



**Metropolitan
Transit
System**

Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

9:00 a.m.

Meeting will be held via webinar

To request an agenda in an alternative format or to request accommodations to facilitate meeting participation, please email the Clerk of the Board, ClerkoftheBoard@sdmts.com at least two working days prior to the meeting. Meeting webinar/teleconference instructions can be accessed under '[Meeting Link and Webinar Instructions](#).' Click the following link to access the meeting: <https://zoom.us/j/98288032362>

Para solicitar la agenda en un formato alternativo o para solicitar acomodaciones de participación, por favor mande un correo a la Secretaria de la Junta, ClerkoftheBoard@sdmts.com al menos dos días hábiles antes de la reunión. Instrucciones para ingresar a la junta virtual están disponibles bajo '[Meeting Link and Webinar Instructions](#).' Use este enlace para acceder la reunión virtual: <https://zoom.us/j/98288032362>

**ACTION
RECOMMENDED**

1. Roll Call
2. Approval of Minutes - September 16, 2021 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.



CONSENT ITEMS

6. [Authorization of Remote Teleconferenced Meetings](#) Approve
Action would authorize remote teleconferenced meetings for any public meetings held by MTS, including all Brown Act committees, for the next thirty (30) days pursuant to Assembly Bill (AB) 361 and make the following findings: 1) The MTS Board has considered the current circumstances of the COVID-19 pandemic and its impact in San Diego County; and 2) State or local officials continue to recommend measures to promote social distancing. On September 23, 2021, County of San Diego Public Health Officer, Wilma J. Wooten, M.D., M.P.H., issued a recommendation supporting the use of teleconferencing for attendance at public meetings as “a social distancing measure that may help control transmission of the SARS-CoV-2 virus.”
7. [Board Policy No. 26, Disadvantaged Business Enterprise Program – Policy Revision](#) Approve
Action would approve revisions to Board Policy No. 26, Disadvantaged Business Enterprise Program.
8. [CrowdStrike Falcon Endpoint Protection Premium License and Support– Contract Award](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2518.0-22 with Nth Generation Computing Inc. for CrowdStrike Falcon Endpoint Protection Premium Software (CrowdStrike) License and Support for a three (3) base term in the amount of \$190,029.09.
9. [ADA \(American With Disabilities Act\) Client Certification Services – Contract Amendment](#) Approve
Action would 1) Ratify Amendment No. 5 to MTS Doc. No. G1901.0-16, with Medical Transportation Management (MTM), a Women Business Enterprise (WBE), in the total amount of \$68,799.00; and 2) Approve Amendment No. 6 to MTS Doc. No. G1901.0-16, with MTM, to authorize the Chief Executive Officer (CEO) to add a temporary position for a Mobility Assessment Evaluator (MAE) with MTM for ADA Paratransit Client Certification Services for a total of \$52,415.00.
10. [Window Glass for Light Rail Vehicles \(LRV\) – Contract Award](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute two (2) contracts for the provision of window glass for LRVs, with Citywide Auto Glass and Siemens Mobility, for a not-to-exceed aggregate amount of \$1,518,019.41, for five (5) years from November 1, 2021 to October 30, 2026.
11. [Supplemental Renewable Energy Certificates \(REC\) Purchases – Contract Award](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. G2524.0-22 with 3Degrees, Inc., G2525.0-22 with Kinect Energy Green Services AS, G2526.0-22 with Sol Systems, LLC, and G2527.0-22 with SRECTrade, Inc, for the purchase of Supplemental RECs for 5 years in the amount of \$6,101,320.00.

12. [Provision of Hewlett Packard Enterprise \(HPE\) Nimble HF20 Array Equipment and Support for Regional Transit Management System \(RTMS\) Disaster Recovery – Purchase Order](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute a Purchase Order to Nth Generation Computing Inc. for the provision of HPE Nimble HF20 Array equipment and support for RTMS disaster recovery in the amount of \$173,335.21.
13. [Planning Services for Trolley Yard and Building C Expansion - Work Order](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute Work Order MTS Doc. No. WOA1947-AE-70 with HDR Engineering, Inc. (HDR) in the amount of \$249,367.48 to provide planning services for the Trolley Yard and Building C Expansion project.
14. [Darktrace Cybersecurity Software- Extended Licensing Subscription and Antigena Email Module Software Solution – Contract Amendment](#) Approve
Action would 1) Ratify previous Amendment No.1 to MTS Doc. No. G2386.0-20 with Darktrace Limited for \$87,700.00 and 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. G2386.0-20 with Darktrace Limited, in the amount of \$169,650.00 for the procurement of additional forty-one (41) months of EIS licensing subscription for the existing 2,500 devices 3) Authorize the CEO to execute Amendment 3 to MTS Doc. No. G2386.0-20 for the purchase of Antigena Email Inbox Artificial Intelligence (AI) Software Solution in the amount of \$108,609.00.
15. [Design Services for South Bay Maintenance Facility \(SBMF\) Electric Bus Charging Project – Work Order Amendment](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute Work Order Amendment No. WOA2075-AE-50.04 under MTS Doc No. G2075.0-18 with Dokken Engineering (Dokken) in the amount of \$297,720.80, for Design Support During Construction (DSDC) services.
16. [Building C Rollup Door Replacement Phase 2 – Work Order Amendment](#) Approve
Action would 1) Ratify Change Order No. MTSJOC275-15.03 under Job Order Contract (JOC) MTS Doc No. PWG275.0-19 with ABC General Contractor, Inc. (ABCGC) in the amount of \$20,700.03, for additional steel work for phase I due to unforeseen conditions; 2) Ratify Change Order No. MTSJOC275-15.04 under JOC MTS Doc No. PWG275.0-19 with ABCGC in the amount of \$10,446.41, for the addition of metal flashing the door openings for phase I; and 3) Authorize the Chief Executive Officer (CEO) to execute Change Order No. MTSJOC275.0-15.05, under JOC MTS Doc. No. PWG275.0-15, with ABCGC, for the provision of labor, materials and equipment in the amount of \$299,986.94 for phase II of the removal and replacement of the rollup doors, door threshold, and addition of flood barriers at Building C.
17. [Approve the Fiscal Year \(FY\) 2021-22 State Transit Assistance \(STA\) Claim and STA Interest Claim](#) Approve
Action would adopt Resolution No. 21-17 approving the FY 2021-22 STA claim and withdrawal of available interest balance.

CLOSED SESSION

24. None.

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

30. [Palm Avenue Trolley Station Transit Oriented Development – Palm City Village \(Karen Landers\)](#) Approve

Action would authorize the Chief Executive Officer to: (1) Execute a Disposition and Development Agreement with National Community Renaissance of California, a California nonprofit public benefit corporation (National CORE) for Buildings A, B, and C of the proposed Palm City Village Transit Oriented Development Project (National CORE DDA), in substantially the same format as Attachment A; (2) Execute a Disposition and Development Agreement with MALICK INFILL CORP, a California corporation (Malick Infill) for Building D of the proposed Palm City Village Transit Oriented Development Project (Malick Infill DDA), in substantially the same format as Attachment B; (3) Take all actions necessary to fulfill MTS's obligations under the National CORE DDA and the Malick Infill DDA, including, but not limited to, executing a Ground Lease and related regulatory agreements for each project phase; and (4) Conduct a market study regarding MTS park and ride needs.

31. [Project Labor Agreements \(Samantha Leslie & Rod Betts Of Paul, Plevin, Sullivan & Connaughton LLP\)](#) Adopt

Action would adopt Board Policy No. 66, Project Labor Agreements.

REPORT ITEMS

45. [Ridership Recovery Action Plan Update \(Mark Olson\)](#) Informational

46. [SANDAG'S Social Equity Early Action Transit Pilots \(Denis Desmond and Brian Lane of SANDAG\)](#) Informational

OTHER ITEMS

60. [Chair Report](#) Informational

61. [Chief Executive Officer's Report](#) Informational

62. [Board Member Communications](#) Informational

63. Additional Public Comments Not on the Agenda
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. Next Meeting Date: November 18, 2021.
65. Adjournment

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

DRAFT MINUTES

September 16, 2021

[Clerk's note: Except where noted, public, staff and board member comments are paraphrased. Note that the meeting was conducted via webinar to comply with public health orders].

1. Roll Call

Vice Chair Sotelo-Solis called the Board meeting to order at 9:03 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Board Member Salas moved to approve the minutes of the July 29, 2021, MTS Board of Directors meeting. Board Member Hall seconded the motion, and the vote was 13 to 0 in favor with Chair Fletcher and Board Member Frank absent.

3. Public Comment

There were no Public Comments.

CONSENT ITEMS:

6. Fiscal Year (FY) 2020-2021 and FY 2021-2022 California Senate Bill (SB) 1 State of Good Repair (SGR) Funding

Action would approve Resolution No. 21-15 in order to: 1) Authorize the use of, and application for, \$4,952,279 in FY 2021-22 State of Good Repair funding to be used for the ongoing SD100 Light Rail Vehicle (LRV) Replacement Project; and 2) Approve the transfer of FY 2020-21 SB1 SGR funding in the amount of \$4,955,508 to the same SD100 LRV Replacement Project as approved in the FY 2022 Capital Improvement Program (CIP).

7. System, Applications & Products (SAP) Support Services – Contract Award

Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2447.0-21, with Labyrinth Solution, Inc., for SAP Support Services for a five (5) years base term with one (1) one-year option in the amount of \$1,800,000.00.

8. Investment Report – Quarter Ending June 30, 2021

9. Communication Equipment Heating Ventilation Air Conditioning (HVAC) Maintenance Services – Amendment

Action would authorize the Chief Executive Officer (CEO) to exercise Amendment No. 8 to MTS Doc No. PWG225.0-17, with Comfort Mechanical, a Small Business (SB), for an increase in unscheduled repair funds and include the new stations along the Mid-Coast Trolley extension of the UC San Diego Blue Line for the remainder of the contract term, in the amount of \$110,029.00.

10. Variable Message Signs (VMS) Display Assemblies for the Iris Bus Rapid Transit (BRT) Stations Project – Contract Award

Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1591.0-21, with Nanov Display, Inc. (Nanov), for the supply of VMS display assemblies for the Iris Bus Rapid Transit (BRT) Stations project, in the amount of \$200,455.50.

11. Alternating Current (AC) Switchgear Replacement at 43rd Street Traction Power Substation (TPSS) – Work Order Agreement
Action would authorize the Chief Executive Officer (CEO) to execute Work Order MTSJOC312-02 to MTS Doc. No. PWL312.0-20, with HMS Construction, Inc. (HMS), in the amount of \$261,186.31 for replacement of the obsolete AC Switchgear at the 43rd Street TPSS.
12. Rail Replacement - America Plaza and Kettner Grade Crossing - Work Order Amendment
Action would authorize the Chief Executive Officer (CEO) to execute Work Order Amendment No. MTSJOC269-11.01, under MTS Doc. No. PWG269.0-19, with Herzog Contracting Corp. (Herzog), for the procurement of additional direct fixation fasteners necessary per the revised construction drawings in the amount of \$51,721.15, plus an additional project contingency of \$150,000 for potential unforeseen repairs.
13. Closed Circuit Television (CCTV) Maintenance Services – Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG335.0-21, with Electro Specialty Systems (ESS), for CCTV Maintenance Services totaling \$771,035.74 for five (5) years.
14. California Network and Telecommunications (CALNET) Program Next Generation Telecommunications Services (CALNET 4)
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2510.0-22 with AT&T Corp. for Telecommunication Services under the specified CALNET Next Generation (CALNET 4) Authorization to Order (ATO) in the amount of \$3,084,795.00 from January 1, 2022 through June 30, 2029.
15. Enterprise and Rio Vista Wall Survey – Work Order
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. WOA1948-AE-67 to MTS Doc. No. G1948.0-17 with HNTB Corporation (HNTB) in the amount of \$111,766.08 for the Enterprise and Rio Vista retaining wall survey.
16. Minibus and Americans With Disabilities Act (ADA) Paratransit Fixed Route Services – Contract Amendment
Action would 1) Ratify Amendments 1-3 with First Transit, Inc. (First Transit) in the total amount of \$70,866.84; and 2) Approve Amendment No. 4 to MTS Doc. No. B0703.0-19 to authorize the Chief Executive Officer (CEO) to purchase one set of four mobile column lifts, for a total of \$49,507.24.
17. Trapeze Software License and Maintenance Support – Contract Amendment
Action would authorize the Chief Executive Officer (CEO) to execute Amendment No. 4 to MTS Doc. No. G2253.4-19 with Trapeze Software Group, Inc. in amount of \$599,554.00 to add the renewal of Software licensing and maintenance support for a three (3) year base period with five (5) one-year options exercisable under MTS sole discretion.
18. Americans With Disabilities Act (ADA) Bus Stop Improvements Phase 2 – Work Order
Action would authorize the Chief Executive Officer (CEO) to execute Work Order MTSJOC275-22 under Job Order Contract (JOC) to MTS Doc. No. PWG275.0-19 with

ABC General Contractor, Inc. (ABCGC), in the amount of \$107,606.85 plus a 30% contingency in the amount of \$32,282.06 for anticipated design changes for installing of ADA bus stop improvements in various locations in the southern San Diego Area, for a total of \$139,888.91.

19. Transit on Board Video Surveillance System (OBVSS) Post-Warranty Maintenance, Repair, And Support Services – Sole Source
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0733.0 -21, with Luminator Technology Group (LTG), on a sole source contract for the provision of post-warranty maintenance, repair and support services for the MTS bus fleet OBVSS for a five (5) years base term with five (5) one-year options in the amount of \$10,970,864.20.
20. Building C Roof Rehabilitation – Work Order
Action would authorize the Chief Executive Officer (CEO) to execute Work Order MTSJOC324-06 under Job Order Contract (JOC) to MTS Doc. No. PWG324.0-21 with ABC General Contractor, Inc. (ABCGC), in the amount of \$155,228.61, for rehabilitating the roof at Building C, Building A, and the Paint Booth in the Trolley yard.
21. Planning Services for Imperial Avenue Division (IAD) Zero Emission Bus Master Planning - Work Order
Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA2075-AE-69 to MTS Doc. No. G2075.0-18 with Dokken Engineering (Dokken) in the amount of \$367,670.49 to provide planning services for the IAD zero emission bus master planning.
22. Middletown – Switch 9 And 11 Construction Management Services – Work Order Amendments
Action would 1) Ratify Work Order Amendment No. WOA2017-CM05.01 under MTS Doc No. G2017.0-17 with CH2M HILL Engineering Group, Inc. (Jacobs) totaling \$43,082.86 for staff changes and adding inspection services for the Overhead Catenary System (OCS) at Middletown crossover; and 2) Authorize the Chief Executive Officer (CEO) to execute Work Order Amendment No. WOA2017-CM05.02 under MTS Doc. No. G2017.0-17 with CH2M HILL totaling \$54,214.90 for required construction management services for the replacement of the crossover at 25th and Commercial.
23. Regional Communication Systems (RCS) Radio Equipment – Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2476.0-21 with Motorola Solutions, Inc. for RCS Radio Equipment and Installation in the amount of \$226,001.42.
24. Wireless Voice Communications Network Agreement with San Diego County – Imperial County Regional Communications Systems (RCS) – Contract Amendment
Action would authorize the Chief Executive Officer (CEO) to execute Amendment No. 3 to MTS Doc. G1893.0-16 with RCS to add an additional seventy-five (75) radio connections to the RCS network for a total of two-hundred forty-five (245), and extend the contract through June 30, 2026, in the amount of \$1,047,404.89.

25. Elevator and Escalator Preventive Maintenance and Repair – Contract Amendment
Action would 1) Ratify Amendment No. 2 to MTS Doc No. PWG281.0-19 with KONE, Inc. (KONE) totaling \$27,625.00 for the provision of elevator emergency call monitoring services, and the addition of a second elevator at the Fashion Valley Station; and 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 3 to MTS Doc No. PWG281.0-19 with KONE totaling \$993,886.29 for the provision of elevator emergency call monitoring services for sixteen (16) elevators in the Mid-Coast stations along the UC San Diego Blue Line, and elevator and escalator preventive maintenance and repair services for the aforementioned Mid-Coast elevators, as well as the second elevator at the Fashion Valley Station.
26. California Department of Housing and Community Development (HCD) Transit Oriented Development Program Award: Grantville Trolley Apartments
Action would 1) Approve Resolution No. 21-16, a revision of Resolution No. 20-15 which authorized an application to the HCD Transit-Oriented Development (TOD) Housing Program; and 2) Authorize the Chief Executive Officer to execute an Indemnification Agreement, in substantially the same format as Attachment B, with Affirmed Housing Group, Inc.
27. Employee Appreciation Bonus
Action would authorize the Chief Executive Officer to provide a one-time employee appreciation bonus for employees of MTS for a cost of up to \$800,000.

Action on Recommended Consent Items

Board Member Hall moved to approve Consent Agenda Item Nos. 6 to 27. Board Member Gastil seconded the motion, and the vote was 13 to 0 in favor with Chair Fletcher and Board Member Frank absent.

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS:

30. Palm Avenue Trolley Station Transit Oriented Development – Palm City Village (Karen Landers)
Karen Landers, MTS General Counsel, presented on the Palm Avenue Trolley Station Transit Oriented Development (TOD). She presented on: the Palm Avenue Station; access easement owed to ambient property; project proposal; Disposition and Development (DDA) and ground lease process; DDA and ground lease material terms; MTS replacement parking; other DDA and ground lease material terms; consideration and ground rent; Keyser Marston Associates, Inc. review; financial feasibility review of National CORE; financial feasibility review of Malick Infill Development; recommendation and next steps. John Seymour of National CORE and Andrew Malick of Malick Infill Development presented on the Palm City Village including: National Community Renaissance; Malick Infill Corporation description; intermodal connectivity; adjacent developments; Palm Avenue Trolley Station; adjacent developments in entitlement; joint development policy goals; affordable and middle-income housing; mobility hub features; zero carbon future; pedestrian design; Palm City Village and Expanding Potential in

Communities (EPIC) grant support; Palm City Village summary; project history and milestone timeline.

Sharon Cooney, MTS Chief Executive Officer, provided background on the conversation the Executive Committee had about the project. She listed parking needs at the TOD site and throughout the remainder of the service territory. She summarized that the recommendation would execute a DDA with the development team.

PUBLIC COMMENTS

Gretchen Newsom – Representing IBEW 569, made a verbal statement to the Board during the meeting. Newsom stated that the PLA negotiations have been going well and they look forward to building the development and are a strong supporter of the project.

Madison Coleman – Representing Climate Action Campaign, made a verbal statement to the Board during the meeting. Coleman supported the project and noted the developer as industry leaders and that the affordable housing development will encourage biking, walking and transit ridership. Coleman acknowledged the concerns about park-and-ride users, but stated that TOD developments are the most effective way to incentivize increased ridership. Coleman encouraged the Board to develop a park-and-ride policy for future developments. Coleman also recommended the hire of dedicated staff to provide additional in-house expertise to develop future TODs throughout the system.

Tania Moshirian – Representing Affirmed Housing, supported the TOD project and would like to further discuss the parking replacement policy. Moshirian stated that a policy should be implemented to assist developers in planning for parking early on in project design. Moshirian recommended the policy be established by relying on parking study data and also recommended there should be flexibility in allowances to reduce the parking cap depending on affordability, smart transit implementation and other factors. Moshirian recommended similar ongoing projects be reevaluated to have the same parameters as the Palm Avenue project, in terms of replacement parking, during the policy formalization.

BOARD COMMENTS

Ms. Landers made a clarifying comment noting that Malick Infill is a corporation and not a non-profit benefit corporation as stated in the agenda item and attachment.

Board Member Moreno stated she was a strong supporter of perusing the exclusive negotiating agreement with National CORE and Malick Infill. She acknowledged that the project would create housing opportunities and increase ridership for the system. She noted that the proposed project does not reflect the original proposal. She noted a higher unit density from the original proposal. She followed by citing the decrease allotment of parking and that 45 of the newly proposed 80 spaces will be built in conjunction with the City for street parking, leaving 35 spaces for transit users. She was concerned about equity to access transit with the reduced number of parking spaces at the site, while comparing the parking availability to those in Clairemont. She supports the project, but wants to ensure the station can effectively function and continue to attract choice riders. Board Member Moreno clarified that the lack of methodology for assessing parking spaces needed to be reassessed in order to optimize ridership. She acknowledged that the proposed DDA is the last public process for the program to be ministerial. She acknowledged that the original proposal had been presented to the Otay Nestor Community Planning Group and asked that the developers solicit public input for the

updated proposal presented today. She moved to return the item to staff for further analysis, bring the updated proposal to the public for additional input and bring both findings back to the Board.

Ms. Landers clarified that the project was initially drafted to have all shared parking spaces, including an additional 45 off site spaces in addition to the proposed 80 spaces being presented today.

Board Member Salas summarized the concerns of the Executive Committee, including loss of parking and the impacts of future projects. She voiced concerns about delays of the project that would occur if they resolicit for public input and instead asked that community feedback be incorporated moving forward in the development. She advocated for an overall parking strategy for MTS. She suggested that delegating parking spaces to other transit spots along the Trolley line would deter choice riders and impact neighboring jurisdictions. She noted this topic offered too many complexities and that the motion suggested by Board Member Moreno would not create additional solutions to the project.

Board Member Sandke summarized the motion crafted at the Executive Committee meeting. He acknowledged that he did not agree with the motion presented today and that delaying the project would not help the region's housing anticipation. He noted that the guiding policy needed to be thoughtful to have both MTS and developers' best interest.

Board Member Aguirre asked the developers if public presentations were made to the Imperial Beach community.

Mr. Seymour replied that they presented to the Otay Mesa Community development Board, the Land Use Committee and the full Board. He cited a letter written by the Community Group, in support of the development, with the request to work with the City on parking improvements on adjacent streets and helping with the reconstruction of the Palm City neighborhood monument sign. He continued that the Community Board also approved the proposal as presented today. He acknowledged an October 29th funding deadline to the Housing Commission, which if missed, would delay the project by one year.

Board Member Aguirre asked if additional community organizations were addressed in Imperial Beach.

Mr. Seymour clarified they have not yet, but intend to do so, along with additional surrounding communities.

Board Member Aguirre was concerned of the drastic parking reduction being proposed without community input from Imperial Beach residents and supported the motion made by Board Member Moreno. She favored the creation of a guiding parking policy for MTS.

Ms. Cooney clarified that while the funding deadline is approaching, the next regularly scheduled MTS Board of Directors meeting is October 14th. She proposed ongoing strategies to address the Board's concerns while simultaneously assisting the developers to reach their funding deadline, in the case that a solution was not made in today's discussion.

Board Member Elo-Rivera asked the developer for additional design clarification.

Mr. Seymour noted the developers have maximized the units on the site and listed the various options that would make the project feasible. He acknowledged there is only room for 191

parking spaces and cannot create additional spaces, because that would render the project infeasible.

Board Member Elo-Rivera clarified that based on the motion made, there would be an opportunity for staff to work with the developer to bring additional options to the Board. He acknowledged his frustration that the current conversation should be guided by policy. He reminded the Board that parking spaces are necessary to accommodate riders that need flexibility in their day. He encouraged the Board to suggest creative solutions beyond the parking space count and encouraged the implementation of charging station infrastructure.

Board Member Montgomery Steppe noted many of her concerns were answered, and stated that community outreach is extremely important. She asked for commitment to educating community groups that will be most impacted by this project.

Board Member Galvez supported looking at additional options. She asked for a plan to be established for Imperial Beach residents to get to the trolley reliably and quickly. She asked this item be taken to the next Board meeting.

Board Member Whitburn asked if there was any data analysis of downsized park-and-ride facilities.

Ms. Cooney acknowledged she was not aware of any specific statistics.

Denis Desmond, Director of Planning, acknowledged he could not cite a study that was related to downsized park-and-rides and stated that information could be analyzed for inclusion in any future proposed policy. He acknowledged the localized impact and that the analysis would be station specific. He noted that each individual station could be analyzed and that a parking impact study was conducted for this project.

Board Member Whitburn asked staff to work with the developer to create additional solutions to propose to the Board at the next Board meeting.

Board Member Moreno revised her motion so that the development team could bring back additional options for the project at the October 14th MTS Board meeting.

Board Member Sotelo-Solis acknowledged that a parking policy can serve as a guiding document for the Board and would like staff to bring a draft policy to a future meeting for discussion.

Board Member Salas expressed her support for the amended motion and an opportunity to take another look at the current obstacles.

Ms. Cooney noted that the project would be entering into a PLA. She agreed that revisiting the solution is necessary to ensure a comfortable approach for the surrounding communities. She commended the opportunities and amenities the development would bring to the region. She expressed staff commitment to helping the developers reach their funding deadline and present a solution that shows compromise at the October 14th Board of Director's meeting.

Action Taken

Board Member Moreno moved to bring back this item to the October 14, 2021 MTS Board of Directors meeting with alternative parking options. Board Member Whitburn seconded the motion, and the vote was 13 to 0 in favor with Chair Fletcher and Board Member Frank absent.

31. Evaluation of Restroom Facilities (Sharon Cooney)

Ms. Cooney presented on the evaluation of restroom facilities. She provided details on: restroom availability; public restrooms in: Downtown, America Plaza, Civic Center, 12th and Imperial, Gaslamp Quarter, Ruocco Park, Harbor Drive and West Broadway, Waterfront Park, Fault Line Park, G and 14th; public restrooms in development of Downtown; public restrooms within and outside of Downtown, San Ysidro, E Street, Old Town, El Cajon, Santee; passenger boarding vs restroom availability; passenger activity vs restroom availability; comparison to other light rail systems; closed public restrooms at 24th Street, San Diego State University, Lemon Grove Depot, Downtown 14th and L; cost per restroom; public information example; staff recommendation; and follow up items from the Executive Committee.

Board Member Galvez voiced support for an application based restroom map. She encouraged staff to integrate this feature into the PRONTO application.

PUBLIC COMMENTS

John Brady – Representing Lived Experience Advisors, made a verbal statement to the Board during the meeting. He acknowledged restroom access is a concern around the region and particularly for the unhoused population. He thanked the Board for taking a leadership position on this issue.

Randy Torres Van Vleck – Representing City Heights Community Development Corporation, made a verbal statement to the Board during the meeting. Torres Van Vleck noted transit restroom access as critical and was excited to see this analysis move forward. The organization identified bathroom access as a transit lifeline, which was identified by the San Diego Transportation Equity Working Group. Torres Van Vleck asked for bathroom access to overlap with operation hours along with City Heights transit plaza station to be re-opened and cleaned regularly.

Carolina Martinez – Representing Environmental Health Coalition, made a verbal statement to the Board during the meeting. Martinez supported having a dedicated page online that would assist riders in identifying restroom access. Martinez also encouraged visible signage to be displayed at transit stops. Martinez asked for a long-term plan for expanding the restroom network with ongoing system expansions.

BOARD COMMENTS

Board Member Elo-Rivera appreciated public comment from community advocates and thanked staff for their analysis. He reiterated the importance for the Board to set goals and policy to create guiding clarity for the agency to ensure a dignified and equitable riding experience for customers. He asked staff to include additional identifier amenities such as baby changing tables and use the County as a leading example to offer menstrual products in restrooms.

Board Member Whitburn acknowledged the Board and staff around evaluating access to bathroom facilities. He agreed with Board Member Elo-Rivero, that this effort should be formalized in a policy.

Board Member Moreno was shocked that many other transit agencies did not have facilities available and stated that this statistic should not deter the agency to being a leader.

Board Member Aguirre thanked staff for the presentation. She encouraged the agency to be leaders in offering bathroom facility services and encouraged services to be gender equitable, particularly for riders who ride at night.

Board Member Sandke noted obstacles this amenity would bring to the system and encouraged a data driven approach to close facilities if they became too problematic. Board Member Sandke supported the motion, but cautioned the Board to understand the mission of the system, which is to move people while encouraging additional new riders.

Board Member Salas supported added restroom accessibility for riders, but also noted the role of MTS. She stated that this is not MTS's primary mission statement and the system should be a safe and convenient mode of transportation for riders.

Vice Chair Sotelo-Solis cited the Executive Committee recommendation and agreed with Board Member Aguirre. She encouraged the Board to be leaders in this industry effort. She hoped to reopen the 24th Street Station restroom. She encouraged infrastructure that would not charge a fee, but rather return payment after use. She recalled an anecdote from Monterey Bay where she noticed restroom availability on every block and acknowledged these sites were maintained by the City, transit and business centers. She supported the map availability on PRONTO and acknowledged the item would go to the Accessible Services Advisory Committee (ASAC).

Action Taken

Board Member Moreno moved to: 1) Exploration of potential additional restroom locations provided by other businesses that MTS can leverage; 2) Legal and feasibility analysis of charging fees for restroom usage and/or limiting usage to transit riders, and to ensure that all Americans with Disabilities Act (ADA) requirements are met; 3) Potential development of long-term plan and Board policy to direct the long-term plan, including achievable goals for restroom accessibility based on time, distance, ridership or other metrics; 4) Budgetary consideration for possibly adding portable units at locations based on goals of a program; and 5) Information regarding baby-changing table availability around the system, which could be incorporated into the public information and maps to be created by MTS. Board Member Aguirre seconded the motion, and the vote was 13 to 0 in favor with Chair Fletcher and Board Member Frank absent.

REPORT ITEM:

45. Pronto Launch Update (Rob Schupp)

Rob Schupp, MTS Director of Marketing and Communications, provided an update on the launch of PRONTO. He outlined: key topics; agency involvement; getting the system ready; testing and troubleshooting; establishing the retail network; getting customers ready; advertising; phase one impression; creative samples; direct mail; outreach; results; and free ride with PRONTO promotion.

PUBLIC COMMENTS

Michael Horgan: Horgan made a verbal statement to the Board during the meeting. Horgan asked when the agency would expand to the retail network and acknowledged the current accessibility obstacles with select carriers. Horgan encouraged NFC online verification systems for Seniors Disabled and Medicare (SDM) riders.

BOARD COMMENTS

Mr. Schupp clarified that the current retail network consists of 129 stores and continues to grow, with a goal of 400 stores being available within the year. He encouraged the public speaker to visit the PRONTO website to access the map that shows the retail network.

Board Member Sandke thanked staff for adding the ferry onto the PRONTO system. The ferry administration reported a 4-6-month timeline for system integration. He encouraged the Board to reimagine the ferry as another mode of transportation rather than a novelty. He listed the infrastructure and South Bay regional benefits. He acknowledged that connecting North Island to the system would be beneficial and asked for marketing efforts to target the military bases on Coronado.

Board Member Ortiz stated that riding the Trolley to Padres games is convenient and listed additional benefits of transit accessibility. He asked about partnerships with the Padres.

Mr. Schupp replied that MTS conducts a lot of its outreach around the Padre games and continues to work with their organization on various partnerships.

Ms. Coney added that MTS hosts an additional 4,000 riders during game days, which is a similar amount to pre-pandemic numbers.

Board Member Aguirre thanked staff for all of their efforts, particularly with South Bay non-choice riders. She asked about the new capabilities to add payment for restroom use.

Mr. Schupp replied that the integration is possible, however staff is currently focused on the initial integration of PRONTO.

Ms. Landers added that one directive from the Executive Committee was to review legal limitations as to whether MTS could charge riders for restroom access.

Vice Chair Sotelo-Solis thanked staff for their efforts with the launch of PRONTO.

Action Taken

No action taken. Informational item only.

OTHER ITEMS:

60. Chair Report

There was no Chair report.

61. Chief Executive Officer's Report

There was no Chief Executive Officer's Report.

62. Board Member Communications

There were no Board Member communications.

63. Additional Public Comments on Items Not on the Agenda

There were no additional public comments.

64. Next Meeting Date

The next regularly scheduled Board meeting is October 14, 2021.

CLOSED SESSION (ITEMS TAKEN OUT OF ORDER):

24. Closed Session Items

The Board convened to Closed Session at 11:20 a.m.

- a. CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54957.6
AGENCY: San Diego Transit Corporation (“SDTC”)
EMPLOYEE ORGANIZATION: Amalgamated Transit Union (“ATU”), Local 1309
(Representing Bus Operators and Clerical Staff At SDTC)
AGENCY- DESIGNATED REPRESENTATIVE: Jeffrey M. Stumbo, Chief Human Resources Officer (EEO Officer)
- b. CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Pursuant to California Government Code Section 54956.9(b) (Significant exposure to litigation: one potential case)

The Board reconvened to Open Session at 11:43 a.m.

Oral Report of Final Actions Taken in Closed Session

Karen Landers, General Counsel, reported the following:

- a. The Board received a report and gave negotiating instructions.
- b. The Board received a report and gave instructions to legal Counsel.

65. Adjournment

The meeting adjourned at 11:44 am.

Chairperson
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

Clerk of the Board
San Diego Metropolitan Transit System

General Counsel
San Diego Metropolitan Transit System

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS
ROLL CALL

MEETING OF (DATE): September 16, 2021 CALL TO ORDER (TIME): 9:03 am
 RECESS: _____ RECONVENE: _____
 CLOSED SESSION: 11:20 am RECONVENE: 11:43 am
 PUBLIC HEARING: _____ RECONVENE: _____
 ORDINANCES ADOPTED: _____ ADJOURN: 11:44 am

BOARD MEMBER		(Alternate)		PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
FLETCHER	<input type="checkbox"/>	(Vargas)	<input type="checkbox"/>	-	-
SOTELO-SOLIS	<input checked="" type="checkbox"/>	(Bush)	<input type="checkbox"/>	9:03 am	11:43 am
AGUIRRE	<input checked="" type="checkbox"/>	(Leyba-Gonzalez)	<input type="checkbox"/>	9:03 am	11:43 am
ELO-RIVERA	<input checked="" type="checkbox"/>	(LaCava)	<input type="checkbox"/>	9:03 am	11:43 am
FRANK	<input type="checkbox"/>	(Mullin)	<input type="checkbox"/>	-	-
GALVEZ	<input checked="" type="checkbox"/>	(Cardenas)	<input type="checkbox"/>	9:03 am	11:43 am
GASTIL	<input checked="" type="checkbox"/>	(Mendoza)	<input type="checkbox"/>	9:03 am	11:43 am
GLORIA	<input type="checkbox"/>	(Whitburn)	<input checked="" type="checkbox"/>	9:03 am	11:43 am
GOBLE	<input type="checkbox"/>	(Ortiz)	<input checked="" type="checkbox"/>	9:03 am	11:43 am
HALL	<input checked="" type="checkbox"/>	(McNelis)	<input type="checkbox"/>	9:03 am	11:43 am
MONTGOMERY STEPPE	<input checked="" type="checkbox"/>	(Von Wilpert)	<input type="checkbox"/>	9:03 am	11:43 am
MORENO	<input checked="" type="checkbox"/>	(Campillo)	<input type="checkbox"/>	9:03 am	11:43 am
SALAS	<input checked="" type="checkbox"/>	(Cardenas)	<input type="checkbox"/>	9:04 am	11:43 am
SANDKE	<input checked="" type="checkbox"/>	(Bailey)	<input type="checkbox"/>	9:05 am	11:43 am
ARAPOSTATHIS	<input checked="" type="checkbox"/>	(Shu)	<input type="checkbox"/>	9:03 am	11:43 am

SIGNED BY THE CLERK OF THE BOARD:

/S/ Dalia Gonzalez

Public Comment - Agenda Item No. 3

Reply all | Delete | Junk |



Public Comment, Oct. 14th MTS Board Meeting



Connor Greth <cgreth@sandiego.edu>

Thu 10/7, 8:44 AM

DG - Clerk of the Board

Reply all |

Inbox

Label: 1 Year Delete - Default (1 year) Expires: 10/7/2022 8:44 AM



Action Items



CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning MTS Board Members,

For my commute, I have been riding the bus from OB to downtown on Route 923 for 7 or 8 weeks.

The bus scheduled to show up at 8:13 does not show up half the time. Another quarter of the time it is late. I often end up sitting at the bus stop for 40 minutes until the 8:43 bus arrives.

The unreliability and inconsistency has made me late for work many times.

I have called and made complaints to customer service many times. The response I get is that my bus comes from the Chula Vista bus yard and runs into traffic on the 5.

Since the bus is consistently late due to traffic at that time, I would think the scheduling and planning department is capable of solving the problem. Here is a suggestion: why doesn't the bus leave the bus yard earlier if it is consistently late?

MTS is funded atleast in part by local taxpayers and riders. The service we are paying for is unreliable and slow. It is not a competitive alternative to driving my own car.

I want to take public transportation, but MTS makes it so difficult. I spend two to three times as much time commuting when I take the bus. I could lose my job from this.

Either my complaints aren't being heard, or nobody at MTS is a problem solver.

-Connor

Public Comment - Agenda Item No. 3

Dalia Gonzalez

From: Sol Schumer <sol.hoo@cox.net>
Sent: Monday, October 11, 2021 10:21 AM
To: DG - Clerk of the Board
Subject: SDMTS October 14, 2021 Board Meeting: Public Comment

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I have contacted the SDMTS multiple times since August 2021, asking them to fix several problems with the new https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fridePronto.com&c=E,1,W0rj21EloQ7R5EsF3rjpNd9PzXC2r3E7qzYWjHRFJUxM735ljsiW5-G_MG6yxxf0p2YI2UDEYttCdgagF_rdWUMnduyqNCHSE7HyVk9xSIQ,&typo=1 Web site, including a security problem of it not logging out a user when the Logout link is clicked.

I am willing to discuss with the SDMTS the other issues, all of which are trivial to remedy. So far, Customer Support has only stated they have passed the reported issues on to your IT department, but they still haven't been fixed after two months.

Please request that these issues be resolved before your November 18, 2021 board meeting, and ask that your IT department provide a report at that meeting as to the status of these issues.

Thank you for your help,

Sol Schumer
619-280-9862



**Metropolitan
Transit
System**

Agenda Item No. 6

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

AUTHORIZATION OF REMOTE TELECONFERENCED MEETINGS

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize remote teleconferenced meetings for any public meetings held by MTS, including all Brown Act committees, for the next thirty (30) days pursuant to Assembly Bill (AB) 361 and make the following findings:

- 1) The MTS Board has considered the current circumstances of the COVID-19 pandemic and its impact in San Diego County; and
- 2) State or local officials continue to recommend measures to promote social distancing. On September 23, 2021, County of San Diego Public Health Officer, Wilma J. Wooten, M.D., M.P.H., issued a recommendation supporting the use of teleconferencing for attendance at public meetings as “a social distancing measure that may help control transmission of the SARS-CoV-2 virus.” (Attachment A)

Budget Impact

None with this action.

DISCUSSION:

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, suspending the teleconferencing rules set forth under the Ralph M. Brown Act (Brown Act), Government Code Section 54950 et seq. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, clarifying the suspension of the teleconferencing rules set forth in the Brown Act, noting that those provisions would remain suspended through September 30, 2021. On September 16, 2021, Governor Newsom signed AB 361, which allows legislative bodies subject to the Brown Act to continue meeting by teleconference, provided they make certain findings, including that meeting in person would present imminent risks to the health or safety of attendees. AB 361 requires that certain findings be made by the legislative body every 30 days.



The purpose of this agenda item is for the MTS Board of Directors to make findings supporting the continuation of a teleconference option for Board or committee members and for teleconference attendance by members of the public at MTS Board and committee meetings consistent with the requirements of AB 361.

AB 361 added subdivision (e) to Government Code section 54953 (emphasis added), providing for streamlined teleconference attendance at public meetings subject to the Brown Act, subject to the governing board making specified findings:

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

The circumstances set forth in Government Code section 54953(e)(1)(A) and (e)(3) still apply and support the continuation of a teleconference option for Board or committee members and for teleconference attendance by members of the public at MTS Board and committee meetings for the upcoming 30-day period. Staff recommends that the Board make the following findings:

- 1) The MTS Board has considered the current circumstances of the COVID-19 pandemic and its impact in San Diego County; and
- 2) State or local officials continue to recommend measures to promote social distancing. On September 23, 2021, County of San Diego Public Health Officer, Wilma J. Wooten, M.D., M.P.H., issued a recommendation supporting the use of teleconferencing for attendance at public meetings as "a social distancing measure that may help control transmission of the SARS-CoV-2 virus." (Attachment A)

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachment: A. September 23, 2021 County of San Diego Health Officer Teleconferencing Recommendation



County of San Diego

NICK MACCHIONE, FACHE
AGENCY DIRECTOR

HEALTH AND HUMAN SERVICES AGENCY
PUBLIC HEALTH SERVICES

WILMA J. WOOTEN, M.D.
PUBLIC HEALTH OFFICER

HEALTH OFFICER TELECONFERENCING RECOMMENDATION

COVID-19 disease prevention measures, endorsed by the Centers for Disease Control and Prevention, include vaccinations, facial coverings, increased indoor ventilation, handwashing, and physical distancing (particularly indoors).

Since March 2020, local legislative bodies—such as commissions, committees, boards, and councils—have successfully held public meetings with teleconferencing as authorized by Executive Orders issued by the Governor. Using technology to allow for virtual participation in public meetings is a social distancing measure that may help control transmission of the SARS-CoV-2 virus. Public meetings bring together many individuals (both vaccinated and potentially unvaccinated), from multiple households, in a single indoor space for an extended time. For those at increased risk for infection, or subject to an isolation or quarantine order, teleconferencing allows for full participation in public meetings, while protecting themselves and others from the COVID-19 virus.

Utilizing teleconferencing options for public meetings is an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and others from the COVID-19 disease. This recommendation is further intended to satisfy the requirement of the Brown Act (specifically Gov't Code Section 54953(e)(1)(A)), which allows local legislative bodies in the County of San Diego to use certain available teleconferencing options set forth in the Brown Act.

September 23, 2021



Wilma J. Wooten, M.D., M.P.H.
Public Health Officer
County of San Diego



**Metropolitan
Transit
System**

Agenda Item No. 7

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

BOARD POLICY NO. 26, DISADVANTAGED BUSINESS ENTERPRISE PROGRAM – POLICY REVISION

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors approve revisions to Board Policy No. 26, Disadvantaged Business Enterprise Program.

Budget Impact

None with this action.

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 that 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.

The proposed revisions will add utilization of a small business set aside as one of several measures MTS may consider in fostering small business participation. Other proposed revisions will update the position title for the person responsible for the DBE Program as well as bringing up to date the Chief Executive Officer's signature on MTS's DBE Policy Statement.

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachment: A. Proposed Revisions to Board Policy No. 26





Policies and Procedures No. 26

Board Approval: ~~7/25/2019~~ 10/14/2021

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~~Deputy General Counsel 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~~ Deputy General Counsel
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 applicable race-neutral measures.
6. Analyzes MTS's progress towards meeting overall DBE goals by monitoring individual contract DBE attainments.
7. Ensures that pre-bid meetings inform 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. Assesses DBE participation eligibility towards MTS's overall DBE goal.

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 geographic market area.~~ When MTS competitively procures financial services, MTS will notify any identified minority and women-owned financial institutions in MTS's geographic market area of the upcoming procurement. Through MTS's website and MTS's contract solicitations, MTS will also encourage 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.

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 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>.

MTS may also implement a Small Business Set Aside (i.e. competition among only small businesses) on certain contracts. The MTS Procurement Manager or designee shall consider whether there is a reasonable expectation of obtaining offers from three (3) or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery before applying a Small Business Set Aside to a procurement. MTS will define a small business as a business that meets the definition of small business concern set out in 49 CFR § 26.5. A certified DBE will be presumed eligible to participate in a small business set aside, as all certified DBEs must meet the definition of a small business concern. To avoid program fraud, MTS will verify eligibility of a firm to participate in a small business set aside.

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; 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.

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. Shortfall Analysis and Corrective Action Plan (CFR § 26.47)

If at the end of each year, awards/commitments are less than the applicable overall goal, MTS will analyze the reasons for the shortfall and establish specific steps that may enable MTS to meet its overall goal in

the next year. MTS will submit its Shortfall Analysis and Corrective Action Plan to the FTA by December 29 for any applicable year.

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

In accordance with § 26.49, MTS will not include TVM vehicle procurements in its overall goal calculation or semiannual reports. MTS will require each TVM, 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. Within 30 days of making an award to a TVM, MTS will submit notice to the FTA regarding the name of the successful bidder and the total dollar value of the contract.

D. 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 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 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.
3. MTS will solicit DBEs and other small business participation by carrying out information 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 contractors 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.
4. 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.

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

Except as otherwise provided for in Section 26.5(G) (i.e. small business set aside), 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.

F. 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.

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 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.

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.

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. 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. 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 from DBELO upon request)

- A. DBE Program Regulations
- B. DBE Program Organizational Chart
- C. Listing of DBE Financial Institutions located within 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.

Policy revised on 7/25/19

Policy revised on 10/14/21

Attachments: Exhibit A – DBE Policy Statement

Exhibit A – MTS Board Policy No. 26

DBE POLICY STATEMENT

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 MTS 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.

MTS has designated ~~Staff Attorney – Regulatory Compliance~~ Deputy General Counsel as the DBE Liaison Officer (DBELO). In this capacity, the DBELO is responsible for implementing all aspects of the DBE program.

This signed and dated policy statement expresses MTS's commitment to pursuing the objectives of the DBE Program.

/s/ Paul Jablonski
07/25/2019
Paul Jablonski Sharon Cooney

Date



Agenda Item No. 8

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

CROWDSTRIKE FALCON ENDPOINT PROTECTION PREMIUM LICENSE AND SUPPORT-
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. G2518.0-22 (in substantially the same format as Attachment A) with Nth Generation Computing Inc. for CrowdStrike Falcon Endpoint Protection Premium Software (CrowdStrike) License and Support for a three (3) base term in the amount of \$190,029.09.

Budget Impact

The total budget for this project shall not exceed \$190,029.09. This project is funded by the Information Technology (IT) Operating Budget 661010-571250.

DISCUSSION:

MTS's IT Department provides security protection on approximately 1,000 desktops and servers. Previously MTS utilized Symantec EndPoint Security (SEP) for AntiVirus (AV) which is an on-premise antivirus platform that has limited capability and functionality. In December 2020, IT staff initiated a conversion from SEP for AV protection to CrowdStrike.

CrowdStrike defends against breaches by combining Next-Generation Antivirus (NGAV), Endpoint Detection and Response (EDR), managed threat hunting, plus integrated threat intelligence and IT hygiene. Additionally, CrowdStrike enables preparation before an attack by highlighting areas of exposure. It identifies unprotected and rogue systems and monitors applications and user accounts that are being used in an environment.



AI-POWERED NGAV

- Protects against the entire spectrum of threats without requiring daily updates.
- Leverages a combination of the best prevention technologies, e.g. machine learning, Artificial Intelligence (AI), Indicators of Attack (IOAs), exploit blocking etc. to defend against ransomware, malware-free and file-less attacks.
- Bridges the gaps left by legacy AV and more fully protects endpoints online and offline.

INTELLIGENT EDR

- Prevents silent failure by continuously capturing raw events for automatic detection of malicious activity, providing exceptional visibility, proactive threat hunting and forensic investigation capabilities.
- Supports forensic investigation by deconstructing attacks in the CrowdScore™ Incident Workbench.
- Provides powerful response capabilities to contain, investigate and remediate compromised systems.
- **24/7 Managed Threat Hunting:** A team of security experts proactively hunt, investigate and advise on activity in your environment to ensure threats and critical alerts don't get missed.
 - Alert prioritization proactively surfaces the most urgent threats in your environment and filters false positives.
 - Guided response provides clarity about an attack's type and guidance on how best to respond.
- **IT Hygiene:** Provides detailed insight into the cleanliness of applications, assets and user accounts, identifies rogue computers and unprotected systems, provides visibility of who and what is on the network at all times.
- **Firewall Management:** Optimizes the creation, management and enforcement of policies. Defends networks against threats and provides instant visibility to enhance protection and inform responses.
- **Integrated Threat Intelligence:** Enables threats in an environment to be fully understood and ranked by severity to support prioritization of response. Reduces guesswork to enable decisive and accurate threat response.
 - Automatically determines the scope and severity of threats found in an environment.
 - Provides a broad set of Indicators of Compromise (IOC) for faster, better protection.

This type of endpoint protection provides class-leading functionality to defend against sophisticated attacks on endpoints that may leverage AI. It provides advanced real-time visibility 24/7 and protection either on or off the MTS network.

On September 15, 2021, MTS issued an Invitation for Bid (IFB) for CrowdStrike License and Support. The requirement is for three (3) years. Two (2) bids were received on the due date of September 30, 2021.

The responsive and responsible bids had the following all-inclusive total amounts:

Proposer Name	Overall Total Amount
Nth Generation Computing Inc	\$190,029.09
Thomas Gallaway Corp (a Women Business Enterprise (WBE))	\$214,894.40
<i>Independent Cost Estimate</i>	\$361,434.00

MTS staff has deemed Nth Generation Computing, Inc the lowest responsive and responsible bidder and the bid submitted has been determined to be fair and reasonable by comparison of bids received and MTS's Independent Cost Estimate (ICE).

Therefore, staff recommends that the MTS Board authorize the CEO to execute MTS Doc. No. G2518.0-22 (in substantially the same format as Attachment A) with Nth Generation Computing, Inc. for CrowdStrike License and Support for a three (3) base term in the amount of \$190,029.09.

/S/ Sharon Cooney
 Sharon Cooney
 Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachment: A. Agreement Draft

**STANDARD AGREEMENT
FOR
MTS DOC. NO. G2518.0-22
CROWDSTRIKE FALCON ENDPOINT LICENSE AND SUPPORT SERVICES**

THIS AGREEMENT is entered into this _____ day of _____, 2021 in the State of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following, hereinafter referred to as "Contractor":

Name: NTH GENERATION COMPUTING, Inc. Address: 17055 Camino San Bernardo
San Diego, CA 92127

Form of Business: Corporation

(Corporation, Partnership, Sole Proprietor, etc.) Email : Joyce.russell@nth.com

Telephone: (858) 451-2383

Authorized person to sign contracts Joyce Russell EVP/CFO
Name Title

The Contractor agrees to provide CrowdStrike Falcon Endpoint License and Support services as specified in the conformed Scope of Work (Exhibit A), Contractor's Cost Proposal Form (Exhibit B), and in accordance with the Standard Agreement, including Standard Conditions (Exhibit C Forms), and Policy 44C Travel Guidelines for Contractors (Exhibit D).

The contract term is for up to three (3) years be effective December 18, 2021 through December 17, 2024 .

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$190,029.09 without the express written consent of MTS.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	NTH GENERATION COMPUTING, INC.
By: _____ Sharon Cooney, Chief Executive Officer Approved as to form: By: _____ Karen Landers, General Counsel	By _____ Title: _____

ATTACHMENT 1

MTS BID PRICING FORM – CROWDSTRIKE FALCON® ENDPOINT PROTECTION PREMIUM

#	Product ref:	Description	Term (Months)	Qty/UOM	NTH GENERATION COMPUTING		THOMAS GALLAWAY CORP.	
					Unit Price	Extended Price	Unit Price	Extended Price
1	CS.EPPPREBDL.SOLN	Falcon Endpoint ProtectionPremium Bundle	36	1000	\$ 141.96	\$ 141,960.00	\$ 130.89	\$ 130,890.00
2	CS.TG.STD	Threat Grap Standard	36	1000	\$ 9.19	\$ 9,190.00	\$ 21.00	\$ 21,000.00
3	CS.PREVENT.SOLN	Prevent	36	1000	\$ -	\$ -	\$ -	\$ -
4	CS.INSIGHT.SOLN	Insight	36	1000	\$ -	\$ -	\$ -	\$ -
5	CS.DISC.SOLN	Discover	36	1000	\$ -	\$ -	\$ -	\$ -
6	CS.DEVICE.SOLN	Falcon Device Control	36	1000	\$ -	\$ -	\$ -	\$ -
7	CS.FIREWALL.SOLN	Falcon Firewall Management	36	1000	\$ -	\$ -	\$ -	\$ -
8	CS.FALCONX.SOLN	Falcon X	36	1000	\$ -	\$ -	\$ -	\$ -
9	CS.OW.SVC	Overwatch	36	1000	\$ -	\$ -	\$ -	\$ -
10	RR.HOS.ENT.EXPS	Express Support	36	1	\$ 7,351.09	\$ 7,351.09	\$ 21,677.40	\$ 21,677.40
11	RR.PSO.ENT.PASS	University LMS Subscription Customer Access Pass	36	6	\$ -	\$ -	\$ -	\$ -
12	CS.SPOTLT.SOLN	Falcon for Mobile Standard - Introductory Rate	36	1000	\$ 27.25	\$ 27,250.00	\$ 39.10	\$ 39,100.00
13	CS.FALMOBST.SOLN	Mobile Stand	36	100	\$ 42.78	\$ 4,278.00	\$ 22.27	\$ 2,227.00
14	CS.INSMOB.SOLN	Insight for Mobile Insight	36	100	\$ -	\$ -	\$ -	\$ -
15	CS.TGM.STD	Threat Graph Standard for Mobile	36	100	\$ -	\$ -	\$ -	\$ -
Subtotal:						\$ 190,029.09		\$ 214,894.40
7.75% CA Sales Tax(if applicable):						\$ -		\$ -
Freight/Shipping (if applicable):						\$ 0.00		\$ 0.00
GRAND TOTAL (Basis of Award):						\$ 190,029.09		\$ 214,894.40



Agenda Item No. 9

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

AMERICAN WITH DISABILITIES ACT (ADA) CLIENT CERTIFICATION SERVICES –
CONTRACT AMENDMENT

RECOMMENDATION:

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

- 1) Ratify Amendment No. 5 to MTS Doc. No. G1901.0-16 (Attachment A), with Medical Transportation Management (MTM), a Women Business Enterprise (WBE), in the total amount of \$68,799.00; and
- 2) Approve Amendment No. 6 to MTS Doc. No. G1901.0-16 (in substantially the same format as Attachment B), with MTM, to authorize the Chief Executive Officer (CEO) to add a temporary position for a Mobility Assessment Evaluator (MAE) with MTM for ADA Paratransit Client Certification Services for a total of \$52,415.00.

Budget Impact

The total budget for the project shall not exceed \$3,406,422.43 (\$3,285,208.43 for the current contract plus \$121,214.00 for Amendment No. 5 and Amendment No. 6). The Project is funded by the ADA Certification Services Operations Budget 856012-571140.

Description	Amount
Current Board Approved Amount (base and options)	\$3,285,208.43
Ratify Amendment 5	\$68,799.00
Approve Amendment 6	\$52,415.00
New Board Approved Amount	\$3,406,422.43

DISCUSSION:

In January 2021, staff obtained the Board’s authorization to extend the ADA Client Certification Services contract for one (1) year to accommodate the temporary ADA certification process revisions in response to the COVID-19 pandemic (1/21/21, AI 11). The contract is set to expire on November 30, 2022.



During the height of the COVID-19 pandemic, MTS suspended in-person assessments for MTS Access applicants. This resulted in approximately 850 applicants being granted temporary presumptive eligibility without having gone through the standard eligibility assessment process that includes an in-person assessment. As of July 2021, MTS has resumed in-person assessments and the volume of assessments has quickly returned to pre-COVID levels. This leaves no availability for current staff to process the backlog of temporary presumptive eligibilities that require in-person assessment to complete their three (3) year certification for Access. MTS has negotiated with MTM to add one (1) temporary MAE to assist with processing of the backlog.

The payment structure would be modified as follows:

- 1) The MAE temporary position will be billed on an hourly basis at a rate of \$47.65 per hour, at a minimum of four (4) hours per day. This position is allocated for up to a maximum of 1,100 total hours or for a not-to-exceed amount of \$52,415.
- 2) MTM to increase its current staffing level with one temporary MAE.

Therefore, staff recommends that MTS Board of Directors:

- 1) Ratify Amendment No. 5 to MTS Doc. No. G1901.0-16 (Attachment A), with MTM, a WBE, in the total amount of \$68,799.00; and
- 2) Approve Amendment No. 6 to MTS Doc. No. G1901.0-16 (in substantially the same format as Attachment B), with MTM, to authorize the CEO to add a temporary position for a MAE with MTM for ADA Paratransit Client Certification Services for a total of \$52,415.00.

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. Amendment 5
B. Amendment 6 Draft

1255 Imperial Avenue, Suite 1000
San Diego, CA 92101
Tel 619.231.1466

Amendment 5

Date: June 11, 2021

MTS Doc No. G1901.0-16

ADA PARATRANSIT CLIENT CERTIFICATION SERVICES

Medical Transportation Management, Inc. (MTM)
Alaina Maciá
President and CEO
16 Hawk Ridge Drive
Lake St. Louis, MO 63367

Ms. Maciá,

This shall serve as Amendment No. 5 to our agreement for the ADA Paratransit Client Certification Services as further described below.

SCOPE

Pursuant to the scope, MTM shall return to using the remote call center for inbound calls for MTS Access eligibility and SDM applications when volumes reach 85% pre-Covid levels. The payment structure shall be modified as follows:

1. Option Year 2 pricing would be increased by \$20,235, covering the period of 7/1/2021 through 11/30/2021. Extension year from 12/1/21 through 11/30/22 would be increased by \$48,564. Combined total adjustment is in the amount of \$68,799.
2. MTM to increase current staffing level by 1 FTE.
3. Keep phone system/call center activities at MTS (in-house).
 - Monthly billing will be increased at a rate of \$4,047 per month (*beginning July 2021*) for the Receptionist (1 FTE) cost.

Contractor shall continue to provide ADA paratransit client certification services, in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1901.0-16.

SCHEDULE

There shall be no changes to the contract schedule.

PAYMENT

This contract amendment authorizes a cost increase in the amount of \$68,799 as reflected below:



UPDATED CONTRACT COSTS							
Description	Year 1 (12/1/16- 11/30/17)	Year 2 (12/1/17- 11/30/18)	Year 3 (12/1/18- 11/30/19)	Option Year I (12/1/19 – 11/30/20)	Option Year II (12/1/20 – 11/30/21)	1 Year Contract Extension (12/1/21 – 11/30/22)	TOTAL
Revised Annual Contract Amount based on new Monthly Billing – beginning January 2021	\$494,320.53	\$508,614.90	\$540,000.00	\$564,300.00	\$566,418.00 (\$49,141 for 12/2020 plus \$47,025/ mo - from 1/2021 thru 11/2022)	N/A	\$2,673,653.43
1 Year Contract Extension	N/A	N/A	N/A	N/A	N/A	\$589,692.00 (\$49,141/ mo)	\$ 589,692.00
Monthly Call Center Cost Reduction beginning Jan. 2021 (\$3,500 per mo) *	N/A	N/A	N/A	N/A	(\$38,500) *(11 months – Jan 2021 thru 11/2021)	(\$42,000)	(\$80,500.00)
Total Annual Contract Amount	\$494,320.53	\$508,614.90	\$540,000.00	\$564,300.00	\$527,918.00	\$547,692.00	\$3,182,845.43
One-time Equipment Costs	\$17,401.00	N/A	N/A	N/A	N/A	N/A	\$ 17,401.00
One-Time Start-Up	\$84,962.00	N/A	N/A	N/A	N/A	N/A	\$ 84,962.00
Grand Total:							\$3,285,208.43
Monthly Call Center Cost Addition of 1 FTE (Receptionist) beginning July 2021 (\$4,047 per mo) *	N/A	N/A	N/A	N/A	\$20,235 *(5 months – Jul 2021 thru 11/2021)	\$48,564	\$ 68,799.00
New Grand Total:							\$3,354,007.43

As a result of this Amendment, the total value of this contract shall be in the amount of **\$3,354,007.43** [\$3,285,208.43 for the current contract plus **\$68,799** for this amendment). This amount shall not be exceeded without prior written approval from MTS.

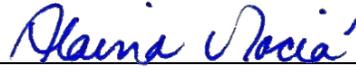
Please sign and return the copy marked “*original*” to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:



Sharon Cooney, Chief Executive Officer



Alaina Maciá, President and CEO
Medical Transportation Management, Inc.
(MTM)

Date: June 24th, 2021

Cc: M. Wygant, J. Washburn, V. Lerinska, S. Elmer, C. Aquino, Procurement File



**Metropolitan
Transit
System**

Amendment 6

Date: October 14, 2021

MTS Doc No. G1901.0-16

ADA PARATRANSIT CLIENT CERTIFICATION SERVICES

Medical Transportation Management, Inc. (MTM)
Alaina Maciá
President and CEO
16 Hawk Ridge Drive
Lake St. Louis, MO 63367

Ms. Maciá,

This shall serve as Amendment No. 6 to our agreement for the ADA Paratransit Client Certification Services as further described below.

SCOPE

Pursuant to the scope, MTM shall add a temporary position for a Mobility Assessment Evaluator (MAE) to assist with processing the backlog. The payment structure shall be modified as follows:

1. The MAE temporary position will be billed on an hourly basis at a rate of \$47.65 per hour, at a minimum of four (4) hours per day. This position will be billed for up to a maximum of 1,100 hours or for a not-to-exceed amount of \$52,415.
2. MTM to increase current staffing for one temporary MAE.

Contractor shall continue to provide ADA paratransit client certification services, in accordance with the terms and conditions of the original agreement, MTS Doc. No. G1901.0-16.

SCHEDULE

There shall be no changes to the contract schedule.

PAYMENT

This contract amendment authorizes a cost increase in the amount of \$52,415. As a result of this Amendment, the total contract value shall be in the amount of **\$3,406,422.43** [\$3,354,007.43 for the current contract plus \$52,415 for this amendment). This amount shall not be exceeded without prior written approval from MTS.



Please sign and return the copy marked "*origina*" 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:

Sharon Cooney, Chief Executive Officer

Alaina Maciá, President and CEO
SDMTS

Date: _____

Cc: M. Wygant, J. Washburn, V. Lerinska, S. Elmer, C. Aquino, Procurement File



**Metropolitan
Transit
System**

Agenda Item No. 10

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

WINDOW GLASS FOR LIGHT RAIL VEHICLES (LRV) – CONTRACT AWARD

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute two (2) contracts for the provision of window glass for LRVs (in substantially the same format as Attachments A-1 and A-2), with Citywide Auto Glass, Inc. and Siemens Mobility, Inc. for a not-to-exceed aggregate amount of \$1,518,019.41, for five (5) years from November 1, 2021 to October 30, 2026.

Budget Impact

The total budget for this project shall not exceed \$1,518,019.41. The project is funded by the LRV Operations Budget 350016-545100.

DISCUSSION:

The MTS fleet of LRVs incur vandalism while in service daily. As a result, windows may be shattered or etched and need replacement. These include windshields, sliders, doors and partitions. MTS keeps the replacement glass on hand in inventory, and Trolley Maintenance employees replace as needed.

On June 4, 2021, MTS issued an Invitation for Bids (IFB) looking for qualified bidders to provide various window glass for a period of five years. In order to maximize open and free competition, bidders could bid on any line item/s for all five years. Award would then be based on the lowest total cost for each line item for the five years

Annual estimated quantities provided were based on historical usage. They do not signify a guaranteed order. Actual usage may be more or less than estimated. MTS reserves the right to order one or more of each item as MTS needs dictate. Invoicing will be based on actual orders.



By the July 16, 2021 deadline six bids were received from:

1. Aftermarket Parts Company, LLC
2. Citywide Auto Glass, Inc
3. Gillig, LLC
4. Custom Glass Solutions, dba NASG Holdings, LLC
5. Siemens Mobility, Inc
6. Translite Enterprises, Inc.

The five-year total costs were evaluated and awarded to the lowest bidder for each line. Citywide Auto Glass, Siemens and NASG were the lowest bidders. A Notice of Intent to Award was sent on August 25, 2021 notifying all the bidders the awards per line. On September 3, 2021, NASG notified MTS that it was withdrawing its bid as it would incur price increases effective October 1, 2021 that were not reflected in its submitted pricing. MTS accepted the bid withdrawal. When needed, these lines will be solicited using the three-quote process as required.

The contract summaries are as follows (detailed pricing is shown on Attachment C):

Att. #	Contract #	Bidder	Total Pricing	CA Sales Tax	Total Amount
A-1	L1606.0-22	Citywide	\$88,550.69	\$6,862.68	\$95,413.37
A-2	L1605.0-22	Siemens	\$1,320,284.03	\$102,322.01	\$1,422,606.04
Total Project Award					\$1,518,019.41

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute two (2) contracts for the provision of window glass for LRVs (in substantially the same format as Attachments A-1 and A-2), with Citywide Auto Glass and Siemens Mobility, for a not-to-exceed aggregate amount of \$1,518,019.41, for five (5) years from November 1, 2021 to October 30, 2026.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. Agreement Drafts (A-1 and A-2)
B. Scope of Work
C. Costs Form



Metropolitan Transit System

ATTACHMENT A.1 (CONTRACT # L1606.0-22)

STANDARD AGREEMENT FOR WINDOW GLASS FOR LIGHT RAIL VEHICLES (LRV)

This Agreement is entered into this ___ day of _____ 2021, in the State of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following, hereinafter referred to as "Contractor":

Name: Citywide Auto Glass, Inc. Address: 5745 Kearny Villa Rd, Ste 110
 Form of Business: Corporation San Diego, CA 92123
 (Corporation, partnership, sole proprietor, etc.)
 Telephone: (858) 569-6000 Email: mjdelia@citywideautoglass.com
 Authorized person to sign contracts: Mark Delia CEO
 Name Title

The attached Standard Conditions are part of this Agreement. The Contractor agrees to furnish to MTS, as follows:

Provide Window Glass for LRVs as specified in the Scope of Work (attached as Exhibit A), Bid Form (attached as Exhibit B), and in accordance with the Standard Procurement, including Standard Conditions Procurement (attached as Exhibit C), Federal Requirements (attached as Exhibit D) and Forms (attached as Exhibit E).

The contract term is from November 1, 2021 to October 30, 2026.

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$95,413.37 without the express written consent of MTS.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CITYWIDE AUTO GLASS, INC.
By: _____ Chief Executive Officer	Firm: _____
Approved as to form:	By: _____
By: _____ Office of General Counsel	Signature
	Title: _____





Metropolitan Transit System

ATTACHMENT A.2 (CONTRACT # L1605.0-22)

STANDARD AGREEMENT FOR WINDOW GLASS FOR LIGHT RAIL VEHICLES (LRV)

This Agreement is entered into this ___ day of _____ 2021, in the State of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following, hereinafter referred to as "Contractor":

Name: Siemens Mobility, Inc. Address: 5301 Price Avenue
 Form of Business: Corporation McClellan, CA 95652
 (Corporation, partnership, sole proprietor, etc.)
 Telephone: (916) 621-2700 Email: barry.sidler@siemens.com
 Authorized person to sign contracts: Barry Sidler Aftermarket Manager
 Name Title

The attached Standard Conditions are part of this Agreement. The Contractor agrees to furnish to MTS, as follows:

Provide Window Glass for LRVs as specified in the Scope of Work (attached as Exhibit A), Bid Form (attached as Exhibit B), and in accordance with the Standard Procurement, including Standard Conditions Procurement (attached as Exhibit C), Federal Requirements (attached as Exhibit D) and Forms (attached as Exhibit E).

The contract term is from November 1, 2021 to October 30, 2026.

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$1,422,606.04 without the express written consent of MTS.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	SIEMENS MOBILITY, INC
By: _____ Chief Executive Officer	Firm: _____
Approved as to form:	By: _____
By: _____ Office of General Counsel	Signature
	Title: _____



1. SCOPE OF WORK/TECHNICAL SPECIFICATIONS

(SECTIONS 4.1 THROUGH 4.11 APPLY TO BOTH MTS BUS AND LRVs)

1.1. GENERAL

MTS fleet of buses and Light Rail Vehicles (LRVs) incur vandalism while in service daily. As a result, windows may be shattered or etched and need replacement. MTS keeps replacement glass on hand in inventory and MTS maintenance employees replace as needed.

Contractor shall supply window glass for five (5) years. Services shall be from November 1, 2021 to October 30, 2026. Contractor shall supply replacement window glass to the MTS inventory on an as-needed basis.

1.2. BID FORM

MTS has divided the bid form into line items. Contractor has bid on the items in Exhibit B.

Contractor has provided its part number in the column provided, price and lead time in weeks. The lead time provided shall apply for all years. Lead times identify the date MTS can anticipate the receipt of the items. MTS reserves the right to consider the lead time in award.

Unit pricing shall be all-inclusive (including shipping/delivery), with the exception of California sales tax. MTS will calculate tax at Purchase Order (PO) issuance. Shipping/delivery shall be F.O.B destination as shown below, and shall be the sole responsibility of the bidder.

IMPORTANT: MTS will not pay additional shipping/delivery charges therefore Contractor has bid accordingly.

Annual estimated quantities provided are to be considered as estimates only for bidding purposes. They are based on current usage but do not signify a guaranteed order. Actual usage may be more or less than estimated. Invoicing will be based on actual order. MTS reserves the right to order one (1), or more of each item per PO as its needs dictate.

1.3. SAN DIEGO TRANSIT CORPORATION (SDTC) – MTS BUS

Orders will be placed by the MTS Procurement Department only. All shipments made against a PO must be accompanied by a packing slip referencing the PO number. Unless otherwise specified by SDTC, all items must be delivered F.O.B. destination to either:

A. Imperial Avenue Division (IAD), 100 16th Street, San Diego, CA 92101

B. Kearny Mesa Division (KMD), 4630 Ruffner Road, San Diego, CA 92111

1.4. SAN DIEGO TROLLEY, INC. (SDTI) - LRVs

Orders will be placed by the MTS Procurement Department only. All shipments made against a PO must be accompanied by a packing slip referencing the PO number. Unless otherwise specified by SDTI all items must be delivered F.O.B. destination to SDTI, 1341 Commercial Street, San Diego, CA 92113.

1.5. DELIVERY

All orders must be shipped in a timely manner. Contractor has provided the standard lead times for the items. All orders must be delivered complete within this time frame unless otherwise approved.

Contractor will be notified by phone, e-mail, or fax of all shipping discrepancies. It is the Contractor's responsibility to handle all claims with the shipper, provide proof of deliveries, and correct discrepancies within five (5) working days of notification by MTS.

At a minimum, all deliveries must have the following clearly displayed:

- A. Appropriate SDTI or SDTC PO numbers
- B. MTS stock code #
- C. Vendor part number
- D. Item description
- E. Applicable dates

1.6. ADDITIONS AND CHANGES

All items added or changed on the contract must be approved by the SDTC or SDTI Project Manager. It is the Contractor's responsibility to notify the MTS Purchasing Department of the approved additions or changes who will then amend the contract, and notify the Contractor in writing of the official acceptance of the change order. Changes are not effective until confirmed by an executed amendment.

1.7. PACKAGING

All parts must be packaged individually in boxes designed to occupy the least amount of shelf space as possible without damage to the materials. The box must be visibly labeled with the part number.

1.8. ACCEPTANCE

Deliverables provided under this contract shall be delivered in first class condition, complete and ready for operation, and the Contractor shall assume all responsibility and risk of loss incident to said delivery.

Contractor will not be held liable for failure to make delivery because of strikes, construction of property, governmental regulations, acts of God or any other causes beyond his control, provided a written extension of time is obtained from MTS.

Upon delivery, MTS will acknowledge receipt of said items or products. Delivery shall not constitute acceptance. Upon inspection and testing (if necessary) by MTS, a determination will be made whether said items or products are in conformance with contract requirements. If found in conformance, MTS shall immediately approve the Contractor's invoice for payment; thereby constituting acceptance. Payment terms begin from this point. If the delivered items or products are found not in compliance, MTS will immediately notify the Contractor, and furnish all details of deficiencies. Contractor shall correct the deficiencies or supply new items or products (at the discretion of MTS), and resubmit for inspection and testing (if necessary).

1.9. DAMAGED OR DEFECTIVE MATERIAL

Any materials delivered damaged or with a defect in packaging or manufacture will be returned to the Contractor. MTS may request, at their discretion, a credit in full or a replacement in full. Any additional costs incurred by MTS related to the return such as freight, packaging, or re-stocking, will be reimbursed by the Contractor.

1.10. PAYMENT TERMS

Unless otherwise stated in the specifications or bid forms, one hundred (100%) of the contract price for each unit or units of material or equipment furnished and delivered under these specifications, will be paid to the Contractor within thirty (30) days after delivery to and acceptance by MTS of the unit or units ordered, as herein provided, and after the statements covering the unit or units have been presented to MTS by the Contractor.

Cash discounts as shown on the bid form shall be accepted at the option of MTS. Otherwise the terms will be net thirty (30) from acceptance. Payment terms less than ten (10) days from acceptance will not be considered. **Advanced Payment is Not Allowable.**

1.11. INVOICES

Invoices must be submitted for payment to the MTS Accounting Department at AP@sdmts.com. MTS will not pay on packing slips, receiving documents, delivery documents, or other similar documents.

All invoices must have the following clearly displayed to ensure timely payment.

- A. Appropriate SDTI or SDTC PO numbers
- B. MTS stock code #
- C. Vendor part number
- D. Item description
- E. Applicable dates

MTS BUS

1.12. GENERAL

- A. This specification covers requirements for the supply of glass needed for the replacement of bus windows. Replacement glass for the driver side, passenger, door, and windshields shall be provided.
- B. The passenger windows on MTS buses purchased prior to 2011 were made from bus Original Equipment Manufacturer (OEM) standard equipment glass. All models 2011 to current year were produced with Ricon (Transit Care) Flush Window Series with serviceable glazing, with "Heat Guard" reflective laminate.
- C. Windshields on all MTS buses were supplied with 72% light transmittance green laminate, with blue shade band for the street and curbsides.
- D. Heat / UV Reflective glass shall be supplied for all other windows. Driver side glass, door glass, and passenger glass must have a heat / UV protective laminate such as "Heat Guard" which is supplied by Transit Products & Service or an approved equal. Laminate must have 70% - 76% light transmittance, reject 94% - 97% of outside heat, and reject 99% Ultraviolet (UV) rays.
- E. Specifications used for each bus model shall be equal to or exceeding the bus OEM original installation bill of materials components.

1.13. MANUFACTURING REQUIREMENTS AND MATERIALS

- A. Materials: Laminated, heat-treated safety glass conforming to FMVSS 205 and the applicable requirements of ANSI Z26.1-1996 shall be provided.
- B. Tempered Glass: Tempered glass shall meet the requirements under Table 1, item 2 or 3, as applicable, of the latest revision of American National Standards Institute ANSI Z26.1.
- C. Materials: Tempered glass as defined in ASTM C1048 latest revision.

- i. Fabricating to the specified size, cutting, drilling, grinding and edgework on tempered glass shall be performed prior to strengthening or tempering per ASTM C1048, Section 7.

Test reports or documentation validating compliance with the below requirements must be supplied to MTS for review and approval prior to commencement of production glass.

Windshields and Windows immediately around operator must meet FRA Regulation, 49 CFR Part 223, Safety Glazing Standard requirements, and must meet testing requirements according to Appendix A to Part 223.

- ii. FRA Regulation, 49 CFR Part 223 glazing shall apply to:

- a) Type I for Windshield of end facing (where a line perpendicular to the plane of glazing material makes a horizontal angle of 50 degrees or less with the centerline of the vehicle).
 - b) Type II for driver side (non-end-facing, where a line perpendicular to the plane of the glazing material makes a horizontal angle more than 50 degrees with the centerline of the vehicle) glazing to the immediate right or left of the driver.
- iii. Unless otherwise specified, all glass shall be safety glass:
- a) AS-1 for Windshield of end facing (where a line perpendicular to the plane of glazing material makes a horizontal angle of 50 degrees or less with the centerline of the vehicle).
 - b) AS-2 for driver side (non-end-facing, where a line perpendicular to the plane of the glazing material makes a horizontal angle more than 50 degrees with the centerline of the vehicle) glazing to the immediate right or left of the driver.
 - c) AS-3 for all other glass.
- D. Manufacturers Stamp: Each glazing component and or window guard shall have the manufacturer's Department of Transportation (DOT) registered identification stamp permanently applied. According to the DOT requirements, the manufacturer's stamp shall include the date (month and year) of manufacture applied in the same location. Manufacturers stamp shall be positioned in the lower right hand corner. Letters and numerals shall be of the same size and include the symbol "DOT" and a manufacturer's code mark that NHTSA assigns to the manufacturer.
- i. MFG NAME/LOGO
 - ii. FRA TYPE (if applicable), AS-#
 - iii. DOT#
 - iv. TYPE /BRAND ID
 - v. DATE: Year
 - vi. Serial Number (for Windshields)
- E. Delaminating: Delaminating between layers is not accepted, and will be covered under the required two-year warranty.
- F. Color and Tint: There shall be no more than $\pm 4\%$ gradual color variation on any single piece of glass when examined over a white background in natural light. Abrupt variations in color or tint, which would cause visible stripes, are not permissible, unless required by design. There shall be no more than $\pm 4\%$ variation from the specified visible light transmission value. Unless otherwise specified, glazing used for driving (windshield and driver cab side windows) shall show regular (parallel) luminous transmittance of not less than 76% of the light, at normal incidence, per ANSI Z26.1 latest revision test 2, Luminous Transmittance.
- G. Clarity and Haze: Laminated sheet glass shall be sufficiently free of haze, that the laminated glass sheet shall have approximately the same clarity as a piece of monolithic glass of the

same nominal thickness, when viewed in natural daylight. The haze level may also be measured per ASTM D1003 with a haze of 3% or less.

- H. Heated Glass: Heated glass must be performance tested by checking resistance or using a heat detection gun to assure no dead heating zones. Result data must be provided with each glass shipment.
- I. Packaging: All glass shipments must be packaged with adequate protection to ensure that there will be no damage during normal surface transportation to the final destination designated by MTS and during storage in a normal warehouse environment. Shipping carrier to be proposed by contractor for approval by MTS.
- J. Warranty: All glass shall be warranted against deterioration or delamination of the glazing for a period of two years. Warranties shall cover all material, labor and workmanship, excluding damage caused by vandalism, bus accidents, or poor care and maintenance.
- K. Appendix: Specifications Referenced:

ANSI Z26.1 American National Standard for Safety Glazing Materials

49 CFR Part 223 Safety Glazing Standards FRA Type I & II

ASTM D 1003 Standard Test Method for Haze and Luminous Transmittance
of Transparent Plastics

ASTM C 1036 Standard Specification for Flat Glass

ASTM C 1048 Standard Specification for Heat Treated Flat Glass

ASTM C 1172 Standard Specification for Laminated Architectural Flat Glass

HPW-TP-0600.02 H.P. White Lab. Optical Distortion Testing of Windshields

SAE Handbook J 673 Automotive Safety Glasses

When glass standard is not covered by this specification, then the above specifications or industry standards will be referenced for glass evaluation.

LIGHT RAIL VEHICLES (LRVs)

1.14. MANUFACTURING REQUIREMENTS AND MATERIALS

- A. Materials: Laminated safety glass shall meet the requirements under Table 1, items 1, 2, and 3, as applicable, of the latest revision of American National Standard Institute ANSI Z26.1.
- B. Bond: Laminated safety glass consist of two or more pieces of float glass layers bonded to intervening layers of polyvinyl-butyril resin (PVB) or approved equivalent. The thickness, number of layers and treatment of glass either annealed or chemically strengthened, will be determined by the size, strength and impact requirements of the intended application, and match that of the sample provided.
- C. Tempered Glass: Tempered glass shall meet the requirements under Table 1, item 2 or 3, as applicable, of the latest revision of American National Standards Institute ANSI Z26.1.
- D. Materials: Tempered glass as defined in ASTM C1048 latest revision:
- i. Fabricating to the specified size, cutting, drilling, grinding and edgework on tempered glass shall be performed prior to strengthening or tempering per ASTM C1048, Section 7.
 - ii. Test reports or documentation validating compliance with the below requirements must be supplied to MTS for review and approval prior to commencement of production glass.
 - iii. Windshields and Side Cab Windows must meet FRA Regulation, 49 CFR Part 223, Safety Glazing Standard requirements, and must meet testing requirements according to Appendix A to Part 223.
 - iv. FRA Regulation, 49 CFR Part 223 glazing shall apply to:
 - a) Type I for Windshield of end facing (where a line perpendicular to the plane of glazing material makes a horizontal angle of 50 degrees or less with the centerline of the locomotive).
 - b) Type II for cab side (non-end-facing, where a line perpendicular to the plane of the glazing material makes a horizontal angle more than 50 degrees with the centerline of the locomotive) glazing to the immediate right or left of the driver.
 - v. Unless otherwise specified, all glass shall be safety glass:
 - a) AS-1 for Windshield of end facing (where a line perpendicular to the plane of glazing material makes a horizontal angle of 50 degrees or less with the centerline of the locomotive).
 - b) AS-2 for cab side (non-end-facing, where a line perpendicular to the plane of the glazing material makes a horizontal angle more than 50 degrees with the centerline of the locomotive) glazing to the immediate right or left of the driver. (If glass tint is less than 70% visible light transmission, then glass shall be AS-3).

- c) AS-3 for all other glass.
- E. Manufacturers Stamp: Manufacturers stamp shall be positioned in the lower right hand corner, spaced 50mm from the edge) or silkscreen) from the inside. Letters and numerals shall be of the same size, the symbol "DOT" and a manufacturer's code mark that NHTSA assigns to the manufacturer. Also, if applicable, the FRA Type Material Identification per 49 CFR Part 223 Appendix A. Maximum logo character height 10mm (0.38"):
 - i. MFG NAME/LOGO
 - ii. FRA TYPE (if applicable), AS-#
 - iii. DOT#
 - iv. TYPE /BRAND ID
 - v. DATE: Year
 - vi. Serial Number (for Windshields)
- F. Dimensional Tolerances: Fabricating to the specified size based upon the sample provided, cutting, drilling, grinding and edgework on any glass shall be performed prior to strengthening or tempering.
- G. Flatness/ Curve Deviations: The localized warp of any glass shall not exceed 0.030 inch per linear foot. The maximum total bow of flat glass shall be in accordance to ASTM C 1048 Section 9.4, Table 2.
- H. Thickness: The thickness of specified glass shall be in accordance to latest revision SAE J673 Section 4.1, Table 1. (± 0.020 inch (0.5mm) times number of layers of glass.)
- I. Cut Size, Edge Treatments, Overlap, and Blow Back:
 - a) The dimensional tolerance for the cut size dimensions of rectangular shapes, including squareness will be according to ASTM C1036 Table 1.
 - b) Edges shall be treated according to SAE Handbook J673. This reference shall also govern.
 - c) allowable blow back/overlap. Laminated glass shall have edge ground and sealed to prevent moisture absorption by the PVB interlayer. The seal following the edge grinding shall be black and not interfere with the installed appearance.
- J. Delaminating: Delaminating between layers is not accepted.
- K. Color and Tint: There shall be no more than $\pm 4\%$ gradual color variation on any single piece of glass when examined over a white background in natural light. Abrupt variations in color or tint, which would cause visible stripes, are not permissible, unless required by design. There shall be no more than $\pm 4\%$ variation from the specified visible light transmission value. Unless otherwise specified, glazing used for driving (windshield and driver cab side windows) shall show regular (parallel) luminous transmittance of not less than 70% of the light, at normal incidence, per ANSI Z26.1 latest revision test 2, Luminous Transmittance.

- L. Clarity and Haze: Laminated sheet glass shall be sufficiently free of haze, that the laminated glass sheet shall have approximately the same clarity as a piece of monolithic glass of the same nominal thickness, when viewed in natural daylight. The haze level may also be measured per ASTM D1003 with a haze of 3% or less.
- M. Distortion: Glass shall produce no apparent distortion on a line 50 degrees to the plane of the glass(Q2) per ASTM C 1036 Section 6.1.1, Table 5. Localized warping must meet requirements as outlined in this scope of work. Per ASTM C 1048, Section 7.4 Distortion, the original flatness of the glass is slightly modified by the heat treatment, causing reflected images to be distorted. When viewing images through the glass, the distortion, in most glazing applications, is less than that of reflected images and is not as noticeable. Fully tempered and heat-strengthened glass that has been made in a horizontal furnace may contain surface distortion (for example, picture framing, heat distortion or roller wave distortion). Distortion will be detected when viewing images reflected from the glass surface Specified bow and warp limits may not adequately define, or control, the distortion that may become apparent after glazing. The viewing of full-size mockups, under typical job conditions and surroundings, is highly recommended for user evaluation of the reflective distortion. Obvious excessive glass reflective distortion (esthetic) is unacceptable, regardless of through glass distortion. Reflective distortion level must meet MTS approval. Vendor may submit sample for review and approval of glass reflective distortion level by MTS.
- N. Heated Glass: Heated glass must be performance tested by checking resistance or using a heat detection gun to assure no dead heating zones. Result data must be provided with each glass shipment.
- O. Packaging: All glass shipments must be packaged with adequate protection to ensure that there will be no damage during normal surface transportation to the final destination designated by MTS and during storage in a normal warehouse environment. Shipping carrier to be proposed by contractor for approval by MTS.
- P. Appendix: Specifications Referenced:

ANSI Z26.1 American National Standard for Safety Glazing Materials

49 CFR Part 223 Safety Glazing Standards FRA Type I & II

ASTM D 1003 Standard Test Method for Haze and Luminous Transmittance
of Transparent Plastics

ASTM C 1036 Standard Specification for Flat Glass

ASTM C 1048 Standard Specification for Heat Treated Flat Glass

ASTM C 1172 Standard Specification for Laminated Architectural Flat Glass

HPW-TP-0600.02 H.P. White Lab. Optical Distortion Testing of Windshields

SAE Handbook J 673 Automotive Safety Glasses

When glass standard is not covered by this specification, then the above specifications or industry standards will be referenced for glass evaluation.

