roberts asked if the terms of the lease would require the affordable housing to stay affordable. Karen Landers, General Counsel, replied that the lease would include conditions for affordable housing requirements for the duration required by the affordable housing funding. Mr. Roberts asked about the flood zone area property adjacent to MTS's property. Tim Allison, Manager of Real Estate Assets, noted that much of the flood zone area will be turned into flood mitigation by the city. Mr. Roberts inquired about how this project will be impacted if the SDSU proposal is passed in the November election. Ms. Cooney replied that the Affirmed and Greystar research is currently showing that this project will still be valuable if the SDSU proposal is passed.

PUBLIC COMMENT

Maya Rosas – Ms. Rosas commented on behalf of Circulate San Diego. She commented on the recent report they released. She stated that they are asking MTS to make changes to Policy 18 to include RFPs and a minimum affordable housing requirement for joint development property proposals.

COMMITTEE COMMENTS – continued

Mr. Roberts asked how many parking spaces would be included at this property for MTS. Mr. Allison replied the proposal includes 120 parking spaces. Mr. Roberts inquired about the bus bay spots at the property. Mr. Allison presented a photo of the property showing where the bus bays are located.

Mr. McWhirter commented about housing built next to the La Mesa trolley station and whether there are studies showing direct correlations of increases in ridership. Mr. Jablonski replied that there are no specific studies showing direct correlations of

increased ridership, however based on the number of units there was likely a positive influence on ridership.

Staff noted that the results of the study will be brought back to the Executive Committee in July or September for further discussion.

Action Taken

No action taken.

D. REVIEW OF DRAFT June 14, 2018 BOARD AGENDA

Recommended Consent Items

6. Unallocated Transportation Development Act (TDA) Funds for Transit-Related Projects
Action would approve the use of \$20,000 in unallocated TDA funds currently held by the County of San Diego for transit-related capital projects for the City of Santee.
7. Fiscal Year 2019 Transportation Development Act Claim
Action would adopt Resolution Nos. 18-5, 18-6, and 18-7 approving the fiscal year (FY) 2019 Transportation Development Act Article 4.0, 4.5, and 8.0 claims.
8. California Department of Transportation (Caltrans) Program of Projects for Federal Fiscal year (FFY) 2019 Federal Transit Administration (FTA) Section 5311 Funding
Action would approve Resolution No. 18-8 authorizing the use of and application for \$150,000 of FFY 2019 Section 5311 funds for operating assistance.
9. California Department of Transportation (Caltrans) Program of Projects for Federal Fiscal Year (FFY) 2019 Federal Transit Administration (FTA) Section 5311(f) Funding
Action would approve Resolution No. 18-9 authorizing the use of and application for \$300,000 of FFY 2019 Section 5311(f) funds for operating assistance in non-urbanized areas.
10. Security Services Agreement - Contract Amendment
Action would authorize the Chief Executive Officer (CEO) to execute Amendment No. 4 to MTS Doc. No. G1828.0-15 with Allied/Universal dba Transit Systems Security to: (1) Increase the employee paid rate for Armed Security Officers and Armed Sergeant (Supervisors) positions for the base contract and through all option years; (2) Include Armed Security Officers for the Centerline Station for the two option years of the contract through fiscal year 2021; and (3) Exercise the option years.
11. Fire Alarm Testing and Maintenance Services - Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG252.0-18, with Tri-Signal Integration, Inc., for a three (3) year base term with two (2) one-year options, exercisable at the CEO's discretion.
12. Old Town Transit Center Shelter Replacement - Change Orders 1, 2, and 3
Action would: (1) ratify Construction Change Order 1 to MTS Doc No. PWL204.3-16; Work Order MTSJOC7504-15.01, with ABC Construction, Inc. (ABC) for an adjustment to the construction catalog cost factor; (2) authorize the Chief Executive Officer (CEO) to execute MTS Work Order MTSJOC7504-15.02, PWL204.0-16 - Change Order 2, with ABC, for removal and replacement of existing lighting fixtures; and (3) authorize the CEO to execute MTS Work Order

MTSJOC7504-15.02, PWL204.0-16 - Change Order 3, with ABC, for infill and coating of columns.

13. In-Plant Bus Inspections and Post-Delivery Audit Services - Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0686.0-18 with TRC Engineering Services, LLC (TRC) for the provision of in-plant bus inspections and post-delivery audit services for a five (5) year period.
14. On-Call Plumbing Repair Services - Contract Award
Action would authorize the Chief Executive Officer (CEO) to: (1) Execute MTS Doc. No. PWG254.0-18, with Drain Medic, Inc., to provide on-call plumbing repair services for a one-year (1) base term with two (2) one-year options; and (2) Exercise the option years at the CEO's discretion.
15. Planet Bids E-Procurement - Contract Award
Action would authorize the Chief Executive Officer (CEO) to: (1) Execute MTS Doc. No. G2085.0-18, a Sole Source agreement with Planet Bids for E-Procurement for a five (5) year base term with five (5) one-year options; and (2) Exercise the option years at the CEO's discretion.
16. San Diego Transit Corporation (SDTC) Noncontract Pension Plan – Amendment
Action would approve the attached amendment to the Retirement Plan for Noncontract Employees (Noncontract Plan) of the San Diego Transit Corporation (SDTC) which adds a “pop-up provision” effective upon the death of a pensioner's spouse.
17. Green Line Communications System Upgrade Project - Fund Transfer
Action would authorize the Chief Executive Officer (CEO) to execute Addendum 17, Scope of Work 41 to the MOU between the San Diego Association of Governments (SANDAG) and MTS for the ARINC/Rockwell Collins' testing and integration support of the Green Line Communications System Upgrade project.
18. Investment Report - April 2018
19. Benches and Recycling/Trash Receptacles - Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1451.0-18, with Avalon Amenities, Inc., for benches and recycling/trash receptacles at Morena Linda Vista, Fashion Valley Transit Center, Hazard Center and Qualcomm Stadium Station.
20. Light Rail Vehicle (LRV) Seat and Upholstery Replacement - Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1459.0-18, a Sole Source agreement with Sardo Bus and Coach Upholstery for LRV seat and upholstery replacement.
21. San Diego Metropolitan Transit System (MTS) Hill Street Slope Repair Construction Services - Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWL246.0-18 with Hazard Construction Company for Hill Street Slope Repair.

22. Middletown Double Crossover - Phase 2 Design Services - Work Order
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. WOA1953-AE-11 to MTS Doc. No. G1953.0-17 with Pacific Railway Enterprises, Inc. (PRE) for the Middletown Double Crossover - Phase 2 Engineering design services.
23. MTS Building C - Security Office Renovation - Award Work Order Under a Job Order Contract
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC7503-07, under MTS Doc. No. PWL234.0-17 with ABC Construction, Inc., for the provision of labor, materials, equipment, and supplies for the Building C – Security Office area renovation.
24. Trolley Yard Wireless Network Replacement
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc No. G2146.0-18 with AT&T Corp. to replace the trolley yard wireless network.
25. Trapeze Software License and Maintenance Agreement (Paratransit and Mini-Bus Services) - Contract Amendment
Action would: (1) Ratify Amendment No. 7 to MTS Doc. No. B0563.0-11 with Trapeze Software Group, Inc. (Trapeze) for \$14,850.00; (2) Ratify Amendment No. 8 to MTS Doc. No. B0563.0-11 with Trapeze for \$67,006.47; (3) Ratify Amendment No. 9 to MTS Doc. No. B0563.0-11 with Trapeze for \$71,975.00; (4) Ratify Amendment No. 10 to MTS Doc. No. B0563.0-11 with Trapeze for \$19,603.00; and (5) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 11 to MTS Doc. No. B0563.0-11 with Trapeze to add the Trip Broker Module dispatch software for \$113,625.00.

E. REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA

Ms. Cooney noted that there is no SANDAG Transportation Committee meeting this week. She stated that they are going to have a discussion on the Regional Transportation Plan (RTP) at this week's SANDAG Board meeting.

F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS

There was no Committee Member Communications and Other Business discussion.

G. PUBLIC COMMENTS

There were no Public Comments.

H. NEXT MEETING DATE

The next Executive Committee meeting is scheduled for July 12, 2018, at 9:00 a.m. in the Executive Committee Conference Room.

I. ADJOURNMENT

Chair Gomez adjourned the meeting at 10:27 a.m.

Chairperson

Attachment: Roll Call Sheet

EXECUTIVE COMMITTEE
SAN DIEGO METROPOLITAN TRANSIT SYSTEM

ROLL CALL

MEETING OF (DATE) June 7, 2018

CALL TO ORDER (TIME) 9:00 a.m.

RECESS _____

RECONVENE _____

CLOSED SESSION _____

RECONVENE _____

ADJOURN 10:27 a.m.

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ARAMBULA	<input checked="" type="checkbox"/>	9:00 a.m.	10:27 a.m.
Transportation Committee Rep.			
COLE	<input checked="" type="checkbox"/> (Gomez) <input type="checkbox"/>	9:00 a.m.	10:27 a.m.
GOMEZ (Chair)	<input checked="" type="checkbox"/>	9:00 a.m.	10:27 a.m.
MCWHIRTER	<input checked="" type="checkbox"/> (Arambula) <input type="checkbox"/>	9:00 a.m.	10:27 a.m.
RIOS	<input checked="" type="checkbox"/> (Salas) <input type="checkbox"/>	9:00 a.m.	10:27 a.m.
ROBERTS	<input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>	9:00 a.m.	10:27 a.m.

SIGNED BY THE CLERK OF THE BOARD: Julia Turner

CONFIRMED BY THE GENERAL COUNSEL: Paul Card



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Agenda Item No. C1

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

July 12, 2018

SUBJECT:

GRANTVILLE TROLLEY STATION TRANSIT ORIENTED DEVELOPMENT (TIM
ALLISON AND SHARON COONEY)

RECOMMENDATION:

That the Executive Committee receive a report on the Grantville Trolley Station Transit Oriented Development opportunities and provide direction.

Budget Impact

None.

DISCUSSION:

The Grantville Trolley Station property was purchased for the Mission Valley East Trolley Extension Project. It is located just east of Mission Gorge Road and north of Interstate 8 (see attachment A). The property is 9.4 acres consisting of the elevated trolley guideway and elevated trolley station, surface parking, bus bays, and overflow parking areas currently used for short term leases. Alvarado Creek runs along the northerly portion of the site. The City of San Diego adopted the Navajo Community Plan Focused Plan Amendment in 2015 which rezoned this property to allow for mixed-use development at a high density. The zoning allows for up to 109 dwelling units per acre base density with opportunities for higher density bonuses.

In January, 2018, staff presented development proposals from two well established development teams that had interest in developing housing on the site. Affirmed Housing is developing adjacent housing and proposed a mixed development of affordable and market rate housing. Greystar, a global residential developer, proposed two development scenarios, one a market rate residential development and the second a student housing proposal.



The Executive Committee provided direction to staff to analyze their proposals as well as do market studies and specific economic studies for the site. MTS hired Keyser Marston Associates, Inc. to perform this task.

Recently, MTS received a new proposal for the site from a combined team of Affirmed Housing and Greystar. They brought forward a revised scenario that combined affordable housing and student housing. At its June Committee meeting the Executive Committee received a report on this new proposal.

The Keyser Marston analysis is complete and staff will provide a report on their results. The analysis will include a review of the combined proposal and not the previous proposals for separate development.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachment: A. Site Map

Grantville Trolley Station

Att. A, AI C1, 7/12/18





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Agenda Item No. C2

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

July 12, 2018

SUBJECT:

PLANNING CONSULTANT FOR POTENTIAL BALLOT MEASURE – CONTRACT
AWARD (DENIS DESMOND)

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Executive Committee forward a recommendation to the Board of Directors to authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2161.0-18 (in substantially the same format as Attachment A) with Transportation Management & Design, Inc. (TMD), for the provision of preliminary planning services for a potential ballot measure from July 2018 to June 30, 2019.

Budget Impact

The amount is not to exceed \$249,054.78. The project will be funded by the cost center established for the work necessary to craft the sales tax ballot measure as follows:

Task	Task Description	Amount
1	Data Collection and Market Review	\$71,024.80
2	Develop Program of Projects	\$93,545.76
3	Ridership Estimates	\$28,851.15
4	Capital and Infrastructure Assessment	\$31,643.92
5	Operating Cost Estimates	\$23,989.15
Total		\$249,054.78

DISCUSSION:

The MTS Board Ad Hoc Committee is studying a potential sales tax ballot measure and directed staff to commence planning efforts for projects to include in the ballot measure. This effort closely follows the Transit Optimization Plan (TOP) that surveyed current and future transit markets in the MTS area and recommended changes to better align



services for future ridership growth. The TOP itself was a ten-year update of MTS's Comprehensive Operational Analysis (COA) that developed a market-based strategy to reallocate resources, emphasizing sustainability and productivity.

The principles and findings of the TOP and COA will be used as the foundation for developing a program of projects for a potential ballot measure. This could include COA or TOP recommendations not implemented due to funding, facilities, or other constraints. Other input sources will include San Diego Forward, the 2050 Regional Transportation Plan developed by SANDAG, and the results of surveys, outreach, and polling that will be on-going concurrent with this planning project.

Transit planning firm Transportation Management and Design, Inc. (TMD) was MTS's consultant for both the COA and TOP, hired following competitive bid processes that found TMD to be the most qualified proposer. MTS was highly satisfied with the quality and value of the work provided by TMD during these projects, as well as other smaller planning efforts that TMD was contracted for, including a bus division site study and an update to MTS's Designing for Transit Manual.

Staff is recommending a sole source contract award to TMD for this project because the tasks will be heavily dependent on work that TMD very recently did for the TOP (completed less than a year ago). This includes demographic and market research, service evaluation, and the development of recommendations for transit network improvements. Given the short timeframe for establishing a project list, engaging TMD is expected to reduce the cost, time, and effort required to successfully complete this project.

TMD provided a cost proposal in response to a scope of work developed by MTS. Staff review found the proposed work and costs to be consistent with expectations as well as the competitively-bid TOP project. Therefore, staff recommends that the Executive Committee forward a recommendation to the Board of Directors to authorize the CEO to execute MTS Doc. No. G2161.0-18 (in substantially the same format as Attachment A) with TMD, for the provision of preliminary planning services for a potential ballot measure from July 2018 to June 30, 2019.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachments: A. Draft Standard Services Agreement; Contract G2161.0-18
B. Scope of Work and TMD Cost Proposal

STANDARD SERVICES AGREEMENT

G2161.0-18
CONTRACT NUMBER

DRAFT

FILE NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2018, in the state of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: Transportation Management & Design, Inc. (TMD)Address: 1902 Wright Place, Suite 180Form of Business: Corporation
(Corporation, partnership, sole proprietor, etc.)Carlsbad, CA 92008Telephone: 760-476-9600 x 111Authorized person to sign contracts: Russell Chisholm
NamePresident
Title

The attached Standard Conditions are part of this agreement. The Contractor agrees to furnish to MTS services and materials, as follows:

Transportation Management & Design, Inc. (TMD) will provide consulting services to MTS for the provision of Preliminary Planning Services for a Potential Ballot Measure from July 2018 to June 30, 2019 in accordance with the Standard Services Agreement, including Standard Conditions Services (attached as Exhibit B), and MTS Travel Guidelines Applicable to MTS Contractors No. 44-C (attached as Exhibit C).

The total contract cost shall not exceed **\$249,054.78**

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CONTRACTOR AUTHORIZATION

By: _____
Chief Executive Officer

Firm: _____

Approved as to form:

By: _____
SignatureBy: _____
Office of General Counsel

Title: _____

AMOUNT ENCUMBERED

BUDGET ITEM

FISCAL YEAR

\$ 249,054.78

571140 / 906010

FY18-FY19

By: _____
Chief Financial Officer

Date

MTS POTENTIAL TRANSIT BALLOT MEASURE PLANNING PROJECT

I. INTRODUCTION

MTS is the fixed-route transit and paratransit operator within its jurisdiction of ten cities (San Diego, Imperial Beach, Chula Vista, National City, Poway, Lemon Grove, La Mesa, Santee, El Cajon, and Coronado) and a portion of the unincorporated County. Services include directly operated fixed-route bus and light rail service, and contracted fixed-route bus and paratransit service. Each year, MTS provides about 32 million revenue miles of service to 88 million passengers, with an operating budget over \$250 million.

Limited local funds dedicated to transit have restricted the ability of MTS to implement a full complement of services and strategies that would support enhanced mobility, decreased congestion, and improved air quality. The MTS Board of Directors is exploring a potential transit sales tax measure to provide MTS a dedicated and reliable source of local capital and operating assistance to grow ridership and increase mode share of transit in the MTS jurisdiction.

An Ad Hoc Committee of the MTS Board of Directors focused on the potential ballot measure directed staff to retain a qualified and responsible transit planning firm(s) to assist with the planning of a program of projects to be proposed in this potential initiative. This contract will assist MTS with developing a complete project plan that addresses current and future travel demands in the MTS jurisdiction.

II. PROJECT GOAL

The primary goal of this study is to develop a comprehensive program of projects to propose to voters in a potential sales tax measure. This program is to be consistent with San Diego Forward, SANDAG's 2050 Regional Plan that includes the Regional Transportation Plan. Specific projects will build upon the successes of MTS' Comprehensive Operational Analysis and Transit Optimization Plan.

Objectives:

- a. Develop a regional service strategy to address current and future travel demand
- b. Integrate with the region's existing multimodal transportation system
- c. Recommend service strategies that target less transit-supportive communities to grow the ridership base
- d. Recommend strategies for strengthening MTS' base of productive and low-subsidy services
- e. Estimate costs, subsidies, and ridership estimates for individual concepts and the entire program
- f. Complete a needs assessment for capital and infrastructure required to implement program

III. PROJECT AREA

The project area for this study is the MTS area of jurisdiction. The program of projects should consider all transit demand within, to, and from the MTS jurisdiction. ADA Complementary Paratransit should only be included in this project as a brief narrative of the impacts from expanded fixed-route service.

IV. TIME LINE

The major work of the project shall be completed by December 31, 2018, with specific phases completed earlier as specified in the Scope of Work. The schedule shown below bookends the approximate beginning and the conclusion of the project, but MTS and the Contractor will refine the schedule for the in-between phases after the contract award. The contract is proposed to end on June 30, 2019 to allow for finalizing any necessary follow-up work.

Work – 2018-2019	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan.- June
	2018							2019
Important Public Input Points								
Procurement								
Project Award/Kick-Off								
Task 1 – Data Collection & Market Review								
Task 2 – Develop Program of Projects								
Task 3 – Ridership Estimates								
Task 4 – Capital and Infrastructure Assessment								
Task 5 – Operating Cost Estimates								
Finalize Report (as necessary, TBD)								

V. PROJECT STAFFING

MTS will be the lead agency for this project. It is anticipated that MTS staff will work side-by-side with Contractor staff throughout this effort. Contractor shall propose the staff, hours and other direct costs for each task.

VI. WORK ORDERS

Upon contract award, the Contractor shall perform requested tasks using work orders assigned to each separate task. The Contractor shall prepare and submit a written Scope of Work, proposed schedule, and budget within four (4) working days of MTS' request for each task. This step may involve active input and negotiation between MTS staff and the Contractor. Receipt of an approved work order shall constitute a Notice to Proceed, unless otherwise stated in the work order.

VII. PAYMENT FOR SERVICES

Upon approval and acceptance of each task deliverable by the MTS project manager, Contractor shall invoice for payment. Contractor shall provide MTS with an invoice detailing all costs associated with the deliverable, including allowable reimbursable expenses. Reimbursable expenses means the actual allowable expenses incurred in connection with the project for transportation and subsistence incidental such as travel related costs, reproduction of reports and similar project related items. Contractor shall follow the guidelines of MTS Policy 44C – Travel Policy for MTS Contractors (Attachment A) for billing travel expenses, if applicable. Invoices shall be emailed to AP@sdmts.com.

VIII. SCOPE OF WORK

Below is a draft list of tasks to be completed by the Contractor. Although sequentially ordered to reflect a standard planning process, MTS may request that some tasks be completed in tandem or in advance of other tasks. All deliverables will be reviewed and accepted by MTS staff.

Ownership of Data

All data, including but not limited to demographic information, scheduling solutions, and files created specifically for MTS as part of this project, shall remain the property of MTS in perpetuity.

Project Support

The Contractor will provide support materials and assistance to MTS including, but not limited to:

- a. Presentation at up to three (3) MTS Board or Executive Committee Meetings
- b. Development of digital art for displays, presentations, and public information (printing/production to be done by MTS)

Task 1 – Data Collection and Market Review

Collect and review data, reports, documents, and other information pertinent to developing the program of services and projects, including, but not limited to, the following:

Reports

- a. MTS Transit Optimization Plan (TOP)
- b. SANDAG 2050 Regional Transportation Plan (San Diego Forward)
- c. SANDAG Coordinated Plan
- d. Relevant Community Plans, Community Plan Updates, and Mobility Plans
- e. MTS Comprehensive Operational Analysis (COA), 2005-2006
- f. Others as determined

Data

- a. Demographic and socioeconomic data (census and SANDAG forecasts)
- b. Public outreach results (development and implementation of the outreach will be handled by others outside this contract scope).
- c. Employment and land-use data (SANDAG)
- d. Transit passenger counts
- e. Operating statistics and performance
- f. Average daily trips on highways and major arterials
- g. Level of service on highways and major arterials
- h. SANDAG 2016 Onboard Passenger Survey
- i. MTS 2017 Customer Satisfaction Survey
- j. Other market research and comments from drivers, riders, and nonriders collected by MTS
- k. Voting results for Measure A by jurisdiction
- l. Measure A Project List.

Divide the MTS jurisdiction into subregional areas based on common travel characteristics and demand. Identify travel markets within each subregional area with the greatest potential for capturing transit ridership. Assess existing and future (2020-2050) transit demand and travel patterns for each market by subregional area, based on, but not limited to:

- a. Population density by demographic variables; e.g., age, income, and auto ownership
- b. Employment, including density, major employment centers, employment size, business/operation hours, shift schedules, etc
- c. Location of other major trip generators, including schools, retail centers, medical centers, recreation hot spots, regional destinations, etc
- d. Regional travel demand for each travel market to and from each subregional area by time of day: a.m. peak, mid-day, p.m. peak, and evening; and, day of week (weekday/Sat./Sun.)
- e. Local travel demand for each travel market within each subregional area by time of day and day of week
- f. Existing transit ridership by route and/or stop by time of day, day of week

- g. Origin and destination travel pairs based on most recent SANDAG Onboard survey

Identify and briefly evaluate opportunities and challenges facing transit service provision in the region over the next twenty years, including, but not limited to:

- a. Traffic congestion
- b. New transportation facilities
- c. Financial constraints
- d. Land-use densities/orientation
- e. Image of transit marketing
- f. Changing demographics (age, income)

Task 1 Deliverables:

(1) Technical report on review of relevant information and existing conditions.

(2) Additional data collection, as necessary, dependent on MTS approval.

Task 2 - Develop Program of Projects

Develop an overall program of projects to be considered in a future potential ballot initiative. Early and frequent coordination with political consultants will be required to ensure that the ultimate program of projects is consistent with needs and preferences of the San Diego community.

Project list should consider and address:

- a. Compatibility and consistency with SANDAG's 2050 Regional Transportation Plan
- b. Strategies for addressing service gaps and attracting new riders
- c. Opportunities to expand MTS' high quality and frequent service network
- d. New modes and service delivery methods not currently in use in the region
- e. Opportunities and risks with rapidly evolving changing public transportation technologies
- f. MTS' equity and environmental justice obligations in the provision of service

Each project element proposed should be described with the following information, at minimum:

- a. Description of service, including rationale for service

- b. Route map
- c. Service span (hours, days, and seasons)
- d. Recommended Headway (by day type and time period)
- e. Estimated ridership, also incorporated into Task 3
- f. Operating and expected performance statistics, also incorporated into Task 5
- g. Vehicle and operating facility requirements, also incorporated into Task 4
- h. Right-of-way/street infrastructure, passenger facilities, and technology, also incorporated into Task 4

Task 2 Deliverable:

Technical report outlining the proposed transit program of projects with the elements above included for each program element, and summed for the entire program.

Task 3 – Ridership Estimates

Utilize a financial model that projects ridership based on current ridership, changes in service levels, ridership elasticities, and anticipated growth inputs to determine estimated ridership for the proposed program of projects. This task is to include individual costing for major projects at project and network impact levels as available in the RTP and other existing work.

Task 3 Deliverable:

Ridership estimates for each program element and summed for the entire program.

Task 4 – Capital and Infrastructure Assessment

MTS anticipates that any program of projects including expansion of bus and/or rail services will require expansion of existing facilities and the addition of new facilities. Assessment should include an inventory of the capital needs of the proposed program, including high level cost estimates. Inventory should include:

- a. Additional rolling stock (buses and rail cars)
- b. New Bus Division(s), assuming current bus facilities have no expansion space available. Consultant shall leverage the work completed in the 2016 MTS Bus Facility Relocation Study.

- c. New Rail Yard(s)
- d. New or Expanded Transit Centers – note that most MTS transit centers currently operate at capacity
- e. Transit Priority Measures, including queue jumps, ramp stops, transit signal priority, exclusive bus lanes, etc.
- f. Facilities required to accommodate new modes not currently operated by MTS

Task 4 Deliverable:

Technical report outlining the anticipated capital and infrastructure needs for program implementation including high level cost estimates.

Task 5 – Operating Cost Estimates

Reasonable operating cost estimates are required to develop a final program of projects for a ballot initiative that is based on the expected revenues over the life of the measure. Coordination with MTS Finance staff is essential for this task. Consultant shall use a cost estimation methodology provided by or approved in advance by MTS. Estimates shall be based on quantifiable level-of-service measures such as hours and/or miles.

Task 5 Deliverable:

Gross cost and net subsidy estimates for each program element, and summed for the entire program.

