



Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

January 13, 2022

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/94562188418>

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/94562188418>

ACTION RECOMMENDED

- | | | |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1. | ROLL CALL | |
| 2. | APPROVAL OF MINUTES - November 4, 2021 | Approve |
| 3. | PUBLIC COMMENTS | |
| COMMITTEE DISCUSSION ITEMS | | |
| 4. | Affordable Housing Transit Oriented Developments – Review of Affirmed Housing Proposals for Beyer Boulevard and Rancho Bernardo Transit Centers (Karen Landers)
Action would receive a report on projects under negotiation with Affirmed Housing Group, Inc. for 100% affordable residential projects at Beyer Boulevard Trolley Station and Rancho Bernardo Transit Station. | Receive |
| 5. | Real Estate and Joint Development Program Status Update (Karen Landers)
Action would receive a report and provide comments. | Receive |



OTHER ITEMS

6. [REVIEW OF DRAFT JANUARY 20, 2022 MTS BOARD AGENDA](#)
7. OTHER STAFF COMMUNICATIONS AND BUSINESS
8. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS
9. NEXT MEETING DATE: FEBRUARY 3, 2022
10. ADJOURNMENT

DRAFT MINUTES

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

November 4, 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

Chair Fletcher called the Executive Committee meeting to order at 9:37 a.m. A roll call sheet listing Executive Committee member attendance is attached.

2. Approval of Minutes

Chair Fletcher moved to approve the minutes of the October 7, 2021, MTS Executive Committee meeting. Board Member Elo-Rivera seconded the motion, and the vote was 6 to 0 in favor with Board Member Salas absent.

3. Public Comments

There were no Public Comments.

COMMITTEE DISCUSSION ITEMS

4. Downtown Layover (Denis Desmond)

Denis Desmond, MTS Director of Planning, presented on the Downtown Layover. He outlined: the need for layover facilities, Downtown On-Street Layovers, details related to the project's history and budget, including the staff recommendation that MTS contribute \$1.4 million in funding towards environmental clearance and property acquisition.

Chair Fletcher clarified San Diego Association of Government's (SANDAG) role as the lead in its execution. Mr. Desmond confirmed their role.

Ms. Cooney noted that MTS is unaware about how SANDAG will fund the remainder of the parcel acquisition. She continued that the agreement between SANDAG and MTS will include language ensuring the allocated funding will be used for the project and not be diverted.

Ms. Landers stated that upon the committee's approval, the draft agreement would be sent to the Board of Directors for consideration along with a fund transfer agreement.

Chair Fletcher asked if SANDAG would require the entire block for the project to work. Mr. Desmond stated the project would not be viable if they were to only use a partial block. Ms. Cooney confirmed that SANDAG's proposal for partial block development would not meet the agency's needs.

Board Member Sandke recognized the history of this project proposal and acknowledged the housing and office components too. He noted the historical construction obstacles, particularly with the Bar Association and supported the contingency language that would be incorporated into the agreement. He was optimistic the current SANDAG Board would support the project.

Ms. Landers clarified that the SANDAG Board has made strides in negotiations with the Bar Association. She noted that the approval of the recommendation would allow SANDAG to move forward in its negotiations.

Board Member Elo-Rivera asked about building accessibility with the public. Ms. Cooney stated that the restrooms would be for employee use only. She clarified drivers needed immediate access to restrooms due to the short turnaround time in their breaks.

Board Member Elo-Rivera stated that there could be an opportunity to create separate public restroom access. He asked if it was possible to work with SANDAG to incorporate the design. Ms. Cooney noted that the layover facility would not be near transit stops and would therefore not be a convenient location for restrooms for transit riders. Board Member Elo-Rivera noted the proximity to other various stops and amenities and hoped to have this site considered as a public restroom location.

Board Member Montgomery Steppe supported the recommendation and asked about the type of construction methods that would be used for the project.

Ms. Landers acknowledged SANDAG as the project lead and that such details remained to be solidified.

Action Taken

Chair Fletcher moved to forward a recommendation to the Board of Directors to approve a Fund Transfer Agreement with the San Diego Association of Governments (SANDAG) for the Downtown Stopover Project, including an MTS contribution of \$1.4 million towards the project. Board Member Sandke seconded the motion, and the vote was 6 to 0 in favor with Board Member Salas absent.

OTHER ITEMS

5. REVIEW OF DRAFT November 18, 2021 BOARD AGENDA

Recommended Consent Items

6. Authorization of Remote Teleconferenced Meetings
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. Adoption of the 2022 San Diego Metropolitan Transit System (MTS) Executive Committee and Board of Directors Meeting Schedule
Action would adopt the 2022 Executive Committee and Board of Directors meeting schedule.
8. Taxicab Advisory Committee – Guideline Revisions
Action would approve the proposed revisions to the Taxicab Advisory Committee Guidelines.
9. Job Order Contracting (JOC) Services - Contract Amendment

Action would authorize the Chief Executive Officer (CEO) to execute Amendment 2 to MTS Doc. No. L1282.0-16 with The Gordian Group totaling \$300,000.00, and extend for an additional five-year period for the continued provision of JOC services.

10. Network Equipment for Network Devices Refresh – Purchase Order
Action would authorize the Chief Executive Officer (CEO) to execute a Purchase Order to AT&T Corp. for the provision of Cisco network equipment for MTS Network Devices Refresh in the amount of \$1,146,769.93.
11. 3rd Party Administration Services for Workers Compensation Benefits Services – Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2460.0-21 with CorVel Enterprise Comp, Inc. for 3rd Party Administration Services for Workers Compensation Benefits Services for a five (5) year base period with five (5) optional 1-year extensions in the amount of \$4,906,919.14.
12. Investment Report – Quarter Ending September 30, 2021
13. Design Services for Iris Rapid Route and Station Infrastructure Improvements – Work Order Amendment
Action would 1) Ratify Amendment 1 to Work Order WOA2075-AE-54 to MTS DOC No. G2075.0-18 with Dokken Engineering (Dokken) in the amount of \$96,513.63 to provide right-of-way support for the project; and 2) Authorize the Chief Executive Officer (CEO) to execute Amendment 2 to Work Order WOA2075-AE-54 to MTS DOC No. G2075.0-18 with Dokken in the amount of \$10,254.73 for design services and plan updates to include a proposed curb ramp at the Northwest Corner (NWC) of the Coronado Avenue/Beyer Boulevard intersection.
14. Fare Collection (Change Orders for Sage Software, Salesforce Licenses & Pronto Fare Media Card Order) – Contract Amendment
Action would 1. Ratify Amendment 8 to MTS Doc. No. G2091.0-18, with Innovations in Transportation, Inc. (INIT), in the amount of \$37,816.95; and 2. Authorize the Chief Executive Officer (CEO) to execute Amendment 9 to MTS Doc. No. G2091.0-18, with INIT in the amount of \$166,624.60.

COMMITTEE COMMENTS

Ms. Cooney noted there would be an additional item added to the Board of Directors Agenda. She acknowledged the item would be related to the Mid-Coast operating funding MOU agreement between SANDAG and MTS. Ms. Cooney also stated additional future TransNet funding obstacles related to Bus Rapid Transit services would also be discussed during the item.

Board Member Sandke requested that a SANDAG staff representative be present at the time the item is presented.

6. Committee Member Communications and Other Business

There were no Committee Member Communications.

Executive Committee – DRAFT MINUTES

November 4, 2021

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7. Next Meeting Date

The next Executive Committee meeting is scheduled for December 2, 2021, at 9:00 a.m.

8. Adjournment

Chair Fletcher adjourned the meeting at 9:58 a.m.

Chairperson
San Diego Metropolitan Transit System

Attachment: Roll Call Sheet

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
EXECUTIVE COMMITTEE

ROLL CALL

MEETING OF (DATE): November 4, 2021 CALL TO ORDER (TIME): 9:37 am
 RECESS: _____ RECONVENE: _____
 CLOSED SESSION: _____ RECONVENE: _____
 PUBLIC HEARING: _____ RECONVENE: _____
 ORDINANCES ADOPTED: _____ ADJOURN: 9:58 am

REPRESENTATIVE	BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
County	FLETCHER (Chair)	<input checked="" type="checkbox"/> (Vargas) <input type="checkbox"/>	9:37 am	9:58 am
Vice Chair	SOTELO-SOLIS	<input checked="" type="checkbox"/> (no alternate) <input type="checkbox"/>	9:37 am	9:58 am
City of San Diego	ELO-RIVERA	<input checked="" type="checkbox"/> (Montgomery Steppe) <input type="checkbox"/>	9:37 am	9:58 am
East County	GASTIL	<input type="checkbox"/> (Hall) <input checked="" type="checkbox"/>	9:37 am	9:58 am
SANDAG Transportation Committee	MONTGOMERY STEPPE	<input checked="" type="checkbox"/> (Aguirre) <input type="checkbox"/>	9:37 am	9:58 am
Chair Pro Tem	SALAS	<input type="checkbox"/> (no alternate) <input checked="" type="checkbox"/>	-	-
South Bay	SANDKE	<input checked="" type="checkbox"/> (Aguirre) <input type="checkbox"/>	9:37 am	9:58 am

SIGNED BY THE CLERK OF THE BOARD:

/S/ Dalia Gonzalez



Agenda Item No. 4

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

January 13, 2022

SUBJECT:

AFFORDABLE HOUSING TRANSIT ORIENTED DEVELOPMENTS – REVIEW OF AFFIRMED HOUSING PROPOSALS FOR BEYER BOULEVARD AND RANCHO BERNARDO TRANSIT CENTERS (KAREN LANDERS)

RECOMMENDATION:

That the Executive Committee receive a report on projects under negotiation with Affirmed Housing Group, Inc. for 100% affordable residential projects at Beyer Boulevard Trolley Station and Rancho Bernardo Transit Station.

Budget Impact

Under MTS's Transit Oriented Development (TOD) program, the ground lease rent for an affordable housing project is generally limited because of the restricted rents built into the program and the various public subsidies used to construct the project. If a Disposition and Development Agreement (DDA) is executed, the project would be constructed at no cost to MTS, with annual ground lease rent after construction is complete generally being in the range of 5% of net income from the development (often under \$50,000 per year). Staff would expect that the development, in close proximity to MTS transit services, would increase ridership at their respective stations.

DISCUSSION:

Under Board Policy 18, the MTS Board established priorities for TOD projects, seeking projects that “create vibrant, transit-oriented communities that offer a range of housing types, job opportunities, and services centered around public transit facilities.” The desired characteristics of such projects includes affordable housing units:

Board Policy 18(C)(6):

In recognition that residents of affordable housing units have a higher likelihood for transit utilization, residential joint development proposals shall include a minimum set aside of 20% of units for very low (<50% Average Median Income (AMI) and low (51-80% AMI) income households.



As part of MTS's TOD program, which was updated in July 2019, MTS has posted the availability of various sites for development proposals on its website¹. Further, in compliance with AB 1486, which amended the Surplus Land Act (Government Code section 54220, et seq.) (SLA) and MTS's legal obligations related to its TOD program, on July 30, 2020 (AI 30), the MTS Board formally declared its potential TOD sites to be "surplus property". For the properties under consideration today, the Beyer Boulevard Trolley Station and Rancho Bernardo Transit Station, Notices of Availability under the SLA were sent on September 8, 2020. Within the 60-day time period of the SLA, Affirmed Housing Group, Inc. (Affirmed) sent MTS notices of interest and a request to negotiate regarding a proposed affordable housing development at each site. Exclusive Negotiating Agreements for each site were executed with Affirmed on December 18, 2020.

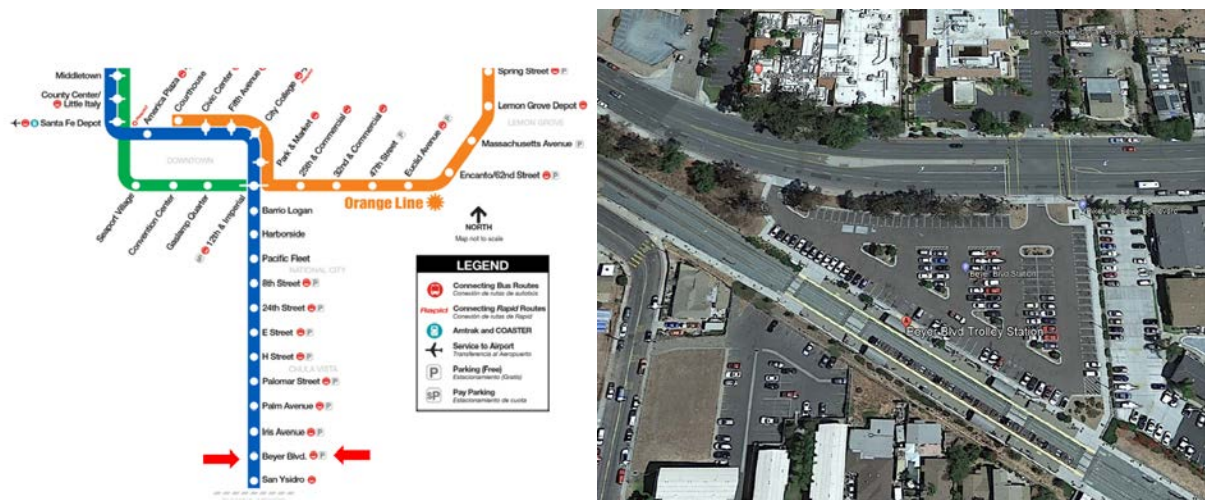
Since that time, MTS staff has been working with Affirmed to refine their development proposals and align them with MTS's transit operational needs at each site. Staff will present a report on the current proposals to the Executive Committee and solicit feedback for staff and Affirmed to consider before bringing a proposed DDA to the Board for approval in or around March 2022.

Development Proposals

Affirmed is an experienced affordable housing developer and is currently under contract with MTS to develop affordable housing at the Grantville Transit Center.

Beyer Boulevard Trolley Station Proposal

The Beyer Boulevard Trolley Station is located in the City of San Diego, one Trolley stop north of the U.S. Port of Entry at San Ysidro:



Beyer Boulevard Trolley Station is 1.6 acres with 131 total parking spaces, 60 of which have been under lease to San Ysidro Health Center since approximately 2006. Therefore, under current conditions, the site has 71 exclusive use parking spaces for transit patrons.

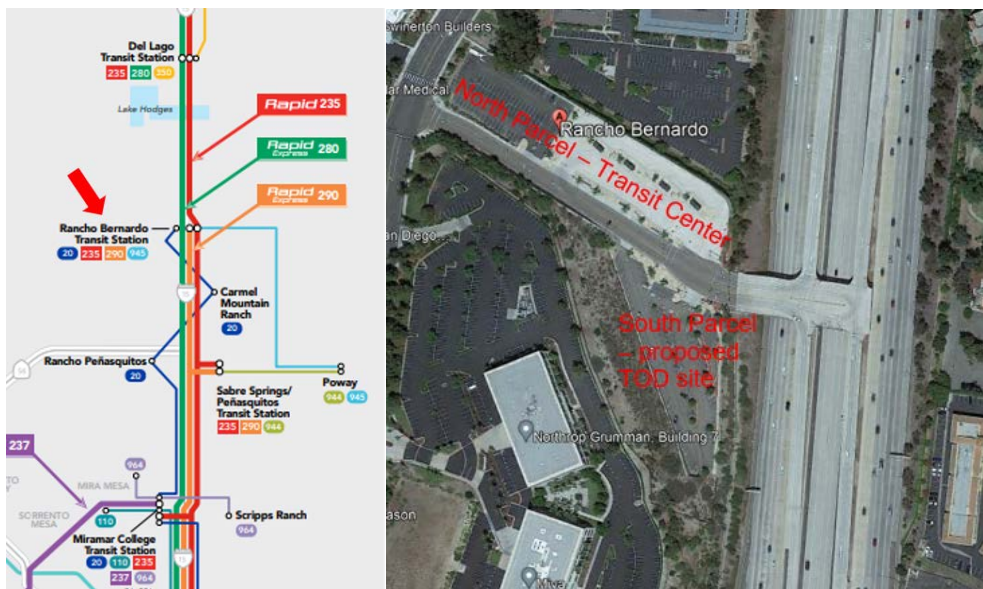
¹ <https://www.sdmts.com/business-center-real-estate/real-estate-properties>

This station is in the San Ysidro neighborhood in the southern part of the City of San Diego. The station is served by Trolley service on the UC San Diego Blue Line and has nearby local bus stops on South Vista Avenue. The City of San Diego is responsible for issuing permits for development according to the City's land use designations. The site is included in the San Ysidro Historic Village Specific Plan of the San Ysidro Community Plan. The site is zoned CC-3-6, Community Commercial / Residential Permitted up to 44 dwelling units per acre.

Affirmed is proposing a 100% affordable development consisting of 100 units in a single building complex built over a podium parking structure. This unit count equates to a density of 79 dwelling units per acre. State law allows increased density for affordable housing projects near transit, notwithstanding a site's zoning. There is a total of 74 replacement parking spaces proposed for MTS transit patrons and 61 parking spaces inside the residential project for tenants. This design would protect the 71 exclusive use transit parking spaces currently in use today.

Rancho Bernardo Transit Station Proposal

The Rancho Bernardo Transit Station is located at West Bernardo Drive and George Cook Express Drive in the City of San Diego near Interstate 15 in the Rancho Bernardo area:



It is split into two parcels, one north and one south of George Cooke Express Drive. The north portion includes the bus transit center plus 85 transit parking spaces. The south portion is triangular in shape and used solely for transit parking, with 105 spaces. The site also acts as a park-and-ride with direct access to the Interstate 15 freeway managed lanes. The entire site, including both the north and south portions, is approximately 4.7 acres with 190 total parking spaces.

The transit center is served by local, Rapid, and Rapid Express bus routes; there is no Trolley service in this area. Due to the low development density, challenging topography, and limited feeder bus service in the area, the transit service design for the north Interstate 15 corridor

utilizes larger park-and-ride lots for access to the system, in combination with high-frequency, north-south corridor bus services.