**ATTACHMENT C
CONTRACTOR TO SUPPLY WINDOW GLASS (MTS DOC. NO. G2475.0-21)**

Att. C, AI 10, 10/14/2021

CITYWIDE

#	MTS Material #	Material Description	Est. Annual Usage	Year 1 Unit Cost	Year 1 Total	Year 2 Unit Cost	Year 2 Total	Year 3 Unit Cost	Year 4 Total	Year 4 Unit Cost	Year 4 Total	Year 5 Unit Cost	Year 5 Total	Overall 5 Year Total
1	70135590	Glass Cab Door Lower - SD100	5	\$ 105.82	\$ 529.10	\$ 158.73	\$ 793.65	\$ 238.10	\$ 1,190.50					\$ 2,513.25
2	70135624	Glass Cab Door Upper - SD100	10	\$ 235.02	\$ 2,350.20	\$ 352.53	\$ 3,525.30	\$ 528.80	\$ 5,288.00					\$ 11,163.50
3	70135665	Glass Cab Left Bottom - SD100	1	\$ 235.02	\$ 235.02	\$ 352.53	\$ 352.53	\$ 528.80	\$ 528.80					\$ 1,116.35
4	70135681	Glass Cab Left Top - SD100	1	\$ 223.02	\$ 223.02	\$ 334.53	\$ 334.53	\$ 501.80	\$ 501.80					\$ 1,059.35
5	70135715	Glass Cab Right Bottom - SD100	2	\$ 246.16	\$ 492.32	\$ 369.24	\$ 738.48	\$ 553.86	\$ 1,107.72					\$ 2,338.52
6	70135749	Glass Cab Right Top - SD100	2	\$ 238.87	\$ 477.74	\$ 358.30	\$ 716.60	\$ 537.45	\$ 1,074.90					\$ 2,269.24
7	70135905	Glass Passenger Door - SD100	34	\$ 165.31	\$ 5,620.54	\$ 206.64	\$ 7,025.76	\$ 247.97	\$ 8,430.98					\$ 21,077.28
8	70135939	Glass Passenger Side - SD100	21	\$ 297.38	\$ 6,244.98	\$ 371.72	\$ 7,806.12	\$ 446.06	\$ 9,367.26					\$ 23,418.36
9	70151910	Glass Windscreen Small - SD7	4	\$ 548.70	\$ 2,194.80	\$ 598.75	\$ 2,395.00	\$ 635.50	\$ 2,542.00	\$ 690.80	\$ 2,763.20	\$ 745.98	\$ 2,983.92	\$ 12,878.92
10	70135830	Glass Partition Large - SD100	21	\$ 94.15	\$ 1,977.15	\$ 117.69	\$ 2,471.49	\$ 141.23	\$ 2,965.83					\$ 7,414.47
11	70135871	Glass Partition Small - SD100	5	\$ 78.05	\$ 390.25	\$ 97.56	\$ 487.80	\$ 117.18	\$ 585.90					\$ 1,463.95
12	70135798	Glass Flap Window - SD100	2	\$ 245.00	\$ 490.00	\$ 306.25	\$ 612.50	\$ 367.50	\$ 735.00					\$ 1,837.50
													Citywide Total	\$ 88,550.69
													CA Sales Tax	\$ 6,862.68
													Citywide Award	\$ 95,413.37

SIEMENS

#	MTS Material #	Material Description	Est. Annual Usage	Year 1 Unit Cost	Year 1 Total	Year 2 Unit Cost	Year 2 Total	Year 3 Unit Cost	Year 4 Total	Year 4 Unit Cost	Year 4 Total	Year 5 Unit Cost	Year 5 Total	Overall 5 Year Total
1	70185447	Glass Hi Floor - SD8	42	\$ 705.28	\$ 29,621.76	\$ 726.44	\$ 30,510.48	\$ 748.23	\$ 31,425.66	\$ 770.68	\$ 32,368.56	\$ 793.80	\$ 33,339.60	\$ 157,266.06
2	70185454	Glass Passenger Door - SD8/SD9	84	\$ 1,254.18	\$ 105,351.12	\$ 1,291.80	\$ 108,511.20	\$ 1,330.56	\$ 111,767.04	\$ 1,370.48	\$ 115,120.32	\$ 1,411.59	\$ 118,573.56	\$ 559,323.24
3	70185462	GLASS WITH FRAME,CAB DOOR,SD	3	\$ 1,271.70	\$ 3,815.10	\$ 1,309.85	\$ 3,929.55	\$ 1,349.15	\$ 4,047.45	\$ 1,389.62	\$ 4,168.86	\$ 1,431.31	\$ 4,293.93	\$ 20,254.89
4	70185470	Glass Cab Window Upper Right - SD8	1	\$ 1,908.60	\$ 1,908.60	\$ 1,965.86	\$ 1,965.86	\$ 2,024.83	\$ 2,024.83	\$ 2,085.58	\$ 2,085.58	\$ 2,148.15	\$ 2,148.15	\$ 10,133.02
5	70185496	GLASS CAB WINDOW,LOWER,LEFT	3	\$ 1,833.60	\$ 5,500.80	\$ 1,888.61	\$ 5,665.83	\$ 1,945.27	\$ 5,835.81	\$ 2,003.62	\$ 6,010.86	\$ 2,063.73	\$ 6,191.19	\$ 29,204.49
6	70185504	GLASS CAB WINDOW,LOWER,RIGHT	1	\$ 2,058.60	\$ 2,058.60	\$ 2,120.36	\$ 2,120.36	\$ 2,183.97	\$ 2,183.97	\$ 2,249.49	\$ 2,249.49	\$ 2,316.97	\$ 2,316.97	\$ 10,929.39
7	70187831	GLASS CAB WALL,FIXED,SD8	1	\$ 393.55	\$ 393.55	\$ 405.35	\$ 405.35	\$ 417.51	\$ 417.51	\$ 430.04	\$ 430.04	\$ 442.94	\$ 442.94	\$ 2,089.39
8	70187864	Glass Cab Window Slider Left - SD8	3	\$ 1,833.60	\$ 5,500.80	\$ 1,888.61	\$ 5,665.83	\$ 1,945.27	\$ 5,835.81	\$ 2,003.62	\$ 6,010.86	\$ 2,063.73	\$ 6,191.19	\$ 29,204.49
9	70187872	Glass Cab Window Slider Right - SD8	2	\$ 1,858.60	\$ 3,717.20	\$ 1,914.36	\$ 3,828.72	\$ 1,971.79	\$ 3,943.58	\$ 2,030.94	\$ 4,061.88	\$ 2,091.87	\$ 4,183.74	\$ 19,735.12
10	70200425	Windshield, Cab A&B Car - SD9	1	\$ 7,613.00	\$ 7,613.00	\$ 7,841.39	\$ 7,841.39	\$ 8,076.63	\$ 8,076.63	\$ 8,318.93	\$ 8,318.93	\$ 8,568.50	\$ 8,568.50	\$ 40,418.45
11	70200818	Windshield - SD8	7	\$ 7,613.00	\$ 53,291.00	\$ 7,841.39	\$ 54,889.73	\$ 8,076.63	\$ 56,536.41	\$ 8,318.93	\$ 58,232.51	\$ 8,568.50	\$ 59,979.50	\$ 282,929.15
12	70185488	Glass Cab Window Upper Left - SD8	1	\$ 2,058.60	\$ 2,058.60	\$ 2,120.36	\$ 2,120.36	\$ 2,183.97	\$ 2,183.97	\$ 2,249.49	\$ 2,249.49	\$ 2,316.97	\$ 2,316.97	\$ 10,929.39
13	70200816	Cab Window w/Frame Left - SD7	1	\$ 14,128.95	\$ 14,128.95	\$ 14,552.82	\$ 14,552.82	\$ 14,989.41	\$ 14,989.41	\$ 15,439.09	\$ 15,439.09	\$ 15,902.26	\$ 15,902.26	\$ 75,012.53
14	70200817	Cab Window w/Frame Right - SD7	1	\$ 13,722.46	\$ 13,722.46	\$ 14,134.14	\$ 14,134.14	\$ 14,558.16	\$ 14,558.16	\$ 14,994.91	\$ 14,994.91	\$ 15,444.75	\$ 15,444.75	\$ 72,854.42
													Siemens Total	\$ 1,320,284.03
													CA Sales Tax	\$ 102,322.01
													Siemens Award	\$ 1,422,606.04

*SD100's to be retired by approximately end of 2024

Overall Project Board Award **\$ 1,518,019.41**



**Metropolitan
Transit
System**

Agenda Item No. 11

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

**SUPPLEMENTAL RENEWABLE ENERGY CERTIFICATES (REC) PURCHASES – 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. G2524.0-22 with 3Degrees, Inc. (in substantially the same format as Attachment A), MTS Doc. No. G2525.0-22 with Kinect Energy Green Services AS (in substantially the same format as Attachment B), MTS Doc. No. G2526.0-22 with Sol Systems, LLC (in substantially the same format as Attachment C), and MTS Doc. No. G2527.0-22 with SRECTrade, Inc. (in substantially the same format as Attachment D), for the purchase of Supplemental RECs for 5 years in an amount not to exceed \$6,101,320.00.

Budget Impact

The total budget for this project shall not exceed \$6,101,320.00. This project is funded by the Trolley Operations Budget 902016-551100.

DISCUSSION:

The California Air Resources Board (CARB) created the Low Carbon Fuel Standard (LCFS) to reduce greenhouse gas emissions associated with the life cycle of transportation fuels used in California. Each type of fuel has been assessed a carbon intensity (CI) score. Fuel providers are required to ensure their overall CI score meets the annual CI target. The LCFS program has incentives in the form of credits that are generated, tracked, and can be traded to obligated entities. MTS is not an obligated entity, but does generate LCFS credits as a transportation provider that utilizes alternative fuels. Currently MTS is generating LCFS credits based on the natural gas and propane it consumes to power buses, and the electricity utilized to power the trolleys. In the future, electricity powered buses will also generate these credits for MTS.

The revenue from these LCFS credits exceeded \$7.8 million in FY 2021. CARB reauthorized and amended the LCFS program in January 2019. As part of these changes, CARB allowed for the use of a chain-of-custody model of accounting of environmental attributes for electricity that is used as a transportation fuel. With this change, RECs are used to represent the ownership and



transfer of low-CI electricity under the LCFS without regard to physical traceability. MTS has been purchasing RECs for the last two years to generate additional LCFS credits based on utilizing carbon free wind and solar energy as fuel for the trolleys, greatly reducing the carbon footprint of the trolley service.

Staff has estimated the electricity and associated REC need for the next 5 years. Each quarter, MTS will seek to purchase enough RECs in order to be 100% zero-CI on its electricity usage that powers revenue vehicles for that quarter. On average, about 18,000 RECs per quarter will need to be purchased, at the current market rate of \$14.00 per REC, resulting in a quarterly transaction of approximately \$250,000. At each quarter end, MTS staff will seek quotes from the qualified resellers and issue a contract for the lowest cost provider of the required number of RECs. These costs will be offset by the LCFS credit revenue generated, and depending on market conditions, possibly could result in a net-revenue for MTS. MTS is seeking to contract with qualified and responsible suppliers of RECs in advance in order to facilitate these quarterly purchases and secure purchasing authority from the Board.

In July 2, 2021, staff issued a Request for Qualifications (RFQ) to establish a bench of qualified REC resellers. On August 11, 2021, four (4) submittals were received. All submittals received were found responsive to the minimum requirements of the RFQ. Firms were evaluated based on the following pass/fail criteria:

- Respondent has demonstrated previous experience working for or with public agencies, transit entities, or corporation on a similar project as stated in the Scope of Work.
- Respondent's narrative responds to the requirements listed in the Scope of Work.
- Respondent has submitted a template of the contract they will expect MTS to sign for each purchase.

Based on the review, the evaluation committee has determined the submittals from the four firms met the requirements outlined in the pass/fail criteria.

Therefore, staff recommends the MTS Board of Directors authorize the CEO to execute MTS Doc. No. G2524.0-22 with 3Degrees, Inc. (in substantially the same format as Attachment A), MTS Doc. No. G2525.0-22 with Kinect Energy Green Services AS (in substantially the same format as Attachment B), MTS Doc. No. G2526.0-22 with Sol Systems, LLC (in substantially the same format as Attachment C), and MTS Doc. No. G2527.0-22 with SRECTrade, Inc. (in substantially the same format as Attachment D), for the purchase of Supplemental RECs for 5 years in an amount not to exceed \$6,101,320.00.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. G2524.0-22 with 3Degrees, Inc.
B. G2525.0-22 with World Kinect Services
C. G2526.0-22 with Sol Systems, LLC
D. G2527.0-22 with SRECTrade, Inc.

**RENEWABLE ENERGY CERTIFICATE
PURCHASE AND SALE AGREEMENT**

THIS RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE AGREEMENT ("**Agreement**") is made as of September 28, 2021 (the "**Effective Date**") between 3Degrees Group, Inc. ("**3Degrees**") with its principal place of business at 235 Montgomery Street, Suite 320, San Francisco, CA 94104 and [Counterparty] ("**Counterparty**") with its principal place of business at [CounterpartyAddress], [CounterpartyCity], [CounterpartyState] [CounterpartyZip] (each a "**Party**" and collectively, the "**Parties**").

WHEREAS, the Parties wish to buy and sell RECs (as hereinafter defined) on the terms set forth herein;

NOW THEREFORE, in consideration of their mutual covenants herein, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

"**Applicable Standard**" means the state or federal RPS or other mandatory or voluntary standard(s) or set of rules specified in the Confirmation Letter, including any amended or successor versions as of the date of execution of the Confirmation Letter, as well as on the date of Delivery of RECs.

"**Applicable Tracking System**" means the Tracking System specified in the Confirmation Letter, and if no Tracking System is specified in the Confirmation Letter but tradable instruments associated with all or part of the RECs to be delivered are issued by a Tracking System, that Tracking System shall be the Applicable Tracking System for the quantity of RECs associated with those tradable instruments.

"**Attestation Form**" means documentation provided from Seller to Buyer transferring title to the RECs, specifying the Facility, Eligible Renewable Resource, REC quantity, Generation Period and other information with respect to the RECs sold herein as well as declarations made by Seller with respect to such RECs to be completed in accordance with and on the form required under the Applicable Standard or as otherwise specified in the Confirmation Letter.

"**Business Day**" means a day on which Federal Reserve member banks are open for business, beginning at 5:00 a.m. and ending at 5:00 p.m. Pacific Standard Time.

"**Buyer**" is the Party buying RECs.

"**Compliance Instruments**" means any benefits, attributes, instruments, tracking mechanisms, or rights associated with the generation of one (1) MWh of Energy from a source of renewable energy, as that is defined in a RPS, which may be created distinct from Environmental Attributes and transferred in the form of a certificate, credit, allowance or other indicia of ownership in accordance with and for the purposes of recording compliance with a RPS obligation.

"**Confirmation Letter**" means a Confirmation Letter included as Exhibit A, which is used by the Parties to effect a transaction and constitutes part of and is subject to the terms and provisions of this Agreement.

"**Contract Price**" means the amount payable by Buyer to Seller for each REC as agreed upon in the Confirmation Letter.

"**Costs**" means the present value of brokerage fees, commissions, and other similar third party transactions costs and expenses reasonably incurred by the Non-Defaulting Party in terminating or

replacing any arrangement pursuant to which it has hedged its obligations relating to a Terminated Transaction; and any charges, penalties, fines or fees imposed or assessed against the Non-Defaulting Party, or the entity to which the Non-Defaulting Party had resold the RECs, under the Applicable Standard on account of Delivery not occurring on the Delivery Date, as determined by the Non-Defaulting Party in a commercially reasonable manner.

“Delivery Date” means the date or period during which Delivery shall occur, as specified in the Confirmation Letter.

“Eligible Renewable Resources” mean sources of renewable energy that meet all requirements of the Applicable Standard.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours (MWh).

“Environmental Attributes” means those aspects, claims, characteristics and benefits associated with the generation of a quantity of electricity by the Facility, and, in the absence of any withholding of any part thereof by Seller, all of them, including any and all the environmental, power source, and emission characteristics, credits, allowances, emissions reductions, offsets, and benefits, howsoever entitled, attributable to the generation of electricity from the Facility and its displacement of generation from non-renewable energy resources, and includes but is not limited to any avoided emission of pollutants to the air, soil or water such as carbon monoxide (CO) and other pollutants; any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere, but do not include (i) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits, unless those credits are required for the REC to comply with the Applicable Standard, (ii) production tax credits and investment tax credits associated with the Facility, (iii) any energy, capacity, reliability or other power attributes from the Facility, (iv) any liabilities, including adverse wildlife or environmental impacts, or (v) unless the Parties have expressly agreed otherwise, tradable emission allowances or other entitlements to produce emissions issued by a governmental authority and allocated to the Facility on a basis other than actual generation of avoided emissions associated with the generation of electricity by the Facility. If the Facility is a biomass or biogas facility and Seller receives any tradable Environmental Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Environmental Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility.

“Facility” or **“Facilities”** means, if specified, the resource(s) designated in a Confirmation Letter from which the Seller will Deliver the RECs, and if not specified in a Confirmation Letter, Facility means the specific resource from which the Seller Delivers the RECs; in either case, the Seller represents the Facility is an Eligible Renewable Resource.

“Federal Government” means the United States Federal Government and all of its authorized agencies and agents.

“Force Majeure” means an event or circumstance which materially adversely affects the ability of a Party (**“Claiming Party”**) to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the Trade Date and which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which the Claiming Party is unable to overcome or avoid or cause to be avoided by the exercise of reasonable care such as acts of God; fire; flood;

earthquake; war; riots; or terrorism that affects one or both Parties. Force Majeure may not be based on (i) the loss or failure of Buyer's markets; (ii) Buyer's inability economically to use or resell the RECs; (iii) Seller's ability to sell the RECs to another party on terms superior to Seller's terms herein; or (iv) Buyer's ability to purchase similar RECs from another party on terms superior to the Buyer's terms herein. With respect to a Party's obligation to make payments hereunder, Force Majeure will be only an event or act of a governmental authority that on any day disables the banking system through which a Party makes such payments.

"Gains" mean the present value of the economic benefit to a Party, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

"Generation Period" means the calendar year, quarter, or other specified period of time in which the Energy associated with the RECs was generated.

"Interest Rate" is equal to Prime lending rate published under the heading "Money Rates" in the Wall Street Journal on the date of calculation.

"Losses" means the present value of the economic loss to a Party, if any (exclusive of Costs), resulting from a Terminated Transaction, determined in a commercially reasonable manner.

"MWh" means megawatt-hour.

"Renewable Energy Certificate" or **"RECs"** means the Environmental Attributes, Compliance Instruments, and Reporting Rights associated with the generation of one (1) MWh of Energy from one or more Facilities.

"Renewable Portfolio Standard" or **"RPS"** means a local, state, provincial or federal law, rule or regulation that requires a stated amount or minimum proportion or quantity of Energy that is sold or used by specified entities to be generated from sources of renewable energy as defined therein.

"Reporting Rights" means the right to report and register the exclusive ownership of the Environmental Attributes and any Compliance Instruments in compliance with federal, state, or local law, if applicable, and to a federal or state agency or any other party at the Buyer's discretion, and include without limitation those Reporting Rights accruing under Section 1605(b) of the Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

"Reporting Period" means a year or other period of time specified by the Applicable Standard toward which eligible RECs may be applied or claimed.

"Seller" is the Party selling RECs.

"Seller's Choice" means Seller may Deliver RECs from any source, provided the RECs derived from said source meet all other requirements pursuant to the Applicable Standard and this Agreement.

"Settlement Amount" means the Losses or Gains, and Costs, which the Non-Defaulting Party incurs as a result of the liquidation of a Terminated Transaction pursuant to Article 9.2.

"Time Period" means the Generation Period or Reporting Period specified in the Confirmation Letter.

"Tracking System" means the generation information system, generation attribute tracking system or other system that records renewable energy generation meeting certain requirements of the tracking system and issues tradable instruments associated with that generation.

"Trade Date" means the date of the Confirmation Letter.

ARTICLE 2 TRANSACTION

2.1. Term.

The term ("**Term**") of this Agreement commences on the Effective Date and continues until terminated by either Party upon thirty (30) days' written notice, except that any such termination is not effective until all payments, Deliveries and other obligations of the Parties under this Agreement have been completed.

2.2. Sale and Purchase Obligation.

Seller agrees to provide and Buyer agrees to purchase RECs according to the terms of this Agreement and any Confirmation Letters now or hereafter entered into between the Parties.

2.3. Quantity and Price.

Seller shall sell and Buyer shall purchase RECs in the quantities and at the Contract Prices specified in Confirmation Letters now or hereafter entered into between the Parties.

2.4. Disclosure.

In order to promote the sale of RECs to its customers or potential customers, Buyer is expressly authorized to disclose to third parties Seller's name, REC details as provided in Attestation Form or by the Applicable Tracking System, and the Attestation Form itself, if provided. Any disclosure will exclude such confidential details as price and payment terms. Confirmation Letters under this Agreement may optionally provide that they are subject to Exhibit B, the 3Degrees Media Rights Annex by stating they confer media rights. Buyer is further authorized to, at Buyer's own expense and with Seller's reasonable cooperation, monitor, measure, verify, calculate, disclose and claim for the benefit of Buyer any matter respecting the RECs or any aspects thereof pursuant to any present or future protocol, standard, or guidance.

2.5. Delivery.

On the Delivery Date specified in the Confirmation Letter, Seller shall (i) deliver RECs to Buyer in accordance with the delivery requirements of the Applicable Standard, and (ii) in accordance with the operating rules of the Applicable Tracking System, if there is an Applicable Tracking System, and (iii) including an Attestation Form, if one is specified in the Confirmation Letter ("**Deliver**" or "**Delivery**"). Each Party shall bear its own expenses associated with Delivery. Delivery shall consist of only whole RECs. If, at any time after the Delivery Date, Compliance Instruments, which are part of the RECs transacted under a Confirmation Letter, are created and issued to Seller, Seller shall transfer those Compliance Instruments to Buyer within ten (10) Business Days of the date of issuance of such Compliance Instruments.

2.5.1 Firm Delivery Obligation.

If the Confirmation Letter provides that the RECs Delivery obligation is a "**Firm**" obligation, the Seller shall Deliver the RECs on the Delivery Date, without excuse other than Force Majeure. Unless otherwise specified in a Confirmation Letter, the default Delivery obligation thereunder shall be Firm.

2.5.2 Unit Contingent Delivery Obligation.

If the Confirmation Letter provides that the Seller's Delivery obligation is "**Unit Contingent**", then the actual Quantity Delivered from Seller to Buyer may vary from the quantity specified in the Confirmation Letter due to the performance of the Facility.

2.5.3 Project Contingent Delivery Obligation.

If the Confirmation Letter provides that the RECs Delivery obligation is "**Project Contingent**", then Seller's obligation to Deliver the RECs is excused to the extent that the Facility is not able to generate the Environmental Attributes in the Time Period specified in the Confirmation Letter, due to a delay or failure in constructing or obtaining necessary approvals to construct or modify and operate the new or modified Facility, or due to other reason(s) as specified in the Confirmation Letter.

2.6 Confirmation.

Unless otherwise agreed in writing, Seller will send Buyer a Confirmation Letter, which may be in substantially the form attached hereto as Exhibit A, as modified to support the specific RECs. Upon receipt of such Confirmation Letter, the other Party shall promptly return a written acceptance thereof, which may be a signed copy of the Confirmation Letter.

**ARTICLE 3
REPRESENTATIONS**

3.1. Authority.

Each Party represents and warrants to the other Party that (i) it is a legal entity, duly formed and validly existing and in good standing under the laws of the state of its formation, (ii) it has the full power and authority to execute, deliver, and perform this Agreement and to carry out the transactions contemplated hereby; (iii) its execution and delivery hereof and performance of the transactions contemplated hereunder have been duly authorized by all requisite entity action, and this Agreement has been duly executed and delivered by it and constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws generally affecting creditors' rights and by equitable principles; (iv) no authorization, consent, notice to or registration or filing with any governmental authority is required for the execution, delivery and performance by it hereof; (v) none of the execution, delivery and performance by it hereof conflicts with or will result in a breach or violation of any law, contract or instrument to which it is bound; (vi) there are no proceedings by or before any governmental authority, now pending or (to the knowledge of such Party) threatened, that if adversely determined could have a material adverse effect on such Party's ability to perform the Party's obligations under this Agreement; (vii) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement; and (viii) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is

capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

3.2. Forward Contract Merchant.

Each Party represents that it is a “forward contract merchant” within the meaning of Section 101(26) of the Bankruptcy Code, and this Agreement and all transactions hereunder constitute “forward contracts” within the meaning of Section 101(25) of the Bankruptcy Code and that the remedies identified in this Agreement shall be “contractual rights” as provided for in 11 U.S.C. § 556, as these provisions may be amended from time to time.

3.3. Seller Representations and Warranties.

Seller agrees, represents, and warrants to Buyer that:

- a) All RECs Delivered hereunder shall meet the requirements of the Applicable Standard.
- b) Seller has not sold the RECs to any other person or entity, and that at the time of Delivery all rights, title, and interest in the RECs are free and clear of all liens, taxes, claims, security interests, or other encumbrances of any kind whatsoever.
- c) The Energy generated with the RECs was not and will not be separately sold, marketed, or otherwise represented as renewable energy, clean energy, zero-emission energy, or in any similar manner by Seller or any of Seller’s affiliates.
- d) The RECs Delivered hereunder will vest in Buyer, and Buyer will (i) have the exclusive rights to make all claims as to the RECs (ii) have the right to report and register, as applicable, the exclusive ownership of the RECs with any registry, system, agency, authority, or other party, either voluntarily or in compliance with any present or future domestic, international, or foreign law, regulation, registry or program.

**ARTICLE 4
BILLING AND PAYMENT**

4.1. Billing and Payment Terms.

Buyer shall pay the Contract Price as applicable within 15 days of the later of (i) the date Buyer receives written, facsimile or electronic notice from Seller to Buyer that RECs have been Delivered, and (ii) the date Buyer receives an invoice from Seller reflecting the total amount due to Seller for the Delivered RECs (“**Payment Date**”). Buyer is not obligated to pay for any RECs that have not been Delivered.

4.2. Late Payments.

Without limiting any other rights provided for herein, all overdue payments shall bear interest from the Payment Date to the date of actual payment at a rate equal to the lesser of (i) 2% percent over the Interest Rate or (ii) the maximum rate permitted by applicable law.

4.3. Disputes.

To the extent a Party, in good faith, disputes any part of an invoice, such Party shall pay the undisputed amount invoiced by the Payment Date. If any amount withheld under dispute is finally determined to have been due, such withheld amount shall be forwarded to the Party to whom such amount is owed within five (5) Business Days of such determination, along with interest at the Interest Rate for overdue payments from, and including, the Payment Date, but excluding the date paid.

4.4. Taxes.

Each Party shall pay the taxes lawfully levied upon it by any governmental authority.

4.5. Invoice and Payment Instructions.

Payment shall be made by electronic funds transfer, or by other mutually agreed upon method, in immediately available funds, to the bank account name and account number as specified below, or as otherwise notified in writing to the party making payment by the party to whom payment is to be made.

Invoices to 3Degrees will be sent to:

3Degrees Group, Inc.
235 Montgomery Street, Suite 320
San Francisco, CA 94104
Attn: Accounts Payable
Phone: (415) 794-6485
Email: settlements@3degrees.com

Payments to 3Degrees will be sent to:

3Degrees Group, Inc.
235 Montgomery Street, Suite 320
San Francisco, CA 94104
Attn: Accounts Receivable
Phone: (415) 794-6485
Email: accounting@3degrees.com

Wiring instructions:

Beneficiary Bank Name:
California Bank of Commerce
3595 Mt. Diablo Blvd 2nd Floor
Lafayette, CA 94549

Routing/ABA: 121 144 696

Beneficiary:
3Degrees Group, Inc.
Account # 1043868

Invoices to [Counterparty] will be sent to:

[Counterparty]
[CounterpartyAddress]
[CounterpartyCity], [CounterpartyState] [CounterpartyZip]
Attn:
Phone:
Fax:
Email:

Payments to [Counterparty] will be sent to:

[Counterparty]
[CounterpartyAddress]
[CounterpartyCity], [CounterpartyState] [CounterpartyZip]
Attn:
Phone:
Fax:

Wiring instructions:

Bank Name
ABA:
Account:

**ARTICLE 5
NOTICES**

All notices, requests, demands, offers, and other communications required or permitted to be made under this Agreement will be in writing and will be effective only if delivered: (a) in person, (b) by a nationally recognized delivery service, (c) by United States Mail, or (d) by electronic mail, upon confirmation of receipt. Either Party may change its address or contact person(s) for notices by giving notice of such change consistent with this Article.

If to Counterparty:

[Counterparty]
[CounterpartyAddress]
[CounterpartyCity], [CounterpartyState]
[CounterpartyZip]
Attn:
Phone:
Fax:
E-mail:

If to 3Degrees:

3Degrees Group, Inc.
235 Montgomery Street, Suite 320
San Francisco, CA 94104
Attn: Contracts Manager
Phone: (415) 308-5214
Email: settlements@3degrees.com

**ARTICLE 6
GOVERNING LAW AND DISPUTE RESOLUTION**

This Agreement is governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. EACH PARTY KNOWINGLY, VOLUNTARILY,

INTENTIONALLY AND IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT OR CONFIRMATION LETTER EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, AS WELL AS ANY RIGHT TO CONSOLIDATE ANY ACTION IN CONNECTION WITH ANY MATTER ARISING HEREUNDER WITH ANY OTHER MATTER IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED.

ARTICLE 7 ATTORNEY'S FEES

In the event of any suit or other proceeding between any of the Parties hereto with respect to any of the transactions contemplated hereby or subject matter hereof, the prevailing Party shall be entitled to recover reasonable attorneys' fees, costs (including at the trial and appellate levels) and expenses of investigation.

ARTICLE 8 DEFAULTS

A Party is in default ("**Default**") hereunder if that Party (the "**Defaulting Party**") does any of the following (each an "**Event of Default**"):

- (a) breach any of its material obligations herein and not cure within five (5) Business Days of written notice of such breach;
- (b) if any representation or warranty made by it herein proves to have been misleading or false in any material respect when made and such Party does not cure the underlying facts so as to make such representation and warranty correct and not misleading within five (5) Business Days of written notice; or
- (c) if a Party:
 - (i) makes an assignment or any general arrangement for the benefit of its creditors,
 - (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it, or
 - (iii) otherwise becomes bankrupt or insolvent (however evidenced).

ARTICLE 9 REMEDIES UPON DEFAULT

9.1. Liquidated Damages.

Buyer and Seller agree the amounts that are determined to be due from one Party to the other pursuant to this Article in its entirety represents the liquidated damages of each, and no part hereof represents a penalty.

9.2. Remedies.

Upon an Event of Default by a Party, the other Party (the “**Non-Defaulting Party**”) may do any or all of the following: (i) designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date (“**Early Termination Date**”) to accelerate all amounts owing between the Parties and to liquidate and terminate all or less than all Confirmation Letters (each referred to as a “**Terminated Transaction**”) between the Parties, (ii) withhold any payments due in respect of this Agreement and any other agreements between the Parties to the extent of its damages pursuant to this Article 9, (iii) suspend performance, and (iv) exercise such remedies as provided herein, including an action for damages (except as limited by Article 9.5). The Non-Defaulting Party will calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable). Without being required to do any of the foregoing or set a Termination Payment (as defined below) for all transactions and Confirmation Letters, if either Party does not Deliver any RECs by the Delivery Date as set forth on a Confirmation Letter, the Buyer may treat that Confirmation Letter as being in Default and a Terminated Transaction, without terminating or cancelling any other Confirmation Letters hereunder, and calculate, as a Non-Defaulting party, the amount due from the Seller for such Terminated Transaction, and in such case Seller shall pay such amount within two days of notice from the Non-Defaulting Party.

9.3. Net Out of Settlement Amounts.

The Non-Defaulting Party will aggregate all Settlement Amounts into a single amount by netting out (a) all amounts that are due to the Defaulting Party for RECs that have been Delivered and not yet paid for, plus, at the option of the Non-Defaulting Party, any or all other amounts due to the Non-Defaulting Party under this Agreement against (b) all Settlement Amount that are due to the Non-Defaulting Party under this Agreement, so that all such amounts will be netted out to a single liquidated amount (the “**Termination Payment**”) payable by the Defaulting Party. The Termination Payment, if any, is due from the Defaulting Party to the Non-Defaulting Party within two (2) Business Days following notice.

9.4. Calculation Disputes.

If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Settlement Amount or Termination Payment, in whole or in part, the Defaulting Party will, within two (2) Business Days of receipt of the Non-Defaulting Party’s calculation, provide the Non-Defaulting Party a detailed written explanation of the basis for such dispute.

9.5. Limitation on Damages.

The Defaulting Party’s liability will be limited to direct, actual damages only, and such direct, actual damages will be the sole and exclusive remedy hereunder. Except with respect to payment of Costs, in no event will either Party be liable to the other under this Agreement for any consequential, incidental, punitive, exemplary, or indirect damages in tort, contract, or otherwise.

9.6. Exclusive Remedy.

THE REMEDIES SET FORTH IN THIS ARTICLE 9 ARE THE SOLE AND EXCLUSIVE REMEDIES IN THE EVENT OF A DEFAULT OF A PARTY’S OBLIGATIONS TO SELL OR PURCHASE RECS, AND A PARTY’S LIABILITY SHALL BE LIMITED AS SET FORTH IN THIS ARTICLE. ALL

OTHER REMEDIES OR DAMAGES FOR FAILURE TO SELL OR PURCHASE RECS AT LAW ARE HEREBY WAIVED.

9.7. Force Majeure.

If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, then upon such Party's giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing to the other Party, the obligations of the Claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the Claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure will have until the end of five (5) Business Days following such receipt to notify the Claiming Party that it objects to or disputes the existence of an event of Force Majeure.

**ARTICLE 10
STANDARD PROVISIONS**

10.1. Additional Documents.

Each Party, upon the reasonable request of the other Party, will perform any further acts and execute and deliver such documents that may be necessary to carry out the intent and purpose hereof.

10.2. Assignment.

Neither Party shall assign this Agreement, in whole or in part, without the other's written consent, which will not be unreasonably withheld, conditioned or delayed; except that a Party may, without consent (i) pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; (ii) assign this Agreement to an affiliate if the affiliate's creditworthiness is equal to or higher than that of the assigning Party; or (iii) assign this Agreement to any person or entity succeeding to all or substantially all of the assets of the assigning Party whose creditworthiness is equal to or higher than that of the assigning Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions of this Agreement. Any assignment without the requisite prior consent is void ab initio. All of the rights, benefits, liabilities, and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors and permitted assigns. By consenting to one assignment a Party will not be deemed to have consented to a subsequent assignment.

10.3. Audit and Inspection.

Seller shall maintain adequate records to assist Buyer in meeting any reporting or registration requirements associated with the RECs. Seller shall provide such records upon reasonable notice from Buyer. If any such examination reveals any inaccuracy in any statement, the Parties shall make the necessary adjustments promptly, and amounts discovered to be so due shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid.

10.4 Certification.

At Buyer's request and expense, Seller shall reasonably cooperate with Buyer for the purpose of pursuing Facility, and/or REC certification for compliance with any registration by the Buyer of the Facility and/or RECs in a RPS or equivalent program, including tracking system registration, other than the Applicable

Standard, in any jurisdictions programs, and tracking system in which Buyer may wish to register the Facility and/or RECs. Seller shall provide copies of all information Seller has available or can reasonably obtain as Buyer requires for such registration.

10.5 Confidentiality.

The Parties are expressly authorized to disclose the existence of this Agreement, including the quantity and term of the sale of RECs and Seller's name, REC details as provided in the Attestation Form or by the Applicable Tracking System, and the Attestation Form (if provided). Unless otherwise provided, all other terms of this Agreement, including price and payment terms, are confidential and neither Party may disclose such confidential information to anyone, other than (i) as may be agreed to in writing by the Parties; (ii) to any of such Parties' directors, officers and employees and directors, officers and employees of affiliated companies and representatives thereof or their advisors who need to know such information and agree to treat such information confidentially; (iii) to the extent required to be disclosed by applicable law or legal process; (iv) to the extent required to be disclosed under the Applicable Standard or other mandatory or voluntary standard; or (v) to any actual or potential lender or lenders providing financing to a Party or any of its affiliates, to any actual or potential investor in a Party or any of its affiliates or to any other potential acquirer of any direct or indirect ownership interest in Party or any of its affiliates or to any advisor providing professional advice to Party or any of its affiliates or to any such actual or potential lender, investor or acquirer who needs to know such information and agree to treat such information confidentially; or (vi) Load Serving Entity ("LSE") which agrees to treat such information confidentially and with whom a Party has an agreement to supply RECs for the LSE's voluntary green power program ("VGPP") and the confidential information is disclosed only upon LSE's request for the purposes of the LSE's evaluation of said VGPP. The Parties are entitled to all remedies available at law or in equity, including specific performance, to enforce this provision; however, neither Party will be liable for any damage suffered as a result of the use or disclosure of confidential information made in accordance with the express terms and conditions of this Agreement. This provision will survive for a period of five (5) years following the expiration of this Agreement.

10.6 Counterparts.

This Agreement may be executed by PDF or telefacsimile and in one or more counterparts, all of which taken together will constitute one and the same original instrument.

10.7 Entire Agreement.

This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes all previous communications, representations, or contracts, either written or oral, that purport to describe or embody the subject matter hereof. There are no oral understandings, terms, or conditions and neither Party has relied upon any representation, express or implied, not contained in this Agreement.

10.8 Exhibits.

The exhibits attached hereto are incorporated into this Agreement by reference. The exhibits may only be revised upon mutual agreement between the Parties unless otherwise specified in the exhibits. In the event of a conflict between this Agreement and the Confirmation Letter, the terms of the Confirmation Letter shall prevail.

10.9 No Third-Party Beneficiaries.

There are no intended third-party beneficiaries hereof, and this Agreement should not be construed to create or confer any right or interest in or to, or to grant any remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation, or undertaking established herein.

10.10 Severability.

Any part hereof that is or becomes invalid, illegal, or unenforceable may be severed from the remainder hereof, and to the extent possible, the Parties will use reasonable efforts to replace any such part with provisions that preserve their original intent.

10.11 Survival Rights.

This Agreement will continue in effect after termination to the extent necessary to allow or require either Party to fulfill rights or obligations that arose under the Agreement.

10.12 Waiver, Amendment.

None of the terms or conditions of this Agreement may be amended or waived except in writing and signed by the Parties. The Parties agree that no waiver, amendment, or modification of this Agreement will be established by conduct, custom, or course of dealing. The failure of a Party to require performance of any provision of this Agreement will not limit such Party's right to seek such performance at a later time. Similarly, a Party's waiver of its rights with respect to any Default or any other matter arising in connection with this Agreement will not be considered a waiver with respect to any subsequent Default or matter.

10.13 Indemnification.

Each Party will indemnify, defend and hold harmless the other Party from and against any losses, costs, damages, demands, penalties, claims, or liabilities made by others arising from or out of any event, circumstance, act or incident arising out of the Parties' obligations under this Agreement, except to the extent arising from such Party's own gross negligence or willful misconduct.

10.14 Change in Law.

If any statutes, rules, regulations, permits or authorizations are enacted, amended, granted or revoked which have the effect of changing the transfer and sale procedure set forth in this Agreement so that the implementation of this Agreement becomes impossible or impracticable, or otherwise revokes or eliminates the Applicable Standard, the Parties hereto agree to negotiate in good faith to amend this Agreement to conform with such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Agreement.

10.15 Recording.

Each Party consents to the recording of its trading, marketing and scheduling representatives' telephone conversations without any further notice. In addition, the Parties agree not to contest the authority of either Party's employees to enter into this Agreement or the Confirmation Letters generated pursuant to this Agreement. Notwithstanding the foregoing, any agreement with respect to the transaction shall be in a writing signed by both Parties.

**ARTICLE 11
SIGNATURES**

Each Party represents that the person signing this Agreement on its behalf is authorized to enter into this Agreement on behalf of the Party for whom they sign.

IN WITNESS WHEREOF, the Parties understand and agree to the terms and conditions contained herein and agree to be bound thereby.

3Degrees Group, Inc.	[Counterparty]
Signature	Signature
Name	Name
Title	Title
Date	Date

DRAFT

EXHIBIT A**Confirmation Letter #1**

This Confirmation Letter describes a transaction between Buyer and Seller for the sale, purchase and Delivery of Renewable Energy Certificates (“**RECs**”) pursuant to and in accordance with the terms of the Renewable Energy Certificate Purchase and Sale Agreement between the Parties dated September 28, 2021 (the “**Agreement**”) and constitutes part of and is subject to the terms and provisions of the Agreement. Provided, that, to the extent there is a conflict between a provision of the Agreement and this Confirmation Letter, the terms of this Confirmation Letter shall control for the purposes of this transaction.

Initially capitalized terms used and not otherwise defined herein are defined in the Agreement.

Basic Commercial Terms:

Trade Date:	
Transaction Reference:	
Seller:	
Buyer:	
Facility:	
Eligible Renewable Resource Type:	
Geography:	
Period Type [Generation, Reporting]:	
Time Period:	
Quantity (REC):	
Contract Price (\$/REC):	

Product Specific Terms:

Applicable Standard(s):	
Environmental Attributes retained by Seller, if any:	
Media Rights Conferred [yes, no]	

Delivery Terms:

Delivery Date:	
Delivery Obligation [Firm, Unit Contingent, Project Contingent]:	
Applicable Tracking System:	
Buyer Tracking Account Name:	
Attestation Form:	
Buyer Delivery Contact [Name, Email]:	
Seller Delivery Contact [Name, Email]:	

The Parties agree to the transaction set forth herein and each Party represents that the person signing this Confirmation Letter on its behalf is authorized to execute on behalf of the Party for whom they sign.

3Degrees Group, Inc.	[Counterparty]
Signature	Signature
Name	Name
Title	Title
Date	Date

EXHIBIT B**3DEGREES MEDIA RIGHTS ANNEX**

This 3DEGREES MEDIA RIGHTS ANNEX is entered into by and between 3Degrees Group, Inc. ("**3Degrees**") and [Counterparty] ("**Counterparty**" each a "**Party**" and together the "**Parties**"). In consideration of the continued agreement of the parties to purchase and sell Renewable Energy Certificates and otherwise transact pursuant to the terms of the Renewable Energy Certificate Purchase and Sale Agreement between the Parties dated September 28, 2021 (the "**Agreement**"), the Parties agree as follows:

In the course of business, organizations who purchase renewable energy certificates from 3Degrees utilize photographs of the associated renewable energy facilities for print, web, and other materials. In communicating their renewable energy purchase to their constituents, these organizations help increase the appeal of purchasing renewable energy while building the image and desirability of renewable power in general and Counterparty's Facility in particular.

To this end, when a Confirmation Letter confers media rights or is subject to this Exhibit B, Counterparty agrees, upon request, to provide relevant, non-confidential information about the Facility and when available, photographs or other such media related to the Facility. If no such media exists for the Facility, Counterparty agrees to allow 3Degrees access to produce such media at 3Degrees' expense. The information and media provided by Counterparty shall be used by 3Degrees to highlight the positive aspects of the Facility and, all such media may be used by 3Degrees, and shared with and used by 3Degrees' customers or potential customers who are purchasing or considering purchasing Renewable Energy Certificates from Counterparty's Facility.

ANNEX 1

RENEWABLE ENERGY CERTIFICATE
PURCHASE AND SALE AGREEMENT

THIS RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made between San Diego Metropolitan Transit System (Buyer) and Kinect Energy Green Services AS (Seller) as stipulated in the Trade Offer (each a “**Party**” and collectively, the “**Parties**”).

WHEREAS, the Parties wish to buy and sell RECs (as hereinafter defined) on the terms set forth herein;

NOW THEREFORE, in consideration of their mutual covenants herein, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

“**Applicable Standard**” means the state or federal RPS or other mandatory or voluntary standard(s) or set of rules specified in the Trade Offer, including any amended or successor versions as of the date of execution of the Trade Offer, as well as on the date of Delivery of RECs.

“**Applicable Tracking System**” means the Tracking System specified in the Trade Offer, and if no Tracking System is specified in the Trade Offer but tradable instruments associated with all or part of the RECs to be delivered are issued by a Tracking System, that Tracking System shall be the Applicable Tracking System for the quantity of RECs associated with those tradable instruments.

“**Attestation Form**” means documentation provided from Seller to Buyer transferring title to the RECs, specifying the Facility, Eligible Renewable Resource, REC quantity, Generation Period and other information with respect to the RECs sold herein as well as declarations made by Seller with respect to such RECs to be completed in accordance with and on the form required under the Applicable Standard or as otherwise specified in the Trade Offer.

“**Business Day**” means a day (other than Saturday or Sunday) on which the banks in the jurisdiction of the Seller and the Buyer are open for general business.

“**Buyer**” is the Party buying RECs.

“**Compliance Instruments**” means any benefits, attributes, instruments, tracking mechanisms, or rights associated with the generation of one (1) MWh of Energy from a source of renewable energy, as that is defined in a RPS, which may be created distinct from Environmental Attributes and transferred in the form of a certificate, credit, allowance or other indicia of ownership in accordance with and for the purposes of recording compliance with a RPS obligation.

“**Contract Price**” means the amount payable by Buyer to Seller for each REC as agreed upon in the Trade Offer.

“**Costs**” means the present value of brokerage fees, commissions, and other similar third party transactions costs and expenses reasonably incurred by the Non-Defaulting Party in terminating or replacing any arrangement pursuant to which it has hedged its obligations relating to a Terminated Transaction; and any charges, penalties, fines or fees imposed or assessed against the Non-Defaulting Party, or the entity to which the Non-Defaulting Party had resold the RECs, under the Applicable Standard on account of Delivery not

occurring on the Delivery Date, as determined by the Non-Defaulting Party in a commercially reasonable manner.

“Delivery Date” means the date or period during which Delivery shall occur, as specified in the Trade Offer.

“Eligible Renewable Resources” mean sources of renewable energy that meet all requirements of the Applicable Standard.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours (MWh).

“Environmental Attributes” means those aspects, claims, characteristics and benefits associated with the generation of a quantity of electricity by the Facility, and, in the absence of any withholding of any part thereof by Seller, all of them, including any and all the environmental, power source, and emission characteristics, credits, allowances, emissions reductions, offsets, and benefits, howsoever entitled, attributable to the generation of electricity from the Facility and its displacement of generation from non-renewable energy resources, and includes but is not limited to any avoided emission of pollutants to the air, soil or water such as carbon monoxide (CO) and other pollutants; any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere, but do not include (i) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits, unless those credits are required for the REC to comply with the Applicable Standard, (ii) production tax credits and investment tax credits associated with the Facility, (iii) any energy, capacity, reliability or other power attributes from the Facility, (iv) any liabilities, including adverse wildlife or environmental impacts, or (v) unless the Parties have expressly agreed otherwise, tradable emission allowances or other entitlements to produce emissions issued by a governmental authority and allocated to the Facility on a basis other than actual generation of avoided emissions associated with the generation of electricity by the Facility. If the Facility is a biomass or biogas facility and Seller receives any tradable Environmental Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Environmental Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility.

“Facility” or **“Facilities”** means, if specified, the resource(s) designated in the Trade Offer from which the Seller will Deliver the RECs, and if not specified in the Trade Offer, Facility means the specific resource from which the Seller Delivers the RECs; in either case, the Seller represents the Facility is an Eligible Renewable Resource.

“Federal Government” means the United States Federal Government and all of its authorized agencies and agents.

“Force Majeure” means an event or circumstance which materially adversely affects the ability of a Party (**“Claiming Party”**) to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the Trade Date and which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which the Claiming Party is unable to overcome or avoid or cause to be avoided by the exercise of reasonable care such as acts of God; fire; flood; earthquake; war; riots; or terrorism that affects one or both Parties. Force Majeure may not be based on (i) the loss or failure of Buyer's markets; (ii) Buyer's inability economically to use or resell the RECs; (iii) Seller's ability to sell the RECs to another party on terms superior to Seller's terms herein; or (iv) Buyer's ability to purchase

similar RECs from another party on terms superior to the Buyer's terms herein. With respect to a Party's obligation to make payments hereunder, Force Majeure will be only an event or act of a governmental authority that on any day disables the banking system through which a Party makes such payments.

“Gains” mean the present value of the economic benefit to a Party, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

“Generation Period” means the calendar year, quarter, or other specified period of time in which the Energy associated with the RECs was generated.

“Interest Rate” is equal to Prime lending rate published under the heading “Money Rates” in the Wall Street Journal on the date of calculation.

“Losses” means the present value of the economic loss to a Party, if any (exclusive of Costs), resulting from a Terminated Transaction, determined in a commercially reasonable manner.

“MWh” means megawatt-hour.

“Renewable Energy Certificate” or **“RECs”** means the Environmental Attributes, Compliance Instruments, and Reporting Rights associated with the generation of one (1) MWh of Energy from one or more Facilities.

“Renewable Portfolio Standard” or **“RPS”** means a local, state, provincial or federal law, rule or regulation that requires a stated amount or minimum proportion or quantity of Energy that is sold or used by specified entities to be generated from sources of renewable energy as defined therein.

“Reporting Rights” means the right to report and register the exclusive ownership of the Environmental Attributes and any Compliance Instruments in compliance with federal, state, or local law, if applicable, and to a federal or state agency or any other party at the Buyer's discretion, and include without limitation those Reporting Rights accruing under Section 1605(b) of the Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Reporting Period” means a year or other period of time specified by the Applicable Standard toward which eligible RECs may be applied or claimed.

“Seller” is the Party selling RECs.

“Seller's Choice” means Seller may Deliver RECs from any source, provided the RECs derived from said source meet all other requirements pursuant to the Applicable Standard and this Agreement.

“Settlement Amount” means the Losses or Gains, and Costs, which the Non-Defaulting Party incurs as a result of the liquidation of a Terminated Transaction pursuant to Article 9.2.

“Time Period” means the Generation Period or Reporting Period specified in the Trade Offer.

“Tracking System” means the generation information system, generation attribute tracking system or other system that records renewable energy generation meeting certain requirements of the tracking system and issues tradable instruments associated with that generation.

“Trade Date” means the date of the Trade Offer.

“**Trade Offer**” means a Trade Offer which is used by the Parties to effect a transaction and constitutes part of and is subject to the terms and provisions of this Agreement.

ARTICLE 2 TRANSACTION

2.1. Term.

The term (“**Term**”) of this Agreement commences on the Effective Date and continues until terminated by either Party upon thirty (30) days’ written notice, except that any such termination is not effective until all payments, Deliveries and other obligations of the Parties under this Agreement have been completed.

2.2. Sale and Purchase Obligation.

Seller agrees to provide and Buyer agrees to purchase RECs according to the terms of this Agreement and the Trade Offer.

2.3. Quantity and Price.

Seller shall sell and Buyer shall purchase RECs in the quantities and at the Contract Prices specified in Trade Offer now or hereafter entered into between the Parties.

2.4. Delivery.

On the Delivery Date specified in the Trade Offer, Seller shall either:

- (i) deliver the RECs to the Buyer in accordance with the delivery requirements of the Applicable Standard and the operating rules of the Applicable Tracking System (if there is an Applicable Tracking System, and including an Attestation Form (if one is specified in the Trade Offer); or
- (ii) if specified in the Trade Offer, cancel the RECS on behalf of the Buyer and, as soon as practicable thereafter, notify the Buyer in writing by sending a cancellation statement

(“**Deliver**” or “**Delivery**”).

Each Party shall bear its own expenses associated with Delivery. Delivery shall consist of only whole RECs. If, at any time after the Delivery Date, Compliance Instruments, which are part of the RECs transacted under the a Trade Offer, are created and issued to Seller, Seller shall transfer those Compliance Instruments to Buyer within ten (10) Business Days of the date of issuance of such Compliance Instruments.

2.5.1 Firm Delivery Obligation.

If the Trade Offer provides that the RECs Delivery obligation is a “**Firm**” obligation, the Seller shall Deliver the RECs on the Delivery Date, without excuse other than Force Majeure. Unless otherwise specified in the Trade Offer, the default Delivery obligation thereunder shall be Firm.

2.5.2 Unit Contingent Delivery Obligation.

If the Trade Offer provides that the Seller’s Delivery obligation is “**Unit Contingent**”, then the actual Quantity Delivered from Seller to Buyer may vary from the quantity specified in the Trade Offer due to the performance of the Facility.

2.5.3 Project Contingent Delivery Obligation.

If the Trade Offer provides that the RECs Delivery obligation is “**Project Contingent**”, then Seller’s obligation to Deliver the RECs is excused to the extent that the Facility is not able to generate the Environmental Attributes in the Time Period specified in the Trade Offer, due to a delay or failure in constructing or obtaining necessary approvals to construct or modify and operate the new or modified Facility, or due to other reason(s) as specified in the Trade Offer.

2.6 Acceptance.

The Trade Offer shall constitute the entire agreement between the Parties with respect to the Transaction and acceptance by Buyer is expressly limited to the terms of the Trade Offer. In the event of any conflict between the terms of this Agreement and the Trade Order, the terms of the Trade Offer shall prevail.

**ARTICLE 3
REPRESENTATIONS**

3.1. Authority.

Each Party represents and warrants to the other Party that (i) it is a legal entity, duly formed and validly existing and in good standing under the laws of the state of its formation, (ii) it has the full power and authority to execute, deliver, and perform this Agreement and to carry out the transactions contemplated hereby; (iii) its execution and delivery hereof and performance of the transactions contemplated hereunder have been duly authorized by all requisite entity action, and this Agreement has been duly executed and delivered by it and constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws generally affecting creditors’ rights and by equitable principles; (iv) no authorization, consent, notice to or registration or filing with any governmental authority is required for the execution, delivery and performance by it hereof; (v) none of the execution, delivery and performance by it hereof conflicts with or will result in a breach or violation of any law, contract or instrument to which it is bound; (vi) there are no proceedings by or before any governmental authority, now pending or (to the knowledge of such Party) threatened, that if adversely determined could have a material adverse effect on such Party’s ability to perform the Party’s obligations under this Agreement; (vii) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement; and (viii) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

3.2. Forward Contract Merchant.

Each Party represents that it is a “forward contract merchant” within the meaning of Section 101(26) of the Bankruptcy Code, and this Agreement and all transactions hereunder constitute “forward contracts” within the meaning of Section 101(25) of the Bankruptcy Code and that the remedies identified in this Agreement shall be “contractual rights” as provided for in 11 U.S.C. § 556, as these provisions may be amended from time to time.

3.3. Seller Representations and Warranties.

Seller agrees, represents, and warrants to Buyer that:

- a) All RECs Delivered hereunder shall meet the requirements of the Applicable Standard.
- b) Seller has not sold the RECs to any other person or entity, and that at the time of Delivery all rights, title, and interest in the RECs are free and clear of all liens, taxes, claims, security interests, or other encumbrances of any kind whatsoever.
- c) The Energy generated with the RECs was not and will not be separately sold, marketed, or otherwise represented as renewable energy, clean energy, zero-emission energy, or in any similar manner by Seller or any of Seller's affiliates.
- d) The RECs Delivered hereunder will vest in Buyer, and Buyer will (i) have the exclusive rights to make all claims as to the RECs (ii) have the right to report and register, as applicable, the exclusive ownership of the RECs with any registry, system, agency, authority, or other party, either voluntarily or in compliance with any present or future domestic, international, or foreign law, regulation, registry or program.

ARTICLE 4 BILLING AND PAYMENT

4.1. Billing and Payment Terms.

Unless otherwise agreed between the Parties in the Trade Offer, Buyer shall pay the Contract Price as applicable within fifteen (15) calendar days of the later of (i) the date Buyer receives written, facsimile or electronic notice from Seller to Buyer that RECs have been Delivered, and (ii) the date Buyer receives an invoice from Seller reflecting the total amount due to Seller for the Delivered RECs ("**Payment Date**"). Buyer is not obligated to pay for any RECs that have not been Delivered.

4.2. Late Payments.

Without limiting any other rights provided for herein, all overdue payments shall bear interest from the Payment Date to the date of actual payment at a rate equal to the lesser of (i) 2.0000 percent over the Interest Rate or (ii) the maximum rate permitted by applicable law.

4.3. Disputes.

To the extent a Party, in good faith, disputes any part of an invoice, such Party shall pay the undisputed amount invoiced by the Payment Date. If any amount withheld under dispute is finally determined to have been due, such withheld amount shall be forwarded to the Party to whom such amount is owed within five (5) Business Days of such determination, along with interest at the Interest Rate for overdue payments from, and including, the Payment Date, but excluding the date paid.

4.4. Taxes.

Each Party shall pay the taxes lawfully levied upon it by any governmental authority.

4.5. Invoice and Payment Instructions.

Payment shall be made by electronic funds transfer, or by other mutually agreed upon method, in immediately available funds, to the bank account name and account number as specified below, or as otherwise notified in writing to the party making payment by the party to whom payment is to be made.

Invoices to Buyer will be sent to the address set out in the Trade Offer.

Payments to Seller will be sent to the account details set out in the Trade Offer.

ARTICLE 5 NOTICES

All notices, requests, demands, offers, and other communications required or permitted to be made under this Agreement will be in writing and will be effective only if delivered: (a) in person, (b) by a nationally recognized delivery service, (c) by United States Mail, or (d) by electronic mail, upon confirmation of receipt. Either Party may change its address or contact person(s) for notices by giving notice of such change consistent with this Article.

If to Kinect:

Kinect Energy Green Services AS
Fantoftvegen 38
5072 Bergen, Norway
Attn:
Phone:
Fax:

If to Counterparty:

The address in clause 5 of the Agreement shall be as set out in the Trade Offer.

ARTICLE 6 GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement is governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. EACH PARTY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT OR TRADE OFFER EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, AS WELL AS ANY RIGHT TO CONSOLIDATE ANY ACTION IN CONNECTION WITH ANY MATTER ARISING HEREUNDER WITH ANY OTHER MATTER IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED.

ARTICLE 7 ATTORNEY'S FEES

In the event of any suit or other proceeding between any of the Parties hereto with respect to any of the transactions contemplated hereby or subject matter hereof, the prevailing Party shall be entitled to recover reasonable attorneys' fees, costs (including at the trial and appellate levels) and expenses of investigation.

ARTICLE 8 DEFAULTS

A Party is in default ("**Default**") hereunder if that Party (the "**Defaulting Party**") does any of the following (each an "**Event of Default**"):

(a) breach any of its material obligations herein and not cure within five (5) Business Days of written notice of such breach;

(b) if any representation or warranty made by it herein proves to have been misleading or false in any material respect when made and such Party does not cure the underlying facts so as to make such representation and warranty correct and not misleading within five (5) Business Days of written notice; or

(c) if a Party:

(i) makes an assignment or any general arrangement for the benefit of its creditors,

(ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it, or

(iii) otherwise becomes bankrupt or insolvent (however evidenced).

ARTICLE 9 REMEDIES UPON DEFAULT

9.1. Liquidated Damages.

Buyer and Seller agree the amounts that are determined to be due from one Party to the other pursuant to this Article in its entirety represents the liquidated damages of each, and no part hereof represents a penalty.

9.2. Remedies.

Upon an Event of Default by a Party, the other Party (the “**Non-Defaulting Party**”) may do any or all of the following: (i) designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date (“**Early Termination Date**”) to accelerate all amounts owing between the Parties and to liquidate and terminate all or less than all Trade Offers (each referred to as a “**Terminated Transaction**”) between the Parties, (ii) withhold any payments due in respect of this Agreement and any other agreements between the Parties to the extent of its damages pursuant to this Article 9, (iii) suspend performance, and (iv) exercise such remedies as provided herein, including an action for damages (except as limited by Article 9.5). The Non-Defaulting Party will calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable). Without being required to do any of the foregoing or set a Termination Payment (as defined below) for all transactions and the Trade Offer, if either Party does not Deliver any RECs by the Delivery Date as set forth on the Trade Offer, the Buyer may treat that Trade Offer as being in Default and a Terminated Transaction, without terminating or cancelling any other Trade Offers hereunder, and calculate, as a Non-Defaulting party, the amount due from the Seller for such Terminated Transaction, and in such case Seller shall pay such amount within two days of notice from the Non-Defaulting Party.

9.3. Net Out of Settlement Amounts.

The Non-Defaulting Party will aggregate all Settlement Amounts into a single amount by netting out (a) all amounts that are due to the Defaulting Party for RECs that have been Delivered and not yet paid for, plus,

at the option of the Non-Defaulting Party, any or all other amounts due to the Non-Defaulting Party under this Agreement against (b) all Settlement Amount that are due to the Non-Defaulting Party under this Agreement, so that all such amounts will be netted out to a single liquidated amount (the "**Termination Payment**") payable by the Defaulting Party. The Termination Payment, if any, is due from the Defaulting Party to the Non-Defaulting Party within two (2) Business Days following notice.

9.4. Calculation Disputes.

If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Settlement Amount or Termination Payment, in whole or in part, the Defaulting Party will, within two (2) Business Days of receipt of the Non-Defaulting Party's calculation, provide the Non-Defaulting Party a detailed written explanation of the basis for such dispute.

9.5. Limitation on Damages.

The Defaulting Party's liability will be limited to direct, actual damages only, and such direct, actual damages will be the sole and exclusive remedy hereunder. Except with respect to payment of Costs, in no event will either Party be liable to the other under this Agreement for any consequential, incidental, punitive, exemplary, or indirect damages in tort, contract, or otherwise.

9.6. Exclusive Remedy.

THE REMEDIES SET FORTH IN THIS ARTICLE 9 ARE THE SOLE AND EXCLUSIVE REMEDIES IN THE EVENT OF A DEFAULT OF A PARTY'S OBLIGATIONS TO SELL OR PURCHASE RECS, AND A PARTY'S LIABILITY SHALL BE LIMITED AS SET FORTH IN THIS ARTICLE. ALL OTHER REMEDIES OR DAMAGES FOR FAILURE TO SELL OR PURCHASE RECS AT LAW ARE HEREBY WAIVED.

9.7. Force Majeure.

If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, then upon such Party's giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing to the other Party, the obligations of the Claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the Claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure will have until the end of five (5) Business Days following such receipt to notify the Claiming Party that it objects to or disputes the existence of an event of Force Majeure.

**ARTICLE 10
STANDARD PROVISIONS**

10.1. Additional Documents.

Each Party, upon the reasonable request of the other Party, will perform any further acts and execute and deliver such documents that may be necessary to carry out the intent and purpose hereof.

10.2. Assignment.

Neither Party shall assign this Agreement, in whole or in part, without the other's written consent, which will not be unreasonably withheld, conditioned or delayed; except that a Party may, without consent (i) pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; (ii) assign this Agreement to an affiliate if the affiliate's creditworthiness is equal to or higher than that of the assigning Party; or (iii) assign this Agreement to any person or entity succeeding to all or substantially all of the assets of the assigning Party whose creditworthiness is equal to or higher than that of the assigning Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions of this Agreement. Any assignment without the requisite prior consent is void ab initio. All of the rights, benefits, liabilities, and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors and permitted assigns. By consenting to one assignment a Party will not be deemed to have consented to a subsequent assignment.

10.3 Certification.

At Buyer's request and expense, Seller shall reasonably cooperate with Buyer for the purpose of pursuing Facility, and/or REC certification for compliance with any registration by the Buyer of the Facility and/or RECs in a RPS or equivalent program, including tracking system registration, other than the Applicable Standard, in any jurisdictions programs, and tracking system in which Buyer may wish to register the Facility and/or RECs. Seller shall provide copies of all information Seller has available or can reasonably obtain as Buyer requires for such registration.

10.4 Confidentiality.

Unless otherwise provided, all other terms of this Agreement, including price and payment terms, are confidential and neither Party may disclose such confidential information to anyone, other than (i) as may be agreed to in writing by the Parties; (ii) to any of such Parties' directors, officers and employees and directors, officers and employees of affiliated companies and representatives thereof or their advisors who need to know such information and agree to treat such information confidentially; (iii) to the extent required to be disclosed by applicable law or legal process; (iv) to the extent required to be disclosed under the Applicable Standard or other mandatory or voluntary standard; or (v) to any actual or potential lender or lenders providing financing to a Party or any of its affiliates, to any actual or potential investor in a Party or any of its affiliates or to any other potential acquirer of any direct or indirect ownership interest in Party or any of its affiliates or to any advisor providing professional advice to Party or any of its affiliates or to any such actual or potential lender, investor or acquirer who needs to know such information and agree to treat such information confidentially; or (vi) Load Serving Entity ("LSE") which agrees to treat such information confidentially and with whom a Party has an agreement to supply RECs for the LSE's voluntary green power program ("VGPP") and the confidential information is disclosed only upon LSE's request for the purposes of the LSE's evaluation of said VGPP. The Parties are entitled to all remedies available at law or in equity, including specific performance, to enforce this provision; however, neither Party will be liable for any damage suffered as a result of the use or disclosure of confidential information made in accordance with the express terms and conditions of this Agreement. This provision will survive for a period of five (5) years following the expiration of this Agreement.

10.5 Entire Agreement.

This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes all previous communications, representations, or contracts, either written or oral, that purport to describe or embody the subject matter hereof. There are no oral understandings, terms, or

conditions and neither Party has relied upon any representation, express or implied, not contained in this Agreement.

10.6 No Third-Party Beneficiaries.

There are no intended third-party beneficiaries hereof, and this Agreement should not be construed to create or confer any right or interest in or to, or to grant any remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation, or undertaking established herein.

10.7 Severability.

Any part hereof that is or becomes invalid, illegal, or unenforceable may be severed from the remainder hereof, and to the extent possible, the Parties will use reasonable efforts to replace any such part with provisions that preserve their original intent.

10.8 Survival Rights.

This Agreement will continue in effect after termination to the extent necessary to allow or require either Party to fulfill rights or obligations that arose under the Agreement.

10.9 Waiver, Amendment.

None of the terms or conditions of this Agreement may be amended or waived except in writing and signed by the Parties. The Parties agree that no waiver, amendment, or modification of this Agreement will be established by conduct, custom, or course of dealing. The failure of a Party to require performance of any provision of this Agreement will not limit such Party's right to seek such performance at a later time. Similarly, a Party's waiver of its rights with respect to any Default or any other matter arising in connection with this Agreement will not be considered a waiver with respect to any subsequent Default or matter.

10.10 Indemnification.

Each Party will indemnify, defend and hold harmless the other Party from and against any losses, costs, damages, demands, penalties, claims, or liabilities made by others arising from or out of any event, circumstance, act or incident arising out of the Parties' obligations under this Agreement, except to the extent arising from such Party's own gross negligence or willful misconduct.

10.11 Change in Law.

If any statutes, rules, regulations, permits or authorizations are enacted, amended, granted or revoked which have the effect of changing the transfer and sale procedure set forth in this Agreement so that the implementation of this Agreement becomes impossible or impracticable, or otherwise revokes or eliminates the Applicable Standard, the Parties hereto agree to negotiate in good faith to amend this Agreement to conform with such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Agreement.

10.12 Recording.

Each Party consents to the recording of its trading, marketing and scheduling representatives' telephone conversations without any further notice. In addition, the Parties agree not to contest the authority of either Party's employees to enter into this Agreement or the Trade Offer. Notwithstanding the foregoing, any agreement with respect to the transaction shall be in a writing signed by both Parties.

10.15 ECONOMIC SANCTIONS; ANTI-BRIBERY AND CORRUPTION. Each Party shall refrain from any action or omission that would result in a violation by the other Party of Economic Sanctions. “Economic Sanctions” means any economic sanction or trade restriction imposed by any rule, regulation or statute of the United Kingdom, the European Union, the United Nations or United States of America, including, without limitation, those administered by the Office of Foreign Assets Control of the United States Treasury Department (“OFAC”), and any other applicable laws imposing economic sanctions or trade restrictions. Each Party represents and warrants that it is not, and is not owned or controlled by (a) a person named on the OFAC List of Specially Designated Nationals and Blocked Persons or any similar applicable blacklist maintained by the United States, as amended from time to time; or (b) a person named on the Consolidated List of Financial Targets maintained by HM Treasury of the United Kingdom, as amended from time to time, or any similar applicable blacklist maintained by the European Union or the United Nations or any other applicable government or jurisdiction. Each Party shall comply with anti-bribery and corruption laws and regulations applicable to it in connection with this Agreement.

DRAFT

**MASTER RENEWABLE ENERGY CERTIFICATE
PURCHASE AND SALE AGREEMENT**

THIS MASTER RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE AGREEMENT (“**Master Agreement**”) is effective on _____, 2021 (the “**Effective Date**”), between Sol Systems, LLC (“**Sol Systems**”) with its principal place of business at 1101 Connecticut Ave., NW, Second Floor, Washington, DC 20036, and [Counterparty] (“**Counterparty**”) with its principal place of business at [Street Address], [City], [State] [Zip] (each a “**Party**” and collectively, the “**Parties**”).

WHEREAS, the Parties wish to provide the terms and conditions pursuant to which they may enter transactions governed by this Master Agreement for the purchase and sale of Renewable Energy Certificates or derivatives thereof (each a “**Transaction**”) as set forth below;

NOW, THEREFORE, in consideration of their mutual covenants herein, the Parties, intending to be legally bound, agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Definitions. In addition to any other terms defined in the Master Agreement, the following terms shall have the meaning ascribed to them as set forth below:

“**Accept**” or “**Acceptance**” means Buyer’s electronic acceptance in the Applicable Tracking System of the Delivery of the RECs in its Account in accordance with the operating rules and procedures of the Applicable Tracking System.

“**Acceptance Deadline**” has the meaning defined in Section 2.2.

“**Accepted Quantity**” means with respect to a Transaction, the quantity of RECs Accepted by the Acceptance Deadline.

“**Account**” means a Party’s electronic account with the Applicable Tracking System.

“**Administrator**” means the entity with jurisdiction over the Applicable Tracking System.

“**Affiliates**” means, with respect to any person, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under the common control with, such person, with “control” meaning the direct or indirect ownership of a majority of the voting power of such person.

“**Alternative Compliance Payment**” or “**ACP**” means any monetary payment made to a governmental authority as an alternative to submitting RECs for compliance with a RPS, or equivalent concept limiting the price of RECs under a RPS, as set forth in the Applicable Standard.

“**Applicable Standard**” means with respect to a Transaction, the provincial, state or federal RPS identified in the applicable program, other mandatory or voluntary standard(s), or set of rules specified in the Confirmation.

“**Applicable Tracking System**” means with respect to a Transaction, the environmental registry and information system set forth in the Confirmation that tracks the environmental and fuel attributes of generation, and any successor tracking system that both Parties agree facilitates the sale and purchase of the RECs specified in the Confirmation.

“**Attestation Form**” means with respect to a Transaction if set forth on the line “Special Provisions” in the Confirmation, documentation provided from Seller to Buyer transferring title to the RECs, specifying the Certified Renewable Energy Facility, Delivered Quantity, Generation Period, and other information with respect to the RECs sold under such Transaction as well as declarations made by Seller with respect to such RECs, to be completed in accordance with, and on the form required under, the Applicable Standard, or as otherwise specified in the Confirmation.

“**Business Day**” means any day except a Saturday or Sunday, or a Federal Reserve Bank holiday. A Business Day opens at 8:00 a.m. and closes at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” means, for a Transaction, the Party set forth in the Confirmation that is obligated to purchase, receive and Accept the RECs under the conditions specified in this Master Agreement and the Confirmation.

“**Certified Renewable Energy Facility**” means with respect to a Transaction, one or more electric generation units, other facilities or installations identified in the Confirmation, or upon Delivery if not identified in the Confirmation that has been determined by the Certifier to meet the requirements of the Applicable Standard and is designated as qualified for the Applicable Standard on the Applicable Tracking System.

“**Certifier**” means the entity with jurisdiction over the qualification of a resource as a Certified Renewable Energy Facility pursuant to the Applicable Standard.

“**Commercial Operation Date**” or “**COD**” means with respect to a Transaction if set forth on the line “Special Provisions” in the Confirmation, the date post-testing for a specified Certified Renewable Energy Facility when it is licensed, operational from a commercial perspective, and can consistently generate RECs that it can transfer to another party.

“**Confidential Information**” has the meaning defined in Section 10.1.

“**Confirmation**” has the meaning set forth in Section 2.6.

“**Contract Price**” means with respect to a Transaction, the amount payable by Buyer to Seller for each REC as specified in the Confirmation.

“**Contract Quantity**” means with respect to a Transaction, the quantity of RECs to be Delivered by Seller to Buyer as specified in the Confirmation.

“**Defaulting Party**” has the meaning set forth in Section 9.1.

“**Deliver**”, “**Delivered**” or “**Delivery(ies)**” means (i) the valid initiation of the electronic transfer of RECs from Seller’s Account to Buyer’s Account, and such transfer initiation has not been rescinded, in accordance with the Applicable Standard and the operating rules and procedures of the Applicable Tracking System (the taking of such actions, to “**Initiate Delivery**” or “**Initiated Delivery**”), and (ii) the actual transfer of such RECs under the Applicable Tracking System from Seller’s Account to Buyer’s Account after Acceptance of such Product by Buyer, in each case in accordance with the Applicable Tracking System and Applicable Standard.

“**Delivered Quantity**” means with respect to a Transaction, the quantity of RECs Delivered on the Delivery Date(s).

“**Delivery Date(s)**” means with respect to a Transaction, the date(s) by which Delivery of the Contract Quantity shall occur, as specified in the Confirmation. In the event the Confirmation requires Buyer to pay

Seller before Delivery, then Delivery shall occur by the later of: (i) the Delivery Date specified in the Confirmation; or (ii) one (1) Business Day after Seller receives the Payment Amount from Buyer.

“**Early Termination Date**” has the meaning set forth in Section 9.1.

“**Eastern Prevailing Time**” or “**EPT**” means the prevailing time, i.e., Standard Time or Daylight Savings Time, on any given day in the Eastern Time Zone.

“**Effective Date**” means the date set forth in the Recitals.

“**Energy**” means three-phase, 60 Hz electrical energy expressed in MWhs produced during the Generation Period giving rise to the creation of the RECs.

“**Event of Default**” has the meaning set forth in Article 8.

“**Firm**” means Seller shall Deliver the Contract Quantity of RECs by the Delivery Date and Buyer shall Accept the Contract Quantity of RECs by the Acceptance Deadline, unless prevented by Force Majeure.

“**Force Majeure**” means an event or circumstance which prevents a Party (the “**Claiming Party**”) from performing its Acceptance or Delivery obligations under this Master Agreement, which event or circumstance was not reasonably anticipated as of the date the Transaction was agreed to and which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which the Claiming Party is unable to overcome or avoid or cause to be avoided by the exercise of reasonable care including but not limited to acts of God; fire; flood; earthquake; war; explosions; lightning; hurricanes; tornadoes; riots; or terrorism that affects one or both Parties. “**Force Majeure**” does not include (i) the loss or failure of Buyer’s markets; (ii) Buyer’s inability economically to use or resell the RECs; (iii) Seller’s ability to sell the REC to a third party on terms superior to Seller’s terms herein; (iv) Seller’s ability to produce the RECs; or (v) Buyer’s ability to purchase similar RECs from a third party on terms superior to Buyer’s terms herein.

“**Full Output**” means with respect to a Transaction if set forth on the line “Special Provisions” in the Confirmation, that Seller is obligated to Deliver to Buyer, on or before the Delivery Date, and Buyer is obligated to purchase, any and all RECs generated within the relevant Vintage. In a Full Output Transaction, the Seller’s obligation to Deliver RECs is excused to the extent that Seller in good faith fails to produce additional RECs, so long as all RECs that are produced are Delivered to the Buyer.

“**Generation Period**” means with respect to a Transaction, the calendar year, quarter, or other specified time set forth in the Confirmation in which the Energy associated with the RECs is or will be generated.

“**Interest Rate**” means a per annum rate of interest equal to two (2%) percent over the prime lending rate as published from time to time in The Wall Street Journal under “Money Rates” on such day (or if not published on such day, on the most recent preceding day on which published), but in no event to exceed the maximum lawful rate.

“**Master Agreement**” has the meaning set forth in the Recitals.

“**MWh**” means megawatt-hour.

“**Non-Defaulting Party**” has the meaning set forth in Section 9.1.

“**Not Specified**” means with respect to a Transaction, if set forth on the line “Certified Renewable Energy Facility” in the Confirmation, that for the associated term or characteristic not explicitly defined in the

Confirmation, Seller may Deliver the Contract Quantity of any such term or characteristic that meets all other specific requirements pursuant to the Applicable Standard and this Master Agreement.

“**Payment Amount**” means with respect to a Transaction, an amount equal to the product of: (i) the Contract Price, and (ii) the Delivered Quantity. If the Confirmation requires Buyer to pay Seller before the Delivery of RECs, then Delivered Quantity means the expected Delivery Quantity.

“**Payment Due Date**” has the meaning set forth in Section 4.1.

“**Recording**” has the meaning set forth in Section 2.6.

“**Regulatory Change**” has the meaning set forth in Article 11.

“**Renewable Energy Certificate(s)**” or “**REC(s)**” means a certificate, credit, allowance, green tag, or other transferable indicium, howsoever entitled, associated with, but separate from, the generation of one (1) MWh of Energy from a Certified Renewable Energy Facility. To the extent applicable, the term “RECs” includes Solar Renewable Energy Certificates (“**SRECs**”).

“**Renewable Portfolio Standard**” or “**RPS**” means a local, state, provincial or federal law, rule or regulation that requires a stated amount or minimum proportion or quantity of Energy sold or used by specified entities to be generated from a Certified Renewable Energy Facility.

“**Seller**” means for a Transaction, the Party set forth in the Confirmation that is obligated to sell and Deliver the RECs under the conditions specified in this Master Agreement and the Confirmation.

“**Settlement Amount**” means, with respect to a Transaction, as determined in a commercially reasonable manner by the Non-Defaulting Party as of the Early Termination Date:

(a) if Seller is the Defaulting Party, an amount equal to the sum of: (i) the positive difference, if any, obtained by subtracting the Contract Price from the Undelivered Quantity Market Price multiplied by the Undelivered Quantity, plus (ii) if and as applicable, any commercially reasonable broker costs actually incurred by Buyer for entering into any replacement transaction to purchase the Undelivered Quantity, minus (iii) the Contract Price multiplied by the Delivered Quantity for which Seller has not been paid by Buyer, if any; and

(b) if Buyer is the Defaulting Party, an amount equal to the sum of: (i) the positive difference, if any, obtained by subtracting the Undelivered Quantity Market Price from the Contract Price multiplied by the Undelivered Quantity, plus (ii) if and as applicable, any commercially reasonable broker costs actually incurred by Seller for entering into any replacement transaction to sell the Undelivered Quantity, plus (iii) the Contract Price multiplied by the Delivered Quantity for which Seller has not been paid by Buyer, if any.

“**Standing Order**” means, with respect to a Transaction, if set forth on the line “Special Provisions” of the Confirmation, that Seller is required to put in place instructions to the Administrator for sufficient irrevocable transfers to Deliver to Buyer’s Account the Contract Quantity within five (5) Business Days of the date of the Transaction. Should the Delivered Quantity exceed the quantity required for the respective year under the irrevocable transfers, Buyer will return any excess generation to Seller within five (5) Business Days of Delivery.

“**Term**” has the meaning set forth in Section 2.1(a).

“**Terminated Transaction**” has the meaning set forth in Section 9.1.

“**Transaction**” has the meaning set forth in the Recitals.

“**Unaccepted Quantity**” means, with respect to a Transaction, the difference between the Contract Quantity and the Accepted Quantity.

“**Unaccepted Quantity Market Price**” means the price determined by Seller that is the average of three indicative market quotes for the Unaccepted Quantity from brokerage firms or third-party intermediaries actively engaged in the purchase and sale of RECs under the Applicable Standard or, if less than three indicative market quotes are obtained, the average of the indicative market quotes actually obtained and if no such quotes from such firms or intermediaries are available, any other commercially reasonable method selected to value the Unaccepted Quantity.

“**Undelivered Quantity**” means, with respect to a Transaction, the difference between the Contract Quantity and the Delivered Quantity.

“**Undelivered Quantity Market Price**” means the price determined by Buyer that is the average of three indicative market quotes for the Undelivered Quantity from brokerage firms or third-party intermediaries actively engaged in the purchase and sale of RECs under the Applicable Standard or, if less than three indicative market quotes are obtained, the average of the indicative market quotes actually obtained and if no such quotes from such firms or intermediaries are available, any other commercially reasonable method selected to value the Undelivered Quantity; *provided, however*, that the Undelivered Quantity Market Price for purposes of this Master Agreement shall not in any event exceed the highest Alternative Compliance Payment for the Undelivered Quantity under the Applicable Standard.

“**Unit Contingent**” shall mean, with respect to a Transaction, that Seller's obligation to Deliver the Contract Quantity of RECs shall be excused to the extent the Parties have specified in the Confirmation a particular Certified Renewable Energy Facility as the generator of the RECs, and (i) the Certified Renewable Energy Facility specified in the Confirmation is unavailable as a result of a Forced Outage (*as defined in the NERC Generating Unit Availability Data System (GATS) Forced Outage reporting guidelines*), (ii) the RECs have not been generated within the relevant Vintage or other time frame agreed to by the Parties due to an event that, without giving effect to clause (iv) of the exclusions from the definition of “Force Majeure”, would otherwise constitute a Force Majeure affecting such Certified Renewable Energy Facility, or (iii) such other disruptions in supply from such Certified Renewable Energy Facility as may be further specified and conditioned on the line “Special Provisions” in the Confirmation.

“**Vintage**” means, with respect to a Transaction, the time period(s) (e.g. calendar year, energy year, reporting year, etc.) specified in the Confirmation for which RECs produced during the Generation Period are eligible for the purpose of complying with the Applicable Standard, as that time period is defined by the Applicable Standard.

ARTICLE 2 TRANSACTION TERMS AND CONDITIONS

2.1. Term of Master Agreement; Transactions; Prior Transactions.

2.1(a) Term of Master Agreement. The term (“**Term**”) of this Master Agreement commences on the Effective Date and continues until terminated by either Party upon thirty (30) days’ prior written notice; *provided, however*, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, *provided further*, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such

Transaction(s), or such Transaction(s) that have been terminated under Section 9.1 of this Master Agreement.

2.1(b) Transactions. A Transaction shall be entered by agreement of the Parties and the Parties intend that they are legally bound by the terms of each Transaction upon the full execution of the Confirmation substantially in the form of Exhibit A.

2.2. Sale and Purchase Obligations.

On or prior to each Delivery Date specified in a REC Transaction, Seller will Initiate Delivery of the Contract Quantity. Upon receiving notice from the Applicable Tracking System or Seller that (i) Seller has Initiated Delivery and (ii) the Applicable Tracking System permits Buyer to Accept such Initiated Delivery, Buyer will Accept such Contract Quantity within three (3) Business Days thereafter (the “**Acceptance Deadline**”).

2.3. Buyer’s Obligations & Seller’s Obligations.

2.3(a). Buyer’s Account Name. If with respect to a Transaction Buyer’s Account name in the Applicable Tracking System is different than Buyer’s legal name, Buyer must set forth its Account name on the line “Applicable Tracking System Account Name” in the Confirmation.

2.3(b). Certified Renewable Energy Facility Delivery Obligation. If with respect to a Transaction a Certified Renewable Energy Facility is specified in a Confirmation, then Seller shall Deliver RECs from that specific Certified Renewable Energy Facility, unless Buyer agrees in writing that Seller may Deliver from an alternative Certified Renewable Energy Facility.

2.3(c). Firm Delivery Obligation. With respect to a Transaction, unless otherwise specified in the Confirmation on the line “Contract Quantity (MWh)/Delivery Obligation:”, the Delivery obligation for each REC is a Firm obligation.

2.3(d). Delivery Costs. Each Party shall bear its own expenses associated with Delivery and Acceptance.

2.3(e). De-Certification of Certified Renewable Energy Facility. If with respect to a Transaction the Certifier determines the Delivered Quantity does not meet the Applicable Standard upon Delivery because the Certified Renewable Energy Facility identified in a Confirmation was de-certified prior to the date Delivery was made by the Seller, then Seller must, within two (2) Business Days of notification of de-certification, take the necessary steps to fulfill its performance obligations and Deliver such Delivered Quantity as set forth in the Confirmation. If Seller timely replaces such Delivered Quantity as stated above, then Seller shall have satisfied its obligations regarding timely Delivery.

2.4. Transfer of Title.

All rights, title and interest to and in a Delivered Quantity shall transfer from Seller’s Account to Buyer’s Account when recorded in the Applicable Tracking System consistent with the operating procedures thereof. Upon either Party’s receipt of notice from the Administrator that transfer of the Contract Quantity of a Transaction specified in a Confirmation will not be recognized, or Delivery was not made as required, the Party receiving Administrator’s notice will promptly notify the other Party and provide a copy of Administrator’s notice. Both Parties shall then cooperate in taking necessary and commercially reasonable

actions to cause such transfer to be recognized by Administrator and the Delivered Quantity be transferred and Accepted to the Buyer's Account.

2.5. Governing Terms.

2.5(a) Controlling Terms. Each Transaction between the Parties will be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements thereto, and all Transactions (including any Confirmations accepted in accordance with Section 2.6) will form a single integrated agreement between the Parties. In the event of any inconsistency between any term of this Master Agreement and any term of a Confirmation, the Confirmation will govern.