BALLOT MEASURE PLANNING PROJECT

MTS DOC. NO. G2161.0-18

PRIME CONSULTANT: Transportation Management & Design

Att. B, AI C2, 7/12/18

Proposer's Staff			Core Tasks					Hours and Rates					
Classification	Name (First, Last)	Years of Exp	Task 1 Hours	Task 2 Hours	Task 3 Hours	Task 4 Hours	Task 5 Hours	Total Labor Hours	Hourly Rate	Fringe %	Overhead %	Billing Rate	Total Labor Cost
Principal	Russ Chisholm	35+	100.00	120.00	24.00	40.00	24.00	308.00	\$ 73.47	30%	120%	\$ 183.68	\$ 56,573.44
Project Manager	Melissa Sather	5	144.00	160.00	64.00	88.00	80.00	536.00	\$ 50.00	30%	120%	125.00	67,000.00
GIS Specialist	Tiiki Rysen	10+	80.00	80.00	24.00	24.00		208.00	\$ 47.00	30%	120%	117.50	24,440.00
Graphics Specialist	Bobbi Duley	16+	40.00	80.00				120.00	\$ 40.00	30%	120%	100.00	12,000.00
Associate Planner	Various	Varies	160.00	280.00	120.00	80.00	80.00	720.00	\$ 36.00	30%	120%	90.00	64,800.00
Administration	Nancy Lanum	30+	4.00	4.00	2.00	4.00	2.00	16.00	\$ 40.00	30%	120%	100.00	1,600.00
LABOR HOURS			528.00	724.00	234.00	236.00	186.00						\$ 226,413.44
BILLABLE COSTS (LABOR/FRINGE/OVERHEAD)			\$ 64,568.00	\$ 85,041.60	\$ 26,228.32	\$ 28,767.20	\$ 21,808.32						
FEE (Percentage)			6,456.80	8,504.16	2,622.83	2,876.72	2,180.83						
TOTAL LABOR & FEE			\$ 71,024.80	\$ 93,545.76	\$ 28,851.15	\$ 31,643.92	\$ 23,989.15						
OTHER DIRECT COSTS			Task 1 Amount	Task 2 Amount	Task 3 Amount	Task 4 Amount	Task 5 Amount						Total Direct Cost
													\$ -
													\$ -
													\$ -
TOTAL OTHER DIRECT COSTS			\$ -	\$ -	\$ -	\$ -	\$ -						\$ -
TOTAL PRIME COSTS			\$ 71,024.80	\$ 93,545.76	\$ 28,851.15	\$ 31,643.92	\$ 23,989.15						\$ 249,054.78
TOTAL SUBCONTRACTOR COSTS			\$ -	\$ -	\$ -	\$ -	\$ -						\$ -
TOTAL PROPOSED COSTS			\$ 71,024.80	\$ 93,545.76	\$ 28,851.15	\$ 31,643.92	\$ 23,989.15						\$ 249,054.78



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Agenda Item No. C3

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

July 12, 2018

SUBJECT:

OLD TOWN TRANSIT CENTER PROJECT UPDATE (DENIS DESMOND)

INFORMATIONAL ONLY

Budget Impact

This project is funded from MTS's annual Capital Improvement Program and is currently projected at \$3.8 million.

DISCUSSION:

The Old Town Transit Center (OTTC) opened in 1996 and has since become one of MTS's top five transit centers. Millions of people have utilized the bus facilities on the center's west side (OTTC West), which is served by seven of MTS's highest ridership routes. These routes connect the employment centers, residential areas, recreational activities, and educational institutions on the western and northern sides of the MTS service area with the Trolley and the rest of the MTS system.

The facilities and amenities in OTTC West have reached the end of their useful lives and are in need of refurbishment or replacement. Additionally, OTTC West is capacity constrained with limited ability to expand any service. MTS has initiated a capital improvement project to address both these issues. Staff will provide an update of the project design, status, and schedule.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com





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Agenda Item No. C4

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

July 12, 2018

SUBJECT:

UPDATE ON INNOVATIVE CLEAN TRANSIT (ICT) PROPOSAL (SHARON COONEY)

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

The California Air Resources Board (CARB) included in its Fleet Rule for Transit Agencies a requirement that transit operators with fleets larger than 200 buses fulfill specific Zero Emission Bus (ZEB) purchase requirements. ZEBs are urban buses that produce zero-exhaust emissions of any pollutant. The types of vehicles that qualify under this definition include hydrogen fuel-cell buses, electric trolley buses with overhead twin-wire power supply, and battery-electric buses. However, CARB delayed implementation of this requirement because it was determined to be infeasible.

More recent developments in battery electric technology have led to renewed interest in converting transit fleets to zero emission technology, and CARB and the transit operators have been collaborating on a plan for moving toward one hundred percent electrification. CARB's most recent iteration of this plan is outlined in the "Innovative Clean Transit Regulation Discussion Document" (Attachment A). MTS staff will provide an update on the proposal and our efforts to influence the final program.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachment: A. Innovative Clean Transit Regulation Discussion Document



Public Workshop on the Proposed

Innovative Clean Transit Regulation

Discussion Document

December 15, 2017

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Executive Summary

The California Air Resources Board (CARB or Board) is developing strategies to transition the heavy-duty mobile source sector to zero and near-zero emission technologies to meet air quality, climate, and public health protection goals. The long-term vision of the Innovative Clean Transit (ICT) effort is to achieve a zero emission transit system by 2040 as a key step in that transition. The following are key goals we seek to achieve:

- Support the near-term deployment of zero emission buses (ZEB) where the economics are viable and where transit service can be maintained or expanded.
- Improve transit service while working towards meeting a long-term vision for transitioning to zero emission technologies across all transit modes.
- Partner with transit agencies to pilot innovative approaches to improve access to transit systems with zero emission first- and last-mile solutions.

Transit agencies have often been leaders in facilitating the introductions of new technologies and have been partners in addressing air quality by continuing to be instrumental in leading adoption of low nitrogen oxide (NOx) engines, zero emission technology deployment in heavy duty vehicle applications, and in addressing barriers. This document describes a proposal for a complete transition of public transit fleets to zero emission technologies and includes safeguards to allow for adjustments if needed. This regulatory strategy is intended to complement other existing State policies while encouraging transit agencies to act early to take advantage of existing and potentially new incentive programs that improve transit services and reduce emissions, and provides transit agencies the flexibility to continue to evolve to meet expanding needs for effective, efficient, and affordable regional transit services across California.

The proposal is generally consistent with normal purchase schedules and would not require any accelerated purchases. It is structured to allow transit agencies to take advantage of incentive programs by acting early, proposing that purchases made before they are required can be used to meet future obligations. All fleets would need to report bus information annually to demonstrate compliance, and agencies that use other proposed compliance options would need to report additional information. We are also proposing to conduct periodic informational updates to the Board. The first informational update to the Board would be around 2022 to assess zero emission technology, fleet experiences, costs, and to evaluate the regulatory structure for achieving mobility improvements and a complete transition to a zero emission future. The informational updates to the Board would provide an opportunity to discuss any needed adjustments.

Please send any comments about this discussion draft to Shirin Barfjani at Shirin.Barfjani@arb.ca.gov by January 12, 2018. Comments received on or after the December 15, 2018 public meeting will be considered in preparing draft regulatory language to be discussed at another workshop in spring of 2018 before taking a proposed recommendation to Board in June 2018.

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I. Overview

California faces very challenging mandates to reduce air pollution in order to meet the health-based federal ambient air quality standards and State climate protection goals. To date, California has made significant progress and is on track to meet the Assembly Bill 32 goals of reducing greenhouse gas (GHG) emissions to the 1990 level by 2020. However, we need to continue making progress beyond 2020 to meet the following goals:

- Federal health-based ambient air quality standards (key milestones in 2023 and 2031).
- 40 percent reduction in GHG emissions from 1990 levels by 2030.
- 80 percent reduction in GHG emissions from 1990 levels by 2050.
- 50 percent petroleum reduction target by 2030.
- Continued reductions in criteria pollutants and toxic air contaminants to protect public health.

Meeting all of these goals requires evolution wherever possible to zero emissions technologies in all sectors including industrial, residential, electricity, and transportation.

Substantial progress has been made in reducing emissions from all mobile sources, mainly by replacing older vehicles/engines with newer vehicles/engines that are subject to more stringent emission standards. Transit agencies have been partners in leading efforts to introduce new technologies to reduce emissions in California. Despite this progress, the transportation sector remains a major contributor to statewide emissions of NO_x, GHG, and particulate matter (PM). The transportation sector accounts for 39 percent of the total GHG emissions statewide.¹ New technologies, integrating renewable energy, and innovative ways to improve transportation efficiencies are needed to achieve established goals. Zero emission trucks and buses have a fuel efficiency two to five times as great as conventional internal combustion engines, and are one of the most promising technologies to lead the transportation sector in reducing petroleum use, reducing total energy consumption and eliminating tailpipe emissions from heavy duty vehicles.

ZEBs are the beachhead of heavy duty zero emission vehicle (ZEV) technologies and are resulting in technology transfer to other heavy duty truck applications. In addition, the deployment of ZEBs is part of the 2016 ZEV Action Plan that supports the governor's Executive Order B-16-12, which calls for 1.5 million ZEVs (including heavy duty vehicles) in California by 2025 and establishes several milestones on the pathway toward this target.

The Transit Fleet Rule was originally adopted in 2000 and includes a 15 percent ZEB purchase requirement for fleets with 200 or more buses. Transit fleets were one of the first to achieve significant reductions in NO_x and PM by retrofitting existing engines or by switching to alternative fuels from 2002 to 2010. Several agencies also worked together on an early demonstration of zero emission buses to gain experience with the technology. However, in

¹ California Greenhouse Gas Emission Inventory, <https://www.arb.ca.gov/cc/inventory/data/data.htm>, accessed 11/25/2017

2009, staff presented a ZEB technology evaluation to the Board and concluded that the technology was not commercially ready at that time. The Board, through Resolution 09-49,² directed staff to withhold the ZEB purchase requirement through a rule amendment and report back to the Board regarding technology readiness.

Staff conducted another technology evaluation in 2015 and concluded the ZEB technologies are in their early commercialization stage and published an initial discussion paper on the plan to develop amendments to the regulation. Staff updated the Board in early 2016 at a public hearing about the status of ZEB technology, price, and deployment. Since that update a lot has changed, for example:

- Dozens of transit fleets have purchased ZEBs as well as committed to significantly converting their fleet to ZEBs over the next several years
- Multiple ZEB models and configurations have become available from several manufacturers
- A fuel cell bus power plant exceeded 25,000 hours of operation, which is U.S. Department of Energy's ultimate performance target
- Several manufacturers now offer battery electric buses (BEB) with a nominal range exceeding 200 miles and at least one with 300 miles per charge
- Proterra set a world record by operating its commercially available battery electric bus for 1,100 miles on a test track
- Cummins announced it would produce electric drivetrains for transit buses by 2019 and for trucks by 2020
- GILLIG partnered with Cummins to power their zero-emissions transit buses
- New funding opportunities are becoming available

Despite their higher capital costs, today, when BEBs (with a nominal range of 150 miles) are replaced on a one-for-one basis in California, the operational savings can make the total cost of ownership comparable to conventional buses even without incentives. Incentives can offset some of the initial capital costs and reduce the early financial risks for transit agencies. With more experience, and a successful market expansion, cost should continue to decline to a point where incentives won't be needed.

The ICT measure is part of CARB's holistic approach to transform the transportation sector. ICT focuses on a long-term goal of transforming the public transit sector to zero emission modes. The overall strategy includes a combination of incentives and regulatory measures to provide a strong market signal for zero emission technology deployment, utilization of low NOx engines where zero emission technologies are unavailable, the use of renewable fuels, and encouraging innovative transit solutions. The concept considers flexibility to allow transit fleets to implement zero emission technologies in a way that is synergistic with their operation, recognizes early actions to reduce emissions, and encourages innovative mobility options.

² <https://arb.ca.gov/board/res/2009/res09-49.pdf>, last accessed 11/25/2017

This proposal starts in 2020 with requirements for large transit agencies (with 100 or more buses) to begin phasing-in ZEBs when bus purchases are made and would encourage fleets to act early to maximize funding opportunities. Smaller fleets would have more time before the ZEB purchase requirements would begin. The proposal would also recognize innovative zero emission mobility options that would count towards meeting the ZEB purchase requirement. All fleets in more polluted regions of the State would be required to purchase low-NOx engines, and larger transit agencies would also be required to use renewable fuels when diesel or natural gas contracts are renewed. The proposal recognizes that all transit fleets may deploy different infrastructure solutions to meet their own operational needs and builds in a procedural method to avoid unintended consequences or potential barriers that are beyond an individual transit agency's control. Staff is also discussing how to add a fleet wide performance-based option that could be used in lieu of meeting future bus purchase requirements beginning in 2023 to provide transit agencies more flexibility in providing new and innovative transportation services while continuing progress towards meeting a mutual goal of providing the cleanest and most effective transportation services. Details of the proposal and rationale are in Section V.

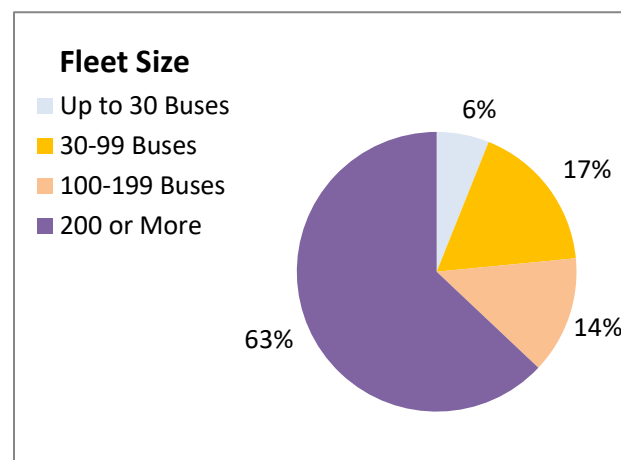
II. Role of California Transit Systems

Transit fleets operate in local communities and have a key role, not only in helping transit-dependent riders, but also in helping to shape transportation systems. Public transit agencies are our clean air partners and have played, and will continue to play, an important role in helping California meet air quality standards and GHG emissions reduction goals; namely, by employing the cleanest technologies, providing safe and reliable public transit services to reduce light-duty passenger vehicle miles traveled and single occupancy trips, and reducing congestion on roadways.

Transit agencies are diverse. There are currently over 200 public transit agencies in California operating more than 14,000 transit buses, including cutaways and trolley buses. They provide different modes of transportation, including buses, passenger rail, shuttles, vanpools, demand response paratransit services, and bus rapid transit systems with differing fleet sizes, composition, terrain, weather, route length, and other factors. Some agencies are small, operate in rural areas, and provide service with only one or two modes of transportation, such as vans and buses with few staff.

Other agencies are big, serving dense urban areas with various modes of transportations and have complex service schedules and hundreds of staff. Figure 1 shows the percent of buses in California based on bus fleet size.

Figure 1 Bus Fleet Size Distribution



Transit agencies are not only coping with continued change of environment and demands, but they are also adapting to new and transformative transportation innovations that are changing rapidly. Examples include new shared mobility services, autonomous vehicles, and electric vehicles that are significantly changing customer's behaviors, reshaping the communities, and redefining transportation services. Shared mobility services, such as Uber, Lyft and micro-transit systems are available on demand, can be more convenient than traditional transit services, and in some cases could have lower fares.

III. Zero Emission Bus Market

California has the most ZEBs deployed in the United States. To date, multiple fleets already operating ZEBs in regular revenue service. As of September 2017, there are 107 ZEBs in operation in California and an additional 340 are on order from transit agencies and universities³. To put this in context, nearly 1000 transit buses are purchased in California annually. Figure 2 identifies the transit agencies that are implementing zero emission technologies.

Figure 2 Battery and Fuel Cell Electric Buses in California

(107 in operation and 340 on order/awarded as of September 2017)



³ Battery and Fuel Cell Electric Buses in California, last accessed 11/25/2017, <https://arb.ca.gov/msprog/ict/zbusmap.pdf>

Seven transit agencies with over 3,400 buses, representing about 25 percent of all buses in California, have committed to fully electrify their fleets (Table 1). Six of these agencies have set a goal of making the transition long before 2040.

Table 1 Transit Agencies Committed to 100% ZEB Target

Agency	Total Buses	All ZEB Target
Antelope Valley Transit Authority	77	2018
Porterville Transit	15	2018*
San Joaquin Regional Transit District	111	2025
Los Angeles County Metropolitan Transportation Authority	2,457	2030
Foothill Transit	327	2030
Los Angeles Department of Transportation	326	2030
Santa Cruz Metro Transit District	98	2040
Total	3,411	

* No Board resolution, but stated goal of transforming the active fleet to ZEB by 2018.

These early deployment strategies have included fuel cell electric buses (FCEB) and BEBs charged in the depot, on-route and combinations of depot charging with on-route charging for extending daily range. FCEB fueling and range is similar to existing compressed natural gas (CNG) buses, but still has a high upfront cost for buses and infrastructure. Depot charging for BEBs is similar to current operations, but bus range needs to be considered in providing daily service. Longer range buses provide more operational flexibility, but have additional upfront costs for a larger battery. According to recent CARB survey⁴ a majority of California transit standard buses drive less than 150 miles per day. Most of transit agencies have parking, maintenance, and fueling facilities at their depot yards with different capacities, and available space. Though transit agencies provide similar services, their operations could be quite different. A technology that works for one transit may not work for the other.

⁴ Transit Agency Survey Preliminary Results, August 29, 2016, https://www.arb.ca.gov/msprog/bus/transit_survey_summary.pdf

California is now home to ZEB manufacturing that is creating high quality jobs for standard bus manufacturing and small bus manufacturing. Six standard bus original equipment manufacturers (OEM), including BYD, Complete Coach Works, El Dorado National-California, GILLIG, GreenPower, and Proterra, are all manufacturing BEBs or FCEBs in California. BYD and Proterra exclusively manufacture battery electric buses and have battery production plants in California. Greenpower is locating a battery electric bus manufacturing plant in Porterville and plans to begin production in 2018. The other manufacturers also produce buses with internal combustion (IC) engines. Table 2 shows the locations of these OEMs, their production capacity. These manufacturers are offering ZEBs in different sizes and configurations, including standard buses, motor coaches, articulated buses, double deckers and other configurations. There are multiple bus models and manufacturers available in the market.



Table 2 Zero Emission Bus Manufacturers in California

Manufacturer	CA Facilities	Propulsion Technology	Total Bus Production Capacity/Year*
BYD	Lancaster	BEB, BE trucks, and Battery mfr	1500
Complete Coach Works	Riverside, Alameda	BEB and IC	500
El Dorado National	Riverside	FCEB and IC	
GILLIG	Livermore	BEB and IC	
GreenPower**	Porterville	BEB	150
Proterra	Burlingame	(Battery mfr.)	
Proterra	City of Industry	BEB	500

*Annual production capacity for all types of buses, including IC buses. Areas without public information are left blank.

**Porterville manufacturing plant to begin production in 2018

There are other OEMs that primarily manufacture small ZEBs that are typically shorter than 26-feet, such as Ebus, Phoenix Motorcars, and Zenith. Ford recently expanded its alternative fuel options to include electric drivetrains for some of its chassis that can be used as trucks, shuttle buses or school buses. Motiv Power Systems, based out of Foster City now offers an all-electric powertrain for the Ford E-450 and F-59 chassis in partnership with Ford. These OEMs currently offer buses with a 70-130 kWh battery capacity and 100-145 miles of ranges and some of these same platforms are also used as cargo vans or trucks. Several airports and private companies are operating these vans and buses, and a few are being used by transit fleets. However, at this time, these smaller ZEBs have not been Altoona-tested and are not yet eligible for purchase with federal funds.

IV. Potential Funding and Incentive Opportunities

The Funding Plan⁵ serves as the blueprint for expending Low Carbon Transportation funds appropriated to CARB in the State budget. The plan establishes CARB's priorities for the funding cycle, describes the projects CARB intends to fund, and sets funding targets for each project.

The amount allocated for the Clean Truck and Bus Vouchers (HVIP + Low NOx Engine Incentives) is \$188 million for FY 17-18. The staff proposal includes the base proposed voucher amounts shown in Table 3 with higher amounts for disadvantaged communities (DAC) or low income census tracts. The voucher amounts are intended to fully cover the incremental cost for a low NOx engine, the majority of the incremental cost of a BEB, and about half of the incremental cost of a FCEB. The Funding Plan will be considered at the December 14, 2017 Board Meeting.

Table 3 Proposed Voucher Amounts

Category	Base Amount*
Low NOx Engine (8.9 Liter)	\$10,000
Zero Emission Bus (20 ft – 24 ft)	\$80,000
Zero Emission Bus (25 ft – 29 ft)	\$90,000
Zero Emission Bus (30 ft – 39 ft)	\$95,000
Battery Electric Bus (40 ft – 59 ft)	\$150,000
Battery Electric Bus (60 ft)	\$175,000
Fuel Cell Electric Bus (≥ 40 ft).	\$300,000

* Up to \$15,000 more for use in a DAC.

The Clean Mobility Options for Disadvantaged Communities program offers alternate modes of transportation and encourages use of zero emission and plug-in hybrid vehicles, vanpools, electric and regular bicycle sharing, and other mobility options. Use of advanced technology vehicles instead of conventional vehicles in a car sharing component provides the primary GHG and criteria pollutant emission reductions and increases mobility options. The funding allocation for this program is \$17 million for FY 2017-18 and could be used by transit agencies to implement such a program. More information about the program is at https://www.arb.ca.gov/msprog/aqip/ldv_pilots.htm.

The Transit and Intercity Rail Capital Program⁶ (TIRCP) provides grants from the Greenhouse Gas Reduction Fund (GGRF) to fund transformative capital improvements that will modernize California's intercity, commuter, and urban rail systems, and bus and ferry transit systems, to

⁵ https://www.arb.ca.gov/msprog/aqip/fundplan/1718_draft_funding_plan_workshop_100417.pdf

⁶ <http://www.dot.ca.gov/drmt/sptirpc.html>

significantly reduce GHG emissions, vehicle miles traveled, and congestion. The California Department of Transportation, in collaboration with California State Transportation Agency (CalSTA), is responsible for administering this program.

The Low Carbon Transit Operations Program⁷ (LCTOP) was created to provide operating and capital assistance for transit agencies to reduce GHG emission and improve mobility, with a priority on serving disadvantaged communities. Approved projects in LCTOP will support new or expanded bus or rail services, expand intermodal transit facilities, and may include equipment acquisition, fueling, maintenance and other costs to operate those services or facilities, with each project reducing GHG emissions. Five percent of the annual auction proceeds in the GGRF are continuously appropriated for LCTOP. This program is administered by the California Department of Transportation (Caltrans) in coordination with CARB and the State Controller's Office (SCO).

The Congested Corridors Program under SB 1, with an annual budget of \$250 million, also allows projects like ZEB deployment, transit hubs to increase linked trips or multimodal transportation modes, and transit hubs or stations and nearby roadways providing accessibility for first mile and last mile connectivity to public transit systems.

The Volkswagen Environmental Mitigation Trust provides California approximately \$423 million to fund specified eligible actions to mitigate the ~~lifetime~~^{lifetime} excess NOx emissions caused by Volkswagen's emissions test defeat device. CARB is the lead agency to administer these funds. CARB staff held the first public workshop on allocation of the Volkswagen Environmental Mitigation Trust (First Partial Consent Decree, Appendix D) on October 9~~26~~²⁶, 2017.⁸ Transit agencies are potentially eligible to use these funds.

On July 17, 2017, both the California Assembly and Senate passed AB 617. This bill directs CARB to establish community air monitoring plans for toxic air contaminants (TACs) and criteria pollutants, determine communities most affected by high cumulative exposure burden, and develop a strategy to reduce emissions in those communities. \$250 million in Low Carbon Transportation fund is intended to help meet the goals of AB 617 through early action. These funds are to be spent on projects pursuant to the Moyer Program with focus on mobile sources and infrastructure. These funds are distributed through air districts as \$107.5M to South Coast AQMD, \$80M to San Joaquin Valley Unified APCD, \$50M to Bay Area AQMD, and \$12.5M to the remaining districts. Eligible projects should provide targeted reductions of criteria pollutants or air toxics (such as diesel particulate matter) within communities affected by a high cumulative air pollutant exposure burden. What this means in practice in the short-term is that a majority of the funds must be used to aid disadvantaged and low-income communities. Moyer 617 funds are to be distributed as expeditiously as possible to provide immediate emission reductions in impacted communities.

⁷ <http://www.dot.ca.gov/drmt/splctop.html>

⁸ More information on Volkswagen settlement is available at https://www.arb.ca.gov/msprog/vw_info/vsi/vw-mititrust/vw-mititrust.htm. Last accessed 12/1/17.

The Low Carbon Fuel Standard (LCFS) program lowers the carbon intensity of transportation fuels in California and the program results in an incentive for fuel producers or vehicle operators to use a variety of low carbon fuels. The program⁹ is currently being updated and changes that have been proposed are scheduled to be considered by the Board in early 2018.

LCFS program staff is proposing to increase the energy efficiency ratio (EER) for heavy-duty battery-electric vehicles to about 5.0 based on new data for battery electric trucks and buses. The EER is currently 4.2 for buses. If the proposed change to the LCFS regulation is approved, a fleet that earns credits worth about \$8,000 for using electricity in a battery electric bus (at a credit value of \$100 per credit, for example) would earn about 20 percent more credits which would increase the value to about \$9,600 per year. Another change the LCFS program staff is proposing is to clarify how hydrogen station operators will receive credits. The change would make it clear that a transit agency that operates a hydrogen fueling station can receive the credits directly from the LCFS program rather than indirectly through the fuel provider.

SB 350 provides a potential opportunity of transportation electrification to transit agencies. Three major investor owned utilities (IOU) together have proposed over \$750 million worth of investment in infrastructure to support transportation electrification that could offset most of the costs of making electrical service upgrades and installing charging infrastructure over a 5 year period. The California Public Utilities Commission (CPUC) issued its first proposed decision approving 15 of the IOUs' transportation electrification "priority review" pilot projects¹⁰ that could be implemented quickly. CPUC is expected to vote on whether to approve the proposed decision at a January 18, 2018 meeting. CPUC also plans on making a decision on the longer term standard projects in the March/April 2018 timeframe.