The City of San Diego is the land use and permitting agency responsible for this site. The property is zoned CV-1-2 / RM-2-5, allowing commercial and residential uses up to 29 dwelling units per acre. Affirmed is proposing a 100% affordable development consisting of 100 units in a single building complex built over a podium parking structure situated on the 2.6 acre southern parcel. This unit count equates to a density of 38 dwelling units per acre. (State law allows increased density for affordable housing projects near transit, notwithstanding a site's zoning.) Affirmed is still refining their design plans to see if additional transit parking can be provided. The current designs would provide for approximately 85-92 replacement transit parking places and 80-82 tenant parking spaces, for a total of 165-174 spaces. This would result in an 81%-88% replacement ratio for the transit parking spaces. Staff determined this is the minimum ratio necessary to accommodate anticipated future transit ridership growth in the I-15 corridor, which will require sufficient commuter parking availability to be successful.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

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

Affordable Housing Transit Oriented Developments – Review Of Affirmed Housing Proposals For Beyer Boulevard And Rancho Bernardo Transit Centers

MTS Executive Committee
January 13, 2022

Status of TOD proposals

- Beyer (trolley) and Rancho Bernardo (bus) transit stations
- Affirmed Housing Group
 - Established affordable housing developer in San Diego
 - Grantville – SHORELINE Project (closing January 2022)
- First expressed interest in these sites summer of 2020
 - Delayed by AB 1486 compliance issues
 - ENAs executed December 2020
- 2021 tasks:
 - Refining site plan; clearing operational conflicts
 - Establishing parking replacement needs
 - Affirmed sought City grants/support

TOD Proposals – Next Steps

- Today's Meeting:
 - Seek Executive Committee feedback/concerns
 - If no major concerns → strive to bring formal Disposition and Development Agreement to Board for approval in March/April 2022
- Tasks for DDA:
 - Complete due diligence review of financial proforma
 - Finalize DDA document
 - Will closely follow Grantville agreement
 - MTS standard terms for affordable housing: minimum occupancy/unit requirements; rent restrictions; replacement parking; design review; 5% of net income as rent

Beyer Boulevard Trolley Station



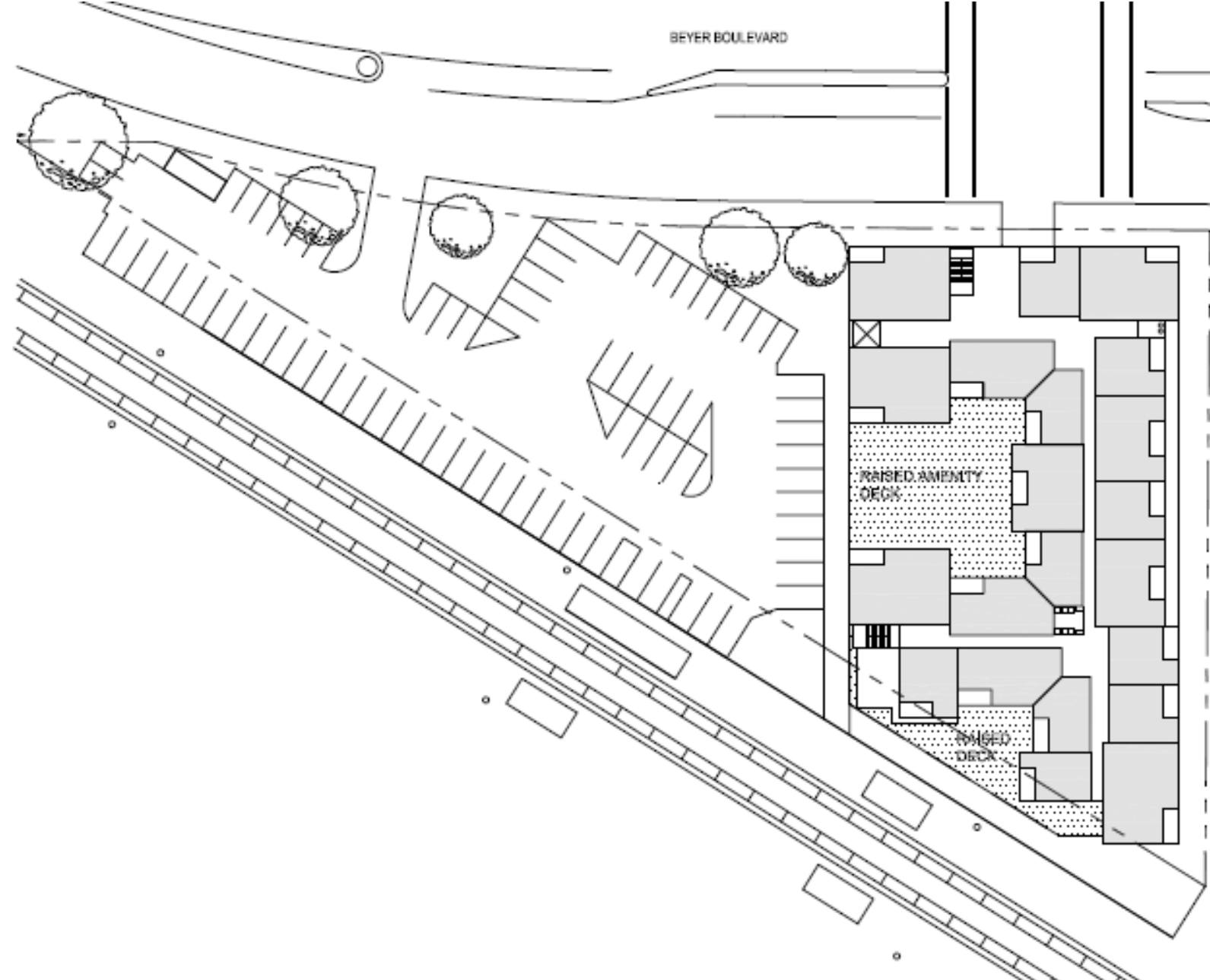
Transit Parking: 71 Transit Patron Parking Spaces + 60 spaces leased to San Ysidro Health Center since 2006

Beyer Blvd. Trolley Village



- 100 Apartments
- Studio, One, Two, & Three bedroom Apartments
- 1.59 acres / 69.4 du/acre
- Target Population: Family
 - 30% - 60% AMI
- Onsite Property Management & Resident Service staff
- Replacement Parking: 74 Transit Parking Spaces (104% ratio w/o leased spaces)



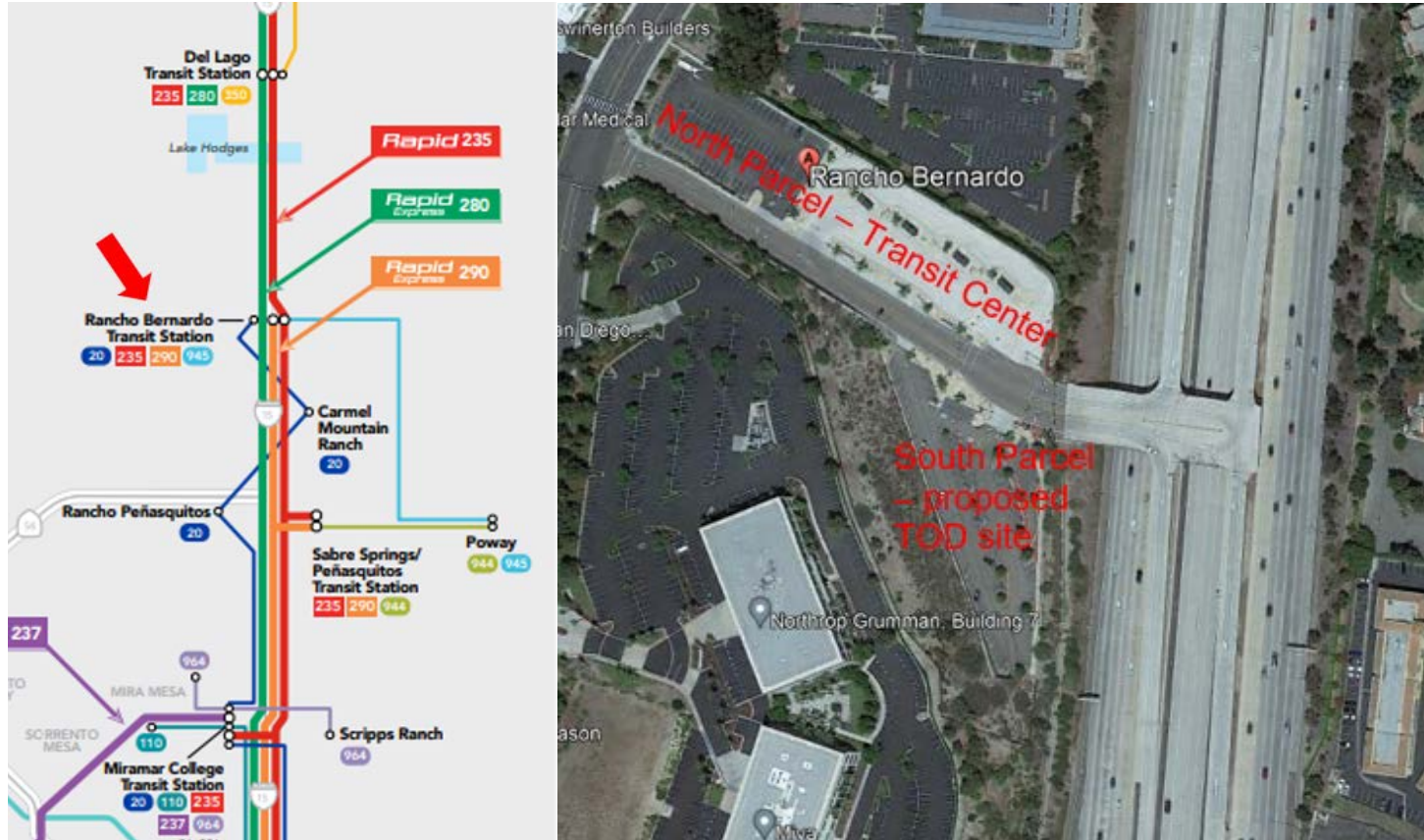


Beyer Blvd. Trolley Village Schedule

- MTS
 - ENA - 2020
 - DDA – March 2022
- City of San Diego (5 Million)
 - Applied – July 2021
 - Preliminary Award – September 2021
 - OPA to City Council – March/April 2022
- Project Based Vouchers (30 Vouchers)
 - Applied – October 2021
 - Award – TBD
- HCD – Super NOFA (AB434)
 - Apply – February 2022
 - Award – October 2022
- TCAC – 9%
 - Once fully funded (Anticipated 1st 9% round in March 2023)



Rancho Bernardo Transit Center



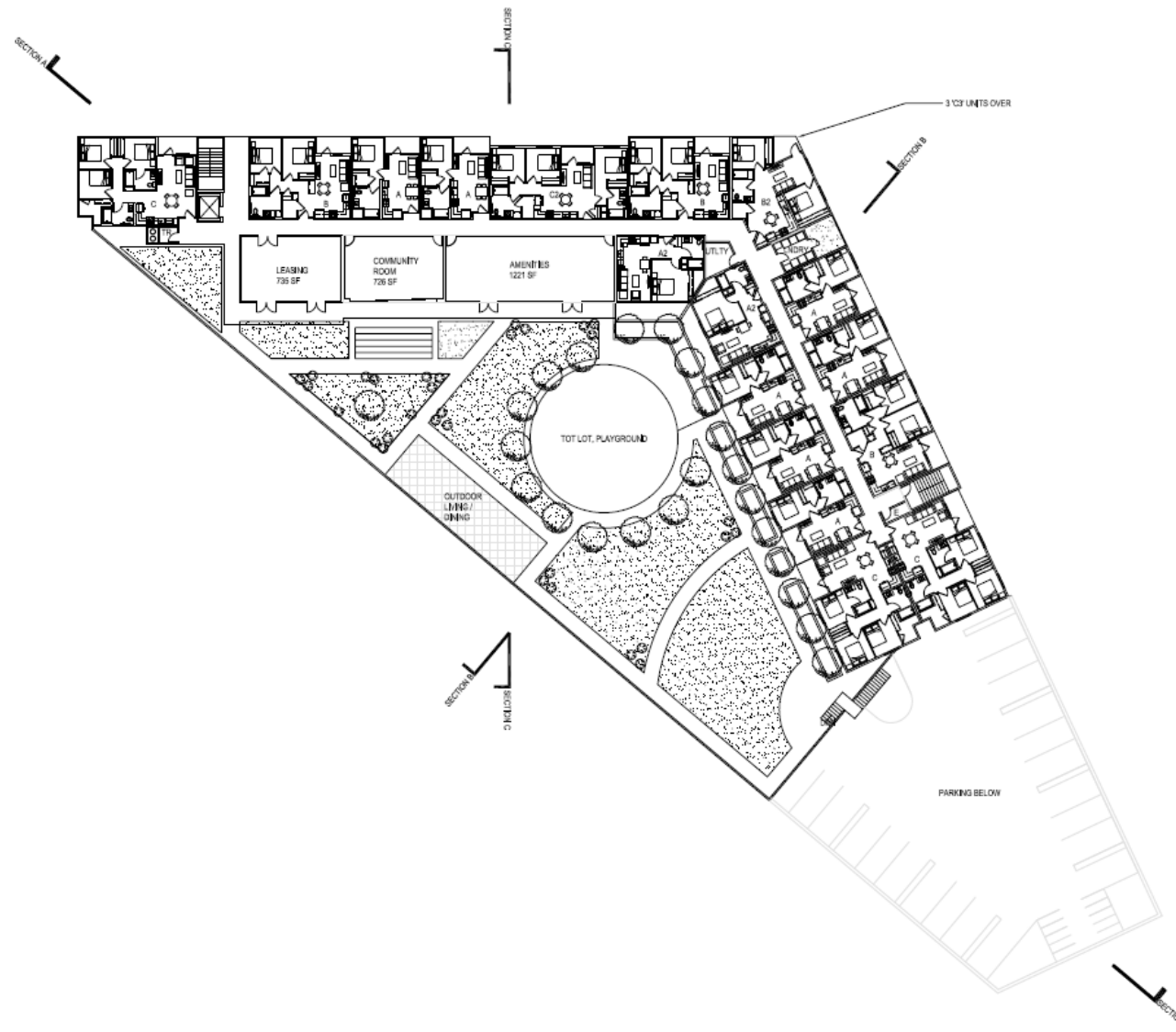
Rapid Bus Routes (235,
280, and 290)
Local Route (20)

Transit Parking:
North Lot – 85
South Lot – 105
Total -- 90

RB Transit Village

- New Construction - 100 Apartments
 - One, Two, & Three bedroom Apartments
 - Families and individuals
 - 30% - 60% AMI
- Onsite Property Management & Resident Service staff
- South Lot Replacement Transit Parking: 85-92 spaces (81-88% ratio)





RANCHO BERNARDO TRANSIT STATION 16785 W BERNARDO DR., SAN DIEGO, CA 92127 AFFIRMED HOUSING

AO ARCHITECTS
144 NORTH ORANGE ST., ORANGE CA 92666
714.639.9660

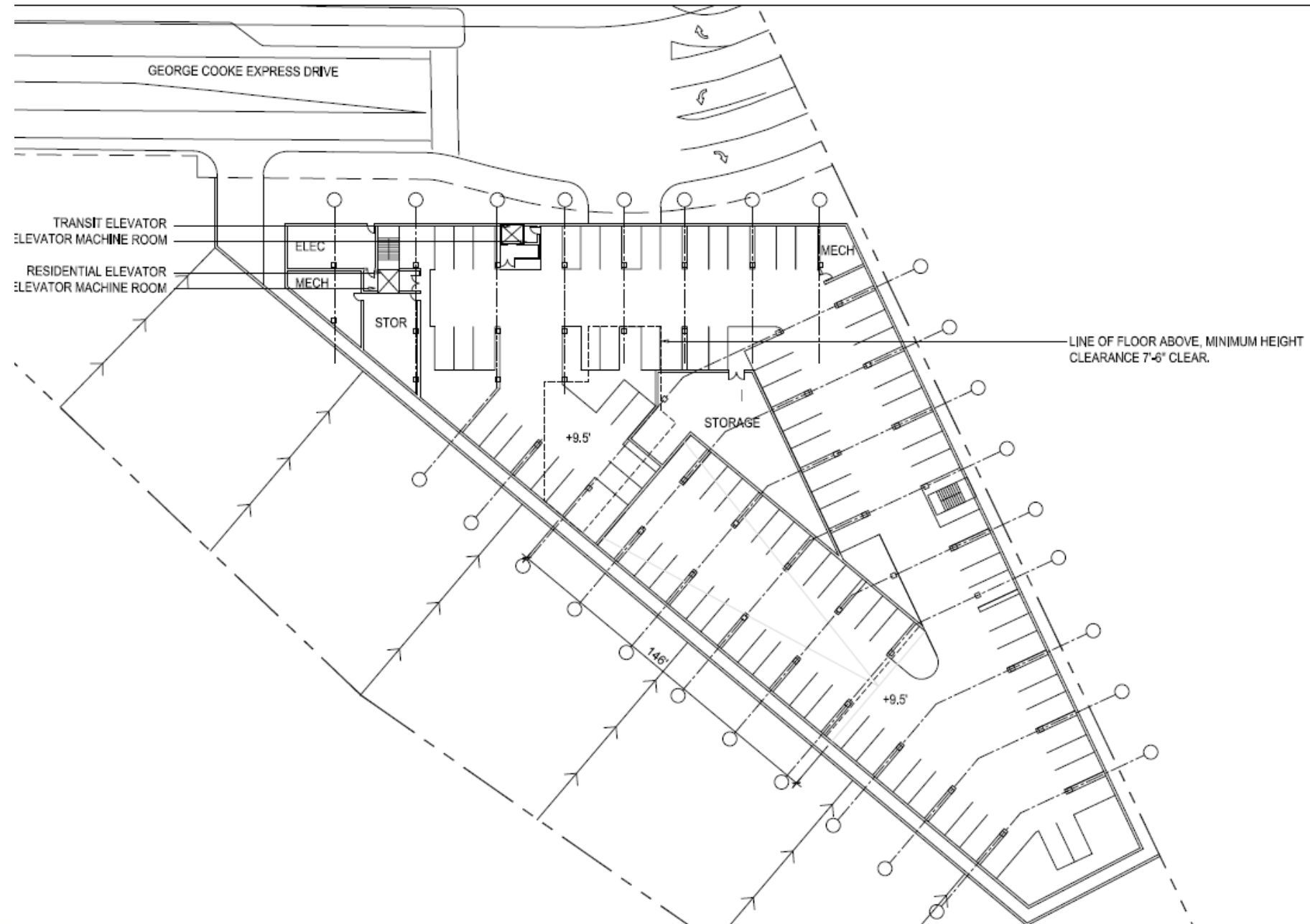


BLDG PLAN -
PODIUM PLAN



A2.2
Job No. 2020-153
Date: 2021-11-14





Rancho Bernardo Transit Village Schedule

- MTS
ENA - 2020
DDA – March 2022
- City of San Diego (5 Million)
Applied – July 2021
Preliminary Award – September 2021
OPA to City Council – March 2022
- Project Based Vouchers (30 Vouchers)
Applied – October 2021
Award – TBD
- County of San Diego Funds
Applied – November 2021
Award – Estimated May/June 2022
- TCAC – 9%
Once fully funded (anticipated July 9% TCAC round 2022)



Questions?

TOD Proposals – Next Steps

- Today's Meeting:
 - Seek Executive Committee feedback/concerns
 - If no major concerns → strive to bring formal Disposition and Development Agreement to Board for approval in March/April 2022
- Tasks for DDA:
 - Complete due diligence review of financial proforma
 - Finalize DDA document
 - Will closely follow Grantville agreement
 - MTS standard terms for affordable housing: minimum occupancy/unit requirements; rent restrictions; replacement parking; design review; 5% of net income as rent



Agenda Item No. 5

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

January 13, 2022

SUBJECT:

REAL ESTATE AND JOINT DEVELOPMENT PROGRAM STATUS UPDATE (KAREN LANDERS)

RECOMMENDATION:

That the Executive Committee receive a report and provide comments.

Budget Impact

None at this time.

DISCUSSION:

Staff will present a briefing on pending and upcoming real estate matters, including joint development projects and negotiations related to potential projects.