2.5(b) Additional Terms and Conditions. When a Confirmation contains provisions that modify or supplement the general terms and conditions of this Master Agreement (*e.g., additional representations and warranties, definition changes, etc.*) (“**Additional Provisions**”) that do not relate to the material commercial terms of a Transaction (*e.g., Contract Price, Contract Quantity, Delivery Date, Generation Period, etc.*) (the “**Material Economic Terms**”), the Additional Provisions shall not be deemed to be accepted pursuant to Section 2.7 below, unless agreed to in a separate writing by an officer of each Party; *provided that* the foregoing shall invalidate the Material Economic Terms of any Transaction agreed to by the Parties.

2.6 Confirmation of Transaction.

The Parties may confirm a Transaction by signing a confirmation (“Confirmation”) substantially in the form of Exhibit A. No Confirmation will be binding unless signed by both Parties.

If to Sol Systems:

Confirmation to Sol Systems will be sent by email to:

Trading-contracts@solsystems.com
Trading.confirms@solsystems.com

If to COUNTERPARTY:

Confirmation to COUNTERPARTY will be emailed to:

**ARTICLE 3
REPRESENTATIONS AND WARRANTIES**

3.1. Mutual Representations and Warranties.

As of the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that: (i) it is a legal entity, duly formed and validly existing and in good standing under the laws of the state of its formation; (ii) it has the full power and authority to execute, deliver, and perform this Master Agreement and to carry out the Transactions contemplated hereby; (iii) its execution and delivery hereof and performance of the Transactions contemplated hereunder have been duly authorized by all requisite entity action, and this Master Agreement has been duly executed and delivered by it and constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, reorganization,

moratorium or similar laws generally affecting creditors' rights and by equitable principles; (iv) it is an "Eligible Contract Participant" as defined in Section 1a(18) of the Commodity Exchange Act, as amended, 7 U.S.C. § 1a(18); (v) it is a "Forward Contract Merchant" within the meaning of the United States Bankruptcy Code (the "**Bankruptcy Code**"); (vi) no authorization, consent, notice to or registration or filing with any governmental authority is required for the execution, delivery and performance by it hereof; (vii) the execution, delivery and performance by it hereof does not conflict with nor will result in a breach or violation of any law, contract or instrument to which it is bound; (viii) there are no proceedings by or before any governmental authority, now pending or to its knowledge imminent, that is likely to have a material adverse effect on such Party's ability to perform the Party's obligations under this Master Agreement; (ix) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement; and (x) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and as to whether this Master Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement.

3.2. Seller's Representations and Warranties.

Seller represents, and warrants to Buyer, and such representations and warranties related to the Contract Quantity shall be deemed to be repeated upon the date each Transaction is entered into and upon each Delivery of RECs thereunder that: (i) the Contract Quantity Delivered hereunder shall meet the requirements of the Applicable Standard; (ii) the RECs were generated during the eligible Generation Period; (iii) Seller will convey to Buyer good and marketable title to the RECs; (iv) Seller has not sold the Contract Quantity to any other person or entity; (v) at the time of Delivery all rights, title, and interest in the RECs are free and clear of all liens, taxes, claims, security interests, or other encumbrances of any kind whatsoever; and (vi) the Contract Quantity Delivered hereunder will vest in Buyer, and Buyer will have the exclusive rights to make all claims to the Contract Quantity.

If the Applicable Standard is the Green-e Standard, Seller agrees, represents, and warrants to Buyer that the Energy generated with the RECs was not and will not be separately sold, retired, marketed, or otherwise represented as renewable energy, clean energy, zero emission energy, or in any similar manner by Seller or any of Seller's Affiliates.

3.3. Bankruptcy Code Provisions.

The Parties intend that: (i) all Transactions constitute a single integrated agreement that is a "forward contract" within the meaning of the Bankruptcy Code; (ii) all payments made or to be made by one Party to the other Party, pursuant to this Master Agreement constitute "settlement payments" within the meaning of the Bankruptcy Code; (iii) each Party's rights under Section 9 of this Master Agreement constitutes a "contractual right to liquidate" the Transactions within the meaning of the United States Bankruptcy Code; and (iv) this Master Agreement constitutes a "master netting agreement" within the meaning of the Bankruptcy Code.

3.4. Limitation on Representations & Warranties.

EXCEPT AS EXPRESSLY SET FORTH IN THIS MASTER AGREEMENT, EACH PARTY HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 4 BILLING AND PAYMENT

4.1. Billing and Payment Terms.

All invoices for payment in respect of a Transaction will be due and payable in accordance with each party's invoice instructions within five (5) Business Days after the later of (i) receipt of the invoice or, (ii) Delivery of RECs as specified in the Confirmation (the "**Payment Due Date**"). Buyer shall pay Seller the Contract Price for the Delivered Quantity; *provided, however*, if the Confirmation requires pre-payment by Buyer, Seller shall send a written invoice and the Payment Due Date shall be two (2) Business Days prior to the Delivery Date.

4.2. Late Payments.

Without limiting any other rights provided for herein, any amount under this Master Agreement that is not paid by the Payment Due Date will accrue interest at the Interest Rate, calculated from and including the Payment Due Date to but excluding the date paid.

4.3. Disputes.

To the extent a Party, in good faith, disputes any part of an invoice, such Party shall pay the undisputed amount invoiced by the Payment Due Date. If any amount withheld under dispute is finally determined to have been due, such withheld amount shall be forwarded to the Party to whom such amount is owed within two (2) Business Days of such determination. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 4.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made.

4.4. Payment Netting of Transactions.

The Parties will discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party will be netted so that only the excess amount remaining due will be paid by the Party who owes it.

4.5. Taxes.

Seller will pay, or cause to be paid, all taxes imposed by any government authority on or with respect to the RECs or a Transaction under this Master Agreement arising prior to Acceptance. Buyer will pay, or cause to be paid, all taxes on or with respect to the RECs or a Transaction under this Master Agreement at and from Acceptance. In the event Seller is required by law or regulation to remit or pay taxes which are Buyer's responsibility hereunder, Buyer will promptly reimburse Seller for such taxes. If Buyer is required by law or regulation to remit or pay taxes which are Seller's responsibility hereunder, Buyer may deduct the amount of any such taxes from the sums due to Seller under this Agreement. Nothing will obligate or cause a party to pay or be liable to pay any Taxes for which it is exempt under the law. As used herein "taxes" means, but is not limited to, any or all ad valorem, property, occupation, severance, first use, conservation, gross receipts, privilege, sales, use, consumption, excise, lease, transaction, and other taxes, governmental charges, licenses, fees, permits and assessments, or increases therein, other than taxes based on net income or net worth. A tax is not a penalty or a fine.

4.6. Invoice and Payment Instructions.

Payment shall be made by electronic funds transfer or by other mutually agreed upon method, in immediately available funds, to the bank account name and account number as specified below, or as otherwise notified in writing to the Party making payment by the Party to whom payment is to be made.

If to Sol Systems:

Invoices to Sol Systems will be sent by email to: invoices@solsystems.com

Payment Instructions will be provided under separate cover.

If to Counterparty:

Invoices to [Counterparty] will be sent by email to: []

Payment Instructions will be provided under separate cover.

**ARTICLE 5
NOTICES**

All notices, requests, demands, offers, and other communications required or permitted to be made under this Master Agreement will be in writing and shall be delivered: (a) in person, (b) by a nationally recognized delivery service, (c) by United States Mail, or (d) by electronic mail. Either Party may change its address or contact person(s) for notices by giving notice of such change consistent with this Article.

If to Sol Systems:

Sol Systems, LLC
1101 Connecticut Ave., NW
Second Floor
Washington, DC 20036

Attn: Jason Cimpl
Phone: (202) 588-6454

Email: Jason.cimpl@solsystems.com

If to Counterparty:

[Counterparty Name]

[Street Address]
[City], [State] [Zip]

Attn: [Contact]

Phone:

Email:

With a copy, also to:

Email: trading-contracts@solsystems.com

With a copy of Notices of Event of Default to:

Legal Department
Phone: 202-349-2085
Email: general.counsel@solsystems.com

**ARTICLE 6
GOVERNING LAW, WAIVER OF RIGHT TO JURY TRIAL & ATTORNEYS' FEES**

6.1. Governing Law.

This Master Agreement is governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles that would apply the laws of another jurisdiction. The

Parties hereby consent to the jurisdiction of the administrative and judicial tribunals of the District of Columbia, as applicable.

6.2. Waiver of Right to Jury Trial.

AS A MATERIAL INDUCEMENT TO EACH PARTY TO ENTER THIS AGREEMENT, THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF, UNDER, OR ABOUT THIS MASTER AGREEMENT, AS WELL AS ANY RIGHT TO CONSOLIDATE ANY ACTION ABOUT ANY MATTER ARISING HEREUNDER WITH ANY OTHER MATTER IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED.

**ARTICLE 7
REMEDIES FOR FAILURE TO DELIVER/RECEIVE & ACCEPT**

7.1 Seller's Failure.

If with respect to a Transaction, Seller fails to Deliver, all or part of the Contract Quantity of RECs to the Buyer by the Delivery Date, and fails to Deliver any such shortfall of RECs within ten (10) Business Days after the Delivery Date, and such failure is not excused under the terms of the Confirmation or this Master Agreement, then Seller shall pay Buyer within five (5) Business Days after invoice receipt, the sum of (i) the positive difference, if any, obtained by subtracting the Contract Price from the Undelivered Quantity Market Price multiplied by the Undelivered Quantity, plus (ii) if and as applicable, any commercially reasonable broker costs actually incurred by Buyer for entering into any replacement transaction to purchase the Undelivered Quantity. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

7.2 Buyer's Failure.

If with respect to a Transaction, Buyer fails to Accept, all or part of the Delivered Quantity of RECs by the Acceptance Deadline, and such failure is not excused under the terms of the Confirmation or this Master Agreement, then Buyer shall pay Seller within five (5) Business Days after invoice receipt, the sum of (i) the positive difference, if any, obtained by subtracting the Unaccepted Quantity Market Price from the Contract Price multiplied by the Unaccepted Quantity, plus (ii) if and as applicable, any commercially reasonable broker costs actually incurred by Seller for entering into any replacement transaction to sell the Unaccepted Quantity. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

**ARTICLE 8
EVENTS OF DEFAULT**

An “**Event of Default**” means, with respect to a Party (the “**Defaulting Party**”), the occurrence of any of the following: (i) failure by such Party to make, when due, any payment required under this Master Agreement, if such failure is not remedied within five (5) Business Days after written notice of such failure is given by the other Party; (ii) any representation or warranty made by such Party that is incorrect or misleading in any material respect when made or when deemed made or repeated; (iii) the failure by such Party to perform any material covenant or obligation set forth in this Master Agreement (except for such Party's obligation to Deliver or Accept the RECs, the exclusive remedy for which is provided in Sections 7.1 and 7.2) if such failure is not remedied within thirty (30) Business Days after written notice is given by the other Party; (iv) an act of insolvency occurs with respect to a Party ; (v) a Party repudiates, disaffirms, disclaims or rejects, in whole or in part, or challenges the validity of this Master Agreement, any Confirmation executed and delivered by that Party or any Transaction evidenced by such a Confirmation.

ARTICLE 9 REMEDIES UPON DEFAULT

9.1. Remedies.

Upon the occurrence of and continuation of an Event of Default with respect to a Party (the “**Defaulting Party**”), the other Party (the “**Non-Defaulting Party**”) shall have the right upon written notice to the Defaulting Party, to exercise any or all of the following remedies: (i) designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective, as an early termination date (“**Early Termination Date**”) to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each, a “**Terminated Transaction**”) between the Parties hereunder, and (ii) to withhold any payments and/or suspend performance due to the Defaulting Party under this Master Agreement, provided, however, in no event shall any such withholding or suspension continue for longer than ten (10) Business Days unless an Early Termination Date has been designated pursuant to this Section 9.1.

9.2 Settlement Amount.

If the Non-Defaulting Party designates an Early Termination Date, then the Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each Terminated Transaction as of the Early Termination Date.

9.3 Termination Payment.

If the Non-Defaulting Party designates an Early Termination Date, then the Non-Defaulting Party shall calculate, in a commercially reasonable manner, a single liquidated amount (the “**Termination Payment**”) payable by one Party to the other Party in respect of this Agreement equal to the difference of (1) the sum of : (a) the aggregate of all Settlement Amounts, plus (b) any or all other amounts due to the Non-Defaulting Party under this Agreement, minus (2) the sum of (a) any other amounts due to the Defaulting party under this Agreement. If the Termination Payment is a positive number, the Defaulting Party will pay it to the Non-Defaulting Party; if it is a negative number, the Non-Defaulting Party will pay the absolute value of the Termination Payment to the Defaulting Party, in each case in accordance with Section 9.4.

9.4 Notice of Payment of Termination Payment.

As soon as practicable after a liquidation, written notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Termination Payment amount and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be paid by the Party that owes it within two (2) Business Days after the notice is received.

9.5 Closeout Setoffs.

After calculation of a Termination Payment in accordance with Section 9.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party is entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party and under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party. The remedy in this Section 9.5 shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is otherwise entitled.

9.6 Limitation of Remedies, Liability and Damages.

EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURE OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. WITHOUT PREJUDICE TO THE CALCULATION OF ANY SETTLEMENT AMOUNT OR TERMINATION PAYMENT AMOUNT HEREUNDER, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, PENAL, EXEMPLARY OR INDIRECT DAMAGES, LOSS OF CLIENTS, DAMAGES PURSUANT TO THIRD PARTY CONTRACTS, LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE 10 CONFIDENTIALITY

10.1. Confidentiality Generally.

“**Confidential Information**” means all oral and written information exchanged between the Parties with respect to the Master Agreement. The following information does not constitute Confidential Information for purposes of this Master Agreement: (a) information that is or becomes generally available to the public other than as a result of a disclosure by either Party in violation of this Master Agreement, (b) information that was already known by either Party on a non-confidential basis prior to this Master Agreement, (c) information that becomes available to either Party on a non-confidential basis from a source other than the other Party if such source was not reasonably known to be subject to any prohibition against disclosing the information to such Party, and (d) information that is developed by receiving Party or its Affiliates independently and without access to the Confidential Information of disclosing Party. Except as provided in Section 11.1 and 11.2, neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Agreement, without the other Party's prior express written consent. Each Party shall permit knowledge of and access to Confidential Information only to those of its Affiliates and to its and the foregoing persons' respective attorneys, accountants, representatives, agents and employees who have a need-to-know such Confidential Information related to this Master Agreement and agree to keep such information confidential.

10.2 Authorization to Disclose.

The Parties are expressly authorized to disclose the existence of this Master Agreement and certain Transaction details to affect Delivery of such RECs or otherwise comply with any relevant Applicable Standard while using commercially reasonable efforts to preserve the confidentiality of any other information unnecessary for such requirements, notwithstanding any agreement between the Parties regarding the protection of Confidential Information. If required by any law, statute, ordinance, decision, order or regulation passed, adopted, issued or promulgated by a court, governmental agency or authority having competent jurisdiction over a Party, that Party may release Confidential Information, or a portion

thereof, to the court, governmental agency or authority, as required by the applicable law, statute, ordinance, decision, order or regulation. Before such disclosure such Party shall promptly notify the other Party of the required disclosure, if legally permissible or practicable, such that the other Party may attempt (if such other Party so chooses and at such other's Party's expense) to cause that court, governmental agency or authority to treat such information in a confidential manner and to prevent such information from being disclosed or otherwise becoming part of the public domain. Notwithstanding the foregoing, if a Party is required to make a disclosure pursuant to this Section 11.2, then it will, if possible, request that such disclosure be accorded confidential treatment.

10.3 Injunctive Relief; Survival.

Each of the Parties acknowledges and agrees that the other Party would be irreparably harmed if any Confidential Information of the Disclosing Party were to be disclosed to third persons in breach of the terms hereunder, and further agrees that the disclosing Party shall have the right to seek injunctive relief upon any violation or threatened violation of the terms of this Article 11, in addition to all other rights and remedies available at law or in equity, without having to post a bond or other security. The Parties' obligations under this Article 11 shall survive for a period of two (2) years following the expiration or termination of this Agreement.

ARTICLE 11 REGULATORY CHANGE

After the Effective Date and during the Term of a Transaction entered into pursuant to this Master Agreement, if any statute, rule, regulation, permit or authorization is enacted, amended, granted or revoked (including a final order of a court or governmental or regulatory body having jurisdiction over RECs) which has the effect with respect to such Transaction (an "**Affected Transaction**") of: (i) making Seller's Delivery of RECs to Buyer under such Transaction illegal or unenforceable or (ii) repealing the Applicable Standard in its entirety (each a "**Regulatory Change**"). If a Regulatory Change occurs, then upon written notice to the other Party, either Party may designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective, as an early termination date with respect to all Affected Transactions (a "**Regulatory Change Early Termination Date**"). As of the Regulatory Change Early Termination Date, the obligations of a Party under Affected Transactions affected by such Regulatory Change, and of the other Party corresponding to such affected obligations, will be terminated, and the Parties will not be liable to each other for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such Regulatory Change. Notwithstanding the foregoing, if the Applicable Standard in a Confirmation references more than one RPS and at least one (1) of the RPS has not been negatively impacted as described in (i) or (ii) of this Article, then a Regulatory Change has not occurred.

ARTICLE 12 STANDARD PROVISIONS

12.1. Force Majeure.

If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, then upon such Party's giving written notice containing reasonable details of such Force Majeure as soon as reasonably possible after the occurrence of such Force Majeure, the obligations of the Claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of such Force Majeure, but for no longer period, and the Claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such Force Majeure. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused in accordance with this Section 13.1.

12.2. Assignment.

Neither Party shall assign this Master Agreement or its rights hereunder without the prior written consent of the other Party, which consent may not be unreasonably withheld; *provided, however*, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), transfer or assign this Master Agreement to any person or entity succeeding to all or substantially all of the assets of such Party whose creditworthiness is equal to or higher than that of such Party.

12.3. Counterparts.

This Master Agreement may be executed by a DocuSign electronic signature, PDF or facsimile and in one or more counterparts, all of which taken together will constitute one and the same original instrument.

12.4. Entire Master Agreement.

This Master Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes all previous communications, representations, or contracts, either written or oral, that purport to describe or embody the subject matter hereof. There are no oral understandings, terms, or conditions and neither Party has relied upon any representation, express or implied, not contained in this Master Agreement.

12.5. Exhibits.

The exhibits attached hereto are incorporated into this Master Agreement by reference.

12.6. No Third-Party Beneficiaries.

There are no intended third-party beneficiaries hereof, and this Master Agreement should not be construed to create or confer any right or interest in or to, or to grant any remedies to, any third party as a beneficiary of this Master Agreement or of any duty, obligation, or undertaking established herein.

12.7. Severability.

Any part hereof that is or becomes invalid, illegal, or unenforceable may be severed from the remainder hereof, and to the extent possible, the Parties will use reasonable efforts to replace any such part with provisions that preserve their original intent.

12.8. Survival Rights.

This Master Agreement will continue in effect after termination to the extent necessary to allow or require either Party to fulfill rights or obligations that arose under the Master Agreement.

12.9. Waiver, Amendment.

None of the terms or conditions of this Master Agreement may be amended or waived except in writing and signed by the Parties. The Parties agree that no waiver, amendment, or modification of this Master Agreement will be established by conduct, custom, or course of dealing. The failure of a Party to require performance of any provision of this Master Agreement will not limit such Party's right to seek such performance later. Similarly, a Party's waiver of its rights with respect to any Event of Default or any other matter arising about this Master Agreement will not be considered a waiver with respect to any subsequent Event of Default or matter.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by each of the Parties on the date first above written.

Sol Systems LLC

[Counterparty]:

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

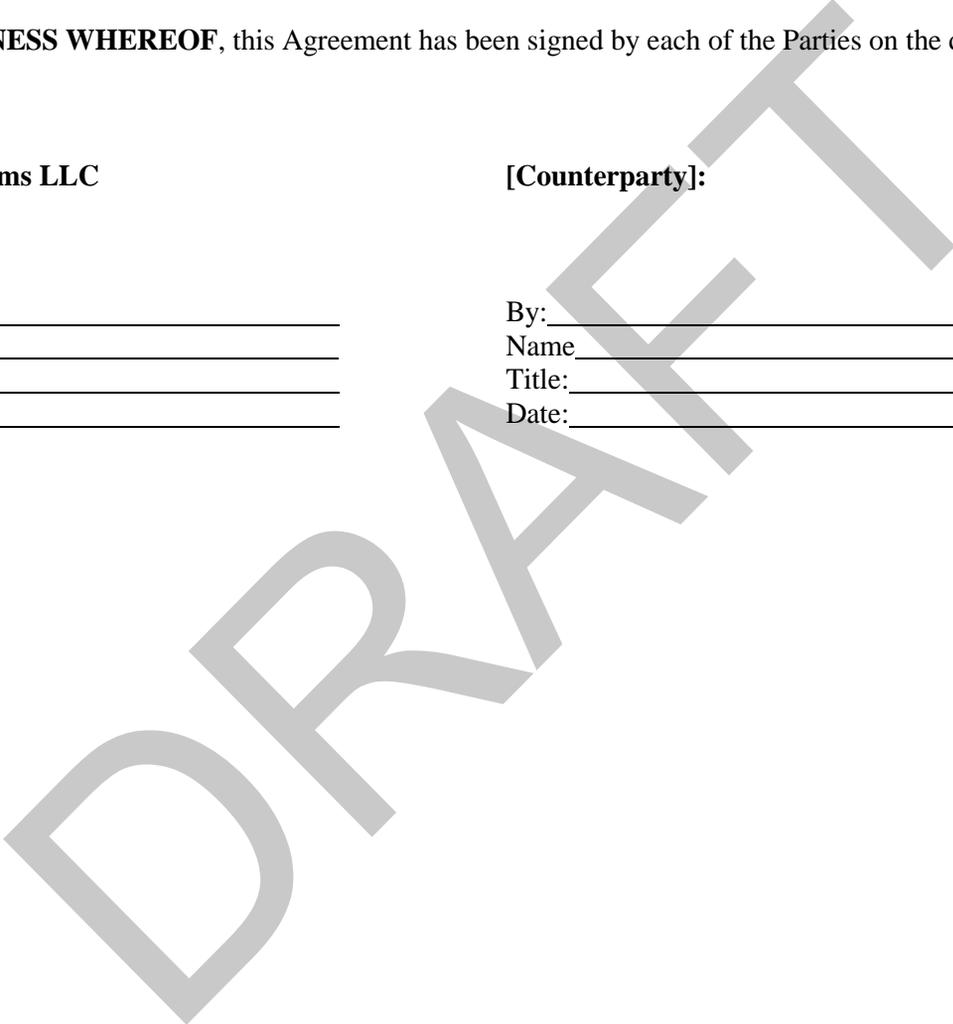


EXHIBIT A
CONFIRMATION

This Renewable Energy Certificates Confirmation (“Confirmation”) confirms the terms and conditions of the RECs Transaction entered between Sol Systems LLC and _____ effective on the Trade Date (the “Transaction”). This Confirmation shall supplement, form a part of and be subject to the terms and conditions of the Master Renewable Energy Certificate Purchase and Sale Agreement between Sol Systems LLC and _____ dated _____, as amended from time to time (collectively, the “Master Agreement”). Any capitalized terms that are not defined herein shall have the meanings ascribed thereto in the Master Agreement.

The terms of the Transaction to which this Confirmation relates are as follows:

Trade Date:	
Transaction Reference:	
Seller:	
Buyer:	
Applicable Standard:	
Certified Renewable Energy Facility:	
Vintage:	
Start of Generation Period:	
End of Generation Period:	
Contract Quantity (MWh)/ Delivery Obligation:	
Contract Price (\$/MWh):	
Total Contract Price:	
Delivery Date:	
Payment required before Delivery [Yes] [No]:	
Applicable Tracking System:	
Applicable Tracking System Account Name:	
Special Provisions, <i>if any</i> :	

Sol Systems LLC	[Counterparty]
Signature	Signature
Name	Name
Title	Title
Date	Date

RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER AGREEMENT (“MASTER AGREEMENT”)

I. Parties. This Purchase and Sale Master Agreement (“Agreement” or “Master Agreement”) is made by and between SRECTrade, Inc., a Delaware corporation, and San Diego Metropolitan Transit System, each a “Party” and collectively the “Parties”.

Buyer:	San Diego Metropolitan Transit System Contact Name: Mike Thompson Contact Telephone no.: (619) 557-4557 Contact E-mail Address: mike.thompson@sdmts.com	NOTICE INFORMATION: San Diego Metropolitan Transit System 1255 Imperial Avenue Suite 1000 San Diego, CA 92101
Seller:	SRECTrade, Inc. Contact Name: Steven Eisenberg Contact Telephone no.: 415-702-0863 Contact E-mail Address: steven.eisenberg@srectrade.com	NOTICE INFORMATION: SRECTrade, Inc. 201 California Street, Suite 630 San Francisco, CA 94111

1

II. Contract Product and Price This information shall be defined in each applicable Transaction Confirmation, pursuant to **Section III.**

Contract Product:	California Sited Solar and/or Wind Renewable Energy Credits (“CA RECs”) of the vintage(s) specified below (“Product”).
Applicable Standard or Requirements and Applicable Tracking System:	California Applicable Requirements as defined in Section IV. Additionally, all California Sited Solar or Wind Renewable Energy Credits are deliverable in the Western Renewable Energy Generation Information System (WREGIS) Tracking Registry, the Applicable Tracking System for this Transaction.
Vintage:	[Month] [Year] generation month or later
Quantity:	[XX] CA RECs pursuant to the schedule below
Purchase Price:	[XX] CA RECs @ \$[00.00]/REC [XX] CA RECs @ \$[00.00]/REC
	Total Contract Value: \$[00.00]

III. Terms of Delivery and Payment

Confirmation:	Seller shall confirm all transactions (each, a “Transaction”) by forwarding to Buyer by electronic mail, within <u>three (3)</u> business days after the Transaction is entered into, a confirmation (each, an “Appendix A Confirmation” or “Confirmation”), substantively in the form of <u>Appendix A</u> hereof, and Buyer shall, within <u>two (2)</u> business days of receipt of a Confirmation, confirm that the terms of the Transaction are acceptable by returning a duly executed copy of the Confirmation to Seller. The terms and definitions of each Transaction and Confirmation will be governed by this Master Agreement.
----------------------	--

1

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

Delivery:	Seller shall initiate Delivery of the readily available REC inventory to Buyer via the Applicable Tracking System on or before [MM/DD/YYYY]. The Parties shall cooperate fully to comply with any and all regulatory obligations relating to the administrative completion of delivery under the Applicable Standard or Requirements.
Payment:	(A) Seller shall invoice Buyer for payment no later than <u>three (3)</u> business days after Delivery of the SRECs (each, an “Invoice”). The Invoice shall (i) reference this Agreement; (ii) specify the Quantity, Vintage, and Purchase Price of RECs covered by the Invoice; (iii) specify the total number of RECs Seller has delivered to Buyer pursuant to the Agreement as of the date of the Invoice; and (iv) include complete payment instructions. (B) Buyer shall initiate payment due to Seller within <u>five (5)</u> business days from receipt of Invoice of RECs to Buyer.

IV. Definitions. Capitalized terms used in this Agreement and not otherwise defined will have the meanings set forth below or, with respect to any Transaction, in any related Confirmation.

“Account” means the Party’s electronic account with the Applicable Tracking System.

“Alternative Compliance Payment” means a payment of a certain dollar amount per megawatt hour as described in the Applicable Standard.”

“Applicable Tracking System” means, with respect to a Transaction, the Renewable Energy Certificate tracking system specified as the Applicable Tracking System in the Confirmation for such Transaction by reference to a tracking system listed here, or such other tracking system as the Parties may specify as the Applicable Tracking System in such Confirmation.

“WREGIS” means the Western Renewable Energy Generation Information System (WREGIS), an independent, renewable energy registry, and tracking system for the Western United States Interconnection with its administrative operations housed at the Western Electric Coordinating Council.

“Applicable Standard or Requirements” means, with respect to a Transaction, the Renewable or Alternative Portfolio Standard or Applicable Requirements specified as the Applicable Standard or Requirements in the Confirmation for such Transaction by reference to a Renewable Portfolio Standard or Applicable Requirements listed here, or such other Renewable Portfolio Standard(s) as the Parties may specify as the Applicable Standard or Requirements in such Confirmation.

“California Applicable Requirements” means renewable energy certificates generated by solar photovoltaic and/or wind assets sited within the geographic boundaries of the state of California that meet the requirements of the California Low Carbon Fuel Standard as outlined in the document provided by the California Air Resources Board entitled *LCFS Guidance Revised: April 2019 - Low Carbon Fuel Standard (LCFS) Guidance 19-01 - Book-and-Claim Accounting for Low-CI Electricity*¹. The renewable energy certificates will be deliverable in the WREGIS Tracking Registry. (1) https://www.arb.ca.gov/fuels/lcfs/guidance/lcfsguidance_19-01.pdf

“Buyer’s Cost to Cover” means the positive difference, if any, between (a) reasonable costs actually incurred by Buyer to purchase RECs necessary to replace the quantity of RECs Seller failed to deliver for an applicable period pursuant to this Agreement (the “Seller’s Default Volume”), including any additional reasonable transaction costs directly associated with such purchase, state in \$/REC, minus (b) the Purchase price, stated in \$/REC, multiplied by the Seller’s Default Volume; provided that if the difference between

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

clause (a) minus clause (b) is zero or negative, then Buyer’s Cost to Cover shall be zero dollars (\$0). Notwithstanding the foregoing, if the Buyer, after exercising commercially reasonable efforts, is unable to purchase RECs necessary to replace the Seller’s Default Volume, Buyer’s reasonable costs under clause (a) shall be deemed to be equal to the Alternative Compliance Payment.

“Deliver” or “Delivery” means when Seller has successfully initiated and completed the Transfer of the Product RECs on the specified Applicable Tracking System to Buyer’s Account, on or prior to the applicable delivery date as specified herein and as confirmed in the Confirmation for the relevant Transaction. As soon as reasonably practicable thereafter, Buyer shall accept the Transfer of the Product RECs into Buyer’s Account (“Acceptance”). The Parties agree to promptly take all such other actions as may be necessary to record and effectuate the Transfer of the Product RECs hereunder, from Seller to Buyer through the Applicable Tracking System. Each Party shall bear all costs of its registration on each Applicable Tracking System and for such transfer and receipt of the Product RECs to or from its Account.

“Delivery Date” has a meaning defined by the Transaction Confirmation.

“Environmental Attributes” means all aspects, claims, characteristics and benefits associated with the generation of a quantity of electricity by a Solar or Wind Generation Facility, other than the energy produced, embodied in the REC pursuant to, and in compliance with, the Applicable Standard, and includes all the environmental, power source, and emission characteristics, credits, allowances, reductions, offsets, and benefits associated with the generation of electricity from a Solar or Wind Generation Facility and its displacement of generation from non-renewable energy resources, and any avoided emissions of carbon dioxide, methane, and other greenhouse gases, but do not include, unless specifically required for compliance with the Applicable Standard (i) any avoided emissions of nitrogen oxides (NOx) during enforcement seasons for states participating in the Environmental Protection Agency’s NOx Budget Trading Program, (ii) production tax credits and investment tax credits associated with the Solar or Wind Generation Facility, (iii) any liabilities, including adverse wildlife or environmental impacts or, (iv) unless the Parties have expressly agreed otherwise, tradable emission allowances or other entitlements to produce emissions issued by a governmental authority and allocated to the Solar or Wind Generation Facility on a basis other than actual generation of avoided emissions associated with the generation of electricity by the Solar or Wind Generation Facility.

“Reporting Rights” means the right to report and register the exclusive ownership of the Environmental Attributes in compliance with federal, state, or local law, if applicable, and to a federal or state agency or any other party at the Buyer’s discretion, and include without limitation those Reporting Rights accruing under Section 1605(b) of the Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Seller’s Cost to Cover” means the positive difference, if any, between (a) the quantity of RECs not purchased and paid for by Buyer as required pursuant to the Agreement (the “Buyer’s Default Volume”) multiplied by the applicable Purchase Price minus (b) the net proceeds realized by Seller (i) by the sale, if any, to a third person of RECs not purchased by Buyer as required under this Agreement, less (ii) any additional reasonable transaction costs directly associated with such sale, if any; provided that if the difference between clause (a) minus clause (b) is zero or negative, then Seller’s Cost to Cover shall be zero dollars (\$0). Notwithstanding anything to the contrary in this Agreement, Seller shall use commercially reasonable efforts to sell the Buyer’s Default Volume to a third person at a commercially reasonable price.

“Generation Facility” means a solar photovoltaic or wind energy system qualified as a “Qualified Resource” in accordance with the Applicable Standard or Requirements.

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

“Transaction” has the meaning specified in the recitals hereto.

“Transfer” means, with respect to a REC Transaction, the transfer to Buyer of all right, title and interest in and to the applicable RECs (including, without limitation, legal and beneficial title to the Product RECs, together with the transfer and receipt of the Product RECs or into Buyer’s Account on the Applicable Tracking System.

“Vintage” means the calendar year, twelve-month compliance reporting period or other calendar period specified by the Applicable Standard, as applicable, in which a Product is created.

V. General Terms and Conditions

1. Representations and Warranties of Seller. Seller represents and warrants to Buyer that:
 - a. The product meets the Applicable Standard or Requirements and specifications set forth in this Agreement and represents the Environmental Attributes and Reporting Rights associated with the generation of one (1) megawatt hour (MWh) of energy from one or more Solar or Wind Generation Facilities;
 - b. Seller has good and marketable title to the Product;
 - c. All right, title and interest in and to the Product is free and clear of any liens, taxes, claims, security interests, or other encumbrances;
 - d. Neither Seller nor any other party has made any claims that the energy associated with the Product is renewable energy and Seller has not sold the RECs to any other person or entity; and
 - e. The RECs sold hereunder will vest in Buyer and Buyer will:
 - i. Have the exclusive rights to make all claims as to the Environmental Attributes associated with energy associated with such RECs;
 - ii. Have the right to report and register, as applicable, the exclusive ownership of the Environmental Attributes with any registry, system, agency, authority, or other party; and
 - iii. Have full and rightful title to resell or otherwise transfer the RECs to any other party.
2. Representations and Warranties of Buyer. Buyer represents and warrants to Seller that:
 - a. Buyer has entered into this Agreement in connection with the conduct of its business and has the ability to accept Delivery of and pay for the RECs;
 - b. There are no bankruptcy proceedings pending or being contemplated by Buyer or, to its knowledge, threatened against Buyer;
 - c. All governmental and other authorizations, approvals, consents, notices, and filings that are required to have been obtained or submitted by Buyer with respect to entering into and performing this Agreement have been obtained or submitted and are in full force and effect, and all conditions thereof have been complied with; and
 - d. There is no pending or, to Buyer’s knowledge, threatened litigation, arbitration, or administrative proceeding that could materially adversely affect its ability to perform Buyer’s obligations under the Agreement or other document relating to this Agreement to which it is a party.
3. Mutual Representations. On and as of the Effective Date and each delivery date, each Party represents and warrants to the other Party that:

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

- a. It is duly organized, validly existing and in good standing under the laws of jurisdiction of its formation;
 - b. The execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any law, rule, regulation, order or the like applicable to it; and
 - c. This Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any equitable defenses, bankruptcy principles, or the like.
4. Special Events of Default and Remedies.
- a. Seller’s Failure to Deliver Required Product. If Seller fails to deliver the Product within thirty (30) days of the delivery deadlines set forth above for reasons other than breach of Buyer’s obligations hereunder, such failure will be considered an event of default, and Seller shall pay to Buyer an amount equal to the Buyer’s Cost to Cover for such RECs and all remaining RECs to be delivered pursuant to this Agreement immediately. Where the Agreement defines multiple delivery dates, Seller’s second failure to make delivery to Buyer within the deadlines set forth above will be an immediate event of default, and Buyer shall have the right to secure Buyer’s Cost to Cover from Seller for any and all remaining RECs to be delivered pursuant to the Agreement immediately.
 - b. Buyer’s Failure to Make Payment. If Buyer fails to accept and make payment to Seller for Product which Seller delivers to Buyer’s Applicable Tracking System Account within thirty (30) days of the payment deadline set forth in the Payment provisions above, such failure will be considered an event of default, and Buyer shall pay to Seller an amount equal to Seller’s Cost to Cover for such RECs and all remaining RECs to be delivered pursuant to this Agreement immediately. Where the Agreement defines multiple delivery dates, Buyer’s second failure to make payment to Seller within the payment deadlines set forth above will be an immediate event of default, and Seller shall have the right to secure Seller’s Cost to Cover from Buyer for any and all remaining RECs to be delivered pursuant to the Agreement immediately.
5. Events of Default and Remedies. The following will be deemed to be events of default under the Agreement (each such event, an “Event of Default”) with respect to either Party (the “Defaulting Party”):
- a. The failure of either Party to comply with any or all of its other respective obligations (other than Seller’s failure to Deliver the Product or the Buyer’s failure to Accept the Product, the sole remedy for which is provided in Sections 4(a) and 4(b), respectively, above) in good faith as herein set forth, and such noncompliance is not cured within ten (10) business days after notice thereof to the Defaulting Party.
 - b. The event that any representation or warranty made by a Party in the Agreement proves to have been false or misleading in any material respect when made or ceases to remain true in all material respects during the term of the Agreement, for which a cure is not initiated within ten (10) business days after written notice from the non-defaulting Party (the “Performing Party”) specifying the nature of the breach in reasonable detail.
 - c. In the Event of Default, the Performing Party may:
 - i. Withhold any payments due to the Defaulting Party under the Agreement;
 - ii. Suspend performance;

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

- iii. Designate a day and provide notice to the Defaulting Party, no earlier than the day of such notice is effective and no later than twenty (20) days after such notice is effective, as an early termination date to accelerate all amounts owing between the Parties;
 - iv. Pursue such remedies as may available at law or in equity; and
 - v. Without limiting any other rights that may be available to the Performing Party, the Performing Party will have the right, upon prior notice to the Defaulting Party (except in case of a bankruptcy or similar proceeding, in which case no notice is required), exercisable in its sole discretion and at any time, to liquidate all transactions then outstanding between the Parties (however the Performing Party is designated thereunder) by declaring all such transactions terminated (whereupon they shall automatically be terminated), calculating the difference, if any, between the price specified therein and the Buyer’s Cost to Cover or Seller’s Cost to Cover, as applicable, and aggregating or netting such market damages to a single liquidated termination payment (“Termination Payment”) that will be due and payable to or from the Performing Party upon demand therefore.
6. Limitation on Damages. The Defaulting Party’s liability will be limited to direct, actual damages only, and such direct, actual damages will be the sole and exclusive remedy hereunder. In no event will any other liability be incurred by either party for any obligations that arise under this Agreement, including, but not limited to, consequential, incidental, punitive, exemplary, or indirect damages in tort, contract or otherwise.
7. Exclusive Remedy. THE REMEDIES SET FORTH IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE REMEDIES IN THE EVENT OF A DEFAULT OF A PARTY’S OBLIGATIONS TO SELL OR PURCHASE RECs, AND A PARTY’S LIABILITY SHALL BE LIMITED AS SET FORTH IN THIS AGREEMENT. ALL OTHER REMEDIES OR DAMAGES FOR FAILURE TO SELL OR PURCHASE RECs AT LARGE ARE HEREBY WAIVED.
8. Taxes. Seller shall be responsible for any and all taxes and other impositions levied on Seller that arise from the sale of the RECs to Buyer. Buyer shall be responsible for any and all taxes and other impositions levied on Buyer that arise from the sale of the RECs to Buyer’s customers.
9. Record Retention; Additional Documentation. The Parties shall keep record and documentation related to the Agreement and the relevant transaction (or as necessary cause to be kept by their respective agents) for a period of time as may be needed to afford a clear history of all Deliveries and Payments made hereunder. Unless otherwise agreed, record retention shall be deemed to be ten (10) years. For matters in dispute, the Parties shall keep the records related to such matters until the dispute has been resolved. Upon Buyer’s reasonable request, Seller shall execute any document or agreement reasonably necessary to verify Buyer’s right, title and interest in the RECs purchased pursuant to the Agreement. This Section shall survive the expiration, termination or cancelation of the Agreement.
10. Notices. All notices, demands, and other communications hereunder, with the exception of Confirmation of Delivery, Invoices, or Confirmation of Payment, shall be in writing and delivered in person or by public or private courier service (including United States Postal Service Express Mail) or certified mail with return receipt requested. All such notices shall be addressed to the Parties at the addresses set forth above or at such other addresses as the Parties may from time to time direct in writing. Invoices and Confirmations of Delivery or Payment shall be delivered by the

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

electronic mailing of a portable document format (“PDF”) file containing an executed copy of the notice, where applicable, addressed to the Parties at the e-mail contact set forth above.

11. Assignment. This Assignment shall be binding and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as otherwise provided herein, neither Party may transfer or assign this Agreement, in whole or in part, without the other Party’s prior written consent, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either Party may assign this Agreement to its respective affiliates or subsidiaries without the other Party’s consent; provided, however, that the assigning Party notifies the other Party of the assignment in writing. Any assignment made in violation of this clause will be null and void.
12. Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties, and there are no other representations, oral or otherwise, regarding the subject of this Agreement that are binding on either Party, except for those Transaction Confirmations related to the transaction detailed herein. The Agreement may be amended only by a written agreement signed by authorized representatives of both Parties.
13. Non-waiver. The failure or delay of either Party to exercise any of its rights hereunder for breach thereof shall not be deemed to be a waiver of such rights, and no waiver by either party, whether written or oral, express or implied, of any rights or arising from this Agreement shall be binding on any subsequent occasion; and no concession by either Party shall be treated as an implied modification of the Agreement, unless specifically agreed to in a writing signed by the Parties. If any of the terms and conditions herein are breached and thereafter waived in a writing by a Party, such waiver is limited to the particular breach so waived and is not deemed to waive any other breach hereunder.
14. Severability. The terms of this Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or otherwise unenforceable, the remainder of the provisions herein shall continue to be valid and enforceable.
15. ARBITRATION.
 - i. ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE BREACH, TERMINATION, ENFORCEMENT, INTERPRETATION OR VALIDITY THEREOF, INCLUDING THE DETERMINATION OF THE SCOPE OR APPLICABILITY OF THIS AGREEMENT TO ARBITRATE, WHICH CANNOT BE RESOLVED BY NEGOTIATION OR MEDIATION BETWEEN THE PARTIES, SHALL BE SETTLED BY FINAL AND BINDING ARBITRATION WITH ONE ARBITRATOR IN THE STATE OF CALIFORNIA. THE ARBITRATION SHALL BE ADMINISTERED BY JAMS PURSUANT TO ITS COMPREHENSIVE ARBITRATION RULES AND PROCEDURES AND IN ACCORDANCE WITH THE EXPEDITED PROCEDURES IN THOSE RULES.
 - ii. THE COSTS OF THE ARBITRATION SHALL BE SHARED EQUALLY BETWEEN THE PARTIES, EXCEPT THAT EACH PARTY SHALL BE RESPONSIBLE FOR ITS OWN ATTORNEYS’ FEES AND COSTS IN PREPARING AND PRESENTING ITS CASE. THE ARBITRATOR’S AWARD MAY BE CONFIRMED, ENTERED, AND ENFORCED AS A FINAL JUDGMENT IN ANY COURT OF COMPETENT JURISDICTION. THIS

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

CLAUSE SHALL NOT PRECLUDE THE PARTIES FROM SEEKING PROVISIONAL REMEDIES TO MAINTAIN THE STATUS QUO IN AND IN AID OF ARBITRATION FROM A COURT OF COMPETENT JURISDICTION.

- iii. THE ARBITRATOR’S AWARD SHALL BE ISSUED IN WRITING AND CONFINED TO A STATEMENT OF THE AMOUNT OF DAMAGES (IF ANY) AWARDED TO EITHER OR BOTH PARTIES ON THE CLAIMS AND COUNTERCLAIMS SUBMITTED TO THE ARBITRATOR.

16. CHOICE OF LAWS. THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA AND OF THE UNITED STATES WITHOUT GIVING EFFECT TO THE DOCTRINE OF CONFLICT OF LAWS. ALL CLAIMS ARISING OUT OF THIS AGREEMENT THAT ARE NOT GOVERNED BY SECTION 16 HEREOF SHALL BE RESOLVED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA IN A COURT OF COMPETENT JURISDICTION.

17. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by the electronic mailing of a PDF file shall be effective as delivery of a manually executed counterpart of this Agreement.

****Remainder of page intentionally left blank. Appendix and Signature page(s) follow(s).****

DRAFT

RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER AGREEMENT (“MASTER AGREEMENT”)

Appendix A Confirmation

This Confirmation (the “Confirmation”) confirms the Transaction between Buyer and Seller regarding the purchase and sale of the Product, as agreed to on the Trade Date, as specified below. This Confirmation constitutes the “Confirmation” as referred to in, and supplements, forms a party of, and is subject to, that certain Solar Renewable Energy Credits Purchase and Sale Master Agreement, dated as of [REDACTED] (as amended, restated, supplemented, or otherwise modified from time to time, the “Master Agreement”), between [COMPANY] (“Buyer”) and SRECTrade, Inc. (“Seller”). Capitalized terms used but not otherwise defined herein have the meanings specified in the Master Agreement. All provisions contained in the Master Agreement govern this Confirmation, except as expressly modified below:

Trade Date	
-------------------	--

Contract Product and Price

Contract Product:	California Sited Solar and/or Wind Renewable Energy Credits (“CA RECs”) of the vintage(s) specified below (“Product”).
Applicable Standard:	California Applicable Requirements as defined in Section IV. Additionally, all California Sited Solar or Wind Renewable Energy Credits are deliverable in the Western Renewable Energy Generation Information System (WREGIS) Tracking Registry, the Applicable Tracking System for this Transaction.
Vintage:	[Month] [Year] generation month or later
Quantity:	[XX] CA RECs
Purchase Price:	\$[00.00] per CA REC \$[00.00] per CA REC Total Notional Value: \$[00.00].
Brokerage Fees:	\$[00.00] per REC Total Brokerage Fees: \$[00.00].

Terms of Delivery and Payment

Confirmation:	Buyer shall, within <u>two (2)</u> business days of receipt of this Confirmation, confirm that the terms of the Transaction are acceptable by returning a duly executed copy of the Confirmation to Seller.
Delivery:	Seller shall initiate Delivery of the readily available REC inventory to Buyer via the Applicable Tracking System on or before [MM/DD/YYYY]. The Parties shall cooperate fully to comply with any and all regulatory obligations relating to the administrative completion of delivery under the Applicable Standard or Requirements.
Payment:	(A) Seller shall invoice Buyer for payment no later than <u>three (3)</u> business days after Delivery of the SRECs (each, an “Invoice”). Each Invoice shall (i) reference this Agreement; (ii) specify the Quantity, Vintage, and Purchase Price of SRECs covered by the Invoice; (iii) specify the total number of SRECs Seller has delivered to Buyer pursuant to the Agreement as of the date of the Invoice; and (iv) include complete payment instructions. (B) Buyer shall initiate payment due to Seller within <u>five (5)</u> business days from receipt of Invoice. (C) Total Brokerage Fees will be added to the Total Notional Value.

IN WITNESS WHEREOF, Buyer and Seller have caused this Confirmation to be duly executed and delivered to be effective as of the Trade Date specified above.

SRECTrade, Inc.

[Company Name]

By: _____
 Name:
 Title:
 Date:

By: _____
 Name:
 Title:
 Date:

**RENEWABLE ENERGY CREDITS (“RECs”) PURCHASE AND SALE MASTER
AGREEMENT (“MASTER AGREEMENT”)**

MASTER AGREEMENT SIGNATURE PAGE

IN WITNESS WHEREOF, Buyer and Seller have caused this Master Agreement to be duly executed and delivered to be effective as of the Agreement Effective Date.

SRECTrade, Inc.

San Diego Metropolitan Transit System

By: _____
Name: Steven Eisenberg
Title: CEO
Date:

By: _____
Name:
Title:
Date:

DRAFT



**Metropolitan
Transit
System**

Agenda Item No. 12

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

PROVISION OF HEWLETT PACKARD ENTERPRISE (HPE) NIMBLE HF20 ARRAY EQUIPMENT AND SUPPORT FOR REGIONAL TRANSIT MANAGEMENT SYSTEM (RTMS) DISASTER RECOVERY – PURCHASE ORDER

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute a Purchase Order to Nth Generation Computing Inc. for the provision of HPE Nimble HF20 Array equipment and support for RTMS disaster recovery in the amount of \$173,335.21.

Budget Impact

The total budget for this project shall not exceed \$173,335.21 (inclusive of CA 7.75% Sales Tax). The project will be funded by the Information Technology (IT) Operating Budget 661010-571250 for ongoing maintenance support and Capital Improvement Program (CIP) 1007108601 – Data Storage Replacement for the one-time purchase of the hardware, initial install and support of initial set-up.

Description	Subtotal
Hardware, Initial Install and Set-up, Shipping & Sales Tax	\$164,435.21
Maintenance Support	\$8,900.00
Grand Total:	\$173,335.21

DISCUSSION:

MTS utilizes HPE Nimble arrays as its main production storage platform. It provides the underlying storage for the entire virtual environment for RTMS. Similar Nimble arrays are in production at the Imperial Avenue Division (IAD), the Operating Control Center (OCC) and the RTMS datacenters. The IAD and OCC Nimble arrays are clustered to provide disaster recovery for each site. This project will provide a secondary array for disaster recovery of the RTMS



storage data similar to IAD and OCC and will keep RTMS production up should anything happen to the existing RTMS array.

On August 26, 2021, MTS issued a Request for Quotation (RFQ) to procure HPE Nimble HF20 Array for RTMS storage array disaster recovery. Two (2) bids were received on the due date of September 13, 2021 from the following bidders.

The overall total amounts, including delivery charges and CA sales tax is as follows:

Proposer Name	Overall Total Amount
NTH GENERATION COMPUTING INC.	\$173,335.21
SHI INTERNATIONAL	\$202,369.79

MTS staff has deemed Nth Generation the lowest responsive and responsible bidder. The submitted pricing was determined to be a fair and reasonable price in comparison to the bids received, Manufacturer Bill of Material (BOM) price estimate and other authorized HPE providers online pricing.

Nth Generation National Association of State Procurement Officials (NASPO) Value point Cooperative Purchasing Program Participating Addendum reference number #7-15-70-34-002 was utilized for this pricing. The National Association of State Procurement Officials (NASPO) ValuePoint is a cooperative purchasing program facilitating a competitively public procurement solicitations and agreements through a Lead State. The NASPO Contracts provides a significantly lower rate than the national average, and the storage, servers, equipment and all related peripherals, products and service is one of such items available on the Agreement.

Therefore, staff recommends that the MTS Board authorize the CEO to execute a Purchase Order to Nth Generation Computing Inc. for provision of HPE Nimble HF20 Array equipment and support for RTMS Disaster recovery in the amount of \$173,335.21.

/S/ Sharon Cooney_____

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachment: A. Bid Price

**ATTACHMENT 1
MTS BID PRICING FORM
REGIONAL TRANSIT MANAGEMENT SYSTEM (RTMS) NIMBLE STORAGE ARRAY HF20 DISATER RECOVERY (MTS DOC. NO. G2509.0-22)**

BID DUE DATE: 9/13/2021

TIME: 2:00 P.M., Prevailing Local Time

COOPERATIVE PURCHASING PROGRAM AGREEMENT #: ___NASPO ValuePoint Contract #7-15-70-34-002 _____

DEL. LEAD TIME (ARO): ___ 30 days (based upon manufacturer availability)

SDMTS RTMS DR Nimble HF20-42T - Synch Rep
UCID: 5124016134-01

Item#	Product Part Number	Product Description	Lead Time	QTY	Taxable Yes (Y) or No (N)	Unit Price (USD)	Extended List Price (USD)
1	Q8H72A	HPE Nimble Storage HF20 Adaptive Dual Controller 10GBASE-T 2-port Configure-to-order Base Array	30 days (based upon	1	Y	\$ 21,190.00	\$ 21,190.00
2	Q8B69B	HPE Nimble Storage HF20/20C Adaptive Array 42TB (21x2TB) FIO HDD Bundle	30 days (based upon	1	Y	\$ 16,090.00	\$ 16,090.00
3	Q8B88B	HPE Nimble Storage 2x10GbE 2-port FIO Adapter Kit	30 days (based upon	1	Y	\$ 3,190.00	\$ 3,190.00
4	Q8G27B	HPE Tier 1 Storage OS Default FIO Software	30 days (based upon	1	Y	\$ 1.00	\$ 1.00
5	Q8J27A	HPE Nimble Storage C13 to C14 250V 10Amp 1.8m Universal FIO Power Cord	30 days (based upon	2	Y	\$ 1.00	\$ 2.00
6	Q8J30A	HPE Nimble Storage HF20 Adaptive Array R2 5.76TB (6x960GB) FIO Cache Bundle	30 days (based upon	1	Y	\$ 17,090.00	\$ 17,090.00
7	R3P91A	HPE Tier 1 Storage Array Standard Tracking	30 days (based upon	1	Y	\$ 1.00	\$ 1.00
8	R4G78A	HPE Nimble Storage 2x32Gb 2-port Fibre Channel FIO Adapter Kit	30 days (based upon	1	Y	\$ 8,013.00	\$ 8,013.00
9	QK734A	HPE Premier Flex LC/LC Multi-mode OM4 2 Fiber 5m Cable	30 days (based upon	4	Y	\$ 100.00	\$ 400.00
10	QK724A	HPE B-series 16Gb SFP+ Short Wave Transceiver	30 days (based upon	4	Y	\$ 290.00	\$ 1,160.00
11	JG081C	HPE FlexNetwork X240 10G SFP+ to SFP+ 5m Direct Attach Copper Cable	30 days (based upon	4	Y	\$ 237.00	\$ 948.00
12	JD089B	HPE X120 1G SFP RJ45 T Transceiver	30 days (based upon	4	Y	\$ 226.00	\$ 904.00
13	AF596A	HPE 10.0M Blue CAT6 STP Cable Data	30 days (based upon	4	Y	\$ 49.00	\$ 196.00
14	HA114A1	HPE Installation and Startup Service (must be included as part of the Bill of Materials at no cost)		1			
15	HA114A1 5MR	HPE Tier 1 Storage Array Startup SVC	30 days (based upon	1	N	\$ 4,000.00	\$ 4,000.00
16	HT620A5	HPE NS SY 4H Parts Exchange Support (must be included as part of the Bill of Materials at no cost)		1			
17	HT620A5 ZEE	HPE NS HF20/20C Hybr 42TB HDD Bndl Supp	30 days (based upon	1	N	\$ 4,950.00	\$ 4,950.00
18	HT620A5 Z8K	HPE NS 2x32Gb 2p FC Adptr Supp	30 days (based upon	1	N	\$ 3,990.00	\$ 3,990.00
19	HT620A5 ZE7	HPE NS HF20 5.76TB Cache Supp	30 days (based upon	1	N	\$ 4,990.00	\$ 4,990.00
20	HT620A5 ZEB	HPE NS HF20 Hybrid Base Array Supp	30 days (based upon	1	N	\$ 8,190.00	\$ 8,190.00
21	HT620A5 ZET	HPE NS 2x10GbE 2p Adptr Supp	30 days (based upon	1	N	\$ 1,590.00	\$ 1,590.00
22	H5UP3A1	HPE Network Integr and Depl Pack SVC (must be included as part of the Bill of Materials at no cost)		1			
23	H5UP3A1 003	HPE Network 50 Pack Integr and Depl SVC	30 days (based upon	3	N	\$ 13,208.00	\$ 39,624.00
24	R4G55A	HPE SN3600B 16Gb 24/8 8-port Short Wave SFP+ Fibre Channel Switch	30 days (based upon	2	Y	\$ 4,385.00	\$ 8,770.00
25	R4G55A 05Y	2.4m Jumper (IEC320 C13/C14 M/F CEE 22) (must be included as part of the Bill of Materials at no cost)		2			
26	Q1Z11BAE	HPE SN3600B Power Pack+ Upgrade E-LTU	30 days (based upon	2	N	\$ 3,764.00	\$ 7,528.00
27	JG081C	HPE FlexNetwork X240 10G SFP+ to SFP+ 5m Direct Attach Copper Cable	30 days (based upon	4	Y	\$ 237.00	\$ 948.00
28	Q8B88B	HPE Nimble Storage 2x10GbE 2-port FIO Adapter Kit	30 days (based upon	1	Y	\$ 3,190.00	\$ 3,190.00
29	HA113A1	HPE Installation SVC (must be included as part of the Bill of Materials at no cost)		1			
30	HA113A1 5GA	HPE LowEnd SAN/Edge Switch/HAFM Inst SVC		2	N	\$ 559.00	\$ 1,118.00
31	H7J34A5	HPE SY Foundation Care 24x7 SVC (must be included as part of the Bill of Materials at no cost)		1			
32	H7J34A5 ZHF	HPE SN3600B 32Gb FC Switch Support	30 days (based upon	2	N	\$ 888.00	\$ 1,776.00
33	H7J34A5 ZJE	HPE SN3600B PP+ Upgrade LTU Support	30 days (based upon	2	N	\$ 3,562.00	\$ 7,124.00
Subtotal:							\$ 166,973.00

San Diego, California Sales Tax (7.75%) for Taxable line items only:	\$6,362.21
Freight Charges/ Shipping FOB specified destination (No Charge):	\$ 0.00
GRAND TOTAL (Basis of Award):	\$173,335.21

*Please include your Product Technical/Data Sheet with your Bid Form Submission

**Please note that the leadtimes provided are estimates only. Due to supply chain constraints we will not have an accurate leadtime information until the order is processed with MFG. Nth Generation is under no obligation to deliver within a certain timeline.



**Metropolitan
Transit
System**

Agenda Item No. 13

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

PLANNING SERVICES FOR TROLLEY YARD AND BUILDING C EXPANSION - WORK ORDER

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute Work Order MTS Doc. No. WOA1947-AE-70 (in substantially the same format as Attachment A), with HDR Engineering, Inc. (HDR), in the amount of \$249,367.48 to provide planning services for the Trolley Yard and Building C Expansion project.

Budget Impact

The total budget for this contract is \$249,367.48. The project is funded by Capital Improvement Program (CIP) 2006112101 – Trolley Yard and Building C Expansion project.

DISCUSSION:

MTS has identified the need to evaluate the current trolley yard facilities to support ongoing maintenance needs to develop a plan to accommodate future expansion, over time, as needed due to ridership demands or initiatives.

The intent of this planning study is to provide MTS with a needs assessment and feasibility study to consider project opportunities and identify a series of projects to be submitted as part of infrastructure grant applications and potentially the annual CIP process.

- I. General assessment of MTS Trolley Facilities and Infrastructure to develop existing conditions and current operations. This will include the following subtasks:
 - Review functions of Buildings A, B, C, and the MTS owned building at 1501 National Avenue to develop baseline conditions.
 - Layout Yard C rail operations and vehicle storage.



- Review previous assessments of the “Pyramid Building”, produced in 2019 and 2020, and immediately adjacent to the south east end of the existing trolley yard. The building will be herein referred to as “Building D” to aid in developing opportunities for its use.
 - Site Analysis - Utilizing the above background site and building information, the consultant will analyze the sites assets and liabilities, or opportunities and constraints that impact the proposed utilization of the site. The site analysis summarizes the site’s suitability for its intended use. The analysis will be a graphic representation of those issues that help the planning team and MTS to understand the unique characteristics associated with the property and how they can be best used to create a functional, efficient, and sustainable facility.
 - Existing Conditions Assessment Report – the consultant will prepare a summary of data gathering analysis / documentation, site inventory discipline narratives for existing facility assessment including equipment, architecture, structural engineering, and Mechanical, Electrical, and Plumbing (MEP) engineering, with a general overview regarding utilities and civil engineering items; determine applicable codes, guidelines, and relevant design standards.
- II. Consultant shall analyze existing conditions report and develop a space needs assessment and feasibility study, provide alternatives to support MTS’s plan to repurpose, reconfigure, and consolidate its operational, maintenance and management functions within each facility; and opportunities to expand Yard C for additional Light Rail Vehicle (LRV) storage. This will include the following subtasks:
- Develop alternatives for use of Building “D”. This will include building or partial building demolition, retrofit and repurpose of existing building, and alternatives for redeveloping the site with a new building following full or partial demolition. Alternatives must consider the relocation of multiple teams (i.e. Revenue, Stores, Maintenance of Way (MOW) Track, MOW Facilities) within the new facility and accommodate the specific needs of each team. This task shall be completed concurrently with Task 2e.
 - Coordinate and develop alternatives for improvements to Buildings “A” to accommodate staff relocations to Building “D”.
 - Coordinate and develop remaining needs for 1501 National Avenue and Building “B”.
 - Coordinate and develop alternatives to expand Building “C”, based on MTS’s current plans, and include current plans to modify existing maintenance equipment within the facility. This will incorporate previous studies completed to-date for proposed upgrades to the building.
 - Evaluate current yard storage and consider additional rail/track storage needs to accommodate a future Light Rail Trolley (LRT) extension (up to 45 LRV’s).
 - Consultant will review and analyze information from questionnaires and from on-site observations and interviews developed as part of this task. The team will then develop a detailed space needs program for all required functions to be included at the current facility. These requirements will include industry standards and can be compared to many other similar operations which HDR has evaluated and programmed for other

clients. This effort will include development of staffing projections in conjunction with MTS and any input from the operations and service analysis that will impact the facility planning. The Space Needs Program will be graphically tested during the Feasibility Study task and adjusted as required.

- III. The Consultant will implement anticipated operations and service efficiencies realized during the programming phase, provide a graphic concept that can be expanded and implemented as MTS grows and funding becomes available. MTS will embrace sustainable design opportunities to be incorporated into the concept. Specific goals to be accomplished in this session include:
- Prepare diagrams that include renovation / remodel of existing facilities and diagrams that consider all new facilities
 - Identify potential alternative site configurations to best fit the needs of phased construction for immediate and future needs
- IV. Consultant shall develop in coordination with MTS a phasing and implementation plan to facilitate staggered funding to develop the recommended improvements. This task will provide in greater detail a space needs program, develop phasing diagrams, and prepare an implementation plan for the facilities department that will serve as guides for future planning and budgets. The consultant will work in collaborative meetings with MTS and developing a strategy needed to establish funding to implement the design.
- V. The Consultant will provide the best functional, efficient, and sustainable facility, and through our design process we will work with MTS and stakeholders in a series of meetings to incorporate all review comments identified by MTS. The Final Feasibility Study in conjunction with a Phasing and Implementation Plan that incorporates critical elements of the Space Needs Program, site analysis, and Feasibility Plan.

On January 12, 2016, San Diego Association of Governments (SANDAG) and MTS issued a joint Request for Statement of Qualifications (RFSQ) for On-Call Architectural and Engineering (A&E) Design Consulting services. The RFSQ resulted in the approval of 8 firms qualified to perform A&E services. Tasks are assigned to the firms through a work order process.

MTS staff reviewed the approved A&E firms and utilizing a rotation award process, selected HDR to perform the requisite services. HDR had previously provided planning and design services for MTS facilities.

HDR's proposed amount of \$249,367.48 is less than MTS's Independent Cost Estimate (ICE) of \$260,332.98 and determined to be fair and reasonable.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute Work Order to MTS Doc. No. WOA1947-AE-70 (in substantially the same format as Attachment A), with HDR, in the amount of \$249,367.48 to provide planning services for the Trolley Yard and Building C Expansion project.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. Work Order Draft
B. Negotiated Fee Proposal



Metropolitan Transit System

October 14, 2021

MTS DOC No. G1947.0-17
Work Order WOA1947-AE-70

Mr. Thomas K. Kim
Senior Vice President
HDR Engineering, Inc.
401 B Street, Suite 110
San Diego, CA 92101

Dear Mr. Kim:

Subject: MTS DOC. NO. G1947.1-17, WORK ORDER WOA1947-AE-70; DESIGN SERVICES FOR TROLLEY YARD AND BUILDING C EXPANSION

This letter shall serve as our agreement for professional services, Work Order WOA1947-AE-70, under the General Engineering Consultant Agreement, MTS Doc. No. G1947.0-17, as further described below.

SCOPE OF SERVICES

Provide design services for Trolley Yard and Building C expansion. Work provided under this Work Order will be performed in accordance with the attached Scope of Services (Attachment A).

SCHEDULE

The Scope of Services, as described above, shall remain in effect for a period of ninety (90) days from the date of the Notice to Proceed.

PAYMENT

Payment shall be based on actual costs in the amount not to exceed \$249,367.48 without prior authorization of MTS.



Please sign below, and return the document to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect.

Sincerely,

Accepted:

Sharon Cooney
Chief Executive Officer

Thomas K. Kim
HDR Engineering, Inc.

Date: _____

Attachments: Attachment A, Scope of Services
Attachment B, Negotiated Fee Proposal

DRAFT

**ATTACHMENT A
SCOPE OF SERVICES**

DRAFT

ATTACHMENT A

SAN DIEGO METROPOLITAN TRANSIT SYSTEM (MTS)

TROLLEY YARD AND BUILDING C EXPANSION

I. PROJECT DESCRIPTION

MTS has identified a need to evaluate the current facilities, in a and adjacent to Yard C, in support of the expanded equipment and material to operate and maintain, while also providing for future expansion and LVR procurement.

II. EXPECTED RESULTS

The intent of this planning study is to provide MTS with a needs assessment and feasibility study to consider project opportunities to support development of grant applications and future expansion and modifications of Yard C and its other facilities adjacent to the yard, as noted on Exhibit A.

III. SCOPE OF WORK

The scope of work shall consist of the following tasks and deliverables:

Task 1 – Project Management and Coordination

1. Provide project management services including the requirements for invoicing, scheduling, monthly project progress reports, and administration of the Consultant's team.
2. Provide project coordination with MTS as well as coordination with other project stakeholders as necessary.
3. Provide coordination and oversight of subconsultant(s) and integration of plans and specifications into submittal packages.
4. Also included in Project Management is QA/QC which will be performed on all deliverables. To ensure quality of work and compliance with the scope of work, the consultant shall perform a systematic in-house review of all documents produced prior to submittal. All reviewed documents will have a check box or signature page indicating review has been performed.

Assumptions:

- None

Task 2 – Existing Conditions Assessment

General assessment of MTS Facilities and Yard C infrastructure to develop existing conditions and current operations. The objective of this task is to evaluate the existing conditions at the facilities and understand operations to determine the magnitude of improvements required. This will include the following subtasks:

1. Review functions of Buildings A, B, C, to develop baseline conditions.
 - a. Site Visits
 - i. Conduct initial site visit with structural engineer and appropriate subconsultants for review of project, confirm existing conditions, and examine existing structures and facilities.

From the various sources available to the HDR team, site and building background information will be gathered to include as-built documents, street mapping, floodplain/floodway mapping, parcel maps with land size and ownership definition, land

use and zoning mapping, infrastructure/utility mapping, aerial photography, general topographic information, environmental issues, climatic issues including prevailing winds and sun angles, available geotechnical studies, and a systematic photographic record of existing conditions.

- ii. Additional site visits may be performed as necessary during contract for site condition verification as the design progresses. During these site visits the attendance of the maintenance facility manager may be requested for consultation.
 - iii. During the site visits the Consultant shall perform field observations, take photographs, measurements, calculations, etc., as necessary of the facility portions involved with the project.
2. Layout Yard C rail operations and vehicle storage.
 3. Review previous assessment of acquired building, herein referred to as “Pyramid Building” to aid in developing opportunities for its use.
 4. Site Analysis - Utilizing the above background site and building information, our team will analyze the sites assets and liabilities, or opportunities and constraints that impact the proposed utilization of the site. The site analysis summarizes the site’s suitability for its intended use. The analysis will be a graphic representation of those issues that help the planning team and MTS to understand the unique characteristics associated with the property and how they can be best used to create a functional, efficient, and sustainable facility.
 5. Existing Conditions Assessment Report - The HDR team will prepare a summary of data gathering analysis / documentation, site inventory discipline narratives for existing facility assessment including equipment, architecture, structural engineering, and MEP engineering, with general overview regarding utilities and civil engineering items; determine applicable codes, guidelines, and relevant design standards.

Deliverables

- Draft and Final Existing Conditions Assessment (Report)

Meetings

- Task Kickoff Meeting (via web conference)
- Site Visit(s)
- One Comment Resolution Meeting (via web conference)

Task 3 – Space Needs Assessment and Feasibility Study

Consultant shall analyze existing conditions report and develop a space needs assessment and feasibility study, provide alternatives to support MTS’s plan to repurpose, reconfigure, and consolidate its operational, maintenance and management functions within each facility; and opportunities to expand Yard C for additional LRV storage. This will include the following subtasks:

1. Space Needs Assessment
 - a. Develop alternatives for use of Building “D.” This will include building or partial building demolition, retrofit and repurpose of existing building, and alternatives for redeveloping the site with a new building following full or partial demolition. Alternatives must consider the relocation of multiple teams (i.e. Revenue, Stores, MOW Track, MOW Facilities) within the new facility and accommodate the specific needs of each team.
 - b. Coordinate and develop alternatives for improvements to Building’s “A” to accommodate staff relocations to Building “D”.
 - c. Coordinate and develop remaining needs for Building “B”.
 - d. Coordinate and develop alternatives to expand Building “C”, based on MTS’s current plans,

and include current plans to modify existing maintenance equipment within the facility. This will incorporate previous studies completed to-date for proposed upgrades to the building.

- e. Evaluate current yard storage and consider additional rail/track storage needs to accommodate a future LRT extension (up to 45 LRV's).
- f. Consultant will review and analyze information from questionnaires and from on-site observations and interviews developed as part of this task. The team will then develop a detailed space needs program for all required functions to be included at the current facility. These requirements will include industry standards and can be compared to many other similar operations which HDR has evaluated and programmed for other clients. This effort will include development of staffing projections in conjunction with MTS and any input from the operations and service analysis that will impact the facility planning. The Space Needs Program will be graphically tested during the Feasibility Study task and adjusted as required.

2. Feasibility Study

The Consultant will implement anticipated operations and service efficiencies realized during the programming phase, provide a graphic concept that can be expanded and implemented as MTS grows and funding becomes available. We will embrace sustainable design opportunities to be incorporated into the concept. Specific goals to be accomplished in this session include:

- a. Prepare diagrams that include renovation / remodel of existing facilities and diagrams that consider all new facilities
- b. Identify potential alternative site configurations to best fit the needs of phased construction for immediate and future needs

Meetings

- Task Kickoff Meeting (via web conference)
- Space Needs Program Validation Workshop / Meeting (via web conference)
- Feasibility Study Graphic Exhibits Workshop / Meeting (via web conference)
- One Comment Resolution Meeting (via web conference)

Task 4 – Phasing and Implementation Plan

Consultant shall develop in coordination with MTS a phasing and implementation plan to facilitate staggered funding to develop the recommended improvements. This task will provide in greater detail a space needs program, develop phasing diagrams, and prepare an implementation plan for the facilities department that will serve as guides for future planning and budgets. The HDR team will work in collaborative meetings with MTS and developing a strategy needed to establish funding to implement the design.

The Consultant will provide the best functional, efficient, and sustainable facility, and through our design process we will work with MTS and stakeholders in a series of meetings to incorporate all review comments identified by MTS. The Final Feasibility Study in conjunction with a Phasing and Implementation Plan that incorporates critical elements of the Space Needs Program, site analysis, and Feasibility Plan.

Meetings

- Phasing and Implementation Plan Workshop / Meeting (via web conference)
- One Comment Resolution Meeting (via web conference)

IV. PERIOD OF PERFORMANCE

Expected period of performance is 90 days from the date of the Notice to Proceed.

V. DELIVERABLES

TASK 1: Project Management

A. Deliverables

1. Monthly Invoices and Progress Reports

TASK 2: Existing Conditions Report

A. Deliverables

1. Draft and Final Existing Conditions Assessment (Report)

TASK 3: Space Needs Assessment and Feasibility Study

A. Deliverables

1. Programming Questionnaires
2. Preliminary and Final Space Needs Program (delivered electronically via PDF):
 - a. Project Overview
 - b. Space Needs Program
 - c. Basis of design mathematical programming analysis / documentation, summary and discipline narratives for facility design, equipment, architecture, structural engineering, MEP engineering, and fueling, with general overview re utilities, civil engineering; determine applicable codes, guidelines, and relevant design standards.
3. Feasibility Study Graphic Exhibits and Alternatives

TASK 4: Phasing and Implementation Plan

A. Deliverables

1. Final Phasing and Implementation Plan Report (delivered electronically via PDF):
 - a. Project Overview
 - b. Final Space Needs Program and basis of design narratives
 - c. Final Feasibility Study Graphic Exhibits and Alternatives
 - d. Phasing and Implementation Plan Exhibits including Narratives and Summary

VI. SCHEDULE OF SERVICES/MILESTONES/DELIVERABLES

A. Tasks Schedule

<u>Task</u>	<u>Begin/End Dates</u>
Task 1	NTP + 120 days
Task 2	NTP + 50 days
Task 3	NTP + 90 days
Task 4	NTP+ 120 days

B. Milestones/Deliverables Schedule

<u>Milestone/Deliverable</u>	<u>Due Date</u>
Existing Conditions Report	NTP + 50 days
Space Needs Assessment	NTP + 70 days
Feasibility Assessment	NTP + 90 days
Phasing/Implementation Plan	NTP+ 120 days

VII. MATERIALS TO BE PROVIDED BY MTS AND/OR THE OTHER AGENCY

Previous studies and input to needs and assessments development.

VIII. SPECIAL CONDITIONS

Not Applicable.

IX. MTS ACCEPTANCE OF SERVICES:

Contractor shall not be compensated at any time for unauthorized work outside of this Work Order. Contractor shall provide notice to MTS' Project Manager upon 100% completion of this Work Order. Within five (5) business days from receipt of notice of Work Order completion, MTS' Project Manager shall review, for acceptance, the 100% completion notice. If Contractor provides final service(s) or final work product(s) which are found to be unacceptable due to Contractors and/or Contractors subcontractors negligence and thus not 100% complete by MTS' Project Manager, Contractor shall be required to make revisions to said service(s) and/or work product(s) within the Not to Exceed (NTE) Budget. MTS reserves the right to withhold payment associated with this Work Order until the Project Manager provides written acceptance for the 100% final completion notice. Moreover, 100% acceptance and final completion will be based on resolution of comments received to the draft documents and delivery of final documentation which shall incorporate all MTS revisions and comments.

Monthly progress payments shall be based on hours performed for each person/classification identified in the attached Fee Schedule and shall at no time exceed the NTE. Contractor shall only be compensated for actual performance of services and at no time shall be compensated for services for which MTS does not have an accepted deliverable or written proof and MTS acceptance of services performed.

X. DEFICIENT WORK PRODUCT:

Throughout the construction management and/or implementation phases associated with the services rendered by the Contractor, if MTS finds any work product provided by Contractor to be deficient and the deficiently delays any portion of the project, Contractor shall bear the full burden of their deficient work and shall be responsible for taking all corrective actions to remedy their deficient work product including but not limited to the following:

- Revising provided documents,

At no time will MTS be required to correct any portion of the Contractors deficient work product and shall bear no costs or burden associated with Contractors deficient performance and/or work product.

XI. DELIVERABLE REQUIREMENTS

Contractor will be required to submit any and all documentation required by the Scope of Work. The deliverables furnished shall be of a quality acceptable to MTS. The criteria for acceptance shall be a product of neat appearance, well-organized, and procedurally, technically and grammatically correct. MTS reserves the right to request a change in the format if it doesn't satisfy MTS's needs. All work products will become the property of MTS. MTS reserves the right to disclose any reports or material provided by the Contractor to any third party.

Contractor shall provide with each task, a work plan showing the deliverables schedule as well as other relevant date needed for Contractor's work control, when and as requested by MTS.

Contractor's computer data processing and work processing capabilities and data storage should be compatible with Windows compatible PC's, text files readable in Microsoft Word, and standard and customary electronic storage. Contractor shall maintain backup copies of all data conveyed to MTS. Contractor shall provide MTS with hard copy or electronic versions of reports and/or other material as

requested by MTS.

XII. PRICING

Pricing shall be firm and fixed for the duration of the Work Order and any subsequent Change Orders/Amendments to the Work Order. There shall be no escalation of rates or fees allowed.

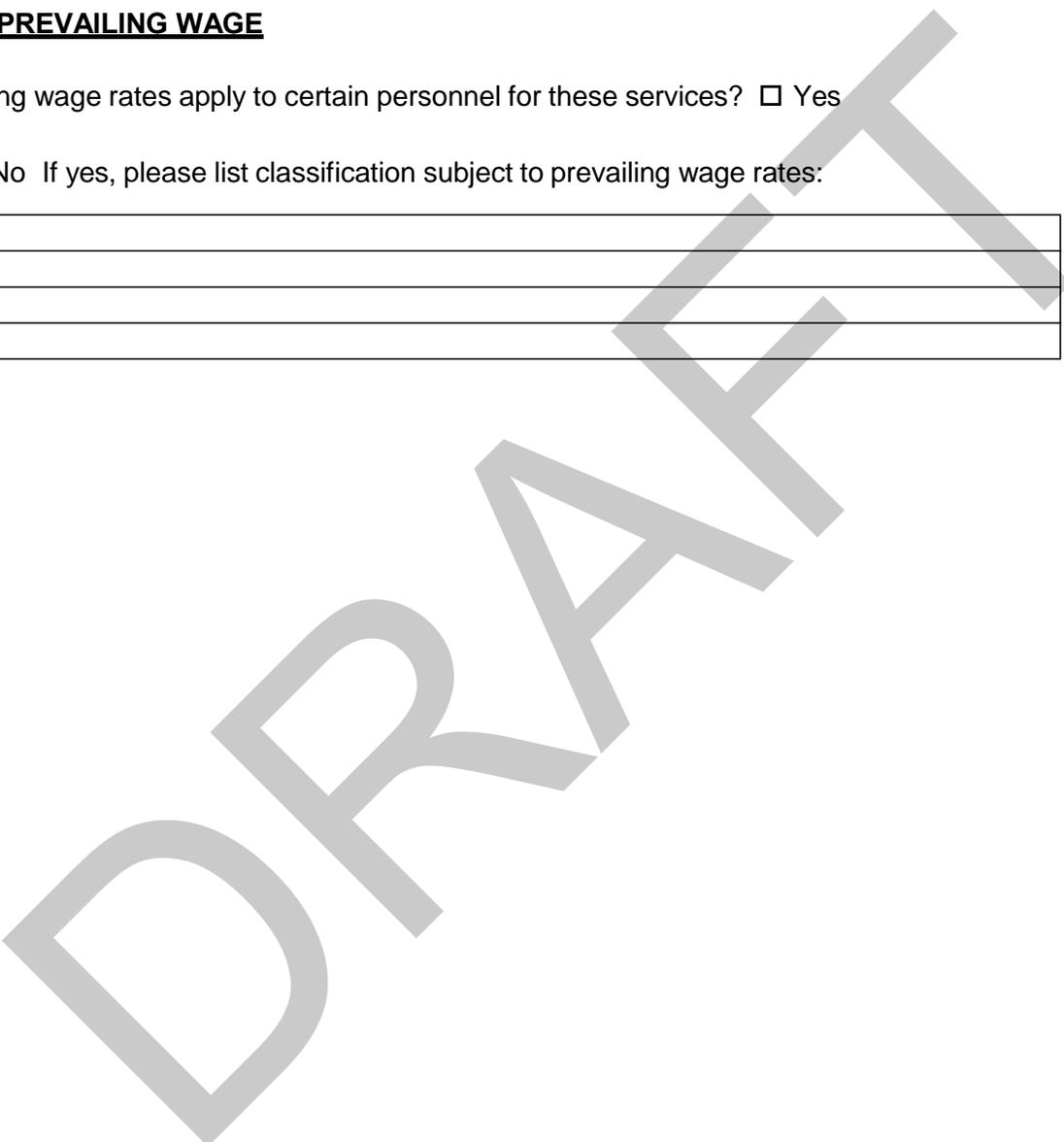
XIII. ADDITIONAL INFORMATION

List additional information as applicable to the specific Work Order scope of services.

XIV. PREVAILING WAGE

Prevailing wage rates apply to certain personnel for these services? Yes

No If yes, please list classification subject to prevailing wage rates:



**ATTACHMENT B
NEGOTIATED FEE PROPOSAL**

DRAFT

Work Order Estimate Summary

Att. A, AI 13, 10/14/2021

MTS Doc. No. **G1947.0-17**

Work Order No. **WOA1947-AE-70**

Attachment: **B**

Work Order Title: **Trolley Yard and Building C Expansion**

Project No:

Table 1 - Cost Codes Summary (Costs & Hours)

Item	Cost Codes	Cost Codes Description	Total Costs
1			\$249,367.48
2			

Totals = **\$249,367.48**

Table 2 - TASKS/WBS Summary (Costs & Hours)

Item	TASKS/WBS	TASKS/WBS Description	Labor Hrs	Total Costs
1		Work Order Management	132.0	\$31,743.92
2		Existing Conditions Assessment	352.0	\$64,179.60
3		Space Needs Assessment and Feasibility Study	508.0	\$97,133.40
4		Phasing and Implementation Plan	288.0	\$56,310.56
5				

Totals = **1,280.0** **\$249,367.48**

Table 3 - Consultant/Subconsultant Summary (Costs & Hours)

(If Applicable, Select One)				Consultant	Labor Hrs	Total Costs
DBE	DVBE	SBE	Other			
				HDR Engineering, Inc.	1,280.0	\$249,367.48

Totals = **1,280.0** **\$249,367.48**

Work Order Estimate Summary

Att. A, AI 13, 10/14/2021

Total Hours = 1,280
 Total Costs = \$249,367.48

Consultant/Subconsultant: HDR Engineering, Inc.