There are a number of other state funding programs, local air district funds and federal funds that may also be available that are not addressed here.

Table 4 Incremental Cost Example for a BEB Compared to a CNG Bus Without Infrastructure Service Upgrades (\$2016)

Category	Upfront Capital Cost	Avg. Annual Operating Costs
40' Bus Price (with charger)	\$235,000	--
Voucher	-\$150,000	--
Maintenance	--	-\$10,000/yr
Fuel	--	-\$5,000/yr
LCFS Credit (@\$100)	--	-\$7,500/yr
Total Bus Costs	\$85,000	-\$22,500/yr

⁹ Preliminary draft of potential regulatory amendments to the low carbon fuel standard, https://www.arb.ca.gov/fuels/lcfs/lcfs_meetings/092217_draftregtext.pdf. Last accessed 12/1/2017.

¹⁰ The full document can be accessed at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M198/K874/198874393.PDF>. Last accessed 11/30/2017

Shown in Table 4 is a simple example of how available funding could be used to offset higher capital cost of a BEB purchased today where the average annual savings over the life of the bus would result in about a 4 year payback for the bus purchase (without electrical service upgrades). The actual costs for an individual fleet will vary and could be higher or lower than the values shown in the example and would need to account for needed infrastructure.

For a BEB, associated infrastructure service upgrades will depend on site conditions, charging strategy, number of chargers installed and other factors, but are expected to range from about \$20,000 to 75,000 per bus. Some of or all of the costs of the charger and electrical service upgrades could potentially be offset if the utility proposals are approved by CPUC in April 2018. Similarly, hydrogen station costs likely range from about \$3,000,000 for a 10 bus station to \$5,000,000 for a 50 bus station. Some of these hydrogen station costs could be partially offset by about \$100,000 per bus if the proposed funding plan is approved.

V. ICT Proposed Regulation

With any strategy, we need to ensure compliance targets are technologically and financially feasible, emission reductions are real and quantifiable, and compliance is straightforward and enforceable. With these overarching criteria in mind, we are proposing to implement an advanced technology purchase requirement when bus purchases are made starting in 2020, and would include a method to recognize the benefits of innovative mobility programs implemented by transit agencies that use other types of ZEVs like micro transit, vans or cars.

The following is a summary of the overall rule proposal with more details and rationale in the subsequent sections:

January 1, 2020

- Large transit fleets with (≥ 100 buses) would need to:
 - Purchase 25 percent ZEB when bus purchases are made or implement an equivalent innovative zero emissions mobility program.
 - Purchase renewable fuels when diesel or natural gas contracts are renewed.
 - Report fleet wide information for all modes and fuel purchases needed to evaluate their progress in meeting a fleet wide performance-based goal.
- All transit agencies in more polluted areas of California would be required to purchase low NOx engines if available at the time of conventional bus purchases.

January 1, 2023

- The proposed concept would be expanded to include medium size transit fleets with more than 30 buses.
- Affected transit fleets would need to meet a 50 percent ZEB purchase requirement.

January 1, 2026

- All transit fleets, including smaller transits would need to meet a 75 percent ZEB purchase requirement.

January 1, 2029

- All bus purchases would need to be ZEBs.

VI. Applicability

The regulation would apply to all public transit agencies that own, lease, or operate buses with a gross vehicle weight rating greater than 14,000 lbs. Buses subject to the regulation include cutaway buses, transit buses (including bus rapid transit), articulated buses, double-deckers, commuter coaches, trolley buses and vintage trolley buses. Fleet size would be based on the number of buses in the active fleet in 2019 as follows:

- A large transit agency is a transit agency with 100 or more transit buses.
- A medium transit agency has 30 to 99 transit buses.
- A small transit agency has fewer than 30 transit buses.

With a goal of achieving a zero emission public transit fleet, we are interested in comments as to whether the scope should be expanded to include non-bus modes of passenger transportation including vans, or cars.

VII. Renewable Fuel Requirements

We are proposing to require large transit agencies with 100 and more transit buses to purchase renewable fuels when diesel or natural gas contracts are renewed. Smaller fleets would be exempt from the renewable fuel requirement. This proposed requirement should result in little or no cost, but would send a market signal that supports California's existing fuel policies to further reduce the carbon intensity of transportation fuels through the LCFS program. However, the GHG emissions benefits of using renewable natural gas or renewable diesel is due to the LCFS program and cannot be counted as new reductions in the ICT because they are already required by the LCFS program.

To date, about 60 percent of California transit buses are operating CNG buses and are the primary users of renewable CNG in California. Renewable CNG producers need to sell the fuel to California fleets to earn LCFS credits. Most renewable CNG is currently produced outside California, but this proposal supports the program and contributes to State efforts to increase in-state production. Renewable fuels are currently commercially available due to the federal Renewable Fuel Standard Program¹¹ and CARB's LCFS Program.¹² Today, transit agencies can procure renewable natural gas at a price equal to or lower than that of fossil natural gas due to these programs.

Renewable diesel is a drop-in fuel, and is also available at costs to the users that are similar to conventional diesel fuel. However, renewable diesel providers are primarily contracting with larger transit fleets and do not necessarily need to contract with smaller transit agencies to sell the renewable fuel in California and earn credits. Some smaller transit agencies have not received bids for renewable diesel and requiring the use of renewable diesel for these smaller agencies could result in higher costs for them.

¹¹ <https://www.epa.gov/renewable-fuel-standard-program>, accessed on 11/22/2017.

¹² <https://www.arb.ca.gov/fuels/lcfs/lcfs.htm>, accessed on 11/22/2017.

VIII. ZEB Purchase Requirements

Staff is proposing to initially require ZEB purchases for larger transit fleets with deferred compliance for smaller and medium transit agencies. The ZEB purchase requirement would start with larger transit agencies beginning January 1, 2020. Medium size transit agencies (30 to 99 buses) would be exempt from the ZEB purchase requirements until 2023 and the smallest would be exempt until 2026. The purchase requirement applies at time of normal purchase and does not require any accelerated purchases. The proposed ZEB purchase requirement is shown in Table 5.

Table 5 Zero Emission Bus Purchase Requirement¹³

Starting January 1	Percent of Bus Purchases	Fleet Size as of 2019
2020	25%	>100 buses
2023	50%	>30 buses
2026	75%	All fleets
2029	100%	All fleets

All purchases made before they are required by the regulation or that exceed the minimum purchase requirement would generate a ZEB credit that could be banked and used for a future purchase date. This approach counts early ZEB purchases towards future obligations, and is intended to be consistent with incentive programs that require early action to be eligible for funding. The ZEB credits also provide transit agencies with more flexibility in how they procure ZEB and utilize infrastructure. For the following example, we will use a fictitious large fleet that has 200 buses and normally contracts to purchase about 40 new buses every 3 years. The fleet is planning its normal bus purchases in 2019 and 2022.

- Since the regulation does not take effect until 2020, the fleet does not need to purchase any ZEB in 2019, but when the fleet makes a 40 bus purchase in 2022, 10 buses would need to be ZEB to meet the 25 percent ZEB purchase requirement. However, these purchases would not qualify for HVIP or other incentive programs because they do not result in early emission benefits.
- If the fleet chose to purchase 10 ZEB in 2019, before any ZEB purchases are required, the 10 ZEB purchase would remain eligible for funding and the fleet would bank 10 ZEB credits. In 2022, when the fleet makes its next 40 bus purchase, the fleet could use the 10 banked ZEB credits to meet the ZEB purchase requirement (25% of the 40 buses or 10 ZEBs) without purchasing any more ZEB that year. Again, the fleet could continue to purchase ZEBs to go beyond the minimum requirement. If they bought 10 more ZEBs in 2020, they would be eligible for funding and would earn credits that could be used for the next planned purchase after 2022.

¹³ Trolley buses operated on a fixed guideway are ZEBs but would not be counted towards the ZEB purchase requirements except when expanding the existing fleet from a 2015 baseline.

The credit mechanism also provides some flexibility in making two separate bids in the same year. For example, if a transit agency is planning one contract for standard buses and a different contract for commuter coaches in the same year, the agency could purchase enough ZEB in the first contract for standard buses so that the credits from the first purchase would meet the minimum ZEB requirement of the second contract for commuter buses. The earned ZEB purchase credit would be void if the contract is cancelled or the bus is not placed in service.

We are also proposing to provide bonus ZEB credits for early actors that are already operating ZEBs or take more risks in deploying early technologies. They have been pioneers in addressing fuel cell maintenance, electricity rates, charging standards, education, training, developing new technologies, and other issues. These pioneers and their experiences in addressing barriers have benefited the broader market for zero emission heavy duty vehicles and for other transit fleets. We believe their actions should be recognized with additional credits; therefore, we are proposing to provide bonus ZEB credits as shown in Table 6.

Table 6 Bonus ZEB Purchase Credits

Technology	Placed in Service	Bonus ZEB Credit
FCEB	January 1, 2018 to January 1, 2023	+1
BEB	Before December 31, 2017*	+1
FCEB	Before December 31, 2017*	+2

* Must still be in service as of January 1, 2018

The bonus credits provide more time for these early actors and give them more flexibility in expanding their ZEB fleets and taking advantage of technology improvements. For example, a BEB that was purchased and placed in service in 2017 would receive a standard purchase credit plus a bonus credit for a total of 2 credits. A fuel cell bus placed in service before 2018 would receive a credit for the purchase and 2 bonus credits for a total of 3 credits.

A. ZEB Purchase Provisions

Because we recognize that transit fleets are different, we have structured this proposal with significant flexibility to utilize funding. We also are proposing to include some provisions to address individual fleet situations if they occur. The provisions are intended to address uncommon situations that present unintentional adverse impacts for an agency due to factors beyond their control, and to safeguard infrastructure investments that have been made. Compliance is determined when a bus purchase order is placed, so the transit agency would not be out of compliance due to manufacturer delays, but there may be other circumstances that a contract cannot reasonably be executed. The following are proposed conditions that would be approved for temporary delays:

- If the planned bus purchase and deployment at a given depot is delayed because the utility is unable to supply sufficient power to the property in time to place the BEB purchases in service when they are delivered.

- If the planned bus purchase and deployment at a given depot is delayed for reasons outside the transit agency's control and would not be completed on time to place the FCEB purchases in service when delivered. The off-ramp would apply to delays for hydrogen fueling station construction or when expanding an existing hydrogen station's capacity.
- An agency would not be out of compliance for purchasing conventional buses when equivalent ZEB type has not successfully completed Altoona testing. However, this off-ramp would only apply if the transit agency has no other options available to meet the purchase requirement (i.e. if the fleet could meet the ZEB purchase requirement with other bus types included in the purchase contract, there would be no need for an extension. A transit fleet that still chooses to purchase a bus that has not been Altoona-tested could count the bus towards compliance or would receive a ZEB purchase credit to be used at a later date.)
- If the planned ZEB fleet expansion cannot be completed in compliance with local permitting requirements or other safety requirements, could not have reasonably been foreseen, and cannot reasonably be addressed before the planned ZEB purchases would be delivered and placed in service;

The Executive Officer would be able to provide a 1-year extension based on the specific situation. At this time we do not believe off-ramp provisions are needed for small deployments to address battery electric bus range because there are already multiple standard buses available with a 200 mile range and some with more than a 300 mile range that can meet all daily needs. Similarly, concerns about space constraints for charging infrastructure in the depot may not be an issue for smaller or larger deployments because of overhead charging solutions that have minimal impact on congested yards. These issues could be revisited as part of an informational update to the Board before the proposed requirements ramp up.

B. Joint ZEB Compliance Option

On a case-by-case basis, multiple transit agencies may petition the Executive Officer to implement a joint zero emission bus deployment within a region. If approved, two or more transit agencies would comply as if they were one joint transit agency. The Executive Officer would approve the joint agreement provided the following criteria have been met and would issue a joint agreement number to track annual reporting:

1. Jointly comply with the number of ZEB purchases the partners would be required to purchase individually.
2. Jointly fund bus purchases and infrastructure through a common a metropolitan planning organization or other transportation policy-making organization.
3. Operate the ZEBs at a transit agency affected by the zero emission bus purchase requirement.
4. Show how the deployment prioritizes benefits in DAC.
5. Place the buses in revenue service with the intent of operating them in California for the FTA minimum useful life criteria.
6. Provide appropriate maintenance and storage facilities for the applicable technology.

7. Train bus operators and maintenance personnel from each participating transit agency.
8. If the joint ZEB deployment fails to comply as a group, each participating agency must immediately comply individually.
9. Participating agencies must report annually and identify the joint agreement number.

IX. Low NOx Engine Purchase Requirement

Staff is proposing to require all transit agencies to include low NOx engines when purchases are made if they are available for the bus type being purchased. This would not apply to fleets that operate in areas defined as NOx exempt areas¹⁴. The requirement would begin with purchases made on or after January 1, 2020 or two years after a low NOx engine becomes commercially available for the bus fuel type being purchased. Purchases that are made before they are required would earn a low NOx engine credit that would count towards the low NOx purchase requirement for future bus purchases. The credits could be used to meet a future obligation or could be used to ensure the fleet remains eligible for funding if continuing to purchase low NOx engines. Low NOx engine purchases would not be required if they are not available for the bus and fuel type the transit agency purchases, and would not be required at time of rebuild.

Low NOx engines are currently available for CNG buses, propane shuttle buses, but are not yet available for diesel buses nor gasoline buses. Low NOx engine for most CNG buses became commercially available in 2016. To date, low NOx engines have been installed on CNG buses for either repower or new purchase. CARB is also planning on a low NOx engine regulation in the near future that would apply to all heavy duty engines.¹⁵ CARB Board action on a lower NOx standard for on-road heavy-duty engines is expected in 2019 and potentially could apply to the 2023 engine year for all heavy duty engines.

X. Innovative Zero Emission Mobility

We are proposing to include a credit mechanism that would count towards the ZEB purchase requirement to encourage the introduction of innovative zero emission transit services that may lead to a broader zero emission future. For purposes of this regulation, innovative zero emission mobility options are non-bus (nor fixed guide way) transportation services provided by the transit agency with lighter ZEVs like micro transit, on-demand van or car transportation, or autonomous shuttle services. Other modes, such as buses that are within the scope of the regulation and light rail, heavy rail and trolley bus services, are considered to be conventional transit modes. Zero emission mobility options that are directly operated by the transit agency or under contract that are used to provide on demand services or for shared transportation, like van pools, would be eligible for credit.

¹⁴ The following counties make up the NOx Exempt Areas: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Eastern El Dorado, Glenn, Humboldt, Inyo, Eastern Kern, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Monterey, Nevada, Eastern Placer, Plumas, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Northern Sonoma, Northern Sutter, Tehama, Trinity, Tuolumne, and Yuba.

¹⁵ <https://www.arb.ca.gov/msprog/hdlownox/hdlownox.htm>, accessed 11/24/2017

Because there are a wide range of innovative mobility services, we are proposing that the transit fleet apply to the Executive Officer to determine the appropriate credit amount for new and innovative services based on the details of the program. The transit agency would need to clearly identify how miles and passenger counts would be measured and how records would be kept and made available to CARB. The credit for an innovative zero emission mobility program would be provided in the form of a ZEB purchase credit where 350,000 zero emission passenger miles per year from the program would be deemed to be equivalent to purchasing a ZEB. If for any reason the zero emission mobility program is ended, the transit agency would receive a ZEB purchase deficit equal to the credit it initially received. The fleet would not be deemed to be out of compliance, but the deficit would need to be made up during the next bus purchase.

We would use the informational update to the Board to assess the zero emission mobility option at that point. CARB could modify the option, make it mandatory for lighter vehicles, or replace it with a performance based option beginning in 2023.

XI. Performance Based Option

A fleet-wide performance-based option that includes all transit modes has the potential to account for a wide range of actions that reduce NOx and GHG emissions. It could provide for the greatest opportunity to let market forces drive the form of the emission benefits. The approach needs to be equitable for a bus-only fleet and a multimodal fleet, and needs a straightforward metric to account for the emissions benefits of switching to ZEBs, cleaner engines, eco driving, improvements in mobility, right sizing vehicles, improving vehicle efficiency, increasing ridership density among other things. We need additional detailed information from transit agencies to clear up data gaps we see in the National Transit Database (NTD) for several fleets, how data are tracked, and to understand how methodology changes may affect the results of a performance based approach. Starting in 2020, large transit agencies (with 100 or more buses) would be required to report annual information for all modes they operate dating back to 2015 as the proposed baseline year. The information would be used for an informational update to the Board and would answer questions about whether the scope of the regulation should be expanded to include non-bus modes, whether zero emission miles or another metric should be used for fleet wide compliance, or whether the zero emission mobility option should be expanded.

We evaluated strategies based on emissions per passenger mile or emission per seat mile, but we encountered a number of challenges with applying a fleet-wide performance-based option. First and foremost, most funding programs would not allow funding to be used to purchase ZEB or low NOx engines until the transit agency could show compliance with the next compliance requirement. This means that a bus fleet would not be able to take advantage of existing funding programs and ultimately would incur higher costs to achieve the same emissions reductions as the proposed purchase requirements. Second, it is challenging to identify a mechanism that is equitable for all fleets. For example, a uniform NOx reduction goal may be easy to meet for a CNG bus fleet because low NOx engines are already available but may be impractical for a diesel bus fleet that could be forced to retire buses and aggressively ramp up

ZEB purchases to achieve the same reductions. Similarly, some transit fleets are “dirtier” than others for a variety of reasons, and the “dirty” fleets would need to do more than clean fleets to meet a common goal. Third, there are challenges with properly separating new actions from those that are already occurring due to CARB regulations for engine emissions standards, vehicle efficiency requirements, and policies to reduce transportation fuel carbon intensity. Finally, fuel use, mileage and passenger counts reported in the NTD fluctuate from year to year and may not be suitable for adequately measuring small changes.

A zero-emission-miles-based fleet-wide approach may be a promising method to set a performance goal that could be used in lieu of meeting the bus purchase requirement. A performance-based requirement that is based on zero emission miles squarely fits with the end goal of achieving a zero emissions transit system and could include all ZEV modes ranging from bicycles to light rail. ZEVs of all types eliminate local emissions and reduce both NOx and GHG emissions at the same. Zero emission miles as a metric could allow for a single metric to evaluate progress towards the final goal and we will continue to discuss options to integrate this into the proposed regulation.

XII. Reporting Requirements

Reporting is needed to ensure that credits are appropriately tracked and that compliance can be monitored appropriately. All transit agencies must report their bus fleet information annually starting January 1, 2020. Each transit agency would be subject to reporting and record keeping requirements each January and would need to provide information about bus and engine purchases made each year. The basic reporting includes the following items:

1. Transit agency name
2. Contract number
3. Purchase order number
4. Joint agreement number (if applicable)
5. Vehicle identification number (VIN) if in service
6. Fleet vehicle ID number
7. Bus type
8. Fuel type
9. Model year
10. Make
11. Model
12. Propulsion technology type
13. Horsepower
14. Engine family name
15. Engine displacement (liters)
16. Odometer reading
17. Odometer reading date
18. Traction battery capacity (if applicable)
19. Purchase contract number
20. Date of purchase contract

21. Date placed in service

We would also need data from large transit agencies with 100 or more buses to evaluate and develop a performance based option. The data would need to come directly from transit agencies for all modes they operate. The data would allow us to evaluate trends and identify and clear up anomalies that we currently see in the NTD data and are not available in the public data sets. Starting in 2020, large transit agencies would be required to report annual information for all modes they operated dating back to 2015 as the proposed baseline year. Modes would include all modes reported to NTD and would include all vehicles types used for passenger transportation (directly operated or purchased).

The following is a list of the individual vehicle information that transit agencies would need to report for each transportation mode:

1. Vehicle information:
 - a. Vehicle identification number (if applicable) and fleet identification number.
 - b. Transportation mode.
 - c. Type of service.
 - d. Fuel type.
 - e. Vehicle type and length category.
 - f. Vehicle model year.
 - g. Engine family.
 - h. Engine year.
 - i. Fuel consumption per vehicle type.
 - j. Vehicle odometer reading.
2. Annual totals by transportation mode:
 - a. Passenger counts per revenue mile.
 - b. Sampling and data collection method.
 - c. Total revenue miles.
 - d. Deadhead miles.
 - e. Average trip length.
 - f. Passenger miles traveled.
 - g. Average trip length.
 - h. For linked trips.
 - i. Number of linked trips (a trip contains at least one transfer from one vehicle or mode to the next).
 - ii. Number of transfers per trip.
 - iii. Average length of linked trip.



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DRAFT

Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

9:00 a.m.

James R. Mills Building
Board Meeting Room, 10th Floor
1255 Imperial Avenue, San Diego

To request an agenda in an alternative format or to request accommodations to facilitate meeting participation, please call the Clerk of the Board at least two working days prior to the meeting. Assistive Listening Devices (ALDs) are available from the Clerk of the Board/Assistant Clerk of the Board prior to the meeting and are to be returned at the end of the meeting.

ACTION RECOMMENDED

1. Roll Call
2. Approval of Minutes - June 14, 2018 Approve
3. Public Comments - Limited to five speakers with three minutes per speaker. Others will be heard after Board Discussion items. If you have a report to present, please give your copies to the Clerk of the Board.

Please SILENCE electronics
during the meeting

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Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). MTS is the taxicab administrator for seven cities.

MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.



CONSENT ITEMS

- | | | |
|-----|--|----------------|
| 6. | <u>Increased Authorization for Legal Service Contracts to Pay Projected Expenses in Fiscal Year (FY) 2019</u>
Action would authorize the Chief Executive Officer (CEO) to execute amendments with eight law firms, increasing the spending authority to cover anticipated FY19 expenses. | Approve |
| 7. | <u>Planning Consultant for Potential Ballot Measure - Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2161.0-18 with Transportation Management & Design, Inc. (TMD), for the provision of preliminary planning services for a potential ballot measure from July 2018 to June 30, 2019. | Approve |
| 8. | <u>Semiannual Uniform Report of Disadvantaged Business Enterprise (DBE) Awards and Payments</u> | Informational |
| 9. | <u>Revisions to Board Policy No. 26, "Disadvantaged Business Enterprise Program"</u>
Action would approve revisions to Board Policy No. 26, "Disadvantaged Business Enterprise Program". | Approve |
| 10. | <u>Disadvantaged Business Enterprise (DBE) Overall Goal</u>
Action would adopt a 3% Overall DBE Goal for DBE-participation in federally funded contracts over the Federal Fiscal Year (FFY) 2019 to FFY 2021 triennial period. | Adopt |
| 11. | <u>Fairfield Grossmont Trolley, LLC Lease: Consent to Assignment and Assumption of Ground Lease</u>
Action would authorize the Chief Executive Officer to execute the Assignment and Assumption of Ground Lease consenting to this transfer of the Fairfield Grossmont Trolley, LLC lease to Trolley 8727 Apartments California, LLC and any additional documents necessary to close the transaction. | Approve |
| 12. | <u>Centralized Train Control (CTC) Technology Refresh Project</u>
Action would authorize the Chief Executive Officer (CEO) to execute Task Order 83 of Addendum 17 to the Memorandum of Understanding (MOU) between San Diego Associations of Governments (SANDAG) and MTS for the Centralized Train Control (CTC) Technology Refresh Project. | Approve |
| 13. | <u>Investment Report - May 2018</u> | Informational |
| 14. | <u>Elevator and Escalator Maintenance and Repair Services - Contract Amendment</u>
Action would: (1) Ratify Amendments 1, 2 and 3 to MTS Doc. No. PWG153.0-14; and (2) Authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG153.5-14 with ThyssenKrupp Elevator (TKE) for additional funds for continued maintenance of elevators and escalators. | Ratify/Approve |

CLOSED SESSION

- | | | |
|-----|---|-----------------|
| 24. | a. CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(d)(1) Donald Wood v. San Diego Metropolitan Transit System et al. San Diego Superior Court Case No. 37-2015-00034512-CU-PO-CTL | Possible Action |
|-----|---|-----------------|

b. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(d)(1)
Graciela Leon

Possible
Action

Oral Report of Final Actions Taken in Closed Session

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

30. None.

REPORT ITEMS

45.	<u>Marketing Activities Update (Rob Schupp)</u>	Informational
46.	<u>CARB Innovative Clean Transit (ICT) Rule Update (Paul Jablonski)</u>	Informational
59.	<u>Ad Hoc Ballot Measure Committee Report (Board Member David Alvarez)</u>	Informational
60.	<u>Chair Report</u>	Informational
61.	<u>Chief Executive Officer's Report</u>	Informational
62.	<u>Board Member Communications</u>	
63.	<u>Additional Public Comments Not on the Agenda</u> If the limit of 5 speakers is exceeded under No. 3 (Public Comments) on this agenda, additional speakers will be taken at this time. If you have a report to present, please furnish a copy to the Clerk of the Board. Subjects of previous hearings or agenda items may not again be addressed under Public Comments.	
64.	<u>Next Meeting Date:</u> September 20, 2018	
65.	<u>Adjournment</u>	



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda Item No. 6

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

**Draft for
Executive Committee
Review Date: 7/12/18**

SUBJECT:

INCREASED AUTHORIZATION FOR LEGAL SERVICE CONTRACTS TO PAY
PROJECTED EXPENSES IN FISCAL YEAR (FY) 2019

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute amendments with eight law firms, increasing the spending authority to cover anticipated FY19 expenses.

Budget Impact

Sufficient funding has been programmed to pay these expenses in the current operating and capital budgets. The departments from which these expenses are drawn from include: Risk & Claims, Real Estate, General Counsel, Human Resources, and the San Diego & Arizona Eastern Railway (SD&AE).