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

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

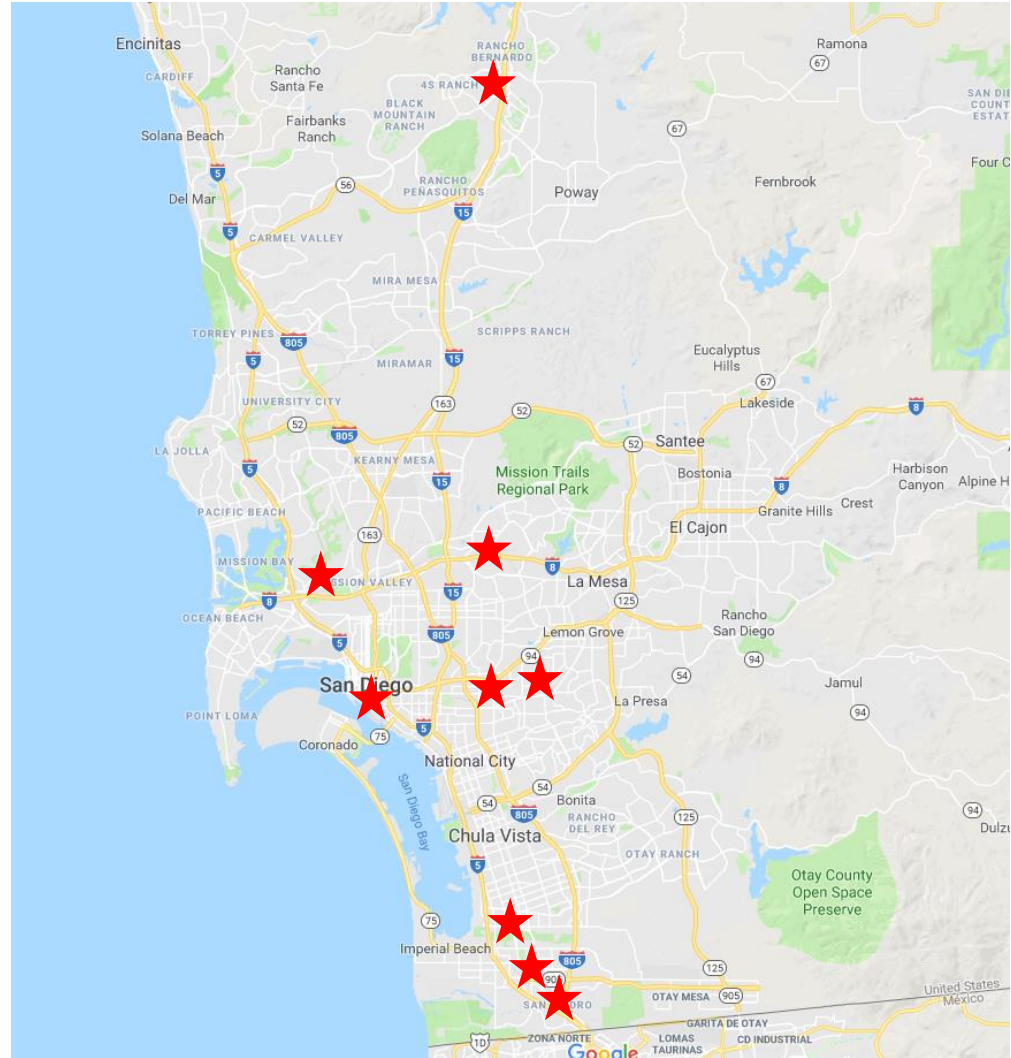


Real Estate and TOD Status Update

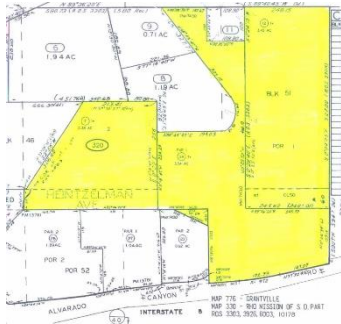
San Diego Metropolitan Transit System
Executive Committee
January 13, 2022

City of San Diego TOD Sites

- **Grantville (9.4 ac)**
 - Greystar - 250 units under construction
 - Affirmed - 126 units expected to start construction February 2022
- **Rancho Bernardo (3.7 ac)**
 - Affirmed Proposal Pending
- **12th and Imperial (0.9 ac)**
 - Staff planning efforts underway
- **Euclid (2.5 ac)**
 - Significant Transit Center – limited space for development
- **47th Street (4 ac)**
- **Palm (4.0 ac)**
 - National Core/Malick DDA approved (390 units)
- ~~**Iris (2.8 ac)**~~
 - Needed for Transit Use
- **Beyer (1.6 ac)**
 - Affirmed Proposal Pending
- **Riverwalk (13.7 ac)**
 - Won't be viable until Riverwalk development constructed



Grantville Trolley Station



- 9.4 acres including transit station & Alvarado Creek
- 246 Total Parking Spaces plus overflow lots
- 5 Bus Bays
- ***MTS TOD Development Approvals - June 2019***

Greystar – UNION GRANTVILLE Market Rate Housing Project

- 250 units; 5 units affordable
 - over 700 residents
- 265 resident parking spaces
- 100 transit replacement parking spaces
- Design preserves Alvarado Creek area for future flood control project; accommodates trails and other future access point
- Ground Lease: April 2021
- Ground Breaking: April 2021
- Expected opening: Fall 2023



Affirmed Housing ShoreLINE Project – 100% affordable housing

- 126 dwelling units
- 66 resident parking spaces
- MTS Received State TOD Grant - *\$1.4M for Trolley Station Improvements*
- Design preserves Alvarado Creek area for future flood control project; accommodates trails and other future access point
- Ground Lease execution – January 2022
- Ground Breaking – February 2022
- Expected opening – September 2023



ShoreLINE

12th & Imperial Transit Center – Triangle Parcels

- MTS owns 2 parcels
 - 1341 Imperial Ave (leased to Ace Parking)
 - 1313 National Ave (leased to Greyhound)
- Staff pursuing grants for potential transit center expansion project
- Design would accommodate future TOD project above or adjacent to expanded transit center
- Would require vacation of city streets and potential land swap or purchase of fee interest in street from City of San Diego
 - Consultants are conducting title research



Palm Avenue Station



PALM CITY VILLAGE Development Approval – October 2021



National CORE – Affordable Housing

- 288 units; <80% AMI– up to 1192 residents
- 3 phases of Development: 102 units, 102 units, 84 units

Malick Infill – Moderate Income Housing

- 102 units; <110% AMI – up to 218 residents

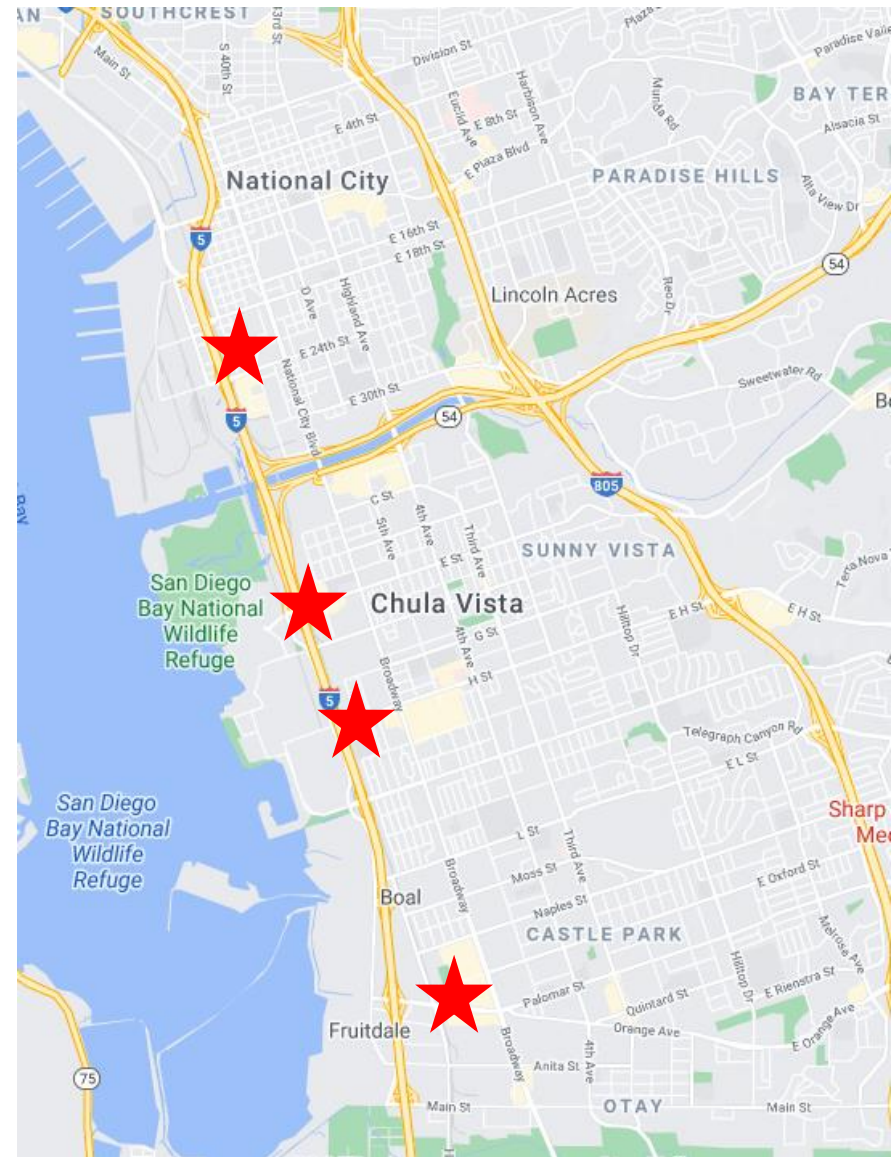
South Bay TOD Sites

National City

- **24th Street (3.6 ac)**
 - Notice of Interest from National CORE/Malick Team

Chula Vista

- **E Street (4.1 ac)**
 - Joint RFP Process with City underway
- **H Street (3.1 ac)**
 - Hold for transit use?
- **Palomar (5.0 ac)**
 - Notice of Interest from National CORE/Malick Team



East County TOD Sites

El Cajon★

- **El Cajon Transit Center**
 - In discussions with city for potential Joint RFP process

La Mesa★

- **70th Street**
- **Spring Street**
 - Notices of Interest from Affirmed and San Diego Interfaith Housing Foundation
- **Amaya**

Lemon Grove★

- **Massachusetts**



Spring Street Station



Spring Street Developer Interest

- Notices of interest from:
 - Affirmed Housing Group
 - San Diego Interfaith Housing Foundation
- Next Steps
 - Determine if any conflicts with draft La Mesa TOD Study
 - Density requirements for TOD
 - Wait until study finished before MTS takes action?
 - Explore options for a joint development team proposal or whether MTS should choose one proposal to pursue

Other Pending Real Estate Transactions

WOODMAN AVE SALE

- Sale of portion of property at 6645 Woodman Ave to CRP Affordable Housing and Community Development LLC
 - TPSS Site on Orange Line (1/2 mi to 62nd St Station)
 - Unused portion of site to be consolidated with neighboring property (6601 Imperial) for Encanto Gateway Project
 - 100% affordable (30%-60% AMI)
 - 65 units



Encanto Gateway

First-Class Apartment Home Community

6601 Imperial Ave., San Diego, 92114



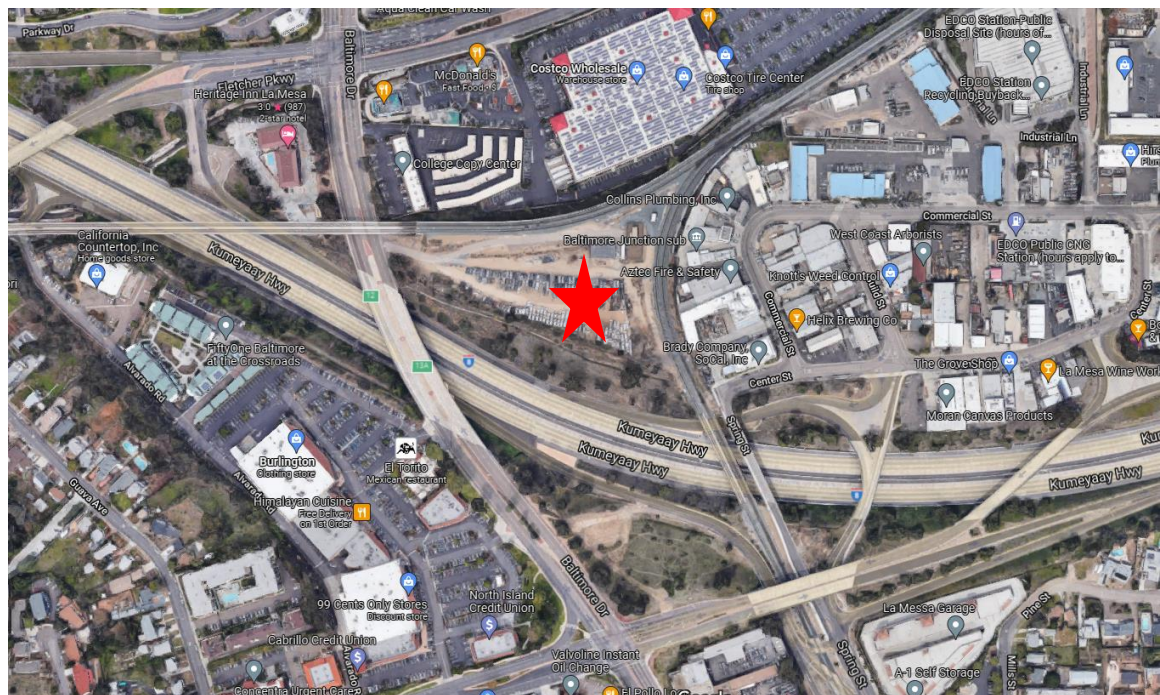
Encanto Gateway

- 1.659 acres, currently improved with vacant buildings and temporary buildings which will be razed and removed.
- The co-developers (National CORE and IAMBK) will be acquiring the site and constructing a total of 65 rental homes with commercial space.
- The apartment home community will be co-owned by IAMBK and National CORE. National CORE will property manage. IAMBK and Hope Through Housing Foundation will provide services to the residents and community.
- National CORE/IAMBK working with MTS to acquire small parcel next to the MTS facility.
- Encanto Gateway will become a catalyst for future high quality development. More roof tops help with more retail.
- Encanto Gateway is a mixed-use development of sufficient magnitude to stimulate redevelopment of underdeveloped properties in the neighborhood.
- 65 first-class apartment homes: 31 (1 bedrooms); 17 (2 bedrooms) and 17 (3 bedrooms) ranging in size from 527 SF to 1,118 SF.
- Designed with Green House Gas reduction in mind. Walkable, pedestrian-oriented. Adjacent to Encanto/62nd St. Trolley Station which provides easy access to major destinations and employment centers via public transit. Close to schools and parks. Multiple mobility options.
- Local jobs/local hiring/local ownership/local co-developer.
- Laundry room, two elevators, on-site community room (2,150 SF), commercial space (4,550 SF) and outside space (3,100 SF).
- Hope Through Housing will help residents with pathways to opportunities. Home-ownership. After school programs.
- High-quality, LEED/Green Point Rated, sustainable development which includes solar water-heating, high-efficiency appliances and fixtures, water-efficient landscaping, etc.

Other Pending Real Estate Transactions

5159 BALTIMORE DRIVE, LA MESA

- Negotiating with DJR COMPANIES, LLC regarding potential mixed use development at site
 - DDA/Ground Lease
 - Reserve easement for TPPS/Access
 - Not “transit oriented” because property is significant distance from MTS transit stations
 - Staff will return to Board in closed session for direction on price and terms of payment



Other Pending Real Estate Transactions

8733 CUYAMACA STREET, SANTEE

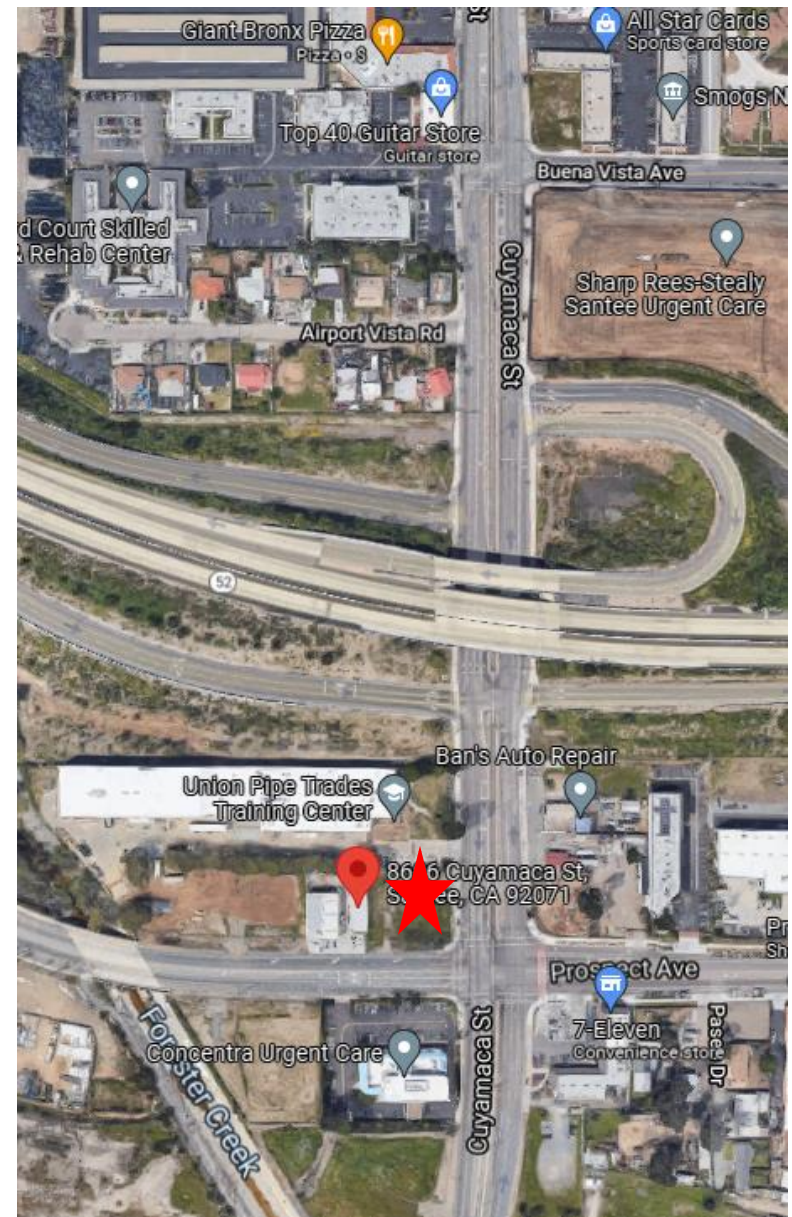
- Sale of surplus property
 - In escrow since June 2021
 - Buyer completing due diligence
 - \$465,000 purchase price
 - Commercially zoned but will include covenant required by AB 1486 (requiring 15% affordable units if more than 10 residential units constructed)



Other Pending Real Estate Transactions

8606 CUYAMACA STREET, SANTEE

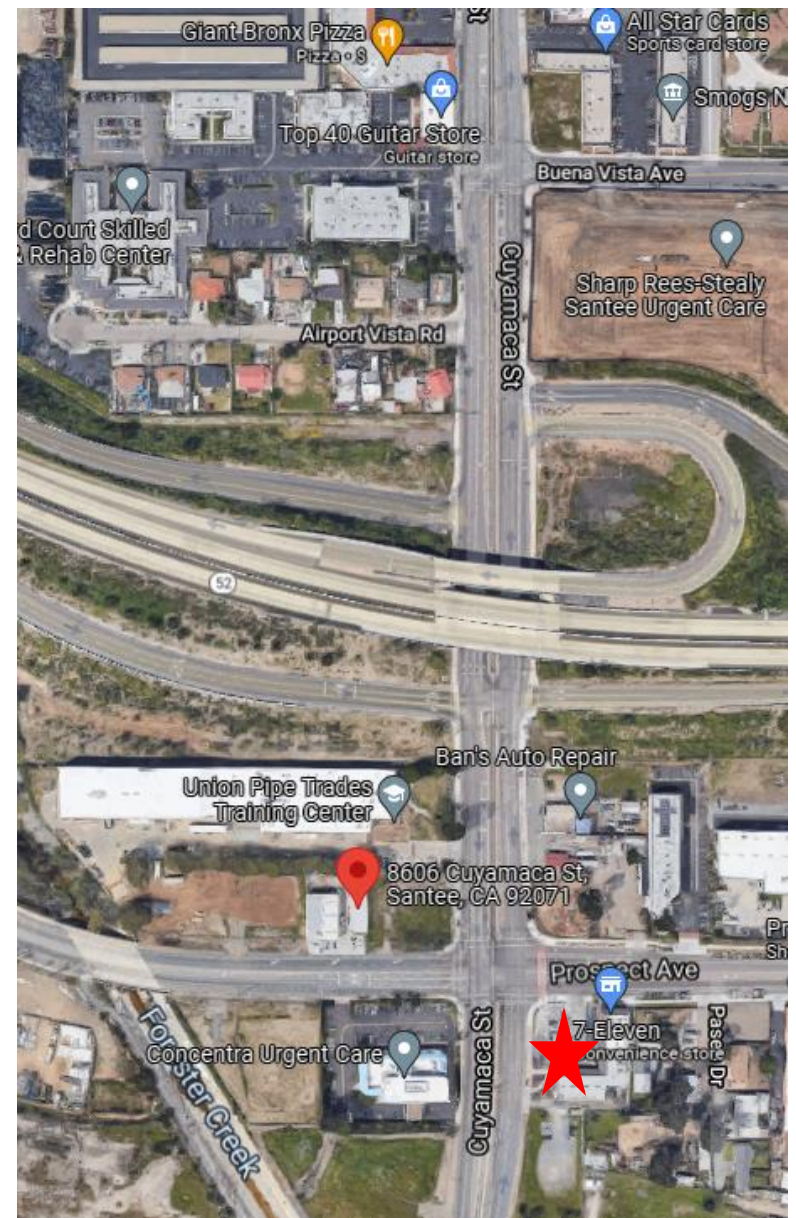
- Two Unsolicited Offers Received
 - Staff reviewing options and will return to EC/Board in closed session for direction
- Commercially zoned but covenant will be required by AB 1486 (requiring 15% affordable units if more than 10 residential units constructed)



Other Pending Real Estate Transactions

9805 PROSPECT AVENUE, SANTEE

- 7-11 shopping center and vacant parking lot next door
- Negotiating with Creighton Companies, LLC
 - Staff reviewing offer and will return to Board in closed session for direction
- Commercially zoned but covenant will be required by AB 1486 (requiring 15% affordable units if more than 10 residential units constructed)



5801-5805 FAIRMOUNT
AVENUE, SAN DIEGO

-
- An aerial photograph of the area around 5801 and 5805 Fairmount Avenue in San Diego. The map shows several key locations: El Dorado Properties, Inc. Property at the top left; Affirmed Zephyr Project (85 units completed 2019 for homeless vets 30-40% AMI) near the center; Site of future affordable housing TOD project (Affirmed "Shoreline" Project) to the right of center; and Site of future student-focused TOD housing project (Greystar) at the top right. Transit features include Grantville Trolley Station, MTS Traction Powered Substation (TPSS), and the MTS Trolley Guideway. Major roads like Alvarado Canyon Rd and Mission Valley Pkwy are visible. A large red star marks the intersection of 5801 and 5805 Fairmount Ave. Red arrows point from each label box to its corresponding location on the map.