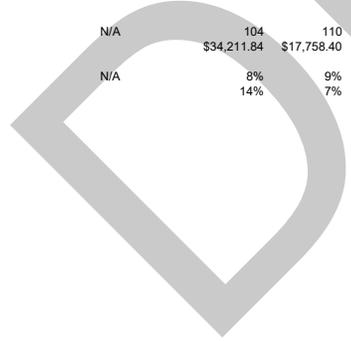
MTS Doc. No.: G1947-0-17

Work Order No.: WOA1947-AE-70

Work Order Title: Trolley Yard and Building C Expansion

Attachment: B

Item	TASKS/WBS	TASKS/WBS Description	ODCs (See Attachment)	Sr. Project Manager	Project Engineer	Engineer III	Engineer I	Sr. Project Manager/ Railroad	Project Manager II/ Railroad	Designer III	Designer II	Architect II	Planner III	Planner II	Group Director/ Systems	Quality Assurance Manager	Document Control Specialist	Total Hours	Totals		
																				\$	\$
1	Task 1	Work Order Management																			
	Project Management			48														20	68	\$17,936.68	
	Progress Report and Invoices																	16	16	\$1,717.28	
	Project Coordination			8									8	8					24	\$6,669.92	
	Quality Control Management			4												20			24	\$5,420.04	
	ODCs																				
	Subtotals (Hours) =	N/A		60									8	8		20		36	132	\$31,743.92	
	Subtotals (Costs) =			\$19,737.60									\$2,604.64	\$1,433.60		\$4,104.20	\$3,863.88		132	\$31,743.92	
2	Task 2	Existing Conditions Assessment																			
	Task Kickoff Meeting			2	2				2				2	2	2				12	\$3,016.32	
	Data Gathering			4	4	8					8	8	2	8					36	\$5,779.20	
	Site Visits			4	8	8			8		24	24	24	24					100	\$17,985.52	
	Existing Conditions Assessment (Report) Preparation			8	16	24		4	8	32	32	4	48	16				12	204	\$37,398.56	
	ODCs																				
	Subtotals (Hours) =	N/A		14	30	40		4	18	64	64	6	82	18				12	352	\$64,179.60	
	Subtotals (Costs) =			\$4,605.44	\$4,843.20	\$5,574.80		\$1,307.64	\$4,967.46	\$9,560.96	\$11,118.08	\$1,953.48	\$14,694.40	\$4,266.18			\$1,287.96		352	\$64,179.60	
3	Task 3	Space Needs Assessment and Feasibility Study																			
	User Questionnaires and Interviews			4								8	4	16					32	\$6,205.04	
	Space Needs Program										16	24	2	48					90	\$15,812.28	
	Yard Track Configuration			4	24	16	8	8	16						8				84	\$12,228.96	
	Space Needs Assessment Report Prep			4				2		2	12	12	4	24		2			62	\$12,398.54	
	Feasibility Study			4	16	24	8			4	12	12	8	32					120	\$21,417.92	
	Feasibility Study Report Prep			4	4			2		2	12	12	4	24	4	2		12	82	\$15,280.30	
	Meetings / Workshops			4	4				4			8	6	8	4				38	\$8,790.36	
	ODCs																				
	Subtotals (Hours) =	N/A		20	52	40	16	12	20	8	52	76	28	152	16	4		12	508	\$97,133.40	
	Subtotals (Costs) =			\$6,579.20	\$8,394.88	\$5,574.80	\$1,763.52	\$3,922.92	\$5,519.40	\$2,152.08	\$7,768.28	\$13,202.72	\$9,116.24	\$27,238.40	\$3,792.16	\$820.84	\$1,287.96		508	\$97,133.40	
4	Task 4	Phasing and Implementation Plan																			
	Phasing and Implementation Plans			4	16	24		4	8		16	16	8	24	8				128	\$24,730.44	
	Phasing and Implementation Plan (Report) Preparation			2	8			2	8	2	8	24	4	48	4	2		12	124	\$23,263.78	
	Meetings / Workshops			4	4				4			8	6	8	2				36	\$8,316.34	
	ODCs																				
	Subtotals (Hours) =	N/A		10	28	24		6	20	2	24	48	18	80	14	2		12	288	\$56,310.56	
	Subtotals (Costs) =			\$3,289.60	\$4,520.32	\$3,344.88		\$1,961.46	\$5,519.40	\$538.02	\$3,585.36	\$8,338.56	\$5,860.44	\$14,336.00	\$3,318.14	\$410.42	\$1,287.96		288	\$56,310.56	
Totals (Summary) =													Totals =							1,280	\$249,367.48
	Total (Hours) =	N/A		104	110	104	16	22	58	10	140	188	60	322	48	26		72	1280		
	Total (Costs) =			\$34,211.84	\$17,758.40	\$14,494.48	\$1,763.52	\$7,192.02	\$16,006.26	\$2,690.10	\$20,914.60	\$32,659.36	\$19,534.80	\$57,702.40	\$11,376.48	\$5,335.46	\$7,727.76			\$249,367.48	
	Percentage of Total (Hours) =	N/A		8%	9%	8%	1%	2%	5%	1%	11%	0.146875	0.046875	0.2515625	0.0375	0.0203125	0.05625	100%			
	Percentage of Total (Costs) =			14%	7%	6%	1%	3%	6%	1%	8%	0.13098802	0.0783374	0.231395048	0.04562135	0.021395974	0.030989446			100%	



**Work Order Estimate
Summary**

Att. A, AI 13, 10/14/2021

Consultant/ Subconsultant: **HDR Engineering, Inc.**

Contract No: **G1947.0-17**

Task Order No. **WOA1947-AE-70**

Work Order Title: **Trolley Yard and Building C Expansion**

Attachment: **B**

TASKS/WBS (1-5)

ODC Item	Description	Unit	Unit Cost	Task 1		Task 2		Task 3		Task 4		Task 5	
				Quantity	Total								
1	Mileage	Mile	\$0.575										
2	Reproduction	LS	\$10.00										
3													
4	Utility Locating	LS	\$2,000.00										
5													
6													
7													
8													
9													
10													
				Subtotal =		Subtotal =		Subtotal =		Subtotal =		Subtotal =	

TASKS/WBS (6-10)

ODC Item	Description	Task 1		Task 2		Task 3		Task 4		Totals			
		Quantity	Total										
1	Mileage												
2	Reproduction												
3													
4	Utility Locating												
5													
6													
7													
8													
9													
10													
		Subtotal =		Subtotal =		Subtotal =		Subtotal =		Subtotal =		Totals =	

Work Order Estimate Summary

Att. B, AI 13, 10/14/2021

MTS Doc. No.	G1947.0-17
Work Order No.	WOA1947-AE-70
Attachment:	B

Work Order Title: Trolley Yard and Building C Expansion

Project No:

Table 1 - Cost Codes Summary (Costs & Hours)

Item	Cost Codes	Cost Codes Description	Total Costs
1			\$249,367.48
2			

Totals = \$249,367.48

Table 2 - TASKS/WBS Summary (Costs & Hours)

Item	TASKS/WBS	TASKS/WBS Description	Labor Hrs	Total Costs
1		Work Order Management	132.0	\$31,743.92
2		Existing Conditions Assessment	352.0	\$64,179.60
3		Space Needs Assessment and Feasibility Study	508.0	\$97,133.40
4		Phasing and Implentation Plan	288.0	\$56,310.56
5				

Totals = 1,280.0 \$249,367.48

Table 3 - Consultant/Subconsultant Summary (Costs & Hours)

(If Applicable, Select One)				Consultant	Labor Hrs	Total Costs
DBE	DVBE	SBE	Other			
				HDR Engineering, Inc.	1,280.0	\$249,367.48

Totals = 1,280.0 \$249,367.48



Agenda Item No. 14

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

DARKTRACE CYBERSECURITY SOFTWARE – EXTENDED LICENSING SUBSCRIPTION AND ANTIGENA EMAIL MODULE SOFTWARE SOLUTION – CONTRACT AMENDMENT

RECOMMENDATION:

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

- 1) Ratify previous Amendment No.1 to MTS Doc. No. G2386.0-20 (Attachment A) with Darktrace Limited for \$87,700.00;
2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. G2386.0-20 (in substantially the same format as Attachment B) with Darktrace Limited, in the amount of \$169,650.00 for the procurement of additional forty-one (41) months of EIS licensing subscription for the existing 2,500 devices; and
3) Authorize the CEO to execute Amendment 3 to MTS Doc. No. G2386.0-20 (in substantially the same format as Attachment C) with Darktrace Limited, for the purchase of Antigena Email Inbox Artificial Intelligence (AI) Software Solution in the amount of \$108,609.00.

Budget Impact

The total budget for this project including the amendments shall not exceed \$851,959.00. This project is funded by the Information Technology (IT) Operations Budget 661010-571250.

Table with 3 columns: DESCRIPTION, Contract Term, AMOUNT. Rows include Original Contract Award, Amendment 1, Amendment 2, Amendment 3, and Grand Total: \$851,959.00.



DISCUSSION:

MTS, in common with other government agencies, is an increasingly attractive target for cyber-criminals and terrorists. As more devices are connected to our network, the dangers of data theft, vandalism and real-world damage, e.g. overloading power sub-stations, are constantly increasing.

In May 2020, the Board of Directors authorized the purchase of Darktrace on a trial basis to assess its suitability for our cyber-defensive needs. Darktrace is a state-of-the-art Intrusion Detection and Prevention System (IDPS) designed to deter, detect and intercept unauthorized activity in enterprise networks. The trial has been exceptionally successful, including the detection and interception of an attempt to exploit the "ProxyLogon" Microsoft Exchange vulnerability to compromise the agency last January. Also, during the pandemic, we have witnessed the sophistication of malicious emails, so called "phishing" increase to the point where they now incorporate MTS's logo in the body of the faux advisories.

Darktrace Enterprise Immune System (EIS)

The subsequent procurement and deployment of Darktrace Enterprise Immune System (EIS) has identified an additional 2,500 devices such as, routers, switches, IoT devices etc. that MTS also needs to monitor in order to properly defend the agency's infrastructure.

In February 2021, MTS under Amendment 1 procured 12 months, Enterprise Installation Services EIS appliance licensing for the identified 2,500 devices. This allowed MTS staff to distribute Darktrace EIS between Imperial Avenue Division (IAD), Mills and Operations Control Center (OCC) with each hub monitoring devices 'locally' reducing inter-site network traffic.

Darktrace has become essential to the fight against security attacks and MTS IT staff is recommending to expand the footprint of the system, extending the licensing on the 2,500 additional devices by 41 months. This gives more insight into normal and malicious network and systems activity, alerting and (controlled) automation of response, logging and support of forensic analysis. The software also provides increased protection of data, including data that is subject to Payment Card Industry (PCI) and Health Insurance Portability and Accountability Act (HIPAA) compliance and enhanced protection from Internet of Things (IoT) terrorist incidents. Transitioning to a three-appliance, distributed system also facilitates load-balancing and the removal of a single point of failure.

The extension of the existing contract provides coverage for an additional 41 months at the same rate as the current contract. MTS staff has determined that the Darktrace pricing is fair and reasonable.

Darktrace Antigena Email Module

In effort to maintain security and keep pace with ever-changing threats, MTS IT Department in the second quarter of 2021 began a trial of Darktrace's Antigena Mail module. This leverages the artificial intelligence (AI) of the network module and applies it to the agency's email infrastructure. It learns the normal behavior of the users, senders and recipients of the agency's email traffic and the relationships between them in order to identify and intercept traffic that deviates from this. It continuously monitors, learns and updates itself providing constant and current protection from emerging threats. Its great strength is that it analyzes deviant emails in a nuanced manner and responds accordingly; if an email is clearly dangerous, it is removed from

the delivery stream. However, if it is suspicious rather than clearly dangerous, it is rendered safe by locking links, neutralizing attachments in order to safely deliver it. This combination of continuous AI learning and nuanced analysis offers effective and minimally invasive cyber-defense.

As much as 94% of all cyber-attacks originate from email inboxes. Malicious email received by the agency has recently included impersonations of our CEO and the use of our logo. Additionally, email is the most common method of delivering ransomware. MTS IT staff believe that Darktrace Antigena Email Module will be a valuable addition to MTS Cybersecurity program.

Therefore, staff recommends that the MTS Board of Directors:

- 1) Ratify previous Amendment No.1 to MTS Doc. No. G2386.0-20 (Attachment A) with Darktrace Limited for \$87,700.00;
- 2) Authorize the CEO to execute Amendment No. 2 to MTS Doc. No. G2386.0-20 (in substantially the same format as Attachment B) with Darktrace Limited, in the amount of \$169,650.00 for the procurement of additional forty-one (41) months of EIS licensing subscription for the existing 2,500 devices; and
- 3) Authorize the CEO to execute Amendment 3 to MTS Doc. No. G2386.0-20 (in substantially the same format as Attachment C) with Darktrace Limited, for the purchase of Antigena Email Inbox AI Software Solution in the amount of \$108,609.00.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. Amendment 1
B. Amendment 2 Draft
C. Amendment 3 Draft

1255 Imperial Avenue, Suite 1000
San Diego, CA 92101
Tel 619.231.1466 Fax 619.234.3407

Amendment 1

Effective Date: January 15, 2021

MTS Doc No. G2386.1-20

DARKTRACE CYBERSECURITY SOFTWARE

Darktrace Limited
Rachel Elias-Jones
Financial Director
Maurice Wilkes Building, St. John's Innovation Park,
Cowley Road, Cambridge, CB4 0DS, UK

This shall serve as Amendment No.1 to the original agreement G2386.0-20 as further described below.

SCOPE

This amendment shall provide MTS the additional Darktrace Cybersecurity Software Enterprise Immune System (EIS) licensing for 2,500 IP's or devices (routers, switches, IoT devices etc.), EIS Medium Appliance, Extra Large Appliance for 12 months as specified in Exhibit A.

SCHEDULE

The additional license under this amendment shall commence February 16, 2021

There are no changes on the schedule of this contract.

PAYMENT

This contract amendment shall authorize additional costs not to exceed \$87,700.00. The total value of this contract including this amendment shall be in the amount of \$573,700.00. This amount shall not be exceeded without prior written approval from MTS.

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

Sincerely,



Sharon Cooney, Chief Executive Officer

Agreed:

DocuSigned by:



89E55C903C5E458...

Rachel Elias-Jones, Financial Director
Darktrace Limited

Date: 1/22/2021

Enclosure:

Exhibit A: Product Order Form Ref: 45300-202101-08-406431-AK

cc; G.Dexter, R.DeGala, S.Elmer, J.Plaetzer, Procurement File



PRODUCT ORDER FORM



Darktrace Limited,
Maurice Wilkes Building, St John's Innovation Park,
Cowley Road, Cambridge CB4 0DS, UK
Registered No.: GB08562035, VAT No. GB290 0399 03

Customer Name: San Diego Metropolitan Transit System
Shipping Address: 1255 Imperial Avenue, Suite 1000,
San Diego, CA 92101
Invoice Address: 1255 Imperial Avenue, Suite 1000,
San Diego, CA 92101
Attn: Sharon Cooney
Email: karun.kapur@sdmmts.com

Product Order Form Ref: 45300-202101-08-406431-AK
Date Prepared: 2021/01/08
Expiry Date: 2021/01/29

Darktrace Offering:						
Line Item	Product/Services Description	Product Code	QTY	Term (months)	Annual Customer Price (USD)	Extended Customer Price (USD)
1	Enterprise Immune System	DCIP-EIS		12	52,200	52,200
	comprising:					
	<i>Medium Appliance</i>	DCIP-M	1			
	<i>Extra Large Appliance</i>	DCIP-Z	1			
	<i>Device Limit Increase (see Notes 1 and 2 below)</i>	DCIP-ANTI	1			
	Hardware Deployment Cost*					32,500
	Term license commencing on 2021/02/16 ("Commencement Date")					
	Installation Services					
Standard Support Services						
2	Threat Visualizer, Virtual Instructor - Public	DCIP-TV-PT	1	-	-	Included
Total						84,700
Extended Customer Price if Product Order Form is executed after 29th January 2021						158,644

*This represents a one-time fee to be invoiced in advance from the Commencement Date.

Terms and Conditions:	
1	By signing this Product Order Form ("Product Order Form"), issuing a purchase order referencing this Product Order Form or otherwise accessing or using the Offering, the Customer's use of the Offering shall be subject to the Darktrace Master Customer Agreement included in the Appliance, which can also be found at: https://www.darktrace.com/resources/legal-online-terms.pdf ("Agreement"). This Product Order Form shall be supplementary to Product Order Form No. 33158-202005-06-390593 (the "Prior Order"), as previously agreed between Customer and Darktrace, the terms of which shall continue to apply, to the extent such terms do not contradict those contained herein, and will (i) add to the Offering a license to use one (1) Medium Appliance (DCIP-M) and one (1) Extra Large Appliance (DCIP-Z) and (ii) increase the aggregate Device Limit set forth in the Prior Order by an additional two thousand five hundred (2,500) Devices.
2	The Appliance(s) are for use with respect to the Customer's applicable bandwidth throughput, number of connected devices and connections per minute as set out in the applicable Product Data Sheet (https://darktrace.com/resources/contract-data-sheets.zip). With respect to the license(s) conveyed by this Product Order Form and the Prior Order, the Software is limited to and aggregate of seven thousand (7,000) Devices in use on the Customer network (the "Device Limit"). For the purposes of this calculation a "Device" is a unique Internet Protocol address (IP address), tied to a piece of equipment, apparatus, or instrument, virtual or physical; that is monitored, modelled and visible in the Threat Visualizer within a given seven (7) day time frame. Should the Device Limit be exceeded, additional Fees shall be payable.
3	Fees are exclusive of any applicable sales tax, goods and services tax, withholding tax or VAT. Fees will be invoiced annually in advance from the Commencement Date. Payment terms Net 30.
4	If Customer requires a purchase order, it must be sent at the time of acceptance of this Product Order Form and be for the full contract value. If it is not received, Darktrace shall be entitled to invoice without it.
5	Acceptance of this Product Order Form is expressly limited to the terms of Darktrace's offer. Once accepted, the terms and conditions of this Product Order Form and the Agreement will be the complete and exclusive statement of the agreement between the parties. Any modifications proposed by Customer are expressly rejected by Darktrace and shall not become part of the Agreement in the absence of Darktrace's written acceptance.
6	This Product Order Form may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. Transmission of the executed counterpart of this Product Order Form by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart.

For Customer

Signature:

Name:

Title:

Signature Date:

("Effective Date")

For Darktrace

Signature:

Name:

Title:

Signature Date:



Amendment 2

Effective Date: September 20, 2021

MTS Doc No. G2386.2-20

DARKTRACE CYBERSECURITY SOFTWARE

35T35TDarktrace Limited
35T35TRachel Elias-Jones
Financial Director
Maurice Wilkes Building, St. John’s Innovation Park,
Cowley Road, Cambridge, CB4 0DS, UK

This shall serve as Amendment No.2 to the original agreement G2386.0-20 as further described below.

SCOPE

This amendment shall provide an extended Enterprise Immune System (EIS) licensing Subscription for the existing 2,500 devices, Medium Appliance, Extra Large Appliance for 41 months commencing February 16, 2022 as specified in Exhibit A.

SCHEDULE

Due to the extended license subscription under this amendment both parties agreed that the contract term shall be extended; with the new term date of May 19, 2020 through July 16, 2025

PAYMENT

This contract amendment shall authorize additional costs not to exceed \$169,650.00. The total value of this contract including this amendment shall be in the amount of \$743,350.00. This amount shall not be exceeded without prior written approval from MTS.

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

Sincerely,

Agreed:

Sharon Cooney, Chief Executive Officer

35TRachel Elias-Jones, 35TFinancial
Director
35TDarktrace Limited

Date: _____

Enclosure:

Exhibit A: Product Order Form Ref: 57701-202107-19-773858-TC

cc; R.DeGala, S.Elmer, J.Plaetzer, G.Dexter, Procurement File



PRODUCT ORDER FORM



Customer Name: San Diego Metropolitan Transit System
Shipping Address: 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101
Invoice Address: 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101
Attn: Sharon Cooney
Email: Gary.dexter@sdmts.com

Product Order Form: 57701-202107-19-773858-TC
Date Prepared: 2021/07/19
Expiry Date: 2021/09/27

Darktrace Offering:						
Line Item	Product/Services Description	Product Code	QTY	Term (months)	Annual Customer Price USD	Extended Customer Price USD
1	Enterprise Immune System (Additional 2,500 Devices)	DCIP-EIS-ADD		41	49,654	169,650
	comprising:					
	<i>Medium Appliance</i>	DCIP-M	1			
	<i>Extra Large Appliance</i>	DCIP-Z	1			
	<i>Antigena Network Software (Additional 2,500 Devices)</i>	DCIP-ANTI-ADD	1			
	Term license commencing on 2022/02/16 ("Commencement Date")					
	Installation Services					
2	<i>eLearning Training</i>	DCIP-TV-ELEARN	1			-
	<i>Public Online Training</i>	DCIP-TV-PUB	1			-
	Standard Support Services					
Total						169,650
Extended Customer Price if Product Order Form is executed after 27th September 2021						255,957

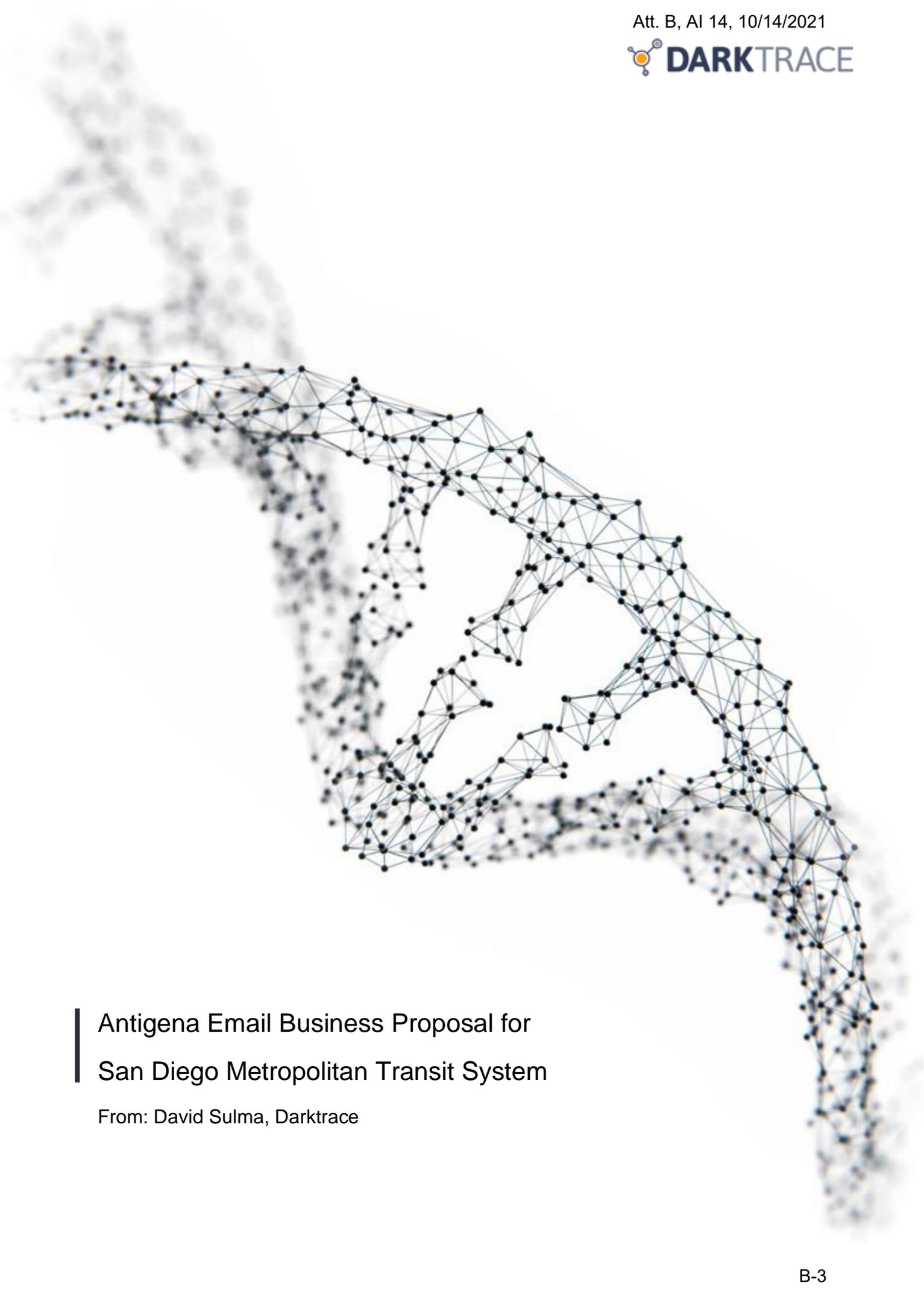
Terms and Conditions:	
1	By signing this Product Order Form ("Product Order Form"), issuing a purchase order referencing this Product Order Form or otherwise accessing or using the Offering, the Customer's use of the Offering shall be subject to the Darktrace Master Customer Agreement included in the Appliance, which can also be found at: https://www.darktrace.com/resources/legal-online-terms.pdf ("Agreement"). This Product Order Form shall be supplementary to Product Order Form No. 33158-202005-06-390593 (the "Prior Order"), as previously agreed between Customer and Darktrace, the terms of which shall continue to apply, to the extent such terms do not contradict those contained herein, and will (i) add to the Offering a license to use one (1) Medium Appliance (DCIP-M) and one (1) Extra Large Appliance (DCIP-Z) and (ii) increase the aggregate Device Limit set forth in the Prior Order by an additional two thousand five hundred (2,500) Devices.
2	The Appliance(s) are for use with respect to the Customer's applicable bandwidth throughput, number of connected devices and connections per minute as set out in the applicable Product Data Sheet (https://darktrace.com/resources/contract-data-sheets.zip). With respect to the license(s) conveyed by this Product Order Form and the Prior Order, the Software is limited to and aggregate of seven thousand (7,000) Devices in use on the Customer network (the "Device Limit"). For the purposes of this calculation a "Device" is a unique Internet Protocol address (IP address), tied to a piece of equipment, apparatus, or instrument, virtual or physical; that is monitored, modelled and visible in the Threat Visualizer within a given seven (7) day time frame. Should the Device Limit be exceeded, additional Fees shall be payable.
3	Fees are exclusive of any applicable sales tax, goods and services tax, withholding tax or VAT. Fees will be invoiced annually in advance from the Commencement Date. Payment terms Net 30. Fees represent a discount equal to two (2) months free.
4	If Customer requires a purchase order, it must be sent at the time of acceptance of this Product Order Form and be for the full contract value. If it is not received, Darktrace shall be entitled to invoice without it.
5	Acceptance of this Product Order Form is expressly limited to the terms of Darktrace's offer. Once accepted, the terms and conditions of this Product Order Form and the Agreement will be the complete and exclusive statement of the agreement between the parties. Any modifications proposed by Customer are expressly rejected by Darktrace and shall not become part of the Agreement in the absence of Darktrace's written acceptance.
6	This Product Order Form may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. Transmission of the executed counterpart of this Product Order Form by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart.

For Customer

Signature: _____
 Name: _____
 Title: _____
 Signature Date: _____
 ("Effective Date")

For Darktrace:

Signature: _____
 Name: _____
 Title: _____
 Signature Date: _____



Antigena Email Business Proposal for
San Diego Metropolitan Transit System

From: David Sulma, Darktrace

Contents

<i>COMPANY OVERVIEW</i>	3
<i>THE EMAIL THREAT LANDSCAPE</i>	4
<i>ANTIGENA EMAIL</i>	5
<i>EXTENDING CYBER AI TO SAAS</i>	6
<i>DARKTRACE IMMUNE SYSTEM PLATFORM</i>	7
<i>PRICING</i>	8
<i>DARKTRACE INNOVATION SERIES</i>	9
<i>INDUSTRY ANALYST REVIEWS</i>	10
<i>CUSTOMER REVIEWS</i>	11
<i>GARTNER PEER REVIEWS</i>	12
<i>SELECTED CUSTOMERS</i>	13
<i>SELECTED AWARDS</i>	14

Darktrace Partnership with San Diego Metropolitan Transit System

With more than 4,700 customers globally, Darktrace has been at the cutting edge of innovation for over seven years. Companies from every sector and of all sizes rely on our world-class Immune System platform to identify and contain cyber-threats across their dynamic workforce – from email, cloud, and collaboration tools, to IoT, endpoints, cyber-physical systems, and the traditional network.

Antigena Email is the first and only security solution that ‘understands the human’ behind the email address, learning the unique ‘patterns of life’ for every user to autonomously identify the full range of threats targeting the inbox. Powered by our core AI technology, it stops sophisticated and novel attacks that email gateway tools miss *before* they reach the intended recipient - providing an immediate return on investment and allowing you to focus your time and energy where it really matters.

We have been delighted to demonstrate to you the power of Antigena Email in San Diego over the past 2 weeks. The following proposal outlines a business-wide deployment scenario for your organization based on the needs and challenges discussed in our conversations thus far.

This document also provides an overview of Darktrace’s technology and value proposition, as well as selected examples of customer feedback and independent analyst recognition. Industry experts and customers agree that Darktrace is unmatched when it comes to our Cyber AI’s capabilities, ease of set-up and usability, and flexibility. Our technology’s proven ability to identify and autonomously respond to advanced email attacks within seconds has revolutionized cyber defense and dramatically enhanced risk mitigation for our customers.

We look forward to partnering with SDMTS and are excited to continue the conversation around how our technology will add value to your business.

I am happy to discuss this proposal and associated commercials in more detail at your convenience.

If you have any questions about this proposal document, please do not hesitate to contact me.

Email david.sulma@darktrace.com

Mobile 424 537 8655

Office 4640 Admiralty Way Suite 1280, Marina Del Rey, CA 90292

Company Overview

Darktrace is a world leading AI cyber security company. The first to apply unsupervised machine learning to the challenge of cyber defense, Darktrace pioneers autonomous security for the enterprise, creating innovations such as Autonomous Response and Cyber AI Analyst. Our AI-native cyber security platform represents the first and only application of machine learning trusted to make decisions and take measured, precise actions without human intervention. Underpinning these developments is a team of world-leading mathematicians and government cyber intelligence experts who ensure that our AI is pervasive and adaptive, protecting the dynamic workforce across all systems and technologies as they evolve in real time.

Headquartered in Cambridge, UK, Darktrace has over 1,500 employees worldwide. Under the leadership of Poppy Gustafsson, OBE, the company’s proprietary AI research has been recognized by independent bodies including Forrester, IDC, Marsh, Gartner, and The Royal Academy of Engineering for its ground-breaking developments in the field of cyber security - winning over 100 awards as testament to its capabilities. Such innovation has been supported by our world-class advisory council, which comprises of experts in mathematics, computer science, security, and intelligence gathering, including:

- o Lord Jonathan Evans KCB, the former Director General of MI5
- o Alan Wade, the former CIO of the CIA
- o Professor Nick Jennings, Chair in Artificial Intelligence at Imperial College, London
- o Sir Peter Bonfield CBE, Fellow of The Royal Academy of Engineering

Darktrace is relied on by over 4,700 customers globally, protecting and defending some of the most sensitive IP, digital data, and mission-critical infrastructure in the world.

Our self-learning technology:

- o **Shielded the CFO** of a large financial services provider from a personalized phishing attack
- o Protects one of the **world’s first 5G smart cities**
- o Defended a **Formula One** team from a **credential-grabbing email attack** targeting the C-suite
- o Safeguards the **leading provider of cloud-based travel services** across 230 territories
- o **Detected ‘fearware’ email attacks** leveraging global uncertainty to infiltrate multiple organizations
- o Stopped a **fraudulent invoice for \$78,000** reaching an academic organization’s inbox
- o Prevented an **Emotet phishing campaign** targeting several global organizations
- o Was recognized by Marsh as a **‘Cyber Catalyst’, effective at reducing cyber risk** in email environments



The Email Threat Landscape

Email is the lifeblood of modern organizations, with nearly 300 billion sent every day. Many contain private information, confidential plans, and financial transactions. But concerningly, over 94% of cyber-attacks originate in the inbox. Spear phishing, impersonation attempts, and account takeovers remain fruitful ways to infiltrate businesses. As attackers increasingly leverage the latest news trends, freshly purchased domains, and hijacked user identities – tactics which evade legacy defenses – telling friend from foe has become harder than ever.

Traditional tools work by comparing various email metrics such as IP address, domains, and file hashes against a list of known 'bads', analyzing each message in isolation and at a single point in time. Such an approach uses historical attack data to identify the threats of today - invariably resulting in playing 'catch-up' with cyber-criminals as their techniques and tactics evolve. This static and siloed methodology additionally fails to take into account the critical context required to confidently determine whether an email is malicious. Inevitably, novel and sophisticated threats are getting through – with the below threats frequently missed by legacy solutions.

Supply chain account takeover

By hijacking the account details of a trusted contact in an organization's supply chain, threat actors can easily gain the trust of the recipient and coax them into clicking a malicious link or transfer millions out of the business. Legacy email defenses assume trust, which means that sophisticated account takeovers often go completely unnoticed.

Spear Phishing and Payload Delivery

The majority of phishing attempts aim to deceive employees into clicking malicious links or attachments in an email. These can be launched as mass drive-by campaigns or as carefully crafted spear phishing attacks. As the links are often concealed behind disguised buttons or spoof a legitimate domain, legacy tools miss the threat as they rely on lists of 'known' bads.

Social Engineering and Solicitation

Attackers can impersonate a trusted colleague, contact, or executive to gain a foothold in an organization. These attacks often exploit the assumption of trust and may come in the form of 'clean' emails, with no malicious links or payloads. As machine learning is leveraged by cyber-criminals to replicate communication patterns, the task of identifying these attacks has become impossible for traditional tools as there are no rules or signatures for this kind of threat.

Antigena Email

Antigena Email represents the world’s first self-defending inbox. It uses Darktrace’s core artificial intelligence to stop the most advanced and novel email attacks, intervening to protect employees from the full range of threats.

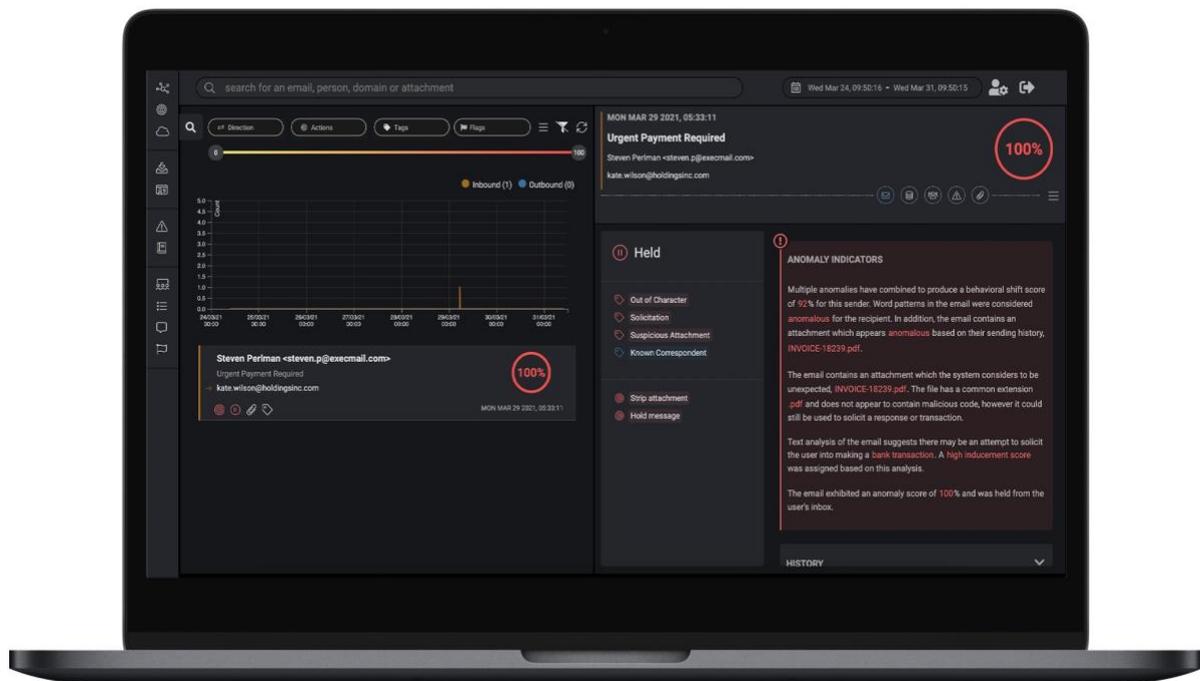
While traditional email tools rely on static rules and deny lists, Antigena Email works by learning a unique sense of ‘self’ across your email environment – understanding what is ‘normal’ for each user, sender, and recipient, and the complex relationships between them. It analyzes thousands of data points for every email, looking at metrics including previous interactions, login locations, similar-looking domains, and behavioral anomalies. This enables it to build an evolving ‘understanding of the human’ behind the email address in real time.

Crucially, when analyzing each email, the AI does not ask simplistic, limiting questions such as ‘Is this bad?’ – instead, it asks ‘Does this belong?’. Such a nuanced grasp of how each employee and the wider organization usually behaves allows Darktrace to detect subtle deviations and anomalous behavior, detecting all attack types regardless of whether they have been seen before. Antigena Email then responds accordingly, locking links, neutralizing attachments, or pre-emptively pulling the email from the inbox depending on the precise nature of the incident. This response is tailored to each user, with the AI understanding which employees are high priority, which are more likely to be targeted, and which have access to sensitive material.

All of this information – from threat detection to response – can be seen in Antigena Email’s AI Narratives, which automatically generate natural language reports on every email security incident.

Key benefits

- Harnesses AI to ‘understand the human’ behind the email address
- Neutralizes malicious emails that other tools miss
- Catches spear phishing and impersonation attacks
- Surfaces AI Narratives that tell the story behind neutralized attacks



Extending Cyber AI to SaaS

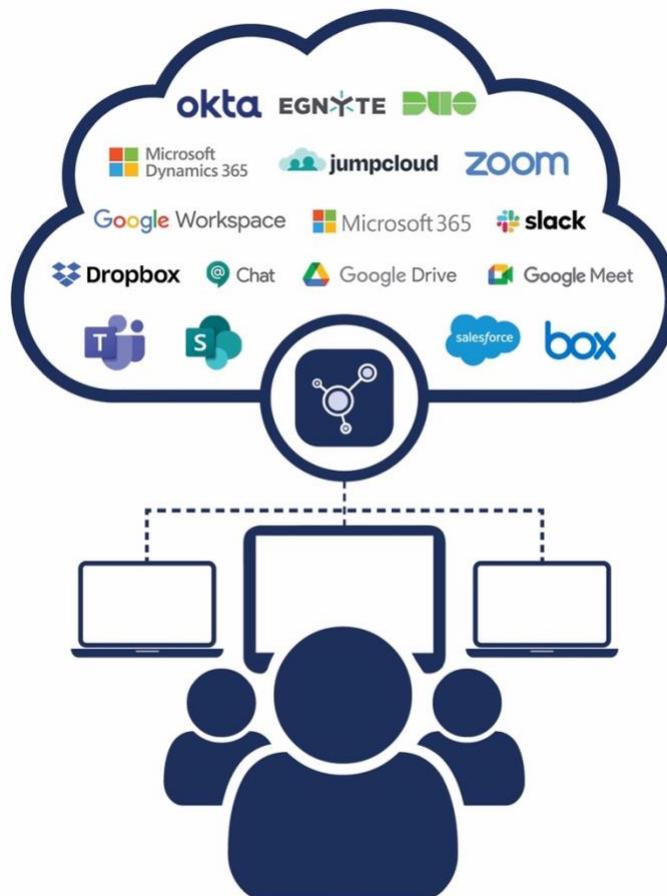
Darktrace’s SaaS module works closely with Antigena Email to enhance the AI’s capabilities - incorporating behavior and insights from other parts of a user’s digital footprint in order to detect and stop the subtlest signals of threat.

Grounded in a contextual understanding of what ‘normal’ looks like across email and SaaS environments, our self-learning AI is able to reveal seemingly benign actions to be malicious in the wider context of the digital business. This means that the AI understands how an attack that compromises a Microsoft Teams account has the potential to affect the same user’s inbox. Darktrace then surgically interrupts the malicious activity before it takes effect in other parts of the business or affects other users, while Cyber AI Analyst autonomously investigates, triages, and reports on the incident – protecting users across Microsoft 365, Google Workspace, and beyond.

While traditional SaaS security tools rely on static rules and pre-defined policies to spot malicious behavior, Darktrace’s Cyber AI for SaaS works by learning a unique sense of ‘self’ for every user, device, and resource, understanding where and when they typically access their OneNote account, what files are they likely to receive via email, what videos they tend to upload to Microsoft Streams, and who they usually connect with in Google Hangouts. This enables Darktrace to detect, investigate, and respond to emerging threats in their earliest stages.

Key benefits

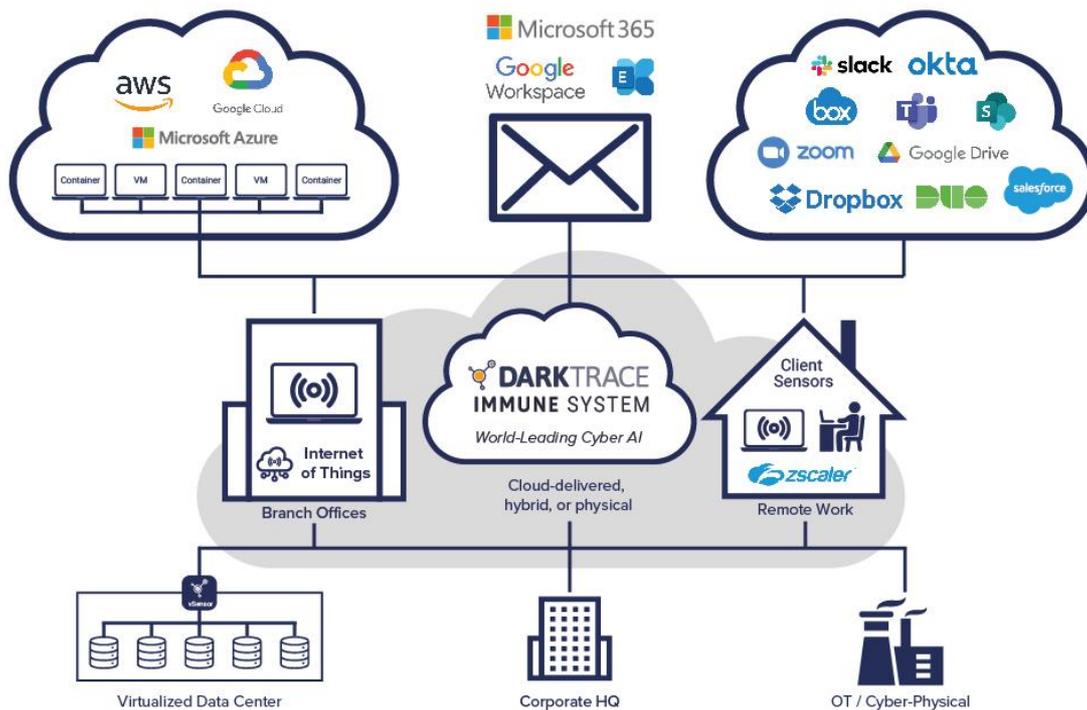
- Learns ‘on the job’ and adapts continuously
- Unified visibility across SaaS platforms
- Protects your workforce from every form of SaaS attack



Darktrace Immune System Platform

Antigena Email can be enriched with additional data sources when deployed as part of the wider Darktrace Immune System platform. This allows it to incorporate behavior and insights from other parts of the organization, adjusting an email's threat level in light of its findings.

Such a contextual understanding of 'normal' across a user's diverse environments allows the AI to extend its capabilities even further. With unparalleled visibility and real-time user data, Darktrace helps organizations unify the digital patchwork and provides unmatched protection against even the most sophisticated of cyber-threats.



Our Cyber AI is uniquely capable of uncovering rare and previously unidentifiable patterns in information. Analogous to the human immune system, Darktrace identifies unpredictable threats inside your digital business - wherever they originate - and contains them in real time.

As a self-learning technology, the AI can adapt and expand alongside your evolving organization, extending autonomous threat detection, investigation, and response to the cloud, SaaS, email, IoT, OT, endpoints, and the traditional network – wherever it is needed.

Truly self-learning, enterprise-wide security has arrived.

Pricing

Working with Darktrace is more than a subscription – it’s a partnership. As a customer, you’ll receive:

- A dedicated account team
- Expert integration support
- Regular training
- Customer Support Helpline, open 24/7
- Access to the Darktrace Customer Portal, providing regular updates, exclusive analyst blogs, and more
- Access to Darktrace Tech Meetups and other exclusive customer events
- A free 30-day activation of a component of the Darktrace Immune System platform every quarter

Pricing details

The pricing below is for a **41-month software license covering 400 users**.

Standard payment terms are annual.

Breakdown	Standard Cost	SDMTS Discounted Cost <i>Signature by 9/27/2021</i>
Antigena Email	\$7/user per month	\$6.62/user per month
TOTAL SOLUTION COST	\$2,800 per month	\$2,649 per month
ANNUAL COST	\$33,600 per year	\$31,788 per year

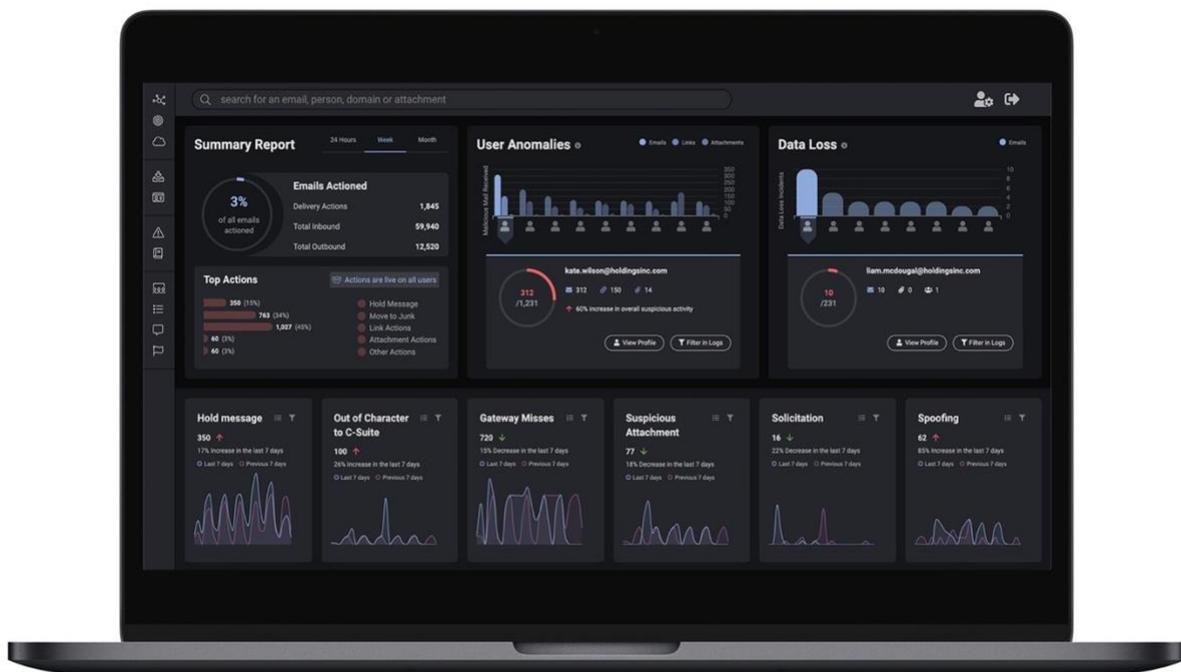
Darktrace Innovation Series

As we saw in 2020, everything can change in an instant. But few areas have had to pivot as quickly as cyber security. In a matter of days, CISOs and CIOs had to facilitate the transition to a dynamic mode of working, ensuring high levels of employee productivity while keeping their data and digital systems secure. Making this possible was innovation – Darktrace’s lifeblood.

To help your organization stay ahead of the latest challenges and secure the future of work, we are offering all customers an exclusive 30-day free activation of any part of the platform. This opportunity will renew every quarter, allowing you to protect the latest digital developments in your organization, with new platform updates continually being rolled out. These can be activated on our Darktrace Innovation Series page on the Customer Portal.

The Darktrace Innovation Series enables you to participate in our latest innovations as they develop, with exclusive access to our technology ahead of public release. As part of this program, we will provide you with a concise update of our innovations every quarter with the Innovation Series Brochure. You will also receive an invitation to the Darktrace Innovation Series Summit – a live streaming event exclusive to the Darktrace Customer Community where you’ll hear from our technologists and customers about how they are getting value from deploying these innovations.

Throughout your 30-day free activation, you will receive a dedicated account team and access to a range of resources, including technical training materials and regular Threat Intelligence Reports.



Industry Analyst Reviews



“The need for skilled analysts is increasing and outstripping the supply, even with all of the educational programmes available. Tools like the Darktrace AI Analyst add power to the elbow; they’re a force multiplier for our scarce resource of human analysts.”

Jonathan Care, Research Director, Gartner



“The incorporation of unsupervised, supervised, and deep learning into its product offering puts Darktrace well ahead of the game and makes it a compelling candidate for any enterprise’s cyber security tooling plans.”

Mike Sapien, Principal Analyst, Omdia



“Darktrace thrives in complex digital environments, as the technology is adaptive and continues to revise its understanding of ‘normal’ in light of new evidence, enabling it to detect and respond to threats that other tools miss, while providing complete visibility across the digital infrastructure.”

Jonas Knudsen, Research Director, IDC



“Darktrace is the clear leader in anomaly detection”

Dan Cummins, Senior Analyst, 451 Research



“In terms of email security, this seems to be one of the best. Clean user interface and of great assistance for large attack vectors that could cause loss.”

Marsh Cyber Catalyst Insurers



“Darktrace’s ability to see and autonomously respond to the known knowns and unknowns is unparalleled by any other product out there and, with its expanded capabilities [in email] has ushered Darktrace to the leader of the pack.”

Alissa Knight, Senior Industry Analyst, Aite Group



“Darktrace’s autonomous response solution Antigena takes action against in-progress cyber-threats...The automatic quarantine response provides security teams valuable time to avoid major damage, especially when they can’t be on guard 24 hours a day.”

Jamie Snowdon, Principal Analyst, HFS Research

Customer Reviews



“ We rely on Darktrace AI to fight back against email attacks with complete autonomy and lightning speed - before damage is done.”

CIO, McLaren Group



“Antigena Email is a huge win for us going forward... Everything you could want out of email security. You get 5-10% of this visibility with Gsuite's dashboard.

CISO, Better.com



“We were shocked by the things our traditional tools didn't catch that Antigena Email did.”

CTO, Bunim/Murray



“Darktrace is the single most valuable security tool my team uses today.”

CISO, Aptean



“Using AI, Darktrace can detect and respond to email-borne threats and cloud-based attacks that other tools miss.”

CIO, City of Las Vegas



“When Antigena Email caught a spear phishing campaign that the Leader in the Magic Quadrant missed, we were convinced. The trial was over.”

CIO, Numeris



“With Antigena Email we're able to granularly address all of the email issues and see where our emails are really coming from.”

Associate Director of IT, Milton Keynes University Hospital



“Antigena Email has the ability to suspend all activity it deems malicious.”

General Manager, Global Travel



“It is crucial to be aware that cyber-warfare is a reality, not a distant threat only for the Fortune 500. Since we are using Darktrace Antigena Email I got a grip on this threat because I can see directly how many phishing attacks are tried daily.”

Head of IT and Organizations, KTR Systems

Gartner Peer Reviews

“Antigena Email is light years ahead of any other email security system.”
Cyber Security Vice President, Miscellaneous


“Fantastic product, easy to use and hugely effective, backed up by a great support team.”
CISO, Services


“Antigena Email is a gamechanger in the email threat detection landscape.”
Director of Business Solutions & IT, Transportation


“Truly autonomous security control with an impressive detection rate.”
Cyber Security Operations Manager, Manufacturing


“Darktrace Antigena Email has proved an extremely reliable and effective solution.”
CIO, Services


“Email protection for the next generation of threats.”
CIO, Financial Services


“Easy to integrate, painless to manage.”
IT Director, Manufacturing


“Darktrace had every feature I was looking for and some features I had not thought of.”
Director of Information Technology, Government


“Darktrace has quickly become my Threat Intelligence and Management team's favorite tool.”
AVP – Enterprise Information Security, Financial Services


“Darktrace is visionary – the leadership team are engaged, and they continue to develop their capability.”
Senior Director Information Security, Healthcare

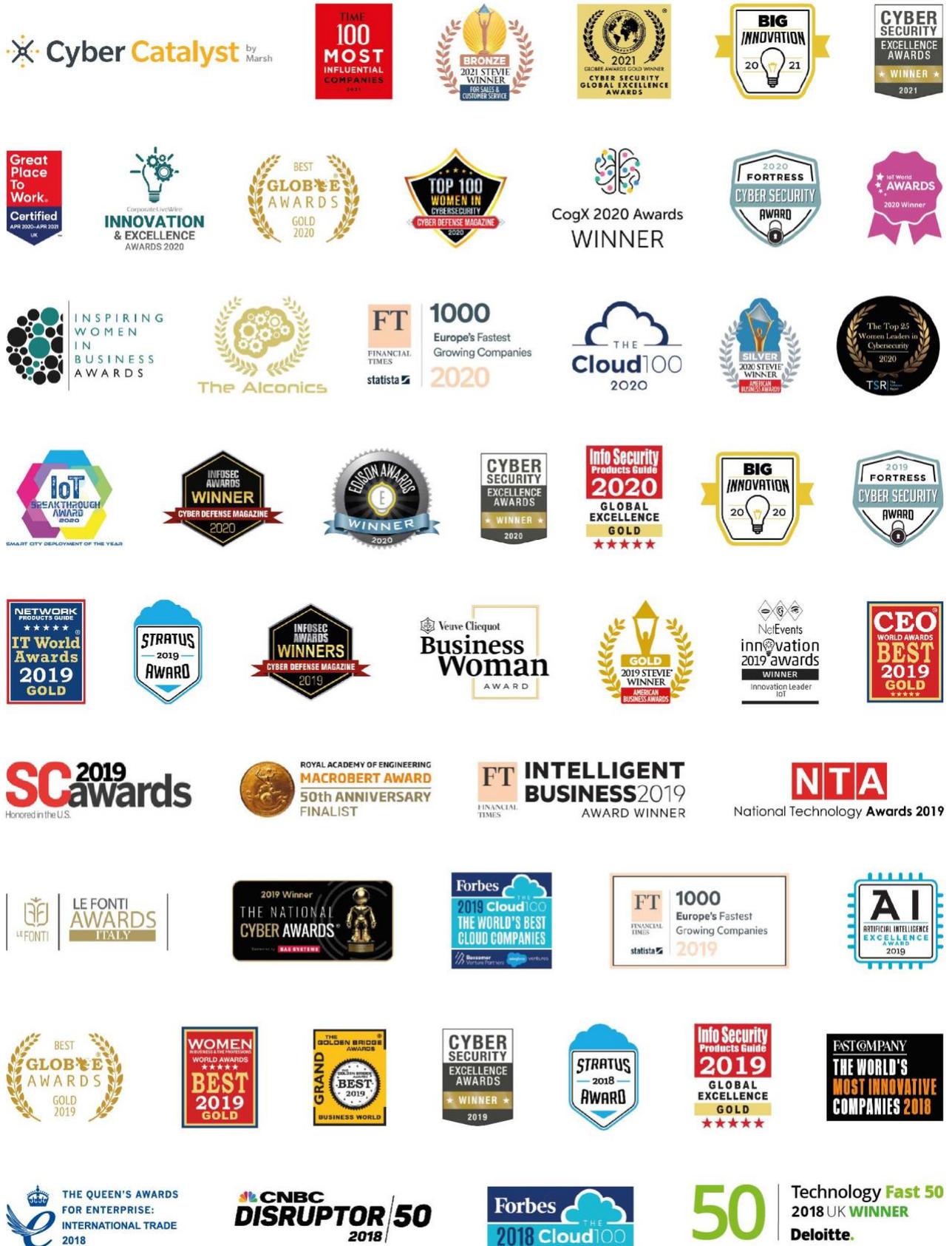

“An advanced email security solution that does what others can't.”
Director of Information Systems, Transportation


Selected Customers



NOT FOR DISTRIBUTION

Selected Awards





**Metropolitan
Transit
System**

Amendment 3

Effective Date: September 20, 2021

MTS Doc No. G2386.3-20

DARKTRACE CYBERSECURITY SOFTWARE

35T35TDarktrace Limited
35T35TRachel Elias-Jones
Financial Director
Maurice Wilkes Building, St. John’s Innovation Park,
Cowley Road, Cambridge, CB4 0DS, UK

This shall serve as Amendment No.3 to the original agreement G2386.0-20 as further described below.

SCOPE

This amendment shall provide the Darktrace Antigena Email Module as specified in Exhibit A.

SCHEDULE

The Darktrace Antigena Email Module shall be in place from October 1, 2021 through the term of the contract.

PAYMENT

This contract amendment shall authorize additional costs not to exceed \$108,650.00. The total value of this contract including this amendment shall be in the amount of \$851,959.00. This amount shall not be exceeded without prior written approval from MTS.

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

Sincerely,

Agreed:

Sharon Cooney, Chief Executive Officer

35TRachel Elias-Jones, 35TFinancial
Director
35TDarktrace Limited

Date: _____

Enclosure:

Exhibit A: Product Order Form Ref: 57701-202107-19-773858-TC

cc; R.DeGala, S.Elmer, J.Plaetzer, G.Dexter, Procurement File





**Metropolitan
Transit
System**

Agenda Item No. 15

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

DESIGN SERVICES FOR SOUTH BAY MAINTENANCE FACILITY (SBMF) ELECTRIC BUS
CHARGING PROJECT – WORK ORDER AMENDMENT

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Director authorize the Chief Executive Officer (CEO) to execute Work Order Amendment No. WOA2075-AE-50.04 (in substantially the same format as Attachment A) under MTS Doc No. G2075.0-18 with Dokken Engineering (Dokken) in the amount of \$297,720.80, for Design Support During Construction (DSDC) services.

Budget Impact

The total budget for this contract shall not exceed \$1,414,697.71. The project is funded by MTS Capital Improvement Program (CIP) budget number 100911131 – Charging Infrastructure at SBMF – Design.

DISCUSSION:

MTS currently operates and maintains a fleet of 235 Compressed Natural Gas (CNG) buses at the SBMF. In 2018, MTS staff applied for and received a Transit and Intercity Rail Capital Program (TIRCP) grant to add a new Rapid Bus Feeder service between Imperial Beach and the Otay Mesa International Border crossing, connecting both communities to the UC San Diego Blue Line Trolley. Consistent with the grant program's goal to significantly reduce emissions of greenhouse gases, the new Rapid route will be served by 12 new, 60-foot Battery Electric Buses (BEB).

The new service will be called Rapid Bus Route 925, operating at 7.5-minute headways in the peak hours, with buses from the SBMF on Main Street in Chula Vista. The charging infrastructure for these 12 new buses is needed to charge the buses overnight for morning service pull-out. As defined in the SBMF Master Plan, Phase 1 is the installation of chargers for 12 new 60-foot BEB's to support the Iris Rapid Project.



On March 19, 2020, the MTS Board approved a work order to Dokken Engineering for the SBMF electric bus concept layouts design work, including the preparation of a conceptual design for a full facility conversion to an all-electric bus fleet through phased installations. Dokken Engineering was selected from the MTS-SANDAG as-needed Architectural & Engineering (A&E) design consulting services list, which was created on January 12, 2016, following a competitive process.

On October 15, 2020, the MTS Board approved Amendment 1 to include final design services for Phase 1 of the project.

On June 17, 2021, the MTS Board ratified Amendment 2, to provide additional design services for Phase 2 of the project scope, modify the charger to dispenser ratio from 2:1 to 3:1, and provide building permit package support with the City of Chula Vista Development Services Department. Phase 2 of the master plan included chargers for eleven (11) new 40-foot BEBs, bringing the total charging capacity at SBMF to 23 buses.

On June 17, 2021, the MTS Board approved Amendment 3, for additional design services to include a permanent onsite natural gas generator for the project. The design for the generator also includes coordination with San Diego Gas & Electric (SDG&E) for a new gas service and meter.

Under proposed work order Amendment 4, Dokken shall provide DSDC services for the duration of construction which is anticipated to begin early 2022. Services include project management, jobsite meeting and coordination, submittal reviews, responses to Requests for Information (RFI), field observations, Design Revisions/Design Change Notices and the preparation of As-built plans as part of the Phase 1 final engineering design.

The Work Order and amendments are summarized below:

Work Order No.	Purpose	Amount	Board Approval Date
WOA2075-AE-50	Original Work Order – SBMF ZEB Electric Bus Concept Layouts	\$328,320.14	3/19/20, Item 9
WOA2075-AE-50.01	Amendment 1 – Final Design Phase 1	\$663,346.87	10/15/20, Item 15
WOA2075-AE-50.02	Amendment 2 – Add Phase 2 and modify charger ratio	\$88,412.96	6/17/21, Item 8
WOA2075-AE-50.03	Amendment 3 – Add Natural Gas Generator	\$36,896.94	6/17/21, Item 8
WOA2075-AE-50.04	Amendment 4 – Add DSDC services	\$297,720.80	Today's Proposed Action
Grand Total:		\$1,414,697.71	

Based on the level of effort and the design work involved for this project, staff determined the contract price to be fair and reasonable.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute Work Order Amendment No. WOA2075-AE-50.04 (in substantially the same format as

Attachment A) under MTS Doc No. G2075.0-18 with Dokken in the amount of \$297,720.80, for DSDC services.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachment: A. Draft Work Order WOA2075.0-50.04, MTS Doc No. G2075.0-18



**Metropolitan
Transit
System**

October 14, 2021

MTS Doc. No. G2075.0-18
WOA2075-AE-50.04

Mr. John Klemunes, PE
Regional Manager
Dokken Engineering
1450 Frazee Road, Suite 100
San Diego, CA 92108

Dear Mr. Klemunes:

Subject: MTS DOC. NO. G2075.0-18, WORK ORDER WOA2075-AE-50.04, DESIGN SERVICES FOR SOUTH BAY MAINTENANCE FACILITY (SBMF) ELECTRIC BUS CONCEPT LAYOUTS

This letter shall serve as Amendment No. 4 to our agreement for professional services, Work Order WOA2075-AE-50, under the General Engineering Consultant Agreement, MTS Doc. No. G2075.0-18, as further described below.

SCOPE OF SERVICES

This Amendment shall provide additional design support during construction (DSDC) services. Work provided under this Work Order will be performed in accordance with the attached Scope of Services (Attachment A).

SCHEDULE

As a result of this Amendment, the project completion date shall remain in effect through the completion of construction.

PAYMENT

This Amendment shall increase the payment amount by \$297,720.80. The revised payment shall not exceed \$1,414,697.71 without prior authorization of MTS (Attachment B).



Please sign below, and return the document to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect.

Sincerely,

Accepted:

Sharon Cooney
Chief Executive Officer

John Klemunes, PE
Regional Manager, Dokken Engineering

Date: _____

Attachments: A, Scope of Services
B, Negotiated Fee Proposal

ATTACHMENT A SCOPE OF SERVICES

MTS South Bay Maintenance Facility
Zero Emission Bus
PHASE 1 FINAL ENGINEERING DSDC SERVICES
Amendment 4

MTS has selected Dokken as the Prime Consultant and WSP as subconsultant to Dokken to provide schematic design, design development, and final engineering for Phase 1 of the new Battery Electric Bus (BEB) infrastructure at their South Bay Maintenance Facility (SBMF) in Chula Vista, Ca. The proposed infrastructure is the first phase of MTS's Master plan to replace the existing CNG bus fleet with electric buses over the next 20 years. Based on the final design documents the phase 1 facility will accommodate:

- A minimum of 12 new electric buses to be delivered in March 2022
- A modular and scalable design
- Provide for implementation without disruptions to current service
- Located within the west end of Lot B

I. SCOPE OF SERVICES

This task order is for Design Services During Construction which includes the following:

- Support during construction phase to address RFI's and Submittal packages, and any minor design changes required for the equipment, structural, electrical, photovoltaic solar panels, and CNG generator portions of the project. All references to RFI's, Submittals, design changes, etc. are based on the design disciplines listed above.

TASK 1: PROJECT MANAGEMENT

1.1. Project Management

The consultant will provide project management services that will include monthly progress reports, invoicing and administration of the project over the anticipated 12 month construction and closeout period.

- Prepare and submit monthly progress reports. Each report shall include summary of tasks in progress and completed, and projected tasks to be accomplished in the next period.

TASK 2: DESIGN SERVICES DURING CONSTRUCTION

Provide design support services during construction (DSDC) as directed by the MTS Project Manager. The budget for DSDC included is programmed to provide services to MTS for the period beginning at end of Bid Support thru the end of the construction period (anticipated to be a 9-month duration) plus project closeout.

DSDC effort shall include the following:

- 2.1 **Coordination:** Coordinate with and provide consultation to MTS's Project Manager either in person or via telephone/email during the construction phase of the project (a duration of 9 months). A maximum of 250 hours has been budgeted for this task and includes Project management, electrical, structural, mechanical, and equipment staff.
- 2.2 **Jobsite Meetings:** Attend weekly jobsite meetings as requested by MTS Project Manager and attended by the Contractor's representative and MTS's Project Manager. It is assumed that one to two people from the Consultant Team will attend the weekly meeting. It is assumed the meetings will be 1.5 hours in duration. Construction is scheduled to be completed within 9

months of notice to proceed. A maximum of 138 hours are budgeted for this task, and the consultant will assume to attend a total of 36 meetings.

- 2.3 **Review Submittals:** At the request of the MTS RE, the Consultant Team will review and approve or take other appropriate action in respect to Contractor-prepared submittals required by the specifications, including shop drawings, product catalog cut sheets, certificates of compliance, samples, and other data which the Contractor is required to submit, but only for general conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, purchasing regulation compliance, or procedures of construction or to related safety precautions and programs.

Submittals reviewed by the Consultant Team and returned to the MTS PM will be marked according to the action categories stated in the project special provisions with an electronic stamp, signature of the reviewer, and date of submittal review. The Consultant Team will endeavor to review submittals, recommend submittal action, and return submittals to the MTS PM within ten working days of receipt. The Consultant Team will retain one copy of submittal for record-keeping purposes.

A maximum of 214 hours has been budgeted for this task. This task is dependent on the submittals completeness.

- 2.4 **Respond to Requests for Information (RFI):** As directed by the MTS Project Manager, the Consultant Team will review and respond to reasonable and appropriate Contractor RFI's forwarded from the MTS Project Manager and issue necessary clarifications and interpretations of the Contract Documents as appropriate. Any orders authorizing variations from the Contract Documents will be made by the MTS PM. The Consultant Team will use SharePoint software system to respond to RFIs electronically. It is our assumption that the CM team would address the majority of the RFI's. Based on that assumption, a maximum of 250 hours has been budgeted for this task.

- 2.5 **Field Observations:** Structural observation at specific construction milestones as required by Code will be performed by Structural engineers. Construction observation for mechanical, electrical, equipment is not included. It is assumed that the CM team will handle any construction observation activities other than code requirements from structural. At the request of MTS, the Consultant Team staff may conduct site visits to respond to RFIs, to develop Change Orders, or to perform other specific tasks. A maximum of 79 hours has been budgeted for field observations. This assumes approximately 1 full day site visit for the structural engineer, one full day visit for the electrical engineer, and 1 full day visit for the equipment. These disciplines are not local to San Diego

- 2.6 **Prepare Design Revisions/Design Change Notices(DCN):** Prepare revisions to design drawings and technical specifications as directed by the MTS PM. Design revisions will be annotated in a manner directed by the MTS PM. Modifications to the project drawings and specifications may be required prior to and during the construction phase of the project. The Consultant Team will work with MTS to assess the purpose for implementing a potential change, to develop an appropriate solution, and will then develop corresponding revisions to the drawings and specifications. Design revisions may be in response to action required by an RFI, an unforeseen site condition, value-engineering, etc. and will be annotated in a manner directed by MTS. If requested by MTS, the Consultant Team will develop cost estimates to coincide with the proposed changes. Design revisions made in response to an unforeseen site condition, value engineering or a directive from MTS may entail design services that are not included in this scope of services. A fee estimate for the additional design services will be provided to MTS, and the fee amount agreed upon, prior to Consultant's proceeding with the change. Design revisions will be transmitted in PDF file format. A maximum of 152 hours has been budgeted for design revisions. Assume 2 minor revisions affecting 10 sheets.

- 2.7 **Project As-builts:** Prepare as-built plans for the project based on information provided by the Clients contractor, a final site visit of the project, and any approved design changes. The as-builts will be provided to Dokken in an electronic format for inclusion in the final As-built package to MTS. A maximum of 112 hours has been budgeted for the As-built package.

II. DELIVERABLES

Task 1

1. Monthly Progress Reports

Task 2

If required by the scope of services, three copies of each deliverable will be submitted, unless otherwise requested by MTS as well as electronically in PDF format so that MTS can print additional copies if necessary. Drawing submittals will be made with half size drawings.

III. SCHEDULE OF SERVICES/MILESTONES/DELIVERABLES

Based on an assumed NTP start date of January 2022 for start of construction.

IV. MATERIALS TO BE PROVIDED BY Dokken and/or MTS

N/A.

V. SPECIAL CONDITIONS/ASSUMPTIONS

Any condition listed below applies solely to this Task Order and does not otherwise alter the Agreement or other Task Orders. The Scope and Fees are based on the following assumptions.

- A. This task order will be limited to the time and materials fee budget negotiated as shown in Attachment B.
- B. Assumes Weekly jobsite meetings
- C. The project delivery method will be a single prime construction contractor using the design/bid/build approach.
- D. Three copies of each deliverable will be submitted, unless otherwise requested by MTS, as well as electronically in PDF format so that MTS can print additional copies if necessary. Drawing submittals (prior to final drawings) will be made with half size drawings.
- E. Out of town travel expenses is included during the construction phase if needed for observation. This service would be for non-San Diego based WSP staff.

VI. MTS ACCEPTANCE OF SERVICES:

Contractor shall not be compensated at any time for unauthorized work outside of this Work Order. Contractor shall provide notice to MTS' Project Manager upon 100% completion of this Work Order. Within five (5) business days from receipt of notice of Work Order completion, MTS' Project Manager shall review, for acceptance, the 100% completion notice. If Contractor provides final service(s) or final work product(s) which are found to be unacceptable due to Contractors and/or Contractors subcontractors negligence and thus not 100% complete by MTS' Project Manager, Contractor shall be required to make revisions to said service(s) and/or work product(s) within the Not to Exceed (NTE) Budget. MTS reserves the right to withhold payment associated with this Work Order until the Project Manager provides written acceptance for the 100% final completion notice. Moreover, 100% acceptance and final completion will be based on resolution of comments received to the draft documents and delivery of final documentation which shall incorporate all MTS revisions and comments.

Monthly progress payments shall be based on hours performed for each person/classification identified in the attached Fee Schedule and shall at no time exceed the NTE. Contractor shall only be compensated for actual performance of services and at no time shall be compensated for services for which MTS does not have an accepted deliverable or written proof and MTS acceptance of services performed.

VII. DEFICIENT WORK PRODUCT:

Throughout the construction management and/or implementation phases associated with the services rendered by the Contractor, if MTS finds any work product provided by Contractor to be deficient and the deficiently delays any portion of the project, Contractor shall bear the full burden of their deficient work and shall be responsible for taking all corrective actions to remedy their deficient work product including but not limited to the following:

- Revising provided documents,

At no time will MTS be required to correct any portion of the Contractors deficient work product and shall bear no costs or burden associated with Contractors deficient performance and/or work product.

VIII. DELIVERABLE REQUIREMENTS

Contractor will be required to submit any and all documentation required by the Scope of Work. The deliverables furnished shall be of a quality acceptable to MTS. The criteria for acceptance shall be a product of neat appearance, well-organized, and procedurally, technically and grammatically correct. MTS reserves the right to request a change in the format if it doesn't satisfy MTS's needs. All work products will become the property of MTS. MTS reserves the right to disclose any reports or material provided by the Contractor to any third party.

Contractor shall provide with each task, a work plan showing the deliverables schedule as well as other relevant date needed for Contractor's work control, when and as requested by MTS.

Contractor's computer data processing and work processing capabilities and data storage should be compatible with Windows compatible PC's, text files readable in Microsoft Word, and standard and customary electronic storage. Contractor shall maintain backup copies of all data conveyed to MTS.

Contractor shall provide MTS with hard copy or electronic versions of reports and/or other material as requested by MTS.

IX. PRICING

Pricing shall be firm and fixed for the duration of the Work Order and any subsequent Change Orders/Amendments to the Work Order. There shall be no escalation of rates or fees allowed.

X. ADDITIONAL INFORMATION

List additional information as applicable to the specific Work Order scope of services.

XI. PREVAILING WAGE

Prevailing wage rates apply to certain personnel for these services? Yes No

If yes, please list classification subject to prevailing wage rates:

ATTACHMENT B NEGOTIATED FEE PROPOSAL

Work Order Estimate Summary

Att. A, AI 15, 10/14/2021

MTS Doc. No. G2075.0-18
Work Order No. WOA2075-AE-50.04
Attachment: B

Work Order Title: MTS SBMF ZEB (Phase 1) DSDC - Amendment 4

Project No:

Table 1 - Cost Codes Summary (Costs & Hours)

Item	Cost Codes	Cost Codes Description	Total Costs
1		Labor	\$293,289.80
2		ODC	\$4,431.00

Totals = \$297,720.80

Table 2 - TASKS/WBS Summary (Costs & Hours)

Item	TASKS/WBS	TASKS/WBS Description	Labor Hrs	Total Costs
1	Task 1	PROJECT MANAGEMENT	96.0	\$25,761.66
2	Task 2	DESIGN SERVICES DURING CONSTRUCTION	1,195.0	\$271,959.14
3				
4				
5				
6				
7				

Totals = 1,291.0 \$297,720.80

Table 3 - Consultant/Subconsultant Summary (Costs & Hours)

(If Applicable, Select One)				Consultant	Labor Hrs	Total Costs
DBE	DVBE	SBE	Other			
				Dokken	235.0	\$45,529.51
				WSP	1,056.0	\$252,191.29

Totals = 1,291.0 \$297,720.80

Work Order Estimate Summary

Att. A, AI 15, 10/14/2021

Total Hours =

235

Total Costs =

\$45,529.51

Consultant/Subconsultant:

DOKKEN

MTS Doc. No.:

G2075.0-18

Work Order No.:

WOA2075-AE-50.04

Work Order Title:

MTS SBMF ZEB (Phase 1) DSDC - Amendment 4
--

Attachment:

B

Item	TASKS/WBS	TASKS/WBS Description	ODCs	Principal	Senior Engineer	Associate Engineer	Engineering Tech				Total Hours	Totals
1	Task 1	PROJECT MANAGEMENT										
1.1	Project Management			12	12						24	\$6,012.36
	ODC											
		Subtotals (Hours) =	N/A	12	12						24	\$6,012.36
		Subtotals (Costs) =		\$3,279.48	\$2,732.88						24	\$6,012.36
2	Task 2	DESIGN SERVICES DURING CONSTRUCTION										
2.1	Coordination			5	10						15	\$3,643.85
2.2	Jobsite Meetings			8	40						48	\$11,295.92
2.3	Review Submittals			4	4	12	8				24	\$3,765.24
2.4	Respond to Requests for Information (RFI)				12	16	8				36	\$6,243.04
2.5	Field Observations				8	8	8				24	\$4,020.32
2.6	Prepare Design Revisions/Design Change Notices (DCN)			2	6	8	8				24	\$4,111.42
2.7	As-Built plans			2	8	14	16				40	\$6,437.36
	ODC											
		Subtotals (Hours) =	N/A	17	88	58	48				211	\$39,517.15
		Subtotals (Costs) =		\$4,645.93	\$20,041.12	\$9,510.26	\$5,319.84				211	\$39,517.15
		Totals (Summary) =									235	\$45,529.51
		Total (Hours) =	N/A	29	100	58	48				235	
		Total (Costs) =		\$7,925.41	\$22,774.00	\$9,510.26	\$5,319.84					\$45,529.51
		Percentage of Total (Hours) =	N/A	12%	43%	25%	20%				100%	
		Percentage of Total (Costs) =		17%	50%	21%	12%					100%

Work Order Estimate Summary

Att. A, AI 15, 10/14/2021

Consultant/ Subconsultant:

Contract No:

Work Order Title:

Task Order No.

Attachment:

TASKS/WBS (1-5)

ODC Item	Description	Unit	Unit Cost	Task 1		Task 2		Task 3		Task 4		Task 5	
				Quantity	Total								
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													

Subtotal = Subtotal = Subtotal = Subtotal = Subtotal =

TASKS/WBS (6-10)

ODC Item	Description											Totals	
		Quantity	Total										
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													

Subtotal = Subtotal = Subtotal = Subtotal = Subtotal = Totals =

Work Order Estimate Summary

Att. A, AI 15, 10/14/2021

Total Hours =	1,056
Total Costs =	\$252,191.29

Consultant/Subconsultant: **WSP**

MTS Doc. No.: **G2075.0-18**

Work Order No.: **WOA2075-AE-50.04**

Work Order Title: **MTS SBMF ZEB (Phase 1) DSDC - Amendment 4**

Attachment: **B**

Item	TASKS/WBS	TASKS/WBS Description	ODCs	Senior Engineering Manager	Project Controls Specialist	Staff Manager	Engineer 1	Senior Supervising Engineer	Engineer II	Senior Technical Specialist	Total Hours	Totals
				\$335.96	\$146.53	\$281.52	\$99.56	\$251.64	\$121.92	\$169.95		
1	Task 1	PROJECT MANAGEMENT										
1.1	Project Management			48	24						72	\$19,642.80
	ODC		\$106.50									\$106.50
		Subtotals (Hours) =	N/A	48	24						72	\$19,749.30
		Subtotals (Costs) =	\$106.50	\$16,126.08	\$3,516.72						72	\$19,749.30
2	Task 2	DESIGN SERVICES DURING CONSTRUCTION										
2.1	Coordination			50		90		60		35	235	\$63,181.45
2.2	Jobsite Meetings			90							90	\$30,236.40
2.3	Review Submittals			20		50	20	30	40	30	190	\$40,310.90
2.4	Respond to Requests for Information (RFI)			20		60	40	40	24	30	214	\$45,682.98
2.5	Field Observations					15		40			55	\$14,288.40
2.6	Prepare Design Revisions/Design Change Notices (DCN)			4		8	40	16	20	40	128	\$20,841.04
2.7	As-Built plans			4		8	8	16	20	16	72	\$13,576.32
	ODC		\$4,324.50									\$4,324.50
		Subtotals (Hours) =	N/A	188		231	108	202	104	151	984	\$232,441.99
		Subtotals (Costs) =	\$4,324.50	\$63,160.48		\$65,031.12	\$10,752.48	\$50,831.28	\$12,679.68	\$25,662.45	984	\$232,441.99
	Totals (Summary) =											
	Total (Hours) =		N/A	236	24	231	108	202	104	151	1,056	\$252,191.29
	Total (Costs) =		\$4,431.00	\$79,286.56	\$3,516.72	\$65,031.12	\$10,752.48	\$50,831.28	\$12,679.68	\$25,662.45		\$252,191.29
	Percentage of Total (Hours) =		N/A	22%	2%	22%	10%	19%	10%	14%	100%	
	Percentage of Total (Costs) =		2%	31%	1%	26%	4%	20%	5%	10%		100%

**Work Order Estimate
Summary**

Att. A, AI 15, 10/14/2021

Consultant/ Subconsultant: **DOKKEN**

Contract No: **G2075.0-18**

Work Order Title: **MTS SBMF ZEB (Phase 1) DSDC - Amendment 4**

Task Order No. **WOA2075-AE-50.04**

Attachment: **B**

TASKS/WBS (1-5)

ODC Item	Description	Unit	Unit Cost	Task 1		Task 2		Task 3		Task 4		Task 5	
				Quantity	Total	Quantity	Total	Quantity	Total	Quantity	Total	Quantity	Total
1	Repro & Graphics	LS	\$1.00			200	\$200.00						
2	Deliveries	LS	\$1.00										
3	mileage	MI	\$0.565	100	\$56.50	1,300	\$734.50						
4	Scanning	LS	\$1.00										
5	Other (Photo, parking, etc.)	LS	\$1.00	50	\$50.00	50	\$50.00						
6	Aerial Photography	LS	\$1.00										
7	Hotel	EA	\$250.00			4	\$1,000.00						
8	Meals	EA	\$100.00			4	\$400.00						
9	Airfare	EA	\$800.00			2	\$1,600.00						
10	Rental Car	LS	\$85.00			4	\$340.00						
				Subtotal =	\$106.50	Subtotal =	\$4,324.50	Subtotal =		Subtotal =		Subtotal =	

TASKS/WBS (6-10)

ODC Item	Description											Totals	
		Quantity	Total	Quantity	Total								
1	Repro & Graphics											200	\$200.00
2	Deliveries												
3	mileage											1,400	\$791.00
4	Scanning												
5	Other (Photo, parking, etc.)											100	\$100.00
6	Aerial Photography												
7	Hotel											4	\$1,000.00
8	Meals											4	\$400.00
9	Airfare											2	\$1,600.00
10	Rental Car											4	\$340.00
		Subtotal =		Subtotal =		Subtotal =		Subtotal =		Subtotal =		Totals =	\$4,431.00



**Metropolitan
Transit
System**

Agenda Item No. 16

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

BUILDING C ROLLUP DOOR REPLACEMENT PHASE 2 – WORK ORDER AMENDMENT

RECOMMENDATION:

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

- 1) Ratify Change Order No. MTSJOC275-15.03 under Job Order Contract (JOC) MTS Doc No. PWG275.0-19 (Attachment A) with ABC General Contractor, Inc. (ABCGC) in the amount of \$20,700.03, for additional steel work for Phase I due to unforeseen conditions;
- 2) Ratify Change Order No. MTSJOC275-15.04 under JOC MTS Doc No. PWG275.0-19 (Attachment B) with ABCGC in the amount of \$10,446.41, for the addition of metal flashing the door openings for Phase I; and
- 3) Authorize the Chief Executive Officer (CEO) to execute Change Order No. MTSJOC275.0-15.05 (in substantially the same format as Attachment C), under JOC MTS Doc. No. PWG275.0-15, with ABCGC, for the provision of labor, materials and equipment in the amount of \$299,986.94 for Phase II of the removal and replacement of the rollup doors, door threshold, and addition of flood barriers at Building C.

Budget Impact

The total budget for this contract shall not exceed \$299,986.94. Under separate MTS Doc No. L1282.0-16 with The Gordian Group, MTS will pay a 1.95% JOC software license fee in the amount of \$5,791.25. This project is funded by MTS Capital Improvement Project (CIP) 2006109601 – Building C Door Replacement.

DISCUSSION:

Today's proposed action will allow MTS to move forward with the second and final phase to upgrade the doors at Trolley Maintenance Facility, Building C. The Phase I project will include removal and replacement of five sets of existing bi-fold doors at the northwest end of the building with roll up doors that match the Phase I installation at the east end and west side of this building. To accommodate the hardware of the new roll up doors, the structural frame of



each door will be modified. The work also includes modification of the catenary line to allow for simple disconnect and reconnect of trolley catenary line during door operation. This project also includes the installation of a flood barrier system at each door opening to protect the building, and the equipment inside the building, from water damage.

The Work Order and subsequent Change Orders are summarized below:

Work Order No.	Purpose	Amount	Board Approval Date
MTSJOC275-15	Original Work Order – Building C Rollup Door Replacement	\$247,497.55	12/10/20, AI 10
MTSJOC275.15.01	Cancelled	Cancelled	N/A
MTSJOC275.15.02	Cancelled	Cancelled	N/A
MTSJOC275.15.03	Additional steel work due to unforeseen conditions	\$20,700.03	CEO approval 7/9/2021 per Board Policy No. 41
MTSJOC275.15.04	Addition of metal flashing the door openings	\$10,446.41	CEO approval 7/9/2021 per Board Policy No. 41
MTSJOC275.15.03	Removal and replacement of the rollup doors, door threshold, and addition of flood barriers	\$299,986.94	Today's proposed action
TOTAL:		\$578,630.93	

MTS utilizes an on-call contract for JOC General Civil Construction services that primarily consists of repair, remodeling, or other repetitive work for general civil and site improvements, including earthwork, utilities, paving, concrete, drainage, landscaping mitigation, site clearing, and all required incidental professional and technical services.

JOC is a procurement method under which public agencies may accomplish frequently encountered repairs, maintenance, and construction projects through a single, competitively procured long-term agreement.

The JOC program includes a catalogue of pricing for a variety of potential tasks to be performed under the contract that have been pre-priced by the contractor, the Gordian Group. On June 13, 2019, (AI 12), the MTS Board approved a JOC General Civil Construction services contract with ABCGC for on-call services between July 1, 2019 and June 30, 2022. On December 10, 2020 (AI 10), the MTS Board of Directors authorized a Job Order Contract (JOC) work order with ABCGC for Phase I of the Building C Rollup Door Replacement project work.

Today's proposed action would issue a change order to ABCGC for the Phase II of the Building C Rollup Door Replacement project. Pricing for this repair work order was reviewed and determined to be fair and reasonable. ABCGC will be providing all materials, labor, equipment for the installation of the roll-up doors at Building C. Work is expected to be completed by June 2022.

Therefore, staff recommends that the MTS Board of Directors:

- 1) Ratify Change Order No. MTSJOC275-15.03 under Job Order Contract (JOC) MTS Doc No. PWG275.0-19 (Attachment A) with ABCGC in the amount of \$20,700.03, for additional steel work for phase I due to unforeseen conditions;
- 2) Ratify Change Order No. MTSJOC275-15.04 under JOC MTS Doc No. PWG275.0-19 (Attachment B) with ABCGC in the amount of \$10,446.41, for the addition of metal flashing the door openings for phase I; and
- 3) Authorize the CEO to execute Change Order No. MTSJOC275.0-15.05 (in substantially the same format as Attachment C), under JOC MTS Doc. No. PWG275.0-15, with ABCGC, for the provision of labor, materials and equipment in the amount of \$299,986.94 for phase II of the removal and replacement of the rollup doors, door threshold, and addition of flood barriers at Building C.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. Work Order Contract MTSJOC275-15.03, MTS Doc No. PWG275.0-19
B. Work Order Contract MTSJOC275-15.04, MTS Doc No. PWG275.0-19
C. Work Order Contract MTSJOC275-15.05, MTS Doc No. PWG275.0-19 Draft



CONSTRUCTION CHANGE ORDER

Project Name: Building C Rollup Doors	Date: 6.22.21
To: MTS	Contract Number: MTSJOC275-15
From (Contractor): ABC General Contractor, Inc.	CCO Number: 03

Description of Work **Fieldwork Directive Issued:** 4/30/2021

This CCO is prepared in accordance with and incorporates Section Changes and Extra Work of the Contract Documents and consists of:
 Additional steel work due to unforeseen condition. **CCOs 1 and 2 were cancelled in the Gordian Cloud.**

A. Contractor Cost Proposal

\$ 20,700.03 L.S.
 _____ L.S.

Subtotal A: \$ 20,700.03

B. Subcontractors Costs

\$ -

Subtotal B: \$ -

C. Contractor Credits

Subtotal C: \$ -

Total = (A + B + C) Total: \$ 20,700.03

Original Contract value:	\$ 247,497.55
Adjustment by Change Order No. X through Change Order X (if applicable)	\$ -
Adjustment by this Change Order	\$ 20,700.03
New Contract Amount Total:	\$ 268,197.58

The Contract Time due to this Change Order will be: Increased Decreased Unchanged by 0 days

Original Completion Date:	6/26/21
Adjustment by Change Order No. X through Change Order X (if applicable)	
Adjustment by this Change Order	0
New Completion Date	6/26/21

Milestones Affected: _____

 Contractor	<u>6/28/21</u> Date:	 MTS Chief Executive Officer	<u>07/09/2021</u> Date:
----------------	-------------------------	---------------------------------	----------------------------

Follow all applicable procedures and provide all appropriate documentation as required by the Contract Documents.