DISCUSSION:

On December 8, 2011, the Board established a panel of qualified law firms to assist MTS, San Diego Trolley, Inc. (SDTI), San Diego Transit Corporation (SDTC), and San Diego and Arizona Eastern Railway Company (SD&AE) with various legal matters on an as-needed basis. Thereafter, MTS began contracting with eighteen of the approved firms for designated amounts. The firms provide different specialties of law, such as tort liability, workers' compensation, employment practices, real estate, environmental, etc. Eight of these firms will require contract increases to pay current and anticipated legal expenses in FY19. Rather than coming to the Board individually with each firm when the contract balance runs low, staff requests Board approval on an annual basis at the start of each fiscal year.



The contract increases are based upon each firm's current caseload, the likelihood that a particular case may go to trial, and anticipated future litigation assigned to these firms in the current fiscal year. The following table includes the contracts for Board approval to increase the contractual dollar amount for legal services for FY19:

#	Firm Name	Contract/ Amendment No.	Current Contract Amount	Proposed Increase Amount	Total Contract Amount*	Attachment
1	Mark H. Barber (Law Offices of)	G1426.10-12	\$575,000	\$100,000	\$675,000	A
2	Michael Ripley (Law Offices of)	G1428.8-12	\$980,000	\$300,000	\$1,280,000	B
3	Paul Plevin Sullivan & Connaught	G1430.11-12	\$1,210,000	\$75,000	\$1,285,000	C
4	Ryan & Carvalho	G1432.11-12	\$950,000	\$150,000	\$1,100,000	D
5	Trovillion, Inveiss & Demakis, APC	G1433.10-12	\$510,000	\$100,000	\$610,000	E
6	Wheatley Bingham & Baker	G1434.9-12	\$2,085,000	\$400,000	\$2,485,000	F
7	Laughlin, Falbo, Levy & Moresi, LLP	G1455.10-12	\$435,000	\$100,000	\$535,000	G
8	Liedle, Larson, Lidl & Vail, LLP	G1490.11-13	\$2,230,000	\$450,000	\$2,680,000	H
Totals			\$8,975,000	\$1,675,000	\$10,650,000	

* Reflects the total contract value, including FY19 increases described in the chart above.

CONCLUSION:

Staff is requesting that the MTS Board of Directors approve an increase to the dollar amount of eight legal services contracts to cover anticipated FY19 expenses.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachments: A. Draft MTS Doc. No. G1426.10-12
B. Draft MTS Doc. No. G1428.8-12
C. Draft MTS Doc. No. G1430.11-12
D. Draft MTS Doc. No. G1432.11-12
E. Draft MTS Doc. No. G1433.10-12
F. Draft MTS Doc. No. G1434.9-12
G. Draft MTS Doc. No. G1455.10-12
H. Draft MTS Doc. No. G1490.11-13

DRAFT

July 26, 2018

MTS Doc. No. G1426.10-12
LEG 491 (PC 50633)

Law Offices of Mark H. Barber
Mr. Mark H. Barber
Managing Attorney/Owner
2727 Camino del Rio South, Suite 220
San Diego, CA 92108

Dear Mr. Barber:

Subject: AMENDMENT NO. 10 TO MTS DOC. NO. G1426.0-12; LEGAL SERVICES – WORKER'S
COMPENSATION

This shall serve as Amendment No. 10 to our agreement for the legal services as further described below.

SCOPE

Continue to provide legal services – worker's compensation in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1426.0-12.

SCHEDULE

There is no change to the term of this agreement.

PAYMENT

This contract amendment shall authorize additional costs not to exceed \$100,000 for legal services. The total value of this contract including this amendment shall be in the amount of \$675,000. This amount shall not be exceeded without written approval from MTS.

Please sign and return the copy marked "original" to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Mark H. Barber
Law Offices of Mark H. Barber

JULY2018.G1426.10-12.MARK H. BARBER.doc

Date: _____

Cc: K. Landers, S. Lockwood, A. Liebengood, E. Abutan, A. Monreal, J.Rider, Procurement File

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July 26, 2018

MTS Doc. No. G1428.8-12
LEG 491 (PC 50633)

Michael E. Ripley
Mr. Michael Ripley
Attorney/Proprietor
12520 High Bluff Dr., Suite 110
San Diego, CA 92130

Dear Mr. Ripley:

Subject: AMENDMENT NO. 8 TO MTS DOC. NO. G1428.0-12; LEGAL SERVICES – GENERAL
AND TORT LIABILITY

This shall serve as Amendment No. 8 to our agreement for the legal services as further described below.

STATEMENT OF WORK

Continue to represent and defend MTS, SDTC, and SDTI in tort liability matters in accordance with the terms and conditions as stated on MTS Doc No. G1428.0-12.

SCHEDULE

There is no change to the term of this agreement.

PAYMENT

This contract amendment shall authorize additional costs not to exceed \$300,000 for legal services. The total value of this contract including this amendment shall be in the amount of \$1,280,000. This amount shall not be exceeded without written approval from MTS.

Please sign and return the copy marked "original" to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Michael E. Ripley, Attorney/Proprietor
Michael E. Ripley

JULY2018.G1428.8-12.M.RIPLEY.LEGAL.doc

Date: _____

Cc: S. Lockwood, K. Landers, E. Abutan, A. Monreal, J.Rider, Procurement File

DRAFT

July 26, 2018

MTS Doc. No. G1430.11-12
LEG 491 (PC 50633)

Paul, Plevin, Sullivan, and Connaughton, LLP
Mr. J. Rod Betts
Partner
101 W. Broadway, 9th Floor
San Diego, CA 92101

Dear Mr. Betts:

Subject: AMENDMENT NO. 11 TO MTS DOC. NO. G1430.0-12; LEGAL SERVICES – LABOR AND
EMPLOYMENT, ADA, CIVIL RIGHTS AND PUBLIC

This shall serve as Amendment No. 11 to our agreement for the legal services as further described below.

SCOPE

Contractor shall continue to provide legal services – labor and employment, ADA, civil rights and public entity law in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1430.0-12.

SCHEDULE

There is no change to the term of this agreement.

PAYMENT

This amendment shall authorize additional costs not to exceed \$75,000 for legal services. The total value of this contract including this amendment shall be in the amount of \$1,285,000. This amount shall not be exceeded without prior written approval from MTS.

Please sign and return the copy marked “original” to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

J. Rod Betts
Paul, Plevin, Sullivan and Connaughton, LLP

JUL2018.G1430.11-12.PAULPLEVIN.doc

Date: _____

Cc: K. Landers, J. Stumbo, S. Lockwood, B. Shannon, J. DeVault, E. Abutan, A. Monreal, J. Rider,
Procurement File

DRAFT

July 26, 2018

MTS Doc. No. G1432.11-12
LEG 491 (PC 50633)

Ryan Carvalho & White LLP
Mr. Norman Ryan
Attorney
3636 Nobel Dr., Suite 200
San Diego, CA 92122-1063

Dear Mr. Ryan:

Subject: AMENDMENT NO. 11 TO MTS DOC. NO. G1432.0-12; LEGAL SERVICES – GENERAL
LIABILITY, LABOR EMPLOYMENT, CONSTRUCTION AND INSURANCE LAW

This shall serve as Amendment No. 11 to our agreement for the legal services as further described below.

STATEMENT OF WORK

Contractor shall continue to provide legal services – general liability, labor and employment law, construction and insurance law in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1432.0-12.

SCHEDULE

There is no change to the term of this agreement.

PAYMENT

This amendment shall authorize additional costs not to exceed \$150,000. The total value of this contract including this amendment shall remain the same in the amount of \$1,100,000. This amount shall not be exceeded without prior written approval from MTS.

Please sign and return the copy marked “original” to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Norman Ryan, Attorney
Ryan Carvalho & White LLP

JUL2018.G1432.11-12.RYANMERCALDO.LEGAL.doc

Date: _____

Cc: K. Landers, S. Lockwood, E. Abutan, A. Monreal, J.Rider, Procurement File

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July 26, 2018

MTS Doc. No. G1433.10-12
LEG 490 (PC 50633)

Trovillion, Inveiss and Demakis, APC
Ms. Nicole Demakis
Partner
1010 Second Ave., Suite 1600
San Diego, CA 92101

Dear Ms. Demakis:

Subject: AMENDMENT NO. 10 TO MTS DOC. NO. G1433.0-12; LEGAL SERVICES – WORKER’S
COMPENSATION

This shall serve as Amendment No. 10 to our agreement for the legal services as further described below.

SCOPE

Contractor shall continue to provide legal services – worker’s compensation in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1433.0-12.

SCHEDULE

There is no change to the term of this agreement.

PAYMENT

This amendment shall authorize additional costs not to exceed \$100,000. The total value of this contract including this amendment shall remain the same in the amount of \$610,000. This amount shall not be exceeded without prior written approval from MTS.

Please sign and return the copy marked “original” to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Nicole Demakis
Trovillion, Inveiss and Demakis, APC

JULY2018.G1433.10-12.TROVILLIONINVEISSDEMAKIS.doc

Date: _____

Cc: K. Landers, S. Lockwood, A. Liebengood, E. Abutan, A. Monreal, J.Rider, Procurement File

DRAFT

July 26, 2018

MTS Doc. No. G1434.9-12
LEG 491 (PC 50633)

Wheatley Bingham & Baker, LLP
Mr. Roger P. Bingham
Partner
462 Stevens Ave., Suite 109
Solana Beach, CA 92075

Dear Mr. Bingham:

Subject: AMENDMENT NO. 9 TO MTS DOC. NO. G1434.0-12; LEGAL SERVICES – GENERAL & TORT LIABILITY

This shall serve as Amendment No. 9 to our agreement for the legal services as further described below.

SCOPE

Contractor shall continue to provide legal services – general & tort liability in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1434.0-12.

SCHEDULE

There is no change to the term of this agreement.

PAYMENT

This amendment shall authorize additional costs not to exceed \$400,000. The total value of this contract including this amendment shall remain the same in the amount of \$2,485,000. This amount shall not be exceeded without prior written approval from MTS.

Please sign and return the copy marked “original” to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Roger P. Bingham
Wheatley Bingham & Baker, LLP

JULY2018.G1434.9-12.WBB.doc

Date: _____

Cc: K. Landers, S. Lockwood, E. Abutan, A. Monreal, J.Rider, Procurement File

DRAFT

July 26, 2018

MTS Doc. No. G1455.10-12
LEG 491 (PC 50633)

Laughlin, Falbo, Levy & Moresi LLP
Ms. Marijo Kuperman, Esq.
Managing Partner
600 B Street, Suite 2300
San Diego, CA 92101

Dear Ms. Kuperman:

Subject: AMENDMENT NO. 10 TO MTS DOC. NO. G1455.0-12; LEGAL SERVICES – WORKER'S
COMPENSATION

This shall serve as Amendment No. 10 to our agreement for the legal services as further described below.

SCOPE

Contractor shall continue to provide legal services – worker's compensation in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1455.0-12.

SCHEDULE

There is no change to the term of this agreement.

PAYMENT

This amendment shall authorize additional costs not to exceed \$100,000. The total value of this contract including this amendment shall remain the same in the amount of \$535,000. This amount shall not be exceeded without prior written approval from MTS.

Please sign and return the copy marked "Original" to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Marijo Kuperman
Laughlin, Falbo, Levy & Moresi LLP

LMARQUIS-CL
CL-G1455.10-12.LAUGHLINFALBO 7.30.2018

Date: _____

cc: K. Landers, S. Lockwood, E. Abutan, A. Monreal, J. Rider, Procurement File

DRAFT

July 26, 2017

MTS Doc. No. G1490.11-13
LEG 491 (PC 50633)

Liedle, Lounsbery, Larson & Lidl, LLP
Mr. Matthew J. Liedle
Managing Partner
12520 High Bluff Dr., Suite 200
San Diego, CA 92130

Dear Mr. Liedle:

Subject: AMENDMENT NO. 11 TO MTS DOC. NO. G1490.0-13; LEGAL SERVICES – GENERAL LIABILITY, LABOR AND EMPLOYMENT LAW, CONSTRUCTION CONTRACTS AND CLAIMS, AMERICANS WITH DISABILITIES ACT (ADA), AND CIVIL RIGHTS

This shall serve as Amendment No. 9 to our agreement for the legal services as further described below.

SCOPE

Continue to provide legal services – general liability, labor and employment law, construction contracts and claims, Americans with Disabilities Act (ADA), and civil rights in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1490.0-13.

SCHEDULE

There shall be no change to the schedule of this contract.

PAYMENT

This contract amendment shall authorize additional costs not to exceed \$450,000 for legal services. The total value of this contract including this amendment shall be in the amount of \$2,680,000. This amount shall not be exceeded without written approval from MTS.

Please sign and return the copy marked “original” to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Matthew J. Liedle, Managing Partner
Liedle, Lounsbery, Larson & Lidl, LLP

JULY2018.G1490.11-13.LLLL.doc

Date: _____

Cc: K. Landers, S. Lockwood, E. Abutan, A. Monreal, J.Rider, Procurement File



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda Item No. 7

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

**Draft for
Executive Committee
Review Date: 7/12/18**

SUBJECT:

PLANNING CONSULTANT FOR POTENTIAL BALLOT MEASURE – CONTRACT
AWARD

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2161.0-18 (in substantially the same format as Attachment A) with Transportation Management & Design, Inc. (TMD), for the provision of preliminary planning services for a potential ballot measure from July 2018 to June 30, 2019.

Budget Impact

The amount is not to exceed \$249,054.78. The project will be funded by the cost center 906010-571140 which has been established for the work necessary to craft the sales tax ballot measure as follows:

Task	Task Description	Amount
1	Data Collection and Market Review	\$71,024.80
2	Develop Program of Projects	\$93,545.76
3	Ridership Estimates	\$28,851.15
4	Capital and Infrastructure Assessment	\$31,643.92
5	Operating Cost Estimates	\$23,989.15
Total		\$249,054.78

DISCUSSION:

The MTS Ad Hoc Ballot Measure Committee is studying a potential sales tax ballot measure and directed staff to commence planning efforts for projects to include in the ballot measure. This effort closely follows the Transit Optimization Plan (TOP) that surveyed current and future transit markets in the MTS area and recommended changes



to better align services for future ridership growth. The TOP itself was a ten-year update of MTS's Comprehensive Operational Analysis (COA) that developed a market-based strategy to reallocate resources, emphasizing sustainability and productivity.

The principles and findings of the TOP and COA will be used as the foundation for incorporating within a Program of Projects for a potential ballot measure. This could include COA or TOP recommendations not implemented due to funding, facilities, or other constraints. Other input sources will include San Diego Forward, the 2050 Regional Transportation Plan developed by SANDAG, and the results of surveys, outreach, and polling that will be on-going concurrent with this planning project.

Transit planning firm, TMD, was MTS's consultant for both the COA and TOP and were hired following a competitively bid process that found TMD to be the most qualified proposer. MTS was highly satisfied with the quality and value of the work provided by TMD during these projects, as well as other smaller planning efforts that TMD was contracted for, including a bus division site study and an update to MTS's Designing for Transit Manual.

Staff is recommending a sole source contract award to TMD for this project because the tasks will be heavily dependent on work that TMD very recently did for the TOP (completed less than a year ago). This includes demographic and market research, service evaluation, and the development of recommendations for transit network improvements. Given the short timeframe for establishing a project list, engaging TMD is expected to reduce the cost, time, and effort required to successfully complete this project.

TMD provided a cost proposal in response to a scope of work developed by MTS. Staff review found the proposed work and costs to be consistent with expectations as well as the competitively-bid TOP project.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc. No. G2161.0-18 (in substantially the same format as Attachment A) with TMD, for the provision of preliminary planning services for a potential ballot measure from July 2018 to June 30, 2019.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachments: A. Draft Standard Services Agreement; Contract G2161.0-18
B. Scope of Work and TMD Cost Proposal

STANDARD SERVICES AGREEMENT

G2161.0-18
CONTRACT NUMBER

DRAFT

FILE NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2018, in the state of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: Transportation Management & Design, Inc. (TMD)Address: 1902 Wright Place, Suite 180Form of Business: Corporation
(Corporation, partnership, sole proprietor, etc.)Carlsbad, CA 92008Telephone: 760-476-9600 x 111Authorized person to sign contracts: Russell Chisholm
NamePresident
Title

The attached Standard Conditions are part of this agreement. The Contractor agrees to furnish to MTS services and materials, as follows:

Transportation Management & Design, Inc. (TMD) will provide consulting services to MTS for the provision of Preliminary Planning Services for a Potential Ballot Measure from July 2018 to June 30, 2019 in accordance with the Standard Services Agreement, including Standard Conditions Services (attached as Exhibit B), and MTS Travel Guidelines Applicable to MTS Contractors No. 44-C (attached as Exhibit C).

The total contract cost shall not exceed **\$249,054.78**

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CONTRACTOR AUTHORIZATION

By: _____
Chief Executive Officer

Firm: _____

Approved as to form:

By: _____
SignatureBy: _____
Office of General Counsel

Title: _____

AMOUNT ENCUMBERED

BUDGET ITEM

FISCAL YEAR

\$ 249,054.78

571140 / 906010

FY18-FY19

By: _____
Chief Financial Officer

Date

MTS POTENTIAL TRANSIT BALLOT MEASURE PLANNING PROJECT

I. INTRODUCTION

MTS is the fixed-route transit and paratransit operator within its jurisdiction of ten cities (San Diego, Imperial Beach, Chula Vista, National City, Poway, Lemon Grove, La Mesa, Santee, El Cajon, and Coronado) and a portion of the unincorporated County. Services include directly operated fixed-route bus and light rail service, and contracted fixed-route bus and paratransit service. Each year, MTS provides about 32 million revenue miles of service to 88 million passengers, with an operating budget over \$250 million.

Limited local funds dedicated to transit have restricted the ability of MTS to implement a full complement of services and strategies that would support enhanced mobility, decreased congestion, and improved air quality. The MTS Board of Directors is exploring a potential transit sales tax measure to provide MTS a dedicated and reliable source of local capital and operating assistance to grow ridership and increase mode share of transit in the MTS jurisdiction.

An Ad Hoc Committee of the MTS Board of Directors focused on the potential ballot measure directed staff to retain a qualified and responsible transit planning firm(s) to assist with the planning of a program of projects to be proposed in this potential initiative. This contract will assist MTS with developing a complete project plan that addresses current and future travel demands in the MTS jurisdiction.

II. PROJECT GOAL

The primary goal of this study is to develop a comprehensive program of projects to propose to voters in a potential sales tax measure. This program is to be consistent with San Diego Forward, SANDAG's 2050 Regional Plan that includes the Regional Transportation Plan. Specific projects will build upon the successes of MTS' Comprehensive Operational Analysis and Transit Optimization Plan.

Objectives:

- a. Develop a regional service strategy to address current and future travel demand
- b. Integrate with the region's existing multimodal transportation system
- c. Recommend service strategies that target less transit-supportive communities to grow the ridership base
- d. Recommend strategies for strengthening MTS' base of productive and low-subsidy services
- e. Estimate costs, subsidies, and ridership estimates for individual concepts and the entire program
- f. Complete a needs assessment for capital and infrastructure required to implement program

III. PROJECT AREA

The project area for this study is the MTS area of jurisdiction. The program of projects should consider all transit demand within, to, and from the MTS jurisdiction. ADA Complementary Paratransit should only be included in this project as a brief narrative of the impacts from expanded fixed-route service.

IV. TIME LINE

The major work of the project shall be completed by December 31, 2018, with specific phases completed earlier as specified in the Scope of Work. The schedule shown below bookends the approximate beginning and the conclusion of the project, but MTS and the Contractor will refine the schedule for the in-between phases after the contract award. The contract is proposed to end on June 30, 2019 to allow for finalizing any necessary follow-up work.

Work – 2018-2019	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan.- June
	2018							2019
Important Public Input Points								
Procurement								
Project Award/Kick-Off								
Task 1 – Data Collection & Market Review								
Task 2 – Develop Program of Projects								
Task 3 – Ridership Estimates								
Task 4 – Capital and Infrastructure Assessment								
Task 5 – Operating Cost Estimates								
Finalize Report (as necessary, TBD)								

V. PROJECT STAFFING

MTS will be the lead agency for this project. It is anticipated that MTS staff will work side-by-side with Contractor staff throughout this effort. Contractor shall propose the staff, hours and other direct costs for each task.

VI. WORK ORDERS

Upon contract award, the Contractor shall perform requested tasks using work orders assigned to each separate task. The Contractor shall prepare and submit a written Scope of Work, proposed schedule, and budget within four (4) working days of MTS' request for each task. This step may involve active input and negotiation between MTS staff and the Contractor. Receipt of an approved work order shall constitute a Notice to Proceed, unless otherwise stated in the work order.

VII. PAYMENT FOR SERVICES

Upon approval and acceptance of each task deliverable by the MTS project manager, Contractor shall invoice for payment. Contractor shall provide MTS with an invoice detailing all costs associated with the deliverable, including allowable reimbursable expenses. Reimbursable expenses means the actual allowable expenses incurred in connection with the project for transportation and subsistence incidental such as travel related costs, reproduction of reports and similar project related items. Contractor shall follow the guidelines of MTS Policy 44C – Travel Policy for MTS Contractors (Attachment A) for billing travel expenses, if applicable. Invoices shall be emailed to AP@sdmts.com.

VIII. SCOPE OF WORK

Below is a draft list of tasks to be completed by the Contractor. Although sequentially ordered to reflect a standard planning process, MTS may request that some tasks be completed in tandem or in advance of other tasks. All deliverables will be reviewed and accepted by MTS staff.

Ownership of Data

All data, including but not limited to demographic information, scheduling solutions, and files created specifically for MTS as part of this project, shall remain the property of MTS in perpetuity.

Project Support

The Contractor will provide support materials and assistance to MTS including, but not limited to:

- a. Presentation at up to three (3) MTS Board or Executive Committee Meetings
- b. Development of digital art for displays, presentations, and public information (printing/production to be done by MTS)

Task 1 – Data Collection and Market Review

Collect and review data, reports, documents, and other information pertinent to developing the program of services and projects, including, but not limited to, the following:

Reports

- a. MTS Transit Optimization Plan (TOP)
- b. SANDAG 2050 Regional Transportation Plan (San Diego Forward)
- c. SANDAG Coordinated Plan
- d. Relevant Community Plans, Community Plan Updates, and Mobility Plans
- e. MTS Comprehensive Operational Analysis (COA), 2005-2006
- f. Others as determined

Data

- a. Demographic and socioeconomic data (census and SANDAG forecasts)
- b. Public outreach results (development and implementation of the outreach will be handled by others outside this contract scope).
- c. Employment and land-use data (SANDAG)
- d. Transit passenger counts
- e. Operating statistics and performance
- f. Average daily trips on highways and major arterials
- g. Level of service on highways and major arterials
- h. SANDAG 2016 Onboard Passenger Survey
- i. MTS 2017 Customer Satisfaction Survey
- j. Other market research and comments from drivers, riders, and nonriders collected by MTS
- k. Voting results for Measure A by jurisdiction
- l. Measure A Project List.

Divide the MTS jurisdiction into subregional areas based on common travel characteristics and demand. Identify travel markets within each subregional area with the greatest potential for capturing transit ridership. Assess existing and future (2020-2050) transit demand and travel patterns for each market by subregional area, based on, but not limited to:

- a. Population density by demographic variables; e.g., age, income, and auto ownership
- b. Employment, including density, major employment centers, employment size, business/operation hours, shift schedules, etc
- c. Location of other major trip generators, including schools, retail centers, medical centers, recreation hot spots, regional destinations, etc
- d. Regional travel demand for each travel market to and from each subregional area by time of day: a.m. peak, mid-day, p.m. peak, and evening; and, day of week (weekday/Sat./Sun.)
- e. Local travel demand for each travel market within each subregional area by time of day and day of week
- f. Existing transit ridership by route and/or stop by time of day, day of week

- g. Origin and destination travel pairs based on most recent SANDAG Onboard survey

Identify and briefly evaluate opportunities and challenges facing transit service provision in the region over the next twenty years, including, but not limited to:

- a. Traffic congestion
- b. New transportation facilities
- c. Financial constraints
- d. Land-use densities/orientation
- e. Image of transit marketing
- f. Changing demographics (age, income)

Task 1 Deliverables:

(1) Technical report on review of relevant information and existing conditions.

(2) Additional data collection, as necessary, dependent on MTS approval.

Task 2 - Develop Program of Projects

Develop an overall program of projects to be considered in a future potential ballot initiative. Early and frequent coordination with political consultants will be required to ensure that the ultimate program of projects is consistent with needs and preferences of the San Diego community.

Project list should consider and address:

- a. Compatibility and consistency with SANDAG's 2050 Regional Transportation Plan
- b. Strategies for addressing service gaps and attracting new riders
- c. Opportunities to expand MTS' high quality and frequent service network
- d. New modes and service delivery methods not currently in use in the region
- e. Opportunities and risks with rapidly evolving changing public transportation technologies
- f. MTS' equity and environmental justice obligations in the provision of service

Each project element proposed should be described with the following information, at minimum:

- a. Description of service, including rationale for service

- b. Route map
- c. Service span (hours, days, and seasons)
- d. Recommended Headway (by day type and time period)
- e. Estimated ridership, also incorporated into Task 3
- f. Operating and expected performance statistics, also incorporated into Task 5
- g. Vehicle and operating facility requirements, also incorporated into Task 4
- h. Right-of-way/street infrastructure, passenger facilities, and technology, also incorporated into Task 4

Task 2 Deliverable:

Technical report outlining the proposed transit program of projects with the elements above included for each program element, and summed for the entire program.

Task 3 – Ridership Estimates

Utilize a financial model that projects ridership based on current ridership, changes in service levels, ridership elasticities, and anticipated growth inputs to determine estimated ridership for the proposed program of projects. This task is to include individual costing for major projects at project and network impact levels as available in the RTP and other existing work.

Task 3 Deliverable:

Ridership estimates for each program element and summed for the entire program.

Task 4 – Capital and Infrastructure Assessment

MTS anticipates that any program of projects including expansion of bus and/or rail services will require expansion of existing facilities and the addition of new facilities. Assessment should include an inventory of the capital needs of the proposed program, including high level cost estimates. Inventory should include:

- a. Additional rolling stock (buses and rail cars)
- b. New Bus Division(s), assuming current bus facilities have no expansion space available. Consultant shall leverage the work completed in the 2016 MTS Bus Facility Relocation Study.