Other Pending Real Estate Transactions

1364 PIONEER WAY, EL CAJON

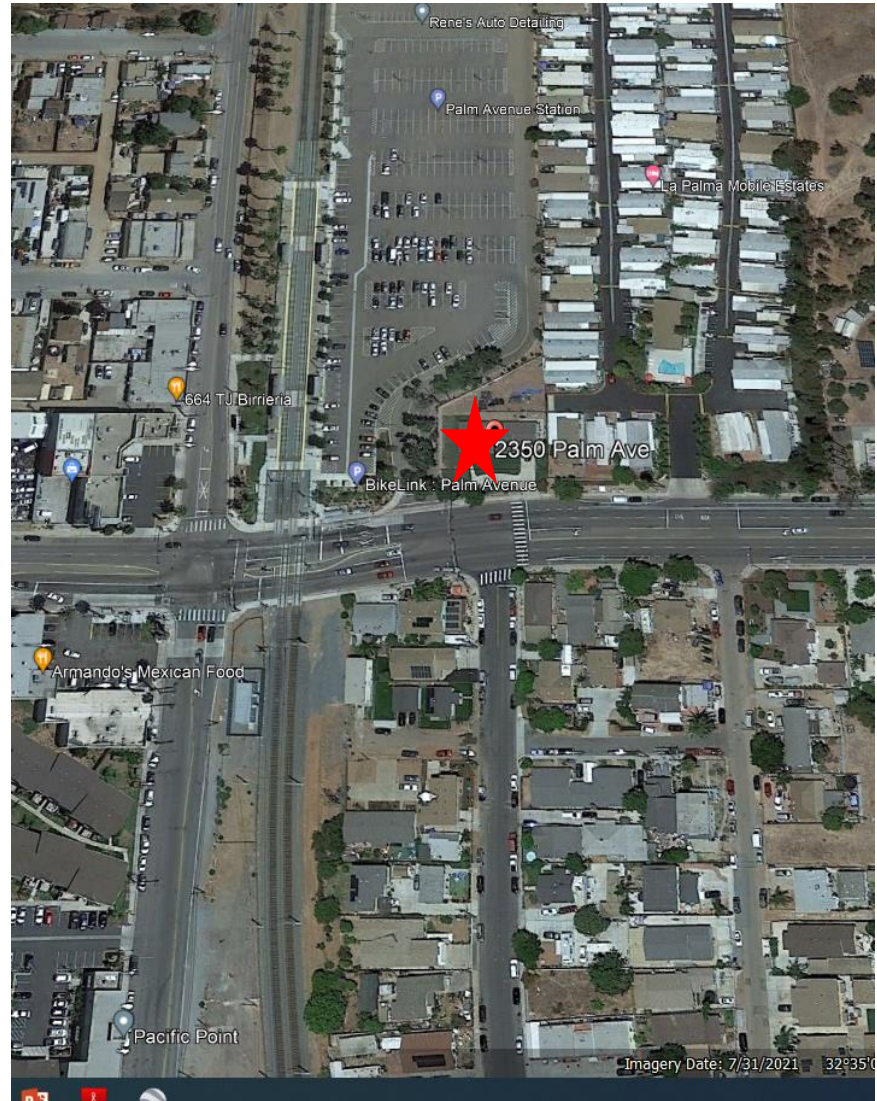
- Private Property Next Door to East County Bus Maintenance Facility
- Negotiating with property owner, Walter E. Fielder, Inc. regarding potential purchase
 - To hold for future expansion (no current project)
 - Staff reviewing appraisal and will return to Board in closed session for direction



Other Pending Real Estate Transactions

2350 PALM AVENUE, SAN DIEGO

- MTS staff is evaluating if we should recommend purchase of property to improve access to Palm Ave Trolley Station, mitigate traffic queues across tracks at Palm/Hollister intersection, and improve circulation for vehicles near transit center
 - Appraisal
 - Make contact with property owner to determine willingness to sell
- Staff will consult with EC/Board in closed session regarding potential price and terms of payment



Questions?



Draft Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

January 20, 2022

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 - December 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.
4. Elect Vice Chair, Chair Pro Tem, and Committee Appointments (Sharon Cooney) Elect
Action would: 1) Elect a Vice Chair and Chair Pro Tem for 2022; and 2) Consider the nominating slate proposed by the Ad Hoc Nominating Committee for the appointment of representatives to MTS committees for 2022 and vote to appoint representatives to those committees.



CONSENT ITEMS

- | | | |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 6. | <u>Authorization of Remote Teleconferenced Meetings</u>
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.” | Approve |
| 7. | <u>Semiannual Uniform Report of Disadvantaged Business Enterprise (DBE) Awards and Payments</u> | Informational |
| 8. | <u>Revisions to San Diego Metropolitan Transit System (MTS) Ordinance No. 11</u>
Action would 1) Adopt the proposed amendments to MTS Ordinance No. 11, “An Ordinance Providing for the Licensing and the Regulating of Transportation Services within the City and the County by the Adoption of a Uniform Paratransit Ordinance”; and 2) Upon adoption of the proposed amendments, grant the Chief Executive Officer (CEO) the discretion to enforce MTS Ordinance No. 11 in its amended form. | Approve |
| 9. | <u>Purchase Four (4) Industrial Battery Powered Scrubbers – Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1611.0-22, with Maintex Inc., for the purchase of four (4) industrial battery powered scrubbers as detailed in the scope of work, in the amount of \$110,939.40. | Approve |
| 10. | <u>Creative Marketing Branding Services – Contract Amendment</u>
Action would 1) Ratify Amendment No. 3 to MTS Doc. No. G2053.3-18 with Civilian, Inc., a Small Business (Civilian) in the amount of \$99,000.00; and 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 4 to MTS Doc. No. G2053.4-18, with Civilian to add additional funds of \$600,000.00 for on-call creatives services and media buy/ad placement. | Approve |
| 11. | <u>First Responder Network Authority (FIRSTNET) Services For Five (5) Years –Amendment No. 2</u> | Approve |
| 12. | <u>Purchase and Delivery of Production Switch Tamper – Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1604.0-22 with Harsco Metro Rail, LLC, in the amount of \$1,456,010.79 for the purchase and delivery of a production switch tamper. | Approve |
| 13. | <u>Massachusetts Upper Parking Lot Paving – Work Order</u>
Action would authorize the Chief Executive Officer (CEO) to execute Work Order MTSJOC275-26 under Job Order Contract (JOC) to MTS Doc. No. | Approve |

PWG275.0-19, with ABC General Contractor, Inc. (ABCGC), in the amount of \$98,656.68 for the mill and overlay of asphalt at the upper Massachusetts Trolley Station parking lot.

14. [On-Call Communication and Low Voltage Wiring Services – Contract Award](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG339.0-22, with Communication Wiring Specialist (CWS), Inc., a Small Business (SB), for On Call Communication and Low Voltage Wiring Service for a five (5) years base term in the amount of \$303,860.00.
15. [Zero-Emission Bus \(ZEB\) Procurement Project: 60-Foot Low-Floor Electric Buses – Contract Amendment \(New Flyer\)](#) Approve
Action would 1) Ratify Amendment No. 1 (Attachment A) to MTS Doc. No. B0722.0-21 with New Flyer for a credit in the amount of (\$728,347.95); and 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. B0722.0-21 (insubstantially the same format as Attachment B) with New Flyer, in the amount of \$822,188.27 per technical specification changes for the twelve (12) 60-foot low-floor electric battery-powered buses.
16. [Rail Replacement - America Plaza and Kettner Grade Crossing - Work Order](#) Approve
Action would 1) Execute Change Order MTS JOC 269-11.04 under Job Order Contract (JOC) to MTS Doc. No. PWG269.0-19, with Herzog Contracting Corp. (Herzog), in the amount of \$92,758.90 for additional labor to notch the rubber rail interface to fit over the direct fixation fasteners; and 2) Execute Change Order MTS JOC 269-11.05 under JOC to MTS Doc. No. PWG269.0-19, with Herzog, in the amount of \$31,180.04 for additional contractor administration overhead due to a two-week delay on owner furnished material.
17. [Provision of HPE Configure to Order \(CTO\) Servers and Support for Closed-Circuit Television \(CCTV\) Video Storage of San Diego Metropolitan Transit System \(MTS\) Server Refresh and Mid-Coast Trolley Project – Purchase Order](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute a Purchase Order with Nth Generation Computing Inc. for the provision of HPE CTO Servers and ongoing support services for CCTV Video Storage of MTS Server Refresh and Mid-Coast Trolley Extension Project in the amount of \$256,048.91.
18. [Establish Automated Clearing House \(ACH\) Debit Bank Checking Account for Workers' Compensation Third Party Administration Services](#) Approve
Action would 1) Authorize the Chief Executive Officer (CEO) to amend the Workers' Compensation Third Party Administrator Contract with CorVel Enterprise Comp, Inc. to set up a separate bank checking account to pay workers' compensation related expenses (CorVel Account); and 2) Waive the application of Board Policy 41 (Signature Authority) for payments made from the CorVel Account.

CLOSED SESSION

24.

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

30. TransNet Revenues, Shortfalls, Proposed Solutions Approve

REPORT ITEMS

45. Bus on Shoulder (BOS) Pilot Project Update (Michael Daney) Informational

46. Operations Budget Status Report for October 2021 (Gordon Meyer) 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: February 10, 2022.

65. Adjournment



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 1/13/2022

Agenda Item No. 6

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

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



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 7

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

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

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

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

I. Goals of MTS's DBE Program

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

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



II. MTS's DBE Triennial Overall Goal for FFY 2019-2021

The DBE regulations require MTS to prepare a DBE Triennial Overall Goal. The DBE Triennial Overall Goal is established upon the number of ready, willing, and able DBE contractors within MTS's geographic market area that are available to bid on MTS's federally assisted procurements (excludes transit vehicle procurements). For the previous triennial reporting period (October 1, 2018, to September 30, 2021), MTS had an aspirational overall goal of **2.9%** DBE participation on federally funded contracts. Our final achievement towards this DBE Overall Goal was **1.24%**, which is described further in Section VIII below.

Please note, procurements awarded effective October 1, 2021 and after will fall in the next triennial period. The *next triennial period* of FFY 2022-2024 (October 1, 2021 to September 30, 2024), MTS's DBE Overall Goal is **6.3%** on federally funded contracts.

III. Participation by certified DBEs

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

- (1) have a majority owner who is **socially and economically disadvantaged** (Native Americans, African Americans, Hispanics, Asian-Pacific, Subcontinent Asian Americans and women are currently presumed to be socially and economically disadvantaged by the DOT);
- (2) the majority owner must have a personal net worth of less than **\$1,320,000**; and
- (3) the business must be a **small business** and, for *most* types of businesses, have average annual gross receipts less than **\$26,290,000**.

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

IV. Race-Neutral Outreach Measures to Increase DBE and SBE Participation

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

To increase DBE participation on MTS's federally assisted procurements, as well as SBE participation on all MTS's contracts, MTS conducts outreach to DBEs and SBEs in an effort to inform them of upcoming MTS procurements. The following are some of the race-neutral measures MTS has implemented:

1. outreach to past and current MBEs, DVBes, WBEs, SBs and LGBTBEs to discuss the benefits of DBE certification and what qualifications are necessary to become DBE certified, as some may already qualify;
2. outreach to past and current DBEs, MBEs, DVBes, WBEs, SBs and LGBTBEs requesting that they register on PlanetBids so they can receive automatic notification of upcoming MTS formal procurements;
3. for small purchase procurements in which MTS must seek out three (3) bids, MTS aims to advertise more of these procurement on PlanetBids so as to increase the potential of DBEs, MBEs, DVBes, WBEs, SBs or LGBTBEs learning of the procurement, if such a contractor is available to perform the work;
4. for small purchase procurements in which MTS must seek out three (3) bids, seeking at least one (1) of those bids from a DBE or SBE, if available; and
5. attend and actively promote small business conferences and programs to alert DBEs, MBEs, DVBes, WBEs, SBs or LGBTBEs of upcoming MTS contracting opportunities and to educate about MTS's procurement and DBE program.

Due to the COVID-19 public health emergency, in-person outreach events have been cancelled until further notice. MTS was able to attend various virtual outreach events (e.g. Caltrans Procurement Fair, San Diego Airport Meet the Primes, San Diego Unified School District Construction Expo).

MTS also continued to attend San Diego Public Agency Consortium bi-monthly meetings, virtually. At these meetings, San Diego County public agencies discussed upcoming planned virtual outreach events amongst the members and best practices regarding their agency's DBE and SB programs.

V. Federally Funded Procurements

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

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

The FTA Semi-Annual Report for April 1, 2021 to September 30, 2021 is the sixth of six reports in the triennial period of FFY 2019-2021.

a. Contracts Awarded

For this reporting period, MTS **did not achieve** its DBE Triennial Overall Goal of 2.9% for contracts awarded. MTS achieved **0.20%** DBE participation for contracts awarded, as shown below in Table 1.

Table 1: Federal Contracts Awarded

Federal Contract Awards/Commitments				Goal
REPORTING PERIOD	Total Federal \$\$	DBE \$\$	DBE %	vs 2.9%
Federal Funds: Apr 1 2021 to Sept 30 2021	\$14,414,238.39	\$28,380.72	0.20%	-2.70%

The main reasons for why MTS was not able to meet its DBE Triennial Overall Goal for contracts awarded was due to the award of several large contracts to non-DBE firms. The most significant were:

- Contract award to **Calpine Energy Solutions**, a **non-DBE**, for energy commodity purchases and management fees in Fiscal Year 2022, in the amount of \$8,303,000.00 (96% federally funded). Please note, this project was not included in our FFY 2019-2021 DBE Overall Goal Methodology. At the time of developing MTS's FFY 2019-2021 DBE Overall Goal Methodology, electricity costs were not federally funded. Now with CARES/ARP stimulus funds, MTS includes electricity costs in our stimulus fund draw calculations.
- A five (5) year base contract award to **Cummins Pacific**, a **non-DBE**, for bus engine overhaul services, in the amount of \$4,573,884.05 (80% federally funded). Please note, this project was not included in MTS's FFY 2019-2021 DBE Overall Goal Methodology. At the time of developing MTS's FFY 2019-2021 DBE Overall Goal Methodology, it was anticipated that MTS would exercise remaining option years. Instead, staff decided to go out to bid for a new base contract to ensure that if future federal funds were to be used to pay for this contract, that the new contract included all required federal contract clauses and bid forms.
- A five (5) year base contract award to **Prudential Overall Supply**, a **non-DBE**, for uniform rental services, in the amount of \$783,884.36 (80% federally funded). This project was included in MTS's FFY 2019-2021 DBE Overall Goal Methodology. Request for Proposal (RFP) process was used. Three (3) proposals were received, none of which were from a DBE. Awarded to the firm with the best value proposal, Prudential Overall Supply.

These large federally funded contracts substantially dilute any potential DBE participation that could have been achieved.

b. Contracts Open

For this reporting period, MTS **did not achieve** its DBE Triennial Overall Goal of 2.9% for contracts opened. MTS achieved **2.61%** DBE participation for contracts open, as shown below in Table 2.

Table 2: Federal Contracts Open

Federal Contracts Open/Payments During Reporting Period				Goal
REPORTING PERIOD	Total Federal \$\$	DBE \$\$	DBE %	vs 2.9%
Federal Funds: Apr 1 2021 to Sept 30 2021	\$32,139,822.79	\$838,061.58	2.61%	-0.29%

The main reason why MTS was not able to meet its DBE Triennial Overall Goal for contracts opened was due to payments to **Transdev**, a **non-DBE** firm, for fixed route services in the amount of \$32,348,836.72 (60% federally funded) paid between April 1st to September 30th, 2021. This Transdev contract is being paid with more federal grant dollars than in previous reporting periods. These large payments to Transdev is diluting the significant dollars being paid out to **NMS Management**, a **DBE** firm, for janitorial and anti-graffiti services, in the amount of \$1,028,097.53 (80% federally funded), paid between April 1st to September 30th, 2021.

c. Contracts Completed

For this reporting period, MTS **did achieve** its DBE Triennial Overall Goal of 2.9% for contracts completed. MTS achieved **8.42%** DBE participation for contracts completed, as shown below in Table 3.

Table 3: Federal Contracts Completed

Federal Contracts Completed/Total Payments				Goal
REPORTING PERIOD	Total Federal \$\$	DBE \$\$	DBE %	vs 2.9%
Federal Funds: Apr 1 2021 to Sept 30 2021	\$582,079.76	\$49,031.77	8.42%	+5.59%

The main reason why MTS was able to meet its DBE Triennial Overall Goal for contracts completed was due to closing out a contract for VMS Dual Monitors to **My Electrician**, a **DBE** firm, for \$448,711.87 (7% federally funded). Please note, MTS decides contract performance periods based on MTS business and operational needs. Every reporting period will differ on the number, type and dollar amount of contracts closed out.

VII. Summary of Annual Achievement Toward Meeting MTS's DBE Triennial Overall Goal for FFY 2021

The FTA requires a Shortfall Analysis and Corrective Action Plan whenever the DBE Triennial Overall Goal is not met within a FFY. MTS **did not achieve** its DBE Triennial Overall Goal of 2.9% for FFY 2021. MTS achieved only **0.04%** DBE participation for FFY 2021, as shown below in Table 4.

Table 4: Federal Contracts Awarded in FFY 2021

DBE Achievement for FFY 2021					
FFY	Reporting Period	Total Fed Awarded	Total DBE Awarded	DBE %	Shortfall %
FFY 2021	Oct 1, 2020 to Mar 31, 2021	\$182,514,682.65	\$45,759.00	0.03%	
FFY 2021	Apr 1, 2021 to Sept 30, 2021	\$14,414,238.39	\$28,380.72	0.20%	
TOTAL FFY 2021		\$196,928,921.04	\$74,139.72	0.04%	-2.86%

On December 23, 2020, MTS submitted to the FTA a Shortfall Analysis and Corrective Action Plan that explains the reasons for the shortfall, as well as what steps MTS will be taking that are aimed to increase DBE participation in the future. The Shortfall Analysis and Corrective Action Plan is enclosed (Attachment A). Please note, there is an error within the dollar amounts listed on the Shortfall Analysis and Corrective Action Plan, as it relates to MTS's DBE Semi-Annual Report for Apr 1, 2021 to Sept 30, 2021. The FTA has been alerted of this error.

As discussed in more detail in the enclosed Shortfall Analysis and Corrective Action Plan, MTS plans to complete the following corrective actions in the coming FFY: creating a digital MTS DBE Program Pamphlet, in both English and Spanish, that explains how to work with MTS and information on MTS's DBE program, that will be posted on MTS's Website and be provided to vendors and other public agencies; include a link to City of San Diego's Business Relief and Support Webpage on MTS's DBE Webpage as an additional resource for DBE and SB firms looking for financial assistance; developing monitoring mechanisms and ways to better track data to determine if MTS's outreach measures are being implemented as trained and if they are effective at assisting DBEs and SBs.

MTS also plans to use a Small Business Set Aside on more procurements moving forward. MTS hopes to implement a Small Business Set Aside on projects where there is many known DBE and SB firms available to perform the work, with a particular emphasis on certain preventative maintenance type services.

VIII. Summary of Triennial Achievement Toward Meeting MTS's DBE Triennial Overall Goal for FFY 2019 – FFY 2021

While the specific DBE participation rate for each six (6) month reporting period may fluctuate, the goal of the MTS DBE program is to achieve the 2.9% DBE Triennial Overall Goal as an average for the FFY 2019-2021 triennial period. MTS achieved **1.24%** toward its DBE Triennial Overall Goal, as shown below in Table 5.