EXHIBIT A (Scope of Work)



San Diego Metropolitan Transit System

1255 Imperial Ave
San Diego, CA 92101

Final Scope of Work

Date: 6/22/2021

Job Order Contracting

To:	From:
Contract No:	PWG275.0-19
Job Order No:	MTSJOC275-15.03
Job Order Title:	Building C Rollup Doors
Location:	Building C 1535 Newton Ave Yard Tower, & Paint Booth San Diego, CA 92113
Brief Scope of Work:	Additional steel work due to unforeseen condition

Owner Project Manager

Date

EXHIBIT B (Cost Breakdown)



Price Proposal Detail

By Division Report

Version: 2.0

Approved 06/03/2021 10:26:24 AM PST

Job: MTSJOC275-15.03: Building C Rollup Doors

JOC Name (Contractor): ABC Construction Co., Inc.
Contract Name: 2019 - General Civil - ABC
Contract Number: PWG275.0-19
Job Order Number: MTSJOC275-15.03
Job Order Title: Building C Rollup Doors
Location: Building C
Cost Proposal Date: June 3, 2021
Proposal Value: \$20,700.03

Division		NPP Total	Division Totals
01	General Requirements	\$0.00	\$6,324.28
05	Metals	\$0.00	\$14,375.75
Proposal Total(Filterd):			\$20,700.03
The Percentage of Non Pre-Priced on this Proposal:			0.00%



Price Proposal Detail

By Division Report

Version: 2.0

Approved 06/03/2021 10:26:24 AM PST

Job: MTSJOC275-15.03: Building C Rollup Doors

JOC Name (Contractor): ABC Construction Co., Inc.
Contract Name: 2019 - General Civil - ABC
Contract Number: PWG275.0-19
Job Order Number MTSJOC275-15.03
Job Order Title Building C Rollup Doors
Location: Building C
Cost Proposal Date: June 3, 2021
Proposal Value: \$20,700.03

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
01 General Requirements							\$6,324.28				
1	012220000037		HR	Structural Steel Worker							
Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal	
		Installation	HR	38.00	x	\$86.64	x	1.1918	=	\$3,923.79	
Equipment Excluded		Materials Excluded								\$3,923.79	
User Note:											
Item Note: For tasks not included in the Construction Task Catalog® and as directed by owner only.											
Owner Comments:											
Contractor Comments: V:1.1-Steel Fabrication on site											
2	012223000058		DAY	25' Electric, Scissor Platform Lift							
Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal	
		Installation	DAY	4.00	x	\$226.04	x	1.1918	=	\$1,077.58	
Labor Excluded		Equipment Excluded								\$1,077.58	
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments: V:1.1-two lifts 2 days each											
3	012223000941		DAY	5,000 LB Telescopic Boom, Hi-Reach, Rough Terrain Construction Forklift With Full-Time Operator							
Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal	
		Installation	DAY	1.00	x	\$1,110.01	x	1.1918	=	\$1,322.91	
Equipment Excluded											\$1,322.91
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											



Price Proposal Detail

By Division Report

Version: 2.0

Approved 06/03/2021 10:26:24 AM PST

Job: MTSJOC275-15.03: Building C Rollup Doors

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total
05 Metals							\$14,375.75
4	051223000090		TON	Structural Shapes, Steel Plate A36 Structural Steel			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	TON		2.00	x \$5,158.19	x 1.1918 = \$12,295.06
		Demo	TON		2.00	x \$872.92	x 1.1918 = \$2,080.69
							\$14,375.75
User Note:							
Item Note: Up to 21.5 LB per SF							
Owner Comments:							
Contractor Comments: V:1.1-New structural steel beams							
Total:							\$20,700.03
Proposal Total(Filtered):							\$20,700.03
The Percentage of Non Pre-Priced on this Proposal:							0.00%

EXHIBIT C
(Subcontractor Listing)

San Diego Metropolitan Transit System

1255 Imperial Ave
San Diego, CA 92101

Subcontractor Report

Date: 6/22/2021

Job Order Contracting

Contract #: PWG275.0-19
Job Order #: MTSJOC275-15.03
Job Order Title: Building C Rollup Doors
Location: Building C
Contractor: ABC Construction Co., Inc.
Subcontractor:

Subcontractor Name	License Number	Describe Nature of Work (Trade)	Certifications	Subcontractor Total	%
--------------------	----------------	---------------------------------	----------------	---------------------	---



CONSTRUCTION CHANGE ORDER

Project Name: **Building C Rollup Doors** Date: **6.22.21**

To: **MTS** Contract Number: **MTSJOC275-15**

From (Contractor): **ABC General Contractor, Inc.** CCO Number: **04**

Description of Work **Fieldwork Directive Issued:**

This CCO is prepared in accordance with and incorporates Section Changes and Extra Work of the Contract Documents and consists of:
 Addition of metal flashing around door opening. **CCOs 1 and 2 were cancelled in the Gordian Cloud.**

A. Contractor Cost Proposal

\$ 10,446.41 L.S.
 _____ L.S.

Subtotal A: \$ 10,446.41

B. Subcontractors Costs

\$ -

Subtotal B: \$ -

C. Contractor Credits

Subtotal C: \$ -

Total = (A + B + C) Total: \$ 10,446.41

Original Contract value:	\$	247,497.55
Adjustment by Change Order No. 3 through Change Order 3 (if applicable)	\$	20,700.03
Adjustment by this Change Order	\$	10,446.41
New Contract Amount	Total: \$	278,643.99

The Contract Time due to this Change Order will be: Increased Decreased Unchanged by 60 days

Original Completion Date:	6/26/21
Adjustment by Change Order No. 3 through Change Order 3 (if applicable)	0
Adjustment by this Change Order	60
New Completion Date	8/25/21

Milestones Affected: _____

 Contractor	Date: <u>6/28/21</u>	 MTS Chief Executive Officer	Date: <u>07/09/2021</u>
----------------	----------------------	---------------------------------	-------------------------

Follow all applicable procedures and provide all appropriate documentation as required by the Contract Documents.

EXHIBIT A (Scope of Work)



San Diego Metropolitan Transit System

1255 Imperial Ave
San Diego, CA 92101

Final Scope of Work

Date: 6/22/2021

Job Order Contracting

To:	From:
Contract No:	PWG275.0-19
Job Order No:	MTSJOC275-15.04
Job Order Title:	Building C Rollup Doors
Location:	Building C 1535 Newton Ave Yard Tower, & Paint Booth San Diego, CA 92113
Brief Scope of Work:	Addition of metal flashing around door opening

Owner Project Manager

Date

EXHIBIT B (Cost Breakdown)



Price Proposal Detail

By Division Report

Version: 2.0

Approved 06/03/2021 10:45:17 AM PST

Job: MTSJOC275-15.04: Building C Rollup Doors

JOC Name (Contractor): ABC Construction Co., Inc.
Contract Name: 2019 - General Civil - ABC
Contract Number: PWG275.0-19
Job Order Number: MTSJOC275-15.04
Job Order Title: Building C Rollup Doors
Location: Building C
Cost Proposal Date: June 3, 2021
Proposal Value: \$10,446.41

Division		NPP Total	Division Totals
01	General Requirements	\$0.00	\$3,584.03
07	Thermal And Moisture Protection	\$0.00	\$6,862.38
Proposal Total(Filtered):			\$10,446.41
The Percentage of Non Pre-Priced on this Proposal:			0.00%



Price Proposal Detail

By Division Report

Version: 2.0

Approved 06/03/2021 10:45:17 AM PST

Job: MTSJOC275-15.04: Building C Rollup Doors

JOC Name (Contractor): ABC Construction Co., Inc.
Contract Name: 2019 - General Civil - ABC
Contract Number: PWG275.0-19
Job Order Number MTSJOC275-15.04
Job Order Title Building C Rollup Doors
Location: Building C
Cost Proposal Date: June 3, 2021
Proposal Value: \$10,446.41

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total
01 General Requirements							\$3,584.03
1	012220000033		HR	Sheet Metal Worker			
				<i>Accepted</i>	Quantity	x Unit Price	x Factor = LineTotal
			Installation	HR	24.00	x \$78.21 x 1.1918 =	\$2,237.06
Equipment Excluded			Materials Excluded				\$2,237.06
User Note:							
Item Note: For tasks not included in the Construction Task Catalog® and as directed by owner only.							
Owner Comments:							
Contractor Comments:							
2	012223000058		DAY	25' Electric, Scissor Platform Lift			
				<i>Accepted</i>	Quantity	x Unit Price	x Factor = LineTotal
			Installation	DAY	5.00	x \$226.04 x 1.1918 =	\$1,346.97
Labor Excluded			Equipment Excluded				\$1,346.97
User Note:							
Item Note:							
Owner Comments:							
Contractor Comments:							



Price Proposal Detail

By Division Report

Version: 2.0

Approved 06/03/2021 10:45:17 AM PST

Job: MTSJOC275-15.04: Building C Rollup Doors

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
07 Thermal And Moisture Protection							\$6,862.38				
3	074113000027		LF	Valley Flashing For Aluminum Exposed Fastener Metal Roofing							
				Quantity	x	Unit Price	x	Factor	=	LineTotal	
				200.00	x	\$28.79	x	1.1918	=	\$6,862.38	
										\$6,862.38	
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											
										Total:	\$10,446.41
										Proposal Total(Filtered):	\$10,446.41
										The Percentage of Non Pre-Priced on this Proposal:	0.00%

EXHIBIT C
(Subcontractor Listing)

San Diego Metropolitan Transit System

1255 Imperial Ave
San Diego, CA 92101

Subcontractor Report

Date: 6/22/2021

Job Order Contracting

Contract #: PWG275.0-19
Job Order #: MTSJOC275-15.04
Job Order Title: Building C Rollup Doors
Location: Building C
Contractor: ABC Construction Co., Inc.
Subcontractor:

Subcontractor Name	License Number	Describe Nature of Work (Trade)	Certifications	Subcontractor Total	%
--------------------	----------------	---------------------------------	----------------	---------------------	---

EXHIBIT A
(Scope of Work)



San Diego Metropolitan Transit System

1255 Imperial Ave
San Diego, California 92101

Final Scope of Work

Date: 9/22/2021

Job Order Contracting

To:	From:
Contract No:	PWG275.0-19
Job Order No:	MTSJOC275-15.05
Job Order Title:	Building C Rollup Doors - Phase II
Location:	Building C 1535 Newton Ave Yard Tower, & Paint Booth San Diego, CA 92113

Brief Scope of Work: Addition of 5 rollup doors on west side of building C. Contractor is to demo existing bifolding doors, modifying catenary system, installed steel frame capable of withstanding 2000 lb tension from catenary cable, install new roll up doors with same make and model of phase 1 doors and procure install flood barriers for these five doors. Contractor is to coordinate flood barrier pricing for southside rollup door as well as procuring and furnishing 10 spare foam inserts for rail gasketing to MTS as spares.

Addition of 5 rollup doors on west side of building C. Contractor is to demo existing bifolding doors, modifying catenary system, installed steel frame capable of withstanding 2000 lb tension from catenary cable, install new roll up doors with same make and model of phase 1 doors and procure install flood barriers for these five doors. Contractor is to coordinate flood barrier pricing for southside rollup door as well as procuring and furnishing 10 spare foam inserts for rail gasketing to MTS as spares.

Owner Project Manager

Date

EXHIBIT B
(Cost Breakdown)



JOC Name (Contractor): ABC General Inc.
Contract Name: 2019 - General Civil - ABC
Contract Number: PWG275.0-19
Job Order Number: MTSJOC275-15.05
Job Order Name: Building C Rollup Doors - Phase II
Location: Building C
Cost Proposal Date: August 27, 2021
Proposal Value: \$299,986.94

Division		NPP Total	Demo	Division Totals
01	General Requirements	\$0.00	\$0.00	\$87,173.62
02	Existing Conditions	\$0.00	\$0.00	\$564.94
05	Metals	\$0.00	\$16,669.66	\$73,986.14
06	Wood, Plastics, and Composites	\$0.00	\$0.00	\$212.06
07	Thermal And Moisture Protection	\$0.00	\$0.00	\$9,218.57
08	Openings	\$0.00	\$8,512.32	\$93,643.01
09	Finishes	\$0.00	\$0.00	\$1,533.14
13	Special Construction	\$0.00	\$0.00	\$2,317.82
26	Electrical	\$0.00	\$3,011.06	\$30,464.08
34	Transportation	\$0.00	\$0.00	\$873.56
Proposal Total:				\$299,986.94
The Percentage of Non Pre-Priced on this Proposal:				0.00%



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

JOC Name (Contractor): ABC General Inc.
Contract Name: 2019 - General Civil - ABC
Contract Number: PWG275.0-19
Job Order Number: MTSJOC275-15.05
Job Order Name: Building C Rollup Doors - Phase II
Location: Building C
Cost Proposal Date: August 27, 2021
Proposal Value: \$299,986.94

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total
01 General Requirements							\$87,173.62
1	012220000006		HR	Carpenter			
	<i>Accepted</i>				Quantity	x Unit Price	x Factor = LineTotal
		Installation	HR		79.00	x \$82.42	x 1.1918 = \$7,760.02
	Equipment Excluded		Materials Excluded				\$7,760.02
	User Note:						
	Item Note: For tasks not included in the Construction Task Catalog® and as directed by owner only.						
	Owner Comments:						
	Contractor Comments:						
2	012220000006	0001	HR	For Foreman, Add			
	<i>Accepted</i>				Quantity	x Unit Price	x Factor = LineTotal
		Installation	HR		40.00	x \$4.12	x 1.1918 = \$196.41
	Equipment Excluded		Materials Excluded				\$196.41
	User Note:						
	Item Note: For tasks not included in the Construction Task Catalog® and as directed by owner only.						
	Owner Comments:						
	Contractor Comments:						



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

3	012220000010		HR	Electrician							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		40.00	x	\$72.29	x	1.1918	=	\$3,446.21
	Equipment Excluded										Materials Excluded
											\$3,446.21
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										
4	012220000010	0001	HR	For Foreman, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		40.00	x	\$3.61	x	1.1918	=	\$172.10
	Equipment Excluded										Materials Excluded
											\$172.10
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										
5	012220000012		HR	High Voltage Electrician, (Utility Lineman)							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		40.00	x	\$91.62	x	1.1918	=	\$4,367.71
	Equipment Excluded										Materials Excluded
											\$4,367.71
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										
6	012220000012	0001	HR	For Foreman, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		40.00	x	\$4.58	x	1.1918	=	\$218.34
	Equipment Excluded										Materials Excluded
											\$218.34
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										
7	012220000017		HR	Laborer							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		80.00	x	\$68.23	x	1.1918	=	\$6,505.32
	Equipment Excluded										Materials Excluded
											\$6,505.32
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

8	012220000023		HR	Painter, Structural Steel							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		40.00	x	\$61.86	x	1.1918	=	\$2,948.99
	Equipment Excluded			Materials Excluded							\$2,948.99
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										
9	012220000023	0001	HR	For Foreman, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		40.00	x	\$3.09	x	1.1918	=	\$147.31
	Equipment Excluded			Materials Excluded							\$147.31
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										
10	012220000033		HR	Sheet Metal Worker							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		48.00	x	\$78.21	x	1.1918	=	\$4,474.11
	Equipment Excluded			Materials Excluded							\$4,474.11
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										
11	012220000033	0001	HR	For Foreman, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		24.00	x	\$3.91	x	1.1918	=	\$111.84
	Equipment Excluded			Materials Excluded							\$111.84
	User Note:										
	Item Note:	For tasks not included in the Construction Task Catalog® and as directed by owner only.									
	Owner Comments:										
	Contractor Comments:										



Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

12	012220000037		HR	Structural Steel Worker							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		80.00	x	\$86.64	x	1.1918	=	\$8,260.60
		Demo	HR		40.00	x	\$0.00	x	1.1918	=	\$0.00
	Equipment Excluded			Materials Excluded							\$8,260.60
	User Note:										
	Item Note: For tasks not included in the Construction Task Catalog® and as directed by owner only.										
	Owner Comments:										
	Contractor Comments:										
13	012220000037	0001	HR	For Foreman, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	HR		80.00	x	\$4.33	x	1.1918	=	\$412.84
	Equipment Excluded			Materials Excluded							\$412.84
	User Note:										
	Item Note: For tasks not included in the Construction Task Catalog® and as directed by owner only.										
	Owner Comments:										
	Contractor Comments:										
14	012223000056		WK	20' Electric, Scissor Platform Lift							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	WK		5.00	x	\$349.99	x	1.1918	=	\$2,085.59
	Labor Excluded			Equipment Excluded							\$2,085.59
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
15	012223000058		DAY	25' Electric, Scissor Platform Lift							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	DAY		5.00	x	\$226.04	x	1.1918	=	\$1,346.97
	Labor Excluded			Equipment Excluded							\$1,346.97
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

16	012223000939	WK	5,000 LB Telescopic Boom, Hi-Reach, Rough Terrain Construction Forklift With Full-Time Operator							
	Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	WK		4.00	x	\$4,547.26	x	1.1918	=	\$21,677.70
	Equipment Excluded									\$21,677.70
	User Note:									
	Item Note:									
	Owner Comments:									
	Contractor Comments:									
17	012223000945	WK	8,000 LB Telescopic Boom, Hi-Reach, Rough Terrain Construction Forklift With Full-Time Operator							
	Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	WK		3.00	x	\$4,686.83	x	1.1918	=	\$16,757.29
	Equipment Excluded									\$16,757.29
	User Note:									
	Item Note:									
	Owner Comments:									
	Contractor Comments:									
18	017113000002	EA	First 25 Miles, Equipment Delivery, Pickup, Mobilization And Demobilization Using A Rollback Flatbed Truck							
	Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	EA		4.00	x	\$236.94	x	1.1918	=	\$1,129.54
	Materials Excluded									\$1,129.54
	User Note:									
	Item Note:		Includes loading, tie-down of equipment, delivery of equipment, off loading on site, rigging, dismantling, loading for return and transporting away. For equipment such as trenchers, skid-steer loaders (bobcats), industrial warehouse forklifts, sweepers, scissor platform lifts, telescoping and articulating boom manlifts with up to 40' boom lengths, etc.							
	Owner Comments:									
	Contractor Comments:									
19	017419000016	EA	40 CY Dumpster (5 Ton) "Construction Debris"							
	Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	EA		4.00	x	\$814.98	x	1.1918	=	\$3,885.17
	Labor Excluded									\$3,885.17
	Equipment Excluded									\$3,885.17
	User Note:									
	Item Note:		Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.							
	Owner Comments:									
	Contractor Comments:									



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

20	017419000036	TON	General Refuse							
	Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	TON		25.00	x	\$42.61	x	1.1918	=	\$1,269.56
Labor Excluded										
	Equipment Excluded									\$1,269.56
	User Note:									
	Item Note:									
	Owner Comments:									
	Contractor Comments:									



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
02 Existing Conditions							\$564.94				
21	029050000501		ROL	Visqueen 6 Mil							
	<i>Accepted</i>				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	ROL		3.00	x	\$167.39	x	1.1250	=	\$564.94
Labor Excluded		Equipment Excluded									\$564.94
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total
05 Metals							\$73,986.14
22	050523001193		EA	#8 Diameter x 1-1/2" Length, 304/18-8 Stainless Steel, Security Screw			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	EA		50.00	x \$2.82	x 1.1250 = \$158.63
							\$158.63
	User Note:						
	Item Note:						
	Owner Comments:						
	Contractor Comments:						
23	051223000089		TON	Structural Shapes, Steel Angle A36 Structural Steel, Purlins And Girts (Up To 20 LB/LF)			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	TON		6.00	x \$6,865.96	x 1.1918 = \$49,097.11
		Demo	TON		6.00	x \$2,182.31	x 1.1918 = \$15,605.26
							\$64,702.37
	User Note:						
	Item Note:						
	Owner Comments:						
	Contractor Comments:						
24	051223000382		LF	M14 x 18 A992/A36 Structural Steel			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	LF		150.00	x \$45.09	x 1.1918 = \$8,060.74
							\$8,060.74
	User Note:						
	Item Note:						
	Owner Comments:						
	Contractor Comments:						
25	051223000385		LF	M8 x 6.5 A992/A36 Structural Steel			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	LF		0.00	x \$18.46	x 1.1918 = \$0.00
		Demo	LF		130.00	x \$6.87	x 1.1918 = \$1,064.40
							\$1,064.40
	User Note:						
	Item Note:						
	Owner Comments:						
	Contractor Comments:						



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
06 Wood, Plastics, and Composites							\$212.06				
26	060523000173		EA	Sill Anchor Embedded In Concrete							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	EA		25.00	x	\$7.54	x	1.1250	=	\$212.06
											\$212.06
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
07 Thermal And Moisture Protection							\$9,218.57				
27	074113000027		LF	Valley Flashing For Aluminum Exposed Fastener Metal Roofing							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	LF		250.00	x	\$28.79	x	1.1918	=	\$8,577.98
											\$8,577.98
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											
28	074113000027	0097	LF	For Fluoropolymer (Kynar) Coating, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	LF		250.00	x	\$2.15	x	1.1918	=	\$640.59
											\$640.59
Labor Excluded		Equipment Excluded									\$640.59
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total
08 Openings							\$93,643.01
29	083323000094		EA	20' x 18', 18 Gauge Galvanized Steel Overhead Coiling Door, Chain Lift			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	EA		5.00	x \$10,975.44	x 1.1918 = \$65,402.65
		Demo	EA		5.00	x \$1,370.31	x 1.1918 = \$8,165.68
							\$73,568.33
		User Note:					
		Item Note:					
		Owner Comments:					
		Contractor Comments:					
30	083323000197		LF	Bottom Of Door, Weather Strip Seal For Coiling Doors, Astragal Only			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	LF		100.00	x \$3.00	x 1.1918 = \$357.54
		Demo	LF		100.00	x \$1.04	x 1.1918 = \$123.95
							\$481.49
		User Note:					
		Item Note:					
		Owner Comments:					
		Contractor Comments:					
31	083339000203		EA	NEMA 4 Mushroom Remote Pushbutton Control For High-Speed Rolling Doors			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	EA		15.00	x \$165.68	x 1.1918 = \$2,961.86
							\$2,961.86
		User Note:					
		Item Note:					
		Owner Comments:					
		Contractor Comments:					
32	083339000208		EA	Reflective Type Photo Eye For High-Speed Rolling Doors			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	EA		5.00	x \$423.34	x 1.1918 = \$2,522.68
							\$2,522.68
		User Note:					
		Item Note:					
		Owner Comments:					
		Contractor Comments:					



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

33	083339000209	EA	Thru-Beam Type Photo Eye For High-Speed Rolling Doors						
Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	EA	5.00	x	\$553.46	x	1.1918	=	\$3,298.07
	Demo	EA	5.00	x	\$37.37	x	1.1918	=	\$222.69
									\$3,520.76

User Note:

Item Note:

Owner Comments:

Contractor Comments:

34	083613000163	EA	Electric Chain Lift Operator For Sectional Overhead Doors						
Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	EA	5.00	x	\$1,776.79	x	1.1918	=	\$10,587.89
	Demo	EA	5.00	x	\$0.00	x	1.1918	=	\$0.00
									\$10,587.89

User Note:

Item Note: Includes motor, supports, push button operator, stationary electronic eye, signal wiring from eye to motor and motor to operator.

Owner Comments:

Contractor Comments:



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
09 Finishes							\$1,533.14				
35	099113000476		SF	Paint Exterior Miscellaneous Metal Surfaces, 1 Coat Alkyd Primer, Brush/Roller Work							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$0.80	x	1.1250	=	\$270.00
	Equipment Excluded										\$270.00
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
36	099113000476	0239	SF	For Epoxy Paint, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$0.08	x	1.1250	=	\$27.00
	Equipment Excluded										\$27.00
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
37	099113000478		SF	Paint Exterior Miscellaneous Metal Surfaces, 2 Coats Alkyd Enamel, Brush/Roller Work							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$1.56	x	1.1250	=	\$526.50
	Equipment Excluded										\$526.50
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
38	099113000478	0239	SF	For Epoxy Paint, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$0.12	x	1.1250	=	\$40.50
	Equipment Excluded										\$40.50
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

39	099133000052		GAL	2 Component Solvent Based Polyester Epoxy							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	GAL		1.00	x	\$72.78	x	1.1250	=	\$81.88
Labor Excluded											
		Equipment Excluded									\$81.88
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
40	099143000016		SF	Chemical Clean, Brush And Wash, Metal Surfaces, Surface Preparation							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$0.53	x	1.1250	=	\$178.88
											\$178.88
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
41	099143000016	0322	SF	For >250 To 500, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$0.06	x	1.1250	=	\$20.25
											\$20.25
	Equipment Excluded										
		Materials Excluded									\$20.25
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
42	099143000019		SF	Power Tool Cleaning, Metal Surfaces, Surface Preparation							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$1.00	x	1.1250	=	\$337.50
											\$337.50
		Materials Excluded									\$337.50
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										
43	099143000019	0322	SF	For >250 To 500, Add							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	SF		300.00	x	\$0.15	x	1.1250	=	\$50.63
											\$50.63
		Equipment Excluded									
		Materials Excluded									\$50.63
	User Note:										
	Item Note:										
	Owner Comments:										
	Contractor Comments:										



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
13 Special Construction							\$2,317.82				
44	134863000002		EA	4-Bolt Deck Anchor Connection For Seismic Brace							
	<i>Accepted</i>				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	EA		18.00	x	\$114.46	x	1.1250	=	\$2,317.82
											\$2,317.82

User Note:

Item Note: Includes drilling into concrete, bolts, anchor plate, seismic bracket attached with bolt, nut and washer.

Owner Comments:

Contractor Comments:



Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total				
26 Electrical							\$30,464.08				
45	260120910003		EA	Lock Out/Tag Out Breaker Or Motor Starter							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	EA		30.00	x	\$18.18	x	1.1250	=	\$613.58
		Materials Excluded									\$613.58
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											
46	260120910004		EA	Lock Out/Tag Out Tags							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	EA		30.00	x	\$3.94	x	1.1250	=	\$132.98
											\$132.98
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											
47	260513000057		MLF	500 MCM Cable, EPR, 5 KV, Placed In Conduit, Shielded, Single Copper Conductor							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	MLF		1.00	x	\$13,872.43	x	1.1918	=	\$16,533.16
		Demo	MLF		1.00	x	\$1,970.47	x	1.1918	=	\$2,348.41
											\$18,881.57
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											
48	260513000229		EA	500 MCM Crimp Compression Connection For Bare Aluminum Wire							
	Accepted				Quantity	x	Unit Price	x	Factor	=	LineTotal
		Installation	EA		35.00	x	\$189.48	x	1.1918	=	\$7,903.78
		Demo	EA		35.00	x	\$0.00	x	1.1918	=	\$0.00
											\$7,903.78
User Note:											
Item Note:											
Owner Comments:											
Contractor Comments:											



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

49	260519160017	MLF	#14 AWG Cable - Type XHHW, 600 Volt Copper, Single Solid, Placed In Conduit						
Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	MLF	1.50	x	\$543.97	x	1.1250	=	\$917.95
	Demo	MLF	1.50	x	\$161.04	x	1.1250	=	\$271.76
									\$1,189.71

User Note:

Item Note:

Owner Comments:

Contractor Comments:

50	260519160019	MLF	#10 AWG Cable - Type XHHW, 600 Volt Copper, Single Solid, Placed In Conduit						
Accepted			Quantity	x	Unit Price	x	Factor	=	LineTotal
	Installation	MLF	1.50	x	\$800.93	x	1.1250	=	\$1,351.57
	Demo	MLF	1.50	x	\$231.64	x	1.1250	=	\$390.89
									\$1,742.46

User Note:

Item Note:

Owner Comments:

Contractor Comments:



Price Proposal Detail

By Division Report

Version: 2.0

Approved 08/27/2021 10:25:12 AM PST

Job: MTSJOC275-15.05: Building C Rollup Doors - Phase II

Record #	CSI Number	MOD	UOM	Description	Unit Price	Factor	Total
34 Transportation							\$873.56
51	340543000302		EA	Drill Out 1" Diameter Fastener/Anchor In Concrete			
	Accepted				Quantity	x Unit Price	x Factor = LineTotal
		Installation	EA		25.00	x \$31.06	x 1.1250 = \$873.56
							\$873.56
User Note:							
Item Note:							
Owner Comments:							
Contractor Comments:							
Total:							\$299,986.94
Proposal Total:							\$299,986.94
The Percentage of Non Pre-Priced on this Proposal:							0.00%

EXHIBIT C
(Subcontractor Listing)

San Diego Metropolitan Transit System

1255 Imperial Ave
 San Diego, CA 92101

Subcontractor Report

Date: 9/23/2021

Job Order Contracting

Contract #: PWG275.0-19
Job Order #: MTSJOC275-15.05
Job Order Title: Building C Rollup Doors - Phase II
Location: Building C
Contractor: ABC General Inc.
Subcontractors: Overhead Door Company of The Inland Empire
 Richardson steel
 the doctor of electricity

Subcontractor Name	License Number	Describe Nature of Work (Trade)	Certifications	Subcontractor Total	%
Overhead Door Company of The Inland Empire 12401 S La Cadena Dr., Colton, CA 92324	492369	Overhead Doors		\$69,000.00	23.00%
Richardson steel 9102 Harness Street, spring valley, CA 91977	756989	Structural steel		\$27,000.00	9.00%
the doctor of electricity 41815 Hawthorne Street, Murrieta, CA 92562	517763	Electrician		\$30,000.00	10.00%



**Metropolitan
Transit
System**

Agenda Item No. 17

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

APPROVE THE FISCAL YEAR (FY) 2021-22 STATE TRANSIT ASSISTANCE (STA) CLAIM
AND STA INTEREST CLAIM

RECOMMENDATION:

That the San Diego Metropolitan System (MTS) Board of Directors adopt Resolution No. 21-17 (Attachment A) approving the FY 2021-22 STA claim and withdrawal of available interest balance.

Budget Impact

The FY 2021-22 STA claim would result in the approval of \$28,206,266 in FY 2021-22 STA funds and \$51,947.71 in STA interest for MTS to be utilized in the FY 2022 operating and capital budgets.

DISCUSSION:

STA funding comes from the Public Transportation Act (PTA), which derives its revenue from the state sales tax on diesel fuel. STA revenues are pooled at the state level for the purposes of sections 99313 and 99314 of the California Public Utilities Code (PUC). The revenues for sections 99313 and 99314 are then allocated to transportation entities on a quarterly basis. PUC section 99313 allocations are based on the latest available annual population estimates from the Department of Finance. PUC section 99314 allocations are based primarily on qualifying revenues from the Annual Report of Financial Transactions of Transit Operators and Non-Transit Claimants under the Transportation Development Act.

The California State Controller's Office (SCO) projects total sales tax revenues for the coming fiscal year and the resulting STA revenue pool, and then estimates the allocation to each transportation entity. The SCO projects MTS will receive FY 2021-22 STA funding of \$28,206,266 (Attachment B), along with available interest of \$51,947.71.



State law and MTS Policy No. 20, "Allocation of State Transit Assistance Funds" requires that priority consideration be given to STA claims for the following purposes:

- to enhance existing public transportation services;
- to meet priority regional, county, or area-wide public transportation needs;
- to offset reductions in federal operating assistance and unanticipated increases in fuel costs.

STA revenues have been volatile in the past, and for that reason, the MTS Board has taken a conservative approach to using and programming these funds. Typically, the majority of these revenues are directed into the MTS CIP. For FY 2022, the MTS Board of Directors has approved \$11.8M into the FY 2022 Capital Improvement Program and the balance is earmarked for the FY 2022 Operating Budget.

Since these STA revenue allocations are based on sales tax revenue projections, in certain instances, it may be necessary to revise the original STA claim. MTS will claim up to the amount authorized by the attached Board resolution (Attachment A), and any revisions over the amount of this claim will come back to the MTS Board for approval. Additionally, the un-programmed amount will be discussed with the Budget Development Committee and the MTS Board.

Therefore, staff recommends that the MTS Board of Directors adopt Resolution No. 21-17 (Attachment A) approving the FY 2021-22 STA claim and withdrawal of available interest balance.

/S/ Sharon Cooney _____

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. MTS Resolution No. 21-17
B. Letter from State Controller's Office for STA Allocation

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 21-17

Resolution Approving the MTS Area Fiscal Year 2021-22 STA Claim

WHEREAS, California Public Utilities Code (PUC) Sections 99313.3 and 99313.6 established a State Transit Assistance (STA) fund and grants the San Diego Metropolitan Transit System (MTS) authority to allocate monies from this fund; and

WHEREAS, MTS, through its various operating entities and divisions, including San Diego Transit Corporation (SDTC), San Diego Trolley, Inc. (SDTI), MTS Contracted Services (collectively referred to as "MTS"), and other operators on the basis of revenue generated, qualifies for STA monies under the provision of PUC Section 99260 et seq.; and

WHEREAS, the State Controller's Office has informed MTS that its eligible STA allocation for Fiscal year 2021-22 is \$28,206,266 and \$51,947.71 in interest; and

WHEREAS, the claimants' proposed expenditures of STA monies are in conformance with the *Regional Transportation Plan* and *Transportation Improvement Program*; and

WHEREAS MTS is making full use of federal funds available under the Urban Mass Transportation Act of 1964, as amended; and

WHEREAS, the sum of MTS' allocations of STA and local transportations funds do not exceed the amounts they are eligible to receive during the fiscal year; and

WHEREAS, priority consideration has been given to claims to offset reductions in federal operating assistance and the unanticipated increase in the cost of fuel, to enhance existing public transportation services, and to meet high-priority, area-wide public transportation needs; and

WHEREAS, in the last thirteen months, MTS has received a certification from the California Highway patrol verifying that MTS is in compliance with section 1808.1 of the Vehicle Code, as required in PUC section 99251; and

WHEREAS the level of passenger fares and charges is sufficient to enable MTS to meet the fare revenue requirements of the PUC sections 99268.2, 99268.3, 99268.5, and 99268.9 as they may be applicable to MTS (Assembly Bill No. 149 passed the California State Assembly, which continued the statutory relief for transit agencies from fare revenue requirements through fiscal years 2021-2022 and 2022-2023); and

WHEREAS, MTS has ensured operators are in compliance with the efficiency standards of PUC section 99314.6 prior to the allocation of funding for operating purposes (Assembly Bill No. 149 passed the California State Assembly, which continued the statutory relief for transit agencies from efficiency standards through fiscal years 2021-2022 and 2022-2023);

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that the MTS Board does hereby direct and empower MTS staff to prepare and transmit allocation instructions to the County Auditor to disburse to MTS the Fiscal Year 2021-22 STA amounts totaling \$28,206,266 and \$51,947.71 in interest.

PASSED AND ADOPTED by the Board this 14th day of October 2021, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

Chairman
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

Office of the Clerk of the Board
San Diego Metropolitan Transit System

Office of the General Counsel
San Diego Metropolitan Transit System

Resolution 21-17



BETTY T. YEE
California State Controller

July 30, 2021

County Auditors Responsible for State Transit Assistance Funds
Transportation Planning Agencies
County Transportation Commissions
San Diego Metropolitan Transit System

SUBJECT: Fiscal Year 2021-22 State Transit Assistance Allocation Revised Estimate

Enclosed is a revised summary schedule of State Transit Assistance (STA) funds estimated to be allocated for fiscal year (FY) 2021-22 to each Transportation Planning Agency (TPA), county transportation commission, and the San Diego Metropolitan Transit System for the purposes of Public Utilities Code (PUC) sections 99313 and 99314. Also enclosed is a schedule detailing the amount of the PUC section 99314 allocation for each TPA by operator.

PUC section 99313 allocations are based on the latest available annual population estimates from the Department of Finance. Pursuant to PUC section 99314.10, the PUC section 99314 allocations are based on the State Controller's Office (SCO) transmittal letter, Reissuance of the FY 2020-21 STA Allocation Estimate, dated July 30, 2021. Pursuant to PUC section 99314.3, each TPA is required to allocate funds to the STA-eligible operators in the area of its jurisdiction.

According to the FY 2021-22 enacted California Budget, the estimated amount of STA funds budgeted is \$669,172,000. SCO anticipates the first quarter's allocation will be paid by November 30, 2021. Please refer to the schedule for the amounts that relate to your agency.

Please contact Mike Silvera by telephone at (916) 323-0704 or email at msilvera@sco.ca.gov with any questions, or for additional information.

Sincerely,

Melma
Dizon

Digitally signed
by Melma Dizon
Date: 2021.07.30
18:04:12 -07'00'

MELMA DIZON
Manager
Local Apportionments Section

Enclosures

Local Government Programs and Services Division
MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250
3301 C Street, Suite 700, Sacramento, CA 95816

STATE CONTROLLER'S OFFICE Att. B, AI 17, 10/14/2021
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE
SUMMARY
JULY 30, 2021

Regional Entity	PUC 99313 Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a)		PUC 99313 Funds from RTC Sections 6051.8(b), and 6201.8(b)		PUC 99314 Fiscal Year 2021-22 Estimate	Total Fiscal Year 2021-22 Estimate
	Fiscal Year 2021-22 Estimate	Fiscal Year 2021-22 Estimate	Fiscal Year 2021-22 Estimate	Fiscal Year 2021-22 Estimate	C	D= (A+B+C)
	A	B				
Metropolitan Transportation Commission	\$ 35,812,510	\$ 29,490,928	\$ 179,286,505	\$ 244,589,943		
Sacramento Area Council of Governments	9,108,670	7,500,818	5,798,607	22,408,095		
San Diego Association of Governments	4,445,470	3,660,761	1,993,030	10,099,261		
San Diego Metropolitan Transit System	10,968,355	9,032,233	8,205,678	28,206,266		
Tahoe Regional Planning Agency	502,406	413,722	52,871	968,999		
Alpine County Transportation Commission	5,278	4,346	753	10,377		
Amador County Transportation Commission	173,771	143,098	11,986	328,855		
Butte County Association of Governments	942,239	775,916	95,385	1,813,540		
Calaveras County Local Transportation Commission	209,379	172,420	4,665	386,464		
Colusa County Local Transportation Commission	103,434	85,176	8,275	196,885		
Del Norte County Local Transportation Commission	125,290	103,174	12,013	240,477		
El Dorado County Local Transportation Commission	809,432	666,552	101,635	1,577,619		
Fresno County Council of Governments	4,773,198	3,930,639	1,564,527	10,268,364		
Glenn County Local Transportation Commission	137,982	113,626	6,993	258,601		
Humboldt County Association of Governments	608,346	500,962	192,450	1,301,758		
Imperial County Transportation Commission	864,901	712,229	145,849	1,722,979		
Inyo County Local Transportation Commission	86,302	71,068	0	157,370		
Kern Council of Governments	4,250,224	3,499,980	475,399	8,225,603		
Kings County Association of Governments	709,196	584,010	52,008	1,345,214		
Lake County/City Council of Governments	297,267	244,794	29,300	571,361		
Lassen County Local Transportation Commission	128,186	105,559	10,976	244,721		
Los Angeles County Metropolitan Transportation Authority	46,698,235	38,455,117	110,830,963	195,984,315		
Madera County Local Transportation Commission	736,770	606,716	44,731	1,388,217		
Mariposa County Local Transportation Commission	83,857	69,054	4,288	157,199		
Mendocino Council of Governments	402,938	331,811	56,251	791,000		
Merced County Association of Governments	1,324,247	1,090,492	116,533	2,531,272		
Modoc County Local Transportation Commission	44,125	36,336	6,324	86,785		
Mono County Local Transportation Commission	61,811	50,900	165,884	278,595		
Transportation Agency for Monterey County	2,033,159	1,674,268	1,153,426	4,860,853		
Nevada County Local Transportation Commission	453,134	373,148	40,655	866,937		
Orange County Transportation Authority	14,662,336	12,074,157	9,679,267	36,415,760		
Placer County Transportation Planning Agency	1,479,310	1,218,184	388,114	3,085,608		
Plumas County Local Transportation Commission	84,224	69,357	25,082	178,663		
Riverside County Transportation Commission	11,411,131	9,396,851	3,405,936	24,213,918		
Council of San Benito County Governments	295,342	243,209	8,891	547,442		
San Bernardino County Transportation Authority	10,116,137	8,330,448	3,949,972	22,396,557		
San Joaquin Council of Governments	3,642,770	2,999,753	1,515,830	8,158,353		
San Luis Obispo Area Council of Governments	1,260,720	1,038,180	164,765	2,463,665		
Santa Barbara County Association of Governments	2,051,077	1,689,023	958,906	4,699,006		
Santa Cruz County Transportation Commission	1,213,964	999,676	2,049,030	4,262,670		
Shasta Regional Transportation Agency	826,606	680,694	79,756	1,587,056		
Sierra County Local Transportation Commission	14,827	12,210	1,043	28,080		
Siskiyou County Local Transportation Commission	206,097	169,717	15,937	391,751		
Stanislaus Council of Governments	2,584,781	2,128,518	266,545	4,979,844		
Tehama County Transportation Commission	303,841	250,207	11,429	565,477		
Trinity County Transportation Commission	62,926	51,819	4,477	119,222		
Tulare County Association of Governments	2,239,651	1,844,310	429,271	4,513,232		
Tuolumne County Transportation Council	248,567	204,690	11,937	465,194		
Ventura County Transportation Commission	3,883,081	3,197,644	1,151,852	8,232,577		
Subtotals	\$ 183,487,500	\$ 151,098,500				
State Totals		\$ 334,586,000	\$ 334,586,000	\$ 669,172,000		

STATE CONTROLLER'S OFFICE
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE PUC 99314 ALLOCATION DETAIL
JULY 30, 2021

Regional Entity and Operator(s)	Revenue Basis	Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a) Fiscal Year 2021-22 Estimate A	Funds from RTC Sections 6051.8(b), and 6201.8(b) Fiscal Year 2021-22 Estimate B	Total Fiscal Year 2021-22 Estimate C= (A+B)
Altamont Corridor Express*				
Alameda County Congestion Management Agency	\$ NA	\$ 143,512	\$ 118,179	\$ 261,691
Santa Clara Valley Transportation Authority	NA	82,795	68,181	150,976
San Joaquin Regional Rail Commission	NA	463,654	381,810	845,464
Regional Entity Totals	0	689,961	568,170	1,258,131
	0	(689,961)	(568,170)	(1,258,131)
Metropolitan Transportation Commission				
Alameda-Contra Costa Transit District, San Francisco Bay Area Rapid Transit District, and the City of San Francisco**	2,032,465,904	65,467,526	53,911,275	119,378,801
Central Contra Costa Transit Authority	12,684,408	408,576	336,455	745,031
City of Dixon	123,850	3,989	3,285	7,274
Eastern Contra Costa Transit Authority	6,132,724	197,540	162,671	360,211
City of Fairfield	2,250,751	72,499	59,701	132,200
Golden Gate Bridge Highway and Transportation District	138,827,667	4,471,762	3,682,412	8,154,174
Livermore-Amador Valley Transit Authority	6,084,421	195,985	161,390	357,375
Marin County Transit District	23,726,064	764,238	629,335	1,393,573
Napa Valley Transportation Authority	1,722,522	55,484	45,690	101,174
Peninsula Corridor Joint Powers Board	144,681,126	4,660,307	3,837,675	8,497,982
City of Petaluma	739,065	23,806	19,604	43,410
City of Rio Vista	39,373	1,268	1,044	2,312
San Francisco Bay Area Water Emergency Transportation Authority	39,452,081	1,270,786	1,046,469	2,317,255
San Mateo County Transit District	145,105,738	4,673,984	3,848,938	8,522,922
Santa Clara Valley Transportation Authority	439,800,215	14,166,354	11,665,726	25,832,080
City of Santa Rosa	2,483,478	79,995	65,874	145,869
Solano County Transit	5,290,076	170,398	140,320	310,718
County of Sonoma	3,459,517	111,434	91,764	203,198
Sonoma-Marin Area Rail Transit District	29,993,581	966,120	795,581	1,761,701
City of Union City	1,879,467	60,539	49,853	110,392
City of Vacaville	402,817	12,975	10,685	23,660
Western Contra Costa Transit Authority	8,044,931	259,134	213,392	472,526
Regional Entity Subtotals	3,045,389,776	98,094,699	80,779,139	178,873,838
Alameda County Congestion Management Agency - Corresponding to ACE*	NA	143,512	118,179	261,691
Santa Clara Valley Transportation Authority - Corresponding to ACE*	NA	82,795	68,181	150,976
Regional Entity Totals	3,045,389,776	98,321,006	80,965,499	179,286,505
Sacramento Area Council of Governments				
City of Davis (Unitrans)	2,957,630	95,268	78,451	173,719
City of Elk Grove	2,129,534	68,594	56,486	125,080
County of Sacramento	1,189,071	38,301	31,540	69,841
Sacramento Regional Transit System	86,413,727	2,783,463	2,292,129	5,075,592
Yolo County Transportation District	4,689,895	151,066	124,400	275,466
Yuba Sutter Transit Authority	1,343,449	43,274	35,635	78,909
Regional Entity Totals	98,723,306	3,179,966	2,618,641	5,798,607

* The amounts allocated to the member agencies of Altamont Corridor Express are included with their corresponding transportation planning agency.

** The amounts for Alameda-Contra Costa Transit District, San Francisco Bay Area Rapid Transit District, and the City of San Francisco are combined.

STATE CONTROLLER'S OFFICE
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE PUC 99314 ALLOCATION DETAIL
JULY 30, 2021

Regional Entity and Operator(s)	Revenue Basis	Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a)	Funds from RTC Sections 6051.8(b), and 6201.8(b)	Total Fiscal Year 2021-22 Estimate
		Fiscal Year 2021-22 Estimate A	Fiscal Year 2021-22 Estimate B	C= (A+B)
San Diego Association of Governments North County Transit District	33,932,036	1,092,981	900,049	1,993,030
San Diego Metropolitan Transit System San Diego Metropolitan Transit System	33,958,141	1,093,822	900,742	1,994,564
San Diego Transit Corporation	62,951,421	2,027,721	1,669,790	3,697,511
San Diego Trolley, Inc.	42,794,978	1,378,464	1,135,139	2,513,603
Regional Entity Totals	139,704,540	4,500,007	3,705,671	8,205,678
Southern California Regional Rail Authority*** Los Angeles County Metropolitan Transportation Authority	NA	3,823,984	3,148,978	6,972,962
Orange County Transportation Authority	NA	1,679,287	1,382,861	3,062,148
Riverside County Transportation Commission	NA	854,521	703,682	1,558,203
San Bernardino County Transportation Authority	NA	862,914	710,594	1,573,508
Ventura County Transportation Commission	NA	408,950	336,763	745,713
Regional Entity Totals	0	7,629,656	6,282,878	13,912,534
	0	(7,629,656)	(6,282,878)	(13,912,534)
Tahoe Regional Planning Agency Tahoe Transportation District	900,147	28,995	23,876	52,871
Alpine County Transportation Commission County of Alpine	12,816	413	340	753
Amador County Transportation Commission Amador Transit	204,076	6,573	5,413	11,986
Butte County Association of Governments Butte Regional Transit	1,601,714	51,593	42,486	94,079
City of Gridley - Specialized Service	22,232	716	590	1,306
Regional Entity Totals	1,623,946	52,309	43,076	95,385
Calaveras County Local Transportation Commission Calaveras Transit Agency	79,417	2,558	2,107	4,665
Colusa County Local Transportation Commission County of Colusa	140,877	4,538	3,737	8,275
Del Norte County Local Transportation Commission Redwood Coast Transit Authority	204,530	6,588	5,425	12,013
El Dorado County Local Transportation Commission El Dorado County Transit Authority	1,730,379	55,737	45,898	101,635

*** The amounts allocated to the member agencies of Southern California Regional Rail Authority are included with their corresponding transportation planning agency.

STATE CONTROLLER'S OFFICE
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE PUC 99314 ALLOCATION DETAIL
JULY 30, 2021

<u>Regional Entity and Operator(s)</u>	<u>Revenue Basis</u>	<u>Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a) Fiscal Year 2021-22 Estimate A</u>	<u>Funds from RTC Sections 6051.8(b), and 6201.8(b) Fiscal Year 2021-22 Estimate B</u>	<u>Total Fiscal Year 2021-22 Estimate C= (A+B)</u>
Fresno County Council of Governments				
City of Clovis	1,770,328	57,024	46,958	103,982
City of Fresno	22,991,076	740,563	609,840	1,350,403
Fresno County Rural Transit Agency	1,875,194	60,402	49,740	110,142
Regional Entity Totals	<u>26,636,598</u>	<u>857,989</u>	<u>706,538</u>	<u>1,564,527</u>
Glenn County Local Transportation Commission				
County of Glenn Transit Service	119,071	3,835	3,158	6,993
Humboldt County Association of Governments				
City of Arcata	213,054	6,863	5,651	12,514
Humboldt Transit Authority	3,063,481	98,677	81,259	179,936
Regional Entity Totals	<u>3,276,535</u>	<u>105,540</u>	<u>86,910</u>	<u>192,450</u>
Imperial County Transportation Commission				
Imperial County Transportation Commission	2,462,028	79,304	65,305	144,609
Quechan Indian Tribe	21,107	680	560	1,240
Regional Entity Totals	<u>2,483,135</u>	<u>79,984</u>	<u>65,865</u>	<u>145,849</u>
Inyo County Local Transportation Commission	None	None	None	None
Kern Council of Governments				
City of Arvin	62,152	2,002	1,649	3,651
City of California City	25,760	830	683	1,513
City of Delano	279,451	9,001	7,412	16,413
Golden Empire Transit District	5,882,508	189,481	156,034	345,515
County of Kern	1,194,767	38,485	31,691	70,176
City of McFarland	12,106	390	321	711
City of Ridgecrest	159,250	5,130	4,224	9,354
City of Shafter	57,568	1,854	1,527	3,381
City of Taft	360,169	11,601	9,554	21,155
City of Tehachapi	28,252	910	749	1,659
City of Wasco	31,839	1,026	845	1,871
Regional Entity Totals	<u>8,093,822</u>	<u>260,710</u>	<u>214,689</u>	<u>475,399</u>
Kings County Association of Governments				
City of Corcoran	122,620	3,950	3,253	7,203
Kings County Area Public Transit Agency	762,823	24,571	20,234	44,805
Regional Entity Totals	<u>885,443</u>	<u>28,521</u>	<u>23,487</u>	<u>52,008</u>
Lake County/City Council of Governments				
Lake Transit Authority	498,852	16,068	13,232	29,300
Lassen County Local Transportation Commission				
Lassen Transit Service Agency	186,872	6,019	4,957	10,976

STATE CONTROLLER'S OFFICE
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE PUC 99314 ALLOCATION DETAIL
JULY 30, 2021

Regional Entity and Operator(s)	Revenue Basis	Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a) Fiscal Year 2021-22 Estimate A	Funds from RTC Sections 6051.8(b), and 6201.8(b) Fiscal Year 2021-22 Estimate B	Total Fiscal Year 2021-22 Estimate C= (A+B)
Los Angeles County Metropolitan Transportation Authority				
Antelope Valley Transit Authority	20,326,872	654,747	539,171	1,193,918
City of Arcadia	1,607,131	51,767	42,629	94,396
City of Burbank	3,769,842	121,430	99,995	221,425
City of Claremont	456,234	14,696	12,102	26,798
City of Commerce	4,235,696	136,436	112,352	248,788
City of Culver City	15,278,536	492,135	405,264	897,399
Foothill Transit	67,815,955	2,184,412	1,798,822	3,983,234
City of Gardena	13,772,242	443,616	365,310	808,926
City of Glendale	8,225,171	264,940	218,173	483,113
City of La Mirada	874,670	28,174	23,201	51,375
Long Beach Public Transportation Company	60,542,189	1,950,118	1,605,885	3,556,003
City of Los Angeles	98,801,791	3,182,493	2,620,723	5,803,216
County of Los Angeles	6,316,927	203,474	167,557	371,031
Los Angeles County Metropolitan Transportation Authority	1,332,273,335	42,913,703	35,338,626	78,252,329
City of Montebello	20,096,742	647,334	533,067	1,180,401
City of Norwalk	9,188,277	295,963	243,720	539,683
City of Pasadena	7,704,457	248,167	204,361	452,528
City of Redondo Beach	2,905,619	93,593	77,072	170,665
City of Santa Clarita	26,010,198	837,812	689,922	1,527,734
City of Santa Monica	47,544,183	1,531,440	1,261,112	2,792,552
Southern California Regional Rail Authority***	236,865,779	NA	NA	NA
City of Torrance	20,472,763	659,446	543,041	1,202,487
Regional Entity Subtotals	2,005,084,609	56,955,896	46,902,105	103,858,001
Los Angeles County Metropolitan Transportation Authority - Corresponding to SCRRA***	NA	3,823,984	3,148,978	6,972,962
Regional Entity Totals	2,005,084,609	60,779,880	50,051,083	110,830,963
Madera County Local Transportation Commission				
City of Chowchilla	524,476	16,894	13,912	30,806
City of Madera	169,785	5,469	4,504	9,973
County of Madera	67,286	2,167	1,785	3,952
Regional Entity Totals	761,547	24,530	20,201	44,731
Mariposa County Local Transportation Commission				
County of Mariposa	73,004	2,352	1,936	4,288
Mendocino Council of Governments				
Mendocino Transit Authority	957,692	30,848	25,403	56,251
Merced County Association of Governments				
Transit Joint Powers Authority of Merced County	1,025,125	33,020	27,191	60,211
Yosemite Area Regional Transportation System (YARTS)	958,913	30,887	25,435	56,322
Regional Entity Totals	1,984,038	63,907	52,626	116,533
Modoc County Local Transportation Commission				
Modoc Transportation Agency - Specialized Service	107,653	3,468	2,856	6,324

*** The amounts allocated to the member agencies of Southern California Regional Rail Authority are included with their corresponding transportation planning agency.

STATE CONTROLLER'S OFFICE
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE PUC 99314 ALLOCATION DETAIL
JULY 30, 2021

Regional Entity and Operator(s)	Revenue Basis	Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a)		Funds from RTC Sections 6051.8(b), and 6201.8(b)		Total Fiscal Year 2021-22 Estimate
		Fiscal Year 2021-22 Estimate A	Fiscal Year 2021-22 Estimate B	Fiscal Year 2021-22 Estimate C	Fiscal Year 2021-22 Estimate D	C= (A+B)
Mono County Local Transportation Commission Eastern Sierra Transit Authority	2,824,223	90,971	74,913			165,884
Transportation Agency for Monterey County Monterey-Salinas Transit	19,637,486	632,541	520,885			1,153,426
Nevada County Local Transportation Commission County of Nevada	369,077	11,888	9,790			21,678
City of Truckee	323,083	10,407	8,570			18,977
Regional Entity Totals	692,160	22,295	18,360			40,655
Orange County Transportation Authority City of Laguna Beach	1,910,271	61,532	50,670			112,202
Orange County Transportation Authority	110,748,483	3,567,307	2,937,610			6,504,917
Regional Entity Subtotals	112,658,754	3,628,839	2,988,280			6,617,119
Orange County Transportation Authority - Corresponding to SCRRRA***	NA	1,679,287	1,382,861			3,062,148
Regional Entity Totals	112,658,754	5,308,126	4,371,141			9,679,267
Placer County Transportation Planning Agency City of Auburn	21,830	703	579			1,282
County of Placer	5,410,141	174,265	143,504			317,769
City of Roseville	1,175,827	37,874	31,189			69,063
Regional Entity Totals	6,607,798	212,842	175,272			388,114
Plumas County Local Transportation Commission County of Plumas	346,829	11,172	9,200			20,372
County Service Area 12 - Specialized Service	80,198	2,583	2,127			4,710
Regional Entity Totals	427,027	13,755	11,327			25,082
Riverside County Transportation Commission City of Banning	208,349	6,711	5,526			12,237
City of Beaumont	318,557	10,261	8,450			18,711
City of Corona	426,555	13,740	11,314			25,054
Palo Verde Valley Transit Agency	175,762	5,661	4,662			10,323
City of Riverside - Specialized Service	493,635	15,900	13,094			28,994
Riverside Transit Agency	18,329,390	590,406	486,188			1,076,594
Sunline Transit Agency	11,506,078	370,621	305,199			675,820
Regional Entity Subtotals	31,458,326	1,013,300	834,433			1,847,733
Riverside County Transportation Commission - Corresponding to SCRRRA***	NA	854,521	703,682			1,558,203
Regional Entity Totals	31,458,326	1,867,821	1,538,115			3,405,936
Council of San Benito County Governments San Benito County Local Transportation Authority	151,384	4,876	4,015			8,891

*** The amounts allocated to the member agencies of Southern California Regional Rail Authority are included with their corresponding transportation planning agency.

STATE CONTROLLER'S OFFICE
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE PUC 99314 ALLOCATION DETAIL
JULY 30, 2021

<u>Regional Entity and Operator(s)</u>	<u>Revenue Basis</u>	<u>Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a) Fiscal Year 2021-22 Estimate</u>	<u>Funds from RTC Sections 6051.8(b), and 6201.8(b) Fiscal Year 2021-22 Estimate</u>	<u>Total Fiscal Year 2021-22 Estimate</u>
		<u>A</u>	<u>B</u>	<u>C= (A+B)</u>
San Bernardino County Transportation Authority				
Morongo Basin Transit Authority	1,027,787	33,106	27,262	60,368
Mountain Area Regional Transit Authority	564,732	18,191	14,980	33,171
City of Needles	58,190	1,874	1,543	3,417
Omnitrans	34,279,207	1,104,164	909,258	2,013,422
Victor Valley Transit Authority	4,530,204	145,922	120,164	266,086
Regional Entity Subtotals	40,460,120	1,303,257	1,073,207	2,376,464
San Bernardino County Transportation Authority - Corresponding to SCRR****	NA	862,914	710,594	1,573,508
Regional Entity Totals	40,460,120	2,166,171	1,783,801	3,949,972
San Joaquin Council of Governments				
Altamont Corridor Express *	21,420,132	NA	NA	NA
City of Escalon	51,911	1,672	1,377	3,049
City of Lodi	887,825	28,598	23,550	52,148
City of Manteca	77,826	2,507	2,064	4,571
City of Ripon	44,345	1,428	1,176	2,604
San Joaquin Regional Transit District	10,156,807	327,160	269,410	596,570
City of Tracy	194,489	6,265	5,159	11,424
Regional Entity Subtotals	32,833,335	367,630	302,736	670,366
San Joaquin Regional Rail Commission - Corresponding to ACE*	NA	463,654	381,810	845,464
Regional Entity Totals	32,833,335	831,284	684,546	1,515,830
San Luis Obispo Area Council of Governments				
City of Arroyo Grande - Specialized Service	0	0	0	0
City of Atascadero	37,783	1,217	1,002	2,219
City of Morro Bay	42,401	1,366	1,125	2,491
City of Pismo Beach - Specialized Service	0	0	0	0
City of San Luis Obispo Transit	821,105	26,449	21,780	48,229
San Luis Obispo Regional Transit Authority	1,673,045	53,890	44,378	98,268
South County Transit	230,837	7,435	6,123	13,558
Regional Entity Totals	2,805,171	90,357	74,408	164,765
Santa Barbara County Association of Governments				
City of Guadalupe	69,525	2,239	1,844	4,083
City of Lompoc	136,501	4,397	3,621	8,018
County of Santa Barbara	0	0	0	0
Santa Barbara County Association of Governments (SBCAG)	1,620,453	52,196	42,983	95,179
Santa Barbara Metropolitan Transit District	13,488,703	434,483	357,789	792,272
City of Santa Maria	906,214	29,190	24,037	53,227
City of Solvang	104,313	3,360	2,767	6,127
Regional Entity Totals	16,325,709	525,865	433,041	958,906
Santa Cruz County Transportation Commission				
Santa Cruz Metropolitan Transit District	34,885,448	1,123,691	925,339	2,049,030

* The amounts allocated to the member agencies of Altamont Corridor Express are included with their corresponding transportation planning agency.

**** The amounts allocated to the member agencies of Southern California Regional Rail Authority are included with their corresponding transportation planning agency.

STATE CONTROLLER'S OFFICE
2021-22 STATE TRANSIT ASSISTANCE ALLOCATION ESTIMATE PUC 99314 ALLOCATION DETAIL
JULY 30, 2021

<u>Regional Entity and Operator(s)</u>	<u>Revenue Basis</u>	Funds from RTC Sections 7102(a)(3), 6051.8(a), and 6201.8(a) <u>Fiscal Year 2021-22 Estimate</u>	Funds from RTC Sections 6051.8(b), and 6201.8(b) <u>Fiscal Year 2021-22 Estimate</u>	Total Fiscal Year 2021-22 Estimate C= (A+B)
		<u>A</u>	<u>B</u>	
Shasta Regional Transportation Agency Redding Area Bus Authority	1,357,867	43,738	36,018	79,756
Sierra County Local Transportation Commission County of Sierra - Specialized Service	17,768	572	471	1,043
Siskiyou County Local Transportation Commission County of Siskiyou	271,330	8,740	7,197	15,937
Stanislaus Council of Governments City of Ceres	70,776	2,280	1,877	4,157
City of Modesto	3,366,714	108,445	89,302	197,747
County of Stanislaus	806,855	25,990	21,402	47,392
City of Turlock	293,666	9,459	7,790	17,249
Regional Entity Totals	<u>4,538,011</u>	<u>146,174</u>	<u>120,371</u>	<u>266,545</u>
Tehama County Transportation Commission County of Tehama	194,589	6,268	5,161	11,429
Trinity County Transportation Commission County of Trinity	76,212	2,455	2,022	4,477
Tulare County Association of Governments City of Dinuba	276,368	8,902	7,331	16,233
City of Porterville	846,792	27,276	22,461	49,737
City of Tulare	589,094	18,975	15,626	34,601
County of Tulare	1,191,032	38,364	31,592	69,956
City of Visalia	4,391,535	141,455	116,486	257,941
City of Woodlake	13,667	440	363	803
Regional Entity Totals	<u>7,308,488</u>	<u>235,412</u>	<u>193,859</u>	<u>429,271</u>
Tuolumne County Transportation Council County of Tuolumne	203,234	6,546	5,391	11,937
Ventura County Transportation Commission City of Camarillo	751,079	24,193	19,922	44,115
Gold Coast Transit District	4,272,461	137,620	113,327	250,947
City of Moorpark	299,991	9,663	7,957	17,620
City of Simi Valley	1,167,392	37,603	30,965	68,568
City of Thousand Oaks	423,749	13,649	11,240	24,889
Regional Entity Subtotals	<u>6,914,672</u>	<u>222,728</u>	<u>183,411</u>	<u>406,139</u>
Ventura County Transportation Commission - Corresponding to SCRRA***	NA	408,950	336,763	745,713
Regional Entity Totals	<u>6,914,672</u>	<u>631,678</u>	<u>520,174</u>	<u>1,151,852</u>
STATE TOTALS	<u>\$ 5,696,443,829</u>	<u>\$ 183,487,500</u>	<u>\$ 151,098,500</u>	<u>\$ 334,586,000</u>

*** The amounts allocated to the member agencies of Southern California Regional Rail Authority are included with their corresponding transportation planning agency.



**Metropolitan
Transit
System**

Agenda Item No. 30

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

PALM AVENUE TROLLEY STATION TRANSIT ORIENTED DEVELOPMENT – PALM CITY VILLAGE (KAREN LANDERS)

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer to:

- 1) Execute a Disposition and Development Agreement with National Community Renaissance of California, a California nonprofit public benefit corporation (National CORE) for Buildings A, B, and C of the proposed Palm City Village Transit Oriented Development Project (National CORE DDA), in substantially the same format as Attachment A;
- 2) Execute a Disposition and Development Agreement with MALICK INFILL CORP, a California corporation (Malick Infill) for Building D of the proposed Palm City Village Transit Oriented Development Project (Malick Infill DDA), in substantially the same format as Attachment B; and
- 3) Take all actions necessary to fulfill MTS's obligations under the National CORE DDA and the Malick Infill DDA, including, but not limited to, executing a Ground Lease and related regulatory agreements for each project phase.
- 4) Conduct a market study regarding MTS park and ride needs.

Budget Impact

Upon completion of each National CORE building phase, MTS will receive 5% of Net Cash Flow from the project. Upon completion of Building D by Malick Infill, MTS will receive of 10% annual Effective Gross Income (EGI) exceeding an industry standard target Return on Investment (ROI). The DDAs do not require MTS to incur any direct out-of-pocket costs. Upon completion of all building phases, maximum occupancy is estimated to be 1410. This could result in additional ridership and passenger revenue for MTS. Loss of park and ride capacity at the Palm Avenue Trolley Station may require MTS to make investments at other trolley stations to supplement Blue Line parking supply in the future, if needed; or implementing other mobility first and last mile solutions.



DISCUSSION:

In or about February 2019, MTS received a development proposal for the Palm Avenue Trolley Station in the Otay Mesa – Nestor Community of the City of San Diego. Two developers teamed together to bring forward a mixed-use, mixed-income transit-oriented development proposal for the site. National CORE is an experienced developer and operator of affordable housing projects. Malick Infill is a developer focused on transit-oriented development and place-making. Following presentations on February 14, 2019 (AI C2) and March 14, 2019 (AI C3), the Executive Committee authorized staff to pursue negotiations and refinement of the developers' proposal. An Exclusive Negotiating Agreement was entered into in August 2019.

Palm Avenue Site

The Palm Avenue Trolley Station is approximately 3.9 acres, with approximately 499 total parking spaces.¹ The site is relatively flat and very suitable for development. Parking demand had increased in 2019/early 2020 to an average maximum occupancy of 252 vehicles before falling to an average of 66 vehicles in the current COVID-impacted parking data. The station is also south of the Otay Valley Regional Park with a trail access from the north of the station to the Park. Three other major residential developments in close proximity are in the planning and design stages.

This station is well placed for access to popular South Bay locations, employment centers, and regional recreation activities. It is a 30-minute trolley ride into downtown San Diego, and will be an estimated 65-minute ride to the UTC area on the Mid-Coast Extension. The property is currently split-zoned IL-1 and RM-1; however, the General Plan land use designation is Neighborhood Village, with residential required. While it was originally anticipated that the site would require a rezone to allow for the proposed mixed-use development, the development team has since identified a strategy that takes advantage of the proposed Housing Legislative Code Update along with Government Code Section 65915 for a ministerial approval process.

The Community Plan designates the Palm City neighborhood, centered at Palm Avenue and Hollister, as one of five neighborhood centers. The Plan recognizes the "great potential for revitalization", stating, "It is an ideal location for pedestrian-oriented development incorporating commercial, residential and civic uses". The transit center site is specifically identified as the "cornerstone" of the Palm City neighborhood and a site for mixed-use transit-oriented development. The proposed mixed-use development is consistent with the expressed goals of the Community Plan.

It should be noted that while the Community Plan references a density of 29 dwelling units per acre when drafted over 12 years ago, the density proposed by the development team is more appropriate given the policy directives by MTS Board and the City of San Diego City Council to develop dense housing on MTS sites and within Transportation Priority Areas (within ½ mile of transit stations). The developers plan to utilize state law and municipal code provisions that allow increased density for affordable housing projects near transit, notwithstanding a site's zoning.

Palm City Village: National CORE/Malick Infill Development Concepts

¹ Parking at Palm Avenue Trolley Station includes 481 regular spaces, 7 short-term spaces, and 11 disabled placard spaces.

Original Development Concept

The February 2019 proposal presented a development consisting of a mixed income community of residential, some commercial, a mobility hub, and other site serving amenities. National CORE proposed 150 affordable units serving 30% to 60% of the Area Median Income. Malick Infill proposed 100 units of moderate to middle income housing serving residents at 81% to 150% of the Area Median Income. With a total of 250 units, this equates to 64 dwelling units per acre.

The proposal offered some commercial space, a mobility hub, community services for the residents, and possible incubator office space. The development team proposed 254 parking spaces of which 175 spaces would replace the existing MTS parking spaces for transit patrons.

MTS Executive Committee members encouraged the development team to conduct outreach with community stakeholders and to consider increased density.

Updated Development Concepts

Over the next year, this proposal was refined by the development team and presented to the MTS Executive Committee on March 5, 2020 (AI C3) and the MTS Board on July 30, 2020 (AI 32). The 2020 proposal contemplated a total of 408 units, 224 shared parking spaces, onsite retail and child care facility.

After further design and feasibility reviews, the development team's final proposal results in 390 units along with a child care facility and increased amenities. This equates to 100 dwelling units per acre. The development would be built in 4 phases over time:

Building	Units	Estimated Max Occupancy	Developer
A	84 (studios/1BR)	220	National CORE <80% AMI
B	102 (1BR/2BR/3BR)	486	National CORE <80% AMI
C	102 (1BR/2BR/3BR)	486	National CORE <80% AMI
D	102 (studios/1BR/2BR)	218	Malick Infill <110% AMI
TOTAL	390	1410	

The development team is proposing 191 parking spaces, with 80 of those spaces reserved for MTS's exclusive use. Attachment C is the schematic of the final proposal. All of the proposed housing units would be rent restricted, with 288 being restricted to below 80% Adjusted Median Income (AMI), and 102 units being restricted to below 110% AMI.

On September 9, 2021, the Executive Committee received a report on the proposed Palm City Village Project and unanimously recommended that the National CORE DDA and Malick Infill DDA be forwarded to the Board of Directors for consideration.

September 16, 2021 MTS Board Meeting Direction to Staff

On September 16, 2021 (AI 31), the MTS Board received a report on the proposed Palm City Village Transit Oriented Development Project and the proposed National CORE DDA and Malick Infill DDA. The Board deferred approval of the two agreements to the October 14, 2021 Board meeting and directed staff to review and present alternative parking options or strategies for the Board's consideration at that time. Staff will present their recommendations, which include:

1. Developer-Required Actions included in the DDAs:

The material terms for the project ground leases (see Exhibit E to each DDA) include the following requirements:

Parking/Transit Parking. The joint development Project at full build-out (including Building D to be developed by co-developer Malick Infill Development) will include approximately 191 on-site parking spaces, with a minimum of 80 spaces to be designated for MTS's exclusive use. The MTS exclusive use spaces shall be designed in a manner that allows MTS to manage, control and enforce the MTS-only parking restriction. Developer shall provide mobility hub features to facilitate and incentivize trolley ridership, including bike lockers, uber pick-up area and other incentives to the residents.

Encouragement of Public Transit. Developer shall prepare a plan to encourage residents to use public transit and reduce the demand for residential parking.

These efforts are intended to support two MTS policy goals (a) limit onsite parking demand; and (b) increase transit ridership.

In addition, the phased-construction approach for the project means that the impact of the parking loss will not be experienced until the third building is constructed. This will provide time for the development team and MTS to conduct outreach to current Palm Avenue Transit Center passengers about the upcoming reduction in parking and alternative options to access the UC San Diego Blue Line via existing transit connections, alternate park-and-ride locations, and other mobility options that may come online.

Estimated 7-year phase in of parking loss:

- o Building B Construction: 380 spaces available
- o Building C Construction: 260 spaces available
- o Building A Construction: 120 spaces available
- o Building D Construction: 80 spaces (permanent condition)

2. Future MTS Transit Service Improvements that will Mitigate Palm Avenue Parking Loss

The Palm Avenue Transit Center has been identified as one of the main trolley connections for residents and visitors in the City of Imperial Beach. To the extent that the loss of park-and-ride capacity at the Palm Avenue Transit Center will uniquely impact such residents and visitors, the

IRIS Rapid project, currently under design, is expected to complete construction by late 2022/early 2023. (See *IRIS Rapid* map in Attachment D.) This bus rapid transit project will have frequent service (generally every 15 minutes on weekdays and every 30 minutes on nights and weekends) that connects the Imperial Beach Pier area and important community connection points along Imperial Beach Boulevard and Coronado Avenue to the Iris Avenue Transit Center and the Otay Mesa Transit Center further east. This will provide an important non-park-and-ride transit alternative to connect to the UC San Diego Blue Line.

The development teams and various community leaders have also expressed interest in identifying future opportunities for community-based shuttles, such as the downtown San Diego FRED and National City FRANC services as well as shared costs uber/lyft pick-up and drop-off mobility options to allow riders living off-site to forgo their personal vehicle and instead take advantage of private sector ride sharing opportunities, that may be implemented by local jurisdictions or business groups to provide additional connections to public transit for residents, visitors, and the workforce.

Implementation of future MTS-operated transit service to mitigate park-and-ride capacity losses is subject to available funding and the analyses required in Board Policy No. 42 (Transit Service Evaluation and Adjustment).

3. MTS-Wide Market Study regarding Park-and-Ride Needs and Alternatives

Staff recommends that a market study be conducted which could:

- Identify park-and-ride needs along each segment of the trolley system;
- Identify alternative methods to connect to transit that would reduce the need for MTS-provided park-and-ride facilities; and
- Develop a plan for parking replacement requirements and/or alternative strategies that may be implemented in a future project to mitigate parking losses.

If approved by the Board, MTS staff will develop a plan and scope of work for the parking study.

Today's Proposed Action

Today's proposed action would authorize the Chief Executive Officer to:

1. Execute a Disposition and Development Agreement with National CORE for Buildings A, B, and C of the proposed Palm City Village Transit Oriented Development Project, in substantially the same format as Attachment A;
2. Execute a Disposition and Development Agreement Malick Infill for Building D of the proposed Palm City Village Transit Oriented Development Project, in substantially the same format as Attachment B; and
3. Take all actions necessary to fulfill MTS's obligations under the National CORE DDA and the Malick Infill DDA, including, but not limited to, executing a Ground Lease and related regulatory agreements for each project phase.
4. Conduct a market study regarding MTS park and ride needs and potential strategies to reduce transit parking demand and improve connections to transit.

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. Draft National CORE DDA
B. Draft Malick Infill DDA
C. Draft Palm City Village Schematics
D. IRIS Rapid Map

**DISPOSITION AND DEVELOPMENT AGREEMENT
[Palm Avenue Trolley Station Development, known as Palm City Village]**

By and Among

**SAN DIEGO METROPOLITAN TRANSIT SYSTEM
and**

National Community Renaissance of California

Dated as of _____, 2021

DISPOSITION AND DEVELOPMENT AGREEMENT
[Palm Avenue Trolley Station Development, known as Palm City Village]

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (the “Agreement”) dated, for identification purposes only, as of _____, 2021, is made and entered into by and among the SAN DIEGO METROPOLITAN TRANSIT SYSTEM, a public body, corporate and politic (“MTS”), and NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, a California nonprofit public benefit corporation (the “Developer”), with reference to the following:

RECITALS

- A. **WHEREAS**, the Developer is an experienced owner, developer, and operator of affordable housing for low-income residents;
- B. **WHEREAS**, MTS owns that certain vacant land located at 2430 Palm Avenue in the City of San Diego, California, and legally described in Exhibit “A” attached hereto (the “Property”);
- C. **WHEREAS**, in collaboration with Malick Infill Development Corp, a California corporation (“Malick”), the Developer submitted to MTS a development proposal for the acquisition and joint development of the Property in multiple phases for a combined total of approximately 390 residential units, ground floor commercial/child care space, and 191 parking spaces, including 80 replacement parking spaces for MTS’s use (the “Joint Development Project”);
- D. **WHEREAS**, Developer’s portion of the Joint Development Project will consist of approximately 288 residential units located in three buildings (“Building A”, “Building B”, and “Building C”, respectively), which shall each be their own respective projects (each, a “Project” and together, the “Project”, as the context requires);
- E. **WHEREAS**, concurrently with this Agreement, MTS is entering into a disposition and development agreement with Malick for the development of its portion of the Joint Development Project, including approximately 102 residential units in one building (“Building D”) located on the Property (“Malick DDA”);
- F. **WHEREAS**, on August 19, 2019, MTS and the Developer entered into an Exclusive Negotiation Agreement for the negotiation of this Agreement, as amended on February 5, 2020, November 12, 2020, and March 17, 2021; and
- G. **WHEREAS**, the parties intend that MTS shall lease the Property to the Developer and/or its affiliates for the development of each Project thereon, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, MTS and the Developer hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 **Defined Terms.** As used in this Agreement (including in the Recitals above), capitalized terms are defined where first used or as set forth in this Section. Capitalized terms used in an exhibit attached hereto and not defined therein shall also have the meanings set forth in this Section 1.1.

"AHP Loan" has the meaning set forth in Section 7.1(c).

"AHSC Loan" means the subordinate loan to be made by HCD to the Developer in an amount and upon terms acceptable to the Developer.

"AHSC Loan Closing" means recordation of the AHSC Loan Deed of Trust in the Official Records.

"AHSC Loan Deed of Trust" means the deed of trust encumbering Developer's leasehold interest in the Property, to be executed by Developer to secure the AHSC Loan Note.

"AHSC Loan Documents" means, collectively, the AHSC Loan Note, the AHSC Loan Deed of Trust and any other agreement, document or instrument in connection with the AHSC Loan.

"AHSC Loan Note" means the promissory note to be executed by Developer in favor of HCD to evidence the obligation of the Developer to repay the AHSC Loan.

"Building Permit" means all permits issued by the City and required for commencement of construction of the Improvements.

"Certificate of Compliance" has the meaning set forth in Article 13.

"City" means the City of San Diego, California.

"City of San Diego EDD" means the City of San Diego Economic Development Department.

"City of San Diego EDD Loan" means the subordinate loan to be made by the City of San Diego EDD to the Developer in an amount and upon terms acceptable to the Developer.

"City of San Diego EDD Loan Closing" means recordation of the City of San Diego EDD Loan Deed of Trust in the Official Records.

"City of San Diego EDD Loan Deed of Trust" means the deed of trust encumbering Developer's leasehold interest in the Property, to be executed by Developer to secure the City of San Diego EDD Loan Note.

"Close of Escrow" means recordation of a memorandum of the Ground Lease and the Senior Loan Security Documents.

"Code" means the Internal Revenue Code of 1986, as amended, including the regulations promulgated thereunder or under any predecessor statute.

"Construction Lender" means the first trust deed lender that provides construction financing for the Project.

"Construction Loan" means the construction loan for the Project secured by the Senior Loan Security Documents.

"Construction Loan Closing" means recordation of the Senior Loan Security Documents in the Official Records.

"County" means the County of San Diego, California.

"County IHTF Loan" means the subordinate loan to be made by the County Innovative Housing Trust Fund to the Developer in an amount and upon terms acceptable to the Developer.

"County IHTF Loan Closing" means recordation of the County IHTF Loan Deed of Trust in the Official Records.

"County IHTF Loan Deed of Trust" means the deed of trust encumbering Developer's leasehold interest in the Property, to be executed by Developer to secure the County IHTF Loan Note.

"County IHTF Loan Documents" means, collectively, the County IHTF Loan Note, the County IHTF Loan Deed of Trust and any other agreement, document or instrument in connection with the County IHTF Loan.

"County IHTF Loan Note" means the promissory note to be executed by Developer in favor of the County to evidence the obligation of the Developer to repay the County IHTF Loan.

"Developer" shall have the meaning set forth in the first paragraph of this Agreement. Notwithstanding the foregoing, Developer may also refer to the successors and assigns of National Community Renaissance of California ("NCRC"), which may include tax credit partnerships of which NCRC or affiliates thereof are the managing general partner thereof.

"Due Diligence Documents" has the meaning set forth in Section 6.2(a) hereof.

"Due Diligence Investigation" has the meaning set forth in Section 6.1(b) hereof.

"Due Diligence Period" has the meaning set forth in Section 6.1(a) hereof.

"Escrow" means the escrow through which (a) the Property is ground leased to the Developer, and (b) the Construction Loan Closing is conducted.

"Escrow Holder" means the firm that holds the Escrow.

"Event of Default" has the meaning set forth in Section 16.1.

"Evidence of Financing" has the meaning set forth in Section 7.3.

"FHLB" means the Federal Home Loan Bank of San Francisco.

"Final Construction Documents" means plans, drawings and specifications in sufficient detail to support issuance of a Building Permit for the Project.

"General Contractor" means National Community Renaissance of California.

"Ground Lease" means the separate ground leases of the Ground Lease Parcels pursuant to which the Property will be leased by MTS to the Developer and/or affiliates thereof.

"Ground Lease Parcel" means each of those certain legal lots created in accordance with the terms of this Agreement delineating each building parcel, Building A, Building B, Building C, and Building D described in the Scope of Development, as well as a remainder parcel which shall include rights for vehicular and pedestrian access and circulation.

"HCD" means the State of California Department of Housing and Community Development.

"HCD Loans" means the AHSC Loan, IIG loan, TOD loan, and/or MHP loan.

"Hazardous Materials" means flammable materials, explosives, radioactive materials, hazardous wastes, toxic substances and similar substances and materials, including all substances and materials defined as hazardous or toxic wastes, substances or materials under any applicable law, including, without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 42 §§ 9601, et seq., as amended. Hazardous Materials expressly exclude substances typically used in the construction, development, operation and maintenance of an apartment complex provided such substances are used in accordance with all applicable laws.

"Housing Commission" means the San Diego Housing Commission.

"Housing Commission Loan" means the subordinate loan to be made by the Housing Commission to the Developer in an amount and upon terms acceptable to the Developer.

"Housing Commission Loan Closing" means recordation of the Housing Commission Loan Deed of Trust in the Official Records.

"Housing Commission Loan Deed of Trust" means the deed of trust encumbering Developer's leasehold interest in the Property, to be executed by Developer to secure the Housing Commission Loan Note.

"Housing Commission Loan Documents" means, collectively, the Housing Commission Loan Note, the Housing Commission Loan Deed of Trust and any other agreement, document or instrument in connection with the Housing Commission Loan.

"Housing Commission Loan Note" means the promissory note to be executed by Developer in favor of Housing Commission to evidence the obligation of the Developer to repay the Housing Commission Loan.

"IIG" means the HCD Infill and Infrastructure Grant Program.

"Improvements" means the improvements to be made to the Property in accordance with this Agreement, including, without limitation, in accordance with the Scope of Development and the Final Construction Documents.

"Indemnitees" means MTS, San Diego and Arizona Eastern Railway Company, San Diego Trolley, Inc., San Diego Transit Corporation, San Diego and Imperial Valley Railroad, and their officers, employees, representatives and agents.

"Joint Development Project" has the meaning set forth in Recital "C" above.

"MHP" means the HCD Multifamily Housing Program.

"Monetary Lien" has the meaning set forth in Section 6.5(a).

"MTS CEO" means the Chief Executive Officer of MTS or his/her designee.

"Notices" has the meaning set forth in Article 17.

"Official Records" means the Official Records of the County.

"Parcel Map" has the meaning set forth in Section 4.1.

"Permitted Encumbrances" means the Senior Loan Security Documents and such other exceptions to title reasonably approved by the MTS CEO.

"Person" means any individual or entity, its heirs, executors, administrators, legal representatives, successors and assigns, as the context may require.

"Preliminary Project Budget" has the meaning set forth in Section 7.2(a).

"Preliminary Title Report" has the meaning set forth in Section 6.4.

"Project" has the meaning set forth in Recital "D" above.

"Project Architect" means an architect to be selected by the Developer, subject to the approval of MTS, which approval shall not be unreasonably conditioned, withheld or delayed. MTS has approved Studio E as the initial Project Architect.

"Project Documents" means, collectively, this Agreement, the Ground Lease, the Memorandum of Ground Lease, and any other agreement, document or instrument that the Developer and MTS enter into pursuant to this Agreement or in order to effectuate the purposes of this Agreement.

"Project Financing" has the meaning set forth in Section 7.1.

“Property” has the meaning set forth in Recital “B” above.

“Schedule of Performance” means the Schedule of Performance attached hereto as Exhibit “B”. John and Randy need to create this SOP. The parties hereto acknowledge and agree that the dates included in the Schedule of Performance shall be subject to extension due to force majeure delays.

“Senior Lender” means the Construction Lender or the Take-Out lender, as the context requires, and their successors and assigns.

“Senior Loan” means the Construction Loan or the Take-Out Loan as the context requires.

“Senior Loan Security Documents” means the documents and instruments required by the Senior Lender to secure the Senior Loan.

“Subordinate Loans” means the Housing Commission Loan, County IHTF Loan, City of San Diego EDD Loan, and HCD Loans.

“Survey” has the meaning set forth in Section 6.4.

“Take-Out Lender” means the lending institution that makes the Take-Out Loan and its successors and assigns.

“Take-Out Loan” means the long-term loan made by the Take-Out Lender to the Developer in order to take out the Construction Loan. Take-Out Loan may also refer to the Construction Loan if and when it converts to permanent financing.

“Tax Credits” has the meaning set forth in Section 7.1(a), required to finance the Project.

“Tax Credit Funds” has the meaning set forth in Subdivision 8.4(b)(iii).

“Tax Credit Program” has the meaning set forth in Section 9.7.

“TCAC” means the California Tax Credit Allocation Committee.

“Title Company” means Fidelity National Title Company or such other title insurance company agreed to by the Developer and the MTS CEO.

“TOD” means the HCD Transit Oriented Development Program.

1.2 **Singular and Plural Terms.** Any defined term used in the plural in this Agreement shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3 **Accounting Principles.** Any accounting term used and not specifically defined in this Agreement shall be construed in conformity with, and all financial data required to be submitted under this Agreement shall be prepared in conformity with, generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to MTS.

1.4 **References and Other Terms.** References herein to Articles, Sections and Exhibits shall be construed as references to this Agreement unless a different document is named. References to subsections shall be construed as references to the same Section in which the reference appears. The terms “including” and “include” mean “including (include) without limitation”.

1.5 **Exhibits Incorporated.** All attachments to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

2. **PARTIES**

2.1 **MTS.** MTS is the San Diego Metropolitan Transit System, also known as the San Diego Metropolitan Transit Development Board as set forth in the California Public Utilities Code Section 120050, and any successor to its rights, powers and responsibilities. The principal offices of MTS are located at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101.

2.2 **Developer.** The Developer is National Community Renaissance of California, a California nonprofit public benefit corporation, and any successor to its rights, powers and responsibilities. The principal offices of the Developer are located at 9421 Haven Avenue, Rancho Cucamonga, CA 91730.

2.3 **Malick Infill Corp.** Malick is serving as co-developer of the Joint Development Project.

3. **SCHEDULE OF PERFORMANCE**

A Schedule of Performance for the Project is attached hereto as Exhibit “B”. The Schedule of Performance sets forth the times by which the parties are to perform certain obligations under this Agreement. The Schedule of Performance may be modified from time to time by written agreement of the Developer and the MTS CEO.

4. CITY OF SAN DIEGO PROJECT APPROVALS

4.1 The City of San Diego is the land use permitting authority for the Joint Development Project. The parties hereby acknowledge and understand that the Joint Development Project will not require any discretionary land use approvals. In accordance with the terms of the Preliminary Review response, dated as of May 6, 2021, all approvals required for the Joint Development Project will be ministerial.