- c. New Rail Yard(s)
- d. New or Expanded Transit Centers – note that most MTS transit centers currently operate at capacity
- e. Transit Priority Measures, including queue jumps, ramp stops, transit signal priority, exclusive bus lanes, etc.
- f. Facilities required to accommodate new modes not currently operated by MTS

Task 4 Deliverable:

Technical report outlining the anticipated capital and infrastructure needs for program implementation including high level cost estimates.

Task 5 – Operating Cost Estimates

Reasonable operating cost estimates are required to develop a final program of projects for a ballot initiative that is based on the expected revenues over the life of the measure. Coordination with MTS Finance staff is essential for this task. Consultant shall use a cost estimation methodology provided by or approved in advance by MTS. Estimates shall be based on quantifiable level-of-service measures such as hours and/or miles.

Task 5 Deliverable:

Gross cost and net subsidy estimates for each program element, and summed for the entire program.

BALLOT MEASURE PLANNING PROJECT

MTS DOC. NO. G2161.0-18

PRIME CONSULTANT: Transportation Management & Design

Att. B, AI 7, 7/26/18

Proposer's Staff			Core Tasks					Hours and Rates					
Classification	Name (First, Last)	Years of Exp	Task 1 Hours	Task 2 Hours	Task 3 Hours	Task 4 Hours	Task 5 Hours	Total Labor Hours	Hourly Rate	Fringe %	Overhead %	Billing Rate	Total Labor Cost
Principal	Russ Chisholm	35+	100.00	120.00	24.00	40.00	24.00	308.00	\$ 73.47	30%	120%	\$ 183.68	\$ 56,573.44
Project Manager	Melissa Sather	5	144.00	160.00	64.00	88.00	80.00	536.00	\$ 50.00	30%	120%	125.00	67,000.00
GIS Specialist	Tiiki Rysen	10+	80.00	80.00	24.00	24.00		208.00	\$ 47.00	30%	120%	117.50	24,440.00
Graphics Specialist	Bobbi Duley	16+	40.00	80.00				120.00	\$ 40.00	30%	120%	100.00	12,000.00
Associate Planner	Various	Varies	160.00	280.00	120.00	80.00	80.00	720.00	\$ 36.00	30%	120%	90.00	64,800.00
Administration	Nancy Lanum	30+	4.00	4.00	2.00	4.00	2.00	16.00	\$ 40.00	30%	120%	100.00	1,600.00
LABOR HOURS			528.00	724.00	234.00	236.00	186.00						\$ 226,413.44
BILLABLE COSTS (LABOR/FRINGE/OVERHEAD)			\$ 64,568.00	\$ 85,041.60	\$ 26,228.32	\$ 28,767.20	\$ 21,808.32						
FEE (Percentage)			6,456.80	8,504.16	2,622.83	2,876.72	2,180.83						
TOTAL LABOR & FEE			\$ 71,024.80	\$ 93,545.76	\$ 28,851.15	\$ 31,643.92	\$ 23,989.15						
OTHER DIRECT COSTS			Task 1 Amount	Task 2 Amount	Task 3 Amount	Task 4 Amount	Task 5 Amount						Total Direct Cost
													\$ -
													\$ -
													\$ -
TOTAL OTHER DIRECT COSTS			\$ -	\$ -	\$ -	\$ -	\$ -						\$ -
TOTAL PRIME COSTS			\$ 71,024.80	\$ 93,545.76	\$ 28,851.15	\$ 31,643.92	\$ 23,989.15						\$ 249,054.78
TOTAL SUBCONTRACTOR COSTS			\$ -	\$ -	\$ -	\$ -	\$ -						\$ -
TOTAL PROPOSED COSTS			\$ 71,024.80	\$ 93,545.76	\$ 28,851.15	\$ 31,643.92	\$ 23,989.15						\$ 249,054.78



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Agenda Item No. 8

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

**Draft for
Executive Committee
Review Date: 7/12/18**

SUBJECT:

SEMIANNUAL UNIFORM REPORT OF DISADVANTAGED BUSINESS ENTERPRISE
(DBE) AWARDS AND PAYMENTS

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

As a Federal Transit Administration (FTA) grantee, San Diego Metropolitan Transit System (MTS) complies with the federal regulations set forth in 49 CFR Part 26 regarding participation by DBEs in the U.S. Department of Transportation (DOT) Program.

I. Goals of MTS's DBE Program

The goals of MTS's race-neutral DBE program are:

1. to ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. to ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. to ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. to help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. to assist the development of firms that can compete successfully in the marketplace outside of the DBE program; and
7. to provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.



II. MTS's DBE Triennial Overall Goal

The DBE regulations require MTS to prepare a DBE Triennial Overall Goal. The DBE Triennial Overall Goal is established upon the number of ready, willing, and able DBE contractors within MTS's geographic market area that are available to bid on certain categories of MTS's federally assisted procurements. For the current triennial reporting period (October 1, 2015, to September 30, 2018), MTS has an aspirational triennial overall goal of **3.75%** DBE participation on federally funded contracts.

III. Participation by certified DBEs

For purposes of reporting DBE participation to the FTA, MTS may only count participation by certified DBE contractors. In order to be certified as a DBE through the California Unified Certification Program (CUCP), contractors must:

- (1) have a majority owner who is **socially and economically disadvantaged** (Native Americans, African Americans, Hispanics, Asian-Pacific, Subcontinent Asian Americans and women are currently presumed to be socially and economically disadvantaged by the DOT);
- (2) the majority owner must have a personal net worth of less than **\$1,320,000**; and
- (3) the business must be a **small business** and, for most types of businesses, have average annual gross receipts less than **\$23,980,000**.

Per DOT DBE Regulations MTS **may not** count participation from certified minority owned businesses (MBE), disabled veteran owned businesses (DVBE), women owned businesses (WBE), small businesses (SB) or lesbian gay bisexual transgender owned businesses (LGBTBE) (collectively referred to as SBE) toward meeting its DBE Triennial Overall Goal. Nonetheless, MTS encourages participation from, conducts outreach to, and tracks awards and payments to SBE.

IV. Race-Neutral Measures to Increase DBE Participation

A race-neutral DBE program means that there are no DBE contract specific goals and no advantages provided to interested DBE contractors when submitting bids or proposals. Successful bidders are chosen using race-neutral means, generally through a low-bid or best-value procurement process.

To increase DBE participation on MTS's federally assisted procurements, MTS conducts outreach to DBEs and SBEs in an effort to inform them of upcoming MTS procurements and provides assistance in overcoming limitations such as the inability to obtain bonding or financing. The following are some of the race-neutral measures MTS has implemented:

1. outreach to past and current MBEs, DVBEs, WBEs, SBs and LGBTBEs to discuss the benefits of DBE certification and what qualifications are necessary to become DBE certified, as some may already qualify;
2. outreach to past and current DBEs, MBEs, DVBEs, WBEs, SBs and LGBTBEs requesting that they register on PlanetBids so they can receive automatic notification of upcoming MTS formal procurements;

3. for small purchase procurements in which MTS must seek out three (3) bids, MTS aims to advertise more of these procurement on PlanetBids so as to increase the potential of DBEs, MBEs, DVBes, WBEs, SBs or LGBTBEs learning of the procurement, if such a contractor is available to perform the work; and
4. attend and actively promote small business conferences and programs to alert DBEs, MBEs, DVBes, WBEs, SBs or LGBTBEs of upcoming MTS procurements.

V. Federally Funded Procurements

MTS generally reserves federal funds for transit vehicle procurements, transit facility improvements, and state-of-good-repair vehicle or system preventative maintenance projects. Only contracts awarded and paid by MTS using federal funds (or a portion of federal funds) are reported to the FTA per DOT DBE Regulations. MTS generally uses local and state funds for capital projects (e.g. construction, architectural & engineering), administrative costs and other operating expenses (e.g. marketing expenses, land management, office supplies).

VI. Summary of Semi-Annual DBE Report Findings (Federal Funds Only)

The FTA Semi-Annual Report for October 1, 2017 to March 31, 2018 is the fifth of six reports in the current triennial period.

a. Contracts Awarded

For this reporting period, MTS **did not meet** its DBE Triennial Overall Goal of 3.75% for contracts awarded. MTS achieved **1.73%** DBE participation for contracts awarded

	Federal Contract Awards/Commitments			Goal
<u>REPORTING PERIOD</u>	<u>Total Federal \$\$</u>	<u>DBE \$\$</u>	<u>DBE %</u>	<u>vs</u> <u>3.75%</u>
Federal Funds: Oct 1 2017 to Mar 31 2018	\$6,227,336.94	\$107,873.47	1.73%	-2.02%

The main reason for why MTS was not able to meet its DBE Triennial Overall Goal for contracts awarded was due to awarding several large contracts to non-DBE Contractors. If we did not award these three large contracts this reporting period, MTS would have met and exceeded its 3.75% DBE Triennial Overall Goal.

Large non-DBE Contracts Awarded During Reporting Period			
Non-DBE Contractor	Services	Contract Amount	Comments
Cummins Pacific	Cummins Engine Overhaul Services for Buses	\$7,247,122.13 (80% Fed Funded)	Formal competitive invitation for bid (IFB) process was used. In order to maximize competition, and give small businesses an opportunity to bid on the IFB, MTS divided the IFB into three groups, Group I, II & III. Bidders had the option of

			bidding on one or any combination of the three groups. For Group III, the Cummins Engine Overhaul Services portion, only Cummins Pacific submitted a bid.
Next Stage Engineering	Purchase of Station Shelters	\$790,000.00 (45.75% Fed Funded)	Formal competitive invitation for bid (IFB) process was used. Two bids were received. Awarded to lowest, responsive and responsible bidder Next Stage Engineering.
Creative Bus Sales	Purchase of 3 Mid-Size Rural Buses	\$423,417.09 (80% Fed Funded)	Procured through a California State Government Purchasing Scheduling (CalACT). FTA encourages transit agencies to use government purchasing schedules in order to secure the best possible competitive price based on the economies of scale involved. MTS is unaware of a DBE bus manufacturer or dealer. Although the FTA requires that transit vehicle awards to transit vehicle manufacturers not be included on this report, since this Contractor is a dealer of transit vehicles, MTS does include this transaction.

b. Contracts Completed

MTS **did not meet** its DBE Triennial Overall Goal of 3.75% for contracts completed. MTS achieved **1.77%** DBE participation for contracts completed.

	Federal Contracts Completed/Actual Payments			Goal
<u>REPORTING PERIOD</u>	<u>Total Federal \$\$</u>	<u>DBE \$\$</u>	<u>DBE %</u>	<u>vs</u> <u>3.75%</u>
Federal Funds: Oct 1 2017 to Mar 31 2018	\$13,207,383.66	\$233,912.99	1.77%	-1.98%

The main reason for why MTS was not able to meet its DBE Triennial Overall Goal for contracts completed was due to closing out a large, multi-year contract to a non-DBE Contractor, Universal Protection Service. If we did not complete this large contract this reporting period, MTS would have met and exceeded its 3.75% DBE Triennial Overall Goal.

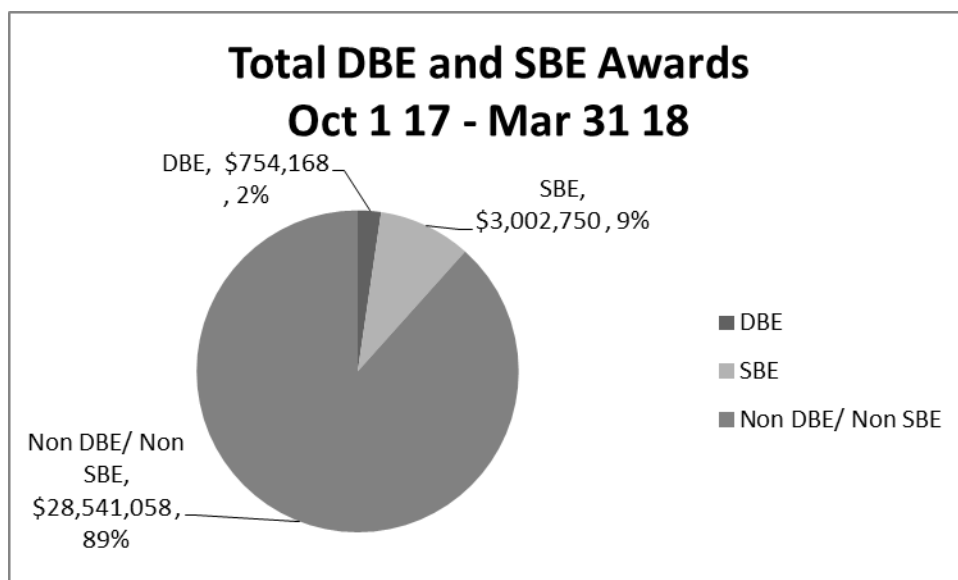
Large non-DBE Contracts Completed During Reporting Period			
Non-DBE Contractor	Services	Contract Amount	Total Payments
Universal Protection Service	Security Services – 2 Option Years	\$15,247,200.00	\$13,937,070.35 (82.72% Fed Funded)

VII. Summary of DBE, WBE, MBE, DVBE, LGBTBE and SB Participation for all Contracts (Regardless of Funding Source)

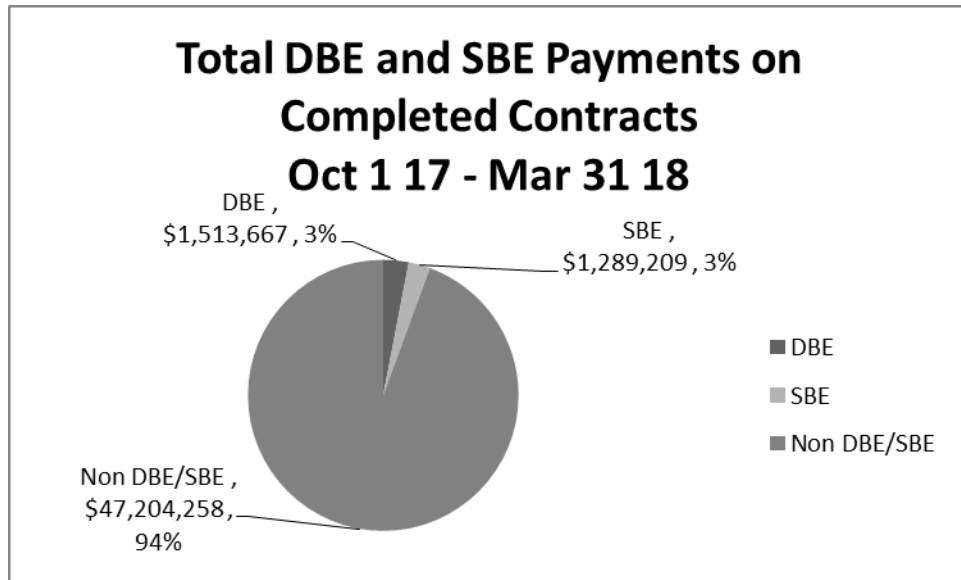
Although MTS cannot report to the FTA the participation of MBE, DVBE, WBE, SB and LGBTBE (collectively referred to as SBEs) for its FTA DBE Semi Annual Report, MTS does record the participation of these businesses to gauge the success of its program to foster small business participation. MTS encourages the participation of SBEs on all of its contracts, no matter the funding source.

MTS's DBE and SBE participation rates for the reporting period, using both local and federal funds, were as follows:

REPORTING PERIOD	ALL Contract Awards/Commitments				
	Total \$\$	DBE \$\$	DBE %	SBE \$\$	SBE %
Total Funds: Oct 1 2017 to Mar 31, 2018	\$32,297,976.17	\$754,167.60	2.34%	\$3,002,750.48	9.30%



REPORTING PERIOD	All Contracts Completed (Actual Payments)				
	<u>Total \$\$</u>	<u>DBE \$\$</u>	<u>DBE %</u>	<u>SBE \$\$</u>	<u>SBE %</u>
Total Funds: Oct 1 2017 to Mar 31, 2018	\$50,007,133.54	\$1,513,666.95	3.03%	\$1,289,208.95	2.58%



/s/ Paul C. Jablonski
 Paul C. Jablonski
 Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachment: A. History of Semi-Annual Reports for Contracts Awarded

MTS History of DBE Semi Annual Reports

Contract Awards/Commitments****

	<u>DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>TOTAL DOLLARS AWARDED (fed & local)</u>	<u>Total DBE \$\$</u>	<u>Total DBE %</u>	<u>Total SBE \$\$</u>	<u>Total SBE %</u>	<u>Total Federal \$\$</u>	<u>Federal DBE \$\$</u>	<u>Federal DBE %</u>	<u>Federal SBE \$\$</u>	<u>Federal SBE %</u>	<u>Total Local \$\$</u>	<u>Local DBE \$\$</u>	<u>Local DBE %</u>	<u>Local SBE \$</u>	<u>LOCAL SBE %</u>
FFY13	4.1%	Oct 1 12 to Mar 31 13	\$ 20,565,498.83	\$ 812,417.51	3.95%	\$ 157,030.00	0.76%	\$ 18,372,446.95	\$ 759,369.25	4.13%	\$ 62,535.00	0.34%	\$ 2,193,051.88	\$ 53,048.26	2.42%	\$ 94,495.00	4.31%
		Apr 1 13 to Sept 30 13	\$ 34,460,457.63	\$ 898,221.82	2.61%	\$ 1,200,261.58	3.48%	\$ 15,870,139.09	\$ 898,221.82	5.66%	\$ 877,362.58	5.53%	\$ 18,590,318.54	\$ -	0.00%	\$ 322,899.00	1.74%
FFY14		Oct 1 13 to Mar 31 14	\$ 30,396,564.63	\$ 1,045,587.65	3.44%	\$ 778,423.64	2.56%	\$ 24,982,372.54	\$ 1,041,961.65	4.17%	\$ 679,320.38	2.72%	\$ 5,414,192.09	\$ 3,626.00	0.07%	\$ 99,103.26	1.83%
		Apr 1 14 to Sept 30 14	\$ 36,667,958.68	\$ 2,901,661.10	7.91%	\$ 1,412,502.45	3.85%	\$ 22,871,104.47	\$ 2,699,042.86	11.80%	\$ 1,151,923.37	5.04%	\$ 13,796,854.21	\$ 202,618.24	1.47%	\$ 260,579.08	1.89%
FFY15*	4.1%	Oct 1 14 to Mar 31 15	\$ 406,896,924.96	\$ 115,969.00	0.03%	\$ 2,073,475.82	0.51%	\$ 60,000,489.70	\$ -	0.00%	\$ 352,186.97	0.59%	\$ 346,896,435.26	\$ 115,969.00	0.03%	\$ 1,721,288.85	0.50%
		Apr 1 15 to Sept 30 15	\$ 23,961,456.64	\$ 1,032,738.82	4.31%	\$ 1,066,325.73	4.45%	\$ 3,006,532.71	\$ 89,113.74	2.96%	\$ 134,572.59	4.48%	\$ 20,954,923.93	\$ 943,625.08	4.50%	\$ 931,753.14	4.45%
FFY16**	3.75%	Oct 1 15 to Mar 31 16	\$ 63,883,438.52	\$ 298,902.02	0.47%	\$ 2,929,504.04	4.59%	\$ 4,094,298.13	\$ 11,859.89	0.29%	\$ 246,645.99	6.02%	\$ 59,789,140.39	\$ 287,042.13	0.48%	\$ 2,682,858.05	4.49%
		Apr 1 16 to Sept 30 16	\$ 32,178,592.14	\$ 976,115.34	3.03%	\$ 996,434.97	3.10%	\$ 6,418,545.41	\$ 255,760.97	3.98%	\$ 148,325.08	2.31%	\$ 25,760,046.73	\$ 720,354.37	2.80%	\$ 848,109.89	3.29%
FFY17***		Oct 1 16 to Mar 31 17	\$ 92,516,929.91	\$ 5,611,166.70	6.07%	\$ 3,735,641.71	4.04%	\$ 19,827,518.60	\$ 3,781,098.94	19.07%	\$ 196,188.57	0.99%	\$ 72,689,411.31	\$ 1,830,067.76	2.52%	\$ 3,539,453.14	4.87%
		Apr 1 17 to Sept 30 17	\$ 40,939,010.42	\$ 478,288.92	1.17%	\$ 1,622,764.06	3.96%	\$ 3,326,175.53	\$ 31,444.62	0.95%	\$ 405,594.52	12.19%	\$ 37,612,834.89	\$ 446,844.30	1.19%	\$ 1,217,169.54	3.24%
FFY18	3.75%	Oct 1 17 to Mar 31 18	\$ 32,297,976.17	\$ 754,167.60	2.34%	\$ 3,002,750.48	9.30%	\$ 6,227,336.94	\$ 107,876.47	1.73%	\$ 716,139.92	11.50%	\$ 26,070,639.23	\$ 646,291.13	2.48%	\$ 2,286,610.56	8.77%
		Apr 1 18 to Sept 30 18	\$ -	\$ -		\$ -		\$ -	\$ -		\$ -		\$ -	\$ -		\$ -	
FFY16-18		Oct 1, 2015 thru Sept 30, 2018 (6 semi-annual reports - in progress)	\$ 261,815,947.16	\$ 8,118,640.58	3.10%	\$ 12,287,095.26	4.69%	\$ 39,893,874.61	\$ 4,188,040.89	10.50%	\$ 1,712,894.08	4.29%	\$221,922,072.55	\$ 3,930,599.69	1.77%	\$ 10,574,201.18	4.76%

In FFY15, MTS began reporting the breakdown of how many federal dollars and how many local/state dollars were awarded and spent on each individual contract.

In FFY16, MTS began using SAP which is capable of accurately reporting more expense procurements than previously was allowed using prior systems.

In FFY17, MTS began using the U.S. Small Business Administration Database, which provides a listing of Small Businesses. This Database tracks firms in which revenues and/or number of employees do not exceed the NAICS code's small business size standards, which is used to determine whether a DBE is considered a small business or not.

****Transit Vehicle Procurements (bus, trolley) from Transit Vehicle Manufacturers (TVM) are not included in this Report per DOT DBE Regulations. TVMs have their own DBE Program, Goals and Reporting requirements. Inventory procurements are also not included.

Only at time an inventory item is issued from store room will the federal/local breakdown be known, not at the time of purchase. ****



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Agenda Item No. 9

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

**Draft for
Executive Committee
Review Date: 7/12/18**

SUBJECT:

REVISIONS TO BOARD POLICY NO. 26, "DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM"

RECOMMENDATION:

That the Board of Directors approve revisions to Board Policy No. 26, "Disadvantaged Business Enterprise Program".

Budget Impact

None.

DISCUSSION:

As a recipient of Federal Transit Administration (FTA) funds, MTS must comply with the Department of Transportation's (DOT's) Disadvantaged Business Enterprise (DBE) Regulations. One such requirement is to maintain a DBE Program, which outlines how MTS intends to implement the DOT's DBE Regulations. MTS's DBE Program includes: MTS's objectives towards DBEs and other small businesses; the staff person responsible for the DBE Program implementation; how MTS aims to increase DBE and other small businesses participation on its DOT-assisted contracts; and how MTS ensures its prime contractors and subcontractors are complying with MTS's DBE Program.

Recent FTA guidance has been issued relating to prompt payment and release of retainage to subcontractors from prime contractors. The proposed revisions add several recommended monitoring and enforcement mechanisms to ensure prime contractors are complying with prompt payment and release of retainage requirements.



The proposed revisions also update MTS's list of DBE and small business outreach measures, which includes but is not limited to: participating in small business conferences and programs to meet DBE and small business contractors and to inform the contracting community of MTS's DBE Program; soliciting DBE and small business participation on specific contract opportunities through use of bidder's lists and DBE and small business directories; and advising contractors of the benefits and eligibility requirements to become certified as a DBE or small business.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachment: A. Redline Version of Proposed Revisions to MTS Board Policy No. 26

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Policies and Procedures No. 26

Board Approval: 07/~~26~~16/2018~~5~~

SUBJECT:

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

PURPOSE:

To provide a program to ensure nondiscrimination in the award and administration of federally-assisted contracts and create a level playing field on which disadvantaged business enterprises (DBEs) can compete fairly for those contracts.

POLICY:

26.1 POLICY STATEMENT AND PROGRAM OBJECTIVES

Policy Statement/Objectives (CFR § 26.3, § 26.7, § 26.21, § 26.23)

San Diego Metropolitan Transit System (MTS) has established and adopted a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), Title 49, Code of Federal Regulations, Part 26 "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs (49 CFR Part 26)." MTS has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, MTS has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of MTS to ensure that DBEs as defined in 49 CFR Part 26 have an equal opportunity to receive and participate in MTS's DOT-assisted contracts. It is also our policy to:

1. Ensure nondiscrimination in the award and administration of all MTS contracts and subcontracts;
2. Create a level playing field by which DBEs can compete for and perform in MTS's DOT-assisted contracts;
3. Ensure that the MTS DBE Program is narrowly tailored in accordance with applicable law and current legal standards, including the Ninth Circuit Ruling in *Western States Paving vs. Washington State Department of Transportation*;



4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove procurement and contracting barriers, which impede DBE participation in MTS DOT-assisted contracts;
6. Monitor and enforce contractors' compliance in meeting established goal objectives and program requirements;
7. Assist in the development of DBEs and Small Businesses to increase their ability to compete successfully in the market place outside the DBE Program; and
8. Ensure MTS contractors and subcontractors take all necessary and reasonable steps to comply with these policy objectives.

As evidence of MTS's commitment to pursue these policy objectives, the Chief Executive Officer has designated Staff Attorney – Regulatory Compliance as the DBE Liaison Officer (DBELO). In this capacity, the DBELO is responsible for implementing all aspects of the DBE program. The DBELO has direct access to the Chief Executive Officer for DBE-related matters. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by MTS in its financial assistance agreements with DOT. MTS will disseminate this policy statement to all of the departments of our organization. Additionally, MTS will distribute this policy to DBE and non-DBE business communities that perform or are interested in performing work on MTS projects. Through such efforts, MTS will ensure DOT-assisted contracting and procurement related processes promote equity in access, consideration and opportunity for DBEs and other small businesses in response to requirements set forth under 49 CFR Part 26, DOT Directives and Final Rules.