Table 5: Federal Contracts Awarded in FFY 2019-2021

DBE Achievement for FFY 2019 - FFY 2021				
FFY	Reporting Period	Total Fed Awarded	Total DBE Awarded	DBE %
FFY 2019	Oct 1 18 to Mar 31 19	\$8,603,476.55	\$204,022.26	2.37%
FFY 2019	April 1 19 to Sept 30 19	\$9,005,016.32	\$3,884,727.66	43.14%
FFY 2020	Oct 1 19 to Mar 31 20	\$7,065,591.07	\$84,861.22	1.20%
FFY 2020	April 1 20 to Sept 30 20	\$130,881,224.89	\$135,337.29	0.10%
FFY 2021	Oct 1 20 to Mar 31 21	\$182,514,682.65	\$45,759.00	0.03%
FFY 2021	April 1 21 to Sept 30 21	\$14,414,238.39	\$28,380.72	0.20%
Achievement Toward Meeting FFY 2019-2021 DBE Triennial Overall Goal of 2.9% (FFY 2019-2021 Total DBE Awarded ÷ FFY 2019-2021 Total Fed Awarded)		COMPLETED: 1.24% Achieved 1.24% towards DBE Overall Triennial Goal of 2.9%		

The main reason why MTS did not meet its 2.9% Overall Goal over the entire triennial period was because of two (2) large contract awards for paratransit services and fixed route services. If not for these two (2) large contract awards, MTS would have exceeded its DBE Overall Goal of 2.9% for FFY 2019-2021. For reference purposes only, if the total federal dollar value of these two (2) contracts were removed from Table 2 (a total of \$298,029,603), MTS would have achieved 8.05% towards its FFY 2019-2021 DBE Overall Goal of 2.9%.

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

Although MTS may not count participation of MBE, DVBE, WBE, SB and LGBTBE (collectively referred to as SBEs) towards achievement of its DBE Overall Triennial Goal, MTS does record the participation of these businesses to gauge the success of its program to foster small business participation. MTS encourages the participation of DBEs and SBEs on all of its contracts, no matter the funding source.

To highlight just a couple of the many contracts awarded to a SBE firm this reporting period is a contract to **Inter-con Security Systems**, a **MBE** firm, for contracted security services, in the amount of \$38,438,349.00 (100% locally funded); and a contract to **Veterans Engineering Services**, a **DVBE** firm, for grade crossing improvements, in the amount of \$2,358,317.36 (100% federally funded).

MTS's DBE and SBE participation rates for the reporting period, *using both local and federal funds*, are included below in Table 6.

Table 6: All Contracts Awarded

All Contract Awards/Commitments (All Funding Sources)					
REPORTING PERIOD	Total \$\$	DBE \$\$	DBE %	SBE \$\$ (MBE, DVBE, WBE, SB and LGBTBE)	SBE %
Total Funds: Apr 1 2021 to Sept 30 2021	\$96,111,004.32	\$461,370.54	0.48%	\$44,133,244.12	45.92%

To compare MTS's current achievements with past reporting periods, enclosed is a History of Semi-Annual Reports (Attachment B).

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

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

Attachments: A. Shortfall Analysis and Corrective Action Plan
B. History of Semi-Annual DBE Reports

MTS History of DBE Semi Annual Reports

Att. A, AI 7, 01/20/2022

Contract Awards/Commitments*							
	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>TOTAL DOLLARS AWARDED (fed & local)</u>	<u>Total DBE \$\$</u>	<u>Total DBE %</u>	<u>Total SBE \$\$</u>	<u>Total SBE %</u>
FFY16	3.75%	Oct 1 15 to Mar 31 16	\$ 63,883,438.52	\$ 298,902.02	0.47%	\$ 2,929,504.04	4.59%
		Apr 1 16 to Sept 30 16	\$ 32,178,592.14	\$ 976,115.34	3.03%	\$ 996,434.97	3.10%
FFY17**		Oct 1 16 to Mar 31 17	\$ 92,516,929.91	\$ 5,611,166.70	6.07%	\$ 3,735,641.71	4.04%
		Apr 1 17 to Sept 30 17	\$ 40,939,010.42	\$ 478,288.92	1.17%	\$ 1,622,764.06	3.96%
FFY18		Oct 1 17 to Mar 31 18	\$ 31,874,559.08	\$ 754,167.60	2.37%	\$ 3,002,750.48	9.42%
		Apr 1 18 to Sept 30 18	\$ 68,024,202.91	\$ 1,725,734.24	2.54%	\$ 4,982,014.37	7.32%
FFY16-18	3.75%	Oct 1, 2015 thru Sept 30, 2018 (6 semi-annual reports)	\$ 329,416,732.98	\$ 9,844,374.82	2.99%	\$ 17,269,109.63	5.24%
	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Federal \$\$</u>	<u>Federal DBE \$\$</u>	<u>Federal DBE %</u>	<u>Federal SBE \$\$</u>	<u>Federal SBE %</u>
FFY16	3.75%	Oct 1 15 to Mar 31 16	\$ 4,094,298.13	\$ 11,859.89	0.29%	\$ 246,645.99	6.02%
		Apr 1 16 to Sept 30 16	\$ 6,418,545.41	\$ 255,760.97	3.98%	\$ 148,325.08	2.31%
FFY17**		Oct 1 16 to Mar 31 17	\$ 19,827,518.60	\$ 3,781,098.94	19.07%	\$ 196,188.57	0.99%
		Apr 1 17 to Sept 30 17	\$ 3,326,175.53	\$ 31,444.62	0.95%	\$ 405,594.52	12.19%
FFY18		Oct 1 17 to Mar 31 18	\$ 5,888,603.26	\$ 107,876.47	1.83%	\$ 716,139.92	12.16%
		Apr 1 18 to Sept 30 18	\$ 5,453,720.86	\$ 977,533.90	17.92%	\$ 267,303.01	4.90%
FFY16-18	3.75%	Oct 1, 2015 thru Sept 30, 2018 (6 semi-annual reports)	\$ 45,008,861.79	\$ 5,165,574.79	11.48%	\$ 1,980,197.09	4.40%
	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Local \$\$</u>	<u>Local DBE \$\$</u>	<u>Local DBE %</u>	<u>Local SBE \$</u>	<u>LOCAL SBE %</u>
FFY16	3.75%	Oct 1 15 to Mar 31 16	\$ 59,789,140.39	\$ 287,042.13	0.48%	\$ 2,682,858.05	4.49%
		Apr 1 16 to Sept 30 16	\$ 25,760,046.73	\$ 720,354.37	2.80%	\$ 848,109.89	3.29%
FFY17**		Oct 1 16 to Mar 31 17	\$ 72,689,411.31	\$ 1,830,067.76	2.52%	\$ 3,539,453.14	4.87%
		Apr 1 17 to Sept 30 17	\$ 37,612,834.89	\$ 446,844.30	1.19%	\$ 1,217,169.54	3.24%
FFY18		Oct 1 17 to Mar 31 18	\$ 25,985,955.82	\$ 646,291.13	2.49%	\$ 2,286,610.56	8.80%
		Apr 1 18 to Sept 30 18	\$ 62,570,482.05	\$ 748,200.34	1.20%	\$ 4,714,711.36	7.54%
FFY16-18	3.75%	Oct 1, 2015 thru Sept 30, 2018 (6 semi-annual reports)	\$284,407,871.19	\$ 4,678,800.03	1.65%	\$ 15,288,912.54	5.38%

	<u>Federal</u> <u>DBE</u> <u>GOAL</u>	<u>REPORTING PERIOD</u>	<u>TOTAL DOLLARS</u> <u>AWARDED (fed & local)</u>	<u>Total DBE \$\$</u>	<u>Total DBE</u> <u>%</u>	Att. A, At 7, 01/20/2022 <u>Total SBE \$\$</u>	<u>Total SBE</u> <u>%</u>
FFY19	2.9%	Oct 1 18 to Mar 31 19	\$ 73,790,097.91	\$ 606,817.10	0.82%	\$ 5,715,068.36	7.75%
		Apr 1 19 to Sept 30 19	\$ 40,005,268.47	\$ 6,243,719.33	15.61%	\$ 1,796,894.06	4.49%
FFY20		Oct 1 19 to Mar 31 20	\$ 52,022,126.82	\$ 4,330,163.32	8.32%	\$ 4,831,911.79	9.29%
		Apr 1 20 to Sept 30 20	\$ 230,588,830.67	\$ 636,712.08	0.28%	\$ 2,322,909.77	1.01%
		<i>Apr 1 20 to Sept 30 20 w/o First Transit contract (*for reference only*)</i>	\$ 47,280,121.00	\$ 636,712.08	1.35%	\$ 2,322,909.77	4.91%
FFY21		Oct 1 20 to Mar 31 21	\$ 546,248,722.19	\$ 428,054.08	0.08%	\$ 5,511,166.79	1.01%
		<i>Oct 1 20 to Mar 31 21 w/o Transdev contract (*for reference only*)</i>	\$ 39,863,273.69	\$ 428,054.08	1.07%	\$ 5,511,166.79	13.83%
		Apr 1 21 to Sept 30 21	\$ 96,111,004.32	\$ 461,370.54	0.48%	\$ 44,133,244.12	45.92%
	<u>Federal</u> <u>DBE</u> <u>GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Federal \$\$</u>	<u>Federal DBE \$\$</u>	<u>Federal</u> <u>DBE %</u>	<u>Federal SBE \$\$</u>	<u>Federal</u> <u>SBE %</u>
FFY19	2.9%	Oct 1 18 to Mar 31 19	\$ 8,603,476.55	\$ 204,022.26	2.37%	\$ 182,110.81	2.12%
		Apr 1 19 to Sept 30 19	\$ 9,005,016.32	\$ 3,884,727.66	43.14%	\$ 644,406.58	7.16%
FFY20		Oct 1 19 to Mar 31 20	\$ 7,065,591.07	\$ 84,861.22	1.20%	\$ 1,309,065.78	18.53%
		Apr 1 20 to Sept 30 20	\$ 130,881,224.89	\$ 135,337.29	0.10%	\$ 242,071.52	0.18%
		<i>Apr 1 20 to Sept 30 20 w/o First Transit contract (*for reference only*)</i>	\$ 14,306,408.31	\$ 135,337.29	0.95%	\$ 242,071.52	1.69%
FFY21		Oct 1 20 to Mar 31 21	\$ 182,514,682.65	\$ 45,759.00	0.03%	\$ 369,213.11	0.20%
		<i>Oct 1 20 to Mar 31 21 w/o Transdev contract (*for reference only*)</i>	\$ 1,059,896.95	\$ 45,759.00	4.32%	\$ 369,213.11	34.83%
		Apr 1 21 to Sept 30 21	\$ 14,414,238.39	\$ 28,380.72	0.20%	\$ 160,846.69	1.12%

	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Local \$\$</u>	<u>Local DBE \$\$</u>	<u>Local DBE %</u>	Att. A, AI 7, 01/20/2022 <u>Local SBE \$</u>	<u>LOCAL SBE %</u>
FFY19	2.9%	Oct 1 18 to Mar 31 19	\$ 65,186,621.36	\$ 402,794.84	0.62%	\$ 5,532,957.55	8.49%
		Apr 1 19 to Sept 30 19	\$ 31,000,252.15	\$ 2,358,991.67	7.61%	\$ 1,152,487.48	3.72%
FFY20		Oct 1 19 to Mar 31 20	\$ 44,956,535.75	\$ 4,245,302.10	9.44%	\$ 3,522,846.01	7.84%
		Apr 1 20 to Sept 30 20	\$ 99,707,605.78	\$ 501,374.79	0.50%	\$ 2,080,838.25	2.09%
		<i>Apr 1 20 to Sept 30 20 w/o</i>	\$ 32,973,712.69	\$ 501,374.79	1.52%	\$ 2,080,838.25	6.31%
FFY21		Oct 1 20 to Mar 31 21	\$ 363,734,039.54	\$ 382,295.08	0.11%	\$ 5,141,953.68	1.41%
		<i>Oct 1 20 to Mar 31 21</i>	\$ 38,803,376.74	\$ 382,295.08	0.99%	\$ 5,141,953.68	13.25%
		Apr 1 21 to Sept 30 21	\$ 81,696,765.93	\$ 432,989.82	0.53%	\$ 43,972,397.43	53.82%
	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>TOTAL DOLLARS AWARDED (fed & local)</u>	<u>Total DBE \$\$</u>	<u>Total DBE %</u>	<u>Total SBE \$\$</u>	<u>Total SBE %</u>
FFY19-21	2.9%	Oct 1, 2018 thru Sept 30, 2021 (6 semi-annual reports)	\$ 1,038,766,050.38	\$ 12,706,836.45	1.22%	\$ 64,311,194.88	6.19%
		<i>Oct 1, 2018 thru Sept 30, 2021 (6 semi-annual reports) w/o First Transit or Transdev contract (*for reference only*)</i>	\$ 349,071,892.21	\$ 12,706,836.45	3.64%	\$ 64,311,194.88	18.42%
	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Federal \$\$</u>	<u>Federal DBE \$\$</u>	<u>Federal DBE %</u>	<u>Federal SBE \$\$</u>	<u>Federal SBE %</u>
FFY19-21	2.9%	Oct 1, 2018 thru Sept 30, 2021 (6 semi-annual reports)	\$ 352,484,229.87	\$ 4,399,088.15	1.24%	\$ 3,459,508.16	0.82%
		<i>Oct 1, 2018 thru Sept 30, 2021 (6 semi-annual reports) w/o First Transit or Transdev contract (*for reference only*)</i>	\$ 54,454,627.59	\$ 4,399,088.15	8.05%	\$ 3,459,508.16	5.34%

	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Local \$\$</u>	<u>Local DBE \$\$</u>	<u>Local DBE %</u>	Att. A, AI 7, 01/20/2022 <u>Local SBE \$</u>	<u>LOCAL SBE %</u>
FFY19-21	2.9%	Oct 1, 2018 thru Sept 30, 2021 (6 semi-annual reports)	\$ 686,281,820.51	\$ 8,307,748.30	1.21%	\$ 60,851,686.72	8.95%
		Oct 1, 2018 thru Sept 30, 2021 (6 semi-annual reports) w/o First Transit or Transdev contract (*for reference only*)	\$ 294,617,264.62	\$ 8,307,748.30	2.83%	\$ 60,851,686.72	20.84%
	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>TOTAL DOLLARS AWARDED (fed & local)</u>	<u>Total DBE \$\$</u>	<u>Total DBE %</u>	<u>Total SBE \$\$</u>	<u>Total SBE %</u>
FFY22	6.30%	Oct 1 21 to Mar 31 22 Apr 1 22 to Sept 30 22	In Progress				
FFY23		Oct 1 22 to Mar 31 23 Apr 1 23 to Sept 30 23					
FFY24		Oct 1 23 to Mar 31 24 Apr 1 24 to Sept 30 24					
FFY22-24	6.30%	Oct 1, 2021 thru Sept 30, 2024 (6 semi-annual reports <i>IN PROGRESS</i>)	\$ -	\$ -		\$ -	

	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Federal \$\$</u>	<u>Federal DBE \$\$</u>	<u>Federal DBE %</u>	Att. A, AI 7, 01/20/2022 <u>Federal SBE \$\$</u>	<u>Federal SBE %</u>
FFY22	6.30%	Oct 1 21 to Mar 31 22 Apr 1 22 to Sept 30 22	<i>In Progress</i>				
FFY23		Oct 1 22 to Mar 31 23 Apr 1 23 to Sept 30 23					
FFY24		Oct 1 23 to Mar 31 24 Apr 1 24 to Sept 30 24					
FFY22-24		Oct 1, 2021 thru Sept 30, 2024 (6 semi-annual reports <i>IN PROGRESS</i>)					
	<u>Federal DBE GOAL</u>	<u>REPORTING PERIOD</u>	<u>Total Local \$\$</u>	<u>Local DBE \$\$</u>	<u>Local DBE %</u>	<u>Local SBE \$</u>	<u>LOCAL SBE %</u>
FFY22	6.30%	Oct 1 21 to Mar 31 22 Apr 1 22 to Sept 30 22	<i>In Progress</i>				
FFY23		Oct 1 22 to Mar 31 23 Apr 1 23 to Sept 30 23					
FFY24		Oct 1 23 to Mar 31 24 Apr 1 24 to Sept 30 24					
FFY22-24		Oct 1, 2021 thru Sept 30,	\$ -	\$ -		\$ -	

***Transit Vehicle Procurements (buses, trolleys) from Transit Vehicle Manufacturers (TVM) are not included in this Report per DOT DBE Regulations. TVMs have their own DBE Program, Goals and Reporting requirements. Inventory procurements are also not included. Only at time an inventory item is issued from store room will the federal/local breakdown be known, not at the time of purchase. ***



Metropolitan
Transit
System

Att. B, AI 7, 01/20/2022

December 23, 2021

Federal Transit Administration (FTA)

FTAShortfallAnalyses@dot.gov

Re: SHORTFALL ANALYSIS AND CORRECTIVE ACTION PLAN - FEDERAL FISCAL YEAR (FFY) 2021

To whom it may concern:

As one of the nation's 50 largest transit agencies, San Diego Metropolitan Transit System (MTS) must submit a shortfall analysis and corrective action plan within 90 days of the end of the FFY (i.e. December 29, 2021) if the awards and commitments shown on MTS's Uniform Report at the end of any FFY are less than the overall goal applicable to that FFY.

I. Race-Neutral DBE Program

MTS operates a strictly race-neutral DBE program and only uses race-neutral measures to increase DBE participation. MTS's FTA Disadvantaged Business Enterprise (DBE) Triennial Overall Goal for FFY 2019 – 2021 (October 1, 2018 – September 30, 2021) was 2.9%. MTS's DBE Triennial Overall Goal of 2.9% includes a 100% race-neutral component and 0% race-conscious component¹.

II. Shortfall Percentage for FFY 2021

To determine the DBE percentage of awarded contracts for FFY 2021 (October 1, 2020 – September 30, 2021), MTS divided DBE Awards and Commitments by the total Awards and Commitments made to all contractors in FFY 2021 (using the June 1, 2021 and December 1, 2021 DBE Semi-Annual Uniform Reports).

Total federal dollars awarded to a DBE firm for FFY 2021 was \$90,140. Total federal awards and commitments to all contractors for FFY 2021 was \$197,466,881. Therefore, MTS's percentage of awarded contracts to DBEs for FFY 2021 was 0.05%, less than MTS's DBE Triennial Overall Goal of 2.9%. As shown in Table 1, the difference between MTS's DBE Triennial Overall Goal and the DBE Awards and Commitments for FFY 2021 was a 2.85% shortfall.

¹ MTS's DBE Triennial Overall Goal for FFY 2022-2024 is 6.3%, which includes a 100% race-neutral component.



Table 1: FFY 2021 Contract Awards/Commitments

Reporting Period	Total Federal \$	Total DBE \$	DBE %	Shortfall %
Oct 1, 2020 to Mar 31, 2021	\$182,514,683	\$45,759	0.03%	
Apr 1, 2021 to Sept 30, 2021	\$14,952,198	\$44,381	0.30%	
TOTAL FFY 2021	\$197,466,881	\$90,140	0.05%	-2.85%

III. Specific Reasons for the Shortfall in FFY 2021

The reasons for the shortfall between MTS's DBE Triennial Overall Goal and the Awards and Commitments obtained in FFY 2021 are described below.

A. Large Contract Award for Fixed Routed Bus Services

MTS awarded a large, six (6) year base contract for fixed route bus services to Transdev, a non-DBE, in the amount of \$506,385,449 (36% federally funded). This project was not included in MTS's DBE Overall Triennial Goal. At the time of developing the Overall Goal in 2018, it was anticipated that MTS would exercise existing option years available on MTS's previous contract for fixed route bus services. However, staff later decided it would be in MTS's best interest to procure a new contract instead of executing remaining option years.

Since this resulted in substantially more federal dollars being awarded than anticipated when developing the Overall Goal, it made MTS's ability to meet its Overall Goal of 2.9% significantly more difficult. This large contract substantially dilutes any potential DBE participation that could have been achieved.

There is also limited DBE potential within this contract because it primarily pays for labor costs (i.e. bus operator and other administrative personnel costs). In addition, due to the specifications needed for these contracts, there are no ready, willing and able DBEs available that perform these specific services.

B. Overall Goal is a Triennial Goal, Not an Annual Goal

MTS's DBE Triennial Overall Goal is an aspirational goal for DBE participation over a three (3) year period. It may be deceiving to only view one (1) FFY out of the entire three (3) year period. The timing of when MTS awards certain contracts, specifically large, unique or specialized contracts that have low DBE potential, has a significant effect on whether MTS meets its DBE Triennial Overall Goal in any given FFY. As shown in Table 2, the DBE utilization percentage for any given reporting period can swing greatly, depending on the size and type of contracts awarded at any given time.