4.2 The parties further agree that the Developer shall prepare, at its sole cost and expense, all mapping documents on behalf of MTS in order to achieve formation of the Ground Lease Parcels, which mapping documents, shall include, without limitation, any access or other easements across the remaining parcels that are necessary for each individual Project to operate.

4.3 MTS acknowledges that it is exempt from parcel map requirements under the Subdivision Map Act and therefore will create the Ground Lease Parcels by separate conveyances in accordance with Government Code section 66428.

4.4 Notwithstanding anything to the contrary contained herein, in the event the Developer determines that the Joint Development Project may include additional encroachments upon MTS property not anticipated to be included in the Ground Lease Parcels, MTS shall cooperate in good faith with Developer and/or Malick to enter into any agreements to allow such encroachments which are reasonably necessary for the feasibility of the Joint Development Project and/or each Project, provide such encroachment does not interfere with MTS transit operations.

4.5 The parties acknowledge and agree that the Developer shall pay all of the out-of-pocket costs and expenses connected with obtaining all necessary approvals from the City of San Diego, and any other applicable permitting authority, to construct and maintain the Joint Development Project. The Developer agrees that it shall be principally responsible for processing said approvals through City provided, however, MTS, without any out-of-pocket cost or expense to it, agrees to provide the Developer with all appropriate assistance in processing and securing the approvals.

5. DESIGN REVIEW PROCESS

5.1 **Scope of Development.** The Developer shall develop the Property, at its sole cost and expense but subject to the availability to the Developer of the Project Financing, including, without limitation, financial feasibility, in accordance with the terms of this Agreement. Subject to the terms of this Agreement, the Developer shall develop the Property substantially in conformance with the Scope of Development attached hereto as Exhibit "C".

5.2 **City Building and Safety Plan Check.** The Developer shall cause the Improvements to be designed substantially in accordance with the Scope of Development and shall cause the Improvements to be processed through the City's plan check process on a schedule reasonably calculated to permit a Building Permit to issue by the time provided in the Schedule of Performance for the Close of Escrow. No provision of this Agreement shall be construed to be a pre-approval of, or commitment to approve any City permit applied for by the Developer or by any party relating to the Project or the Property.

5.3 **Rights of Access and Inspection.** Representatives of MTS, including the MTS CEO and his or her designees, shall have the reasonable right of access to the Property on two (2) business days' notice to the Developer, without charges or fees, during normal business hours and subject to reasonable job safety requirements as may be established by Developer during the performance of construction of the Project contemplated by this Agreement, for the purpose of reviewing the Developer's progress in commencing and diligently pursuing construction of the Project to completion as required by this Agreement.

5.4 **Developer Right to Terminate.** Prior to the Close of Escrow, the Developer may terminate this Agreement by fifteen (15) business days' notice to MTS if the Developer has been unable, by the time provided in the Schedule of Performance, to obtain the City's approval of the Final Construction Documents for the Project and obtain the Building Permit.

5.5 **Project Architect.** The MTS CEO shall have the right to approve any replacement for the Project Architect.

6. **PROPERTY INVESTIGATION**

6.1 **Due Diligence Period; Inspection and Access.**

(a) **Due Diligence Period.** The "Due Diligence Period" shall mean the period beginning on the later of (i) the date of this Agreement, and (ii) the date on which MTS delivers to the Developer the last of the Due Diligence Documents, and ending at 5:00 p.m. Pacific Time on the date which is one hundred eighty (180) days thereafter.

(b) **Due Diligence Investigation.** The Developer shall conduct its investigation of the Property during the Due Diligence Period. This investigation (the "Due Diligence Investigation") may include, in the Developer's sole and absolute discretion: a physical inspection of the Property, including, but not limited to, inspection and examination of soils, environmental factors, hazardous substances, archeological information relating to the Property, geological, engineering and other tests; a review and investigation of zoning, permits and entitlements; review of all governmental matters affecting the Property; and review of such other matters pertaining to an investment in, and development of, the Property as the Developer deems advisable. Such due diligence shall be conducted at the Developer's sole expense. The Developer shall notify MTS of its disapproval of the Due Diligence Investigation.

(c) **Access/Conditions.** The Developer and its representatives shall obtain a Right of Entry Permit to enter the Property to conduct its Due Diligence Investigation. Adequate transit parking shall be maintained at all times during the Due Diligence period. This right of entry shall be subject to the following conditions:

(i) The Developer shall be authorized to perform environmental testing and sampling at the Property at all times prior to the Close of Escrow. The Developer shall provide MTS with the results of any environmental testing or sampling it performs, provided, however, that such results shall be provided as an accommodation only with no representation or warranty by Developer and MTS shall have no right to rely on any such results. MTS shall be solely responsible for reporting the results of such testing or sampling to any governmental agency with jurisdiction, to the extent such reporting is required by law. The Developer shall also be authorized to communicate with any governmental agency having jurisdiction over the Property regarding the environmental condition of the Property or any other matter, and with any private or

public entity which may be responsible for the remediation of any environmental condition affecting the Property.

(ii) The Developer shall not permit any mechanics' or other liens to be filed against the Property as a result of the Developer exercising its right of entry and the Developer, at its sole cost, shall cause any liens so filed to be removed within twenty (20) days after the Developer receives notice of filing, by bond or otherwise.

(iii) Promptly after any physical inspection of the Property, the Developer, at its sole cost, shall restore the Property substantially to the condition that existed immediately prior to such inspection, provided, however, that the Developer shall have no obligation to mitigate any existing environmental condition on the Property. Notwithstanding anything to the contrary contained herein, in no event shall Developer have any liability hereunder for mere discovery of any conditions on the Property.

6.2 **MTS Disclosures.**

(a) **Delivery of Documents.** Within three (3) business days after the date of this Agreement, MTS shall deliver to the Developer copies of all documents in MTS's possession or control relating to the Property, including, without limitation, copies of any and all documents pertaining to the physical and/or economic condition of the Property, covenants, conditions and restrictions rights of use or access, whether or not recorded against the Property, all reports and studies regarding the physical condition of the Property, including but not limited to environmental, biological, archaeological, soils and engineering reports and studies and any other information regarding the physical, legal or financial condition of the Property (collectively, the "Due Diligence Documents").

(b) **Review of Other Documents.** In addition to the Developer's right to receive the Due Diligence Documents, the Developer and its representatives shall have the right of access to MTS's records during reasonable business hours to inspect, review, catalog and copy all files, books and records maintained by MTS or its affiliates or agents, wherever located, relating to the Property.

(c) **No Waiver.** MTS agrees that the rights of access and the disclosures provided in this Section 6.2 shall not relieve MTS of any of its obligations under this Agreement, or under applicable law, nor shall they constitute a waiver by the Developer of the same.

(d) **DIME Hollister LLC Access Acknowledgement Agreement.** Developer is aware that MTS has an obligation to provide access to a neighboring parcel, Assessor's Parcel No. 628-050-25-00, (DIME Property) and that it has entered into an agreement with the property owner, DIME Hollister LLC, acknowledging that obligation. Developer agrees to design the access road for the Project to connect to the DIME Property and that MTS will grant and record an access and utility easement over the Property in the location mutually agreed to by MTS, DIME, and Developer. Notwithstanding anything to the contrary contained herein, in no event shall MTS record any easement agreements with DIME without the prior written consent of NCRC, which shall not be unreasonably withheld.

6.3 **Approval/Disapproval of Due Diligence Investigation.** During the Due Diligence Period, the Developer may terminate this Agreement for any or no reason in the Developer's sole and absolute discretion upon written notice to MTS. If the Developer approves of the results of its Due Diligence Investigation, in the exercise of the Developer's sole and

absolute discretion, then the Developer shall deliver written notice (the "Approval Notice") to MTS no later than the expiration of the Due Diligence Period. If the Developer fails to deliver the Approval Notice to MTS prior to the expiration of the Due Diligence Period, then the Developer shall be deemed to have disapproved the results of its Due Diligence Investigation, whereupon this Agreement shall terminate.

6.4 **Preliminary Title Report and Survey**. Within five (5) business days after the date of this Agreement, the Developer shall obtain a preliminary title report or commitment for title insurance (the "Preliminary Title Report"), dated no earlier than sixty (60) days before the date hereof, covering the Property and issued by Title Company, together with a legible copy of each document, map and survey referred to in the Preliminary Title Report. In addition, at the Developer's option and expense, the Developer may obtain a survey of the Property (the "Survey").

6.5 **Approval/Disapproval of Title**. The Developer may approve or disapprove of the exceptions shown on the Preliminary Title Report or any matter shown on the Survey for any reason in the Developer's sole and absolute discretion by the end of the Due Diligence Period.

(a) **Monetary Liens**. At its expense, MTS shall remove at or before the Close of Escrow all monetary liens (collectively, "Monetary Liens") including without limitation: (i) all delinquent taxes, bonds and assessments and interest and penalties thereon; and (ii) all other monetary liens, whether or not shown on the Preliminary Title Report (including judgment and mechanics' liens, whether or not liquidated, and mortgages and deeds of trust, with MTS being fully responsible for any fees or penalties incurred in connection therewith). Monetary Liens shall not include a lien for non-delinquent general real property taxes prorated in accordance with this Agreement.

(b) **Approval/Disapproval of Title**. The Developer shall approve or disapprove of the Preliminary Title Report and the Survey (if applicable) and any exceptions to title shown thereon or therein (other than the Monetary Liens) in the exercise of the Developer's sole and absolute discretion by the end of the Due Diligence Period. If the Developer disapproves, then the Developer may either (i) terminate this Agreement by giving MTS written notice of termination, or (ii) give MTS a written notice (the "Disapproval Notice") identifying the disapproved title matters which the Developer will require to be removed or cured at or prior to Close of Escrow (the "Disapproved Exceptions"). Failure to give either notice approving the Preliminary Title Report and the Survey or the Disapproval Notice shall be deemed to constitute the Developer's election to terminate this Agreement. With respect to any Disapproved Exceptions, other than the Monetary Liens, and any exceptions created after the date of this Agreement, MTS shall notify the Developer in writing within five (5) days after MTS's receipt of the Disapproval Notice whether MTS will cause the Disapproved Exceptions to be removed or cured at or prior to Close of Escrow. If MTS elects not to remove or cure all Disapproved Exceptions, then the Developer may, at its option by notice to MTS given within ten (10) days after receipt of MTS's notice, elect to: (i) subject to satisfaction of the other closing conditions for the benefit of the Developer, close the purchase of the Property and take title subject to the Disapproved Exceptions which MTS elects not to remove or cure; or (ii) terminate this Agreement. Failure of the Developer to give such notice within such ten-day period shall be deemed an election to terminate this Agreement. Notwithstanding the foregoing, the Developer shall have the right to review and approve any new exceptions (the "New Encumbrances") shown on a Preliminary Title Report following the end of the Due Diligence Period up through and including until the Close of Escrow. In the event the Developer fails to approve any New Encumbrance, this Agreement shall terminate.

(c) **Failure to Cure.** If any Disapproved Exceptions that MTS is required to or has elected to remove or cure, or any Monetary Liens, or exceptions to title created after the date hereof without the written consent of the Developer have not been removed prior to Close of Escrow, or provision for their removal at the Close of Escrow has not been made to the Developer's satisfaction, the Developer may elect, in its sole discretion, to: (i) close the purchase of the Property and take title subject to the Disapproved Exceptions which have not been removed; (ii) close the purchase of the Property and cure or remove the Disapproved Exceptions which have not been removed at MTS's cost and expense; or (iii) terminate this Agreement.

7. FINANCING FOR THE PROJECT

7.1 **Financing Plan.** It is contemplated that the Developer will finance the Project through a combination of:

- (a) Developer equity, consisting of equity raised by the sale to reputable investors of low-income housing tax credits (the "Tax Credits");
- (b) the Senior Loan from a reputable institutional lender;
- (c) Housing Commission Loan;
- (d) County's Innovative Housing Trust Fund (IHTF);
- (e) City of San Diego EDD;
- (f) Various loans and grants by the HCD which may include, but not be limited to MHP, AHSC, IIG and/or TOD; and
- (g) FHLB pursuant to its Affordable Housing Program (the "AHP Loan").

7.2 **Preliminary Project Budget.** Attached hereto as Exhibit "D" are the following preliminary budgetary materials for the Project:

- (a) Preliminary Project Budget;
- (b) Sources and Uses of Funds Statement;
- (c) Cash Flow Projection; and
- (d) First Year Operating Budget.

Until the Construction Loan Closing, the Developer, if, as and when additional information becomes available, shall promptly revise these budgetary materials to reflect the best information then available to Developer, and shall submit the revised documents to the MTS CEO.

7.3 **Final Project Budget.** Prior to the Construction Loan Closing, MTS CEO, the Developer and the third-party lenders and/or investors providing the Project Financing shall agree on the final Project Budget.

7.4 **Financing Commitments.** The Developer shall use its best efforts to obtain, by the earliest reasonable date, financing for the Project, including, without limitation, (a) applying to lenders at the earliest reasonable opportunity for the Senior Loan, (b) applying to the Housing Commission, City of San Diego EDD, and County IHTF at the earliest reasonable opportunity for the respective loans, and (c) timely filing, in the first TCAC 9% application round or tax-exempt bonds with 4% tax credits combined with other State financing sources loans and grants. Not later than the time provided in the Schedule of Performance, the Developer shall submit to MTS CEO preliminary commitments for the Project Financing. MTS agrees, without any obligation to incur any out-of-pocket cost or expense, to provide the Developer with all appropriate assistance in applying for any of the Project Financing.

7.5 **Developer Rights to Terminate.**

(a) **Failure to Obtain Tax Credits.** Prior to the Construction Loan Closing, the Developer may terminate this Agreement by giving thirty (30) days' notice to MTS if, despite having made commercially reasonable efforts, it has been unable by the time provided in the Schedule of Performance to obtain an allocation of Tax Credits, or obtain the Tax Credit Funds, in each case in such amounts and on such terms as are reasonably acceptable to the Developer.

(b) **Failure to Obtain Other Project Financing.** Prior to the Construction Loan Closing, the Developer may terminate this Agreement by giving thirty (30) days' notice to MTS if, despite having made commercially reasonable efforts, it has been unable by the time provided in the Schedule of Performance to obtain the Senior Loan and/or the Housing Commission Loan on terms and conditions reasonably acceptable to the Developer.

7.6 **MTS Right to Terminate.** Prior to the Construction Loan Closing, MTS may terminate this Agreement by giving thirty (30) days' notice to the Developer if the Developer fails to obtain the Project Financing (or such financing which allows Project feasibility, subject to the reasonable consent of MTS) by the time set forth in the Schedule of Performance. Notwithstanding the foregoing, if the Developer obtains the Project Financing during said thirty (30)-day notice period, MTS's notice of termination shall be deemed nullified thereby.

8. **CONVEYANCE OF THE PROPERTY**

8.1 **Agreement.** MTS, subject to the conditions set forth in Section 8.4, agrees to ground lease to the Developer, and the Developer, subject to the condition set forth in Section 8.5, agrees to ground lease from MTS, the Property pursuant to the "Ground Lease" in substantially the form attached hereto as Exhibit "E" as said form may be modified by the mutual agreement of the Developer and the MTS CEO.

(a) A separate Ground Lease shall be executed for each Ground Lease Parcel;

(b) Developer reserves the right to construct each Project (Buildings A, B and C) in any order, as part of a single phase or multiple phases, depending on funding availability; provided, however, that construction of the first phase shall commence not later than five (5) years following execution of this DDA, and construction of all phases will be completed not later than ten (10) years following the start of construction on the first phase.

(c) If Developer fails to close escrow and commence construction on any Ground Lease Parcel within the above deadlines, subject to reasonable force majeure delays, MTS shall

have the right to terminate this DDA.

(d) In the event this DDA is terminated pursuant to Paragraph 8.1(c), Malick shall have a right of first refusal to assume Developer's rights and obligations under this DDA as to the defaulted building phases (Building A, Building B, or Building C, as applicable). MTS and Malick shall mutually agree upon new project deadlines for the assigned Ground Lease Parcel rights, provided, however, that the assigned Ground Lease Parcel project shall close escrow within 36 months of the new DDA rights being assigned.

(e) If this DDA is terminated pursuant to Paragraph 8.1(c) and Malick declines to exercise its rights in Paragraph 8.1(d), then MTS shall have the right to either keep the Ground Lease Parcel for MTS's use or lease the vacant Ground Lease Parcel to another party, in MTS's sole discretion, subject to the site development/joint infrastructure fair share obligations described in Paragraph 8.1(f).

(f) In the event Developer only completes a portion of the phases (i.e., between 1 and 3 phases) that it is responsible for pursuant to the terms of this Agreement, then MTS will work with Developer and the third-party replacement developer, if any, to ensure that the replacement development, or the MTS transit use contemplated in Section 8.1(e) is properly integrated into the completed development and that any joint facilities from the original Scope of Development for Buildings A through D, or facilities with comparable benefits, are constructed as part of the replacement development. This requirement shall not apply if the unconstructed joint facilities would place an unequal cost burden on the replacement development, as compared to the joint facility cost burden of the completed development phases.

(g) MTS agrees that prior to exercising its Paragraph 8.1(e) rights related to Building D in the Malick DDA, that it will give Developer a right of first refusal to assume Malick's rights and obligations under the Malick DDA as to Building D. MTS further agrees that MTS may use such Ground Lease Parcel for transit purposes only in the event Developer does not indicate its intent to exercise its right of first refusal hereunder following thirty (30) days after MTS provides notice thereof.

8.2 **Escrow**. Conveyance of the Property pursuant to the Ground Lease shall be made through the Escrow. This Agreement shall constitute escrow instructions to the Escrow Holder. MTS and Developer shall execute such escrow instructions as are consistent with this Agreement and as may be reasonably required by the Escrow Holder.

8.3 **Term of Escrow**. The Escrow for each Ground Lease Parcel shall close concurrent with the Construction Loan Closing for each Project.

8.4 **Conditions for the MTS's Benefit**. MTS's obligation to ground lease the Property to the Developer pursuant to the Ground Lease for each Project, if and as applicable, shall be subject to satisfaction of the following conditions precedent:

(a) **Ground Lease Parcel Creation**. Developer shall prepare the legal descriptions and plats for the Ground Lease Parcels and shall obtain MTS approval of the same before close of escrow on the first building phase. MTS shall retain appropriate access and utility easement rights for the DIME property, as contemplated in Section 6.2(d).

(b) **Evidence of Financing**. The MTS CEO has received the following "Evidence of Financing" which shows sufficient financing and/or grants to complete the Project:

- (i) **Senior Loan**. True and complete copies of the Senior Loan documents.
 - (ii) **Subordinate Loans**. True and complete copies of the documents evidencing the Subordinate Loans.
 - (iii) **Tax Credit Financing**. True and complete copies of an amended and restated agreement of limited partnership of the Developer pursuant to which a tax credit investor is admitted as a limited partner to the Developer and agrees to contribute the Tax Credit Funds to the Developer. For purposes of this Agreement, "Tax Credit Funds" shall mean the capital contributions of the tax credit investor made in consideration for its partnership interest in accordance with the terms of the partnership agreement.
 - (iv) **Grants or other funding**. True and complete copies of any grant awards or other funding that will be used to complete the project.
- (c) **Construction Contract**. MTS has received a true and complete copy of a contract by and between the Developer and the General Contractor pursuant to which the General Contractor has agreed to construct the Improvements.
- (d) **Organizational Documents**. The MTS CEO shall have received a copy of such portions of the organizational documents (e.g., partnership agreement, limited liability company operating agreement) of the Developer as the MTS CEO deems reasonably necessary to document the power and authority of the organization to perform its obligations under this Agreement.
- (e) **Building Permit**. The Building Permit for the Improvements has been issued or is ready to issue upon only payment of a sum certain.
- (f) **Work to Commence**. The MTS CEO shall be reasonably satisfied that the work of the Improvements will commence not later than thirty (30) days after the Close of Escrow.
- (g) **Insurance**. MTS has received satisfactory evidence that the insurance required pursuant to Exhibit "F" is in full force and effect.
- (h) **Representations and Warranties**. The representations of the Developer contained in this Agreement shall be correct in all material respects as of the Close of Escrow as though made on that date and, if requested by the MTS CEO, MTS shall have received a certificate to that effect signed by the Developer.
- (i) **No Default**. No Event of Default by the Developer shall then exist, and no event shall then exist which, with the giving of notice or the passage of time or both, would constitute an Event of Default by the Developer and, if requested by the MTS CEO, MTS shall have received a certificate to that effect signed by the Developer.

8.5 **Covenants of the Developer**. The Developer covenants and agrees to use best efforts to satisfy, by the time provided in the Schedule of Performance, any and all of the conditions set forth in Section 8.4 that (a) the Developer has not elsewhere in this Agreement

expressly covenanted and agreed to satisfy, and (b) the satisfaction of which is entirely within the reasonable control of the Developer.

8.6 **Condition for the Developer's Benefit.** The Developer's obligation to ground lease the Property from MTS shall be subject to satisfaction of the following conditions precedent:

(a) **Title Insurance.** Title Company is prepared to issue its ALTA owner's form policy of title insurance, with liability in the amount of the total of the equity raised from the Tax Credits plus the principal amounts of all loans obtained for the Project, including, without limitation, the Senior Loan and Subordinate Loans, showing leasehold title to the Property and fee title the improvements located thereon vested in the Developer, subject only to the lien of the Construction Loan Security Documents and the documents securing the Subordinate Loans and such other exceptions as the Developer has previously notified MTS were acceptable to the Developer (the "Developer Title Policy").

(b) **Ground Lease Parcel Creation.** MTS shall have approved the Ground Lease Parcel descriptions and reserved access and utility easements.

(c) **Grading or Building Permit and Other Applicable Approvals.** The Building Permit or Grading Permit for the Improvements, and any other necessary permits, have been issued or is ready to issue upon only payment of a sum certain.

(d) **Satisfaction of Contingencies.** The Developer has approved all of the Developer's contingencies set forth in Article 6 of this Agreement.

(e) **Evidence of Financing.** The Developer has received and approved the following "Evidence of Financing":

(i) **Senior Loan.** True and complete copies of the Senior Loan documents.

(ii) **Subordinate Loans.** True and complete copies of the documents evidencing the Subordinate Loans.

(iii) **Tax Credit Financing.** True and complete copies of an amended and restated agreement of limited partnership of the Developer pursuant to which a tax credit investor is admitted as a limited partner to the Developer and agrees to contribute the Tax Credit Funds to the Developer.

8.7 **Developer Right to Terminate.** Prior to the Close of Escrow, the Developer may terminate this Agreement by giving thirty (30) days' written notice to MTS if, despite having made its best efforts, it has been unable, by the time provided in the Schedule of Performance, to satisfy or obtain a waiver of any of the conditions set forth in Section 8.4.

8.8 **MTS Right to Terminate.** Prior to the Close of Escrow, MTS may terminate this Agreement by giving thirty (30) days' written notice to the Developer if, by the time provided in the Schedule of Performance, the Developer has failed to satisfy or obtain waiver of any of the conditions set forth in Section 8.4. Notwithstanding the foregoing, if the Developer, during said thirty (30)-day notice period, satisfies said conditions, then the MTS notice of termination shall be deemed nullified thereby.

8.9 **Waiver of Conditions.** The conditions set forth in Section 8.4 are for MTS's benefit only and the MTS CEO may waive all or any part of such rights by notice to the Developer and the Escrow Holder. The conditions set forth in Section 8.6 are for the Developer's benefit only and the Developer may waive all or any part of such right by notice to MTS and the Escrow Holder.

9. AFFORDABILITY OF PROJECT

As more particularly provided in the Ground Lease, for a period of fifty-five (55) years from the issuance of a certificate of occupancy, the dwelling units in the Project shall be rented to families whose incomes do not exceed the incomes required by the Tax Credits. Without limiting the generality of the foregoing, the dwelling units in the Project shall be rented to families whose incomes do not exceed 80 percent (80%) of area median income.

10. PHYSICAL CONDITION OF PROPERTY

10.1 The Developer acknowledges and agrees that it is ground leasing the Property solely in reliance on its own investigation, and that no representations and/or warranties of any kind whatsoever, express or implied, have been made by MTS, or by its officers, employees, representatives or agents. The Developer further acknowledges and agrees that, as of the Close of Escrow, the Developer will be acquiring the Property on an "AS IS" condition with all faults and conditions then existing in and on the Property, whether known or unknown; provided that the foregoing shall not constitute a release of MTS under any statute or common law theory. Notwithstanding the foregoing, MTS acknowledges and agrees that neither this Section 10.1, nor any other term, provision or condition of this Agreement obligates the Developer, as between it and MTS, and prior to the Close of Escrow, to remediate, or to incur any cost to remediate, any Hazardous Materials discovered by the Developer on the Property prior to the Close of Escrow. In the event that Hazardous Materials are so discovered, disposition of the situation shall be governed by the conditions set forth in Section 10.2.

10.2 If, following expiration of the Due Diligence Period but prior to execution of the Ground Lease, the Developer discovers Hazardous Materials on, under or about the Property, then the Developer, subject to the condition set forth below, shall have the right, prior to the Close of Escrow, to terminate this Agreement by thirty (30) days' notice to MTS. The Developer's right to terminate this Agreement shall be subject to the condition precedent that the Developer first have submitted to MTS any and all information then available to the Developer as to the nature and scope of the Hazardous Materials discovered and the cost estimated to remediate it, if any such cost estimate exists.

11. CLOSE OF ESCROW; EXPENSES

11.1 **Documents to be Delivered.** Upon receipt by the Escrow Holder of:

- (a) the Memorandum of Ground Lease; and
- (b) all other funds and documents required to close the Escrow in accordance with this Agreement.

and when the conditions precedent described in Sections 8.4 and 8.6 have been satisfied or waived in writing by the MTS CEO, the Escrow Holder shall, in the following order, record in the Official Records:

- (i) the Memorandum of Ground Lease; and
- (ii) such other documents required to close the Escrow in accordance with this Agreement.

11.2 **Expenses of the Developer.** The Developer shall pay: (a) any and all documentary transfer taxes and recording fees arising from leasehold conveyance of the Property from MTS to the Developer by the Ground Lease, (b) the Escrow fee, (c) the premium for Developer Title Policy, and (d) all such other costs and expenses reasonably related to the Escrow and not expressly provided for herein.

11.3 **Instruction to Escrow Holder Regarding Waiver of Transfer Taxes and Recording Fees.** The Escrow Holder is hereby instructed to seek such waivers and exemptions from transfer taxes and recording fees as are available pursuant to Revenue and Taxation Code Section 11922 and Government Code Section 6103, respectively.

11.4 **Broker's Commissions.** The Developer represents and warrants that it has not engaged any broker, agent or finder in connection with this Agreement, and the Developer agrees to indemnify, protect, hold harmless, and defend the Indemnitees from any claim by any brokers, agents or finders retained by Developer. The MTS represents and warrants that it has not engaged any broker, agent or finder in connection with this Agreement, and the Developer agrees to indemnify, protect, hold harmless, and defend the Indemnitees from any claim by any brokers, agents or finders retained by Developer.

12. OTHER ESCROW INSTRUCTIONS

12.1 **Funds in Escrow.** All funds received in the Escrow shall be deposited by the Escrow Holder in a general escrow account with any state or national bank doing business in the State of California and reasonably approved by the MTS CEO and the Developer, and such funds may be combined with other escrow funds of the Escrow Holder. All disbursements shall be made on the basis of a thirty (30) day month.

12.2 **Failure to Close.** If the Escrow is not in condition to close on or before the time established in the Schedule of Performance, any party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, demand the return of its money, papers, or documents from the Escrow Holder. No demand for return shall be recognized until fifteen (15) days after the Escrow Holder (or the party making such demand) shall have mailed copies of such demand to the other party. Objections, if any, shall be raised by written notice to the Escrow Holder and to the other party within the 15-day period, in which event the Escrow Holder is authorized to hold all money, papers and documents until instructed by mutual agreement of the parties or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, the Escrow shall be closed as soon as possible.

If objections are raised in the manner provided above, the Escrow Holder shall not be obligated to return any such money, papers or documents except upon the written instructions of both the MTS CEO and the Developer, or until the party entitled thereto has been determined by a final decision of a court of competent jurisdiction. If no such objections are

made within said 15-day period, the Escrow Holder shall immediately return the demanded money, papers or documents.

12.3 **Amendments**. Any amendment to these Escrow instructions shall be in writing and signed by the MTS CEO or MTS counsel and the Developer or Developer counsel. At the time of any amendment, the Escrow Holder shall agree to carry out its duties as the Escrow Holder under such amendment.

12.4 **Notices**. All Notices from the Escrow Holder to MTS or the Developer shall be given in the manner provided in Article 16.

12.5 **Liability**. The liability of the Escrow Holder under this Agreement is limited to performance of the obligations imposed upon it under Sections 12.1, 12.2 and 12.3.

13. RESERVED

14. GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

14.1 **Developer's Formation, Qualification and Compliance**. The Developer (a) is validly existing and in good standing under the laws of the State of California, (b) has all requisite authority to conduct its business and own and lease its properties, (c) has all requisite authority to execute and perform its obligations under this Agreement.

14.2 **Litigation**. The Developer represents and warrants that there are no material actions, lawsuits or proceedings pending or, to the best of the Developer's knowledge, threatened against or affecting the Developer, the adverse outcome of which could have a material adverse effect on the Developer's ability to perform its obligations under this Agreement.

15. INDEMNIFICATION

15.1 **Nonliability of MTS**. The Developer acknowledges and agrees that:

(a) MTS neither undertakes nor assumes any responsibility to review, inspect, supervise, approve (other than for aesthetics) or inform the Developer of any matter in connection with the Project, including matters relating to: (i) architects, contractors, subcontractors and materialmen, or the workmanship of or materials used by any of them, or (ii) the progress of the Project and its conformity with the plans and specifications prepared by the Developer's consultants; and the Developer shall rely entirely on its own judgment with respect to such matters and acknowledge that any review, inspection, supervision, approval or information supplied to the Developer by MTS in connection with such matters is solely for the protection of MTS and that neither the Developer nor any third party is entitled to rely on it;

(b) Notwithstanding any other provision of this Agreement: (i) MTS is not a partner, joint venturer, alter-ego, manager, controlling person or other business associate or participant of any kind of the Developer and MTS does not intend to ever assume any such status; and (ii) MTS shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Developer;

(c) MTS shall not be directly or indirectly liable or responsible for any loss or injury of any kind to any person or property resulting from any construction on, or occupancy or use of, the Property by the Developer whether arising from: (i) any defect in any building, grading, landscaping or other onsite or offsite improvement undertaken by the Developer; (ii) any act or omission of the Developer or any of the Developer's agents, employees, contractors, licensees or invitees; or (iii) following the Close of Escrow, any accident on the Property or any fire or other casualty or hazard thereon not caused by MTS; and

(d) By accepting or approving anything required to be performed or given to under this Agreement, including any certificate, financial statement, survey, appraisal or insurance policy, MTS shall not be deemed to have warranted or represented the sufficiency or legal effect of the same, and no such acceptance or approval shall constitute a warranty or representation by MTS to anyone.

15.2 **Indemnity.** Except with respect to Hazardous Materials found to exist on the Property as of the date of this Agreement, from and after the Close of Escrow, the Developer shall indemnify, hold harmless and defend (with counsel reasonably satisfactory to the MTS CEO) the Indemnitees from and against any and all losses, costs, claims, expenses, damages and liabilities (including, without limitation, reasonable attorneys' fees and court costs) directly or indirectly arising from, related to, or as the result of (a) the death of any person on the Property, (b) damage, injury or loss to any person on the Property, or (c) damage or injury to any property occurring or resulting directly or indirectly from the use, occupancy or development of the Property pursuant to this Agreement, the activities of Developer or its officers, directors, employees, agents, servants or contractors, or from any other cause, except to the extent caused by the Indemnitees' negligence or willful misconduct. This indemnity shall survive termination of this Agreement.

Notwithstanding anything to the contrary contained herein, MTS acknowledges and agrees that no term, provision or condition of this Agreement obligates the Developer to remediate or to incur any cost to remediate any Hazardous Materials discovered by the Developer on the Property prior to the Close of Escrow. In the event that the Developer discovers Hazardous Materials prior to the Close of Escrow, it shall have the right to terminate this Agreement by thirty (30) days' notice to MTS.

16. DEFAULTS AND REMEDIES

16.1 **Event of Default.** Any of the following events or occurrences with respect to either party shall constitute a material breach of this Agreement and, after the expiration of any applicable cure period, shall constitute an "Event of Default" by such party:

(a) The failure by any party to pay any amount in full when it is due under this Agreement, if the failure has continued for a period of fifteen (15) days after the party entitled to payment demands in writing that the other party cure that failure.

(b) The failure by any party to perform any other obligation under this Agreement, including, without limitation, the other Project Documents, if the failure has continued for a period of thirty (30) days after demand in writing that such party cure the failure. If, however, by its nature, the failure cannot reasonably be cured within thirty (30) days, such party may have such longer period of time as is reasonably necessary to cure the failure,

provided, however, that such party commence said cure within said thirty (30)-day period, and thereafter diligently prosecute said cure to completion.

16.2 **No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

16.3 **Rights and Remedies are Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by another party.

17. NOTICES

All notices, consents, demands, approvals and other communications (the "Notices") that are given pursuant to this Agreement shall be in writing to the appropriate party and shall be deemed to have been fully given when delivered, including delivery by commercial delivery service, or if deposited in the United States mail, postage prepaid, when received or refused. All Notices shall be addressed as follows:

If to Developer: National Community Renaissance of California
9421 Haven Avenue
Rancho Cucamonga, CA 91730
Attn: Chief Financial Officer

If to MTS: San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 91355
Attention: General Counsel

Addresses for notice may be changed from time to time by notice to all other parties. Notwithstanding that Notices shall be deemed given when delivered, the nonreceipt of any Notice as the result of a change of address of which the sending party was not notified shall be deemed receipt of such Notice.

18. ASSIGNMENT

18.1 **Generally Prohibited.** Except as otherwise expressly provided to the contrary in this Agreement, the Developer may not assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the MTS CEO, which consent may be withheld in his/her reasonable discretion. Any such assignment or delegation without such consent shall, at MTS's option, be void. Notwithstanding the foregoing, Developer shall be entitled to enter into each respective Ground Lease with a to-be-formed limited partnership in which the Developer or its affiliates serve as a general partner.

19. ADMINISTRATION

Following approval of this Agreement by MTS, this Agreement shall be administered and executed on behalf of MTS by the MTS CEO. The MTS CEO shall have the authority to issue, approvals, consents, interpretations, waive terms and conditions, and enter into amendments of this Agreement and the attachments (including, without limitation, to the Schedule of Performance and the Ground Lease) provided that such actions do not substantially change the uses or development permitted of the Property. All other waivers or amendments shall require the formal consent of MTS.

20. MISCELLANEOUS

20.1 **Counterparts**. This Agreement may be executed in counterparts, all of which, taken together, shall be deemed to be one and the same document.

20.2 **Prior Agreements; Amendments; Consents**. This Agreement contains the entire agreement among the parties with respect to the Property, and all prior negotiations, understandings and agreements are superseded by this Agreement. No modification of this Agreement (including waivers of rights and conditions) shall be effective unless in writing and signed by the party against whom enforcement of such modification is sought, and then only in the specific instance and for the specific purpose given.

20.3 **Governing Law**. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Assuming proper service of process, the Developer and MTS waive any objection regarding personal or in rem jurisdiction and agree that venue shall be proper in the County of San Diego, California.

20.4 **Severability of Provisions**. No provision of this Agreement that is held to be unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of this Agreement are hereby declared to be severable.

20.5 **Headings**. Article and section headings are included in this Agreement for convenience of reference only and shall not be used in construing this Agreement.

20.6 **Time of the Essence**. Time is of the essence of this Agreement.

20.7 **Conflict of Interest**. No member, official or employee of MTS shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement which is prohibited by law.

20.8 **Warranty Against Payment of Consideration**. The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

20.9 **Nonliability of MTS Officials and Employees**. No member, official or employee of MTS shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by MTS or for any amount which may become due to the Developer or successor, or on any obligation under the terms of this Agreement.

20.10 **Submission of Documents and Other Matters for Approval.** Whenever this Agreement requires either party to submit documents or other matters to the other party for approval, and there is no time specified herein for such approval, the submitting party may submit a letter requiring approval or rejection by the other party of the documents or matter submitted within ten (10) business days after submission (unless a longer period is reasonably required and requested in writing), and unless rejected within the stated time such documents or matter shall be deemed approved. Except where such approval is expressly reserved to the sole discretion of the approving party, all approvals required hereunder by either party shall be reasonable and not unreasonably withheld, conditioned or delayed.

20.11 **Force Majeure.** In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; litigation beyond the reasonable control of a party; unusually severe weather; inability, despite best efforts, to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier beyond the reasonable control of a party; acts of the other party; acts or the failure to act of any public or governmental entity (except that acts or the failure to act of MTS shall not excuse performance by MTS); or any other acts or causes beyond the reasonable control of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. **Force Majeure** shall serve also to extend the time by which any condition, for the benefit of either party, shall be satisfied under this Agreement.

20.12 **Project Name.** The marketing name for the Project shall be “Villa Encantada” or such other name as the MTS CEO and the Developer may agree.

20.13 **Term of this Agreement.** Unless terminated prior thereto pursuant to the terms hereof, this Agreement shall terminate upon the Close of Escrow and the execution and delivery of the Ground Lease for the final Ground Lease Parcel.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates hereinafter respectively set forth.

“Developer”

National Community Renaissance of California, a
California nonprofit public benefit corporation

By:

By: _____
Michael Ruane, Executive Vice President

(Signatures continued of following page)

“MTS”

SAN DIEGO METROPOLITAN TRANSIT SYSTEM, a public body, corporate and politic

By: _____
Sharon Cooney, Chief Executive Officer

APPROVED AS TO FORM:

Karen F. Landers, General Counsel

EXHIBITS

- "A" - Legal Description of the Property
- "B" - Schedule of Performance
- "C" - Scope of Development
- "D" - Preliminary Project Budget
- "E" - Material Terms of Ground Lease
- "F" - Insurance Requirements
- "G" - Right of Entry Permit

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "A"

EXHIBIT "B"

SCHEDULE OF PERFORMANCE

Creation of Ground Lease Parcels.

Developer shall prepare the legal descriptions and plat maps under Paragraph 8.4(a) and any other documentation necessary to achieve formation of the Ground Lease Parcels at least 10 days prior to the Construction Loan Closing date for the first phase.

Project Commitments.

Developer shall submit evidence of Project Funding Commitments to the MTS CEO for phases A, B and C not later than ten (10) days prior to the Construction Loan Closing dates of each phase.

Evidence of Financing.

Developer shall submit Evidence of Financing to the MTS CEO for phases A, B and C not later than ten (10) days prior to the Construction Loan Closing date for each phase.

Ground Leases.

Parties shall execute Ground Leases (one ground lease per each phase (A, B and C) unless a phase can be combined with more than one building) concurrent with the Construction Loan Closing date for each phase.

Commencement of Construction.

The Developer shall commence construction on a particular phase within thirty (30) days following the later of (i) Ground Lease execution and (ii) issuance of Grading and Building permits by the City of San Diego.

Completion of Construction.

The Developer shall complete construction no later than thirty (30) months after Commencement of Construction per each phase, unless excused by Force Majeure.

If the Developer fails to satisfy any obligation by the deadline set forth above, the Developer shall not be in default under this Agreement unless the Developer has first been given written notice of such failure and an opportunity to cure pursuant to Section 16.1(b). Any cure by the Developer within the period set forth by Section 16.1(b) shall constitute a full and complete cure of the failure, notwithstanding the fact that the deadline established herein was not first met by the Developer.

EXHIBIT "C"

SCOPE OF DEVELOPMENT

The Developer shall construct or cause to be construct the "Project" which consist of the following:

A total of 288 units in 3 buildings, with additional ground floor commercial spaces, as follows:

Building A by NCRC is 84 units with a mix of 16 studios and 68 (1) bedrooms. Building A will include ground floor retail space. NCRC reserves the right to adjust the unit mix and density of Building A to accommodate various affordable housing financing sources so as long as it does not decrease the unit count by 10% or more.

Building B by NCRC is 102 units with a mix of 1, 2 and 3 bedrooms (a minimum of 25% of the units will be three-bedrooms). Building B will include a childcare facility and sheltered outdoor play space for childcare facility to serve affordable housing residents. NCRC reserves the right to adjust the unit mix and density of Building B to accommodate various affordable housing financing sources so as long as it does not decrease the unit count by 10% or more.

Building C by NCRC is 102 units with a mix of 1, 2 and 3 bedrooms (a minimum of 25% of the units will be three-bedrooms). NCRC reserves the right to adjust the unit mix and density of Building C to accommodate various affordable housing financing sources so as long as it does not decrease the unit count by 10% or more.

The rent levels on the affordable units will range between 30% to 80% of the area medium income.

Site improvements and amenities (anticipated to be constructed as part of the first phase of development) are envisioned to include a perimeter jogging/exercise pathway, sheltered outdoor play space, a multi-mobility hub, a bike station, bike lockers, motorcycle parking, Uber/Lyft/taxi drop-off/pick-up zones, and car-sharing spaces. Completed EV charging spaces would be included along with additional EV charging spaces with conduits/wiring to handle future EV charging for almost all parking spaces. All residents in every phase will enjoy the shared use of all exterior site amenities, which will be memorialized by reciprocal use agreements between the owners of each phase.

Upon full-build out, the Joint Development Project will provide a total of 191 on-site spaces. A total of 80 spaces will be reserved for MTS's exclusive use. An overall parking management plan will be created which will also detail how shared parking if any will be implemented.

EXHIBIT "D"

EXHIBIT "D"
PRELIMINARY PROJECT BUDGET

EXHIBIT "E"

GROUND LEASE MATERIAL TERMS

1. Ground Lease Terms. A separate Ground Lease will be entered into for each building described below. The term of each Ground Lease shall be 99 years, beginning on the date of execution. Each Ground Lease will be executed prior to any construction work commencing on the property.
2. Minimum Density and Rent Restrictions. The Project at full buildout shall consist of three buildings (Buildings A, B, and C) comprising 288 Residential Apartments with a maximum estimated occupancy of 1192 people, as follows:

BLDG	UNIT COUNT	Est Occupancy
A	84	220
B	102	486
C	102	486
TOTAL	288	1192
Minus 10%	259.2	

Occupancy estimate is based upon an assumption that the maximum persons per studio is 1, one-bedroom is 3, two-bedroom is 5, and three-bedroom is 7. Not all units are required to have the maximum allowed population. All of the units shall be restricted to residents who meet affordable housing area medium incomes of no greater than 80% Area Median Income (AMI). Any downward deviation of less than ten percent (10%) from the estimated unit count or occupancy count shall not be considered a material change under Section 305(b). Notwithstanding the above, a downward deviation in unit count of more than ten percent (10%) from the original proposed Building count shall not be a material change under Section 305(b) so long as the occupancy estimate exceeds the estimated occupancy in the chart above, nor shall any upward deviation from the estimated unit count or occupancy count be considered a material change under Section 305(b). The Project may also include ground floor commercial space (at Building A) and a child care facility (at Building B).

3. Rent. Developer shall pay to Board as rent, in arrears, on an annual basis, an amount equal to five percent (5%) of Developer's annual Net Cash Flow (as defined below) from the operation of the Project during the prior calendar year (the "**Base Rent**"). Base Rent will be determined and paid, without any prior demand within one hundred twenty days (120) days after the last day of each calendar year and calculated based on the Gross Income received by Developer from operating the Project during the prior calendar year. For purposes of this Lease, "Net Cash Flow" shall mean (A) all income from the residential and nonresidential components of the Project received on a cash basis, including rental income from the lease of the Residential Apartments, and any other income to Developer derived from the Premises, but excluding (i) insurance proceeds or condemnation proceeds; (ii) security deposits or other tenant deposits; (iii) interest earned on project

reserves; (iv) proceeds of loans or capital contributions; and (v) releases of funds from any operating or capital replacement reserves LESS (B) debt service, operating expenses, and other expenses as detailed in the Ground Lease. Base Rent shall not commence until recordation of the Certificate of Compliance (the “**Rent Commencement Date**”). No Base Rent will be due by Lessee for any calendar years before the year in which the Rent Commencement Date occurs.

4. Leasehold Mortgages. The Ground Lease shall include typical rights and protections for any leasehold mortgagees.
5. Regulatory Requirements for Developer’s Financing. MTS acknowledges that Developer will be seeking grants, loans, tax credits, and other local, state or federal funding to complete each building phase. MTS agrees to execute necessary regulatory agreements, restrictive covenants, lease riders, or similar documents agreeing to be bound by the affordability restrictions and other terms and conditions of the applicable government financing program; PROVIDED, HOWEVER, that MTS shall not be responsible for directly repaying any loan, grant, or other subsidy awarded to Developer. In the event a government funding program requires MTS to be a signatory with joint and several liability, MTS shall have the right, in its sole discretion, to either refuse to execute such agreements or to require additional security from Developer to secure Developer’s performance and avoid risk to MTS.
6. Project Phasing; Deadlines. Developer reserves the right to construct each Project (Buildings A, B and C) in any order, as part of a single phase or multiple phases, depending on funding availability. Construction of the first phase shall commence not later than five (5) years following execution of this DDA, and construction of all phases will be completed not later than ten (10) years following the start of construction on the first phase. Once construction commences on a particular building (Building A, B or C), the construction of that building will achieve substantial completion within thirty- (30) months, subject to extension for “Force Majeure”.
7. Parking/Transit Parking. The joint development Project at full build-out (including Building D to be developed by co-developer Malick Infill Development) will include approximately 191 on-site parking spaces, with a minimum of 80 spaces to be designated for MTS’s exclusive use. The MTS exclusive use spaces shall be designed in a manner that allows MTS to manage, control and enforce the MTS-only parking restriction. Developer shall provide mobility hub features to facilitate and incentivize trolley ridership, including bike lockers, uber pick-up area and other incentives to the residents.
8. Documented Efforts towards Local Hire Goal. Developer shall make a documented good faith effort to achieve HUD Section 3 numerical goals for San Diego Housing Commission Section 3 covered projects (30%) by employing qualified Section 3 Residents (low and very low-income individuals in local jurisdiction) to work on the Project.
9. MTS Policy 18. Developer shall comply with MTS Board Policy 18 prevailing wage and skilled labor requirements in effect at the time of commencement of construction of the Joint Development Project.
10. Encouragement of Public Transit. Developer shall prepare a plan to encourage residents to use public transit and reduce the demand for residential parking.

EXHIBIT "F"

INSURANCE REQUIREMENTS

During the Term of this Agreement, Developer at its sole cost and expense shall:

1. Keep or cause to be kept a policy or policies of insurance against loss or damage to the Improvements on the Premises (including without limitation the Trolley Parking Facilities) resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies. All such policies shall be endorsed to include coverage for the costs of demolition of the Improvements and the clearing and restoration of the Premises in the event of damage, destruction or condemnation if the Improvements are not fully restored. In addition, if Lessee carries coverage voluntarily for additional causes (such as earthquake, riot, civil commotion, or other), such coverage shall be treated in all respects as the policy or policies required to be kept under this Subparagraph 1, for so long as Lessee continues to voluntarily carry such coverage. All insurance hereunder shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the Improvements as defined in **Section 1003 of the Ground Lease** (such value to include amounts spent for construction of the Improvements, architectural and engineering fees, and inspection and supervision).
2. Maintain or cause to be maintained public liability insurance naming Board and all entities (including San Diego Transit Corporation, San Diego Trolley, Inc., and San Diego & Arizona Eastern Railway Co.) controlling, controlled by or under common control with Board, together with their respective contractors, agents, officers, employees, invitees and licensees and such other parties as the Board may designate from time to time as additional insureds, to protect against loss from liability imposed by law as a result of the acts or omissions of Lessee, its agents, servants or employees for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever in, on or about the Premises or the Improvements; to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, as a result of the acts or omissions of Lessee, its agents, servants or employees alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of Lessee or under its control or direction arising from the use and occupancy by Lessee under the Lease of the Premises and the Improvements; and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from the acts or activities of Lessee under this Lease in connection with the Premises, the Improvements, or Lessee or its sublessees, or any person acting for Lessee or under its control or direction.
 - 2.1. Such public liability insurance shall also protect Board and such additional insureds against incurring any legal cost in defending claims for alleged loss insured under such policy. Such public liability insurance shall be maintained in full force and effect during the entire term of this Lease in an amount of at least Three Million Dollars (\$3,000,000) Adjusted for Inflation, combined single limit, provided solely for the Project.
 - 2.2. Lessee agrees that provisions of this paragraph as to public liability insurance shall not be construed to limit in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from Lessee's activities, or the

activities of any other person or persons for which Lessee is otherwise responsible.

3. Maintain or cause to be maintained workers' compensation insurance issued by an insurance carrier authorized under the laws of the State of California for workers' compensation and employer's liability under the Workers' Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Lessee in connection with the Premises and the Improvements, and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of, any person incurring or suffering injury or death in connection with the Premises and the Improvements, or the operation thereof by Lessee.
4. During the course of any alteration, construction or reconstruction, including, without limitation, during the period of the construction of the Improvements, builders risk insurance for the amount of the completed value on an all-risk form including "course of construction" coverage, (including earthquake and flood if required by any Permitted Mortgagee) insuring the interests of Board, Lessee and Permitted Mortgagee as their interests may appear. The Permitted Mortgagee shall be named as lender loss payee, and the Board and the Lessee shall be named as additional loss payees. The insurer shall waive all rights of subrogation against Board. Lessee shall also require its general contractor to carry such insurance. Lessee shall confirm that the proximity of the Premises to a railroad does not result in policy exclusions that would result in the denial of coverage for claims on the Premises. In such an event, Lessee shall cause such exclusions to be removed from all applicable policies, or shall procure a separate Railroad Protective insurance policy with Board as the name insured.
5. Such other insurance on or in connection with the Project as the Board may reasonably require, which at the time is commonly obtained in connection with properties similar in type of building size, use and location to the Project and which is available at commercially reasonable rates.

EXHIBIT G

MTS Standard Right of Entry Permit

DISPOSITION AND DEVELOPMENT AGREEMENT
[Palm Avenue Trolley Station Development, known as Palm City Village]

By and Among

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
and

Malick Infill Corp

Dated as of _____, 2021

DISPOSITION AND DEVELOPMENT AGREEMENT
[Palm Avenue Trolley Station Development, known as Palm City Village]

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (the "Agreement") dated, for identification purposes only, as of _____, 2021, is made and entered into by and among the SAN DIEGO METROPOLITAN TRANSIT SYSTEM, a public body, corporate and politic ("MTS"), and MALICK INFILL CORP, a California corporation (the "Developer"), with reference to the following:

RECITALS

- A. **WHEREAS**, the Developer is an experienced owner, developer, and operator of multi-family housing;
- B. **WHEREAS**, MTS owns that certain vacant land located at 2430 Palm Avenue in the City of San Diego, California, and legally described in Exhibit "A" attached hereto (the "Property");
- C. **WHEREAS**, in collaboration with National Community Renaissance of California, a California corporation ("National CORE"), the Developer submitted to MTS a development proposal for the acquisition and joint development of the Property in multiple phases for a combined total of approximately 390 residential units, ground floor commercial/child care space, and 191 parking spaces, including 80 replacement parking spaces for MTS's use (the "Joint Development Project");
- D. **WHEREAS**, Developer's portion of the Joint Development Project will consist of approximately 102 residential units located in "Building D" (the "Project").;
- E. **WHEREAS**, concurrently with this Agreement, MTS is entering into a disposition and development agreement with National CORE for the development of its portion of the Joint Development Project, including approximately 288 residential units in three buildings ("Buildings A, B, and C") located on the Property ("National CORE DDA");
- F. **WHEREAS**, on August 19, 2019, MTS and the Developer entered into an Exclusive Negotiation Agreement for the negotiation of this Agreement, as amended on February 5, 2020, November 12, 2020, and March 17, 2021; and
- G. **WHEREAS**, the parties intend that MTS shall lease the Property to the Developer and/or its affiliates for the development of each Project thereon, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, MTS and the Developer hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 **Defined Terms.** As used in this Agreement (including in the Recitals above), capitalized terms are defined where first used or as set forth in this Section. Capitalized terms used in an exhibit attached hereto and not defined therein shall also have the meanings set forth in this Section 1.1.

“Building Permit” means all permits issued by the City and required for commencement of construction of the Improvements.

“City” means the City of San Diego, California.

“Close of Escrow” means recordation of a memorandum of the Ground Lease and the Senior Loan Security Documents.

“Code” means the Internal Revenue Code of 1986, as amended, including the regulations promulgated thereunder or under any predecessor statute.

“Construction Lender” means the first trust deed lender that provides construction financing for the Project.

“Construction Loan” means the construction loan for the Project secured by the Senior Loan Security Documents.

“Construction Loan Closing” means recordation of the Senior Loan Security Documents in the Official Records.

“Developer” shall have the meaning set forth in the first paragraph of this Agreement. Notwithstanding the foregoing, Developer may also refer to the successors and assigns of Malick Infill Corp.

“Due Diligence Documents” has the meaning set forth in Section 6.2(a) hereof.

“Due Diligence Investigation” has the meaning set forth in Section 6.1(b) hereof.

“Due Diligence Period” has the meaning set forth in Section 6.1(a) hereof.

“Escrow” means the escrow through which (a) the Property is ground leased to the Developer, and (b) the Construction Loan Closing is conducted.

“Escrow Holder” means the firm that holds the Escrow.

“Event of Default” has the meaning set forth in Section 16.1.

“Evidence of Financing” has the meaning set forth in Section 7.3.

“Final Construction Documents” means plans, drawings and specifications in sufficient detail to support issuance of a Building Permit for the Project.

“General Contractor” means a licensed general contractor selected by the Developer to construct the Project.

“Ground Lease” means the separate ground lease of the Ground Lease Parcel pursuant to which the Property will be leased by MTS to the Developer and/or affiliates thereof.

“Ground Lease Parcel” means each of those certain legal lots created in accordance with the terms of this Agreement delineating each building parcel, Building A, Building B, Building C, and Building D described in the Scope of Development, as well as a remainder parcel which shall include rights for vehicular and pedestrian access and circulation.

“Hazardous Materials” means flammable materials, explosives, radioactive materials, hazardous wastes, toxic substances and similar substances and materials, including all substances and materials defined as hazardous or toxic wastes, substances or materials under any applicable law, including, without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 42 §§ 9601, et seq., as amended. Hazardous Materials expressly exclude substances typically used in the construction, development, operation and maintenance of an apartment complex provided such substances are used in accordance with all applicable laws.

“Improvements” means the improvements to be made to the Property in accordance with this Agreement, including, without limitation, in accordance with the Scope of Development and the Final Construction Documents.

“Indemnitees” means MTS, San Diego and Arizona Eastern Railway Company, San Diego Trolley, Inc., San Diego Transit Corporation, San Diego and Imperial Valley Railroad, and their officers, employees, representatives and agents.

“Joint Development Project” has the meaning set forth in Recital “C” above.

“Monetary Lien” has the meaning set forth in Section 6.5(a).

“MTS CEO” means the Chief Executive Officer of MTS or his/her designee.

“Notices” has the meaning set forth in Article 17.

“Official Records” means the Official Records of the County.

“Parcel Map” has the meaning set forth in Section 4.1.

“Permitted Encumbrances” means the Senior Loan Security Documents and such other exceptions to title reasonably approved by the MTS CEO.

“Person” means any individual or entity, its heirs, executors, administrators, legal representatives, successors and assigns, as the context may require.

“Preliminary Project Budget” has the meaning set forth in Section 7.2(a).

“Preliminary Title Report” has the meaning set forth in Section 6.4.

“Project” has the meaning set forth in Recital “D” above.

“Project Architect” means an architect to be selected by the Developer, subject to the approval of MTS, which approval shall not be unreasonably conditioned, withheld or delayed. MTS has approved Studio E as the initial Project Architect.

"Project Documents" means, collectively, this Agreement, the Ground Lease, the Memorandum of Ground Lease, and any other agreement, document or instrument that the Developer and MTS enter into pursuant to this Agreement or in order to effectuate the purposes of this Agreement.

"Project Financing" has the meaning set forth in Section 7.1.

"Property" has the meaning set forth in Recital "B" above.

"Schedule of Performance" means the Schedule of Performance attached hereto as Exhibit "B". The parties hereto acknowledge and agree that the dates included in the Schedule of Performance shall be subject to extension due to force majeure delays.

"Senior Lender" means the Construction Lender or the Take-Out lender, as the context requires, and their successors and assigns.

"Senior Loan" means the Construction Loan or the Take-Out Loan as the context requires.

"Senior Loan Security Documents" means the documents and instruments required by the Senior Lender to secure the Senior Loan.

"Subordinate Loans" means the any other loan subordinate to the Senior Loan.

"Survey" has the meaning set forth in Section 6.4.

"Take-Out Lender" means the lending institution that makes the Take-Out Loan and its successors and assigns.

"Take-Out Loan" means the long-term loan made by the Take-Out Lender to the Developer in order to take out the Construction Loan. Take-Out Loan may also refer to the Construction Loan if and when it converts to permanent financing.

"Title Company" means Fidelity National Title Company or such other title insurance company agreed to by the Developer and the MTS CEO.

"TOD" means the HCD Transit Oriented Development Program.

1.2 **Singular and Plural Terms.** Any defined term used in the plural in this Agreement shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3 **Accounting Principles.** Any accounting term used and not specifically defined in this Agreement shall be construed in conformity with, and all financial data required to be submitted under this Agreement shall be prepared in conformity with, generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to MTS.

1.4 **References and Other Terms.** References herein to Articles, Sections and Exhibits shall be construed as references to this Agreement unless a different document is named. References to subsections shall be construed as references to the same Section in which the reference appears. The terms “including” and “include” mean “including (include) without limitation”.

1.5 **Exhibits Incorporated.** All attachments to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

2. PARTIES

2.1 **MTS.** MTS is the San Diego Metropolitan Transit System, also known as the San Diego Metropolitan Transit Development Board as set forth in the California Public Utilities Code Section 120050, and any successor to its rights, powers and responsibilities. The principal offices of MTS are located at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101.

2.2 **Developer.** The Developer is Malick Infill Corp, a California corporation., and any successor to its rights, powers and responsibilities. The principal offices of the Developer are located at 4662 Adams Avenue, San Diego, CA 92116.

2.3 **National Community Renaissance of California.** National CORE is serving as co-developer of the Joint Development Project.

3. SCHEDULE OF PERFORMANCE

A Schedule of Performance for the Project is attached hereto as Exhibit “B”. The Schedule of Performance sets forth the times by which the parties are to perform certain obligations under this Agreement. The Schedule of Performance may be modified from time to time by written agreement of the Developer and the MTS CEO.

4. CITY OF SAN DIEGO PROJECT APPROVALS

4.1 The City of San Diego is the land use permitting authority for the Joint Development Project. The parties hereby acknowledge and understand that the Joint Development Project will not require any discretionary land use approvals. In accordance with the terms of the Preliminary Review response, dated as of May 6, 2021, all approvals required for the Joint Development Project will be ministerial.

4.2 The parties further agree that the Developer shall prepare, at its sole cost and expense, all mapping documents on behalf of MTS in order to achieve formation of the Ground Lease Parcels, which mapping documents, shall include, without limitation, any access or other easements across the remaining parcels that are necessary for each individual Project to operate.

4.3 MTS acknowledges that it is exempt from parcel map requirements under the Subdivision Map Act and therefore will create the Ground Lease Parcels by separate conveyances in accordance with Government Code section 66428.

4.4 Notwithstanding anything to the contrary contained herein, in the event the Developer determines that the Joint Development Project may include additional encroachments upon MTS property not anticipated to be included in the Ground Lease Parcels, MTS shall cooperate in good faith with Developer and/or Malick to enter into any agreements to allow such encroachments which are reasonably necessary for the feasibility of the Joint Development Project and/or each Project, provided such encroachment does not materially interfere with MTS transit operations.

4.5 The parties acknowledge and agree that the Developer shall pay all of the out-of-pocket costs and expenses connected with obtaining all necessary approvals from the City of San Diego, and any other applicable permitting authority, to construct and maintain the Joint Development Project. The Developer agrees that it shall be principally responsible for processing said approvals through City provided, however, MTS, without any out-of-pocket cost or expense to it, agrees to provide the Developer with all appropriate and necessary assistance in processing and securing the approvals.

5. DESIGN REVIEW PROCESS

5.1 **Scope of Development.** The Developer shall develop the Property, at its sole cost and expense but subject to the availability to the Developer of the Project Financing, including, without limitation, financial feasibility, in accordance with the terms of this Agreement. Subject to the terms of this Agreement, the Developer shall develop the Property substantially in conformance with the Scope of Development attached hereto as Exhibit "C".

5.2 **City Building and Safety Plan Check.** The Developer shall cause the Improvements to be designed substantially in accordance with the Scope of Development and shall cause the Improvements to be processed through the City's plan check process on a schedule reasonably calculated to permit a Building Permit to issue by the time provided in the Schedule of Performance for the Close of Escrow. No provision of this Agreement shall be construed to be a pre-approval of, or commitment to approve any City permit applied for by the Developer or by any party relating to the Project or the Property.

5.3 **Rights of Access and Inspection.** Representatives of MTS, including the MTS CEO and his or her designees, shall have the reasonable right of access to the Property on two (2) business days' notice to the Developer, without charges or fees, during normal business hours and subject to reasonable job safety requirements as may be established by Developer during the performance of construction of the Project contemplated by this Agreement, for the purpose of reviewing the Developer's progress in commencing and diligently pursuing construction of the Project to completion as required by this Agreement.

5.4 **Developer Right to Terminate.** Prior to the Close of Escrow, the Developer may terminate this Agreement by fifteen (15) business days' notice to MTS if the Developer has been unable, by the time provided in the Schedule of Performance, to obtain the City's approval of the Final Construction Documents for the Project and obtain the Building Permit.

5.5 **Project Architect.** The MTS CEO shall have the right to approve any replacement for the Project Architect.

6. **PROPERTY INVESTIGATION**

6.1 **Due Diligence Period; Inspection and Access.**

(a) **Due Diligence Period.** The "Due Diligence Period" shall mean the period beginning on the later of (i) the date of this Agreement, and (ii) the date on which MTS delivers to the Developer the last of the Due Diligence Documents, and ending at 5:00 p.m. Pacific Time on the date which is one hundred eighty (180) days thereafter.

(b) **Due Diligence Investigation.** The Developer shall conduct its investigation of the Property during the Due Diligence Period. This investigation (the "Due Diligence Investigation") may include, in the Developer's sole and absolute discretion: a physical inspection of the Property, including, but not limited to, inspection and examination of soils, environmental factors, hazardous substances, archeological information relating to the Property, geological, engineering and other tests; a review and investigation of zoning, permits and entitlements; review of all governmental matters affecting the Property; and review of such other matters pertaining to an investment in, and development of, the Property as the Developer deems advisable. Such due diligence shall be conducted at the Developer's sole expense. The Developer shall notify MTS of its disapproval of the Due Diligence Investigation.

(c) **Access/Conditions.** The Developer and its representatives shall obtain a Right of Entry Permit to enter the Property to conduct its Due Diligence Investigation. Adequate transit parking shall be maintained at all times during the Due Diligence period. This right of entry shall be subject to the following conditions:

(i) The Developer shall be authorized to perform environmental testing and sampling at the Property at all times prior to the Close of Escrow. The Developer shall provide MTS with the results of any environmental testing or sampling it performs, provided, however, that such results shall be provided as an accommodation only with no representation or warranty by Developer and MTS shall have no right to rely on any such results. MTS shall be solely responsible for reporting the results of such testing or sampling to any governmental agency with jurisdiction, to the extent such reporting is required by law. The Developer shall also be authorized to communicate with any governmental agency having jurisdiction over the Property regarding the environmental condition of the Property or any other matter, and with any private or

public entity which may be responsible for the remediation of any environmental condition affecting the Property.

(ii) The Developer shall not permit any mechanics' or other liens to be filed against the Property as a result of the Developer exercising its right of entry and the Developer, at its sole cost, shall cause any liens so filed to be removed within twenty (20) days after the Developer receives notice of filing, by bond or otherwise.

(iii) Promptly after any physical inspection of the Property, the Developer, at its sole cost, shall restore the Property substantially to the condition that existed immediately prior to such inspection, provided, however, that the Developer shall have no obligation to mitigate any existing environmental condition on the Property. Notwithstanding anything to the contrary contained herein, in no event shall Developer have any liability hereunder for mere discovery of any conditions on the Property.

6.2 **MTS Disclosures.**

(a) **Delivery of Documents.** Within three (3) business days after the date of this Agreement, MTS shall deliver to the Developer copies of all documents in MTS's possession or control relating to the Property, including, without limitation, copies of any and all documents pertaining to the physical and/or economic condition of the Property, covenants, conditions and restrictions rights of use or access, whether or not recorded against the Property, all reports and studies regarding the physical condition of the Property, including but not limited to environmental, biological, archaeological, soils and engineering reports and studies and any other information regarding the physical, legal or financial condition of the Property (collectively, the "Due Diligence Documents").

(b) **Review of Other Documents.** In addition to the Developer's right to receive the Due Diligence Documents, the Developer and its representatives shall have the right of access to MTS's records during reasonable business hours to inspect, review, catalog and copy all files, books and records maintained by MTS or its affiliates or agents, wherever located, relating to the Property.

(c) **No Waiver.** MTS agrees that the rights of access and the disclosures provided in this Section 6.2 shall not relieve MTS of any of its obligations under this Agreement, or under applicable law, nor shall they constitute a waiver by the Developer of the same.

(d) **DIME Hollister LLC Access Acknowledgement Agreement.** Developer is aware that MTS has an obligation to provide access to a neighboring parcel, Assessor's Parcel No. 628-050-25-00, (DIME Property) and that it has entered into an agreement with the property owner, DIME Hollister LLC, acknowledging that obligation. Developer agrees to design the access road for the Project to connect to the DIME Property and that MTS will grant and record an access and utility easement over the Property in the location mutually agreed to by MTS, DIME, and Developer. Notwithstanding anything to the contrary contained herein, in no event shall MTS record any easement agreements with DIME without the prior written consent of NCRC, which shall not be unreasonably withheld.

6.3 **Approval/Disapproval of Due Diligence Investigation.** During the Due Diligence Period, the Developer may terminate this Agreement for any or no reason in the Developer's sole and absolute discretion upon written notice to MTS. If the Developer approves of the results of its Due Diligence Investigation, in the exercise of the Developer's sole and

absolute discretion, then the Developer shall deliver written notice (the "Approval Notice") to MTS no later than the expiration of the Due Diligence Period. If the Developer fails to deliver the Approval Notice to MTS prior to the expiration of the Due Diligence Period, then the Developer shall be deemed to have disapproved the results of its Due Diligence Investigation, whereupon this Agreement shall terminate.

6.4 **Preliminary Title Report and Survey.** Within five (5) business days after the date of this Agreement, the Developer shall obtain a preliminary title report or commitment for title insurance (the "Preliminary Title Report"), dated no earlier than sixty (60) days before the date hereof, covering the Property and issued by Title Company, together with a legible copy of each document, map and survey referred to in the Preliminary Title Report. In addition, at the Developer's option and expense, the Developer may obtain a survey of the Property (the "Survey").

6.5 **Approval/Disapproval of Title.** The Developer may approve or disapprove of the exceptions shown on the Preliminary Title Report or any matter shown on the Survey for any reason in the Developer's sole and absolute discretion by the end of the Due Diligence Period.

(a) **Monetary Liens.** At its expense, MTS shall remove at or before the Close of Escrow all monetary liens (collectively, "Monetary Liens") including without limitation: (i) all delinquent taxes, bonds and assessments and interest and penalties thereon; and (ii) all other monetary liens, whether or not shown on the Preliminary Title Report (including judgment and mechanics' liens, whether or not liquidated, and mortgages and deeds of trust, with MTS being fully responsible for any fees or penalties incurred in connection therewith). Monetary Liens shall not include a lien for non-delinquent general real property taxes prorated in accordance with this Agreement.

(b) **Approval/Disapproval of Title.** The Developer shall approve or disapprove of the Preliminary Title Report and the Survey (if applicable) and any exceptions to title shown thereon or therein (other than the Monetary Liens) in the exercise of the Developer's sole and absolute discretion by the end of the Due Diligence Period. If the Developer disapproves, then the Developer may either (i) terminate this Agreement by giving MTS written notice of termination, or (ii) give MTS a written notice (the "Disapproval Notice") identifying the disapproved title matters which the Developer will require to be removed or cured at or prior to Close of Escrow (the "Disapproved Exceptions"). Failure to give either notice approving the Preliminary Title Report and the Survey or the Disapproval Notice shall be deemed to constitute the Developer's election to terminate this Agreement. With respect to any Disapproved Exceptions, other than the Monetary Liens, and any exceptions created after the date of this Agreement, MTS shall notify the Developer in writing within five (5) days after MTS's receipt of the Disapproval Notice whether MTS will cause the Disapproved Exceptions to be removed or cured at or prior to Close of Escrow. If MTS elects not to remove or cure all Disapproved Exceptions, then the Developer may, at its option by notice to MTS given within ten (10) days after receipt of MTS's notice, elect to: (i) subject to satisfaction of the other closing conditions for the benefit of the Developer, close the purchase of the Property and take title subject to the Disapproved Exceptions which MTS elects not to remove or cure; or (ii) terminate this Agreement. Failure of the Developer to give such notice within such ten-day period shall be deemed an election to terminate this Agreement. Notwithstanding the foregoing, the Developer shall have the right to review and approve any new exceptions (the "New Encumbrances") shown on a Preliminary Title Report following the end of the Due Diligence Period up through and including until the Close of Escrow. In the event the Developer fails to approve any New Encumbrance, this Agreement shall terminate.

(c) **Failure to Cure.** If any Disapproved Exceptions that MTS is required to or has elected to remove or cure, or any Monetary Liens, or exceptions to title created after the date hereof without the written consent of the Developer have not been removed prior to Close of Escrow, or provision for their removal at the Close of Escrow has not been made to the Developer's satisfaction, the Developer may elect, in its sole discretion, to: (i) close the purchase of the Property and take title subject to the Disapproved Exceptions which have not been removed; (ii) close the purchase of the Property and cure or remove the Disapproved Exceptions which have not been removed at MTS's cost and expense; or (iii) terminate this Agreement.

7. **FINANCING FOR THE PROJECT**

7.1 **Financing Plan.** It is contemplated that the Developer will finance the Project through private financing. If the Developer successfully obtains funding from a public financing source, those funds shall thereafter become part of the Project Financing.

7.2 **Preliminary Project Budget.** Attached hereto as Exhibit "D" are the following preliminary budgetary materials for the Project:

- (a) Preliminary Project Budget;
- (b) Sources and Uses of Funds Statement;
- (c) Cash Flow Projection; and
- (d) First Year Operating Budget.

Until the Construction Loan Closing, the Developer, if, as and when additional information becomes available, shall promptly revise these budgetary materials to reflect the best information then available to Developer, and shall submit the revised documents to the MTS CEO.

7.3 **Final Project Budget.** Prior to the Construction Loan Closing, MTS CEO, the Developer and the third-party lenders and/or investors providing the Project Financing shall agree on the final Project Budget.

7.4 **Financing Commitments.** The Developer shall use its best efforts to obtain, by the earliest reasonable date, financing for the Project. Not later than the time provided in the Schedule of Performance, the Developer shall submit to MTS CEO preliminary commitments for the Project Financing. MTS agrees, without any obligation to incur any out-of-pocket cost or expense, to provide the Developer with all appropriate assistance in applying for any of the Project Financing.

7.5 **Developer Rights to Terminate.**

(a) **Failure to Obtain Other Project Financing.** Prior to the Construction Loan Closing, the Developer may terminate this Agreement by giving thirty (30) days' notice to MTS if, despite having made commercially reasonable efforts, it has been unable by the time provided in the Schedule of Performance to obtain Project Financing with terms and conditions reasonably acceptable to the Developer.

7.6 **MTS Right to Terminate.** Prior to the Construction Loan Closing, MTS may terminate this Agreement by giving thirty (30) days' notice to the Developer if the Developer fails to obtain the Project Financing (or such financing which allows Project feasibility, subject to the reasonable consent of MTS) by the time set forth in the Schedule of Performance. Notwithstanding the foregoing, if the Developer obtains the Project Financing during said thirty (30)-day notice period, MTS's notice of termination shall be deemed nullified thereby.

8. CONVEYANCE OF THE PROPERTY

8.1 **Agreement.** MTS, subject to the conditions set forth in Section 8.4, agrees to ground lease to the Developer, and the Developer, subject to the condition set forth in Section 8.5, agrees to ground lease from MTS, the Property pursuant to the "Ground Lease" in substantially the form attached hereto as Exhibit "E" as said form may be modified by the mutual agreement of the Developer and the MTS CEO.

(a) A separate Ground Lease shall be executed for the Building D Project;

(b) Developer shall commence construction of the Project within eight and one half years (102 months) following the start of construction of the first phase of the Joint Development and shall complete construction of the Project not later than ten (10) years following the start of construction on the first phase of the Joint Development.

(c) If Developer fails to close escrow and commence construction of the Project within the above deadlines, subject to reasonable force majeure delays, MTS shall have the right to terminate this DDA.

(d) In the event this DDA is terminated pursuant to Paragraph 8.1(c), National CORE shall have a right of first refusal to assume Developer's rights and obligations under this DDA as to Building D. MTS and National CORE shall mutually agree upon new project deadlines for the assigned Ground Lease Parcel rights, provided, however, that the assigned Ground Lease Parcel project shall close escrow within 36 months of the new DDA rights being assigned.

(e) If this DDA is terminated pursuant to Paragraph 8.1(c) and National CORE declines to exercise its rights in Paragraph 8.1(d), then MTS shall have the right to either keep the Ground Lease Parcel for MTS's use or lease the vacant Ground Lease Parcel to another party, in MTS's sole discretion.

(f) MTS agrees that prior to exercising its Paragraph 8.1(e) rights related to Buildings A, B, and/or C in the National CORE DDA, that it will give Developer a right of first refusal to assume National CORE's rights and obligations under the National CORE DDA as to Building A, B, and/or C, as applicable.

8.2 **Escrow.** Conveyance of the Property pursuant to the Ground Lease shall be made through the Escrow. This Agreement shall constitute escrow instructions to the Escrow Holder. MTS and Developer shall execute such escrow instructions as are consistent with this Agreement and as may be reasonably required by the Escrow Holder.

8.3 **Term of Escrow.** The Escrow for each Ground Lease Parcel shall close concurrent with the Construction Loan Closing for each Project.

8.4 **Conditions for the MTS's Benefit.** MTS's obligation to ground lease the Property to the Developer pursuant to the Ground Lease for each Project, if and as applicable, shall be subject to satisfaction of the following conditions precedent:

(a) **Ground Lease Parcel Creation.** In coordination with National CORE, Developer shall prepare the legal descriptions and plats for the Ground Lease Parcels and shall obtain MTS approval of the same before close of escrow on the first building phase under this DDA or the National CORE DDA, whichever occurs first. MTS shall retain appropriate access and utility easement rights for the DIME property, subject to the terms of Section 6.2(d).

(b) **Evidence of Financing.** The MTS CEO has received the following "Evidence of Financing" which shows sufficient financing and/or grants to complete the Project:

(i) **Senior Loan.** True and complete copies of the Senior Loan documents.

(ii) **Subordinate Loans.** True and complete copies of the documents evidencing the Subordinate Loans.

(iii) **Tax Credit Financing.** True and complete copies of an amended and restated agreement of limited partnership of the Developer pursuant to which a tax credit investor is admitted as a limited partner to the Developer and agrees to contribute the Tax Credit Funds to the Developer. For purposes of this Agreement, "Tax Credit Funds" shall mean the capital contributions of the tax credit investor made in consideration for its partnership interest in accordance with the terms of the partnership agreement.

(iv) **Grants or other funding.** True and complete copies of any grant awards or other funding that will be used to complete the project.

(c) **Construction Contract.** MTS has received a true and complete copy of a contract by and between the Developer and the General Contractor pursuant to which the General Contractor has agreed to construct the Improvements.

(d) **Organizational Documents.** The MTS CEO shall have received a copy of such portions of the organizational documents (*e.g.*, partnership agreement, limited liability company operating agreement) of the Developer as the MTS CEO deems reasonably necessary to document the power and authority of the organization to perform its obligations under this Agreement.

(e) **Building Permit.** The Building Permit for the Improvements has been issued or is ready to issue upon only payment of a sum certain.

(f) **Work to Commence.** The MTS CEO shall be reasonably satisfied that the work of the Improvements will commence not later than thirty (30) days after the Close of Escrow.

(g) **Insurance.** MTS has received satisfactory evidence that the insurance required pursuant to Exhibit "F" is in full force and effect.

(h) **Representations and Warranties.** The representations of the Developer contained in this Agreement shall be correct in all material respects as of the Close of Escrow as though made on that date and, if requested by the MTS CEO, MTS shall have received a certificate to that effect signed by the Developer.

(i) **No Default.** No Event of Default by the Developer shall then exist, and no event shall then exist which, with the giving of notice or the passage of time or both, would constitute an Event of Default by the Developer and, if requested by the MTS CEO, MTS shall have received a certificate to that effect signed by the Developer.

8.5 **Covenants of the Developer.** The Developer covenants and agrees to use best efforts to satisfy, by the time provided in the Schedule of Performance, any and all of the conditions set forth in Section 8.4 that (a) the Developer has not elsewhere in this Agreement expressly covenanted and agreed to satisfy, and (b) the satisfaction of which is entirely within the reasonable control of the Developer.

8.6 **Condition for the Developer's Benefit.** The Developer's obligation to ground lease the Property from MTS shall be subject to satisfaction of the following conditions precedent:

(a) **Title Insurance.** Title Company is prepared to issue its ALTA owner's form policy of title insurance, with liability in the amount of the principal amounts of all loans obtained for the Project, including, without limitation, the Senior Loan and Subordinate Loans, showing leasehold title to the Property and fee title the improvements located thereon vested in the Developer, subject only to the lien of the Construction Loan Security Documents and the documents securing the Subordinate Loans and such other exceptions as the Developer has previously notified MTS were acceptable to the Developer (the "Developer Title Policy").

(b) **Ground Lease Parcel Creation.** MTS shall have approved the Ground Lease Parcel descriptions and reserved access and utility easements.

(c) **Building Permit and Other Applicable Approvals.** The Building Permit for the Improvements, and any other necessary permits, have been issued or is ready to issue upon only payment of a sum certain.

(d) **Satisfaction of Contingencies.** The Developer has approved all of the Developer's contingencies set forth in Article 6 of this Agreement.

(e) **Evidence of Financing.** The Developer has received and approved the following "Evidence of Financing":

(i) **Senior Loan.** True and complete copies of the Senior Loan documents.

(ii) **Subordinate Loans.** True and complete copies of the documents evidencing the Subordinate Loans.

8.7 **Developer Right to Terminate.** Prior to the Close of Escrow, the Developer may terminate this Agreement by giving thirty (30) days' written notice to MTS if, despite having

made its best efforts, it has been unable, by the time provided in the Schedule of Performance, to satisfy or obtain a waiver of any of the conditions set forth in Section 8.4.

8.8 **MTS Right to Terminate.** Prior to the Close of Escrow, MTS may terminate this Agreement by giving thirty (30) days' written notice to the Developer if, by the time provided in the Schedule of Performance, the Developer has failed to satisfy or obtain waiver of any of the conditions set forth in Section 8.4. Notwithstanding the foregoing, if the Developer, during said thirty (30)-day notice period, satisfies said conditions, then the MTS notice of termination shall be deemed nullified thereby.

8.9 **Waiver of Conditions.** The conditions set forth in Section 8.4 are for MTS's benefit only and the MTS CEO may waive all or any part of such rights by notice to the Developer and the Escrow Holder. The conditions set forth in Section 8.6 are for the Developer's benefit only and the Developer may waive all or any part of such right by notice to MTS and the Escrow Holder.

9. AFFORDABILITY OF PROJECT

As more particularly provided in the Ground Lease, for a period of fifty-five (55) years from the issuance of a certificate of occupancy, the dwelling units in the Project shall be rented to families whose incomes do not exceed one hundred and ten percent (110%) of area median income.

10. PHYSICAL CONDITION OF PROPERTY

10.1 The Developer acknowledges and agrees that it is ground leasing the Property solely in reliance on its own investigation, and that no representations and/or warranties of any kind whatsoever, express or implied, have been made by MTS, or by its officers, employees, representatives or agents. The Developer further acknowledges and agrees that, as of the Close of Escrow, the Developer will be acquiring the Property on an "AS IS" condition with all faults and conditions then existing in and on the Property, whether known or unknown; provided that the foregoing shall not constitute a release of MTS under any statute or common law theory. Notwithstanding the foregoing, MTS acknowledges and agrees that neither this Section 10.1, nor any other term, provision or condition of this Agreement obligates the Developer, as between it and MTS, and prior to the Close of Escrow, to remediate, or to incur any cost to remediate, any Hazardous Materials discovered by the Developer on the Property prior to the Close of Escrow. In the event that Hazardous Materials are so discovered, disposition of the situation shall be governed by the conditions set forth in Section 10.2.

10.2 If, following expiration of the Due Diligence Period but prior to execution of the Ground Lease, the Developer discovers Hazardous Materials on, under or about the Property, then the Developer, subject to the condition set forth below, shall have the right, prior to the Close of Escrow, to terminate this Agreement by thirty (30) days' notice to MTS. The Developer's right to terminate this Agreement shall be subject to the condition precedent that the Developer first have submitted to MTS any and all information then available to the Developer as to the nature and scope of the Hazardous Materials discovered and the cost estimated to remediate it, if any such cost estimate exists.

11. CLOSE OF ESCROW; EXPENSES

11.1 **Documents to be Delivered.** Upon receipt by the Escrow Holder of:

- (a) the Memorandum of Ground Lease; and
- (b) all other funds and documents required to close the Escrow in accordance with this Agreement.

and when the conditions precedent described in Sections 8.4 and 8.6 have been satisfied or waived in writing by the MTS CEO, the Escrow Holder shall, in the following order, record in the Official Records:

- (i) the Memorandum of Ground Lease; and
- (ii) such other documents required to close the Escrow in accordance with this Agreement.

11.2 **Expenses of the Developer.** The Developer shall pay: (a) any and all documentary transfer taxes and recording fees arising from leasehold conveyance of the Property from MTS to the Developer by the Ground Lease, (b) the Escrow fee, (c) the premium for Developer Title Policy, and (d) all such other costs and expenses reasonably related to the Escrow and not expressly provided for herein.

11.3 **Instruction to Escrow Holder Regarding Waiver of Transfer Taxes and Recording Fees.** The Escrow Holder is hereby instructed to seek such waivers and exemptions from transfer taxes and recording fees as are available pursuant to Revenue and Taxation Code Section 11922 and Government Code Section 6103, respectively.

11.4 **Broker's Commissions.** The Developer represents and warrants that it has not engaged any broker, agent or finder in connection with this Agreement, and the Developer agrees to indemnify, protect, hold harmless, and defend the Indemnitees from any claim by any brokers, agents or finders retained by Developer. The MTS represents and warrants that it has not engaged any broker, agent or finder in connection with this Agreement, and the Developer agrees to indemnify, protect, hold harmless, and defend the Indemnitees from any claim by any brokers, agents or finders retained by Developer.

12. OTHER ESCROW INSTRUCTIONS

12.1 **Funds in Escrow.** All funds received in the Escrow shall be deposited by the Escrow Holder in a general escrow account with any state or national bank doing business in the State of California and reasonably approved by the MTS CEO and the Developer, and such funds may be combined with other escrow funds of the Escrow Holder. All disbursements shall be made on the basis of a thirty (30) day month.

12.2 **Failure to Close.** If the Escrow is not in condition to close on or before the time established in the Schedule of Performance, any party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, demand the return of its money, papers, or documents from the Escrow Holder. No demand for return shall be recognized until fifteen (15) days after the Escrow Holder (or the party making such demand) shall have mailed copies of such demand to the other party. Objections, if any, shall be raised by written notice to the Escrow Holder and to the other party within the 15-day period, in which event the Escrow Holder is authorized to hold all money, papers and documents until instructed

by mutual agreement of the parties or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, the Escrow shall be closed as soon as possible.

If objections are raised in the manner provided above, the Escrow Holder shall not be obligated to return any such money, papers or documents except upon the written instructions of both the MTS CEO and the Developer, or until the party entitled thereto has been determined by a final decision of a court of competent jurisdiction. If no such objections are made within said 15-day period, the Escrow Holder shall immediately return the demanded money, papers or documents.

12.3 **Amendments**. Any amendment to these Escrow instructions shall be in writing and signed by the MTS CEO or MTS counsel and the Developer or Developer counsel. At the time of any amendment, the Escrow Holder shall agree to carry out its duties as the Escrow Holder under such amendment.

12.4 **Notices**. All Notices from the Escrow Holder to MTS or the Developer shall be given in the manner provided in Article 16.

12.5 **Liability**. The liability of the Escrow Holder under this Agreement is limited to performance of the obligations imposed upon it under Sections 12.1, 12.2 and 12.3.

13. RESERVED

14. GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

14.1 **Developer's Formation, Qualification and Compliance**. The Developer (a) is validly existing and in good standing under the laws of the State of California, (b) has all requisite authority to conduct its business and own and lease its properties, (c) has all requisite authority to execute and perform its obligations under this Agreement.

14.2 **Litigation**. The Developer represents and warrants that there are no material actions, lawsuits or proceedings pending or, to the best of the Developer's knowledge, threatened against or affecting the Developer, the adverse outcome of which could have a material adverse effect on the Developer's ability to perform its obligations under this Agreement.