26.2 APPLICABILITY (CFR § 26.3, § 26.21)

MTS, as a direct recipient of federal funds from the DOT, and as a condition of Federal financial assistance, is required to submit for approval to the DOT Operating Administration from which it receives the majority of its funding, a DBE Program developed in accordance with federal regulations published under Title 49 CFR Part 26 and subsequent guidance. This DBE Program sets forth the policies and procedures to be implemented by MTS to ensure that DBEs have an equitable opportunity to participate in DOT-assisted contracting opportunities.

In direct response to these regulatory requirements, MTS hereby establishes a DBE Program, which will:

1. Comply with federal regulations and financial assistance agreements;
2. Meet legal standards for narrow-tailoring requirements;
3. Ensure nondiscrimination in the award of DOT-assisted contracts; and
4. Reaffirm MTS's commitment to fairness and the principles of equal opportunity.

In conformance with 49 CFR Part 26, MTS will continue to carry out its DBE Program until all DOT funds have been expended.

MTS additionally complies with the California Department of Transportation's (Caltrans') DBE Program on projects on which it is a sub-recipient of federal funds through Caltrans.

MTS will advise all applicable DOT Operating Administrations of any significant updates and/or changes to this DBE Program.

26.3 DEFINITION OF TERMS (CFR § 26.5)

Race-Conscious Measure or Program: A program or portion thereof that focuses specifically on assisting only DBEs, including minority and women-owned DBEs, by the development and inclusion of participation goals or Good-Faith Effort activities.

Race-Neutral Measure or Program: A program or portion thereof that assists all small businesses, including DBEs, regardless of ownership status, in successfully participating in MTS's procurement program. For the purposes of the DBE Program, "race-neutral" includes gender-neutrality.

Any other term used in this DBE Program shall have the meaning set forth in 49 CFR Part 26.

26.4 RESPONSIBILITIES FOR DBE PROGRAM IMPLEMENTATION

A. DBE Liaison Officer (CFR § 26.25)

MTS has designated the following individual as the Disadvantaged Business Enterprise Liaison Officer (DBELO):

Samantha Leslie
Staff Attorney – Regulatory Compliance
San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101
Telephone: (619) 557-4539; Fax: (619) 814-1559
E-mail: Samantha.Leslie@sdmts.com

In this capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that MTS complies with all provisions of 49 CFR Part 26 and subsequent DOT-issued directives and final rules. The DBELO has direct, independent access to the MTS Chief Executive Officer concerning DBE Program matters. The DBELO has sufficient support personnel who devote a portion of their time to implement the Program. The DBELO is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate officials.

The DBELO's and/or designee's duties include, but are not limited to, the following activities:

1. Gathers and reports statistical data and other information as required by the DBE Program, including preparation of

semiannual DBE reports and related analysis for submission to the applicable DOT Operating Administration.

2. Reviews applicable contracts, purchase requisitions, advertisements, boilerplate language specifications and other related documentation specific to implementing applicable DBE requirements.
3. Consults with all affected departments in developing overall DBE goals.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Reviews DOT-assisted contracts and procurements for purposes of applying ~~contract-specific DBE goals, when appropriate, and/or~~ applicable race-neutral measures.
6. Analyzes MTS's progress towards meeting overall DBE goals by monitoring individual contract DBE attainments-.
7. ~~Assists in~~Ensures that pre-bid meetings ~~for purposes of reviewing DBE solicitation and contract requirements~~inform with potential bidders and/or offerors regarding MTS's DBE Program.
8. Advises the Chief Executive Officer and/or the MTS Board on DBE matters and achievements.
9. ~~Determines contractor compliance with race-conscious DBE Good Faith Effort provisions, as applicable, in a race-conscious environment and conducts contract DBE responsiveness reviews, including assessing~~Assesses DBE participation eligibility towards MTS's overall DBE goal, ~~as applicable, to both race-conscious and race-neutral measures.~~

Additionally, the DBELO and/or designee is charged with implementing the race-neutral measures listed in this DBE Program document.

B. Reconsideration Official (CFR § 26.53)

Should MTS implement a race-conscious component to this DBE Program, the DBE Program will be amended to provide the procedures for the administrative reconsideration process and to specify MTS's Reconsideration Official.

26.5 ADMINISTRATIVE REQUIREMENTS

A. Non-Discrimination Requirements (CFR § 26.7)

MTS will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection

with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, MTS will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

B. Federal Financial Assistance Agreement Assurance (CFR § 26.13 {a})

MTS will sign the following assurance as a condition of financial assistance agreements with the DOT, and which is hereby made applicable to all of MTS's DOT-assisted contracts:

"MTS shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. MTS shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts. MTS's DBE Program, as required by 49 CFR Part 26 and as approved by U.S. DOT, is incorporated by reference in this agreement. Implementation of this Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to MTS of its failure to carry out its approved program, the Department may impose sanctions as provided under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

C. DBE Financial Institutions (CFR § 26.27)

It is the policy of MTS to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to utilize these institutions, as available, and to encourage prime contractors on MTS's DOT-assisted contracts to make use of these institutions.

The Federal Reserve Board compiles data on financial institutions that participate in the Department of the Treasury's Minority Bank Deposit Program. MTS will review the listing bi-annually to determine whether any such financial institutions are available in MTS's ~~service area~~ geographic market area. When MTS competitively procures financial services, MTS will notify any identified minority and women-owned financial institutions of the upcoming procurement. At this time, MTS has not identified such financial institutions in MTS's service area. However, MTS also encourages contractors to use the services of minority and women-owned financial institutions identified from the listings. The Internet address of this listing is <http://www.federalreserve.gov/releases/mob/>.

D. DBE Directory (CFR § 26.31)

MTS refers interested parties to the California Unified Certification Program (CUCP) Database of Certified DBE Firms (DBE Directory) to assist in identifying certified DBEs. The DBE Directory is published at http://dot.ca.gov/hq/bep/find_certified.htm ~~www.CaliforniaUCP.com~~.

E. Overconcentration (CFR § 26.33)

MTS has not identified any types of work that have a burdensome overconcentration of DBE participation. However, should MTS determine that overconcentration exists in a work classification, MTS will obtain the approval of the concerned DOT Operating Administration of its determination and the measures devised to address it. Once these measures are approved, they will become part of MTS's DBE Program.

F. Business Development Programs (CFR § 26.35)

MTS has not established a business development program. The DBELO will continually evaluate the need and assess whether MTS should establish a Business Development Program and/or a Mentor Protege Program. If MTS establishes either program, the program will be guided by the applicable Appendix of 49 CFR Part 26 and approved by the cognizant DOT Operating Administration before being implemented.

G. Fostering Small Business Participation (CFR § 26.39)

MTS will structure contracting requirements to facilitate competition by small businesses by ~~encouraging prime contractors to specify elements of work that small businesses can perform and to provide subcontract opportunities for those elements to DBEs and other small businesses.~~ advising the contracting community of the benefits of becoming SB certified, the eligibility requirements to become certified as a SB, and the online directory of certified SBs , found at the California Department of General Services (DGS) website:
<https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>.

26.6 DETERMINING, MEETING, AND COUNTING DBE PARTICIPATION TOWARDS THE OVERALL DBE GOAL (CFR § 26.45; § 26.51; § 26.55)

MTS is currently operating a strictly race-neutral DBE Program in accordance with DOT guidance following the *Western States Paving* decision of the 9th Circuit Court of Appeals. Should MTS incorporate a race-conscious DBE Program in the future, the breakout of estimated race-neutral and race-conscious participation in MTS's DBE goal will be updated.

As MTS is currently operating a strictly race-neutral DBE Program, contract goals are not applicable to MTS procurements. Should MTS, at a future date, incorporate a race-conscious component to its DBE Program, it will then use contract goals to meet any portion of the overall goal MTS does not project being able to meet using race-neutral means. As required by *Western States Paving*, if MTS incorporates a race-conscious DBE Program, MTS will gather evidence to determine if discrimination in the transportation contracting industry is present.

MTS will make a determination at that time what type of evidence gathering is appropriate, based on DBE regulations and case law.

A. Methodology for Setting Overall DBE Goals (CFR § 26.45; 5 26.49)

In accordance with § 26.45(e)(3), and with FTA approval, MTS will establish an overall program goal on a triennial basis.. The overall program goal will represent the amount of DOT-assisted funds MTS anticipates expending on DBE firms over three years, and will be presented as a percentage of the total DOT assistance received.

The overall program goal will be developed in accordance with the 2-step process specified in § 26.45 (c) & (d). The first step is to determine the goal "base figure" based on the relative availability of DBEs in MTS's market area. The second step is to adjust the goal "base figure" from Step 1 so that it reflects as accurately as possible the DBE participation MTS would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to DBE participation. Annual projections on DBE participation during each fiscal year will be developed as specified by § 26.45 (e)(3)(iii).

Additionally, MTS will provide for public participation in establishing an overall program goal. MTS will publish a notice of the proposed overall program goal on MTS's website and a newspaper of general circulation, informing the public that the proposed goal and its rationale are available for inspection and comment. during normal business hours at MTS for 30 days following the date of the notice, and informing the public that MTS will accept comments on the goals for 30 days from the date of the notice.

Additionally, MTS will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to solicit information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MTS's efforts to establish a level playing field for the participation of DBEs.

MTS will submit the overall program goal to DOT in accordance with § 26.45 (f)(2). The overall goal submission to DOT will include a summary of information and comments received during this public comment/participation process and any MTS responses.

MTS will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

B. Transit Vehicle Manufacturers (TVM) Certifications (CFR § 26.49)

MTS will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on DOT-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, MTS may, at its discretion and with DOT approval, establish project-specific goals for DBE participation in the procurement

of transit vehicles in lieu of the TVM complying with this element of the program.

C. Race-Neutral Measures (CFR § 26.51)

MTS will implement the following race-neutral measures which are aimed at increasing DBE and other small business participation.

- ~~1. MTS will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation.~~
1. MTS will ~~also~~ hold and/or participate in conferences, which include a networking component to promote teaming opportunities between prospective prime contractors and the DBE and Small Business contracting community. MTS will also actively promote the Small Business conferences, programs, and support services offered by other agencies that have established DBE and Small Business Programs.
- ~~2. MTS will 2. Provide assistance in overcoming limitations such as inability to obtain bonding or financing. (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing).~~ Specifically, MTS will, through its website, refer the DBE and Small Business contracting community to the U.S. Small Business Administration Bonding Assistance Program and San Diego Small Business Development Center.
33. MTS will solicit DBEs and other small businesses participation by carrying out information ~~and communication programs on contracting procedures and on~~ specific contract opportunities. Specifically, MTS will: (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient MTS's mailing lists of bidders and/or MTS's e-procurement web based vendor list; ensuring the make available to prime contractors information on how to view a listing of dissemination to bidders on prime contracts of lists of potential DBE and other small business subcontractors; and provide provision of contracting information in languages other than English, where appropriate and upon request.
- ~~44. As a supportive service to help develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses, MTS will actively promote the Small Business conferences, programs, and support services offered by other agencies that have established DBE and Small Business Programs.~~
5. MTS will advise its contracting community ~~of of the benefits of becoming DBE certified, the eligibility requirements to become certified as a DBE, and~~ the online directory of certified DBEs,

found at the CUCP website:
http://dot.ca.gov/hq/bep/find_certified.htm.
www.CaliforniaUCP.com.

~~MTS will also advise the contracting community of the available small businesses certified by the California Department of General Services (DGS) found at the following url:
www.bidsync.com/DPXBisCASB.~~

D. Use of Set-Asides or Quotas (CFR § 26.43)

MTS shall not permit the use of quotas for DBEs on DOT-assisted contracts in accordance with 49 CFR Part 26. Further, MTS shall not set aside contracts for DBEs on DOT-assisted contracts subject to the regulatory provisions, except in limited and extreme circumstances where no other method could be reasonably expected to redress egregious instances of discrimination.

E. Counting DBE Participation and Commercially Useful Function (CFR § 26.55)

MTS will count DBE participation toward overall and contract specific goals as provided in 49 CFR Part 26.55. MTS will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE subcontractor.

26.7 REQUIRED CONTRACT PROVISIONS AND ENFORCEMENT

A. Contractor's Assurance Clause Regarding Non-Discrimination (CFR § 26.13)

MTS will ensure that the following clause is placed in all DOT-assisted contracts and subcontracts: *"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49, CFR, Part 26 in the award and administration of MTS's U.S. DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as MTS deems appropriate."*

B. Prompt Payment Provisions (CFR § 26.29)

The DBE Program found at Title 49 CFR Part 26 requires that any delay or postponement of payment over 30 days from the prime contractor to any subcontractor for work performed pursuant to their agreements may take place only for good cause and with MTS's prior written approval. ~~Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These~~

~~requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.~~

~~Failure to comply with this provision without prior approval from MTS will constitute noncompliance, which may result in the application of appropriate administrative sanctions, including, but not limited to, a penalty of two percent (2%) of the invoice amount due per month, for every month that full payment is not made.~~

1. Prompt Progress Payments to Subcontractors

In accordance with 49 CFR 26.29, MTS will include a contract clause that will require the prime contractor to pay each subcontractor participating on the contract for satisfactory performance of its contract no later than 7 days from the receipt of each payment the prime contractor receives from MTS. Any delay or postponement of payment over 30 days from the above referenced time frame may occur only for good cause following written approval of MTS. This clause applies to both DBE and non-DBE subcontractors.

2. Payment of Retention Withheld from Subcontractor

When MTS elects to hold retainage from the prime contractor, MTS will provide prompt and regular incremental acceptances of portions of the work on each contract and pay retainage to the prime contractor based on these acceptances.

In accordance with 49 CFR 26.29, MTS will include a contract clause that will require the prime contractor to make prompt and full payment of any retainage owed to subcontractors for satisfactory completion of the subcontractors work within 7 days after subcontractor's work has been satisfactorily completed. Any delay or postponement of payment over 30 days may occur only for good cause following written approval of MTS. This clause applies to both DBE and non-DBE subcontractors.

26.8 DBE CERTIFICATION STANDARDS (CFR § 26.61-3 26.73; § 26.81; § 26.83a)

As a non-certifying member of the CUCP, MTS will accept DBE certifications from certifying member agencies of the CUCP. ~~The CUCP DBE Certification application is presented in Exhibit E.~~

For more information about the certification process or to apply for certification, firms should visit the CUCP website at:
http://www.dot.ca.gov/hq/bep/business_forms.htm.
www.californiaucp.com.

26.9 RECORD KEEPING AND MONITORING (CFR § 26.11, § 26.37)

A. Bidders List (CFR § 26.11)

MTS will develop and maintain a Bidders List consisting of all firms bidding on prime contracts, and bidding or quoting subcontracts on MTS's DOT-assisted projects/contracts. The following information will be included in the bidders list:

1. Firm Name;
2. Address;
3. Years in Business;
4. Status as a DBE or non-DBE;
5. Type of Work; and
6. Annual Range of Gross Receipts.

B. Reporting to DOT (CFR § 26.11)

MTS will submit to the applicable DOT Operating Administration the "Uniform Report of DBE Awards or Commitments and Payments" semiannually on June 1 and December 1 of each year, as required. The June 1 report will include DBE activity from October 1 through March 31. The December 1 report will include DBE activity from April 1 through September 30. This report presents a summary of DOT-assisted prime contracts and subcontracts that are: awarded or committed to; open; and completed during the applicable reporting period.

Upon request, MTS will compile and submit ad-hoc DBE contract award and progress reports for DOT-assisted projects. Furthermore, MTS will continue to provide reports relative to MTS's DBE Program, as directed. These reports will provide DBE participation information on MTS's race-neutral and gender-neutral contracts on all DOT assisted procurement activities.

C. Information, Confidentiality, Cooperation (CFR § 26.109)

MTS will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), California Public Records Act (Government Code § 6250) state, and local law. Notwithstanding the preceding provision, MTS will not release any information that may reasonably be construed as confidential business information to any third party (other than DOT) without the written consent of the firm that submitted the information.

D. Monitoring and Enforcement Mechanisms (CFR § 26.37)

MTS will implement appropriate mechanisms to ensure compliance with 49 CFR Part 26 requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law).

1. Monitoring Work Committed to DBE

MTS's DBE Program will include a monitoring and enforcement mechanism to ensure that work committed to DBEs is actually performed by DBEs. This will include a written certification by MTS that contract records have been reviewed and work sites have been monitored to ensure work is actually performed by the DBE. In addition, MTS will maintain a running tally of actual DBE attainments (e.g., payments actually made to DBE firms) to compare against the prime contractor's commitments to use a DBE, when applicable.

2. Termination or Substitution of DBE subcontractors

MTS includes a contract clause in each federally assisted contract that requires the prime contractor to notify and receive consent from MTS whenever a DBE subcontractor is terminated or substituted. For construction contracts, MTS shall follow applicable state law for terminations or substitutions of subcontractors.

3. ~~MTS may perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts committed.~~ Monitoring Payments to DBE and Non-DBE subcontractors

MTS undertakes monitoring of prime payments to subcontractors over the course of any DOT- assisted contract. MTS includes a contract clause in each federally assisted contract that the prime contractor must provide subcontractor payment information to the MTS Contract Administrator monthly, if any payments were made to subcontractors. In addition, MTS bi-annually requests subcontractor payment information from the prime contractor to ensure MTS has accurate listing of subcontractor payment information within its records. Lastly, MTS may use a monthly prompt payment certification form that requires prime contractor to certify prompt payments were made to subcontractor.

4. Prompt Payment Dispute Resolution

The obligations of prompt payment and release of retainage does not arise if there is a legitimate dispute over a subcontractor's performance. Subcontractor should first attempt to work with the prime contractor regarding whether subcontractor's work has been satisfactorily performed. If a dispute remains as to whether work has been satisfactorily completed for purposes of prompt payment requirements, notice should be given to the DBELO to take further action. Steps to resolve dispute may include, but are not limited to, conducting a meeting between prime contractor, subcontractor, and MTS project manager to review whether subcontractor work was completed in accordance with contract, plans and specifications.

5. Prompt Payment Complaints

Complaints by subcontractors regarding prompt payment should first be directed to the prime contractor and their payment bond surety, if applicable. according to the following procedure.

If affected subcontractor -needs assistance in communicating with the prime contractor regarding payment or is unable to resolve payment discrepancies with prime, subcontractor should contact DBELO in writing to initiate the complaint. The complaint should identify specifics regarding the subcontract payment language, items of work in question, and the subcontractor's attempts to obtain payment from the prime contractor and payment bond surety, if applicable.

Upon receipt of a subcontractor's written complaint that contains the above described information, DBELO will contact prime contractor directly, advising them of MTS's receipt of a prompt payment complaint, of prime contractor's responsibility to work with the subcontractor to resolve the dispute and potential enforcement action, as further described in Section 26.9 D (5) of this Board Policy. -If after notice to the prime there is still no timely and meaningful action by the prime to resolve prompt payment disputes, affected subcontractor may refer the complaint to the responsible FTA contact.

6. Enforcement Action for Noncompliance of Prompt Payment and Return of Retainage

MTS will include a contract clause in its DOT- assisted contracts that any violation of prompt payment requirements, as defined in Section 26.27 (B) of this Board Policy, shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code, if applicable. It may also result in the application of appropriate administrative sanctions, including, but not limited to, prime contractor not being reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed

7. Enforcement Action for False, Fraudulent or Dishonest Conduct

MTS will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps provided in § 26.107 (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules). Additionally, MTS will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

| Additional DBE Documents (Available ~~on MTS's Web Site or~~ from DBELO upon request)

- A. DBE Program Regulations
- B. DBE Program Organizational Chart
- | C. Listing of DBE Financial Institutions located within ~~California~~MTS's geographic market area
- D. MTS Goal Setting Methodology
- E. CUCP DBE Certification Application
- F. Uniform Report of DBE Awards or Commitments and Payments

Original Policy approved on 12/6/84.

Policy revised on 4/28/88.

| Policy revised on 4/25/91. -

Policy revised on 1/26/95.

| Policy revised on 10/16/97. -

Policy revised on 8/12/99.

Policy revised on 8/10/00.

Policy revised on 9/27/01.

Policy revised on 7/25/02.

Policy revised on 3/11/04.

Policy revised on 7/22/04.

Policy revised on 2/16/12.

| Policy revised on 7/16/15

| Policy revised on 7/26/18



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Agenda Item No. 10

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

**Draft for
Executive Committee
Review Date: 7/12/18**

SUBJECT:

DISADVANTAGED BUSINESS ENTERPRISE (DBE) OVERALL GOAL

RECOMMENDATION:

That the Board of Directors adopt a 3% Overall DBE Goal for DBE-participation in federally funded contracts over the Federal Fiscal Year (FFY) 2019 to FFY 2021 triennial period.

Budget Impact

None.

DISCUSSION:

As a Federal Transit Administration (FTA) grantee, MTS complies with the federal regulations set forth in Title 49 of the Code of Federal Regulations Part 26 regarding participation by DBEs in the U.S. Department of Transportation (DOT) Program. The DBE regulations requires MTS to prepare overall DBE goals based upon the number of ready, willing, and able DBE-certified contractors available to bid on certain categories of MTS procurements.

MTS has a race-neutral program with an aspirational goal for DBE participation. This means that no special quotas or advantages are provided to DBE contractors. Successful bidders are chosen using race-neutral means generally through a low-bid or best-value procurement process. MTS conducts various forms of outreach to DBEs and other contractors in an effort to inform them of upcoming MTS procurements. This includes, but is not limited to: participating in small business conferences and programs to meet DBE and small business contractors and to inform the contracting community of MTS's DBE Program; soliciting DBE and small business participation on specific contract opportunities through use of bidder's lists and DBE and small business



directories; and advising contractors of the benefits and eligibility requirements to become certified as a DBE or small business.

For purposes of reporting DBE participation rates to the FTA, MTS may only count participation by certified DBE contractors. A DBE must be certified by the California Unified Certification Program. Certified DBE contractors must (1) have a majority owner who is socially and economically disadvantaged (Native Americans, African Americans, Hispanics, Asian-Pacific, Subcontinent Asian Americans and women are currently presumed to be socially and economically disadvantaged by the DOT), (2) the majority owner must have a personal net worth of less than \$1,320,000, and (3) the business must be a small business and, for most types of businesses, have average annual gross receipts less than \$23,980,000. Thus, contractors with only a certification as a minority owned business (MBE), disabled veteran owned business (DVBE), women owned business (WBE), small business (SB) or lesbian gay bisexual transgender owned business (LGBTBE) cannot also be counted as a DBE.

MTS is required to calculate its overall DBE goal on a triennial basis. The upcoming triennial period is FFY 2019 to FFY 2021 (October 1, 2018, through September 30, 2021). The DBE regulations establish the required goal methodology, which includes 2 steps: (1) determination of a base figure of the relative availability of DBEs to all comparable firms (DBE and non-DBE) available to bid or propose on MTS's FTA-assisted contracts within MTS's geographic market area; and (2) adjusting the base figure to reflect any circumstances that may impact the relative availability of DBE firms in MTS's geographic market area. This goal methodology requires MTS to forecast the specific federal contracts that it expects to award during the triennial period and identify if there are qualified DBE contractors in its geographic market area who may successfully bid on such contracts.

To calculate the MTS overall DBE goal for the FFY 2019 to FFY 2021 triennial period, MTS hired DBE Consultant, GCAP Services, to review MTS procurement information, identify DBE and non-DBE contractors available to bid on each procurement, and calculate MTS's potential DBE participation on such contracts. A FTA Overall DBE Goal-Setting Methodology document was prepared establishing the basis for the proposed goal of 3% (Attachment A).

The 3% proposed goal takes into consideration an estimated \$47 million in federally assisted contract dollars that MTS expects to award in the triennial period. This figure includes certain contracts with no qualified DBE firms available to bid on such work (e.g., Uniform Rental Services and Linen Supply, Document Storage Services, Septic Tank Services, Armored Car Services). In such contracts, there is no reasonable opportunity for MTS to award the associated federal dollars to a DBE contractor which reduces MTS's base figure. In addition, there are several contracts with very few DBE firms available, compared to the many available non-DBE firms (e.g. Complementary Paratransit Transportation Services, Solid Waste Collection, Trolley Vehicle Body Repair, Motor Vehicle Towing, Bus Video Surveillance Services). This also reduces MTS's base figure. As a result, the Step One base figure of DBE firms available to bid on anticipated MTS federally assisted contracts is 2.9%.

In Step Two, the base figure of 2.9% was compared to MTS's median DBE attainment for the last three years (2.6%). Using past DBE goal attainments provides demonstrable

evidence of DBE availability and capacity to perform. The average of the 2.9% base figure and the 2.6% median DBE attainment is 2.7%. Based on FTA guidance, the adjusted base figure of 2.7% was rounded to the nearest whole number, 3%.

MTS reports its DBE-participation to the FTA in semiannual reports. The achieved DBE participation percentage for each 6-month reporting period will depend heavily on the type and dollar value of contracts that were awarded during a given period. During periods when MTS awards a large, multiyear service contract such as paratransit services or contract service bus operations, the large dollar value of these non-DBE contracts will dilute the percentage of DBE participation for other contracts in the reporting period. Therefore, while the achieved DBE participation percentage for each 6-month reporting period may fluctuate, the overall aim of the MTS DBE-outreach program will be to achieve the 3% Overall DBE goal as an average for the FFY 2019-2021 triennial period.

Per the DBE Regulations, MTS must publish its proposed overall goal methodology. MTS posted the proposed goal and associated goal-setting methodology document on its Website on June 5, 2018 with a request for comments. On June 6, 2018, MTS posted notice of MTS's proposed overall goal with a request for comments in the San Diego Daily Transcript.