Table 2: DBE Achievement for FFY 2019 - FFY 2021

FFY	Reporting Period	Total Fed Awarded	Total DBE Awarded	DBE %
FFY 2019	Oct 1 18 to Mar 31 19	\$8,603,477	\$204,022	2.37%
FFY 2019	April 1 19 to Sept 30 19	\$9,005,016	\$3,884,728 ²	43.14%
FFY 2020	Oct 1 19 to Mar 31 20	\$7,065,591	\$84,861	1.20%
FFY 2020	April 1 20 to Sept 30 20	\$130,881,225 ³	\$135,337	0.10%
FFY 2021	Oct 1 20 to Mar 31 21	\$182,514,683 ⁴	\$45,759	0.03%
FFY 2021	April 1 21 to Sept 30 21	\$14,952,198	\$44,381	0.30%
Achievement Toward Meeting FFY 2019-2021 DBE Triennial Overall Goal of 2.9% (FFY 2019-2021 Total DBE Awarded ÷ FFY 2019-2021 Total Fed Awarded)		Achieved 1.25% towards DBE Overall Triennial Goal of 2.9% ⁵		

C. Federal Funds Generally are Allocated Towards Paying for Unique, Specialized Services

MTS generally reserves federal funds for transit vehicle procurements (excluded from DBE Triennial Overall Goal and Semi-Annual Reports per FTA DBE Regulations), contracted bus services, and state-of-good-repair vehicle and system preventative maintenance activities. These procurements usually have very low DBE potential, as they involve specialized and unique goods and services.

In addition, San Diego Association of Governments (SANDAG), the Metropolitan Planning Organization for the San Diego region, is generally responsible for the large MTS-related construction projects. Construction projects have historically been one of the most effective ways to achieve DBE participation through the use of DBE subcontractors. For those small construction projects that MTS is

² In FFY 2019, MTS awarded three (3) option years for janitorial services to NMS Management, a DBE, totaling \$4,222,956 (80% federally funded).

³ In FFY 2020, MTS awarded a large contract for paratransit and minibuses to First Transit, a non-DBE, totaling \$116,574,817 in federal dollars.

⁴ In FFY 2021, MTS awarded a large contract for fixed route services to Transdev, a non-DBE, totaling \$181,454,786 in federal dollars.

⁵ As shown in Table 2, in FFY 2020 and FFY 2021 there were two (2) large federally funded contracts awarded to non-DBEs (a contract award for paratransit services to First Transit and a contract award for fixed route services to Transdev). But for these two (2) contract awards, MTS would have exceeded its DBE Overall Goal of 2.9% for FFY 2019-2021. For reference purposes only, if the total value for these two (2) contracts were removed from Table 2 (a total of \$298,029,603), MTS would have achieved 8.0% towards its DBE Overall Goal of 2.9% for FFY 2019-2021.

responsible for, MTS typically uses local and state funds. Thus, how MTS allocates its federal funds makes it increasingly difficult to achieve our DBE Triennial Overall Goal.

IV. Procurements Awarded in FFY 2021 that were included within MTS'S DBE Triennial Overall Goal

The following projects awarded during FFY 2021 were used to establish the DBE Triennial Overall Goal for FFY 2019 - 2021. These projects are of a nature that are very specialized and which have very little or no DBEs in San Diego County, MTS's geographic market area, that are available to perform. As shown in Table 3, MTS did not award any of these projects to a DBE and the estimated DBE% Weighted Ratio were either 0.0% or 0.1%.

MTS DBE Shortfall Analysis and Corrective Action Plan
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Table 3: Overall DBE Goal Projects Awarded in FFY 2021

Project	Estimated Federal \$ to be Awarded, as used in Overall Goal	Per NAICS, Estimated DBE% Weighted Ratio, as used in Overall Goal	If Contract Awarded to DBE	Actual Federal \$ Awarded	Notes
Crane Inspections	\$32,000	0.1%	No. Invitation for Bid (IFB) process was used. Two (2) bids were received, none of which were from a DBE. Awarded to lowest, responsive and responsible bidder, Advanced Industrial Solutions.	\$74,238	5-year base contract awarded. The proposal amount was higher than MTS's 2018 estimate for how much the contract would cost, which may account for the difference between the estimated and actual awarded amounts.
Uniform Purchase SDTI	\$56,000	0.0%	No. Request for Quote (RFQ) process was used. Single bid received. Awarded to the lowest responsive and responsible bidder, Ace Uniforms.	\$8,000	3-year base contract awarded. When developing Overall Goal in 2018, it was estimated the entire uniform purchase for trolley staff would be 80% federally funded. Instead, only uniform purchases relating to Mid-Coast were federally funded, which may account for the difference between the estimated and actual awarded amounts.

MTS DBE Shortfall Analysis and Corrective Action Plan
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Project	Estimated Federal \$ to be Awarded, as used in Overall Goal	Per NAICS, Estimated DBE% Weighted Ratio, as used in Overall Goal	If Contract Awarded to DBE	Actual Federal \$ Awarded	Notes
Portable Toilet Services	\$600,000	0.0%	No. IFB process was used. Two (2) bids were received, none of which were from a DBE. Awarded to the firm with the lowest, responsive and responsible bidder, United Site Services of Calif.	\$75,592	3-year base contract awarded. When developing Overall Goal in 2018, it was anticipated that the portable toilet services for bus operations would be federally funded. Instead, only the portable toilet services for trolley operations was coded to a federally funded cost center, which may account for the difference between the estimated and actual awarded amounts.
Rail Welding Services	\$200,000	0.1%	No. IFB process was used. Two (2) bids were received, none of which were from a DBE. Awarded to the firm with the lowest, responsive and responsible bidder, Railworks Track Services.	\$221,737	5-year base contract awarded.

MTS DBE Shortfall Analysis and Corrective Action Plan
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Project	Estimated Federal \$ to be Awarded, as used in Overall Goal	Per NAICS, Estimated DBE% Weighted Ratio, as used in Overall Goal	If Contract Awarded to DBE	Actual Federal \$ Awarded	Notes
Uniform Rental Services Bus and Trolley Maintenance / Facilities	\$800,000	0.0%	No. Request for Proposal (RFP) process was used. Three (3) proposals were received, none of which were from a DBE. Awarded to the firm with the best value proposal, Prudential Overall Supply	\$626,879	5-year base contract awarded.
Pest Control Services for Bus Operations	\$40,000	0.0%	No. RFP process was used. Six (6) proposals were received, none of which were from a DBE firm. Awarded to the firm with the best value proposal, Pestmaster Services.	\$47,675	5-year base contract awarded.
Towing Services for Buses and Non-Revenue Vehicles	\$160,000	0.0%	No. RFP process was used. Single bid received. Awarded to the firm with the best value proposal, A to Z Enterprises.	\$268,800	Exercised three, 1-year option years. The proposal amount was higher than MTS's 2018 estimate for how much the project would cost, which may account for the difference between the estimated and actual awarded amounts.

V. Proposed Corrective Action Plan

The following list describes the effectiveness of race-neutral measures used in FFY 2021, MTS's proposed corrective actions to increase DBE participation in the future, and the time line in which MTS aims to implement these corrective actions.

A. Outreach Measure of Advertising Events and Other Resources

The first main outreach measure MTS performs is participating in conferences, which may include teaming opportunities between prospective prime contractors and prospective subcontractors, which may include certified firms, such as DBEs, Small Businesses (SB), Woman Owned Businesses (WBE), Minority Owned Businesses (MBE), Disabled Veteran Business Enterprise (DVBE), and Lesbian, Gay, Bisexual and Transgender Businesses (LGBTBE) (collectively referred as "SB"). MTS also actively promotes DBE and SB conferences, programs, and support services offered by other agencies.

1. Events and Other Resources - How implemented in FFY 2021:

MTS's goal was to attend six (6) virtual outreach events; host one (1) virtual outreach event; continue to attend Public Agency Consortium (PAC) bi-monthly meetings; advertise other agencies' outreach events to MTS's bidder list; and adding an optional survey question on PlanetBids to learn how newly registered firms heard about MTS.

MTS attended six (6) outreach events since October 1, 2020 (California Department of Transportation (Caltrans) Small Business Council Event on June 23, 2021; San Diego Unified School District Construction Expo on July 13-15, 2021; San Diego Airport Meet the Primes on September 14-30, 2021; WSP Outreach Event on September 28, 2021; Regional Construction Procurement Committee on October 6, 2021; and Caltrans Procurement Fair on October 19, 2021).

MTS also hosted one (1) virtual outreach event on June 22, 2021, with the aim that DBE and SB firms could learn about MTS's DBE Program and tips on how to successfully complete and compete on MTS's solicitation.

MTS also participated in five (5) PAC virtual meetings since October 1, 2021 (attended meeting on October 14, 2020; December 9, 2020; February 10, 2021; April 14, 2021; and October 14, 2021). PAC is a partnership of

many San Diego local public agencies focused on increasing bidding opportunities and the likelihood of success of SBs on public agency contracts.

In addition, MTS advertised other public agencies' outreach events by sending information for the outreach event via email to firms on MTS's Bidder List, as requested.

Lastly, MTS added the following question to PlanetBids website, "How did you hear about registering with MTS?" to learn which outreach event that MTS attended was the most effective to increase the number of registered vendors on MTS's PlanetBids website.

2. Events and Other Resources - Effectiveness of Measure in FFY 2021:

MTS has limited data to determine the effectiveness of MTS's attendance at outreach events. Based on previous years, MTS has found that many contractors did not know that MTS advertises its formal procurements on PlanetBids; the difference between the various certification programs (i.e. DBE, SB, WBE, MBE, LGBTBE and DVBE) and the different benefits that come with each; and what type of services and goods MTS procures. Attending these events and advertising MTS's DBE Program likely helps contractors understand that MTS may be a potential contracting partner in the future and increase their likelihood of registering on PlanetBids. MTS will continue to maintain the goal of attending six (6) outreach events.

MTS hosted its own virtual outreach event which included information on MTS's DBE Program, information on how to bid with MTS, presentations from certifying agencies, as well as presentations from SANDAG, NCTD and the Port of San Diego regarding their upcoming projects. This event was well-received. However, due to staffing changes in the Procurement Department, MTS will hold off hosting another virtual outreach event until a new Contract Specialist is hired and fully trained.

As for the PAC meetings, MTS has found this group to be very helpful. MTS has learned the best practices from each agency on how they increase participation from DBEs, SBs and emerging businesses. MTS will continue to maintain the goal of attending PAC bi-monthly meetings.

It is unclear how effective advertising other agency's outreach events is on increasing DBE and SB participation, as MTS does not receive feedback from other agencies on whether firms from MTS's Bidder List attended their events or not. Nonetheless, MTS will continue to implement this measure to be a good partner with other public agencies.

Lastly, MTS's PlanetBids Survey Question that was implemented has not yielded any helpful results as of yet. The majority of responses to the question of how they heard about registering on MTS's PlanetBids website was: "PlanetBids". Either the question or the optional responses provided to firms to choose from are confusing to firms and MTS will be reviewing this survey question more closely.

3. Events and Other Resources - How to improve in FFY 2022:

In previous years when outreach events were in person, MTS would provide interested vendors with a physical pamphlet that explained MTS's DBE Program, upcoming procurements and how to register on MTS's PlanetBids website. Now that outreach events are virtual, MTS will create a digital version of MTS's DBE pamphlet that MTS will upload on its webpage and email to vendors or other public agencies upon request. MTS will also create a Spanish version of this digital MTS DBE Pamphlet.

In addition, MTS will further review MTS's PlanetBids Survey Question to see how we can yield more helpful data and how we can export all responses into a spreadsheet, which can assist with data analysis.

4. Events and Other Resources – Time line of Corrective Action in FFY 2022:

By June 30, 2022, MTS aims to upload onto MTS's DBE Webpage a digital MTS DBE pamphlet in both English and Spanish; and review ways to improve the MTS PlanetBids Survey Question.

B. Outreach Measure of Advertising Bonding and Financial Assistance

The second main outreach measure is providing information to contractors on how to obtain bonding or financing assistance.

1. Bonding and Financial Assistance - How implemented in FFY 2021:

MTS, through its webpage and contract language, refers the DBE and SB contracting community to the federal Small Business Administration Bonding Assistance Program (SBA), which has delivered millions of loans, loan guarantees, contracts, counseling sessions and other forms of assistance to SBs and San Diego Small Business Development Center (SBDC), which provides a vast array of no- and low-cost support to entrepreneurs and SB. In addition, on MTS's DBE Webpage, MTS encourages businesses to use minority and women-owned banks when seeking financial services.

2. Bonding and Financial Assistance - Effectiveness of Measure in FFY 2021:

Generally, DBE and SB firms do not report to MTS on whether they have used these bonding or financial resources. Therefore, it is unclear how effective this measure was to increase DBE and SB participation. One way to indirectly measure the effectiveness of this outreach measure is by reviewing the number of views of MTS's DBE Webpage, using Google Analytics.

According to MTS's Marketing Department, the MTS DBE Webpage averages about 39 visits a month. This is the same number of average visits as compared to last year. However, in November 2021, there was 79 views of the MTS DBE Webpage. This spike in views may be related to MTS's use of a small business set-aside on MTS's A&E on-call procurement. Therefore, it does appear that MTS's DBE Webpage is being consistently viewed by the contracting community, with particular spikes when MTS has an on-going procurement with a small business set-aside.

3. Bonding and Financial Assistance - How to Improve in FFY 2022:

MTS will continue to maintain its DBE Webpage with up-to-date resources. To improve, MTS will update its DBE Webpage to include information on the City of San Diego's Business Relief and Support Webpage. As part of the City of San Diego's COVID-19 relief measures for businesses, the City of San Diego summarized in one place all local, state and federal economic assistance measures available for small businesses, which includes loans, grants, debt relief, money advances, tax credits and more.

4. Bonding and Financial Assistance – Time line of Corrective Action in FFY 2022:

By February 1, 2022, MTS aims to update its DBE Webpage to include a link to the City of San Diego's Business Relief and Support Webpage.

C. Outreach Measure of Soliciting DBEs and SBs

The third main outreach measure MTS performs is soliciting DBEs and other SB participation on upcoming contract opportunities.

1. Soliciting DBEs and SBs - How implemented in FFY 2021:

Whenever MTS posts a solicitation on PlanetBids, the procurement is sent to all MTS's registered vendors (which includes DBEs and other SBs). In addition, MTS uses a "broadcast" feature which allows the solicitation to be sent to any DBE registered firm on any other local public agency's PlanetBids website.

MTS also uses the Caltrans DBE database to find DBEs who may not be registered on MTS's PlanetBids website but perform the category work related to the solicitation and ask that they register on PlanetBids and/or review an upcoming solicitation.

When seeking three (3) quotes for federal procurements within the small purchase threshold that are not posted on PlanetBids, if there are DBEs available and it is not a sole source procurement, MTS requests that its Buyers and Contracting Officers contact at least 1 DBE. In the instances where there is no available DBE that performs that type of work, Buyers and Contracting Officers are requested to alternatively seek at least 1 quote from an SB contractor. The Contract Specialist assists the Procurement Department in identifying DBEs and/or SBs.

In addition, MTS used a small business set-aside for a portion of MTS's on-call architectural and engineering (A&E) procurement. This was the first time MTS used a small business set-aside.

Further, MTS makes available to prime contractors information on how to view a listing of potential DBE and other SB subcontractors by including a link to DBE and other SB databases on MTS's DBE Webpage and in MTS's contracting language.

Lastly, during construction related pre-bid meetings as well as during kickoff meetings with Job Order Contracting (JOC) Contractors, MTS presents information on MTS's DBE Program and encourages prime contractors to utilize DBE and SBE subcontractors if subcontracting opportunity and explains how to find such subcontractors.

2. Soliciting DBEs and SBs - Effectiveness of Measure in FFY 2021:

Since October 1, 2020, MTS has posted 16 federally funded solicitations on PlanetBids. Of those 16 solicitations, there were five (5) solicitations that received individual proposals from DBE firms. Of these (5) proposals, two (2) DBEs were successful in being awarded contracts (i.e. best value/lowest bid). That was more DBE proposals than received in FFY 2020. Between October 1, 2019 to September 30, 2020, MTS posted 12 federally funded solicitations, of which MTS only received (2) proposals from DBE firms. Therefore, MTS's increased efforts toward notifying DBEs about procurements on PlanetBids did directly result in increased bids being received from DBEs.

As for the effectiveness of MTS's use of a small business set-aside, the A&E proposals are currently being evaluated by staff. Data on its success will be available once notice to awards are made.

There has been a limited number of JOC work orders or construction projects that were funded with federal funds, but that could be due to how MTS allocates its federal funds and not whether or not MTS's efforts to increase the use of subcontractors on JOCs have been effective or not. In FFY 2021, there were two (2) federally funded JOCs, one (1) of which used a non-DBE subcontractor. In FFY 2020, there were two (2) federally funded JOCs that used non-DBE subcontractors.

3. Soliciting DBEs and SBs - How to improve in FFY 2022:

Data to determine whether MTS outreach measures related to notifying DBEs and SBs about upcoming procurements is limited. To improve, MTS will be reviewing what monitoring mechanisms MTS can implement to better review whether these measures (e.g. when conducting an RFQ, confirming that staff is requesting 1 quote from a DBE, if a DBE is available) are being implemented as trained and whether they are an effective method to increase the number of bids received from DBEs and SBs.

4. Soliciting DBEs and SBs -Time line of Corrective Action in FFY 2022:

MTS aims to create monitoring mechanisms and data-tracking protocols by June 30, 2022 for its outreach efforts related to notifying DBEs and SBs about MTS's upcoming procurements.

D. Informing Firms about DBE and SB Certifications

The fourth main outreach measure is informing contractors of the benefits of becoming certified as a DBE or SB, the eligibility requirements, and the link to the Certifying Agency's online directory.

1. Informing Firms about DBE and SB Certifications - How Implemented in FFY 2021:

MTS provides this information on MTS's DBE Webpage, as well as in its DBE and SB contract clauses, with links to where a firm can apply or learn more about the various certifications. In addition, upon request from a contractor, or when MTS identifies that a contractor it works with may be eligible for a certification, MTS contacts the firm to provide information on how to become eligible, the eligibility criteria, and other resources that may assist them in the application process.

To reach an increased number of firms, MTS also sends e-blasts to current and/or past vendors to alert them of the benefits of becoming certified.

2. Informing Firms about DBE and SB Certifications - Effectiveness of Measure in FFY 2021:

Providing certification resources on MTS's DBE Webpage and contract language, as well as sending e-blasts to all of MTS's vendors, has been an ineffective way to increase DBE or SB participation. MTS has no data to show any of the vendors that were emailed or that used of any MTS certification resources, subsequently pursued DBE or SB certification in the last FFY. DBE certification in particular can take many months to complete and thus it is difficult to determine whether an email blast sent to vendors was the actual trigger for a firm to begin the application process for a certification. In addition,

it is not common for a newly certified DBE firm to reach out to MTS to inform MTS of their recent change in certification status.

3. Informing Firms about DBE and SB Certifications - How to Improve in FFY 2022:

MTS will continue to provide this information on its DBE Webpage, within its DBE and SB contract clauses, and upon request to vendors. However, MTS will no longer send mass emails to all of its current and past vendors to notify them of the availability of DBE and SB certifications, as the majority are likely not eligible for certification and/or are uninterested.

Instead, MTS will pursue targeted email communications to vendors that MTS likely knows are interested in DBE and/or SB certifications. Specifically, this includes when firms fill out MTS's New Vendor Form. On MTS's New Vendor Form, the firm is requested to fill out any DBE or SB certifications they maintain. In the instances where they state they are a DBE or SB, but after review of relevant databases, MTS cannot locate a certification, MTS will email these vendors information on how to become DBE or SB certified.

4. Informing Firms about DBE and other SB Certifications – Time line of Corrective Action in FFY 2022:

MTS aims to start emailing new vendors that incorrectly list they are certified on MTS's New Vendor Form information about DBE and SB certification by February 1, 2022. MTS also aims to develop a tracking mechanism to see how often this measure is performed.

E. Outreach Measure of Advertising More Procurements on PlanetBids

The last main outreach measure is advertising more MTS procurements on PlanetBids to better outreach to the DBE and SB community of potential MTS contracting opportunities.

1. Advertising More Procurements on PlanetBids - How implemented in FFY 2021:

For procurements within the simplified acquisition threshold (i.e. estimated value between \$3,500 to \$100,000 for goods and services and

\$1,000 to \$50,000 for construction), MTS is required to seek at least three (3) bids or proposals. As part of MTS's outreach measure to advertise more procurements on PlanetBids, it was MTS's goal to post all federally funded procurements (except for sole-source procurements) estimated at over \$20,000 on PlanetBids. Posting on PlanetBids advertises to significantly more contractors, including DBE and SB contractors, that might not have otherwise received notice of the procurement if MTS just asked for quotes directly from only three (3) vendors.

MTS has a limited number of federal procurements that are estimated between \$20,000 and \$50,000/\$100,000. In FFY 2021, MTS awarded 27 federally funded contracts within this dollar range, out of a total of 1,333 federally funded contracts. It appears not all of these federally funded solicitations were posted on PlanetBids for various reasons (e.g. sole source contracts are not posted on PlanetBids; staff was aware of only 3 or less vendors able to complete the work and thus solicitation was not posted on PlanetBids).