15. INDEMNIFICATION

15.1 **Nonliability of MTS**. The Developer acknowledges and agrees that:

(a) MTS neither undertakes nor assumes any responsibility to review, inspect, supervise, approve (other than for aesthetics) or inform the Developer of any matter in connection with the Project, including matters relating to: (i) architects, contractors, subcontractors and materialmen, or the workmanship of or materials used by any of them, or (ii) the progress of the Project and its conformity with the plans and specifications prepared by the Developer's consultants; and the Developer shall rely entirely on its own judgment with respect to such matters and acknowledge that any review, inspection, supervision, approval or information supplied to the Developer by MTS in connection with such matters is solely for the protection of MTS and that neither the Developer nor any third party is entitled to rely on it;

(b) Notwithstanding any other provision of this Agreement: (i) MTS is not a partner, joint venturer, alter-ego, manager, controlling person or other business associate or participant of any kind of the Developer and MTS does not intend to ever assume any such status; and (ii) MTS shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Developer;

(c) MTS shall not be directly or indirectly liable or responsible for any loss or injury of any kind to any person or property resulting from any construction on, or occupancy or use of, the Property by the Developer whether arising from: (i) any defect in any building, grading, landscaping or other onsite or offsite improvement undertaken by the Developer; (ii) any act or omission of the Developer or any of the Developer's agents, employees, contractors, licensees or invitees; or (iii) following the Close of Escrow, any accident on the Property or any fire or other casualty or hazard thereon not caused by MTS; and

(d) By accepting or approving anything required to be performed or given to under this Agreement, including any certificate, financial statement, survey, appraisal or insurance policy, MTS shall not be deemed to have warranted or represented the sufficiency or legal effect of the same, and no such acceptance or approval shall constitute a warranty or representation by MTS to anyone.

15.2 Indemnity. Except with respect to Hazardous Materials found to exist on the Property as of the date of this Agreement, from and after the Close of Escrow, the Developer shall indemnify, hold harmless and defend (with counsel reasonably satisfactory to the MTS CEO) the Indemnitees from and against any and all losses, costs, claims, expenses, damages and liabilities (including, without limitation, reasonable attorneys' fees and court costs) directly or indirectly arising from, related to, or as the result of (a) the death of any person on the Property, (b) damage, injury or loss to any person on the Property, or (c) damage or injury to any property occurring or resulting directly or indirectly from the use, occupancy or development of the Property pursuant to this Agreement, the activities of Developer or its officers, directors, employees, agents, servants or contractors, or from any other cause, except to the extent caused by the Indemnitees' negligence or willful misconduct. This indemnity shall survive termination of this Agreement.

Notwithstanding anything to the contrary contained herein, MTS acknowledges and agrees that no term, provision or condition of this Agreement obligates the Developer to remediate or to incur any cost to remediate any Hazardous Materials discovered by the Developer on the Property prior to the Close of Escrow. In the event that the Developer discovers Hazardous Materials prior to the Close of Escrow, it shall have the right to terminate this Agreement by thirty (30) days' notice to MTS.

16. DEFAULTS AND REMEDIES

16.1 Event of Default. Any of the following events or occurrences with respect to either party shall constitute a material breach of this Agreement and, after the expiration of any applicable cure period, shall constitute an "Event of Default" by such party:

(a) The failure by any party to pay any amount in full when it is due under this Agreement, if the failure has continued for a period of fifteen (15) days after the party entitled to payment demands in writing that the other party cure that failure.

(b) The failure by any party to perform any other obligation under this Agreement, including, without limitation, the other Project Documents, if the failure has continued for a period of thirty (30) days after demand in writing that such party cure the failure. If, however, by its nature, the failure cannot reasonably be cured within thirty (30) days, such party may have such longer period of time as is reasonably necessary to cure the failure, provided, however, that such party commence said cure within said thirty (30)-day period, and thereafter diligently prosecute said cure to completion.

16.2 **No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

16.3 **Rights and Remedies are Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by another party.

17. NOTICES

All notices, consents, demands, approvals and other communications (the "Notices") that are given pursuant to this Agreement shall be in writing to the appropriate party and shall be deemed to have been fully given when delivered, including delivery by commercial delivery service, or if deposited in the United States mail, postage prepaid, when received or refused. All Notices shall be addressed as follows:

If to Developer:

Malick Infill Corp
2358 University Avenue #1765
San Diego, CA 92104
Attn: Andrew Malick

If to MTS:

San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 91355
Attention: General Counsel

Addresses for notice may be changed from time to time by notice to all other parties. Notwithstanding that Notices shall be deemed given when delivered, the nonreceipt of any Notice as the result of a change of address of which the sending party was not notified shall be deemed receipt of such Notice.

18. ASSIGNMENT

18.1 **Generally Prohibited.** Except as otherwise expressly provided to the contrary in this Agreement, the Developer may not assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the MTS CEO, which consent may be withheld in his/her reasonable discretion. Any such assignment or delegation without such consent shall, at MTS's option, be void. Notwithstanding the foregoing, Developer shall be

entitled to enter into each respective Ground Lease with a to-be-formed limited partnership in which the Developer or its affiliates serve as a general partner.

19. ADMINISTRATION

Following approval of this Agreement by MTS, this Agreement shall be administered and executed on behalf of MTS by the MTS CEO. The MTS CEO shall have the authority to issue, approvals, consents, interpretations, waive terms and conditions, and enter into amendments of this Agreement and the attachments (including, without limitation, to the Schedule of Performance and the Ground Lease) provided that such actions do not substantially change the uses or development permitted of the Property. All other waivers or amendments shall require the formal consent of MTS.

20. MISCELLANEOUS

20.1 **Counterparts**. This Agreement may be executed in counterparts, all of which, taken together, shall be deemed to be one and the same document.

20.2 **Prior Agreements; Amendments; Consents**. This Agreement contains the entire agreement among the parties with respect to the Property, and all prior negotiations, understandings and agreements are superseded by this Agreement. No modification of this Agreement (including waivers of rights and conditions) shall be effective unless in writing and signed by the party against whom enforcement of such modification is sought, and then only in the specific instance and for the specific purpose given.

20.3 **Governing Law**. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Assuming proper service of process, the Developer and MTS waive any objection regarding personal or in rem jurisdiction and agree that venue shall be proper in the County of San Diego, California.

20.4 **Severability of Provisions**. No provision of this Agreement that is held to be unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of this Agreement are hereby declared to be severable.

20.5 **Headings**. Article and section headings are included in this Agreement for convenience of reference only and shall not be used in construing this Agreement.

20.6 **Time of the Essence**. Time is of the essence of this Agreement.

20.7 **Conflict of Interest**. No member, official or employee of MTS shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement which is prohibited by law.

20.8 **Warranty Against Payment of Consideration**. The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

20.9 **Nonliability of MTS Officials and Employees**. No member, official or employee of MTS shall be personally liable to the Developer, or any successor in interest, in the

event of any default or breach by MTS or for any amount which may become due to the Developer or successor, or on any obligation under the terms of this Agreement.

20.10 **Submission of Documents and Other Matters for Approval.** Whenever this Agreement requires either party to submit documents or other matters to the other party for approval, and there is no time specified herein for such approval, the submitting party may submit a letter requiring approval or rejection by the other party of the documents or matter submitted within ten (10) business days after submission (unless a longer period is reasonably required and requested in writing), and unless rejected within the stated time such documents or matter shall be deemed approved. Except where such approval is expressly reserved to the sole discretion of the approving party, all approvals required hereunder by either party shall be reasonable and not unreasonably withheld, conditioned or delayed.

20.11 **Force Majeure.** In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; litigation beyond the reasonable control of a party; unusually severe weather; inability, despite best efforts, to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier beyond the reasonable control of a party; acts of the other party; acts or the failure to act of any public or governmental entity (except that acts or the failure to act of MTS shall not excuse performance by MTS); or any other acts or causes beyond the reasonable control of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. **Force Majeure** shall serve also to extend the time by which any condition, for the benefit of either party, shall be satisfied under this Agreement.

20.12 **Project Name.** The marketing name for the Project shall be "Palm City Village" or such other name as the MTS CEO and the Developer may agree.

20.13 **Term of this Agreement.** Unless terminated prior thereto pursuant to the terms hereof, this Agreement shall terminate upon the Close of Escrow and the execution and delivery of the Ground Lease for the final Ground Lease Parcel.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates hereinafter respectively set forth.

“Developer”

Malick Infill Corp, a California corporation

By:

By: _____

Andrew Malick, President

(Signatures continued of following page)

“MTS”

SAN DIEGO METROPOLITAN TRANSIT SYSTEM, a
public body, corporate and politic

By: _____
Sharon Cooney, Chief Executive Officer

APPROVED AS TO FORM:

Karen F. Landers, General Counsel

EXHIBITS

- "A" - Legal Description of the Property
- "B" - Schedule of Performance
- "C" - Scope of Development
- "D" - Preliminary Project Budget
- "E" - Material Terms of Ground Lease
- "F" - Insurance Requirements
- "G" - Right of Entry Permit

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "B"

SCHEDULE OF PERFORMANCE

Creation of Ground Lease Parcel.

Developer shall prepare the legal descriptions and plat maps under Paragraph 8.4(a) and any other documentation necessary to achieve formation of a separate Ground Lease Parcel for Building D at least 10 days prior to the Construction Loan Closing date.

Evidence of Financing.

Developer shall submit Evidence of Financing to the MTS CEO not later than ten (10) days prior to the Construction Loan Closing date.

Ground Leases.

Parties shall execute Ground Lease concurrent with the Construction Loan Closing date.

Commencement of Construction.

The Developer shall commence construction on a particular phase within thirty (30) days following the later of (i) Ground Lease execution and (ii) issuance of Grading and Building permits by the City of San Diego.

Completion of Construction.

The Developer shall complete construction no later than thirty (30) months after Commencement of Construction, unless excused by Force Majeure.

If the Developer fails to satisfy any obligation by the deadline set forth above, the Developer shall not be in default under this Agreement unless the Developer has first been given written notice of such failure and an opportunity to cure pursuant to Section 16.1(b). Any cure by the Developer within the period set forth by Section 16.1(b) shall constitute a full and complete cure of the failure, notwithstanding the fact that the deadline established herein was not first met by the Developer.

EXHIBIT "C"

SCOPE OF DEVELOPMENT

The Developer shall construct or cause to be construct the "Project" which consist of the following:

Building D:

Building D is 102 units with a mix of studios, (1) bedrooms, and (2) bedrooms. Malick reserves the right to adjust the unit mix and density of Building D to accommodate market demand and/or funding source requirements as long as it does not decrease the unit count by 10% or more.

Upon full-build out, the Joint Development Project will provide a total of 191 on-site parking spaces. A total of 80 spaces will be reserved for MTS's exclusive use. An overall parking management plan will be created which will also detail how shared parking if any will be implemented.

EXHIBIT "D"

PRELIMINARY PROJECT BUDGET

EXHIBIT "E"

GROUND LEASE MATERIAL TERMS

1. Ground Lease Terms. The term of the Ground Lease shall be 99 years, beginning on the date of execution. The Ground Lease will be executed prior to any construction work commencing on the property.
2. Minimum Density & Rent Restrictions. The Project shall consist of one building (Building D) comprising approximately 102 Residential Apartments with an estimated occupancy of 218 people.

All of the units shall be restricted to residents who meet affordable housing area medium incomes of no greater than 110% Area Median Income (AMI). Any downward deviation of less than ten percent (10%) from the estimated unit count shall not be considered a material change under Section 305(b). Any deviation upward from the estimated unit count shall not be considered a material change under Section 305(b).

3. Rent. Developer shall pay to Board as rent, in arrears, on an annual basis, an amount equal to 10% of annual Effective Gross Income (EGI) exceeding an industry standard target Return on Investment (ROI). The Developer shall submit a final financial pro forma model, inclusive of the sources and uses for the Project and the Developer's proposed ROI target, within 30 days prior to Close of Escrow for the subject parcel. Developer and the MTS CEO shall agree on a cap for the target ROI based on a reasonable percentage spread over the capitalization rate for similar multi-family projects in comparable markets, as based on available market and industry publications regarding multi-family housing financial parameters in general and capitalization rates and developer return targets in particular. The Developer shall report annually total EGI for the Project, the amount exceeding the target ROI applied against the original total development costs invested by the Developer in the form of debt and equity funding sources, and the indicated ground rent based on 10% of this excess EGI.
3. Leasehold Mortgages. The Ground Lease shall include typical rights and protections for any leasehold mortgagees.
4. Regulatory Requirements for Developer's Financing. MTS acknowledges that Developer may be seeking grants, loans, and other local, state or federal funding to complete the Project. MTS agrees to the execute necessary regulatory agreements, restrictive covenants, lease riders, or similar documents agreeing to be bound by the affordability restrictions and other terms and conditions of the applicable government financing program; PROVIDED, HOWEVER, that MTS shall not be responsible for directly repaying any loan, grant, or other subsidy awarded to Developer. In the event a government funding program requires MTS to be a signatory with joint and several liability, MTS shall have the right, in its sole discretion, to either refuse to execute such agreements or to require additional security from Developer to secure Developer's performance and avoid risk to MTS.
5. Project Phasing; Deadlines. The Joint Development is anticipated to be constructed in multiple phases, with Building D as the final phase. Construction of Building D will commence within eight and one half years (102) months following the start of construction on the first phase and will be completed not later than ten (10) years following the start of

construction on the first phase. Once construction commences, the building will achieve substantial completion within thirty (30) months, subject to extension for "Force Majeure".

6. Parking/Transit Parking. The Joint Development Project at full build-out will include approximately 191 on-site parking spaces, with a minimum of 80 spaces to be designated for MTS's exclusive use. The MTS exclusive use spaces shall be designed in a manner that allows MTS to manage, control and enforce the MTS-only parking restriction. The Joint Development Project shall provide mobility hub features to facilitate and incentivize trolley ridership, including bike lockers, uber pick-up area and other incentives to the residents.
7. MTS Policy 18. Developer shall comply with MTS Board Policy 18 prevailing wage and skilled labor requirements in effect at the time of commencement of construction of the Joint Development Project.
8. Encouragement of Public Transit. Developer will prepare a Parking Management Plan to include opportunities to encourage on-site residents to use public transit and reduce the demand for residential parking.

EXHIBIT "F"

INSURANCE REQUIREMENTS

During the Term of this Agreement, Developer at its sole cost and expense shall:

1. Keep or cause to be kept a policy or policies of insurance against loss or damage to the Improvements on the Premises (including without limitation the Trolley Parking Facilities) resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies. All such policies shall be endorsed to include coverage for the costs of demolition of the Improvements and the clearing and restoration of the Premises in the event of damage, destruction or condemnation if the Improvements are not fully restored. In addition, if Lessee carries coverage voluntarily for additional causes (such as earthquake, riot, civil commotion, or other), such coverage shall be treated in all respects as the policy or policies required to be kept under this Subparagraph 1, for so long as Lessee continues to voluntarily carry such coverage. All insurance hereunder shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the Improvements as defined in **Section 1003 of the Ground Lease** (such value to include amounts spent for construction of the Improvements, architectural and engineering fees, and inspection and supervision).
2. Maintain or cause to be maintained public liability insurance naming Board and all entities (including San Diego Transit Corporation, San Diego Trolley, Inc., and San Diego & Arizona Eastern Railway Co.) controlling, controlled by or under common control with Board, together with their respective contractors, agents, officers, employees, invitees and licensees and such other parties as the Board may designate from time to time as additional insureds, to protect against loss from liability imposed by law as a result of the acts or omissions of Lessee, its agents, servants or employees for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever in, on or about the Premises or the Improvements; to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, as a result of the acts or omissions of Lessee, its agents, servants or employees alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of Lessee or under its control or direction arising from the use and occupancy by Lessee under the Lease of the Premises and the Improvements; and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from the acts or activities of Lessee under this Lease in connection with the Premises, the Improvements, or Lessee or its sublessees, or any person acting for Lessee or under its control or direction.
 - 2.1. Such public liability insurance shall also protect Board and such additional insureds against incurring any legal cost in defending claims for alleged loss insured under such policy. Such public liability insurance shall be maintained in full force and effect during the entire term of this Lease in an amount of at least Three Million Dollars (\$3,000,000) Adjusted for Inflation, combined single limit, provided solely for the Project.

- 2.2. Lessee agrees that provisions of this paragraph as to public liability insurance shall not be construed to limit in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from Lessee's activities, or the activities of any other person or persons for which Lessee is otherwise responsible.
3. Maintain or cause to be maintained workers' compensation insurance issued by an insurance carrier authorized under the laws of the State of California for workers' compensation and employer's liability under the Workers' Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Lessee in connection with the Premises and the Improvements, and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of, any person incurring or suffering injury or death in connection with the Premises and the Improvements, or the operation thereof by Lessee.
4. During the course of any alteration, construction or reconstruction, including, without limitation, during the period of the construction of the Improvements, builders risk insurance for the amount of the completed value on an all-risk form including "course of construction" coverage, (including earthquake and flood if required by any Permitted Mortgagee) insuring the interests of Board, Lessee and Permitted Mortgagee as their interests may appear. The Permitted Mortgagee shall be named as lender loss payee, and the Board and the Lessee shall be named as additional loss payees. The insurer shall waive all rights of subrogation against Board. Lessee shall also require its general contractor to carry such insurance. Lessee shall confirm that the proximity of the Premises to a railroad does not result in policy exclusions that would result in the denial of coverage for claims on the Premises. In such an event, Lessee shall cause such exclusions to be removed from all applicable policies, or shall procure a separate Railroad Protective insurance policy with Board as the name insured.
5. Such other insurance on or in connection with the Project as the Board may reasonably require, which at the time is commonly obtained in connection with properties similar in type of building size, use and location to the Project and which is available at commercially reasonable rates.

EXHIBIT G

MTS STANDARD RIGHT OF ENTRY PERMIT



STUDIO E
ARCHITECTS

MALICK
INFILL DEVELOPMENT

McCullough
landscape architecture | environmental planning | urban design

Palm Avenue Transit Oriented Development

March 29, 2021 ::

San Diego, California ::



Residential Units

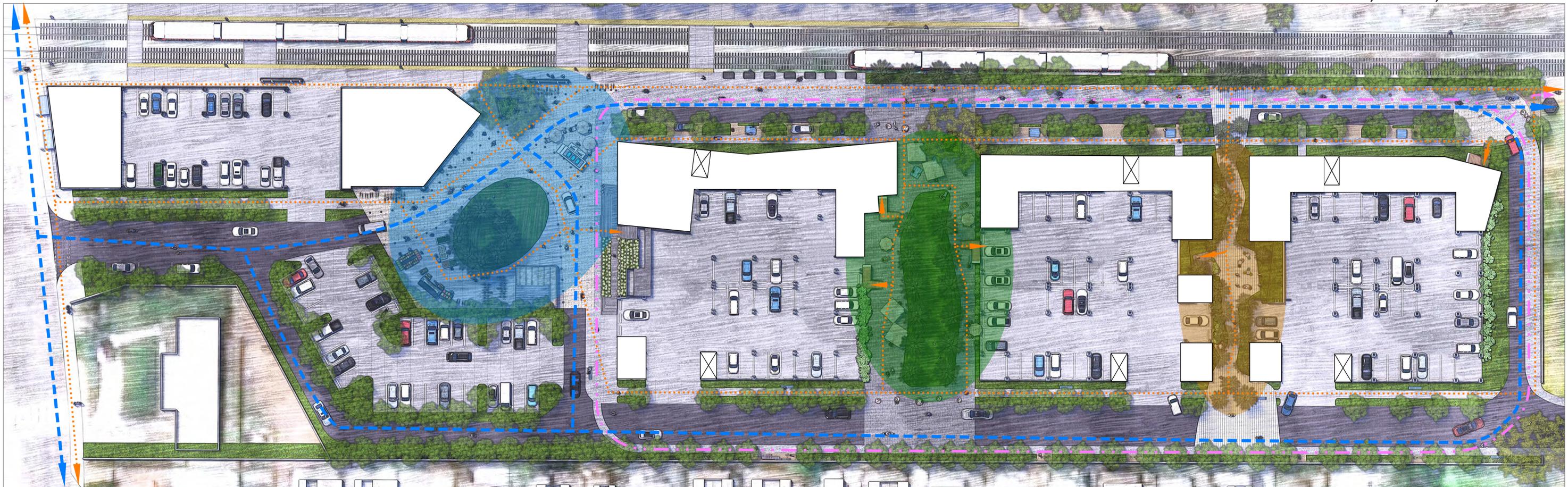
Building A: 16 studios, 68 1BR, 84 Units Total
Building B: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
Building C: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
Building D: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
Total Unit Count: 390
Max Building Height: 85'

Parking Count

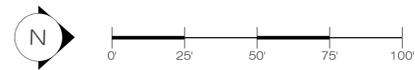
Building A: 24
Building B: 44
Building C: 42
Building D: 43
Surface Lot: 38
Total Spaces: 191

Site Plan

- | | |
|----------------------------|----------------------------------|
| 1 - Garage Entrance / Exit | 11 - Amenity Deck |
| 2 - Short-term Parking | 12 - Neighborhood Green |
| 3 - Bicycle Parking (typ.) | 13 - Picnic / BBQ Area (typ.) |
| 4 - Plaza / Marketplace | 14 - Otay River Valley Trailhead |
| 5 - Bodega / Corner Store | 15 - Raised 'Speed Table' |
| 6 - Grassy Hill | 16 - Park Workout Station (typ.) |
| 7 - Trolley Station | 17 - Rideshare Dropoff |
| 8 - Food Truck Zone | 18 - Running Loop |
| 9 - Scooter Parking (typ.) | 19 - Pop-up Café |
| 10 - Bicycle Lockers | 20 - Elevated Amenity Space |
| | 21 - 'Canyon' Alley |

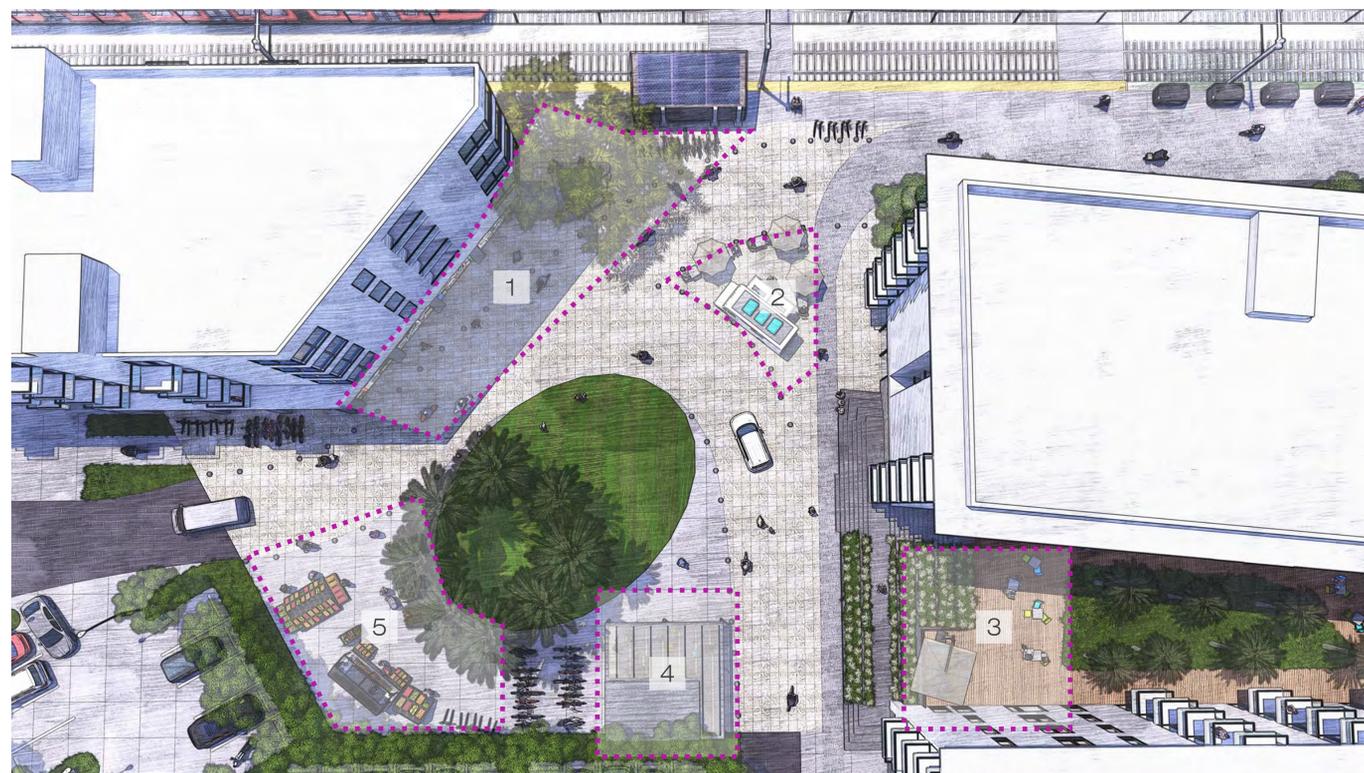


© San Diego, California :: March 29, 2021 ::
 McPhee Group



Paths for People, Places for People

- ⋯ Pedestrian circulation
- ⋯ Running loop
- ⋯ Bicycle / Scooter circulation
- Mobility Hub
- Neighborhood Green
- Canyon Courtyard

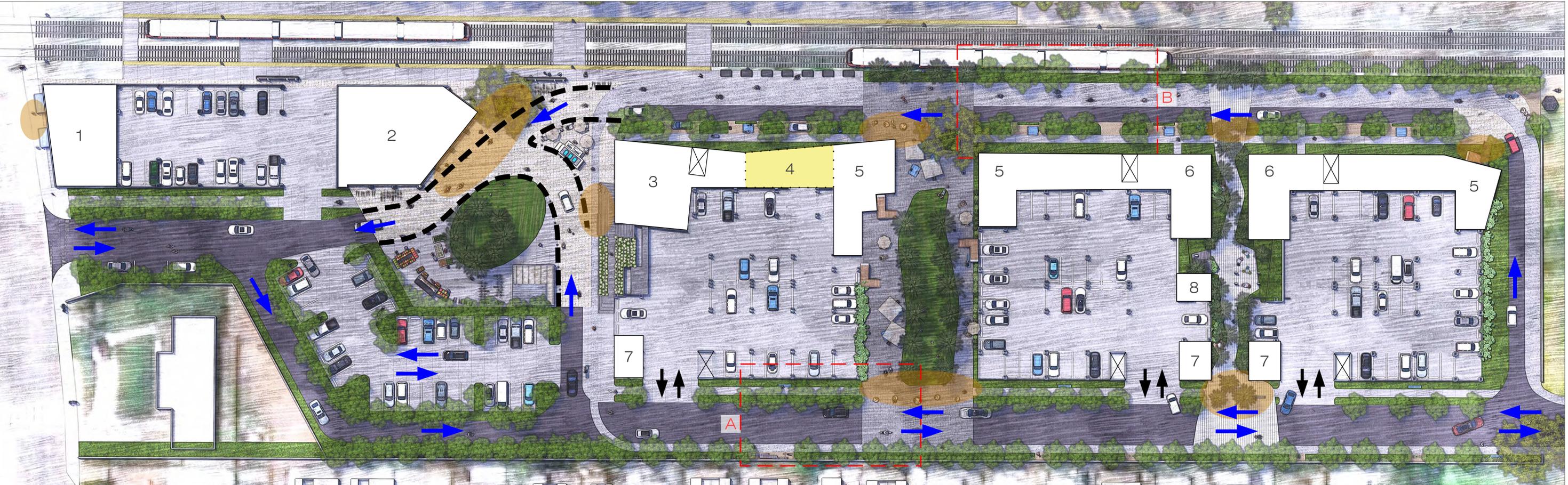


- Mobility Hub**
- 1 - Transit, Shopping, Rideshare Dropoff, Scooter & E-Bike charging
 - 2 - Food Truck Corral
 - 3 - "Front Porch" Observation Deck
 - 4 - Container Café
 - 5 - Market Stands



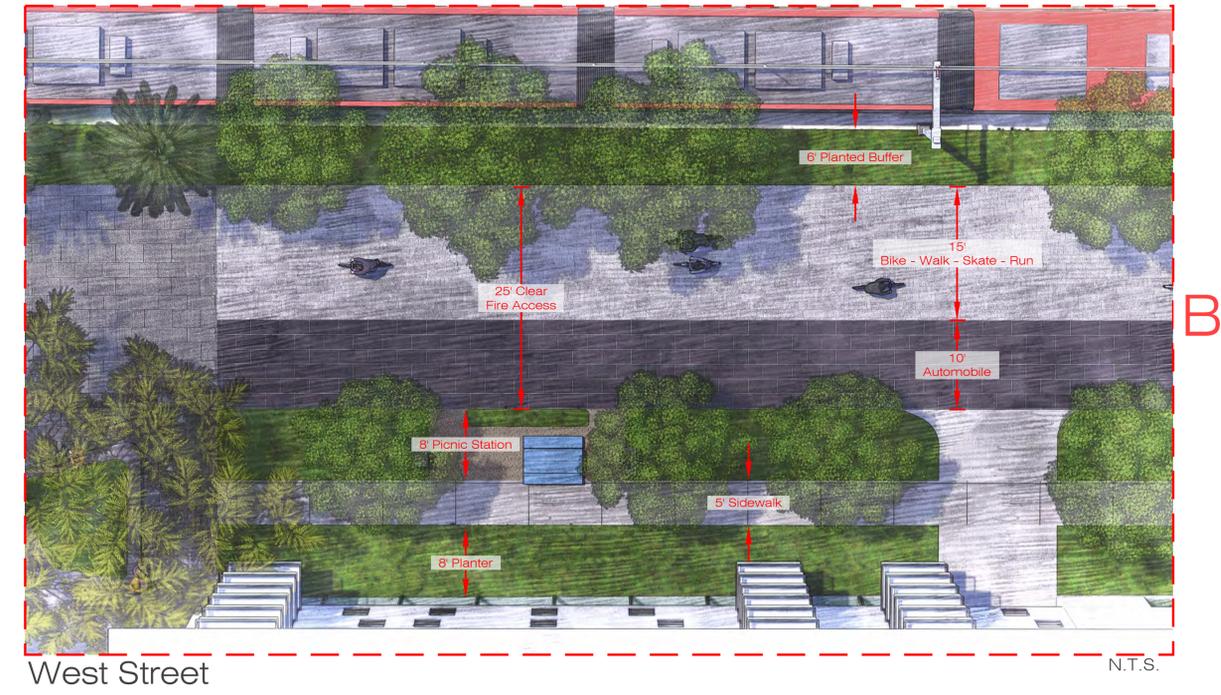
- Fire Truck Access**
- - Minimum 26' internal radius turns
 - 26' clear on 2-way streets
 - 25' clear on 1-way streets

© Palm Avenue Transit Oriented Development ::



Vehicular Circulation & Programming

- 1 - Commercial Tenant TBD (~2,750 SF)
- 2 - Bodega / Corner Store (~3,400 SF)
- 3 - Childcare Facility
- 4 - Sheltered Outdoor Play Space for Childcare Facility
- 5 - Resident Community Room
- 6 - Laundry / Lounge
- 7 - Lobby
- 8 - Bicycle Garage
- - Pickup / Dropoff Node







Residential Units

Building A: 16 studios, 68 1BR, 84 Units Total
Building B: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
Building C: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
Building D: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
Total Unit Count: 390
Max Building Height: 85'

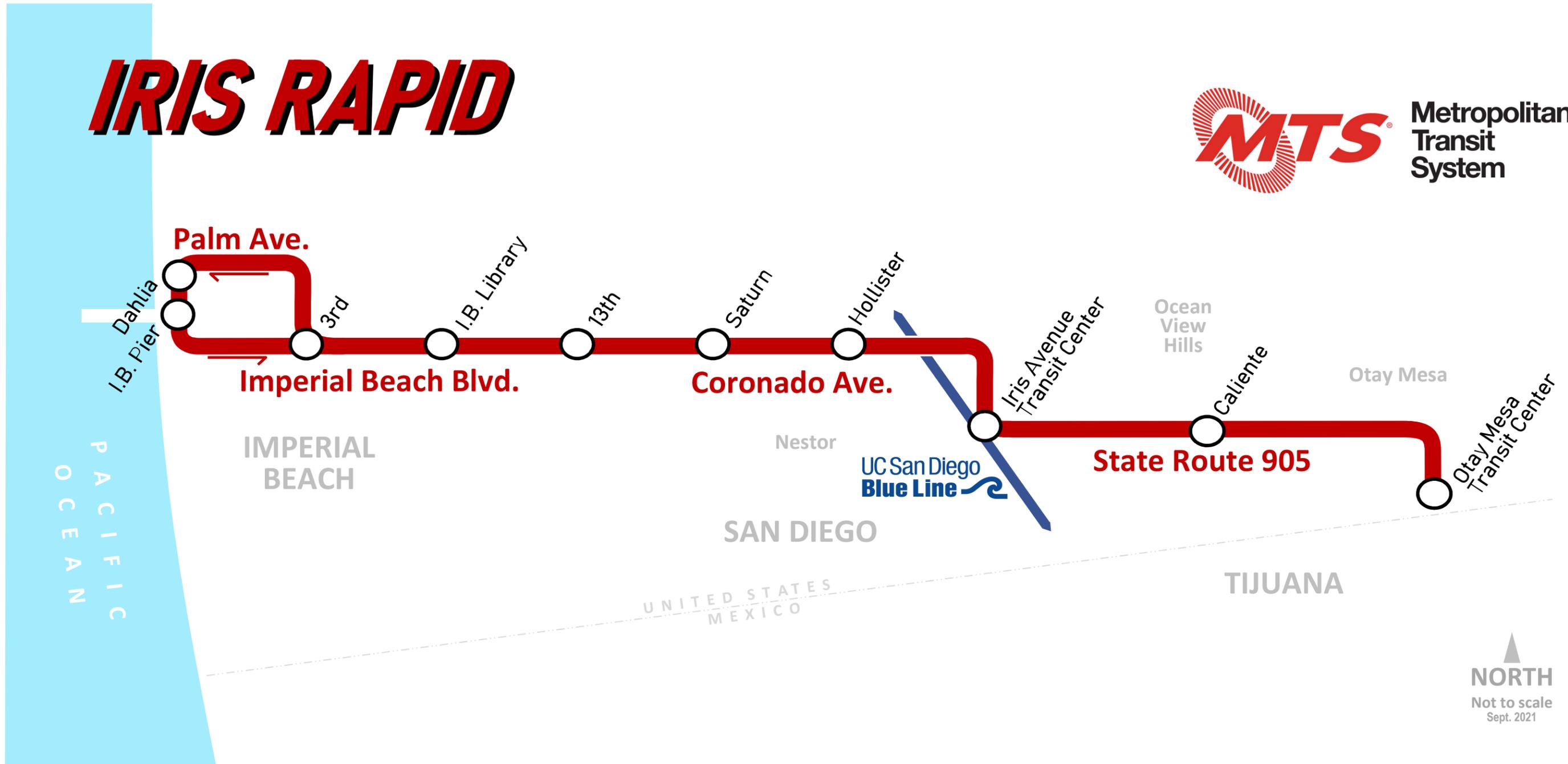
Parking Count

Building A: 24
Building B: 44
Building C: 42
Building D: 43
Surface Lot: 38
Total Spaces: 191

Site Plan

- 1 - Garage Entrance / Exit
- 2 - Short-term Parking
- 3 - Bicycle Parking (typ.)
- 4 - Plaza / Marketplace
- 5 - Bodega / Corner Store
- 6 - Grassy Hill
- 7 - Trolley Station
- 8 - Food Truck Zone
- 9 - Scooter Parking (typ.)
- 10 - Bicycle Lockers
- 11 - Amenity Deck
- 12 - Neighborhood Green
- 13 - Picnic / BBQ Area (typ.)
- 14 - Otay River Valley Trailhead
- 15 - Raised 'Speed Table'
- 16 - Park Workout Station (typ.)
- 17 - Running Loop
- 18 - Rideshare Dropoff
- 19 - Pop-up Café
- 20 - Elevated Amenity Space
- 21 - 'Canyon' Alley

IRIS RAPID



NORTH
 Not to scale
 Sept. 2021

Palm Avenue Station Joint Development

MTS Board of Directors Meeting

October 14, 2021

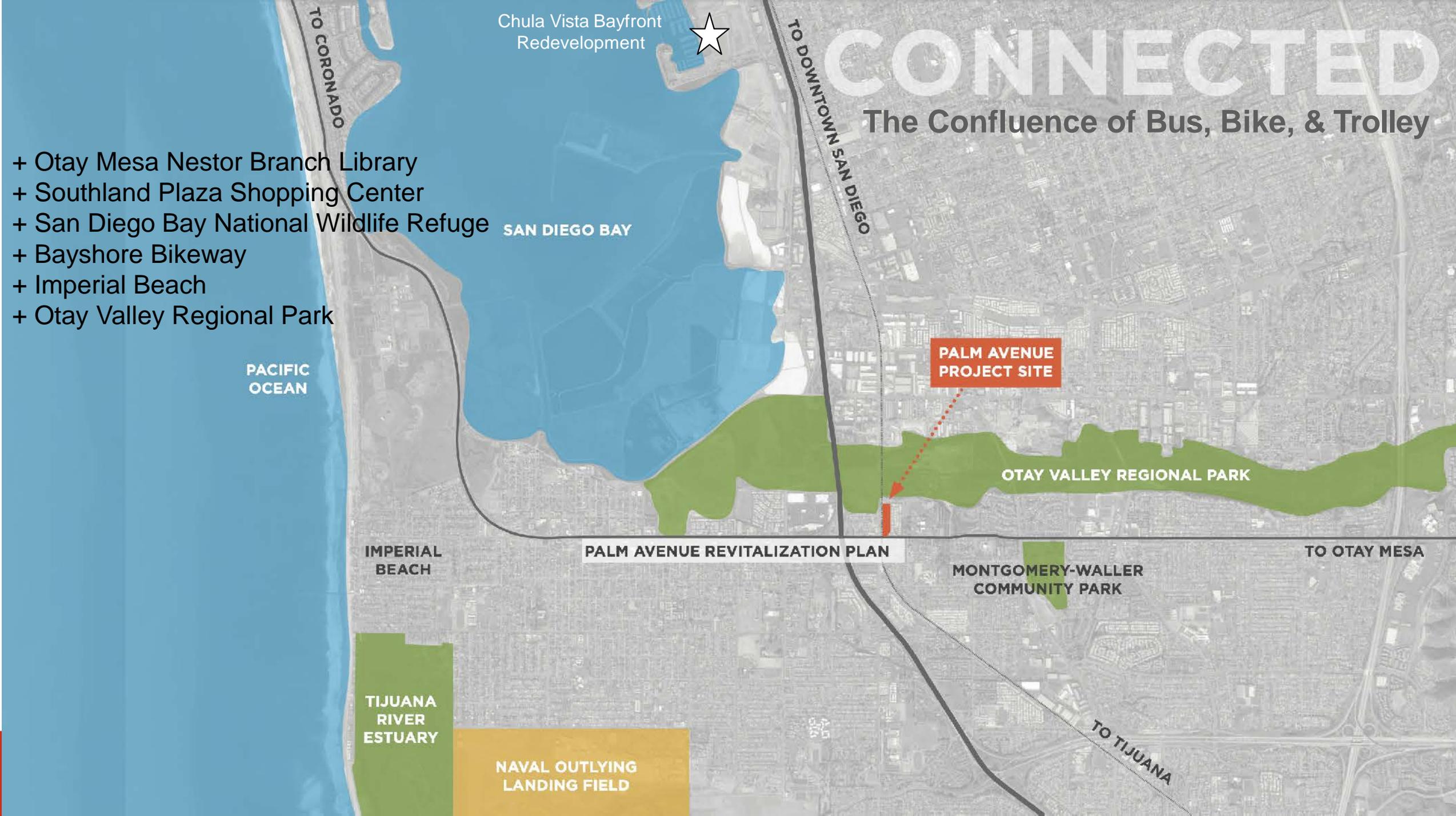
Palm Avenue Trolley Station



CONNECTED

The Confluence of Bus, Bike, & Trolley

- + Otay Mesa Nestor Branch Library
- + Southland Plaza Shopping Center
- + San Diego Bay National Wildlife Refuge
- + Bayshore Bikeway
- + Imperial Beach
- + Otay Valley Regional Park



Chula Vista Bayfront
Redevelopment



PACIFIC
OCEAN

SAN DIEGO BAY

PALM AVENUE
PROJECT SITE

OTAY VALLEY REGIONAL PARK

IMPERIAL
BEACH

PALM AVENUE REVITALIZATION PLAN

MONTGOMERY-WALLER
COMMUNITY PARK

TO OTAY MESA

TIJUANA
RIVER
ESTUARY

NAVAL OUTLYING
LANDING FIELD

TO TIJUANA

TO CORONADO

TO DOWNTOWN SAN DIEGO

National Community Renaissance

- John Seymour, Project Executive
- Vertically Integrated (*finance, development, construction, property management*)
- Low Income Affordable Focus
- Operating over 10,000 rental homes



Malick Infill Corporation

- Andrew Malick, Project Executive
- Middle Income Focus
- Traditionally Financed
- Commercial/Retail Experience



September 16, 2021 Board Meeting Direction

- Received Full Report on final DDA terms for National CORE and Mallick Infill projects
- Deferred approval of DDAs to October 14, 2021 meeting and directed staff to review and present alternative parking options or strategies for Board's consideration.
- Staff will present the results of that review today:
 - Developer-Required Actions included in the DDAs
 - Future MTS Transit Service Improvements that will Mitigate Palm Ave Parking Loss
 - *Proposed* MTS-Wide Market Study regarding Park-and-Ride Needs and Alternatives

Palm City Village Project

Total Density	<p>390 units (est. max occ: 1410)</p> <ul style="list-style-type: none"> • 288 (<80% AMI) • 102 (<110% AMI) 	<ul style="list-style-type: none"> • Activates trolley station property <ul style="list-style-type: none"> • Adds mobility hub amenities • Retail/Child Care Facilities • Increased ridership from residents
Total Parking	<p>191 Total</p> <ul style="list-style-type: none"> • 80 Exclusive MTS • 111 Developer (0.28/unit) 	<ul style="list-style-type: none"> • Reduces park-and-ride capacity at Palm Ave Transit Center from 481 to 80 spaces <ul style="list-style-type: none"> • 258 space average demand pre-pandemic • 66 space average demand mid-pandemic



Residential Units

Building A: 18 studios, 66 1BR, 84 Units Total
 Building B: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
 Building C: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
 Building D: 42 1BR, 30 2BR, 30 3BR, 102 Units Total
 Total Unit Count: 390
 Max Building Height: 85

Parking Count

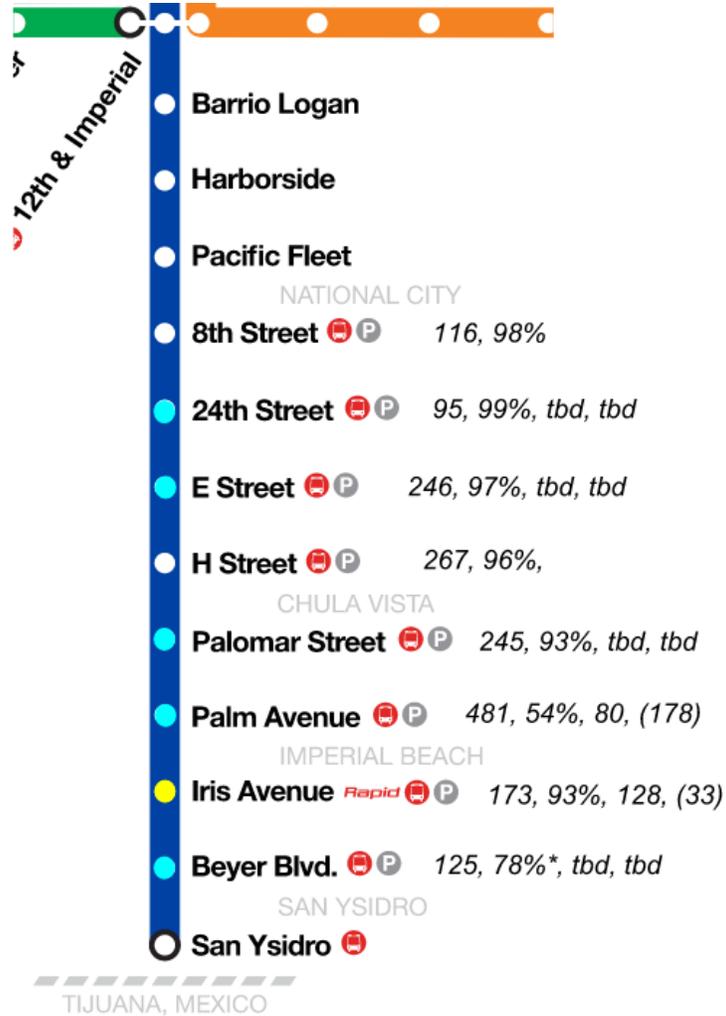
Building A: 24
 Building B: 44
 Building C: 42
 Building D: 43
 Surface Lot: 38
 Total Spots: 191

Site Plan

- | | |
|----------------------------|----------------------------------|
| 1 - Garage Entrance / Exit | 11 - Amenity Deck |
| 2 - Short-term Parking | 12 - Neighborhood Green |
| 3 - Bicycle Parking (typ.) | 13 - Picnic / BBQ Area (typ.) |
| 4 - Plaza / Marketplace | 14 - Obby River Valley Trailhead |
| 5 - Bodega / Corner Store | 15 - Raised Seated Table |
| 6 - Gateway Hill | 16 - Park Workout Station (typ.) |
| 7 - Trolley Station | 17 - Rideshare Dropoff |
| 8 - Food Truck Zone | 18 - Running Loop |
| 9 - Scooter Parking (typ.) | 19 - Pop-up Cafe |
| 10 - Bicycle Lockers | 20 - Elevated Amenity Space |
| | 21 - Canyon Alley |



MTS Blue Line – Park and Ride Capacity



2019 Parking Averages:

Beyer to 8th Street Lots – 54%-99% full
(Palm = 54%)

- 6 of 8 station parking lots over 90% full
- 1748 total spaces available
 - 83% used each day in 2019
- 302 excess capacity in 2019
 - reduces to 91 with Palm and Iris Projects

LEGEND:

- Active TOD Projects
- Active MTS Project
- # spaces, 2019 % utilization, proposed spaces, (deficit)
- * 60 spaces leased to San Ysidro Health Center

September 16, 2021
Board Direction

Staff Review of Alternative Parking Options and
Strategies @ Palm Avenue Trolley Station

Developer-Required Actions included in the DDAs

Parking/Transit Parking. *The joint development Project at full build-out (including Building D to be developed by co-developer Malick Infill Development) will include approximately 191 on-site parking spaces, with a minimum of 80 spaces to be designated for MTS's exclusive use. The MTS exclusive use spaces shall be designed in a manner that allows MTS to manage, control and enforce the MTS-only parking restriction.*

Developer shall provide mobility hub features to facilitate and incentivize trolley ridership, including bike lockers, uber pick-up area and other incentives to the residents.

Encouragement of Public Transit. *Developer shall prepare a plan to encourage residents to use public transit and reduce the demand for residential parking.*

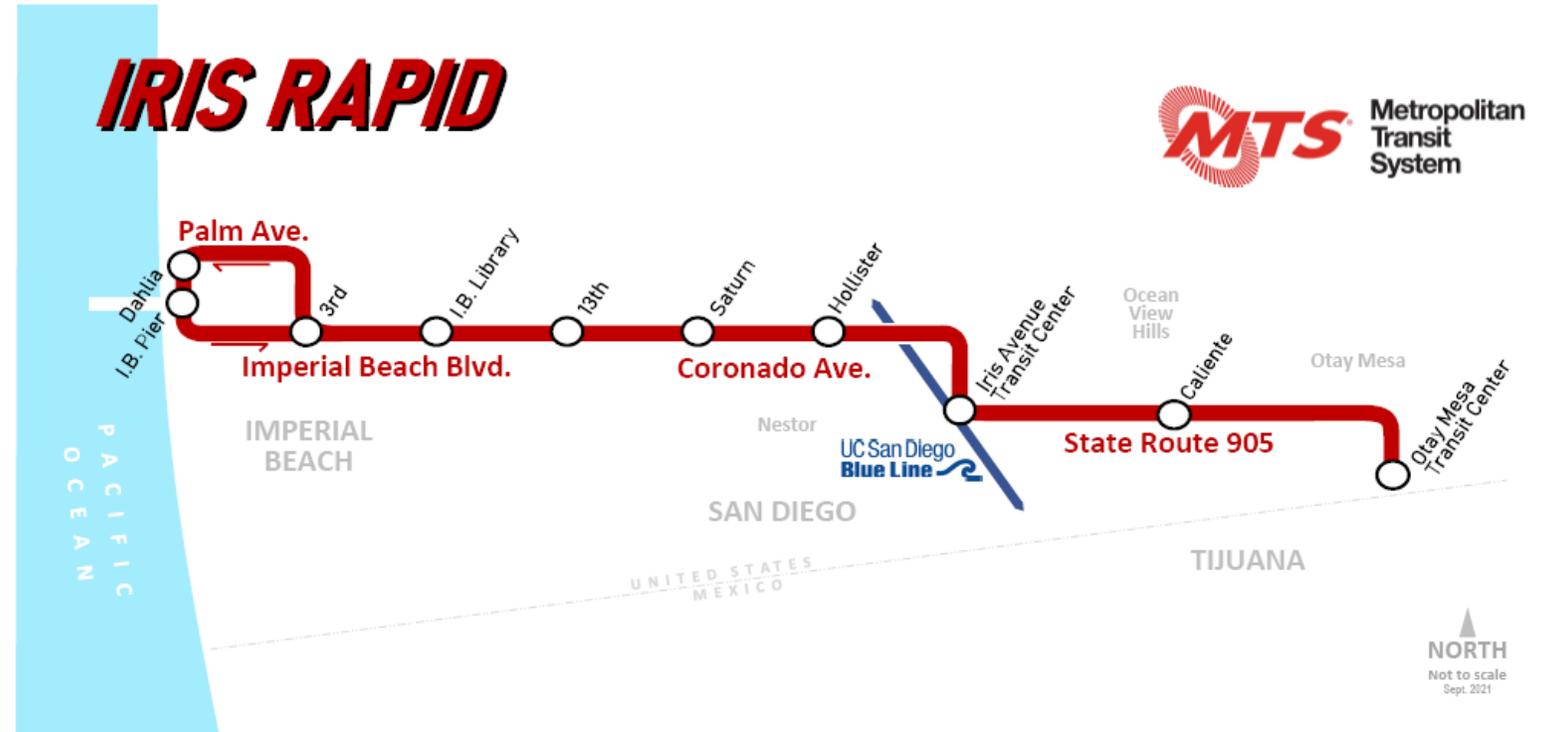
Estimated 7-year phase in of parking loss:

- Building B Construction: 380 spaces available
- Building C Construction: 260 spaces available
- Building A Construction: 120 spaces available
- Building D Construction: 80 spaces (permanent condition)

→ Provides time for outreach to Palm Ave park-and-ride users about upcoming parking reductions and alternative options

Future MTS Transit Service Improvements that will Mitigate Palm Ave Parking Loss

- IRIS Rapid – late 2022/early 2023
- Other options:
 - Community-based shuttle
 - Shared cost ride share (e.g. Uber/Lyft)
 - MTS-operated transit service determined by Policy 42 process



Proposed MTS-Wide Market Study regarding Park-and-Ride Needs and Alternatives

Staff recommends that a market study be conducted which could:

- Identify park-and-ride needs along each segment of the trolley system;
- Identify alternative methods to connect to transit that would reduce the need for MTS-provided park-and-ride facilities; and
- Develop a plan for parking replacement requirements and/or alternative strategies that may be implemented in a future project to mitigate parking losses.

Recommendation

That the Board of Directors authorize the Chief Executive Officer to:

- 1) Execute a Disposition and Development Agreement with National Community Renaissance of California, a California nonprofit public benefit corporation (National CORE) for Buildings A, B, and C of the proposed Palm City Village Transit Oriented Development Project (National CORE DDA), in substantially the same format as Attachment A;
- 2) Execute a Disposition and Development Agreement with MALICK INFILL CORP, a California corporation (Malick Infill) for Building D of the proposed Palm City Village Transit Oriented Development Project (Malick Infill DDA), in substantially the same format as Attachment B; and
- 3) Take all actions necessary to fulfill MTS's obligations under the National CORE DDA and the Malick Infill DDA, including, but not limited to, executing a Ground Lease and related regulatory agreements for each project phase.
- 4) Conduct a market study regarding MTS park and ride needs.



**Metropolitan
Transit
System**

Agenda Item No. 31

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

PROJECT LABOR AGREEMENTS (SAMANTHA LESLIE & ROD BETTS OF PAUL, PLEVIN, SULLIVAN & CONNAUGHTON LLP)

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors adopt Board Policy No. 66, Project Labor Agreements (Attachment A).

Executive Committee Recommendation

At its October 7, 2021 meeting, the Executive Committee voted 6 to 0 (Board Members Elo-Rivera, Fletcher, Gastil, Montgomery Steppe, Sandke and Sotelo-Solis in favor, with Board Member Salas absent) to recommend that the Board of Directors approve the staff recommendation.

Budget Impact

MTS may be able to utilize current on-call consulting services to negotiate a Project Labor Agreement (PLA), estimated to cost \$65,000-100,000. MTS may need to procure a consultant to perform the administration and monitoring of the PLA, estimated at \$300,000-465,000 annually.

DISCUSSION:

Per Senate Bill 1703, MTS is responsible for performing certain local and minor improvement construction projects, as necessary, to ensure its facilities and assets are in a state of good repair (e.g. trolley track improvements, substation replacement). San Diego Association of Governments is responsible for performing transportation related expansion construction projects for the San Diego region (e.g. Mid-Coast Extension).

MTS is required to follow various legal requirements when procuring construction projects (prevailing wage, prompt payment to subcontractors, etc.). Per Public Utilities Code section 120221.5, every MTS construction contract over \$1,000,000 either must be performed by: 1) a skilled and trained workforce at every tier to perform work on the project; or 2) be bound by a Project Labor Agreement.



Currently, MTS complies with Public Utilities Code Section 120221.5 by requiring all construction projects over \$1,000,000 to have a skilled and trained workforce. This requires that 60% of skilled journeypersons employed on project, at every tier, to be graduates of a state or federal apprenticeship program, for certain occupations or to have comparable on the job experience as would be required to graduate from an apprenticeship program.

MTS is contemplating the use of PLAs for future construction projects over \$1,000,000. A PLA is an agreement between a public agency planning to authorize and fund a construction project - or - the contractor or subcontractors on that project, and the unions that represent the pools of skilled labor that are needed for that project. A PLA spells out the specific terms and conditions that govern the employment of labor on a project for the duration of the project. Per Public Contract Code 2500, a PLA must: prohibit discrimination, permit all qualified contractors and subcontractors to bid without regard if a party to a collective bargaining agreement; require drug testing; guarantee no work stoppages, strikes, or lockouts; and requires that disputes be resolved by an arbitrator.

In the San Diego region, there are more and more public agencies utilizing PLAs to better assist their communities and constituents in varying ways (e.g. adding goals to use a local workforce to complete a construction project). MTS Board of Directors feedback has also been supportive of moving towards the use of PLAs to ensure better protections of labor standards.

Therefore, it is recommended that the MTS Board of Directors adopt Board Policy No. 66, Project Labor Agreements (Attachment A), which directs staff to implement PLAs on all future construction projects over \$1,000,000.

/S/ Sharon Cooney _____

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachment: A. Proposed Board Policy No. 66, Project Labor Agreements



**Metropolitan
Transit
System**

Policies and Procedures No. 66

Board Approval: 10/14/2021

SUBJECT:

PROJECT LABOR AGREEMENTS

PURPOSE:

The purpose of this policy (the Policy) is to establish guidelines for the use of a Project Labor Agreement on MTS construction projects that exceed \$1 million.

BACKGROUND:

A Project Labor Agreement (PLA) is a collective bargaining agreement between a public agency planning to authorize and fund a construction project – or the contractor or subcontractors on that project – and the unions that represent the pools of skilled labor that are needed for that project. A PLA spells out the specific terms and conditions that govern the employment of labor on a project for the duration of the project.¹ It is the intent of the Board to establish a PLA requirement for all construction projects exceeding \$1 million.

PROCEDURE:

MTS will utilize the following process to ensure the use of a PLA on construction projects covered by the Policy:

66.1 DEVELOPMENT OF A PLA

- a. Construction projects covered by the Policy must be governed by a PLA consistent with the following guidelines:
 - i. Executive Order (EO) 13502. EO 13502 explicitly allows the use of PLAs on federally funded projects, including the projects financed by the Federal Transit Administration. Specifically, EO 13502 states that the policy of the Federal government is to encourage the consideration of PLAs for large-scale construction projects, recognizing the benefits that PLAs can offer in promoting the efficient and expeditious completion of these projects. Any project labor agreement using FTA assistance should:

¹ Definition of PLA cited from Federal Transit Administration (<https://www.transit.dot.gov/foia/fta-project-labor-agreements-resource-page>)



- Bind the contractor and all subcontractors engaged in construction on the construction project through the inclusion of appropriate clauses in all relevant solicitation provisions and contract documents;
 - Allow the contractor and all subcontractors, including small and disadvantaged businesses wishing to compete for contracts and subcontracts to do so without regard to whether they are otherwise parties to collective bargaining agreements;
 - Contain guarantees against strikes, lockouts, and similar job disruptions;
 - Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement;
 - Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and
 - Fully conform to all applicable statutes, regulations, Executive Orders, and agency requirements. This includes, specifically, all applicable requirements codified by Title 49 of the United States Code and Title 49 of the Code of Federal Regulations, such as the USDOT disadvantaged business enterprise (DBE) program, the requirement for full and open competition for all procurements, and the prohibition on exclusionary or discriminatory specifications in procurements.
- ii. Public Contract Code (PCC) Section 2500. PCC Section 2500 states that a public entity may use, enter into, or require contractors to enter into, a PLA for a construction project only if the agreement includes all of the following taxpayer protection provisions:
- The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project;
 - The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements;
 - The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project;
 - The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project; and

- The agreement provides that disputes arising from the agreement shall be resolved by a neutral arbitrator.
- iii. The MTS Board of Directors reserves the right to establish policy goals for PLAs. This includes, but is not limited to, goals that: aim to preserve local employment opportunities in construction; and encourage participation by DBE and Small Business Enterprises (SB).
- iv. A covered construction project under this Policy will be determined by whether the engineer's estimate is over \$1,000,000.

66.2 PLA NEGOTIATIONS AND ADOPTION OF PLA

- a. Based on the guidelines listed in 66.1, MTS staff will engage in PLA negotiations with the San Diego County Building and Construction Trades Council on projects covered by this Policy. Once an agreement has been reached in PLA negotiations, the PLA must be approved by the MTS Board. Upon approval by the MTS Board, the PLA will take effect by the effective date set forth in the PLA. A copy of the PLA will then be included in any applicable solicitation documents for a construction project covered by this Policy.

66.3 MANAGEMENT OF PLA

- a. MTS may engage third party contractor services for the development, implementation, and management of any PLA, in conformance with this Policy.
- b. To monitor performance and determine whether the agency's goals are being met by PLAs on MTS projects, an annual report regarding PLAs on MTS projects will be provided to the Board.

Original Policy Adopted on 10/14/2021.

Proposed Adoption of Board Policy No. 66 Project Labor Agreements

MTS Board of Directors Meeting

October 14, 2021

Agenda Item No. 31

MTS's Current Construction Program

- Background
 - SB 1703: SANDAG responsible for expansion construction projects; MTS responsible for local and minor improvement construction projects.
- Legal Requirements for MTS's Construction Projects
 - Low bid, Prevailing Wage, prompt payment to subcontractors, etc.
 - Skilled & Trained Workforce for Construction over \$1mil
 - Requires 60% of skilled journeypersons employed on project, at every tier, to be graduates of a state or federal apprenticeship program, for certain occupations or to have comparable on the job experience.

Previous Over \$1 Mil Construction

Year	Project	Successful Contractor	Bid Award Amount
2018	Hill St Slope Repair	Hazard Construction Co.	\$3,273,038.50
2018	Trolley Track Improvements	VTMI, Inc.	\$3,461,927.00
2019	CPC Substation Replacement	Mid-Coast Transit Constructors	\$3,128,992.75
2019	Middletown / Switch 9, 11 Construction	VTMI, Inc.	\$8,489,466.00
2019	Fashion Valley Elevator Replacement	Conan Construction	\$4,270,593.08
2019	LRV Upper Platform Bldg. A, C & C1-East	Metro Builders & Engineers Group, Ltd.	\$1,894,547.00
2020	Middletown / 9,11 Overhead Catenary System	HMS Construction Inc.	\$1,009,985.00
2020	Validator Infrastructure Construction	Chula Vista Electric Corp.	\$1,354,714.00
2020	Beech St. Construction (Rail / Track)	Herzog Contracting Corp.	\$3,935,686.84
2021	Crosstie & Grade Crossing Improvements	Veterans Eng. Services, Inc.	\$2,358,316.36

Project Labor Agreement (PLA)

- MTS's Authority
 - Public Utilities Code 120221.5: Skilled and Trained Workforce or Project Labor Agreement for Construction over \$1million
- Background
 - Negotiated agreement between a public agency (or the construction contractor on the project) and the San Diego Building and Construction Trades Council
 - Terms relating to working conditions, labor standards and hiring practices

Project Labor Agreements

- Legal Requirements
 - Public Contract Code 2500: PLAs permissible if:
 - Prohibits discrimination
 - Permits all qualified contractors and subcontractors to bid, w/out regard to if a party to a collective bargaining agreement
 - Requires drug testing
 - Guarantees no work stoppages, strikes, or lockouts
 - Disputes to be resolved by an arbitrator
 - Executive Order 13502: PLAs permissible on FTA funded construction projects

Project Labor Agreements

- Potential benefits over current Construction Prog.
 - Many local public agencies have implemented PLAs and found it to be a beneficial way to assist their jurisdictions/communities/constituents (e.g. local hire or to advance other MTS objectives)
 - Is a useful tool if MTS is interested in going above and beyond current 60% apprenticeship requirement
 - Avoidance of labor disputes or work stoppages
- Cost Impacts
 - May necessitate one-time negotiation costs and ongoing consulting services to ensure PLA compliance
 - Unclear at this time if there will be other costs/savings

Project Labor Agreements

- How to implement

- 1) Adopt Board Policy No. 66

- Construction projects over \$1mil will be under a PLA
- Lists the minimum legal requirements a PLA must include

- 2) Negotiate a PLA with the San Diego Building and Construction Trades Council

- 3) Receive final approval of the PLA from the Board

- 4) Include the executed PLA on all future construction project solicitations over \$1mil

- 5) Successful Construction Contractor will sign onto the PLA, as a condition of contract award

- 6) PLA will be monitored by MTS (or its consultant) to ensure compliance

Staff Recommendation

- That the Board of Directors adopt Board Policy No. 66, Project Labor Agreements



**Metropolitan
Transit
System**

Agenda Item No. 45

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

RIDERSHIP RECOVERY ACTION PLAN UPDATE (MARK OLSON)

INFORMATIONAL ONLY

Budget Impact

The San Diego Metropolitan Transit System (MTS) anticipates Phase II costs at approximately \$300,000. The funding source is the approved FY 2022 Marketing & Communications Department budget.

DISCUSSION:

MTS staff will present an overview of the initiatives planned for Phase II of the Ridership Recovery Action Plan, which centers around the UC San Diego Blue Line Extension opening in November 2021. The report will include a briefing on the marketing and community engagement plan for the extension. It will also provide an overview of the initiatives designed to retain existing riders and attract new riders including:

- Real Riders – a video series highlighting the stories of real riders and ways transit works for them
- Think FAST – a campaign to educate riders about safely accessing the transit system
- PRONTO – continued promotion of the agency’s new fare collection system
- Iris Rapid – creating buzz about the all-electric high-frequency, limited-stop service between Otay Mesa and Imperial Beach opening in 2022
- Respect the Ride – a rider etiquette campaign designed to educate riders on appropriate riding behavior

Early Phase II advertising efforts will focus on the “Welcome Aboard” theme that highlights the opportunities available by using the UC San Diego Blue Line Extension. The marketing and communications plan will include tactics to reach audiences such as cross-border transit riders, South Bay residents, hard-to-reach communities, healthcare/life science employers, UC San Diego and more.



A high-level timeline of activities includes:

September & October: Content development, photo and video production, VIP tours, employer outreach, digital welcome packet development, Rail Safety Week promotions

November/December: Event celebrations, earned and paid media strategies launch, stakeholder outreach/speakers bureau, MTS-owned advertising begins, MTS rider outreach/tabling at transit centers, holiday rider appreciation events

January-March: Significant employer outreach, Try Transit promotion begins, paid advertising push targeting commuters, stakeholder outreach/speaker's bureau continues, rider education/tabling at transit centers

April-August: Beach/summer campaign, ongoing activities including employer outreach, targeted digital communication, ongoing Try Transit promotion

/S/ Sharon Cooney _____

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

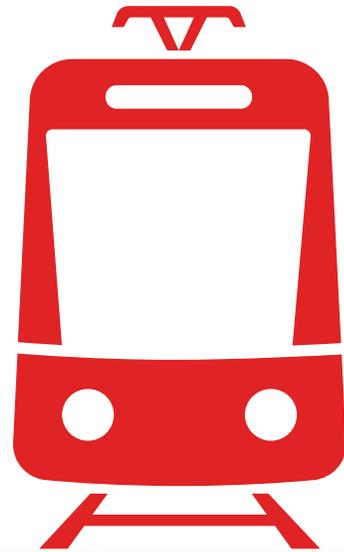
RIDERSHIP RECOVERY ACTION PLAN



PHASE II

**BOARD OF
DIRECTORS**

October 14, 2021



Presentation Outline



- **Phase I Recap/Results**
- **Ridership Gains**
- **Mid-Coast Marketing & Community Engagement Overview**



RIDERSHIP CAMPAIGN PHASE I Results

- Welcome Back!
- Clean Ride
- MTS Employee Heroes
- Special events (Trolley 40th)
- PRONTO launch



RIDERSHIP CAMPAIGN PHASE I Results

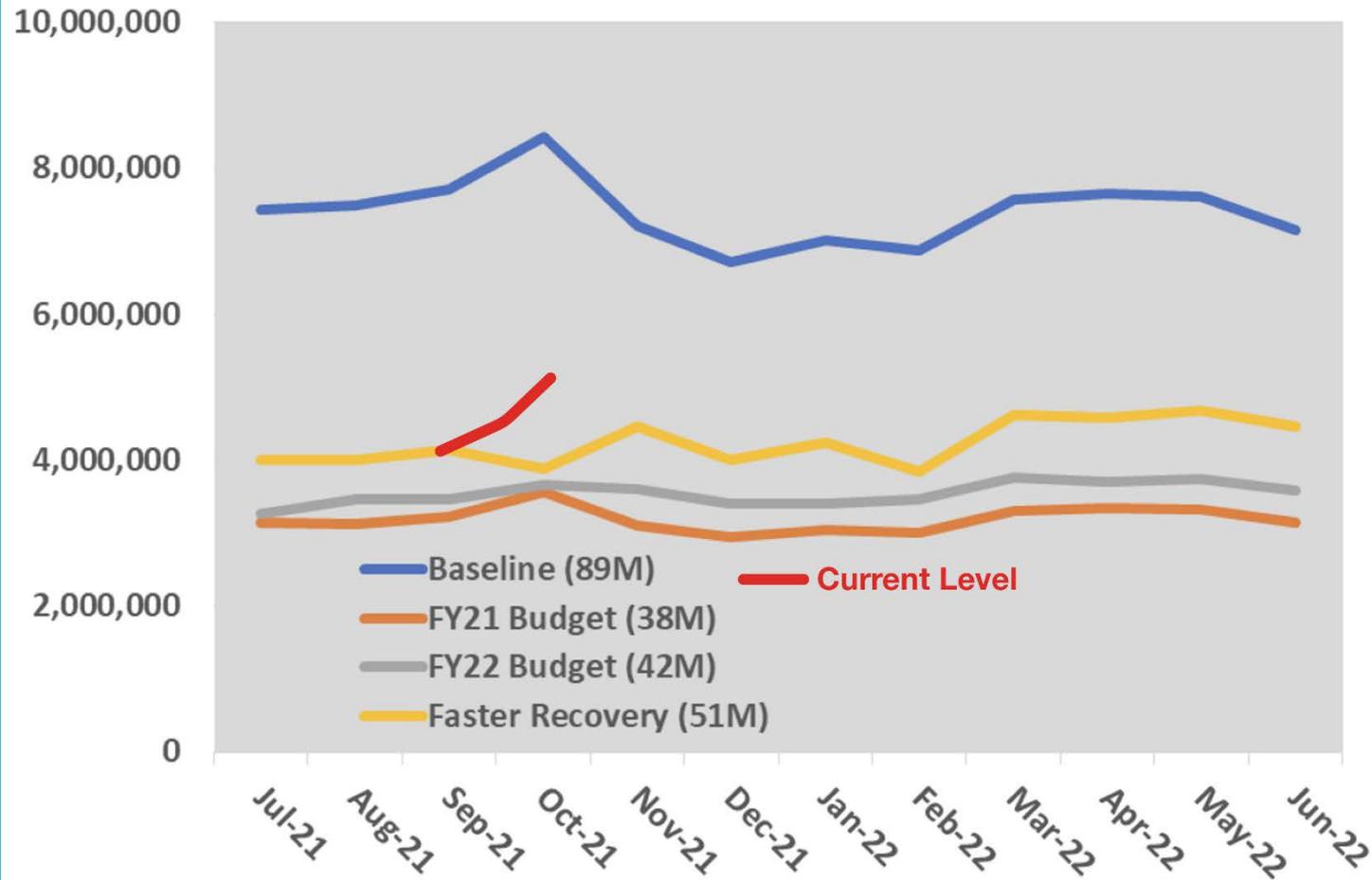


- **Broadcast:**
 - \$464K ad value/3.4M impressions
 - 326 news stories
- **Digital Ads**
 - 18.9M impressions
- **Web Traffic**
 - 51% increase in page views compared to previous quarter
 - 3M page views
 - RidePRONTO.com most popular

RIDERSHIP GOALS

FY 2022

FY22 Passenger Levels



RIDERSHIP GAINS

- Weekday ridership up approximately 14% in September
- Ridership up to approximately 65% of pre-pandemic, approaching 70% on weekends
- Another jump-up expected with Mid-Coast in November
- 4.5% increase over FY22 “Faster Recovery” goal in Q1

	Jul-Sept
July	4,133,106
August	4,294,714
September	4,900,097
Total	13,327,917
Average	4,442,639
FY22 Forecast	53,311,668

RIDERSHIP CAMPAIGN PHASE II

- **Welcome Aboard**

- ✓ Mid-Coast is the centerpiece
- ✓ Long-term campaign (2021-2022)
- ✓ Ties together other campaigns
 - PRONTO (now)
 - ThinkFAST (now)
 - Respect the Ride (now – 2022)
 - Real Riders (early 2022)
 - Iris Rapid/ZEB transition (2022)
 - Beach Campaign (Spring/Summer 2022)

RIDERSHIP CAMPAIGN PHASE II

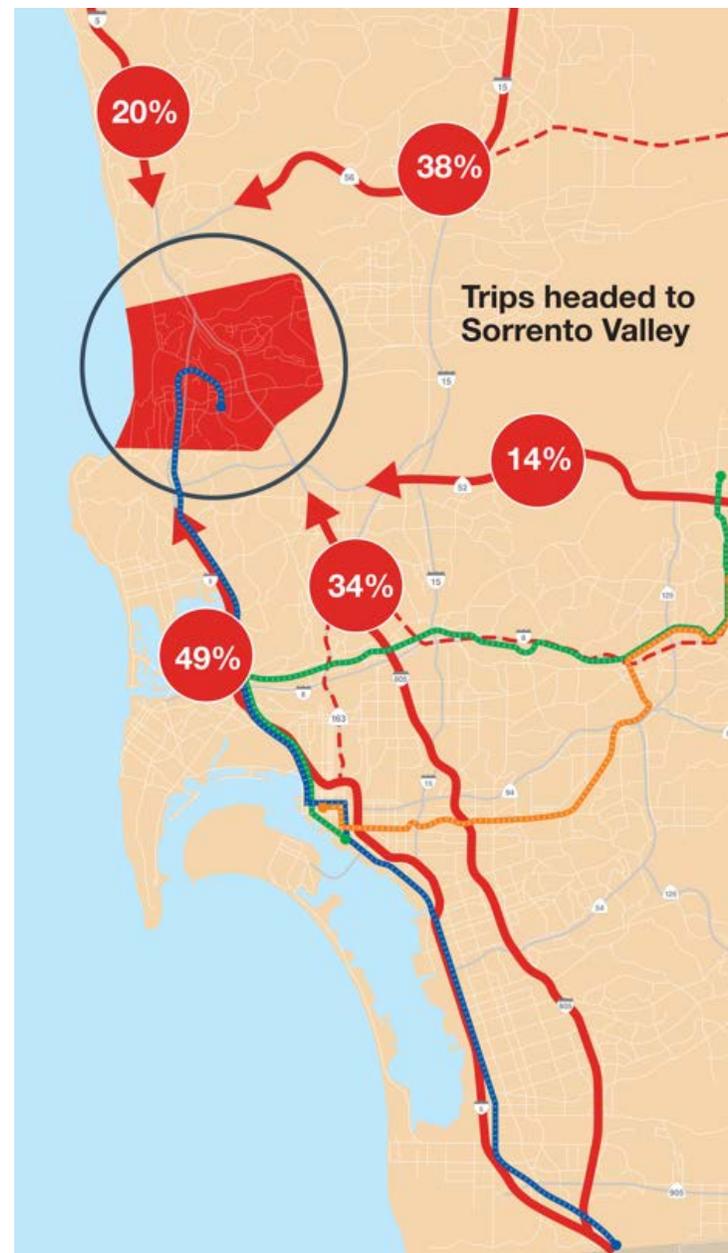
SITUATIONAL ANALYSIS



- Build off Phase I success
- Strong MTS border market
 - 55% of pedestrian crossers use transit
- Resilient and dedicated light rail market
 - UC San Diego Blue Line - 77% of pre-COVID ridership (up from 64% in May)
- Iris Rapid/better bus connections
- Capitalize on MTS' strength – the South Bay

RIDERSHIP CAMPAIGN PHASE II

SITUATIONAL ANALYSIS



RIDERSHIP CAMPAIGN PHASE II

TARGET AUDIENCES



PRIMARY:

- Cross Border/Tijuana
- South Bay Residents
- Hard-to-Reach Communities
- Healthcare/Life Sciences/UTC Employers
- UC San Diego

SECONDARY:

- Westfield UTC
- Tourism Market
- Cities/County/Federal Government (Military)
- MTS Community Advisory Committee Members

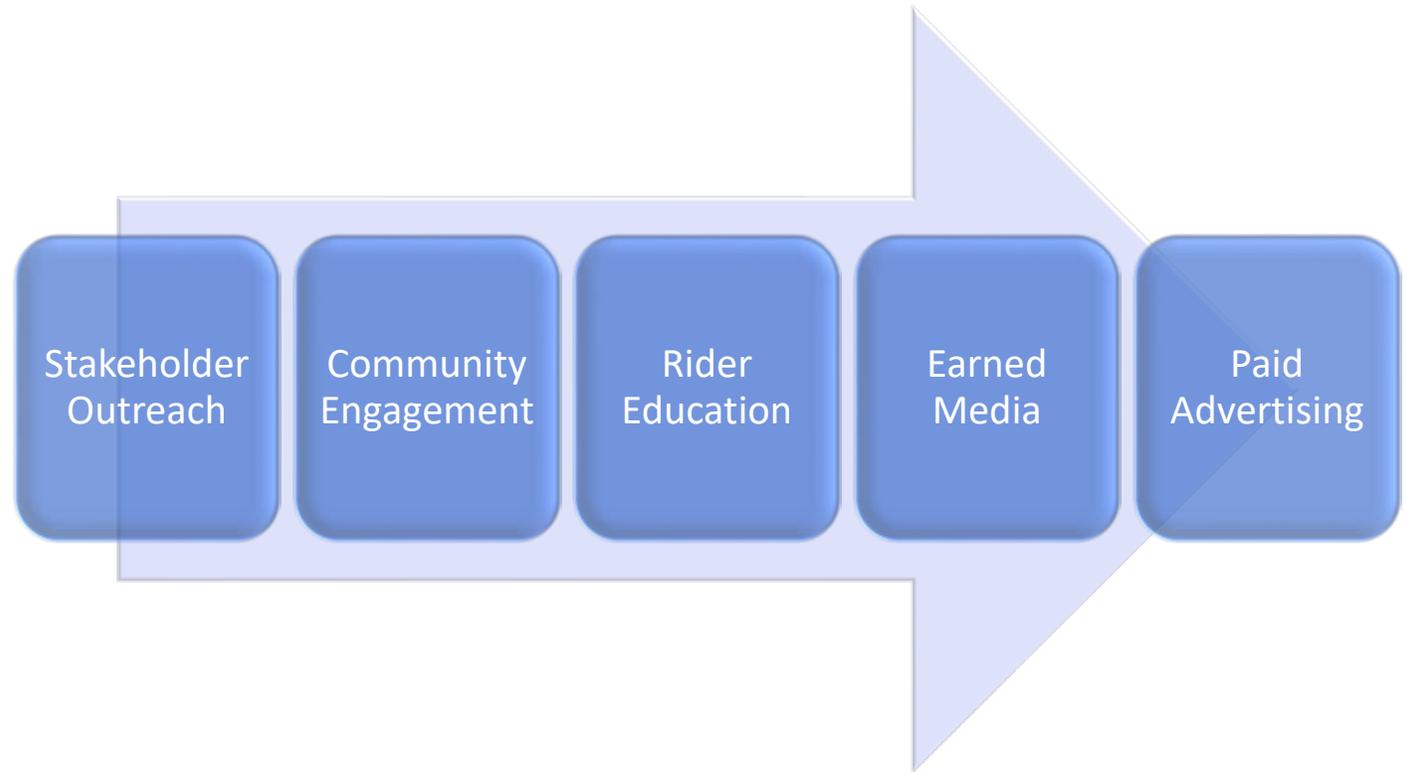
RIDERSHIP CAMPAIGN PHASE II

GOALS

- **Ridership:** Increase ridership year over year Nov. 2020-2021 and Nov. 2021-2022
- **Education:** 50 public awareness events between Dec. 2021 and May 2022 (half in South Bay)
- **Hard-to-Reach Communities:** 100 staff hours dedicated with CBO help between December 2021 and May 2022
- **Employers:** Secure partnerships with a minimum of 40 businesses and/or property managers in the UTC area
- **Try Transit Promotion:** Increase Try Transit events for new employers along the Mid-Coast corridor.
 - Hold a minimum of 10 Try Transit meetings
 - Sign up a minimum of 100 transit riders through the program
 - Complete by June 2022

RIDERSHIP CAMPAIGN PHASE II

STRATEGIES



RIDERSHIP CAMPAIGN PHASE II

EMPLOYER OUTREACH

TRY TRANSIT:

- Partnership with SANDAG iCommute offering free monthly passes to qualified employees
- 54 - Targeted set of employers
- Employee Transportation Coordinators
 - Email marketing
 - Digital toolkits
 - Social media
 - Tabling opportunities
 - Lunch-N-Learns
 - Webinars
 - Video content



RIDERSHIP CAMPAIGN PHASE II

RIDER COMMUNICATIONS

PARTNERSHIPS



RIDERSHIP CAMPAIGN PHASE II

REAL RIDERS



RIDERSHIP CAMPAIGN PHASE II

PAID ADVERTISING STRATEGY

Flight:

November 2021 – December 2022

Media Budget:

\$200,000

Campaigns:

Launch (\$50,000)

Ridership (\$150,000)

Target Audience:

Current Transit Riders & Fast-Growth Opportunity Riders

Languages:

English & Spanish

Geographic
Zones:

Central

South Bay

North

East

Beaches

KPIs &
Considerations:

Impressions / Reach

Site Visits

Engagement

RIDERSHIP CAMPAIGN PHASE II

FREE RIDE DAY –
TROLLEY

November 21, 2021



RIDERSHIP CAMPAIGN PHASE II

MESSAGING

Theme: WELCOME ABOARD (Bienvenido a bordo)

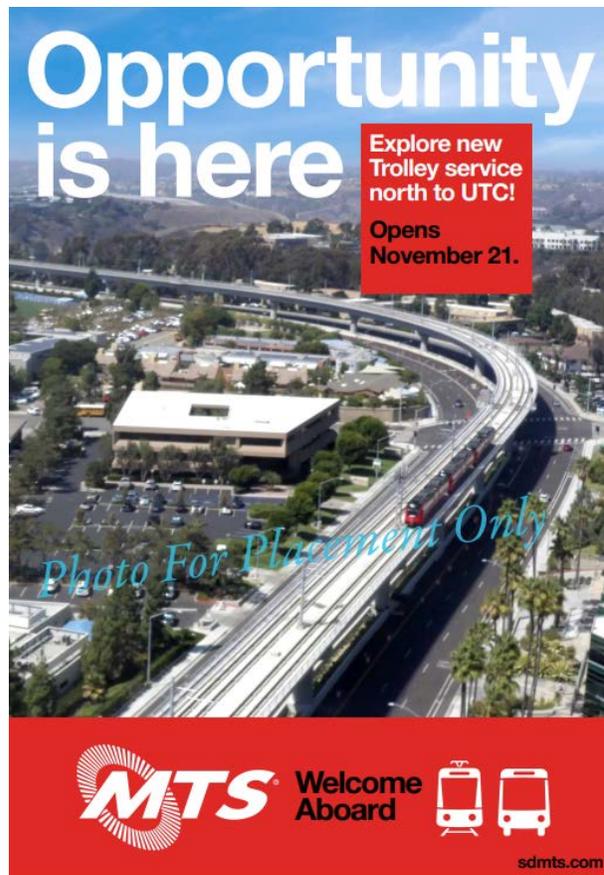
Main Message: *Opportunity (Oportunidad)*

Supporting Messages:

- Jobs/healthcare/education
- Fast/Frequent service
- No transfers
- Avoid traffic hassles
- Helping the Environment

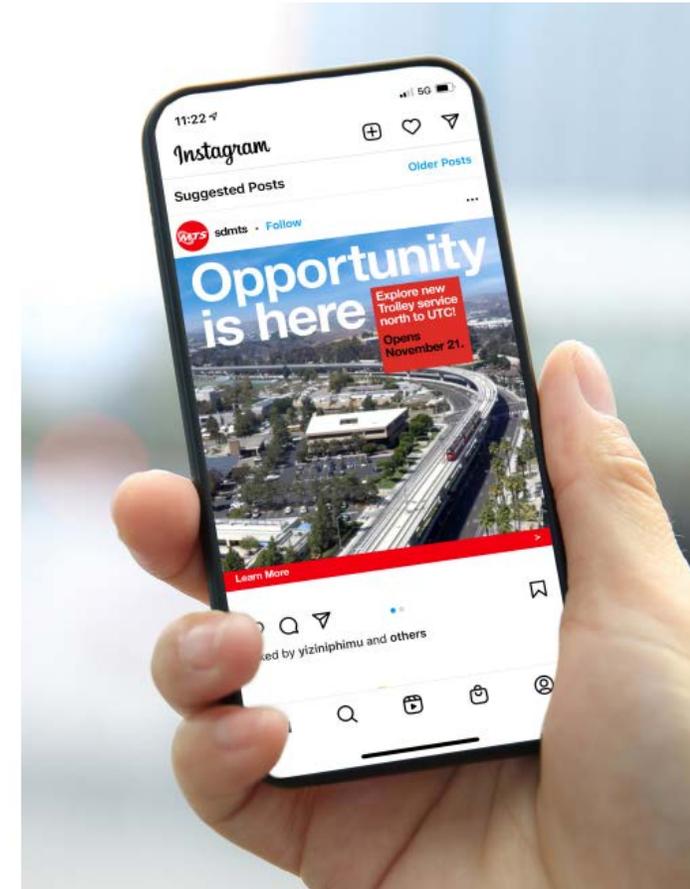
RIDERSHIP CAMPAIGN PHASE II

ARTWORK SAMPLES



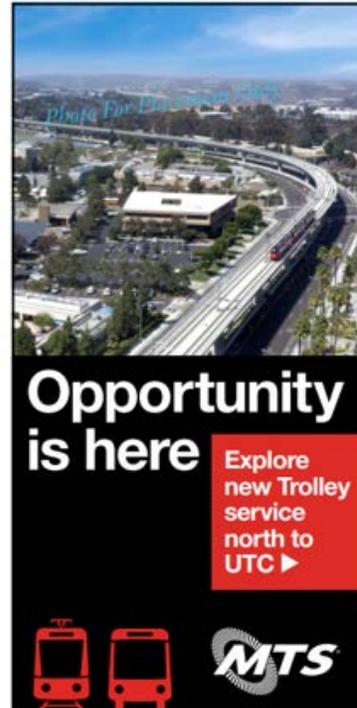
RIDERSHIP CAMPAIGN PHASE II

ARTWORK SAMPLES



RIDERSHIP CAMPAIGN PHASE II

ARTWORK SAMPLES



RIDERSHIP CAMPAIGN PHASE II

ARTWORK SAMPLES



RIDERSHIP CAMPAIGN PHASE II

TIMELINE

September/
October

Early employer
outreach

Content development

- Welcome packets
- Partner toolkit
- Flyers/info cards
- Logos
- Dedicated webpage

VIP Mid-Coast Tours

Video production

November/
December

Onboarding
presentations for
employers/employees

Celebration events

Earned media and
social media ramps up

Paid advertising

Speakers bureau

MTS owned-
advertising

Rider
education/tabling at
transit centers

January-
March

Try Transit
Promotion begins

Paid advertising push
targeting commuters

Stakeholder
outreach/speakers
bureau continues

Rider
education/tabling at
transit centers

Real Rider video
series

April -
August

Beach/summer
campaign

More employer
outreach

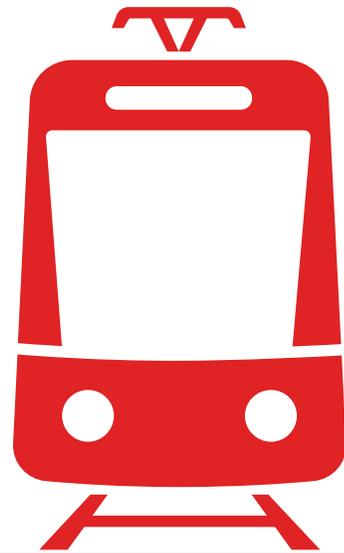
Targeted digital
communication

Ongoing Try Transit
promotion

RIDERSHIP RECOVERY ACTION PLAN



Thank you!