Our DBE Consultant GCAP Services also requested meetings with various local organizations to receive their input on MTS's overall DBE goal. Organizations included: American Indian Chamber of Commerce of California, American Institute of Architects - San Diego, American Subcontractors Association of San Diego, Asian Business Association (ABA), Black Contractors Association, Inc. (BCA), the Elite Service-Disabled Veteran-Owned Business (SDVOB) Network, National Association of Minority Contractors Southern California, National Association of Women in Construction (NAWIC) - San Diego, San Diego Contracting Opportunities Center (SDCOC), EGCA & AGC of San Diego, San Diego County Hispanic Chamber of Commerce (SDCHCC), San Diego Supplier Development Council (SDSDC), and Women's Construction Coalition (WCC).

Upon receiving Board of Directors approval of MTS's 3% Overall DBE Goal, MTS will submit its Overall DBE Goal-Setting Methodology to the FTA for concurrence.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachment: A. MTS's Overall DBE Goal-Setting Methodology for FFY 2019-2021



SAN DIEGO METROPOLITAN TRANSIT SYSTEM

**Federal Transit Administration (FTA)
Overall DBE Goal-Setting Methodology**

FFY 2019-FFY 2021

**Submitted in fulfillment of:
Title 49 Code of Federal Regulations Part 26**



DBE GOAL METHODOLOGY

I. INTRODUCTION

The San Diego Metropolitan Transit System (MTS) herein sets forth its Overall Disadvantaged Business Enterprise (DBE) Goal and corresponding federally prescribed goal-setting methodology for the three-year Federal Fiscal Year (FFY) goal period of 2019-2021 (October 1, 2018 through September 30, 2021), pursuant to Title 49 Code of Federal Regulations (CFR) Part 26 "Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation Programs." The purpose of the DBE goal-setting process is to level the playing field so that DBEs can compete fairly for Department of Transportation-assisted contracts; however, the program must be narrowly tailored in accordance with applicable law.

II. BACKGROUND

MTS is a recipient of U.S. Department of Transportation (USDOT), Federal Transit Administration (FTA), funding. As a condition of receiving this assistance, MTS signed an assurance that it will comply with FTA's DBE requirements. In accordance with Title 49 CFR Part 26 provisions: Participation by DBEs in USDOT Programs, MTS is required to develop and submit a Triennial Overall DBE Goal for its FTA-assisted projects.

MTS herein presents its Overall DBE Goal Methodology for FFY 2019-21.

III. FTA-ASSISTED CONTRACTING PROGRAM FOR FFY 2019-2021

Table 1 represents the MTS FTA-assisted contracting program, which consists of projects considered in preparing this goal methodology. The projects, which include Professional Services and Materials/Supplies contracting opportunities, are anticipated to be awarded during triennial period. Each of these projects has potential subcontracting opportunities.

Table 1

Project Name and Description	Total Estimated Project Cost	Estimated FTA Dollar Share	Estimated FTA % Share
Bus Video Surveillance System	\$6,500,000	\$5,200,000	80.0%
Interior Bus Cleaning	\$1,356,249	\$1,084,999	80.0%
Pest Control for Bus Operations	\$50,000	\$40,000	80.0%
Calibration of LRV Tools	\$10,000	\$8,000	80.0%
On Call Feral Pigeon Trapping (pest control)	\$20,000	\$16,000	80.0%
Parking Lot Sweeping IAD (power sweeping, washing)	\$20,000	\$16,000	80.0%
Gas Cylinder Refill and Rentals	\$15,000	\$12,000	80.0%

Project Name and Description	Total Estimated Project Cost	Estimated FTA Dollar Share	Estimated FTA % Share
Power Washing IAD (bus washing)	\$40,000	\$32,000	80.0%
Paint Gun Cleaning Services	\$40,000	\$32,000	80.0%
Preventative Maintenance for Generators	\$20,000	\$16,000	80.0%
Bus Seat Upholstery	\$10,000	\$8,000	80.0%
ADA Paratransit Services	\$109,520,864	\$29,165,406	26.6%
Armored Transportation Services SDTC	\$686,047	\$548,837	80.0%
Armored Transportation Services SDTI	\$30,193	\$24,154	80.0%
Trash Disposal Services	\$720,000	\$576,000	80.0%
Towing Services for Buses and Non-Revenue Vehicles	\$200,000	\$160,000	80.0%
Uniform Rental Services Bus and Trolley Maintenance/Facilities	\$1,000,000	\$800,000	80.0%
Portable Toilet Services	\$750,000	\$600,000	80.0%
Offsite Storage of Documents	\$10,000	\$8,000	80.0%
Uniform Purchase SDTI	\$70,000	\$56,000	80.0%
Ultrasonic Rail Testing Services	\$240,000	\$192,000	80.0%
Weed Abatement Services	\$375,000	\$300,000	80.0%
LRV Accident and Vandalism Body Repair	\$8,000,000	\$6,400,000	80.0%
Parking Lot Sweeping SDTI (power sweeping, washing)	\$183,052	\$146,441	80.0%
SDSU Monitoring Services for Fire and Safety	\$500,000	\$400,000	80.0%
Geometric Track Testing	\$225,000	\$180,000	80.0%
Elevator and Escalator Maintenance and Repair	\$600,000	\$480,000	80.0%
Clarifier Waste Transport and Recycling	\$300,000	\$240,000	80.0%
On Call Card Access Reader Services	\$500,000	\$400,000	80.0%
Rail Welding Services	\$250,000	\$200,000	80.0%
On Call Tree Trimming and Removal Services	\$200,000	\$160,000	80.0%
Crane Inspections	\$40,000	\$32,000	80.0%
HVAC Preventative Maintenance and Emergency Servicing	\$110,000	\$88,000	80.0%
Substation Breaker Repair Services	\$60,000	\$48,000	80.0%
	\$132,651,404	\$47,669,838	35.9%

MTS does not pass any FTA funds to any subrecipients.

Table 2 provides a summary of the categories of work with estimated cost breakdown for each. Categories of work are groups utilizing comparable North American Industry Classification System (NAICS) codes for purposes of weighting the categories of work based on the engineer's estimates.

**Table 2**

NAICS Code	Category of Work	Estimated FTA Dollars by NAICS	Estimated FTA % by NAICS
237130	Power and communication line and related structures construction	\$48,000	0.1%
238190	Other foundation, structure, and building exterior contractors	\$200,000	0.4%
238210	Electrical contractors and other wiring installation contractors	\$5,200,000	10.9%
238220	Plumbing, heating, and air-conditioning contractors	\$88,000	0.2%
238290	Other building equipment contractors	\$480,000	1.0%
334118	Computer terminal and other computer peripheral equipment manufacturing	\$400,000	0.8%
454310	Fuel dealers	\$12,000	0.0%
485991	Special needs transportation	\$29,165,406	61.2%
488210	Support activities for rail transportation	\$6,624,000	13.9%
488410	Motor vehicle towing	\$160,000	0.3%
493190	Other warehousing and storage	\$8,000	0.0%
541990	All other professional, scientific, and technical services	\$612,000	1.3%
561613	Armored car services	\$572,992	1.2%
561710	Exterminating and pest control services	\$56,000	0.1%
561730	Landscaping services	\$460,000	1.0%
561790	Other services to buildings and dwellings	\$162,441	0.3%
562111	Solid waste collection	\$816,000	1.7%
562991	Septic tank and related services	\$600,000	1.3%
811121	Automotive body, paint, and interior repair and maintenance	\$8,000	0.0%
811192	Car washes	\$1,116,999	2.3%
811219	Other electronic and precision equipment repair and maintenance	\$8,000	0.0%
811310	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance	\$16,000	0.0%
812331	Linen supply	\$856,000	1.8%
TOTAL		\$47,669,838	100.0%

IV. GOAL METHODOLOGY

Step 1: Determination of a Base Figure (26.45)¹

To establish the MTS Base Figure of the relative availability of DBEs to all comparable firms (DBE and Non-DBE) available to bid or propose on MTS FTA-assisted contracting opportunities projected to be solicited during the triennial goal period, MTS followed the prescribed federal methodology to determine relative availability. This was accomplished by assessing the *California Unified Certification Program (CUCP) DBE Database of Certified Firms* and the 2016

¹ 26.45 represents Title 49 CFR Part 26 regulatory goal setting methodology reference.



U.S. Census Bureau County Business Patterns Database within the MTS market area for each of the categories of work defined in Table 2.

The Federal DBE program requires agencies to implement the DBE program based on information from the relevant geographic market area—the area in which the agency spends the substantial majority of its contracting dollars. The MTS local market area consists of the geographic area in which a substantial majority of MTS contracting dollars are expended and/or where the substantial majority of contractor and subcontractor bids or quotes are located. The MTS market area is defined as San Diego County. The MTS bidder's list was reviewed, and it confirms this market area.

In accordance with the formula below, the Base Figure is derived by dividing the number of ready, willing and able DBE firms identified for each work category by the number of all firms identified for each corresponding work category (relative availability), weighting the relative availability for each work category by the corresponding work category weight from Table 2 (weighted ratio), and adding the weighted ratio figures together.

$$\text{Base Figure} = \sum \frac{(\text{Number of Ready, Willing and Able DBEs})}{\text{Number of All Ready, Willing and Able Firms}} \times \text{weight} \times 100$$

⇒ For the numerator: CUCP DBE Database of Certified Firms

⇒ For the denominator: 2016 U.S. Census Bureau's Business Patterns Database

A concerted effort was made to ensure that the scope of businesses included in the numerator was as close as possible to the scope included in the denominator.

The result of the Base Figure calculation is shown in Table 3 as follows:

Table 3

NAICS Code	Category of Work	Estimated FTA % by NAICS	DBEs	All Firms	Weighted Ratio
237130	Power and communication line and related structures construction	0.1%	3	41	0.0%
238190	Other foundation, structure, and building exterior contractors	0.4%	12	48	0.1%
238210	Electrical contractors and other wiring installation contractors	10.9%	23	776	0.3%
238220	Plumbing, heating, and air-conditioning contractors	0.2%	13	860	0.0%
238290	Other building equipment contractors	1.0%	4	57	0.1%
334118	Computer terminal and other computer peripheral equipment manufacturing	0.8%	0	16	0.0%
454310	Fuel dealers	0.0%	0	20	0.0%
485991	Special needs transportation	61.2%	1	27	2.3%



NAICS Code	Category of Work	Estimated FTA % by NAICS	DBEs	All Firms	Weighted Ratio
488210	Support activities for rail transportation	13.9%	0	4	0.0%
488410	Motor vehicle towing	0.3%	1	88	0.0%
493190	Other warehousing and storage	0.0%	0	29	0.0%
541990	All other professional, scientific, and technical services	1.3%	16	298	0.1%
561613	Armored car services	1.2%	0	7	0.0%
561710	Exterminating and pest control services	0.1%	3	166	0.0%
561730	Landscaping services	1.0%	10	881	0.0%
561790	Other services to buildings and dwellings	0.3%	7	180	0.0%
562111	Solid waste collection	1.7%	1	51	0.0%
562991	Septic tank and related services	1.3%	0	21	0.0%
811121	Automotive body, paint, and interior repair and maintenance	0.0%	2	277	0.0%
811192	Car washes	2.3%	2	188	0.0%
811219	Other electronic and precision equipment repair and maintenance	0.0%	2	51	0.0%
811310	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance	0.0%	2	111	0.0%
812331	Linen supply	1.8%	0	7	0.0%
BASE FIGURE (i.e., Sum of Weighted Ratios for all Work Categories)					
2.9%					

Step 2: Adjusting the Base Figure

Upon establishing the Base Figure, MTS reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within the MTS market area, in accordance with prescribed narrow tailoring provisions set forth under 49 CFR Part 26.45: Step 2; DBE Goal Adjustment guidelines.

Evidence considered in making an adjustment to the Base Figure included MTS Past DBE Goal Attainments, Disparity Studies, and Other Evidence, as follows:

Past DBE Goal Attainments

Historical DBE participation attainments provide demonstrable evidence of DBE availability and capacity to perform on MTS projects. The projects anticipated to be awarded during the triennial period are substantially similar to those awarded in the past, which were also Professional Services and Materials/Supplies contracting opportunities. In addition, the



majority of the projects to be awarded in the upcoming triennial year are renewal contracts that were originally awarded in the past three (3) federal fiscal years. MTS calculated past DBE participation attainments for the three (3) federal fiscal years, for which MTS has DBE attainment data. The table below reflects the demonstrated capacity of DBEs (measured by actual historical DBE participation attainments) on FTA-assisted contracts awarded by MTS within the last three (3) federal fiscal years.

Table 4

FEDERAL FISCAL YEAR (FFY)	FTA DBE GOAL ATTAINMENT %
2016/2017	16.5% ²
2015/2016	2.6%
2014/2015	0.1%
Median DBE Attainment Within the Last Three (3) Years	2.6%

The median DBE goal attainment for the past three years is lower than the Base Figure derived from Step 1; therefore, an adjustment to the Base Figure based on MTS past DBE goal attainments has been made. The adjustment is calculated in accordance with FTA guidance by averaging the Base Figure with the Median DBE Past Attainment, as shown below.

Base Figure (A)	2.9%
Median DBE Attainment (B)	2.6%
Adjusted Base Figure [(A+B)/2]	2.7%

Disparity Study

MTS has reviewed both the Caltrans and San Diego Association of Governments disparity studies. After careful evaluation, MTS has determined that neither study is sufficiently similar to MTS procurements to warrant a change to the adjusted base figure.

MTS uses a strictly race-neutral DBE program since the Western States decision. If MTS fails to reach its goal for two complete federal fiscal years, MTS will re-evaluate its DBE program to determine whether contract goals are necessary to achieve the overall goal. If after re-evaluation MTS believes a race-conscious program is necessary, as required by Western States, MTS will gather evidence to determine if discrimination in the

² MTS awarded two (2) large, multi-year contracts to a DBE during FFY 2016/2017. This resulted in a large amount of DBE participation in that FFY.

transportation contracting industry is present. MTS will make a determination at that time what type of evidence gathering is appropriate, based on DOT regulations and case law.

Other Available Evidence

MTS is not in possession of other information, such as statistical disparities relating to financing, bonding and insurance or data on employment, self-employment educating and training, and union apprenticeship programs, that would have an impact on the DBE goal assessment.

V. PROPOSED OVERALL DBE GOAL

The Final Proposed Overall DBE Goal for FFY 2019-2021 for MTS FTA-assisted contracts is 3%³. As a part of the prescribed goal-setting methodology, MTS must project the percentage of its Proposed Overall DBE Goal that can be met utilizing race/gender-neutral and race/gender-conscious measures. MTS must meet the maximum feasible portion of the overall goal by using race/gender-neutral means of facilitating DBE participation.

Race-Conscious & Race-Neutral Projection

MTS intends to continue to use race-neutral methods to meet the overall DBE goal of 3.0% for FFY 2019-2021 in accordance with Title 49 CFR Part 26.51.

RACE/GENDER-CONSCIOUS & RACE/GENDER-NEUTRAL PROJECTIONS	
Overall DBE Goal	3%
Race/Gender-Conscious Component	0%
Race/Gender-Neutral Component	3%

VI. RACE/GENDER-NEUTRAL IMPLEMENTATION MEASURES

MTS is currently implementing a number of race- and gender-neutral remedies to outreach and promote the participation of DBEs and small businesses in MTS's FTA-assisted contracting program. MTS plans to continue or implement the following race-neutral measures for FFY 2019-2021 and will continue to explore other options for consideration based on MTS's success in meeting its overall DBE goals based on these efforts:

³ The adjusted base figure of 2.7% was rounded to the nearest whole number of 3% based on FTA guidance.



- MTS will hold and/or participate in conferences, which include a networking component to promote teaming opportunities between prospective prime contractors and the DBE and Small Business contracting community. MTS will also actively promote the Small Business conferences, programs, and support services offered by other agencies that have established DBE and Small Business Programs.
- MTS will provide assistance in overcoming limitations such as inability to obtain bonding or financing. Specifically, MTS will, through its website, refer the DBE and Small Business contracting community to the U.S. Small Business Administration Bonding Assistance Program and San Diego Small Business Development Center.
- MTS will solicit DBEs and other small business participation by carrying out information and on specific contract opportunities. Specifically, MTS will: ensure the inclusion of DBEs and other small businesses on MTS's mailing lists of bidders and/or MTS's e-procurement web-based vendor list; make available to prime contractor information on how to view a listing of potential DBE and other small business subcontractors; and provide contracting information in languages other than English, where appropriate and upon request.
- MTS will advise its contracting community of the benefits of becoming DBE certified, the eligibility requirements to become certified as a DBE, and the online directory of certified DBEs, found at the CUCP website:
http://dot.ca.gov/hq/bep/find_certified.htm.

Fostering Small Business Participation

In addition to the race/gender-neutral measures that are aimed to increase small business participation, MTS has implemented several strategies to foster small business participation in its contracting process. These include the following:

- MTS will advise past and current MTS contractors of the benefits of becoming SB certified and the eligibility requirements to become certified as a SB.
- MTS will advise the contracting community of the online directory of certified SBs, found at the California Department of General Services (DGS) website:
<https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>.
- MTS will aim to advertise more of its small purchase procurements on MTS's e-procurement site to better outreach to the small business community of potential MTS contracting opportunities, rather than just requesting three quotes.

VII. PUBLIC PARTICIPATION AND FACILITATION

In accordance with Public Participation Regulatory Requirements of Title 49 CFR Part 26, minority, women, local business associations, and community organizations within the MTS market area were consulted and provided an opportunity to review the triennial goal analysis and provide input.

MTS issued a Public Notice on the MTS website (Attachment 1) publishing the Draft Proposed FTA Overall DBE Goal-Setting Methodology for FFY 2019-FFY 2021. The notice informed the public that the proposed goal and rationale were available for public review and comment. MTS also advertised the Draft Proposed FTA Overall DBE Goal-Setting Methodology for FFY 2019-FFY 2021 in The Daily Transcript (Attachment 2).

MTS reached out to a total of 14 local minority, women, and community business organizations to provide them information on the MTS DBE program and specifically the Draft Proposed FTA Overall DBE Goal-Setting Methodology for FFY 2019-2021. Although each organization was contacted multiple times by telephone and email, only one comment was received. A summary of all contacts made in an attempt to receive input as a part of this process is provided in Attachment 3. MTS's response to the one comment received is provided in Attachment 4.

Attachment 1: Website Notification

6/7/2018

DBE | San Diego Metropolitan Transit System



We encourage participation by Disadvantaged Business Enterprises (DBEs) for all our contracting opportunities.

MTS's Proposed Overall DBE Goal for FFY 2019-2021

MTS has a proposed Overall DBE Goal of 3% for Federal Transit Administration funded contracts awarded between October 1, 2018 to September 30, 2021. MTS's proposed overall DBE goal and the corresponding goal –setting methodology are available for public review and comment until July 4, 2018. Click here to view the Overall DBE Goal-Setting Methodology (https://www.sdmts.com/sites/default/files/attachments/mts_2019-2021_fta_dbe_goal_methodology_draft.pdf). Comments can be sent to MTS DBELO, Samantha Leslie, at Samantha.Leslie@sdmts.com (<mailto:Samantha.Leslie@sdmts.com>) or 1255 Imperial Ave, Suite 1000, San Diego CA 92101. MTS's Proposed Overall DBE Goal is due to the FTA on August 1, 2018 and will be presented to the MTS Board of Directors on July 26, 2018.



Attachment 2: Advertisement

THE DAILY TRANSCRIPT

Mailing Address : 2652 4TH AVE 2ND FL, SAN DIEGO, CA 92103
Telephone (619) 232-3486 / Fax (619) 270-2503
Visit us @ www.LegalAdstore.com

JULIA TUER
METROPOLITAN TRANSIT BOARD OF DIRECTORS
1255 IMPERIAL AVE #1000
SAN DIEGO, CA 92101

SD# 3140593

PUBLIC NOTICE

San Diego Metropolitan Transit System

NOTICE IS HEREBY GIVEN, that the San Diego Metropolitan Transit System (MTS), has established a Proposed Overall Disadvantaged Business Enterprise (DBE) Goal of 3%, for Federal Fiscal Years 2019-2021. The DBE Goal is applicable to Federal Transit Administration (FTA) assisted contracting opportunities scheduled to be awarded during the period of October 1, 2018 through September 30, 2021. MTS's Proposed Overall DBE Goal and its rationale (developed in response to Department of Transportation's DBE Regulations published under Title 49 CFR Part 26) are available for review and comments from 8:00 a.m. to 5:00 p.m., Monday through Friday at MTS located at: 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101 until July 4, 2018. The Goal documents can also be downloaded from MTS's website at <http://www.sdmts.com/business-center-procurement/dbe>. Comments can be directed to Samantha Leslie, DBE Liaison Officer, at the above address or by email to Samantha.Leslie@sdmts.com. MTS's Proposed Overall DBE Goal is due to the FTA on August 1, 2018 and will be presented to the MTS Board of Directors on July 26, 2018.
6/6/18

COPY OF NOTICE

Notice Type: HRG NOTICE OF HEARING

Ad Description Public Notice - DBE

To the right is a copy of the notice you sent to us for publication in THE DAILY TRANSCRIPT. Thank you for using our newspaper. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

06/06/2018

SD-3140593#

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

Publication	\$36.40
Total	\$36.40



Attachment 3: Consultation Outreach Summary

Organization	Outreach Summary
American Indian Chamber of Commerce of California Tracy Stanhoff 213-341-0401 714-898-6364 tracy@adproweb.com stateadmin@aicccal.org	6/8 Sent outreach email. 6/12 Phone number listed is no longer active. Tried 714-898-6364, Tracy's office number; however, that was disconnected as well. 6/18 Sent follow-up email. 6/21 Spoke with Carol, who informed MTS that Tracy had been traveling this past week and has not had time to review the goal methodology. She suggested following-up with Tracy next week.
American Institute of Architects - San Diego Bastiaan Bouma 619-232-0109 info@aiasandiego.org bbouma@aiasandiego.org	6/8 Sent outreach email. 6/12 Spoke to Bastiaan about the goal methodology. He will review it and see if there are any areas of expertise that will spark interests with his members. 6/18 Sent follow-up email. 6/21 Left voicemail. 6/26 Sent follow-up email.
American Subcontractors Association of San Diego Nancy Grimes 619-825-9552 nancy@sandiegoasa.org	6/8 Sent outreach email. 6/12 Spoke to Nancy about the goal methodology. She requested the draft document to review at her board meeting tomorrow. 6/18 Sent follow-up email. 6/21 Spoke to Nancy who forwarded the message onto the governing chair for feedback. 6/26 Sent follow-up email. Received automatic reply that Nancy will be out of the office until June 26th.
Asian Business Association Wendy Urushima-Conn 858-277-2822 Ext. 108 wendy@abasd.org mei@abasd.org	6/8 Sent outreach email. 6/12 Left voicemail. 6/18 Sent follow-up email. 6/21 Left voicemail. 6/26 Sent follow-up email.
Black Contractors Association, Inc. Abdul-Rahim Hameed 619-263-9791 ext. 2 janiecehameed@yahoo.com	6/8 Sent outreach email. 6/12 Left voicemail. 6/18 Sent follow-up email. 6/21 Attempted to leave voicemail; however, inbox was full. 6/26 Sent follow-up email.
National Association of Minority Contractors Southern California Sharon Coleman 323-296-8005 scoleman@colemancon.com admin@namcsc.net	6/8 Sent outreach email. 6/12 Left message with receptionist with contact information since Sharon is out of town for the week. 6/18 Sent follow-up email. 6/26 Sent follow-up email.



Organization	Outreach Summary
National Association of Women in Construction - San Diego Isabel Marocco 858-635-9000 619-589-6001 info@nawicsd.org lzmarocco@caspercompany.com San Diego Contracting Opportunities Center Rachel Fischer 619-285-7020 rischer@ptac-sandiego.org bhousholder@swccd.edu	6/8 Sent outreach email. Bounce back from info@nawicsd.org. 6/12 Left voicemail. 6/18 Sent follow-up email. 6/21 Phone number disconnected 858-635-9000. Left voicemail at 619-589-6001. 6/26 Sent follow-up email.
Association of General Contractors of America San Diego Chapter Brad Barnum 858-731-8158 bbarnum@agcsd.org San Diego County Hispanic Chamber of Commerce Albert Clark 619-500-4249 info@sdchcc.org	6/8 Sent outreach email. 6/12 Attempted call and heard busy tone. 6/18 Sent follow-up email. 6/21 Left voicemail. 6/26 Sent follow-up email.
San Diego Supplier Development Council Ronald Garnett 858-537-2281 info@supplierdiversitysd.org rbgarnett@supplierdiversitysd.org	6/8 Sent outreach email. 6/12 Left message with receptionist with contact information since Ron is out of the office for the day. 6/18 Sent follow-up email. 6/19 Left message with receptionist. Received called from Ron. <i>He thinks the goal is too low and is insensitive to the DBE/SBE community because it discourages small businesses from participation on projects. He suggests unbundling the project to accommodate small businesses capacity to perform work. He also believes that the larger companies bidding on projects have no affinity to include the small businesses on their teams.</i>
Women's Construction Coalition Katy Ross president@wccsd.org	6/8 Sent outreach email. 6/18 Sent follow-up email. 6/26 Sent follow-up email.
Elite Service-Disabled Veteran-Owned Business Joe Bessler 619-981-3270	6/21 Spoke with Joe who stated that he is not interested in participating.



Organization	Outreach Summary
Veterans in Business Network	6/18 Sent outreach email.
Rebecca Aguilera-Gardiner	6/21 Left voicemail.
877-270-8426	6/26 Sent follow-up email.
director@vibnetwork.org	



Attachment 4: Response to Comment Received from Consultations

Source	Comment Summary	Response Summary
San Diego Supplier Development Council (SDSDC)	The goal is too low and is insensitive to the DBE/SBE community because it discourages small businesses from participation on projects. Suggests unbundling the project to accommodate small businesses capacity to perform work. States that the larger companies bidding on projects have no affinity to include the small businesses on their teams.	MTS does not believe that MTS's overall DBE goal discourages small businesses to bid or propose on MTS's contracts. MTS's overall DBE goal was developed in compliance with FTA DBE Regulations. It is based on what types of federal contracts MTS will procure in the next three years and the availability of DBEs to perform those contracts. The overall DBE goal has no impact on the ability of a DBE or small business to be awarded a contract. Successful bidders and proposers are chosen using race-neutral means—generally through a low-bid or best-value procurement process. MTS implements various race-neutral outreach measures so DBE and small businesses can be on an even playing field with large prime contractors when bidding and proposing on MTS contracts. MTS's outreach measures aim at assisting DBE and small businesses in their ability to compete in the market. MTS will continue to implement and improve its outreach measures so that MTS can not only meet its 3% overall DBE goal over a three year period, but exceed its overall DBE goal.