2. Advertising on PlanetBids - Effectiveness of Measure in FFY 2021:

Only two (2) DBE federally funded contracts were awarded in FFY 2021 that were above the micro-purchase threshold. Both of these successful DBE solicitations were posted on PlanetBids and the winning bid/proposal was received through PlanetBids. Thus, PlanetBids does appear to be effective platform for DBEs to submit bids to MTS.

3. Advertising on PlanetBids - How to Improve in FFY 2022:

More data to determine whether MTS outreach measures related to posting more procurements on PlanetBids is needed. To improve, MTS will be reviewing what monitoring mechanisms it can implement to internally review whether these measures are being followed as trained and whether they are effective.

4. Advertising on PlanetBids – Time line of Corrective Action in FFY 2022:

MTS aims to create monitoring mechanisms and data-tracking protocols by June 30, 2022 for its outreach efforts related to procurements posted on PlanetBids.

These corrective actions, as well as continuing to implement outreach measures that aim to increase participation of DBEs and SBs, should have a positive impact with DBEs and SBs. If you have any further questions regarding MTS's DBE Program, please contact me at 619-557-4539 or Samantha.Leslie@sdmts.com.

Sincerely,

/s/ Samantha Leslie

Samantha Leslie
Deputy General Counsel / DBE Liaison Officer



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 8

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

**REVISIONS TO SAN DIEGO METROPOLITAN TRANSIT SYSTEM (MTS) ORDINANCE NO.
11**

RECOMMENDATION:

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

- 1) Adopt the proposed amendments to MTS Ordinance No. 11, "An Ordinance Providing for the Licensing and the Regulating of Transportation Services within the City and the County by the Adoption of a Uniform Paratransit Ordinance" (Attachment A); and
- 2) Upon adoption of the proposed amendments, grant the Chief Executive Officer (CEO) the discretion to enforce MTS Ordinance No. 11 in its amended form.

Taxicab Advisory Committee Recommendation

At its December 8, 2021 meeting, the Taxicab Advisory Committee voted 15 to 0 (Committee Members: Sean Elo-Rivera, Akbar Majid, Alfred Banks, Antonio Hueso, Brian Hilemon Daryl Mayekawa, David Tasem, George Abraham, Guillermo Morquecho, Hamid Amini, Marc Nichols, Margo Tanguay, Michael Trimble, Peter Zschiesche, Nancy Gudiño, with Committee Members Nasser Tehrani absent) to recommend that the Board of Directors approve the staff recommendation.

Budget Impact

None with this item.

DISCUSSION:

MTS Ordinance No. 11 provides for the licensing and regulation of taxicab and other for-hire transportation services. The proposed revisions to MTS Ordinance No. 11 are as follows:



MTS Ordinance No. 11, Section 2.3(c)

Currently, Section 2.3 requires permit holders display one of two allowable exterior marking schemes on each taxicab. The proposed revision will allow a third "light vehicle branding" scheme option, allowing the permit holder's trade name (DBA) and medallion number to be affixed to the vehicle's front and rear windshields. Implementing this proposed marking scheme is optional, could lower the costs for owners to place a taxicab vehicle in service, provides for a clean, modern look and could help attract transportation network company (e.g. Lyft, Uber) drivers as there would be limited changes needed to be done to their vehicle in order to begin operating it as a taxicab.

MTS Ordinance No. 11, Section 2.3 (d)(1)

Currently, Section 2.3(d)(1) allows permit holders the option to display the trade name logo so long as it is posted on the rear portion of both side rear quarter panels. The proposed revision would also allow the placement of the trade name logo on the bottom parts of the front or rear windshields farthest removed from the driver.

MTS Ordinance No. 11, Section 2.3(d)(3)

Currently, Section 2.3(d)(3) allows permit holders the option to display the dispatch service telephone number so long as it is posted on the top front portion of both front side quarter panels. The proposed revision will also allow the dispatch service telephone number to be displayed also in the lower part of left and right rear windows.

All other proposed revisions to MTS Ordinance No. 11 that are not described here are minor and non-substantive (e.g. removing gender specific language and replacing with gender neutral language).

/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 MTS Ordinance No. 11 (red-line)

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CODIFIED ORDINANCE NO. 11

(as amended through ~~November 12, 2020~~ January 20, 2022)

An Ordinance Providing for the Licensing and the Regulating of
Transportation Services Within the City and County by the Adoption of
a Uniform Paratransit Ordinance

MTS CODIFIED ORDINANCE NO. 11

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CODIFIED ORDINANCE NO. 11

(as amended through January 20, 2022-November 12, 2020)

An Ordinance Providing for the Licensing and the Regulating
of Transportation Services Within the City and County By the Adoption of
a Uniform Paratransit Ordinance

SECTION 1.0 - GENERAL REGULATIONS

Section 1.1 - Definitions

The following words and phrases, wherever used in this section, shall be construed as defined in this section, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

(a) "Board" shall mean the Board of Directors of the San Diego Metropolitan Transit System.

(b) "Charter vehicle" shall mean every vehicle which:

(1) Transports passengers or parcels or both over the public streets of the City;

(2) Is routed at the direction of the hiring passenger;

(3) Is prearranged in writing for hire;

(4) Is not made available through "cruising"; and

(5) Is hired by and at the service of a person for the benefit of ~~himself or herself~~themselves or a specified group.

(c) "Chief Executive Officer" shall mean the Chief Executive Officer of MTS or ~~his or her~~the designated representative.

(d) "City" and "Cities" shall mean the incorporated areas of the Cities of Chula Vista, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee and any other City that has entered into a contractual agreement with MTS for the licensing and regulation of transportation services.

(e) "Compensation" shall mean any money, thing of value, payment, consideration, reward, tip, donation, gratuity or profit paid to, accepted, or received by the driver or owner of any vehicle in exchange for transportation of a person, or persons; whether paid upon solicitation, demand or contract, or voluntarily, or intended as a gratuity or donation.

(f) "County" shall mean the unincorporated area of the County of San Diego located within MTS's jurisdictional boundaries if entered into a contractual agreement with MTS for the licensing and regulation of transportation services.

(g) "Cruising" shall mean the movement over the public streets of a taxicab or low-speed vehicle (LSV) in search of prospective passengers; except the term does not include either the

travel of a taxicab or LSV proceeding to answer a call for service received by telephone or radio from an intended passenger or the travel of such a vehicle, having discharged a passenger or passengers, returning to the owner's place of business or to its established point of departure.

(h) "Days" shall mean working days, exclusive of weekends and holidays for which MTS offices are closed.

(i) "Doing business" shall mean accepting, soliciting or transporting passengers for hire or compensation in a City or County.

(j) "Driver" shall mean every person operating any for-hire vehicle.

(k) "Driver's identification card" shall mean license, issued pursuant to this Ordinance, which permits a person to drive a for-hire vehicle within the City or County.

(l) "Employ" as used in this Ordinance includes any form of agreement or contract under which the driver may operate the permit holder's for-hire vehicle.

(m) "Exclusive ride" shall mean exclusive use of a for-hire vehicle by one or more related passengers at a time.

(n) "For-hire vehicle" shall mean every vehicle, other than public transit vehicles or vehicles involved in an organized carpool not available to the general public, which is operated for any fare for compensation and used for the transportation of passengers over public streets, irrespective of whether such operations extend beyond the boundary limits of said City or County. Such for-hire vehicles shall include taxicabs, vehicles for charter, jitneys, nonemergency medical vehicles, sightseeing vehicles, and LSVs.

(o) "Group ride" shall mean shared use of a taxicab or LSV where a group of related passengers enter at the same point of origin and disembark at the same destination and pay a single fare for the trip.

(p) "Hearing officer" shall mean any person or entity that meets the requirements of this Ordinance and that has been retained to conduct administrative hearings.

(q) "Jitney" shall mean every vehicle which:

(1) Transports passengers or parcels or both over the public streets of the City;
and

(2) Follows a fixed route of travel between specified locations along its route on a variable schedule -or operates a flexible route within a geographic boundary and specific timeframes as approved by MTS, with the fare based on a per capita charge established in its permit.

(r) A "low-speed vehicle" or "LSV" is a motor vehicle, other than a motor truck, having four wheels on the ground and an unladen weight of 1,800 pounds or less, that is capable of propelling itself at a minimum speed of 20 miles per hour and a maximum speed of 25 miles per hour, on a paved level surface. It shall only operate within a geographic boundary as approved by MTS. For the purposes of this section, a "low-speed vehicle" or "LSV" is not a golf cart, except when operated pursuant to California Vehicle Code Section 21115 or 21115.1.

(s) "Medallion" shall mean the numbered plate, sticker, or decal issued by MTS to the permit holder which is displayed on a for-hire vehicle to indicate the authorized use or uses of that vehicle.

(t) "MTS" shall mean the San Diego Metropolitan Transit System, a public agency created pursuant to Public Utilities Code Section 120050 et seq.

(u) "MTS inspector" shall mean those individuals, regardless of job title, who are authorized by the Board, by ordinance, to enforce the provisions of this Ordinance.

(v) "Nonemergency medical vehicle" shall mean every vehicle which: transports persons, regardless of whether specialized transportation equipment or assistance is needed, for primarily medical purposes, over the public streets of the City. Medical purposes is defined as providing transportation services to or from the following places: hospitals, convalescent homes, retirement homes, homes receiving funding for the board and care of residents living in those homes, medical or rehabilitation clinics, senior citizen centers, and any other like social service category, over the public streets of the City. It shall be the responsibility of the transportation provider to determine if the service is primarily for medical purposes.

(w) "Operate" or "Operating" shall refer to the solicitation or acceptance of a fare within City or County for compensation or providing passenger transportation for compensation, regardless if such compensation is obtained from the passenger or a third party. It shall also include, as the context may require, the act of driving, managing or directing the utilization of one or more for-hire vehicles.

(x) "Owner" shall mean the person, partnership, association, firm or corporation that is the registered owner of any for-hire vehicle and that holds the right to use the vehicle for its advantage.

(y) "Passenger" shall mean every occupant other than the driver of the for-hire vehicle.

(z) "Permit" shall mean the authority under which a person, firm, partnership, association, or corporation may operate a for-hire vehicle as a business.

(aa) "Permit holder" shall mean any person or approved entity operating a business under a for-hire vehicle permit.

(bb) "Shared ride" shall mean nonexclusive use of a for-hire vehicle by two or more unrelated passengers traveling between different points of origins and/or destination, and traveling in the same general direction.

~~(cc) "Shifts" shall mean the minimum number of hours a permit holder or driver operates a for-hire vehicle.~~

(dd) "Sightseeing vehicle" shall mean every vehicle which:

(1) Transports passengers for sightseeing purposes of showing points of interest over the public streets of the City; and

(2) Charges a fee or compensation therefor; regardless of whether any fee or compensation is paid to the driver of such sightseeing vehicle, either by the passenger or by the owner or by the person who employs the driver or contracts with the driver or hires such sightseeing vehicle with a driver to transport or convey any passenger; and irrespective of

whether or not such driver receives any fee or compensation for ~~his or her~~their services as driver.

(ee) "Stands" shall mean public areas designated for specific use of for-hire vehicles.

(ff) "Street" shall mean any place commonly used for the purpose of public travel.

(gg) "Substantially Located" shall mean where the primary business address of the taxicab permit holder is located and/or the jurisdiction where the largest share of the taxicab permit holder's total number of prearranged and non-prearranged trips originate over the previous calendar year, as determined annually. Trip logs and/or other documentation shall be used to substantiate the jurisdiction where the largest share of taxicab permit holder's total number of originating trips occur over the applicable time period.

(hh) "Taxicab" shall mean every vehicle other than a vehicle-for-charter, a jitney, a nonemergency medical vehicle, a sightseeing vehicle, or LSV which:

(1) Carries not more than eight (8) passengers excluding the driver;

(2) Transports passengers or parcels or both over City or County public streets;

(3) Is made available for hire on call or demand through "cruising," at taxi stands, ~~or~~ by telephone, mobile telephone application, or other communication devices to destination(s) specified by the hiring passenger; and

(4) Is Substantially Located within the jurisdiction of City and/or County.

(ii) "Taximeter" shall mean any instrument, appliance, device, or machine by which the charge for hire of a passenger-carrying vehicle is calculated, either for distance traveled or time consumed, or a combination of both, and upon which such charge is indicated by figures. Includes both a Hard Meter and a Soft Meter.

(1) A Hard Meter is a Taximeter that has a prefixed fare with an external seal approved by the County of San Diego Agriculture, Weights and Measures and mileage is calculated based on distance and time.

(2) A Soft Meter is a Taximeter that is provided through a smartphone or tablet that uses GPS or other on-board diagnostics approved by the California Department of Food and Agriculture Division of Measurement Standards to calculate distance and rates.

(jj) "Vehicle" is a device by which any person or property may be propelled, moved, or drawn upon a street, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

(kk) "Vehicle for Developmentally Disabled Persons (VDDP) driver certificate" shall mean certificate issued by California Highway Patrol pursuant to Vehicle Code section 12523.6, which is required for any driver who primarily transports persons with developmental disabilities on a for-hire basis. A VDDP driver certificate with a commercial driver's license may be used in lieu of a driver identification card to drive a for-hire vehicle within the City or County, unless for a taxicab.

(Section 1.1 amended 1/20/2022)
(Section 1.1 amended 11/12/2020)
(Section 1.1 amended 10/10/2019)

(Section 1.1 amended 2/14/2019)
(Section 1.1 amended 11/8/2018, effective 1/1/2019)
(Section 1.1 amended 9/20/2018)
(Section 1.1 amended 12/14/2017)
(Section 1.1 amended 5/12/2016)
(Section 1.1 amended 8/7/2003)
(Section 1.1 amended 11/14/2002)
(Section 1.1 amended 6/24/1999)
(Sections 1.1(d), 1.1(R)(1) amended 6/22/1995)
(Section 1.1 amended 1/12/1995)
(Section 1.1 amended 6/27/1991; effective 7/27/1991)
(Section 1.1 amended 5/23/1991; effective 6/23/1991)

Section 1.2 - Operating Permits

(a) No person shall engage in the business of operating any for-hire vehicle or in the business of providing any vehicle for the operation of vehicle for-hire services within the Cities or County without first having obtained an operating permit from the Chief Executive Officer or designated representative, which permit has not been revoked, suspended or otherwise canceled or terminated by operation of law or otherwise. A separate permit is required for each for-hire vehicle operated or provided for operation.

(b) An operating permit represents the granting of a privilege to operate a for-hire vehicle within the Cities, County or zones specified by the permit for the purpose of the public convenience and necessity. This privilege may be rescinded at any time by operation of law or otherwise.

(c) A person who obtains an operating permit shall be responsible for the provision of vehicle-for-hire services in accordance with the provisions of this Ordinance and shall exercise due diligence to assure that drivers of the permitted vehicles adhere to all pertinent requirements of this ordinance.

(Section 1.2 amended 11/8/2018, effective 1/1/2019)
(Section 1.2 amended 12/14/2017)
(Section 1.2 amended 8/7/2003)
(Section 1.2 amended 11/14/2002)
(Section 1.2 amended 6/24/1999)

Section 1.3 - Application for Permit

(a) All persons applying to the Chief Executive Officer for new permit(s) for the operation of one or more for-hire vehicles shall file with the Chief Executive Officer -a sworn application -on forms provided by the Chief Executive Officer, stating as follows:

(1) The applicant name, company name, doing business as ("DBA") name if different than company name, mailing and business address (a business address or mailing address may include, but is not limited to, a Post Office [PO] Box or dispatch service address), e-mail address, and telephone number of the permit applicant. If a taxicab permit applicant, the business address will also serve the purpose of establishing where Substantially Located;

(2) The name and address of all legal and registered owner(s) of the vehicle(s);

- (3) The number of vehicle(s) for which a permit(s) is desired;
- (4) The rates of fare which the applicant proposes to charge for vehicle-for-hire services. This requirement does not apply to taxicab permit applicants;
- (5) If the application is for a jitney or LSV, a detailed description of the geographic area in which said permit shall be in existence; and
- (6) Such other information as the Chief Executive Officer may in ~~his or her~~their discretion require.

b) The applicant shall also submit, with the application, a nonrefundable application fee prior to the permit approval. Upon issuance of the permit, the applicant shall also pay an initial nonrefundable permit vehicle regulatory fee to be determined by the Chief Executive Officer in order to recover the cost of processing such applications.

(Section 1.3 amended 1/20/2022)

(Section 1.3 amended 11/12/2020)

(Section 1.3 amended 11/8/2018, effective 1/1/2019)

(Section 1.3 amended 12/14/2017)

(Section 1.3 amended 2/12/2015)

(Section 1.3 amended 11/15/2012)

(Section 1.3 amended 8/7/2003)

(Section 1.3 amended 11/14/2002)

Section 1.4 - Issuance of Permit

(a) Before a permit may be approved or renewed, the applicant shall pay an initial regulatory fee in an amount to be determined by the Chief Executive Officer.

(b) The Chief Executive Officer shall deny the approval of a permit upon making a finding:

- (1) That the applicant is under twenty-one (21) years of age; or
- (2) That within the five (5) years immediately preceding the processing of the application, the applicant has been convicted of, or held by any final administrative determination to have been in violation of any statute, ordinance, or regulation reasonably and rationally pertaining to the same or similar business operation which would have resulted in suspension or revocation of the permit in accordance with Section 1.13 of this Ordinance. For purposes of this section, a plea or verdict of guilty, a finding of guilty by a court, a plea of nolo contendere or a forfeiture of bail shall be deemed a conviction; or
- (3) That the applicant provided false information of a material fact in an application within the past five (5) years.

(c) No permit shall be approved or renewed unless evidence of compliance with applicable MTS regulations.

(d) When the permit has been approved and upon determination by the Chief Executive Officer that the for-hire vehicle, after appropriate inspection, meets the requirements of this Ordinance, the Chief Executive Officer will issue a numbered medallion(s) to be affixed to the for-hire vehicle.

(Section 1.4 amended 11/12/2020)
(Section 1.4 amended 11/8/2018, effective 1/1/2019)
(Section 1.4 amended 12/14/2017)
(Section 1.4 amended 2/12/2015)
(Section 1.4 amended 11/15/2012)
(Section 1.4 amended 11/14/2002)

Section 1.5 - Transfer and Administration of Permits

(a) Each permit issued pursuant to the provisions of this section is separate and distinct and shall be transferable from the permit holder to another person or entity only with the approval of the Chief Executive Officer, and upon meeting the requirements of this Ordinance.

(b) The proposed transferee shall file with the Chief Executive Officer a sworn application for the transfer and shall comply with the requirements of Section 1.3. The permit holder shall certify in writing that the permit holder has notified the proposed transferee of the requirements of this section pertaining to the transfer of a permit. Whenever an application for a transfer of permit is filed, the Chief Executive Officer shall process the application for transfer in accordance with Section 1.4 of this Ordinance.

(c) The Chief Executive Officer shall charge regulatory fees to affect the full cost recovery of activities associated with the administration, regulation, issuance, or transfer of for-hire vehicle permits and associated records.

(1) Changes in fee schedules affecting permits shall be posted, at a minimum, on the MTS website and notice of such posting will be sent to all permit holders' email address. Changes shall be effective thirty (30) calendar days thereafter.

(2) Any person objecting to a particular fee or charge may file, within ten (10) calendar days of posting of such changes, an appeal for review with the Chief Executive Officer who shall thereafter process it in accordance with Section 1.17; provided, however, that the sole issue to be determined on review is whether the fee or charge exceeds the reasonable costs for personnel salaries and administrative overhead associated with the particular administrative service or function.

(Section 1.5 amended 11/12/2020)
(Section 1.5 amended 11/8/2018, effective 1/1/2019)
(Section 1.5 amended 12/14/2017)
(Section 1.5 amended 2/12/2015)
(Section 1.5 amended 8/7/2003)
(Section 1.5 amended 11/14/2002)

Section 1.6 - Blank

The text of Section 1.6 is deleted in its entirety effective February 12, 2015.

(Section 1.6 deleted 2/12/2015)
(Section 1.6 amended 11/14/2002)

Section 1.7 - Blank

The text of Section 1.7 is deleted in its entirety effective October 24, 1998.

(Section 1.7 was deleted 9/24/1998)

Section 1.8 - Equipment and Operating Regulations

(a) No medallion shall be issued for a vehicle unless the vehicle conforms to all the applicable provisions of this Ordinance.