**Metropolitan
Transit
System**

Agenda Item No. 46

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

October 14, 2021

SUBJECT:

SANDAG'S SOCIAL EQUITY EARLY ACTION TRANSIT PILOTS (DENIS DESMOND AND BRIAN LANE OF SANDAG)

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

The SANDAG 2021 Regional Transportation Plan Social Equity Working Group has provided a number of recommendations to the SANDAG Transportation Committee for early investments in transit. The Board of Directors will receive the report and provide any comments related to the proposed programs which require SANDAG Board approval.

/S/ Sharon Cooney _____

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachment: A. SANDAG Social Equity Early Action Transit Pilots Agenda Item



October 1, 2021

Social Equity Early Action Transit Pilots

Overview

On Friday, February 12, 2021, the SANDAG Board of Directors approved a Commitment to Equity statement that is meant to inform all decisions and projects implemented by SANDAG. This statement says:

We hold ourselves accountable to the communities we serve. We acknowledge we have much to learn and much to change; and we firmly uphold equity and inclusion for every person in the San Diego region. This includes historically underserved, systemically marginalized groups impacted by actions and inactions at all levels of our government and society.

We have an obligation to eliminate disparities and ensure that safe, healthy, accessible, and inclusive opportunities are available to everyone. In 2021, SANDAG will develop an equity action plan that will inform how we plan, prioritize, fund, and build projects and programs; frame how we work with our communities; define how we recruit and develop our employees; guide our efforts to conduct unbiased research and interpret data; and set expectations for companies and stakeholders that work with us.

We are committed to creating a San Diego region where every person who visits, works, and lives can thrive.

A statement is only as good as the actions to which it informs. The time is now to implement mobility solutions for historically underserved communities. Toward this end, staff has worked with a representative group of the SANDAG 2021 Regional Plan Social Equity Working Group along with other stakeholders and staff from the transit operators to implement several early action pilot projects. These include public transit and bike projects, policies, and programs that will benefit the most marginalized members of our region.

These pilot projects will function as building blocks toward achieving the aim of the Board of Directors as described in the Commitment to Equity and will serve as a proof of concept for projects identified in the draft 2021 Regional Plan. The draft 2021 Regional Plan, should it be adopted, includes funding for transit operating funds and fare subsidies.

To provide funding for these pilot projects, the Transportation Committee is asked to recommend that the Board of Directors approve a budget amendment to consider the following projects for inclusion in the 2021 Early Action Transit Pilot: free youth fares for all riders age 18 and under, public education and program research, and transit improvements for underserved areas.

Action: **Recommend**

The Transportation Committee is asked to recommend that the Board of Directors approve an amendment to the FY 2022 Program Budget to:

- 1) create new Overall Work Program Project No. 3505000 for the Early Action Transit Pilot project; and
- 2) program \$2.13 million of Congestion Mitigation and Air Quality Improvement funds to fund the project.

Fiscal Impact:

An FY 2022 budget amendment to program \$2,130,000 of CMAQ funds to OWP 3505000. The balance of the project, \$5,870,000, will be funded in the FY 2023 and FY 2024 Budgets

Schedule/Scope Impact:

The Free Youth Fares would start in the spring of 2022, the education, outreach, and research would begin just before the free youth fares start, and the transit improvements would start in the fall of 2022. The pilot would end in the summer of 2023, with a research report presented shortly thereafter.

Key Considerations

The SANDAG 2021 Regional Plan Social Equity Working Group (Working Group), chaired by City of San Diego Councilmember Vivian Moreno, is charged with providing input on the 2021 Regional Plan from an equity perspective. The Working Group has weighed in on early actions in the plan that show a true commitment to equity.

In response to recommendations from stakeholders and the Working Group, the Working Group asked SANDAG staff to work with members and friends of the Working Group to discuss possible projects to bring back for consideration. This small working group has met over the course of the past two months and devised the following proposals for the transit pilot:

- A free transit fare for all Youth 18 and under
 - All youth 18 and under would receive a free fare on their PRONTO account
 - Estimated \$6 million to reimburse Metropolitan Transit System (MTS) and North County Transit District (NCTD) (\$2 million in FY 2022, \$4 million in FY 2023)
- Transit improvements on a network of high-demand routes in traditionally underserved areas of the region
 - Add transit service on weekdays and weekends on routes with infrequent service, or late-night service that ends too early
 - Estimated \$1.75 million to reimburse MTS
- Education and outreach to youth and to residents in traditionally underserved areas of the region
 - Work with our Community Based Organizations (CBOs) to help get PRONTO accounts for youth, and to educate residents on the existing and added services in their areas
 - Estimated \$200,000 for CBOs
- Conduct a Research Study
 - Evaluate the benefits of the pilot using both qualitative and quantitative measures
 - Estimated \$50,000 for a consultant

The Working Group, at its September 23, 2021, meeting, voted unanimously to recommend that the Transportation Committee and Board of Directors approve a budget amendment to consider the following projects for inclusion in the Early Action Transit Pilot: Free Youth Fares for 18 and Under, Education and Research, and Transit Improvements in Underserved Areas.

Next Steps

Pending the Transportation Committee's recommendation, the Board of Directors will be asked to approve a budget amendment at its October 22, 2021, meeting. Staff would work with MTS, NCTD, and stakeholders to finalize the details of the fare costs and transit improvement projects. Pending MTS and NCTD Board approvals, the Free Youth Fares would start in the spring of 2022; the education, outreach, and research would begin before the free fares start; and the transit improvements would start in the fall of 2022. The pilot would end in the late summer of 2023, with a research report presented shortly thereafter.

Coleen Clementson, Director of Regional Planning

Key Staff Contacts: Brian Lane, (619) 699-7331, brian.lane@sandag.org

Attachment: 1. Proposed FY 2022 Program Budget Amendment for Overall Work Program Project No. 3505000, Early Action Transit Pilot

WORK ELEMENT: 3505000 NEW - Early Action Transit Pilot
FY 2022 BUDGET: \$0 \$2,130,000
AREA OF EMPHASIS: Sustainable Mobility Programs and Services

Amendment Title: Early Action Transit Pilot (FY 2022 Budget Amendment)

Funds Source				
	Prior	FY 2022	FY 2023 - 2024	Total
Congestion Mitigation and Air Quality (CMAQ) Improvement Program	\$0	\$0 \$2,130,000	\$0 \$5,870,000	\$0 \$8,000,000
TOTAL	\$0	\$0 \$2,130,000	\$0 \$5,870,000	\$0 \$8,000,000

Funds Application				
	Prior	FY 2022	FY 2023 - 2024	Total
Other Direct Costs	\$0	\$0 \$100,000	\$0 \$100,000	\$0 \$200,000
Contracted Services	\$0	\$0 \$30,000	\$0 \$20,000	\$0 \$50,000
Pass Through to Other Agencies	\$0	\$0 \$2,000,000	\$0 \$5,750,000	\$0 \$7,750,000
Employee Benefits		\$0		\$0
TOTAL	\$0	\$0 \$2,130,000	\$0 \$5,870,000	\$0 \$8,000,000

OBJECTIVE

Select Transit Leap projects from the draft San Diego Forward: The 2021 Regional Plan (2021 Regional Plan) will be brought forward as pilot projects. Transit Leap improvements make public transit a compelling option to driving; fast, convenient, and safe. The draft 2021 Regional Plan identifies social equity as one of the primary challenges that must be addressed in this region. Stakeholders advocating for equity have asked for immediate investment in public transit projects, policies, or programs that will benefit the most marginalized members of our region. Emphasis in FY 22 will be in implementing free transit for Youth 18 and under, work with stakeholders to educate and inform residents in underserved areas on the benefits of transit, begin a research study that demonstrates the benefits of the Pilot, and plan for service increases to begin in the fall of 2022.

PREVIOUS ACCOMPLISHMENTS

This project builds from the draft 2021 Regional Plan and efforts by SANDAG's Social Equity Working Group to promote transit projects that benefit residents in traditionally underserved areas.

Project Manager: Lane, Brian

Committee(s): Transportation Committee

Working Group(s): Regional Plan Social Equity Working Group

PRODUCTS, TASKS, AND SCHEDULES FOR FY2022

Task No.	% of Effort	Task Description / Product / Schedule
1	40	<p>Task Description: Work with MTS and NCTD to implement free transit for Youth 18 and under.</p> <p>Product: Free fares on PRONTO for Youth</p> <p>Completion Date: 6/30/2022</p>
2	40	<p>Task Description: Work with stakeholders and MTS on planning for transit improvements in underserved areas</p> <p>Product: Proposed improvements with schedule adjustments</p> <p>Completion Date: 6/30/2022</p>
3	10	<p>Task Description: Work with Community Based Organizations to educate and provide outreach to residents of underserved areas.</p> <p>Product: Education and Outreach Materials</p> <p>Completion Date: 6/30/2022</p>
4	10	<p>Task Description: Conduct a research study to evaluate the benefits of the Early Action Transit Pilot</p> <p>Product: Study Plans</p> <p>Completion Date: 6/30/2022</p>

FUTURE ACTIVITIES

Complete the pilot through FY 2023 and part of FY 2024.

Note: Program CMAQ funds to this OWP. Funds would be used to reimburse MTS and NCTD for lost revenues from free youth fares and for transit improvements, as well as for a research study, and to provide funds to CBO stakeholders to conduct outreach and education. SANDAG staff hours would be billed through OWP 3320100, Transit Planning.

SANDAG Social Equity Early Action Transit Pilots

MTS Board of Directors

October 14, 2021

- MTS a participant in SANDAG's Transit Equity Pilot Working Group
- SANDAG Presentation Today
 - Brian Lane, Senior Transit Planner
- Issues to consider and finalize for moving ahead...
 - Implementation schedule
 - Pilot project management
 - How to measure pilot success
 - No funding identified beyond pilot

SANDAG Social Equity Early Action Transit Pilots

Brian Lane

SANDAG Senior Transit Planner

Social Equity
Early Action
Transit Pilots

Social Equity Commitment

SANDAG Board of Directors – February 12, 2021

We hold ourselves accountable to the communities we serve. We acknowledge we have much to learn and much to change; and we firmly uphold equity and inclusion for every person in the San Diego region. This includes historically underserved, systemically marginalized groups impacted by actions and inactions at all levels of our government and society.

We have an obligation to eliminate disparities and ensure that safe, healthy, accessible, and inclusive opportunities are available to everyone. In 2021, SANDAG will develop an equity action plan that will inform how we plan, prioritize, fund, and build projects and programs; frame how we work with our communities; define how we recruit and develop our employees; guide our efforts to conduct unbiased research and interpret data; and set expectations for companies and stakeholders that work with us.

We are committed to creating a San Diego region where every person who visits, works, and lives can thrive.

**Special Thanks
to members
and friends of
the SANDAG
Social Equity
Working Group!**

- Lisa Cuestas (Casa Familiar)
- Belen Hernandez (Mid-City CAN)
- Craig Jones (Alliance for Regional Solutions)
- Carolina Martinez (EHC)
- Rosa Olascoaga Vidal (Sup. Vargas' office)
- Barry Pollard (Urban Collaborative)
- Randy Torres-Van Vleck (City Heights CDC)

- Pete Casellini (MTS)
- Katie Persons (NCTD)

2021 Draft Regional Plan Projects and Policies

Proposed Fare Subsidies

- Near-term Action to study fare subsidies for people with low incomes, students, seniors, and/or youth

Proposed Transit Operating Funds

- Increased frequencies and spans of service on core local routes
- High frequencies and all-day service on new Rapid and Commuter Rail routes

Pilot Budget (FY22 - FY24)

- Total Available: **\$8 Million**
- Youth Fares: **\$6 Million**
- Transit Improvements: **\$1,750,000**
- Education/Outreach through CBOs: **\$200,000**
- Research Study: **\$50,000**

FY22 Budget Amendment: \$2.13 Million

FY23 & 24 Budgets: \$5.87 Million

Funding

Congestion Mitigation and Air Quality Improvement (CMAQ) Program

CMAQ Goal:

Helping urban areas meet air quality goals and supporting investments that encourage alternatives to driving alone and improve traffic flow.

Pilot Concepts – Free Fares for Youth

- Youth 18 and under
 - ~ \$6 Million/year (using FY 2019 pre-COVID data)
 - MTS: \$5.3 Million/year
 - NCTD: \$0.7 Million/year
- Youth 24 and under (considered)
 - ~ \$35 Million/year
- Considerations
 - Need to fairly reimburse MTS and NCTD for lost revenue
 - Will there be massive spike in demand on some trips?



Pilot Concepts – Add trips to Core Routes in Underserved Areas

Add transit service on weekdays and weekends on routes with infrequent service, or late-night service that ends too early

- Routes:

- 3: Euclid Transit Center to UCSD Medical Center
- 4: 12th/Imperial to Lomita Village
- 13: 24th St. Transit Center to Kaiser Hospital
- 906/907: Iris Avenue Transit Center to San Ysidro
- 929: 12th/Imperial to Iris Avenue Transit Center

- Other routes also under consideration:

- 5, 7, 12, 215, 701, 704, 916/917, 961, 962, 965, 967



Pilot Concepts – Education and Research

Education and Outreach:

- Use CBO stakeholders to help spread the word about both the Pilot efforts and transit in general
 - ~ \$200,000

Research:

- Conduct research to demonstrate benefits
 - ~ \$50,000
 - Qualitative interviews (before and after)
 - Much like the San Diego Unified Youth Opportunity Pass pilot
 - Quantitative data
 - Work with researchers, stakeholders, and elected officials to find best measurements to use
 - CMAQ Requirements

Timeline

SEPTEMBER 23, 2021

- **Social Equity Working Group forwards recommendation to TC and BOD**

OCTOBER 1, 2021

- **Transportation Committee**

OCTOBER 22, 2021

- **Board of Directors**

DECEMBER 2021

- **2021 Regional Plan Adoption**

Timeline

MARCH 2022

- **Free youth fares start**
Education and Outreach start

SEPTEMBER 2022

- **Transit service increases start**

JUNE 2023

- **Pilot Ends**

SEPTEMBER 2023

- **Research results made available**

Thanks!

Questions?



**Metropolitan
Transit
System**

Agenda Item No. 61

Chief Executive Officer's Report

October 14, 2021

In accordance with Board Policy No. 52, "Procurement of Goods and Services", attached are listings of contracts, purchase orders, and work orders that have been approved within the CEO's authority (up to and including \$100,000) for the period September 9, 2021 to October 6, 2021.

CEO Travel Report (since last Board meeting)

N/A

Board Member Travel Report (since last Board meeting)

N/A



EXPENSE CONTRACT

Doc #	Organization	Subject	Amount	Revenue/Expenditure	Day
G2516.0-22	SRECTRADE INC	PURCHASE OF 7000	\$94,180.00	E	9/15/2021
PWG324.0-21324-04	ABC GENERAL CONTRACTORS	BRT LIGHTING	\$25,420.13	E	9/15/2021
G2075.0-18-AE-50.03	DOKKEN ENGINEERING	ADD DESIGN	\$36,896.94	E	9/16/2021
PWG256.4-18	PARADIGM	ADD FUNDS	\$3,000.00	E	9/16/2021
G2091.8-18	INIT	ADDITIONAL SOFTWARE & ADD SALESFORCE LICENCES	\$37,816.95	E	9/21/2021
L0901.0-10.121	BRICEHOUSE STATION	L&R TRANSPORTS INC SAN YSIDRO	\$3,500.00	E	9/23/2021
PWG269.0-19269-13	HERZOG	BLUE BARN FIRE HYDRANT	\$1,803.20	E	9/23/2021
PWG275.0-19275-23	ABC CONSTRUCTION	EUCLID TO CONCRETE	\$70,043.77	E	9/27/2021
PWG321.1-21	PRESENTATION PRODUCTS DBA SPINITBAR	ADDITIONAL AFTER-HOURS MAINTENANCE SUPPORT	\$6,900.00	E	10/30/2021

REVENUE CONTRACT AND MOUS

Doc #	Organization	Subject	Amount	Revenue/Expenditure	Day
L0901.0-10.111	BRICEHOUSE	12TH & IMPERIAL CELL PHONE KIOSK (METRO)	\$1,800.00	R	9/14/2021
L0901.0-10.122	BRICEHOUSE STATION	THE SKIN CARE FOUNDATION	\$1,000.00	R	10/6/2021

Purchase Orders							
PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4400001584	9/9/21	Office Depot		G200-OFFICE SUPPLIES	\$59.61	-	-
4400001585	9/9/21	Office Depot		G200-OFFICE SUPPLIES	\$97.87	-	-
4400001586	9/9/21	Office Depot		G200-OFFICE SUPPLIES	\$82.05	-	-
4400001587	9/9/21	Office Depot		G200-OFFICE SUPPLIES	\$491.73	-	-
4400001588	9/13/21	W.W. Grainger Inc		F110-SHOP/BLDG MACHINERY	\$113.49	-	-
4400001589	9/14/21	Office Depot		G200-OFFICE SUPPLIES	\$67.22	-	-
4400001590	9/15/21	W.W. Grainger Inc		M180-STATION ELECTRICAL	\$1,169.21	-	-
4400001591	9/15/21	W.W. Grainger Inc		G160-PAINTS & CHEMICALS	\$137.81	-	-
4400001592	9/15/21	Office Depot		G200-OFFICE SUPPLIES	\$370.02	-	-
4400001593	9/15/21	Office Depot		G200-OFFICE SUPPLIES	\$74.17	-	-
4400001594	9/15/21	Office Depot		G200-OFFICE SUPPLIES	\$69.72	-	-
4400001595	9/16/21	W.W. Grainger Inc		G130-SHOP TOOLS	\$681.79	-	-
4400001596	9/16/21	W.W. Grainger Inc		G180-JANITORIAL SUPPLIES	\$279.02	-	-
4400001597	9/17/21	Office Depot		G200-OFFICE SUPPLIES	\$80.91	-	-
4400001598	9/17/21	Office Depot		G200-OFFICE SUPPLIES	\$190.95	-	-
4400001599	9/21/21	Office Depot		G200-OFFICE SUPPLIES	\$199.32	-	-
4400001600	9/21/21	Office Depot		G200-OFFICE SUPPLIES	\$226.94	-	-
4400001601	9/21/21	Office Depot		G200-OFFICE SUPPLIES	\$395.44	-	-
4400001602	9/22/21	Mcmaster-Carr Supply Co		G130-SHOP TOOLS	\$20.98	-	-
4400001603	9/23/21	Office Depot		G200-OFFICE SUPPLIES	\$93.79	-	-
4400001604	9/24/21	Office Depot		G200-OFFICE SUPPLIES	\$330.80	-	-
4400001605	9/24/21	W.W. Grainger Inc		G130-SHOP TOOLS	\$483.33	-	-
4400001606	9/24/21	Office Depot		G200-OFFICE SUPPLIES	\$109.69	-	-
4400001607	9/27/21	Office Depot		G200-OFFICE SUPPLIES	\$7.60	-	-
4400001608	9/28/21	Office Depot		G200-OFFICE SUPPLIES	\$274.63	-	-
4400001609	9/28/21	Office Depot		G200-OFFICE SUPPLIES	\$77.41	-	-
4400001610	9/28/21	Office Depot		G200-OFFICE SUPPLIES	\$670.00	-	-
4400001611	9/28/21	Office Depot		G200-OFFICE SUPPLIES	\$82.92	-	-
4400001612	9/28/21	Office Depot		G200-OFFICE SUPPLIES	\$82.69	-	-
4400001613	9/28/21	Office Depot		G200-OFFICE SUPPLIES	\$54.09	-	-
4400001614	9/29/21	Office Depot		G200-OFFICE SUPPLIES	\$201.16	-	-
4400001615	10/4/21	Mcmaster-Carr Supply Co		R230-RAIL/LRV MECHANICAL	\$107.38	-	-
4400001616	10/4/21	Office Depot		G200-OFFICE SUPPLIES	\$586.30	-	-
4400001617	10/5/21	W.W. Grainger Inc		G130-SHOP TOOLS	\$419.96	-	-
4500041846	9/9/21	W.W. Grainger Inc		G170-LUBRICANTS	\$98.82	-	-
4500041847	9/9/21	Transit Holdings Inc		B140-BUS CHASSIS	\$1,044.10	-	-
4500041848	9/9/21	Harbor Diesel & Equipment		B250-BUS REPAIR PARTS	\$297.28	-	-
4500041849	9/9/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$1,484.20	-	-
4500041850	9/9/21	Gillig LLC		B160-BUS ELECTRICAL	\$431.40	-	-
4500041851	9/9/21	Jeyco Products Inc		G160-PAINTS & CHEMICALS	\$140.63	-	-
4500041852	9/9/21	Transit Holdings Inc		B140-BUS CHASSIS	\$2,774.88	-	-
4500041853	9/9/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$8.57	-	-
4500041854	9/9/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$10,188.00	-	-
4500041855	9/9/21	San Diego Friction Products, Inc.		B140-BUS CHASSIS	\$130.74	-	-
4500041856	9/9/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$25,814.00	-	-
4500041857	9/9/21	Sloan Electromechanical		P200-REV VEH VANDALISM	\$7,944.57	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500041858	9/9/21	R.S. Hughes Co Inc		G190-SAFETY/MED SUPPLIES	\$990.02	-	-
4500041859	9/9/21	Mohawk Mfg & Supply Co		B160-BUS ELECTRICAL	\$361.07	-	-
4500041860	9/9/21	W.W. Grainger Inc		G180-JANITORIAL SUPPLIES	\$294.13	-	-
4500041861	9/9/21	Home Depot USA Inc		G140-SHOP SUPPLIES	\$323.25	-	-
4500041862	9/9/21	Waxie's Enterprises Inc.		G180-JANITORIAL SUPPLIES	\$7,219.25	-	-
4500041863	9/9/21	Kurt Morgan		G140-SHOP SUPPLIES	\$549.90	-	-
4500041864	9/9/21	Inland Kenworth (US) Inc		B250-BUS REPAIR PARTS	\$187.29	-	-
4500041865	9/9/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$55.46	-	-
4500041866	9/9/21	B&H Photo & Electronics Corp		B150-BUS COMM EQUIP.	\$53.86	-	-
4500041867	9/9/21	Kaman Industrial Technologies		B140-BUS CHASSIS	\$124.48	-	-
4500041868	9/10/21	Lisa Ynez Beetson	Minority Owned Business	G200-OFFICE SUPPLIES	\$72.73	-	-
4500041869	9/10/21	Jeyco Products Inc		G150-FASTENERS	\$28.02	-	-
4500041870	9/10/21	Golden State Supply LLC		G140-SHOP SUPPLIES	\$54.85	-	-
4500041871	9/10/21	Kurt Morgan		G200-OFFICE SUPPLIES	\$111.04	-	-
4500041872	9/10/21	Harbor Diesel & Equipment		B120-BUS MECHANICAL PARTS	\$129.55	-	-
4500041873	9/10/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$92.84	-	-
4500041874	9/10/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$114.79	-	-
4500041875	9/10/21	Cummins Pacific LLC		B120-BUS MECHANICAL PARTS	\$3,437.18	-	-
4500041877	9/10/21	Gillig LLC		B250-BUS REPAIR PARTS	\$446.47	-	-
4500041878	9/10/21	Annex Automotive and		R240-RAIL/LRV REPR PARTS	\$4,491.11	-	-
4500041879	9/10/21	W.W. Grainger Inc		G140-SHOP SUPPLIES	\$33.18	-	-
4500041880	9/10/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$225.20	-	-
4500041881	9/10/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$423.46	-	-
4500041882	9/10/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$1,211.11	-	-
4500041883	9/10/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$465.23	-	-
4500041884	9/10/21	Staples Contract & Commercial Inc		G200-OFFICE SUPPLIES	\$1,422.30	-	-
4500041885	9/10/21	San Diego Union Tribune LLC		G230-PRINTED MATERIALS	\$841.31	-	-
4500041886	9/10/21	Shilpark Paint Corp.		G160-PAINTS & CHEMICALS	\$611.60	-	-
4500041887	9/10/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$131.86	-	-
4500041888	9/10/21	Kaman Industrial Technologies		B120-BUS MECHANICAL PARTS	\$564.49	-	-
4500041889	9/10/21	Jeyco Products Inc		G130-SHOP TOOLS	\$14.23	-	-
4500041890	9/10/21	Graybar Electric Co Inc		B150-BUS COMM EQUIP.	\$1,647.28	-	-
4500041891	9/10/21	Gillig LLC		B250-BUS REPAIR PARTS	\$373.68	-	-
4500041892	9/10/21	Genuine Parts Co		B250-BUS REPAIR PARTS	\$82.39	-	-
4500041893	9/10/21	Romaine Electric Corporation	Small Business	B160-BUS ELECTRICAL	\$1,804.28	-	-
4500041894	9/10/21	W.W. Grainger Inc		G180-JANITORIAL SUPPLIES	\$273.73	-	-
4500041895	9/10/21	Transit Holdings Inc		B130-BUS BODY	\$3,454.68	-	-
4500041896	9/10/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$3,763.40	-	-
4500041897	9/10/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$69.85	-	-
4500041898	9/10/21	TK Services Inc		B250-BUS REPAIR PARTS	\$189.71	-	-
4500041899	9/10/21	Charter Industrial Supply Inc	Small Business	F110-SHOP/BLDG MACHINERY	\$54.38	-	-
4500041900	9/10/21	Air & Lube Systems Inc	DBE	F110-SHOP/BLDG MACHINERY	\$542.38	-	-
4500041901	9/10/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$1,699.95	-	-
4500041902	9/10/21	Trentman Corporation	Small Business	P280-GENERAL SVC AGRMNTS	\$867.01	-	-
4500041903	9/10/21	TK Services Inc		INSURANCE-Insurance Stock	\$14,007.50	-	-
4500041904	9/10/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$80.51	-	-
4500041905	9/10/21	SC Commercial, LLC		G170-LUBRICANTS	\$2,040.52	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500041906	9/10/21	Bay City Equipment Industries Inc	Small Business	F110-SHOP/BLDG MACHINERY	\$325.54	-	-
4500041907	9/10/21	Mcmaster-Carr Supply Co		F110-SHOP/BLDG MACHINERY	\$364.28	-	-
4500041908	9/10/21	A to Z Enterprises, Inc.		P300-TOWING SVCS	\$90.00	-	-
4500041909	9/13/21	Duncan Bolt Company	Small Business	G140-SHOP SUPPLIES	\$117.35	-	-
4500041910	9/13/21	Steven Timme		G230-PRINTED MATERIALS	\$577.62	-	-
4500041911	9/13/21	Shilpark Paint Corp.		F180-BUILDING MATERIALS	\$199.54	-	-
4500041912	9/13/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$28.66	-	-
4500041913	9/13/21	Tribologik Corporation		G140-SHOP SUPPLIES	\$2,747.63	-	-
4500041914	9/13/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$4,706.53	-	-
4500041915	9/13/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$877.88	-	-
4500041916	9/13/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$1,070.61	-	-
4500041917	9/13/21	Cummins Pacific LLC		B120-BUS MECHANICAL PARTS	\$546.84	-	-
4500041918	9/13/21	Transit Holdings Inc		B110-BUS HVAC SYSTEMS	\$1,974.53	-	-
4500041919	9/13/21	R.S. Hughes Co Inc		G190-SAFETY/MED SUPPLIES	\$233.80	-	-
4500041920	9/13/21	Supreme Oil Company		A120-AUTO/TRUCK GASOLINE	\$10,973.70	-	-
4500041921	9/13/21	SC Commercial, LLC		A120-AUTO/TRUCK GASOLINE	\$2,724.93	-	-
4500041922	9/13/21	JKL Cleaning Systems	Small Business	P130-EQUIP MAINT REPR SVC	\$1,117.84	-	-
4500041923	9/13/21	Freeby Signs		B130-BUS BODY	\$74.95	-	-
4500041924	9/13/21	Comfort Mechanical Inc	Small Business	M180-STATION ELECTRICAL	\$264.00	-	-
4500041925	9/13/21	Staples Contract & Commercial Inc		G200-OFFICE SUPPLIES	\$6.06	-	-
4500041926	9/13/21	Super Welding of Southern CA	Small Business	G130-SHOP TOOLS	\$956.82	-	-
4500041927	9/13/21	Chromate Industrial Corporation		M130-CROSSING MECHANISM	\$91.59	-	-
4500041928	9/13/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$965.45	-	-
4500041929	9/13/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$4,733.90	-	-
4500041930	9/13/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$225.82	-	-
4500041931	9/13/21	Gillig LLC		B250-BUS REPAIR PARTS	\$1,501.47	-	-
4500041932	9/13/21	W.W. Grainger Inc		G180-JANITORIAL SUPPLIES	\$54.65	-	-
4500041933	9/13/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$450.69	-	-
4500041934	9/13/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$1,869.65	-	-
4500041935	9/13/21	Mohawk Mfg & Supply Co		B120-BUS MECHANICAL PARTS	\$322.46	-	-
4500041936	9/13/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$17.19	-	-
4500041937	9/13/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$155.98	-	-
4500041938	9/13/21	Muncie Transit Supply		B120-BUS MECHANICAL PARTS	\$2.97	-	-
4500041939	9/13/21	Airgas Inc		G140-SHOP SUPPLIES	\$56.34	-	-
4500041940	9/13/21	Kaman Industrial Technologies		B140-BUS CHASSIS	\$3,767.21	-	-
4500041941	9/13/21	Cummins Pacific LLC		B160-BUS ELECTRICAL	\$138.03	-	-
4500041942	9/13/21	United Refrigeration Inc		G170-LUBRICANTS	\$84.97	-	-
4500041943	9/13/21	Kurt Morgan		G200-OFFICE SUPPLIES	\$469.53	-	-
4500041944	9/13/21	Staples Contract & Commercial Inc		G200-OFFICE SUPPLIES	\$44.58	-	-
4500041945	9/13/21	Freeby Signs		B250-BUS REPAIR PARTS	\$222.74	-	-
4500041946	9/13/21	JDK Railroad Materials, LLC		P280-GENERAL SVC AGRMNTS	\$2,100.00	-	-
4500041947	9/13/21	Charter Industrial Supply Inc	Small Business	B120-BUS MECHANICAL PARTS	\$117.36	-	-
4500041948	9/13/21	ERICO International Corporation		M170-IMPEDANCE BOND	\$56.73	-	-
4500041949	9/13/21	Kurt Morgan		G140-SHOP SUPPLIES	\$549.90	-	-
4500041951	9/13/21	Jeyco Products Inc		G150-FASTENERS	\$17.51	-	-
4500041952	9/13/21	Fastenal Company		G190-SAFETY/MED SUPPLIES	\$111.52	-	-
4500041953	9/13/21	Professional Contractors Supplies		G160-PAINTS & CHEMICALS	\$146.03	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500041954	9/13/21	Waxie's Enterprises Inc.		G180-JANITORIAL SUPPLIES	\$209.46	-	-
4500041955	9/13/21	On Center Software Inc		I140-IT CAPITAL SOFTWARE	\$500.00	-	-
4500041956	9/14/21	Praxair Distribution Inc.		G140-SHOP SUPPLIES	\$2,684.81	-	-
4500041958	9/14/21	Pressnet Express Inc		G230-PRINTED MATERIALS	\$1,874.85	-	-
4500041959	9/14/21	Controlled Motion Solutions Inc		G140-SHOP SUPPLIES	\$2,607.27	-	-
4500041960	9/14/21	Airgas Inc		R160-RAIL/LRV ELECTRICAL	\$1,131.12	-	-
4500041961	9/14/21	Culligan of San Diego		M140-WAYSIDE SIGNALS	\$2,066.94	-	-
4500041962	9/14/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$1,499.88	-	-
4500041963	9/14/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$631.21	-	-
4500041964	9/14/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$3,720.61	-	-
4500041965	9/14/21	W.W. Grainger Inc		R170-RAIL/LRV HVAC	\$230.48	-	-
4500041966	9/14/21	Home Depot USA Inc		G140-SHOP SUPPLIES	\$128.79	-	-
4500041967	9/14/21	Prudential Overall Supply		G180-JANITORIAL SUPPLIES	\$6,034.00	-	-
4500041968	9/14/21	Transit Holdings Inc		B130-BUS BODY	\$10,267.04	-	-
4500041969	9/14/21	Slipit Industries Inc		G140-SHOP SUPPLIES	\$76.11	-	-
4500041970	9/14/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$2.16	-	-
4500041971	9/14/21	Cummins Pacific LLC		B160-BUS ELECTRICAL	\$15,509.54	-	-
4500041972	9/14/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$2,313.37	-	-
4500041973	9/14/21	Cummins Pacific LLC		B250-BUS REPAIR PARTS	\$352.98	-	-
4500041974	9/14/21	Cummins Pacific LLC		P190-REV VEHICLE REPAIRS	\$270.00	-	-
4500041975	9/15/21	Cummins Pacific LLC		B250-BUS REPAIR PARTS	\$158.65	-	-
4500041976	9/15/21	HI-TEC Enterprises		R160-RAIL/LRV ELECTRICAL	\$24,222.20	-	-
4500041977	9/15/21	Jeyco Products Inc		B200-BUS PWR TRAIN EQUIP	\$178.38	-	-
4500041978	9/15/21	Harbor Diesel & Equipment		B200-BUS PWR TRAIN EQUIP	\$15,104.41	-	-
4500041979	9/15/21	Westair Gases & Equipment Inc	Small Business	G190-SAFETY/MED SUPPLIES	\$285.54	-	-
4500041980	9/15/21	Allied Refrigeration Inc		B250-BUS REPAIR PARTS	\$107.75	-	-
4500041981	9/15/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$7,845.93	-	-
4500041982	9/15/21	Professional Contractors Supplies		G140-SHOP SUPPLIES	\$133.44	-	-
4500041983	9/15/21	Allied Refrigeration Inc		G130-SHOP TOOLS	\$45.10	-	-
4500041984	9/15/21	Harbor Diesel & Equipment		B200-BUS PWR TRAIN EQUIP	\$20,400.69	-	-
4500041985	9/15/21	SANDAG		C120-SPECIALTY CONTRACTOR	\$5,000.00	-	-
4500041986	9/15/21	SRECTrade, Inc.		G270-ELECTRICAL/LIGHTING	\$94,180.00	-	-
4500041987	9/15/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$37.28	-	-
4500041988	9/15/21	Insight Public Sector, Inc.		I120-INFO TECH, SVCS	\$9,517.77	-	-
4500041989	9/15/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$8,773.01	-	-
4500041990	9/15/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$1,354.74	-	-
4500041991	9/15/21	Init Innovations in Transportation		I110-INFORMATION TECH	\$40,636.00	-	-
4500041992	9/15/21	Gillig LLC		B130-BUS BODY	\$52.74	-	-
4500041993	9/15/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$3,031.02	-	-
4500041994	9/15/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$1,680.21	-	-
4500041995	9/15/21	Kaman Industrial Technologies		G140-SHOP SUPPLIES	\$1,412.00	-	-
4500041996	9/15/21	Mohawk Mfg & Supply Co		B140-BUS CHASSIS	\$439.23	-	-
4500041997	9/15/21	Sherwin Williams Company		F120-BUS/LRV PAINT BOOTHS	\$625.34	-	-
4500041998	9/15/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$198.28	-	-
4500041999	9/15/21	Gillig LLC		B130-BUS BODY	\$2,781.96	-	-
4500042000	9/15/21	Transit Holdings Inc		B130-BUS BODY	\$1,006.67	-	-
4500042001	9/15/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$211.08	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042002	9/15/21	Brady Industries of California, LLC		G180-JANITORIAL SUPPLIES	\$696.93	-	-
4500042003	9/15/21	Allied Refrigeration Inc		B250-BUS REPAIR PARTS	\$55.94	-	-
4500042004	9/15/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$29.02	-	-
4500042005	9/15/21	W.W. Grainger Inc		G270-ELECTRICAL/LIGHTING	\$820.55	-	-
4500042006	9/15/21	Delphin Computer Supply	Small Business	G200-OFFICE SUPPLIES	\$426.69	-	-
4500042007	9/15/21	Vern Rose Inc		G140-SHOP SUPPLIES	\$72.14	-	-
4500042008	9/15/21	Kaman Industrial Technologies		B120-BUS MECHANICAL PARTS	\$451.60	-	-
4500042009	9/15/21	Transit Holdings Inc		B130-BUS BODY	\$1,743.49	-	-
4500042010	9/15/21	Cummins Pacific LLC		B130-BUS BODY	\$183.13	-	-
4500042011	9/15/21	Tank Specialists of California		F110-SHOP/BLDG MACHINERY	\$1,500.00	-	-
4500042012	9/15/21	Madden Construction Inc		P280-GENERAL SVC AGRMNTS	\$413.00	-	-
4500042013	9/15/21	Madden Construction Inc		P280-GENERAL SVC AGRMNTS	\$213.75	-	-
4500042014	9/15/21	Madden Construction Inc		P280-GENERAL SVC AGRMNTS	\$912.75	-	-
4500042015	9/16/21	Freeby Signs		B250-BUS REPAIR PARTS	\$328.92	-	-
4500042016	9/16/21	HD Supply Construction Supply, LTD.		G130-SHOP TOOLS	\$2,699.74	-	-
4500042017	9/16/21	Home Depot USA Inc		M180-STATION ELECTRICAL	\$262.14	-	-
4500042018	9/16/21	Pacific Rigging Loft Inc		G130-SHOP TOOLS	\$162.29	-	-
4500042019	9/16/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$2,096.82	-	-
4500042020	9/16/21	Muncie Transit Supply		B250-BUS REPAIR PARTS	\$51.66	-	-
4500042021	9/16/21	Muncie Transit Supply		B200-BUS PWR TRAIN EQUIP	\$9.70	-	-
4500042022	9/16/21	Transit Holdings Inc		B140-BUS CHASSIS	\$4,340.45	-	-
4500042023	9/16/21	MJP Enterprises		P210-NON-REV VEH REPAIRS	\$3,381.35	-	-
4500042024	9/16/21	Inland Kenworth (US) Inc		B250-BUS REPAIR PARTS	\$187.21	-	-
4500042025	9/16/21	Gillig LLC		B250-BUS REPAIR PARTS	\$2,393.45	-	-
4500042026	9/16/21	Louis Sardo Upholstery Inc		B130-BUS BODY	\$1,539.14	-	-
4500042028	9/16/21	W.W. Grainger Inc		P280-GENERAL SVC AGRMNTS	\$126.68	-	-
4500042029	9/16/21	Vern Rose Inc		G140-SHOP SUPPLIES	\$268.82	-	-
4500042030	9/16/21	Cummins Pacific LLC		P190-REV VEHICLE REPAIRS	\$270.00	-	-
4500042031	9/16/21	W.W. Grainger Inc		F110-SHOP/BLDG MACHINERY	\$204.36	-	-
4500042032	9/16/21	TK Services Inc		B250-BUS REPAIR PARTS	\$369.47	-	-
4500042033	9/16/21	Gillig LLC		B160-BUS ELECTRICAL	\$1,293.09	-	-
4500042034	9/16/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$139.26	-	-
4500042035	9/16/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$35,530.58	-	-
4500042036	9/16/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$752.10	-	-
4500042037	9/16/21	Muncie Transit Supply		B160-BUS ELECTRICAL	\$82.32	-	-
4500042038	9/16/21	Transit Holdings Inc		B130-BUS BODY	\$3,475.09	-	-
4500042039	9/16/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$257.96	-	-
4500042040	9/16/21	Gillig LLC		B250-BUS REPAIR PARTS	\$19.59	-	-
4500042041	9/16/21	Transit Holdings Inc		B140-BUS CHASSIS	\$679.19	-	-
4500042042	9/16/21	Siemens Mobility, Inc.		M110-SUB STATION	\$2,779.95	-	-
4500042043	9/16/21	Charter Industrial Supply Inc	Small Business	G150-FASTENERS	\$49.03	-	-
4500042044	9/16/21	Gillig LLC		G140-SHOP SUPPLIES	\$455.46	-	-
4500042045	9/16/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$102.77	-	-
4500042046	9/16/21	Brady Industries of California, LLC		G180-JANITORIAL SUPPLIES	\$154.26	-	-
4500042047	9/16/21	Kaman Industrial Technologies		G130-SHOP TOOLS	\$32.87	-	-
4500042048	9/16/21	Kurt Morgan		G200-OFFICE SUPPLIES	\$164.97	-	-
4500042049	9/16/21	Mohawk Mfg & Supply Co		B110-BUS HVAC SYSTEMS	\$106.45	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042050	9/16/21	Jeyco Products Inc		G140-SHOP SUPPLIES	\$33.62	-	-
4500042051	9/16/21	Transit Holdings Inc		B130-BUS BODY	\$3,454.68	-	-
4500042052	9/17/21	Tony Jamison	DBE	G170-LUBRICANTS	\$69.82	-	-
4500042053	9/17/21	Inland Kenworth (US) Inc		B200-BUS PWR TRAIN EQUIP	\$8,256.58	-	-
4500042054	9/17/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$608.79	-	-
4500042055	9/17/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$1,340.34	-	-
4500042056	9/17/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$33.68	-	-
4500042057	9/17/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$182.10	-	-
4500042058	9/17/21	W.W. Grainger Inc		G130-SHOP TOOLS	\$1,527.27	-	-
4500042059	9/17/21	TK Services Inc		B250-BUS REPAIR PARTS	\$503.49	-	-
4500042060	9/17/21	M Power Truck & Diesel Repair		P130-EQUIP MAINT REPR SVC	\$326.96	-	-
4500042061	9/17/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$2,032.37	-	-
4500042062	9/17/21	Robcar Corporation	Woman Owned Business	M200-YARD FACILITIES	\$97.43	-	-
4500042063	9/17/21	Freeby Signs		B130-BUS BODY	\$60.77	-	-
4500042064	9/17/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$76.68	-	-
4500042065	9/17/21	Tri-Signal Integration Inc		P260-TESTING & ANALYSIS	\$1,000.00	-	-
4500042066	9/17/21	Gillig LLC		B160-BUS ELECTRICAL	\$752.86	-	-
4500042067	9/17/21	Prochem Specialty Products Inc	Small Business	G180-JANITORIAL SUPPLIES	\$1,656.98	-	-
4500042068	9/17/21	R.S. Hughes Co Inc		G160-PAINTS & CHEMICALS	\$165.15	-	-
4500042069	9/17/21	Central Dispatch Inc		C110-GENERAL CONTRACTORS	\$450.00	-	-
4500042070	9/17/21	Kenneth Place		F190-LANDSCAPING MAT'LS	\$412.52	-	-
4500042071	9/17/21	JKL Cleaning Systems	Small Business	G140-SHOP SUPPLIES	\$757.77	-	-
4500042072	9/17/21	SiteOne Landscape Supply Holding		F190-LANDSCAPING MAT'LS	\$302.26	-	-
4500042073	9/17/21	Abacor, Inc.	Small Business	P210-NON-REV VEH REPAIRS	\$786.35	-	-
4500042074	9/17/21	Transit Holdings Inc		B140-BUS CHASSIS	\$2,141.70	-	-
4500042075	9/17/21	Mohawk Mfg & Supply Co		B140-BUS CHASSIS	\$135.47	-	-
4500042076	9/17/21	W.W. Grainger Inc		G270-ELECTRICAL/LIGHTING	\$47.81	-	-
4500042077	9/17/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$108.29	-	-
4500042078	9/20/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$921.27	-	-
4500042079	9/20/21	Vehicle Maintenance Program, Inc.	Woman Owned Business	B140-BUS CHASSIS	\$961.00	-	-
4500042080	9/20/21	Uline		G200-OFFICE SUPPLIES	\$258.60	-	-
4500042081	9/20/21	Gillig LLC		B120-BUS MECHANICAL PARTS	\$1,186.33	-	-
4500042082	9/20/21	Dimensional Silk Screen Inc		G230-PRINTED MATERIALS	\$13,964.40	-	-
4500042083	9/20/21	Trentman Corporation	Small Business	P130-EQUIP MAINT REPR SVC	\$455.23	-	-
4500042084	9/20/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$153.01	-	-
4500042085	9/20/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$1,317.73	-	-
4500042086	9/20/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$238.40	-	-
4500042087	9/20/21	Tony Jamison	DBE	G170-LUBRICANTS	\$206.24	-	-
4500042088	9/20/21	Supreme Oil Company		A120-AUTO/TRUCK GASOLINE	\$11,127.85	-	-
4500042089	9/20/21	Staples Contract & Commercial Inc		P540-MAINTENANCE TRAINING	\$390.99	-	-
4500042090	9/20/21	G & A Auto Air Conditioning		P210-NON-REV VEH REPAIRS	\$290.81	-	-
4500042091	9/20/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$268.97	-	-
4500042092	9/20/21	SC Commercial, LLC		A120-AUTO/TRUCK GASOLINE	\$2,694.11	-	-
4500042093	9/20/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$19.14	-	-
4500042095	9/20/21	Gillig LLC		B140-BUS CHASSIS	\$2,228.74	-	-
4500042096	9/20/21	Kaman Industrial Technologies		B120-BUS MECHANICAL PARTS	\$2,164.89	-	-
4500042097	9/20/21	La Familia SoCal Finest Barbacoa		P440-CATERING SERVICES	\$2,900.00	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042098	9/20/21	Staples Contract & Commercial Inc		G200-OFFICE SUPPLIES	\$487.03	-	-
4500042099	9/20/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$17.19	-	-
4500042100	9/20/21	Romaine Electric Corporation	Small Business	B160-BUS ELECTRICAL	\$1,804.28	-	-
4500042101	9/20/21	Charter Industrial Supply Inc	Small Business	B120-BUS MECHANICAL PARTS	\$73.91	-	-
4500042102	9/20/21	Transit Holdings Inc		B140-BUS CHASSIS	\$114.37	-	-
4500042103	9/20/21	Muncie Transit Supply		B140-BUS CHASSIS	\$47.20	-	-
4500042104	9/20/21	Industrial Maintenance Supply LLC	DBE	G130-SHOP TOOLS	\$126.03	-	-
4500042105	9/21/21	Vern Rose Inc		G140-SHOP SUPPLIES	\$312.20	-	-
4500042106	9/21/21	M Power Truck & Diesel Repair		P130-EQUIP MAINT REPR SVC	\$572.55	-	-
4500042107	9/21/21	Reid and Clark Screen Arts Co		R120-RAIL/LRV CAR BODY	\$449.86	-	-
4500042108	9/21/21	W.W. Grainger Inc		G140-SHOP SUPPLIES	\$1,098.00	-	-
4500042109	9/21/21	Home Depot USA Inc		F180-BUILDING MATERIALS	\$571.38	-	-
4500042110	9/21/21	Siemens Mobility, Inc.		R120-RAIL/LRV CAR BODY	\$446.09	-	-
4500042111	9/21/21	Professional Contractors Supplies		G140-SHOP SUPPLIES	\$514.44	-	-
4500042112	9/21/21	W.W. Grainger Inc		P280-GENERAL SVC AGRMNTS	\$289.24	-	-
4500042113	9/21/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$99.13	-	-
4500042114	9/21/21	Mohawk Mfg & Supply Co		B140-BUS CHASSIS	\$116.26	-	-
4500042115	9/21/21	Muncie Transit Supply		B200-BUS PWR TRAIN EQUIP	\$369.05	-	-
4500042116	9/21/21	Transit Holdings Inc		B140-BUS CHASSIS	\$802.67	-	-
4500042117	9/21/21	Cummins Pacific LLC		B250-BUS REPAIR PARTS	\$74.35	-	-
4500042118	9/21/21	Transit Holdings Inc		B140-BUS CHASSIS	\$6,339.85	-	-
4500042119	9/21/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$345.55	-	-
4500042120	9/21/21	Mohawk Mfg & Supply Co		B140-BUS CHASSIS	\$118.66	-	-
4500042121	9/21/21	Waxie's Enterprises Inc.		G170-LUBRICANTS	\$1,582.98	-	-
4500042122	9/21/21	Gillig LLC		B140-BUS CHASSIS	\$852.44	-	-
4500042123	9/21/21	Fastenal Company		R220-RAIL/LRV TRUCKS	\$627.03	-	-
4500042124	9/21/21	Muncie Transit Supply		B160-BUS ELECTRICAL	\$969.76	-	-
4500042125	9/21/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$231.31	-	-
4500042126	9/21/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$100.58	-	-
4500042127	9/21/21	Specialty Manufacturing Inc		B130-BUS BODY	\$1,298.28	-	-
4500042128	9/21/21	VCA Animal Hospitals, Inc.		G120-SECURITY	\$144.00	-	-
4500042129	9/21/21	Jeyco Products Inc		G150-FASTENERS	\$7.00	-	-
4500042130	9/21/21	Transit Holdings Inc		B140-BUS CHASSIS	\$129.30	-	-
4500042131	9/21/21	Kaman Industrial Technologies		G160-PAINTS & CHEMICALS	\$47.16	-	-
4500042132	9/21/21	Romaine Electric Corporation	Small Business	B160-BUS ELECTRICAL	\$1,804.28	-	-
4500042133	9/21/21	W.W. Grainger Inc		B250-BUS REPAIR PARTS	\$482.75	-	-
4500042134	9/21/21	Steven Timme		G230-PRINTED MATERIALS	\$2,444.38	-	-
4500042135	9/21/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$36.83	-	-
4500042136	9/21/21	TK Services Inc		B110-BUS HVAC SYSTEMS	\$1,702.58	-	-
4500042137	9/21/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$27.59	-	-
4500042138	9/21/21	Motorola Solutions Inc		B150-BUS COMM EQUIP.	\$30,704.85	-	-
4500042139	9/22/21	Raphael's Party Rentals Inc		P540-MAINTENANCE TRAINING	\$624.50	-	-
4500042140	9/22/21	Gringas Tacos & Catering LLC		P540-MAINTENANCE TRAINING	\$1,309.17	-	-
4500042141	9/22/21	Cummins Pacific LLC		P190-REV VEHICLE REPAIRS	\$270.00	-	-
4500042142	9/22/21	Gillig LLC		B250-BUS REPAIR PARTS	\$97.48	-	-
4500042143	9/22/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$506.43	-	-
4500042144	9/22/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$737.55	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042145	9/22/21	Gillig LLC		B250-BUS REPAIR PARTS	\$165.98	-	-
4500042146	9/22/21	Gillig LLC		B250-BUS REPAIR PARTS	\$194.96	-	-
4500042147	9/22/21	W.W. Grainger Inc		G140-SHOP SUPPLIES	\$80.21	-	-
4500042148	9/22/21	D's Kustom Sales & Services, LLC		G140-SHOP SUPPLIES	\$1,242.90	-	-
4500042149	9/22/21	Mcmaster-Carr Supply Co		F110-SHOP/BLDG MACHINERY	\$134.37	-	-
4500042150	9/22/21	Valvoline Inc.		B120-BUS MECHANICAL PARTS	\$5,209.72	-	-
4500042151	9/22/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$118.53	-	-
4500042152	9/22/21	Mohawk Mfg & Supply Co		B120-BUS MECHANICAL PARTS	\$3.77	-	-
4500042153	9/22/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$2,362.82	-	-
4500042154	9/22/21	Vehicle Maintenance Program, Inc.	Woman Owned Business	B140-BUS CHASSIS	\$611.55	-	-
4500042155	9/22/21	SC Commercial, LLC		A120-AUTO/TRUCK GASOLINE	\$2,250.23	-	-
4500042156	9/22/21	Gillig LLC		B250-BUS REPAIR PARTS	\$1,221.34	-	-
4500042157	9/22/21	Transit Holdings Inc		B130-BUS BODY	\$921.48	-	-
4500042158	9/22/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$34.16	-	-
4500042159	9/22/21	Annex Automotive and		F120-BUS/LRV PAINT BOOTHS	\$13,419.14	-	-
4500042160	9/22/21	Siemens Mobility, Inc.		R220-RAIL/LRV TRUCKS	\$29,109.74	-	-
4500042161	9/22/21	Schunk Carbon Technology LLC		R190-RAIL/LRV PANTOGRAPH	\$15,300.50	-	-
4500042162	9/22/21	Reid and Clark Screen Arts Co		A140-AUTO/TRUCK REPAIR	\$425.13	-	-
4500042163	9/22/21	HD Supply Construction Supply, LTD.		G140-SHOP SUPPLIES	\$1,588.34	-	-
4500042164	9/22/21	Romaine Electric Corporation	Small Business	M130-CROSSING MECHANISM	\$1,615.54	-	-
4500042165	9/22/21	Kaman Industrial Technologies		B120-BUS MECHANICAL PARTS	\$1,255.64	-	-
4500042166	9/22/21	Mohawk Mfg & Supply Co		B120-BUS MECHANICAL PARTS	\$122.00	-	-
4500042167	9/22/21	Mcmaster-Carr Supply Co		B160-BUS ELECTRICAL	\$18.62	-	-
4500042168	9/22/21	B & S Graphics Inc		B130-BUS BODY	\$77.58	-	-
4500042169	9/22/21	Newark Corporation		R220-RAIL/LRV TRUCKS	\$92.32	-	-
4500042170	9/22/21	Western-Cullen-Hayes Inc		M130-CROSSING MECHANISM	\$651.90	-	-
4500042171	9/22/21	Total Filtration Services Inc		R230-RAIL/LRV MECHANICAL	\$1,547.46	-	-
4500042172	9/22/21	CDW LLC		R160-RAIL/LRV ELECTRICAL	\$89.53	-	-
4500042173	9/22/21	Home Depot USA Inc		G140-SHOP SUPPLIES	\$225.59	-	-
4500042174	9/22/21	Culligan of San Diego		G140-SHOP SUPPLIES	\$2,040.00	-	-
4500042175	9/22/21	West-Lite Supply Co Inc	Small Business	M180-STATION ELECTRICAL	\$592.92	-	-
4500042176	9/22/21	Gillig LLC		B160-BUS ELECTRICAL	\$4,832.09	-	-
4500042177	9/22/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$17.81	-	-
4500042178	9/22/21	Prudential Overall Supply		G180-JANITORIAL SUPPLIES	\$3,771.25	-	-
4500042179	9/23/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$3,307.76	-	-
4500042180	9/23/21	Reid and Clark Screen Arts Co		R120-RAIL/LRV CAR BODY	\$602.33	-	-
4500042181	9/23/21	Teknoware Inc.		R180-RAIL/LRV LIGHTING	\$660.25	-	-
4500042182	9/23/21	Ace Uniforms & Accessories	Small Business	G120-SECURITY	\$1,712.71	-	-
4500042183	9/23/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$2,000.00	-	-
4500042184	9/23/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$1,027.76	-	-
4500042185	9/23/21	Muncie Transit Supply		B140-BUS CHASSIS	\$381.91	-	-
4500042186	9/23/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$1,026.03	-	-
4500042187	9/23/21	Professional Contractors Supplies		G160-PAINTS & CHEMICALS	\$380.11	-	-
4500042188	9/23/21	Airgas Inc		G190-SAFETY/MED SUPPLIES	\$83.19	-	-
4500042189	9/23/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$482.08	-	-
4500042190	9/23/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$1,930.88	-	-
4500042191	9/23/21	Muncie Transit Supply		B200-BUS PWR TRAIN EQUIP	\$353.96	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042192	9/23/21	Transit Holdings Inc		B130-BUS BODY	\$1,411.84	-	-
4500042193	9/23/21	Kurt Morgan		G200-OFFICE SUPPLIES	\$485.40	-	-
4500042194	9/24/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$43.10	-	-
4500042195	9/24/21	Willy's Electronic Supply Co	Small Business	G140-SHOP SUPPLIES	\$280.77	-	-
4500042196	9/24/21	Transit Holdings Inc		B110-BUS HVAC SYSTEMS	\$1,595.64	-	-
4500042197	9/24/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$345.55	-	-
4500042198	9/24/21	Trolley Support LLC		B250-BUS REPAIR PARTS	\$4,509.34	-	-
4500042199	9/24/21	West-Lite Supply Co Inc	Small Business	M140-WAYSIDE SIGNALS	\$528.44	-	-
4500042200	9/24/21	Robcar Corporation	Woman Owned Business	G160-PAINTS & CHEMICALS	\$233.82	-	-
4500042201	9/24/21	Siemens Mobility, Inc.		R220-RAIL/LRV TRUCKS	\$82,326.93	-	-
4500042202	9/24/21	Brady Industries of California, LLC		G180-JANITORIAL SUPPLIES	\$1,334.79	-	-
4500042203	9/24/21	Home Depot USA Inc		F110-SHOP/BLDG MACHINERY	\$57.19	-	-
4500042204	9/24/21	W.W. Grainger Inc		G190-SAFETY/MED SUPPLIES	\$109.13	-	-
4500042205	9/24/21	Home Depot USA Inc		G140-SHOP SUPPLIES	\$440.26	-	-
4500042206	9/24/21	M Power Truck & Diesel Repair		P130-EQUIP MAINT REPR SVC	\$166.21	-	-
4500042207	9/24/21	Graybar Electric Co Inc		M110-SUB STATION	\$2,863.76	-	-
4500042208	9/24/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$223.58	-	-
4500042209	9/24/21	Praxair Distribution Inc.		G130-SHOP TOOLS	\$397.86	-	-
4500042210	9/24/21	Transit Holdings Inc		B140-BUS CHASSIS	\$424.48	-	-
4500042211	9/24/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$13.90	-	-
4500042212	9/24/21	Siemens Mobility, Inc.		R170-RAIL/LRV HVAC	\$375.12	-	-
4500042213	9/24/21	Herzog Contracting Co		C110-GENERAL CONTRACTORS	\$1,803.20	-	-
4500042214	9/24/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$444.92	-	-
4500042215	9/24/21	Fastenal Company		G140-SHOP SUPPLIES	\$726.15	-	-
4500042216	9/24/21	The Gordian Group, Inc.		C130-CONSTRUCTION SVCS	\$35.16	-	-
4500042217	9/24/21	Gillig LLC		B120-BUS MECHANICAL PARTS	\$2,380.31	-	-
4500042218	9/24/21	Western Sierras Inc		G130-SHOP TOOLS	\$2,099.59	-	-
4500042219	9/24/21	Genuine Parts Co		R180-RAIL/LRV LIGHTING	\$2,999.93	-	-
4500042220	9/24/21	Staples Contract & Commercial Inc		G200-OFFICE SUPPLIES	\$123.38	-	-
4500042221	9/24/21	El Tigre Enterprise Inc		P440-CATERING SERVICES	\$2,302.00	-	-
4500042222	9/24/21	Tacos & Gorditas para sus Fiestas		P440-CATERING SERVICES	\$7,231.88	-	-
4500042223	9/24/21	Gillig LLC		B140-BUS CHASSIS	\$1,719.83	-	-
4500042224	9/24/21	B&H Photo & Electronics Corp		B150-BUS COMM EQUIP.	\$53.86	-	-
4500042225	9/24/21	Romaine Electric Corporation	Small Business	B160-BUS ELECTRICAL	\$5,412.83	-	-
4500042226	9/24/21	R.S. Hughes Co Inc		B250-BUS REPAIR PARTS	\$149.08	-	-
4500042227	9/24/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$236.30	-	-
4500042228	9/24/21	Davey Auto Body Inc		G120-SECURITY	\$3,764.89	-	-
4500042229	9/24/21	Kaman Industrial Technologies		B120-BUS MECHANICAL PARTS	\$1,561.26	-	-
4500042230	9/24/21	Reid and Clark Screen Arts Co		G120-SECURITY	\$239.75	-	-
4500042231	9/24/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$2,789.66	-	-
4500042232	9/24/21	Sherwin Williams Company		F120-BUS/LRV PAINT BOOTHS	\$520.29	-	-
4500042233	9/24/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$462.64	-	-
4500042234	9/24/21	W.W. Grainger Inc		G140-SHOP SUPPLIES	\$307.22	-	-
4500042235	9/24/21	Waxie's Enterprises Inc.		G180-JANITORIAL SUPPLIES	\$9.89	-	-
4500042236	9/24/21	Barry Sandler Enterprises		G180-JANITORIAL SUPPLIES	\$998.29	-	-
4500042237	9/24/21	Brady Industries of California, LLC		G190-SAFETY/MED SUPPLIES	\$933.90	-	-
4500042238	9/24/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$38.36	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042239	9/24/21	Trashcans Unlimited, LLC		P280-GENERAL SVC AGRMNTS	\$3,278.14	-	-
4500042240	9/24/21	W.W. Grainger Inc		F110-SHOP/BLDG MACHINERY	\$74.20	-	-
4500042241	9/24/21	Jeyco Products Inc		G130-SHOP TOOLS	\$19.52	-	-
4500042242	9/24/21	Gillig LLC		B120-BUS MECHANICAL PARTS	\$2,930.02	-	-
4500042243	9/24/21	Transit Products and Services		B130-BUS BODY	\$6,034.00	-	-
4500042244	9/24/21	Gillig LLC		B120-BUS MECHANICAL PARTS	\$2,380.31	-	-
4500042245	9/27/21	Cummins Pacific LLC		B120-BUS MECHANICAL PARTS	\$3,326.19	-	-
4500042246	9/27/21	Siemens Mobility, Inc.		R230-RAIL/LRV MECHANICAL	\$6,818.66	-	-
4500042247	9/27/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$1,809.13	-	-
4500042248	9/27/21	Mohawk Mfg & Supply Co		B140-BUS CHASSIS	\$48.76	-	-
4500042249	9/27/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$1,872.34	-	-
4500042250	9/27/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$103.27	-	-
4500042251	9/27/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$99.13	-	-
4500042252	9/27/21	Muncie Transit Supply		B200-BUS PWR TRAIN EQUIP	\$1,107.17	-	-
4500042253	9/27/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$593.56	-	-
4500042254	9/27/21	Chromate Industrial Corporation		G150-FASTENERS	\$815.51	-	-
4500042255	9/27/21	Supreme Oil Company		A120-AUTO/TRUCK GASOLINE	\$11,651.85	-	-
4500042256	9/27/21	SC Commercial, LLC		A120-AUTO/TRUCK GASOLINE	\$2,700.27	-	-
4500042257	9/27/21	Allied Electronics Inc		R190-RAIL/LRV PANTOGRAPH	\$19.40	-	-
4500042258	9/27/21	HI-TEC Enterprises		R160-RAIL/LRV ELECTRICAL	\$808.13	-	-
4500042259	9/27/21	Muncie Transit Supply		B120-BUS MECHANICAL PARTS	\$41.12	-	-
4500042260	9/27/21	Romaine Electric Corporation	Small Business	B160-BUS ELECTRICAL	\$566.32	-	-
4500042261	9/27/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$749.94	-	-
4500042262	9/27/21	Total Filtration Services Inc		R230-RAIL/LRV MECHANICAL	\$2,281.02	-	-
4500042263	9/27/21	Knorr Brake Holding Corporation		R220-RAIL/LRV TRUCKS	\$24,961.82	-	-
4500042264	9/27/21	HD Supply Construction Supply, LTD.		G140-SHOP SUPPLIES	\$783.12	-	-
4500042265	9/27/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$1,000.00	-	-
4500042266	9/27/21	D's Kustom Sales & Services, LLC		T140-TRACK, TURNOUTS	\$2,431.17	-	-
4500042267	9/27/21	Neyenesch Printers Inc	Small Business	G280-FARE MATERIALS	\$66,897.50	-	-
4500042268	9/27/21	Kurt Morgan		G200-OFFICE SUPPLIES	\$329.94	-	-
4500042269	9/27/21	Robcar Corporation	Woman Owned Business	G140-SHOP SUPPLIES	\$3,038.55	-	-
4500042270	9/27/21	Fastenal Company		G140-SHOP SUPPLIES	\$223.58	-	-
4500042271	9/27/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$40.99	-	-
4500042272	9/27/21	Cummins Pacific LLC		B250-BUS REPAIR PARTS	\$224.31	-	-
4500042273	9/27/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$56.33	-	-
4500042274	9/27/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$90.58	-	-
4500042275	9/27/21	Chula Vista Chamber of Commerce		P310-ADVERTISING SERVICES	\$675.00	-	-
4500042276	9/27/21	Translation & Simultaneous		P310-ADVERTISING SERVICES	\$772.50	-	-
4500042277	9/28/21	Uline		G220-OFFICE EQUIPMENT	\$730.98	-	-
4500042278	9/28/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$1,790.81	-	-
4500042279	9/28/21	Transit Holdings Inc		B140-BUS CHASSIS	\$751.25	-	-
4500042280	9/28/21	Transit Products and Services		B130-BUS BODY	\$6,465.00	-	-
4500042281	9/28/21	Muncie Transit Supply		B200-BUS PWR TRAIN EQUIP	\$148.48	-	-
4500042282	9/28/21	Cummins Pacific LLC		B140-BUS CHASSIS	\$1,633.49	-	-
4500042283	9/28/21	Transit Holdings Inc		B140-BUS CHASSIS	\$1,872.87	-	-
4500042284	9/28/21	Otay Mesa Chamber of Commerce		P310-ADVERTISING SERVICES	\$650.00	-	-
4500042285	9/28/21	Pressnet Express Inc		G230-PRINTED MATERIALS	\$3,480.33	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042286	9/28/21	Dimensional Silk Screen Inc		G230-PRINTED MATERIALS	\$395.45	-	-
4500042287	9/28/21	Louis Sardo Upholstery Inc		B250-BUS REPAIR PARTS	\$435.08	-	-
4500042288	9/28/21	Knorr Brake Holding Corporation		R160-RAIL/LRV ELECTRICAL	\$8,600.06	-	-
4500042289	9/28/21	JDK Railroad Materials, LLC		P280-GENERAL SVC AGRMNTS	\$2,100.00	-	-
4500042290	9/28/21	Sunbelt Rentals, Inc		P160-EQUIPMENT RENTALS	\$1,511.67	-	-
4500042291	9/28/21	Ferguson Enterprises		F110-SHOP/BLDG MACHINERY	\$1,065.53	-	-
4500042292	9/28/21	Ace Uniforms & Accessories	Small Business	G240-UNIFORM PROCUREMENT	\$2,392.68	-	-
4500042293	9/28/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$2,000.00	-	-
4500042294	9/28/21	Cummins Pacific LLC		B250-BUS REPAIR PARTS	\$635.70	-	-
4500042295	9/28/21	Genuine Parts Co		F110-SHOP/BLDG MACHINERY	\$164.74	-	-
4500042296	9/28/21	Inland Kenworth (US) Inc		B250-BUS REPAIR PARTS	\$154.30	-	-
4500042297	9/28/21	San Diego Compressed Air Power LLC		F110-SHOP/BLDG MACHINERY	\$242.20	-	-
4500042298	9/28/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$53.88	-	-
4500042299	9/28/21	Tennant Sales & Serv Co		P130-EQUIP MAINT REPR SVC	\$1,717.55	-	-
4500042300	9/28/21	Cummins Pacific LLC		B120-BUS MECHANICAL PARTS	\$185.01	-	-
4500042301	9/28/21	Prochem Specialty Products Inc	Small Business	G180-JANITORIAL SUPPLIES	\$1,656.98	-	-
4500042302	9/28/21	Office Depot		G140-SHOP SUPPLIES	\$204.71	-	-
4500042303	9/28/21	A to Z Enterprises, Inc.		P300-TOWING SVCS	\$90.00	-	-
4500042304	9/29/21	Transit Holdings Inc		B130-BUS BODY	\$754.79	-	-
4500042305	9/29/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$92.84	-	-
4500042306	9/29/21	Samek Werther & Mills, LLC		P340-LEGAL	\$15,000.00	-	-
4500042307	9/29/21	W.W. Grainger Inc		G270-ELECTRICAL/LIGHTING	\$219.17	-	-
4500042308	9/29/21	Harbor Diesel & Equipment		B120-BUS MECHANICAL PARTS	\$129.55	-	-
4500042309	9/29/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$15,263.56	-	-
4500042310	9/29/21	Transit Holdings Inc		B140-BUS CHASSIS	\$181.56	-	-
4500042311	9/29/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$6,852.67	-	-
4500042312	9/29/21	Gillig LLC		B130-BUS BODY	\$822.57	-	-
4500042313	9/29/21	Romaine Electric Corporation	Small Business	B250-BUS REPAIR PARTS	\$18.67	-	-
4500042314	9/29/21	B&H Photo & Electronics Corp		B150-BUS COMM EQUIP.	\$430.91	-	-
4500042315	9/29/21	Knorr Brake Holding Corporation		R140-RAIL/LRV DOORS/RAMP	\$8,590.36	-	-
4500042316	9/29/21	Reid and Clark Screen Arts Co		R120-RAIL/LRV CAR BODY	\$2,366.19	-	-
4500042317	9/29/21	W.W. Grainger Inc		G140-SHOP SUPPLIES	\$42.82	-	-
4500042318	9/29/21	Freeby Signs		B250-BUS REPAIR PARTS	\$147.72	-	-
4500042319	9/29/21	SC Commercial, LLC		A120-AUTO/TRUCK GASOLINE	\$2,250.23	-	-
4500042320	9/29/21	Hitachi Rail STS USA, Inc.		M150-PWR SWITCHES/LOCKS	\$203.13	-	-
4500042321	9/29/21	Chromate Industrial Corporation		R220-RAIL/LRV TRUCKS	\$808.34	-	-
4500042322	9/29/21	Data Hardware Depot LP		I110-INFORMATION TECH	\$509.88	-	-
4500042323	9/29/21	Western-Cullen-Hayes Inc		M130-CROSSING MECHANISM	\$200.42	-	-
4500042324	9/29/21	W.W. Grainger Inc		G140-SHOP SUPPLIES	\$614.43	-	-
4500042325	9/29/21	Home Depot USA Inc		G180-JANITORIAL SUPPLIES	\$313.77	-	-
4500042326	9/29/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$2,000.00	-	-
4500042327	9/29/21	M Power Truck & Diesel Repair		P210-NON-REV VEH REPAIRS	\$782.24	-	-
4500042328	9/30/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$1,648.58	-	-
4500042329	9/30/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$992.72	-	-
4500042330	9/30/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$39.13	-	-
4500042331	9/30/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$40.41	-	-
4500042332	9/30/21	Cummins Pacific LLC		B250-BUS REPAIR PARTS	\$77.22	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042333	9/30/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$8,204.10	-	-
4500042334	9/30/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$227.93	-	-
4500042335	9/30/21	Home Depot USA Inc		G180-JANITORIAL SUPPLIES	\$537.13	-	-
4500042336	9/30/21	W.W. Grainger Inc		G120-SECURITY	\$170.42	-	-
4500042337	9/30/21	Marco's Canopies Inc	Small Business	G140-SHOP SUPPLIES	\$3,471.71	-	-
4500042338	9/30/21	OneSource Distributors, LLC		G190-SAFETY/MED SUPPLIES	\$80.59	-	-
4500042339	9/30/21	Home Depot USA Inc		G130-SHOP TOOLS	\$312.73	-	-
4500042340	9/30/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$2,995.81	-	-
4500042341	9/30/21	Jeyco Products Inc		G150-FASTENERS	\$82.34	-	-
4500042342	9/30/21	Transit Holdings Inc		B250-BUS REPAIR PARTS	\$341.88	-	-
4500042343	9/30/21	Inland Kenworth (US) Inc		B250-BUS REPAIR PARTS	\$16.44	-	-
4500042344	9/30/21	Westair Gases & Equipment Inc	Small Business	P110-BLDG MAINTENANCE	\$1,000.00	-	-
4500042345	9/30/21	Transit Holdings Inc		B110-BUS HVAC SYSTEMS	\$4,687.35	-	-
4500042346	9/30/21	Transit Holdings Inc		B130-BUS BODY	\$135.60	-	-
4500042347	9/30/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$72.38	-	-
4500042348	10/1/21	Siemens Mobility, Inc.		R160-RAIL/LRV ELECTRICAL	\$68.79	-	-
4500042349	10/1/21	Tony Jamison	DBE	G170-LUBRICANTS	\$1,237.40	-	-
4500042350	10/1/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$612.00	-	-
4500042351	10/1/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$422.40	-	-
4500042352	10/1/21	Dell Marketing L.P.		I110-INFORMATION TECH	\$6,585.15	-	-
4500042353	10/1/21	Bytemark, Inc.		I120-INFO TECH, SVCS	\$35,200.00	-	-
4500042354	10/1/21	Transit Holdings Inc		B140-BUS CHASSIS	\$514.62	-	-
4500042355	10/1/21	Transit Holdings Inc		B140-BUS CHASSIS	\$894.28	-	-
4500042356	10/1/21	Gillig LLC		B130-BUS BODY	\$1,889.56	-	-
4500042357	10/1/21	Muncie Transit Supply		B120-BUS MECHANICAL PARTS	\$183.72	-	-
4500042358	10/1/21	ABC General Contractor Inc		P280-GENERAL SVC AGRMNTS	\$25,420.13	\$14,705.55	-
4500042359	10/1/21	The Gordian Group, Inc.		P280-GENERAL SVC AGRMNTS	\$495.69	-	-
4500042360	10/1/21	The Gordian Group, Inc.		C130-CONSTRUCTION SVCS	\$1,365.85	-	-
4500042361	10/1/21	ABC General Contractor Inc		C130-CONSTRUCTION SVCS	\$70,043.77	-	-
4500042362	10/1/21	Controlled Motion Solutions Inc		B120-BUS MECHANICAL PARTS	\$383.05	-	-
4500042363	10/1/21	CASEI		F180-BUILDING MATERIALS	\$2,107.60	-	-
4500042364	10/1/21	HI-TEC Enterprises		R160-RAIL/LRV ELECTRICAL	\$4,525.50	-	-
4500042365	10/1/21	Waxie's Enterprises Inc.		G140-SHOP SUPPLIES	\$3,827.28	-	-
4500042366	10/1/21	Fastenal Company		G120-SECURITY	\$1,380.28	-	-
4500042367	10/1/21	Professional Contractors Supplies		G180-JANITORIAL SUPPLIES	\$172.09	-	-
4500042368	10/1/21	W.W. Grainger Inc		G130-SHOP TOOLS	\$259.77	-	-
4500042369	10/1/21	M Power Truck & Diesel Repair		P210-NON-REV VEH REPAIRS	\$1,719.18	-	-
4500042370	10/1/21	Knorr Brake Holding Corporation		R220-RAIL/LRV TRUCKS	\$2,967.37	-	-
4500042371	10/1/21	Jeyco Products Inc		G150-FASTENERS	\$73.75	-	-
4500042372	10/1/21	Waxie's Enterprises Inc.		G180-JANITORIAL SUPPLIES	\$1,234.69	-	-
4500042373	10/2/21	Nth Generation Computing Inc		I110-INFORMATION TECH	\$88,750.00	-	-
4500042374	10/4/21	Brady Industries of California, LLC		G190-SAFETY/MED SUPPLIES	\$1,021.05	-	-
4500042375	10/4/21	Staples Contract & Commercial Inc		G200-OFFICE SUPPLIES	\$258.60	-	-
4500042376	10/4/21	B&H Photo & Electronics Corp		B150-BUS COMM EQUIP.	\$430.91	-	-
4500042377	10/4/21	Kurt Morgan		G200-OFFICE SUPPLIES	\$206.22	-	-
4500042378	10/4/21	Gillig LLC		B250-BUS REPAIR PARTS	\$59.70	-	-
4500042379	10/4/21	Gillig LLC		B160-BUS ELECTRICAL	\$7,038.79	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042380	10/4/21	Cummins Pacific LLC		B250-BUS REPAIR PARTS	\$77.22	-	-
4500042381	10/4/21	Transit Products and Services		B130-BUS BODY	\$4,741.00	-	-
4500042382	10/4/21	Central Dispatch Inc		P280-GENERAL SVC AGRMNTS	\$1,888.65	-	-
4500042383	10/4/21	Jeyco Products Inc		G200-OFFICE SUPPLIES	\$90.51	-	-
4500042384	10/4/21	D's Kustom Sales & Services, LLC		T110-TRACK, RAIL	\$216.80	-	-
4500042385	10/4/21	Transit Holdings Inc		B160-BUS ELECTRICAL	\$1,937.08	-	-
4500042386	10/4/21	West-Lite Supply Co Inc	Small Business	R160-RAIL/LRV ELECTRICAL	\$222.13	-	-
4500042387	10/4/21	Supreme Oil Company		A120-AUTO/TRUCK GASOLINE	\$11,806.00	-	-
4500042388	10/4/21	SC Commercial, LLC		A120-AUTO/TRUCK GASOLINE	\$2,755.76	-	-
4500042389	10/4/21	Transit Holdings Inc		B140-BUS CHASSIS	\$216.58	-	-
4500042390	10/4/21	W.W. Grainger Inc		G180-JANITORIAL SUPPLIES	\$707.49	-	-
4500042391	10/4/21	Mohawk Mfg & Supply Co		B200-BUS PWR TRAIN EQUIP	\$45.09	-	-
4500042392	10/4/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$3,815.89	-	-
4500042393	10/4/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$9.70	-	-
4500042394	10/4/21	Sherwin Williams Company		G140-SHOP SUPPLIES	\$23.28	-	-
4500042395	10/4/21	Kaman Industrial Technologies		G140-SHOP SUPPLIES	\$12.64	-	-
4500042396	10/4/21	Waxie's Enterprises Inc.		G180-JANITORIAL SUPPLIES	\$293.98	-	-
4500042397	10/4/21	Transit Holdings Inc		B130-BUS BODY	\$83.44	-	-
4500042398	10/4/21	Knorr Brake Holding Corporation		R220-RAIL/LRV TRUCKS	\$1,119.84	-	-
4500042399	10/4/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$8,254.73	-	-
4500042400	10/4/21	Transit Holdings Inc		B140-BUS CHASSIS	\$6,102.38	-	-
4500042401	10/4/21	Vehicle Maintenance Program, Inc.	Woman Owned Business	B140-BUS CHASSIS	\$873.63	-	-
4500042402	10/4/21	W.W. Grainger Inc		P280-GENERAL SVC AGRMNTS	\$148.64	-	-
4500042403	10/4/21	Siemens Mobility, Inc.		R230-RAIL/LRV MECHANICAL	\$2,145.78	-	-
4500042404	10/4/21	Mohawk Mfg & Supply Co		B160-BUS ELECTRICAL	\$376.88	-	-
4500042405	10/4/21	Transit Holdings Inc		B110-BUS HVAC SYSTEMS	\$2,996.85	-	-
4500042406	10/4/21	W.W. Grainger Inc		G140-SHOP SUPPLIES	\$315.76	-	-
4500042407	10/4/21	Cummins Pacific LLC		B120-BUS MECHANICAL PARTS	\$92.50	-	-
4500042408	10/5/21	Siemens Mobility, Inc.		R220-RAIL/LRV TRUCKS	\$271.69	-	-
4500042409	10/5/21	Steven Timme		G230-PRINTED MATERIALS	\$1,353.41	-	-
4500042410	10/5/21	Fastenal Company		G140-SHOP SUPPLIES	\$2,040.87	-	-
4500042411	10/5/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$608.79	-	-
4500042412	10/5/21	Muncie Transit Supply		B250-BUS REPAIR PARTS	\$52.80	-	-
4500042413	10/5/21	Transit Holdings Inc		B120-BUS MECHANICAL PARTS	\$1,654.62	-	-
4500042414	10/5/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$101.44	-	-
4500042415	10/5/21	D's Kustom Sales & Services, LLC		T110-TRACK, RAIL	\$216.80	-	-
4500042416	10/5/21	Matthias Moos		M120-OVRHEAD CATENARY SYS	\$3,782.24	-	-
4500042417	10/5/21	R.S. Hughes Co Inc		G140-SHOP SUPPLIES	\$651.04	-	-
4500042418	10/5/21	Home Depot USA Inc		G170-LUBRICANTS	\$288.60	-	-
4500042419	10/5/21	M Power Truck & Diesel Repair		P210-NON-REV VEH REPAIRS	\$110.00	-	-
4500042420	10/5/21	Chromate Industrial Corporation		G150-FASTENERS	\$143.31	-	-
4500042421	10/5/21	Staples Contract & Commercial Inc		G200-OFFICE SUPPLIES	\$304.99	-	-
4500042422	10/5/21	Bryan Main		G260-MEDIA	\$300.00	-	-
4500042423	10/5/21	SC Commercial, LLC		A120-AUTO/TRUCK GASOLINE	\$2,761.92	-	-
4500042424	10/5/21	Gillig LLC		B250-BUS REPAIR PARTS	\$237.05	-	-
4500042425	10/5/21	Cummins Pacific LLC		B120-BUS MECHANICAL PARTS	\$1,663.10	-	-
4500042426	10/5/21	Jeyco Products Inc		G130-SHOP TOOLS	\$15.30	-	-

PO Number	PO Date	Name	Prime Business Certification	Material Group	PO Value	DBE Subcontracted Amount	Non DBE Subcontracted Amount
4500042427	10/5/21	Brady Industries of California, LLC		G180-JANITORIAL SUPPLIES	\$154.90	-	-
4500042428	10/5/21	Neyenesch Printers Inc	Small Business	G230-PRINTED MATERIALS	\$3,125.97	-	-
4500042429	10/5/21	Walk San Diego		P310-ADVERTISING SERVICES	\$2,500.00	-	-
4500042430	10/5/21	Sprout Social, Inc.		P310-ADVERTISING SERVICES	\$2,988.00	-	-
4500042431	10/5/21	M Power Truck & Diesel Repair		P210-NON-REV VEH REPAIRS	\$2,202.82	-	-
4500042432	10/5/21	Keys & Engraving Inc		M110-SUB STATION	\$646.50	-	-
4500042433	10/5/21	Airgas Inc		G190-SAFETY/MED SUPPLIES	\$1,783.10	-	-
4500042434	10/5/21	Siemens Mobility, Inc.		M140-WAYSIDE SIGNALS	\$27,462.35	-	-
4500042435	10/6/21	Tony Jamison	DBE	G170-LUBRICANTS	\$1,301.94	-	-
4500042436	10/6/21	Home Depot USA Inc		F110-SHOP/BLDG MACHINERY	\$394.79	-	-
4500042437	10/6/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$118.53	-	-
4500042438	10/6/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$2,188.47	-	-
4500042439	10/6/21	CDW LLC		B150-BUS COMM EQUIP.	\$591.33	-	-
4500042440	10/6/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$25.84	-	-
4500042441	10/6/21	Inland Kenworth (US) Inc		B250-BUS REPAIR PARTS	\$200.42	-	-
4500042442	10/6/21	Jeyco Products Inc		G140-SHOP SUPPLIES	\$64.31	-	-
4500042443	10/6/21	Kaman Industrial Technologies		B120-BUS MECHANICAL PARTS	\$564.49	-	-
4500042444	10/6/21	Transit Holdings Inc		B130-BUS BODY	\$394.74	-	-
4500042445	10/6/21	Cummins Pacific LLC		B200-BUS PWR TRAIN EQUIP	\$142.23	-	-
4500042446	10/6/21	Mohawk Mfg & Supply Co		B120-BUS MECHANICAL PARTS	\$3.77	-	-
4500042447	10/6/21	Muncie Transit Supply		B140-BUS CHASSIS	\$763.81	-	-
4500042448	10/6/21	Transit Holdings Inc		B200-BUS PWR TRAIN EQUIP	\$1,070.61	-	-
4500042449	10/6/21	Trolley Support LLC		B250-BUS REPAIR PARTS	\$4,509.34	-	-
4500042450	10/6/21	Smart & Final Holdings Corp.		G190-SAFETY/MED SUPPLIES	\$242.16	-	-
4500042451	10/6/21	US Mobile Wireless		B150-BUS COMM EQUIP.	\$142.23	-	-
4500042452	10/6/21	Transit Holdings Inc		B110-BUS HVAC SYSTEMS	\$3,236.08	-	-
4500042453	10/6/21	Transit Holdings Inc		B130-BUS BODY	\$991.68	-	-
4500042454	10/6/21	Mohawk Mfg & Supply Co		B160-BUS ELECTRICAL	\$164.48	-	-
4500042455	10/6/21	Waxie's Enterprises Inc.		G130-SHOP TOOLS	\$105.00	-	-
4500042456	10/6/21	Industrial Maintenance Supply LLC	DBE	G150-FASTENERS	\$158.89	-	-
4500042457	10/6/21	CDW LLC		I110-INFORMATION TECH	\$179.32	-	-
4500042458	10/6/21	Gillig LLC		B250-BUS REPAIR PARTS	\$380.82	-	-