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(619) 231-1466 • FAX (619) 234-3407

Agenda Item No. 11

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

SUBJECT:

FAIRFIELD GROSSMONT TROLLEY, LLC LEASE: CONSENT TO ASSIGNMENT AND
ASSUMPTION OF GROUND LEASE

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer to execute the Assignment and Assumption of Ground Lease (Attachment A) consenting to this transfer of the Fairfield Grossmont Trolley, LLC lease to Trolley 8727 Apartments California, LLC and any additional documents necessary to close the transaction.

Budget Impact

None.

DISCUSSION:

In 2006, MTS entered into a ground lease transaction with Fairfield Grossmont Trolley, LLC for a transit-oriented development at the Grossmont Trolley station (Ground Lease). The development resulted in a 527 unit residential complex (made up of two communities – Alterra and Pravada) with retained trolley patron parking adjacent to the Grossmont Trolley station. The development is subject to an Affordable Housing Agreement dated September 27, 2005 with the La Mesa Redevelopment Agency that restricts 80 of the residential units to very-low and moderate income rental covenants.

MTS earns approximately \$396,000 annually under the terms of the lease.

The lessee, Fairfield Grossmont Trolley, LLC, is in the process of selling its interest in the property, including the Ground Lease, to Trolley 8727 Apartments California, LLC, a Delaware limited liability company. Trolley 8727 Apartments California, LLC is owned by TruAmerica Multifamily (TruAmerica) and Intercontinental Real Estate Corporation (Intercontinental). TruAmerica was founded in 2013 and is headquartered in Los Angeles. As of December 31, 2017, TruAmerica had assets under management of \$7.1



billion comprised of 33,263 units and construction management of approximately \$375 million in budgeted renovations. Intercontinental was established in 1959 as a general contractor for large-scale public-bid construction projects and evolved into a private equity real estate investment management and advisory service. Intercontinental has developed, built, managed and owned more than \$10 billion of commercial real estate projects and currently has \$7.6 billion in assets under management across the continental United States. Since 2014, TruAmerica and Intercontinental have joint-ventured to acquire a total of six multifamily properties totaling 1,678 units.

The proposed purchase of the development will be partially financed by a loan from Fannie Mae. Fannie Mae is a publicly traded company, government sponsored entity and the largest lender in the multifamily industry.

The Alterra and Pravada developments will be managed on a day-to-day basis by a third-party contractor, Greystar. With over 1,600 multifamily communities totaling approximately 435,000 units, Greystar is the largest multifamily property manager in the United States. In Southern California, Greystar currently manages 113 apartment developments totaling 28,577 units, with 19 developments totaling 4,791 units under management in San Diego County. Greystar has a long track record of overseeing affordable properties. Their current portfolio includes 140 affordable properties consisting of 8,500 units and 80 HUD-insured properties including 15,000 units.

The Ground Lease commenced on October 11, 2006 and expires on May 31, 2065. The lessee has two twenty-year options to extend the lease, for a maximum term ending on October 11, 2105. The minimum base rent under the Ground Lease is \$256,000 per year, paid each March. The base rent amount will adjust on the thirty-first year of the lease, and then periodically thereafter. In addition to base rent, MTS receives annual payments of overage rent equal to 1.25% of the gross revenue from the project for the prior year. (See Attachment B – History of Rent Payments.)

Under section 802(b) of the Ground Lease, MTS's written approval of any transfer of the Ground Lease is required:

Lessee shall not make or permit any Lease Interest Transfer without the prior written approval of Board, which approval shall not be unreasonably withheld or delayed if (i) the proposed Transferee or its management has sufficient experience in the development, operation and management of residential apartment projects comparable to the Project (or other use approved by the Board pursuant to Section 502), and (ii) the proposed Transferee is financially qualified to perform all the agreements, undertakings, and covenants of this Lease and all other agreements entered into by Lessee which relate to the development, management, operation, maintenance, and restoration of the Parcels and of the Improvements.

Based on staff's review of TruAmerica and Intercontinental, the new lessees' appear to have "sufficient experience in the development, operation and management of residential apartment projects comparable to the Project" and are "financially qualified to perform all the agreements, undertakings, and covenants of this Lease and all other agreements entered into by Lessee which relate to the development, management, operation, maintenance, and restoration of the Parcels and of the Improvements."

Section 900 of the Ground Lease allows a “permitted mortgage” on the ground lease interest so long as the loan does not exceed a maximum loan-to-value ratio of 90% and the lender has a collective net worth in excess of \$500 million or services loans in excess of \$8 billion. The proposed new loan will have an estimated loan-to-value ratio of 59%. Fannie Mae has net assets of \$3.3 trillion and holds \$3.1 trillion in total mortgage loans as of June 30, 2017.

Today’s action would authorize the CEO to execute the Assignment and Assumption of Ground Lease (Attachment A) consenting to this transfer of the Fairfield Grossmont Trolley, LLC lease to Trolley 8727 Apartments California, LLC and any additional documents necessary to close the transaction.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachments: A. Assignment and Assumption of Ground Lease
B. History of Rent Payments

**THIS ATTACHMENT WILL BE
PROVIDED AT THE MEETING**

Fairfield Grossmont Trolley, LLC - Pravada

5510 Morehouse Drive
Suite 200
San Diego, CA 92121

Phone: (858) 824-6427

Fax: (858) 625-8984

E-Mail: achoi@ffres.com

Base Rent due MTS

Lease Year	Base Rent per Agreement	Less % of Trolley Parking Maintenance Costs	Plus Electric Charge Reimbursement to MTS	Net Due	Date Paid	Check #
10/11/06 - 03/31/07	\$ 17,585.24	\$ -	\$ -	\$ 17,585.24	10/11/06	Closing Stmt
04/01/07 - 03/31/08	55,239.68			55,239.68	03/28/07	200169
04/01/08 - 03/31/09	92,786.39			92,786.39	03/19/08	200523
04/01/09 - 03/31/10	112,640.00			112,640.00	03/18/09	200860
04/01/10 - 03/31/11	112,640.00	14,763.62	-	97,876.38	03/25/10	10326
04/01/11-03/31/12	112,640.00	21,151.09	-	91,488.91	03/24/11	11252
04/01/12-03/31/13	112,640.00	19,394.11	-	93,245.89	03/19/12	12207
04/01/13-03/31/14	112,640.00	21,478.64		91,161.36	03/20/13	13208
04/01/14-03/31/15	112,640.00	20,446.50		92,193.50	03/18/14	14181
04/01/15-03/31/16	112,640.00	25,269.76		87,370.24	03/16/15	15223
04/01/16-03/31/17	112,640.00	28,334.91		84,305.09	03/16/15	16320
04/1/2017-03/31/18	112,640.00	36,727.31		75,912.69	03/13/17	17361
04/01/2018-03/31/19	112,640.00	36,684.10		75,955.90	03/15/18	18421
				-		
	\$ 1,292,011.31	\$ 224,250.04	Total	1,067,761.27		

Please note (See agreement):

- 1) Base Rent is payable annually on March 31st for the lease year beginning April 1st through March 31st.
- 2) MTS Board to reimburse 50% of garage expense until all Certificates of Occupancy are issued. After that MTS share of garage expense is reduced to 49%. Once entire project is complete MTS share of garage expense will be at 43.2%.
- 3) Reimburse MTS Board 1.5% of electric charges paid by the MTS Board for the West Garage.

Fairfield Grossmont Trolley, LLC - Pravada

5510 Morehouse Drive
Suite 200
San Diego, CA 92121

Phone: (858) 824-6427
Fax: (858) 625-8984
E-Mail: achoi@ffres.com

Overage Rent due MTS

Rent Period	Gross Revenue	Gross Revenue Factor	Overage Rent Due	* Trolley Parking Maintenance Costs	Net Due	Date Paid	Check #
11/01/08 - 12/31/08	\$ 9,611.83	1.25%	\$ 120.15	\$ (41.74)	\$ 78.41	03/23/09	10329
01/01/09-12/31/09	\$ 2,384,108.08	1.25%	\$ 29,801.35		29,801.35	03/25/10	10325
01/01/10-12/31/10	3,914,986.82	1.25%	\$ 48,937.35		48,937.35	03/24/11	11251
01/01/11-12/31/11	3,990,349.86	1.25%	\$ 49,879.37		49,879.37	03/19/12	12206
01/01/12-12/31/12	3,919,410.76	1.25%	\$ 48,992.63		48,992.63	03/20/13	13208
01/01/13-12/31/13	4,068,650.53	1.25%	\$ 50,858.13		50,858.13	03/18/14	14181
01/01/14-12/31/14	4,305,519.63	1.25%	\$ 53,819.00		53,819.00	03/16/15	15224
01/01/15-12/31/15	4,616,016.19	1.25%	\$ 57,700.20		57,700.20	03/16/16	16319
01/01/16-12/31/16	4,786,205.40	1.25%	\$ 59,827.57		59,827.57	03/13/17	17362
01/01/17-12/31/17	4,907,830.12	1.25%	\$ 61,347.87		61,347.87	03/15/18	18422
					-		
				Total	-		

Please Note:

Overage Rent is due annually March 31st based on 1.25% of Gross Revenue received in the prior calendar year.

* For future periods this column is included in the Base Rent Schedule.

Fairfield Grossmont Trolley, LLC - Alterra

5510 Morehouse Drive
Suite 200
San Diego, CA 92121

Phone: (858) 824-6427

Fax: (858) 625-8984

E-Mail: achoi@ffres.com

Base Rent due MTS

Lease Year	Base Rent per Agreement	Less % of Trolley Parking Maintenance Costs	Plus Electric Charge Reimbursement to MTS	Net Due	Date Paid	Check #
10/11/06 - 03/31/07	\$ 22,710.90	\$ -	\$ -	\$ 22,710.90	10/11/06	Closing Stmt
04/01/07 - 03/31/08	70,305.03			70,305.03	03/28/07	200140
04/01/08 - 03/31/09	118,091.79			118,091.79	03/19/08	200332
04/01/09 - 03/31/10	143,360.00			143,360.00	03/18/09	200610
04/01/10 - 03/31/11	143,360.00			143,360.00	03/25/10	12786
04/01/11-03/31/12	143,360.00	13,421.03		129,938.97	03/24/11	11137
04/01/12-03/31/13	143,360.00	19,431.15		123,928.85	03/19/12	12280
04/01/13-03/31/14	143,360.00	22,438.08		120,921.92	03/20/13	13416
04/01/14-03/31/15	143,360.00	29,524.53		113,835.47	03/18/14	14595
04/01/15-03/31/16	143,360.00	37,472.47		105,887.53	03/16/15	15768
04/01/16-03/31/17	143,360.00	40,673.40		102,686.60	03/16/16	16953
04/01/17-03/31/18	143,360.00	52,293.45		91,066.55	03/13/17	18140
04/01/18-03/31/19	143,360.00	51,741.64		91,618.36	03/15/18	19333
				-		
	\$ 1,644,707.72		Total	1,377,711.97		

Please note (Per agreement):

- 1) Base Rent is payable annually on March 31st for the lease year beginning April 1st through March 31st.
- 2) MTS Board to reimburse 50% of garage expense until all Certificates of Occupancy are issued. After that MTS share of garage expense is reduced to 43.2%.
- 3) Reimburse MTS Board 22.1% of electric charges paid by the MTS Board for the East Garage.

Fairfield Grossmont Trolley, LLC - Alterra

5510 Morehouse Drive
Suite 200
San Diego, CA 92121

Phone: (858) 824-6427
Fax: (858) 625-8984
E-Mail: achoi@ffres.com

Overage Rent due MTS

Rent Period	Gross Revenue	Gross Revenue Factor	Overage Rent Due	Net Due	Date Paid	Check #
01/01/09-12/31/09	\$ 1,420.27	1.25%	\$ 17.75	\$ 17.75	03/25/10	200763
01/01/10-12/31/10	2,234,826.97	1.25%	27,935.35	27,935.35	03/24/11	11136
01/01/11-12/31/11	4,899,815.62	1.25%	61,247.70	61,247.70	03/19/12	12279
01/01/12-12/31/12	5,244,139.07	1.25%	65,551.74	65,551.74	03/20/13	13415
01/01/13-12/31/13	5,403,891.90	1.25%	67,548.65	67,548.65	03/18/14	14594
01/01/14-12/31/14	5,730,547.25	1.25%	71,631.84	71,631.84	03/16/15	15769
01/01/15-12/31/15	5,997,433.24	1.25%	74,967.91	74,967.91	03/16/16	16952
01/01/16-12/31/16	6,229,446.52	1.25%	77,868.05	77,868.05	03/13/17	18141
01/01/17-12/31/17	6,395,254.36	1.25%	79,940.68	79,940.68	03/15/18	19332
			-	-		
				-		

Please Note:

Overage Rent is due annually March 31st based on 1.25% of Gross Revenue received in the prior calendar year.



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Agenda Item No. 12

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

**Draft for
Executive Committee
Review Date: 7/12/18**

SUBJECT:

CENTRALIZED TRAIN CONTROL (CTC) TECHNOLOGY REFRESH PROJECT

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute Task Order 83 of Addendum 17 to the Memorandum of Understanding (MOU) between San Diego Associations of Governments (SANDAG) and MTS for the Centralized Train Control (CTC) Technology Refresh Project.

Budget Impact

The estimated cost of the project is \$2,793,578. Currently \$1,441,000 has been funded in MTS project 1007103301 - CTC System Technology Refresh project. MTS and SANDAG will be responsible for the costs of the project in the ratio of 75:25 respectively as described in the table below.

Project Summary	Project Total
Mid-Coast Funds 25%	\$698,395
MTS Funds 75%	2,095,183
Total Project	\$2,793,578

MTS will request the current unfunded portion of \$654,183 in the FY20 Capital Improvement Program (CIP).

DISCUSSION:

In December 2007, ARINC won the contract to design and install a new Centralized Train Control (CTC) system for light rail transit operations in greater San Diego. The



contract was awarded by SANDAG on behalf of San Diego Trolley Inc. (SDTI), and SANDAG managed the implementation of the system. ARINC implemented a new CTC system with centralized train control, routing, tracking, monitoring and controlling of 53 miles of track, substations, feeders and overhead catenary. With the original project completed, MTS utilizes an MOU with SANDAG for ongoing CTC maintenance and enhancements which are detailed as specific task orders.

The current CTC system does not support the growing system expansion needs of SDTI and is currently running on unsupported Microsoft software. In order to support the Mid-Coast expansion, which will add nine (9) new trolley stations and 36 new light rail vehicles, it was determined that the existing CTC system and associated system environment would need to be refreshed.

MTS seeks to refresh the current CTC AIM® environment to include desktops, servers, network infrastructure, and back office software with upgrades such as an updated Microsoft 2016 Operating System, new Java graphical user interface, and improvements that include a new system architecture, scalability, functionality and performance. The main goal of this task order is to replace aging software and hardware with the newest technology to support future growth of the AIM® system, reduce the probability of system failures, and improve security.

MTS performed an Independent Cost Estimate (ICE) for this project which is reflected in the following table.

Project Summary Breakdown	Total
AIM Software Upgrade	\$1,706,764
CTC Server & Storage and Associated Software	404,892
AIM System Integration	265,440
SANDAG PM Costs	91,000
Network Infrastructure	71,520
Contingency	253,962
Project Total	\$ 2,793,578

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute Task Order 83 of Addendum 17 to the MOU between SANDAG and MTS, for the SANDAG/MTS Centralized Train Control (CTC) Technology Refresh Project.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachments: A. Addendum 17, Task Order 83

Addendum 17 Project Scope of Work

MTS File No.	G0930.17-04.83	SANDAG Reference No.	5000710 SOW 82
CIP Title:	CTC System Technology Refresh		
CIP No.	MTS – 1007103301 SANDAG – 1257001	Project Managers:	MTS - Robert Borowski SANDAG – Dale Neuzil
Lead Agency:	SANDAG	Operating Agency:	MTS
Estimated Start Date:	7/1/18	Estimated Completion Date:	12/1/20
Estimated Budget:	\$ 2,793,578	Effective Date:	4/1/18

Intended Source of Funds:

SANDAG - FTA Section 5309, FTA Mid-Coast FFCA CA-2016-021 and TransNet funds.

MTS – State & Local funding

Describe Any Necessary Transfers of Project Funds Between the Parties:

MTS will reimburse SANDAG via purchase order(s) for the services described herein.

SANDAG shall utilize the existing contract with Rockwell Collins, formerly ARINC, to perform the Advanced Information Management (AIM®) software upgrade portion of the Centralized Train Control (CTC) Technology Refresh Project. Under this agreement, the SANDAG Mid-Coast Project will pay 25% or all costs required for the CTC AIM® and OCC upgrades needed to support the Mid-Coast line extension.

Project Summary	FY 19	FY 20	Project Total
Mid-Coast Funds 25%	\$448,970	\$249,425	\$698,395
MTS Funds 75%	1,346,909	748,274	2,095,183
Total Project	\$1,795,879	\$997,699	\$2,793,578

Project Description:

The current CTC system does not support the growing system expansion needs of MTS Rail and is currently running on unsupported Microsoft software (Microsoft Server 2003 which reached its end of life in July 2015 and Windows XP desktop which reached its end of life in April 2014). In addition and by necessity the hardware this software is running on is old and also past its end of life.

In order to support the Mid-Coast Expansion which will add 9 new trolley stations and 36 new trolleys it was determined that the existing CTC system would need to be refreshed. This project will refresh the Centralized Train Control (CTC) environment to include all software and hardware. MTS seeks to refresh the current CTC AIM® environment to include desktops, servers, network infrastructure, and back office software with upgrades such as 64-bit architecture as a platform base, MS 2016 Operating System (OS), new Java graphical user interface (GUI), improvements that include a new system architecture, scalability, functionality, and performance. The main goal of this task order is to replace aging software and hardware with the newest technology to support future growth of the AIM® system, reduce the probability of system failures, and improve security.

The SANDAG Mid-Coast project will be responsible for 25% of the total project costs and MTS will reimburse SANDAG for 75% of the total project costs.

This agreement reimburses SANDAG for upgrades required to support the new Mid-Coast Line.

Scope of Work to be Performed by MTS:

OVD and OCC construction; computer, network and server hardware and software procurement, installation and testing. Provide project management in support of construction portion of this project and provide assistance with the installation and integration of the AIM® system.

Reimburse SANDAG for services and materials provided herein with 15 days of receipt of invoice.

Scope of Work to be Performed by SANDAG:

Execute service contract(s) with Rockwell Collins, formerly ARINC, for CTC AIM® software development, testing, and integration of the AIM® system. Coordinate the efforts of MTS staff and provide project management assistance with the installation and integration of the AIM® system.

APPROVED BY:
SANDAG

METROPOLITAN TRANSIT SYSTEM

Jim Linthicum
Director of Mobility Management and
Project Implementation

Date

Paul Jablonski
Chief Executive Officer

Date



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San Diego, CA 92101-7490
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Agenda Item No. 13

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

SUBJECT:

**Draft for
Executive Committee
Review Date: 7/12/18**

INVESTMENT REPORT – MAY 2018

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

Attachment A comprises a report of the San Diego Metropolitan Transit System (MTS) investments as of May 31, 2018. The combined total of all investments has decreased month to month from \$99.8 million to \$81.7 million. This \$18.1 million decrease is attributable to \$15.3 million in capital expenditures, as well as normal timing differences in other payments and receipts.

The first column provides details about investments restricted for capital improvement projects.

The second column, unrestricted investments, reports the working capital for MTS operations allowing payments for employee payroll and vendors' goods and services.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachment: A. Investment Report for May 2018



**San Diego Metropolitan Transit System
Investment Report
May 31, 2018**

	Restricted	Unrestricted	Total	Average rate of return
Cash and Cash Equivalents				
JP Morgan Chase - concentration account	-	38,442,775	38,442,775	0.00%
Total Cash and Cash Equivalents	-	38,442,775	38,442,775	
Cash - Restricted for Capital Support				
US Bank - retention trust account	2,434,428	-	2,434,428	N/A*
California Bank & Trust - retention trust account	262,113		262,113	N/A*
San Diego County Investment Pool				
Proposition 1B TSGP grant funds	6,213,064	479,289	6,692,353	1.850%
Total Cash - Restricted for Capital Support	8,909,606	479,289	9,388,895	
Investments - Working Capital				
Local Agency Investment Fund (LAIF)	5,623,981	12,264,726	17,888,707	1.755%
San Diego County Investment Pool	-	16,000,000	16,000,000	1.850%
Total Investments - Working Capital	5,623,981	28,264,726	33,888,707	
Total cash and investments	\$ 14,533,587	\$ 67,186,790	\$ 81,720,377	

N/A* - Per trust agreements, interest earned on retention account is allocated to trust beneficiary (contractor)



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Agenda Item No. 14

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

July 26, 2018

**Draft for
Executive Committee
Review Date: 7/12/18**

SUBJECT:

ELEVATOR AND ESCALATOR MAINTENANCE AND REPAIR SERVICES –
CONTRACT AMENDMENT

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors:

- 1) Ratify Amendments 1, 2 and 3 to MTS Doc. No. PWG153.0-14; and
- 2) Authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG153.5-14 (in substantially the same format as Attachment A) with ThyssenKrupp Elevator (TKE) for additional funds for continued maintenance of elevators and escalators.

Budget Impact

This agenda requires ratification for Amendment Nos. 1, 2 and 3 issued in years 2015 and 2016 for \$89,959.

Amendment No. 5 for \$60,000 will go above the CEO authorized approval amount, to \$149,959, and is funded by 380016-536500.

Amendment No. 5 will change the overall contract total from \$618,907 to \$678,907.

DISCUSSION:

On December 11, 2014, the MTS Board approved MTS Doc. No. PWG153.0-14 with TKE for San Diego Transit Corporation (SDTC) and San Diego Trolley, Inc. (SDTI) elevator and escalator maintenance, for three-year base period with two-year options (total of five years), for a total cost of \$528,948 as shown below:



Description	SDTC	SDTI
Preventative maintenance	\$35,553	\$393,395
Trouble calls	\$25,000	\$75,000
Total	\$60,553	\$468,395

Since the contract started, staff has issued Amendment Nos. 1, 2 and 3 for \$89,959 which is within the MTS CEO's authority.

Staff now needs to issue Amendment No. 5 for \$60,000 which will bring the total amendments to \$149,959 as shown below:

#	Date	Description	Requires Ratification and Board Approval	Overall Total
Amendment 1	06/26/15	Replace and install new elevator doors at Fashion Valley and Qualcomm trolley stations	\$24,959.00	\$89,959
Amendment 2	02/26/16	Repair cab sills at elevator 1 & 2 at Grossmont trolley station	\$25,000.00	
Amendment 3	09/18/16	Increase funds for trouble calls	\$40,000.00	
Amendment 4	10/25/17	Exercise option years 1 & 2	N/A (approved with the original agreement)	
Amendment 5		Increase funds for trouble calls	\$60,000	\$60,000
Total				\$149,959

Since the contract was issued, trouble calls/call back services have included replacing a hall door damaged by the Fire Department extricating passengers, repairing a damaged grinding door and operating panel, replacing deteriorating main travel cables, replacing a seismic board due to water damage, replacing an elevator sill due to vandalism, relocating elevator seismic boxes and installing new elevator inverters.

Staff is estimating that \$60,000 (\$30,000 for each option year) is needed for the balance of the contract term ending December 31, 2019 based on past usage as shown below:

Group B: SDTI	Original Estimated Contract Amount for Trouble Calls	Actual Spend	Shortfall
Base Year 1 (1/1/15)	\$15,000	\$44,630.00	\$29,630.00
Base Year 2 (1/1/16)	\$15,000	\$52,162.86	\$37,162.86
Base Year 3 (1/1/17)	\$15,000	\$45,092.54	\$30,092.54
Option Year 1 (1/1/18)	\$15,000	\$15,335.15 (amount to date)	N/A
Option Year 2 (1/1/18)	\$15,000	N/A	N/A

Therefore, staff recommends that the MTS Board of Directors: (1) Ratify Amendments 1, 2 and 3 to MTS Doc. No. PWG153.0-14; and (2) Authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG153.5-14 (in substantially the same format as Attachment A) with ThyssenKrupp Elevator (TKE) for additional funds for continued maintenance of elevators and escalators.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

Attachment: A. Draft Amendment PWG153.5-14

July 26, 2018

MTS Doc. No. PWG153.5-14

ThyssenKrupp Elevator (TKE)
Mr. David Fairchild
1965 Gillespie Way, Suite 101
El Cajon, CA 92020

Dear Mr. Fairchild:

Subject: AMENDMENT NO. 5 TO MTS DOC. NO. PWG153.0-14; ELEVATOR AND ESCALATOR
MAINTENANCE AND REPAIR SERVICES

This shall serve as Amendment No. 5 to our agreement for the elevator and escalator maintenance and repair services as further described below.

SCOPE OF WORK

There shall be no change to the scope of work of this contract.

SCHEDULE

There shall be no change to the schedule provision of this contract.

PAYMENT

MTS is increasing the trouble calls/call back amounts for 2018 and 2019 by \$60,000. The new contract total is amended from \$618,907 to \$678,907. This amount may not be exceeded without prior MTS approval. There shall be no other changes to the payment provision of this contract.

Please sign and return the copy marked "original" to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

David Fairchild
ThyssenKrupp Elevator

JULY2018-PWG153.5-14.TKE.RMONTES.doc

Date: _____

Cc: R. Montes, B. Jackson, Procurement File