(b) The privilege of engaging in the business of operating a for-hire vehicle in a City or County granted in the permit is personal to the permit holder, who must be the owner of the for-hire vehicle. The rights, requirements, and responsibilities which attach to the permit remain with the holder at all times the for-hire vehicle is operated under the authority of the permit. These rights, requirements and responsibilities, which include, but are not limited to, the requirements of this Ordinance, will remain unaffected by any agreement or contractual arrangement between the permit holder and those persons who operate for-hire vehicles, irrespective of the form or characterization of the agreement under which the driver operates the for-hire vehicle.

(c) The permit holder shall maintain an email address, mailing address that can accept mail directed to company, and a business telephone in which the permit holder can be reached during reasonable business hours and during all hours of operation. The permit holder shall, in the case of any change in ~~his or her~~their email address, mailing address, or business telephone, notify the Chief Executive Officer in writing of such change within forty-eight (48) hours of the effective date of this change.

(d) If a taxicab, permit holders must participate in the pull-notice program pursuant to Section 1808.1 of the Vehicle Code and enroll all employed or contracted drivers who drive a vehicle for permit holder.

(1) Upon the termination of the employee or contractor driver, the permit holder shall notify the Department of Motor Vehicles (DMV) to discontinue the driver's enrollment in the pull notice system.

(2) Permit holders shall present upon request, during regular business hours, to MTS and/or the Sheriff's Department, as well as during annual permit renewal, proof of enrollment and names of any and all drivers enrolled in the DMV driver pull-notice program pursuant to Section 1.8(d) of this Ordinance.

(3) Permit holders who fall under one or more of the following categories must enroll in the DMV pull-notice program: if registered with the State of California as a Corporation and or LLC; if own more than one vehicle; employs or contracts a lease driver(s); and/or vehicle is otherwise driven by more than one driver.

(e) Before a for-hire vehicle is placed in service and at least annually thereafter, the for-hire vehicle shall be delivered to a certified Automotive Service Excellence or Bureau of Automotive Repair registered facility for mechanical inspections, or other place designated by the Chief Executive Officer for inspection. Certified mechanics and MTS inspectors shall inspect the for-hire vehicle and its equipment to ascertain whether the vehicle complies with the provisions of this Ordinance. Failure to produce the vehicle for inspection within a timeframe determined by MTS shall be cause for suspension or revocation of the permit for such vehicle.

(f) Any MTS inspector or peace officer, after displaying proper identification, may make reasonable and periodic inspections of any for-hire vehicle operating under an MTS permit for the purpose of determining whether the vehicle is in compliance with the provisions of this Ordinance.

(g) Any for-hire vehicle which fails to meet the requirements of the California Vehicle Code or this section after inspection shall be immediately ordered out-of-service by an MTS inspector or peace officer if it is unsafe for service. Ordering a vehicle out-of-service does not constitute a suspension or revocation of the permit. A vehicle is deemed unsafe for service when any of the following conditions exists:

- (1) Tires fail to meet the requirements of the California Vehicle Code;
- (2) Headlights, taillights or signal lights are inoperable during hours of darkness (sunset to sunrise);
- (3) Windshield wipers are inoperable during rainy conditions;
- (4) Taximeter is not working, the Taximeter displays signs of tampering, the seal of a Hard Meter is broken, the County of San Diego seal of a Hard Meter is more than thirteen (13) months old from the date of issuance, a Service Agent's temporary seal of a Hard Meter is more than ninety (90) days old from the date of issuance, or a Soft Meter displays technology not approved by the California Department of Food and Agriculture Division of Measurement Standards or does not appear to be operating as is intended or approved;
- (5) Brakes, brake lights or brake system are inoperable or otherwise fail to meet the requirements of the California Vehicle Code;
- (6) Excessive play in steering wheel exceeding three (3) inches;
- (7) Windshield glass contains cracks or chips that interfere with driver's vision;
- (8) Any door latch is inoperable from either the interior or exterior of the vehicle;
- (9) Any seat is not securely fastened to the floor;
- (10) Seat belts, when required, fail to meet requirements of the California Vehicle Code;
- (11) Either side or rearview mirrors are missing or defective;
- (12) Any vehicle safety system light is activated; and
- (13) Any other condition which reasonably and rationally pertains to the operating safety of the vehicle or to passenger or pedestrian safety.

(h) If the vehicle is not unsafe but is unsuitable or otherwise in violation of this Ordinance or any vehicle condition/equipment section of the California Vehicle Code, the operator or permit holder, as appropriate, shall be subject to a seventy-two (72) hours correction notice.

(1) Failure to correct such violation within the seventy-two (72) hours shall then be cause to order the vehicle out-of-service. When a vehicle is ordered out-of-service, the medallion shall be immediately removed.

(2) Before the vehicle may again be placed in service, the violation shall be corrected and the vehicle shall be inspected by a ~~an~~ certified mechanics or MTS inspector

(3) The medallion shall be reaffixed when the MTS inspector finds that the vehicle meets prescribed standards.

(i) The interior and exterior of the for-hire vehicle shall be maintained in a safe and efficient operating condition, and meet California Vehicle Code requirements and the requirements of this Ordinance at all times when in operation. The following minimum vehicle standards must be maintained to comply with this section:

(1) Wheels. Hubcaps or wheel covers shall be on all wheels for which hubcaps or wheel covers are standard equipment.

(2) Body Condition. There shall be no tears or rust holes in the vehicle body and no loose pieces hanging from the vehicle body. Fenders, bumpers, and light trim shall be securely fixed to the vehicle. No extensive unrepaired body damage shall be allowed and exterior paint shall be free from excessive fading. The vehicle shall be equipped with front and rear bumpers. The exterior of the vehicle shall be maintained in a reasonably clean condition so as not to obscure approved vehicle markings.

(3) Lights. Headlights shall be operable on both high and low beam. Taillights, parking lights, signal lights, and interior lights shall all be operable.

(4) Wipers. Each vehicle shall be equipped with adequate windshield wipers maintained in good operating condition.

(5) Brakes. Both the parking and hydraulic or other brake system must be operable.

(6) Steering. Excessive play in the steering mechanism shall not exceed three (3) inches free play in turning the steering wheel from side to side.

(7) Engine. The engine compartment shall be reasonably clean and free of uncontained combustible materials.

(8) Mufflers. Mufflers shall be in good operating condition.

(9) Windows. The windshield shall be without cracks or chips that could interfere with the driver's vision. All other windows shall be intact and able to be opened and closed as intended by the manufacturer. The windows and windshield shall be maintained in a reasonably clean condition so as not to obstruct visibility.

(10) Door Latches. All door latches shall be operable from both the interior and exterior of the vehicle.

(11) Suspension. The vehicle's suspension system shall be maintained so that there are no sags because of weak or broken springs or excessive motion when the vehicle is in operation because of weak or defective shock absorbers.

(12) Seats. All seats shall be securely fastened. Seat belts, when required by the California Vehicle Code, shall be installed. The upholstery shall be free of grease, holes, rips, torn seams, and burns.

(13) Interior. The interior of each vehicle and the trunk or luggage area shall be maintained in a reasonably clean condition, free of foreign matter, offensive odors, and litter. The seats shall be kept reasonably clean and without large wear spots. The door handles and doors shall be intact and clean. The trunk or luggage area shall be kept empty except for spare tire and personal container for the driver not exceeding one (1) cubic foot in volume and emergency equipment, to allow maximum space for passenger luggage and belongings.

(j) Each for-hire vehicle, except taxicabs and ~~Low-Speed Vehicles~~ LSVs, shall contain:

(1) A fire extinguisher of the dry chemical or carbon dioxide type with an aggregate rating of at least 5 B/C units and a current inspection card affixed to it.

(2) A minimum of three (3) red emergency reflectors.

(3) A first-aid kit containing medical items to adequately attend to minor medical problems.

k) In the event that a for-hire vehicle for which a permit has been approved is taken out of service, by the permit holder for maintenance or any purpose, other than a violation of any provision of this Ordinance, a spare vehicle operating permit may be granted. The spare vehicle operating permit shall only be valid for the vehicle for which it was issued. The permit holder may only utilize a spare for-hire vehicle which has been duly inspected by an MTS inspector and approved prior to use. The permit holder must immediately inform an MTS inspector when a spare for-hire vehicle is in use and the location of the disabled vehicle. The spare vehicle will be issued a "spare vehicle" sticker which must be affixed to the left rear portion of the for-hire vehicle for which it is approved, in plain view from the rear of the for-hire vehicle. The permit holder may utilize one (1) spare for-hire vehicle for a period not to exceed thirty (30) calendar days from the date of issuance. This subsection shall not be construed, nor deemed to replace, those provisions in this Ordinance which apply to permanent replacement of a for-hire vehicle.

(l) The medallion issued to the permit holder must be affixed by an MTS inspector on the for-hire vehicle for which the permit is approved in plain view from the rear of the for-hire vehicle. The permit holder must immediately report the loss, destruction, or defacing of a medallion to the Chief Executive Officer. Except as provided in Subsection (k), it shall be unlawful to operate a for-hire vehicle without the medallion affixed and visible.

(m) There shall be displayed in the passenger compartment of each for-hire vehicle between the sun visors, in full view of the passengers in the front and rear seats, a card not less than ten (10) inches wide by six (6) inches high in size. Posted on this card, utilizing "Universe" font in black ink on white background, shall be:

1) The first line of the card, 3/4 inch in height, shall say one of the following according to permit type: TAXICAB, SIGHTSEEING, CHARTER, NONEMERGENCY, LOW-SPEED VEHICLE, OR JITNEY LOST AND FOUND.

2) Below this, the card shall include the vehicle medallion number in three-inch numerals.

3) Below the medallion number, the name, address, and phone number of the MTS For-Hire Vehicle Administration and the permit holder and/or permit holder trade name shall be printed, 1/4-inch in height.

4) Without approval from MTS, no other signs, markings, lettering, decals, or any type of information shall be displayed within 18 inches around the card.

(n) Advertisements, whether displayed on the inside or outside of the vehicle, shall be posted in accordance with MTS Board Policy No. 21, Revenue-Generating Display Advertising, Concessions, and Merchandise, any guidelines developed by the Chief Executive Officer, and the provisions of this Ordinance. Advertisements shall not be displayed without prior approval from MTS.

(o) The driver of each for-hire vehicle may either carry: a map of the City or County, published within the past two (2) years; or an electronic device equipped with a GPS enabled map, which shall be displayed to any passenger upon request.

(p) The maximum rates of fare charged for for-hire vehicle services shall be clearly and conspicuously displayed in the passenger compartment, unless if a taxicab which shall comply with Section 2.2(d) of this Ordinance.

(q) Each for-hire vehicle licensed to operate in the City or County shall have located on the passenger side dashboard area a driver identification card provided by the County of San Diego Sheriff or provide upon a request a valid VDDP driver certificate with a commercial driver's license. The driver identification card shall have no alterations or information covered. The driver identification card shall be visible to passengers, peace officers and MTS inspectors so they can easily view the driver identification card from either inside or outside the vehicle. The driver identification card issued by the Sheriff shall bear the following information:

- (1) The number of the license of the driver;
- (2) The name and business address of the driver;
- (3) The name of the owner of the vehicle; and
- (4) A small photograph of the driver.

(r) Each for-hire vehicle shall be equipped with a rearview mirror affixed to the right side of the vehicle, as an addition to those rearview mirrors otherwise required by the California Vehicle Code.

(s) The driver shall offer each passenger a printed receipt upon payment of the fare. The receipt shall accurately show the date, the amount of the fare, the driver's name and ID number, the taxicab number, the company (DBA) name, and the dispatch service name with phone number if a taxicab.

(t) All disputes to fare shall be determined by the peace officer or MTS inspector most readily available where the dispute is had. It shall be unlawful for any person to fail or refuse to comply with such determination by the peace officer or MTS inspector.

(u) It is unlawful for any person to refuse to pay the lawful fare of a for-hire vehicle after employing or hiring the same.

(v) The driver of any for-hire vehicle shall promptly obey all lawful orders or instructions of any peace officer, fire fighter, or MTS inspector.

(w) No driver of any for-hire vehicle shall transport any greater number of persons, including the driver, than the manufacturer's rated seating capacity for the vehicle.

(x) It shall be unlawful for any person to solicit business for a for-hire vehicle by making a contract or agreement with any owner of any hotel, apartment house, motel, inn, rental units, restaurant, or bar, or with the agent or employees of such owner, by which the owner, agent or employee receives any type of payment or commission for recommending or directing any passenger to a specific for-hire vehicle or company. It shall be unlawful for any permit holder, association, or driver to have or make a contract or agreement with any owner of any hotel, apartment house, motel, inn, rental units, restaurant, or bar, or with the agents or employees of such owner, by which the permit holder, association or driver receives any type of payment or commission for recommending or directing any passenger to an establishment operated by a specific owner.

(y) The driver of a for-hire vehicle shall wear, in a manner clearly visible on their person, an identification card approved by the Chief Executive Officer.

(z) The Board specifically finds that the dress, grooming, and conduct of for-hire vehicle drivers affect the public health and safety, particularly as it relates to visitors and the tourist industry. Therefore, while driving or operating a for-hire vehicle, drivers shall be hygienically clean, well-groomed, and neat and suitably dressed. Violations of this subsection are administrative in nature and shall not be the subject of criminal prosecution.

(1) The term "hygienically clean" shall refer to that state of personal hygiene, body cleanliness, and absence of offensive body odor normally associated with bathing or showering on a regular basis.

(2) The term "well-groomed" shall mean that ~~male drivers shall be clean-shaven, except for those parts of the face where a beard or mustache is worn and their hair shall be neatly trimmed; beards or mustaches shall be groomed and neatly trimmed at all times in order not to present a ragged appearance. For all drivers, it shall mean that~~ scalp or facial hair shall be combed or brushed and that all clothing is clean, free from soil, grease and dirt, and without unrepaired rips or tears.

(3) The term "neat and suitably dressed" shall be interpreted to ~~require mean~~ that: driver is wearing appropriate clothing to operate a for-hire vehicle; a driver shall be fully covered by clothing at a minimum from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms. ~~d~~ Drivers shall wear shoes; ~~It shall not be permissible for any driver to cannot~~ wear as an outer garment any of the following: undershirt or underwear, tank tops, body shirts (see-through mesh), swim wear, jogging or warm-up suits or sweatshirts or similar attire, jogging or bathing shorts or trunks, or sandals; ~~and t~~ Trouser-type shorts that are no shorter than four inches above the center of the kneecap are permissible.

(aa) For-hire vehicles shall comply with the California Vehicle Code, e.g., not impede traffic, and, where applicable, not operate on streets where posted speed limits are above 35 miles per hour. For-hire vehicle drivers, including taxicab, shall not load or unload passengers in traffic lanes.

(bb) Smoking is not permitted at any time inside a MTS-permitted vehicle.

(cc) A driver or permit holder shall not prejudice, disadvantage, or require a different rates or provide different service to a person because of race, national origin, religion, color,

ancestry, physical disability, medical condition, occupation, marital status or change in marital status, sex or any characteristic listed or defined in Section 11135 of the Government Code.

(dd) A driver shall not use rude or abusive language toward a passenger(s) or conduct any physical action that a reasonable person would construe as threatening or intimidating.

(ee) A driver may refuse a fare if it is readily apparent that the prospective or actual fare is a hazard to the driver or operator. A driver is not obligated to transport any person who is verbally or otherwise abusive to the driver. Such incidents shall also be noted on the trip log and notification shall be immediately sent to the dispatch service organization, if a taxicab, which shall record the incident and keep the record for the minimum of 6 months.

(ff) No driver shall stop, park, or otherwise leave standing any MTS permitted vehicle within fifteen (15) feet of any fire plug except as modified in Section 2.5 of this Ordinance.

(gg) No driver shall stop, park or otherwise leave standing any MTS permitted vehicle in a disabled parking zone except as authorized per California Vehicle Code section 22507.8.

(hh) If a taxicab, proof that vehicle(s) meet California Air Resources Board criteria for zero emissions/low emissions.

(Section 1.8 amended 1/20/2022)

(Section 1.8 amended 11/12/2020)

(Section 1.8 amended 10/10/2019)

(Section 1.8 amended 11/8/2018, effective 1/1/2019)

(Section 1.8 amended 12/14/2017)

(Section 1.8 amended 10/13/2016)

(Section 1.8 amended 5/12/2016)

(Section 1.8 amended 2/12/2015)

(Section 1.8 amended 8/7/2003)

(Section 1.8 amended 11/14/2002)

(Section 1.8 amended 9/24/1998)

(Section 1.8 amended 2/13/1997)

(Section 1.8 amended 6/24/1993)

Section 1.9 - Public Liability

(a) It shall be unlawful to operate a for-hire vehicle unless the permit holder establishes and maintains in effect one of the forms of financial responsibility specified in this section.

(1) This requirement may be met by maintaining a valid policy of insurance executed and delivered by a company authorized to carry on an insurance business, the financial responsibility of which company has been approved by the Chief Executive Officer. The terms of the policy shall provide that the insurance company assumes financial responsibility for injuries to persons or property caused by the operation of the for-hire vehicle in an amount determined by the Chief Executive Officer.

(2) The permit holder may also meet this requirement by obtaining a certificate of self-insurance for a specified amount approved by the Board and pursuant to the applicable provisions of the California Vehicle Code.

(b) A valid proof of insurance issued by the company providing the insurance policy required under Subsection (a) (1) of this section shall be filed with and approved by the Chief

Executive Officer. This certificate shall provide that MTS is a named certificate holder and shall be placed in each vehicle, per California Vehicle Code Section 16020. It shall also provide that the insurer will notify MTS of any cancellation and that the cancellation notice be received at least thirty (30) days prior to cancellation of the policy. The certificate shall also state:

- (1) The full name of the insurer;
- (2) The name and address of the insured;
- (3) The insurance policy number;
- (4) The type and limits of coverage;
- (5) The specific vehicle(s) insured;
- (6) The effective dates of the certificate; and
- (7) The certificate issue date.

(Section 1.9 amended 11/12/2020)

(Section 1.9 amended 9/17/2015)

(Section 1.9 amended 11/14/2002)

Section 1.10 - Financial Ownership and Operating Records: Reporting Requirements

(a) Every person engaged in the business of operating a for-hire vehicle within the City under a permit granted by the Chief Executive Officer shall maintain:

(1) Financial records, including but not limited to the current executed taxicab driver lease agreement that includes all aspects of the business relationship between the permit holder and the lessee, and written receipts of all payments from lessee in accordance with good accounting practices;

(2) Ownership records; and

(3) Operating records in a form, and at intervals, which shall be determined from time to time by the Chief Executive Officer.

(b) Ownership and operating records shall be made available to the Chief Executive Officer upon demand at any reasonable time. The permit holder shall retain operating records for a minimum of six (6) months from the date the records are created.

(c) For purposes of this section, ownership records shall include, but are not limited to, the following:

(1) Copies of the Articles of Incorporation as filed with the Secretary of State of California;

(2) Records identifying all corporate officers and members of the corporation's Board of Directors. A corporation shall report any change in corporate officers or members of its Board of Directors to MTS within ten (10) days of the effective date.

(3) A stock register recording the issuance or transfer of any shares of the corporate stock; and

(4) The registration cards issued by the State of California Department of Motor Vehicles to the vehicle owner for all for-hire vehicles operated under the authority of an MTS for-hire vehicle permit. Valid proof of registration shall be maintained in the vehicle at all times.

(d) For purposes of this section, operating records shall include, but are not limited to, the following:

(1) Typed or written dispatch records for taxicab companies which operate their own dispatch service;

(2) Any logs which a for-hire vehicle driver keeps describing the trips carried by a for-hire vehicle other than a taxicab;

(3) Copies of the daily trip log required by taxicab or LSV drivers under Section 2.4 (o); and

(4) Any other similar records.

(e) As a condition of permit renewal, upon permit renewal every permit holder shall file with the Chief Executive Officer a signed statement which shall report and attest to the accuracy of the following information:

(1) The individual name(s), business name, business mailing address, e-mail address, and telephone number of the permit holder(s);

(2) The name and address of all legal and registered owner(s) of the for-hire vehicle(s);

(3) The name and address of each person with a financial interest in the business which operates the vehicle(s);

(4) The year, manufacturer, model, vehicle identification number, license plate, and medallion number affixed to the permitted vehicle(s); and

(5) Proof of enrollment and names of any and all drivers enrolled in the DMV driver pull-notice program pursuant to Section 1.8(d) of this Ordinance.

(f) If the permit holder is an individual, the permit holder must email, mail or appear in person in the offices of MTS to file the statement; if the permit holder is a partnership, one of the partners must email, mail or appear in person in the offices of MTS to file the statement; if the permit holder is a corporation or LLC, an officer of the corporation, or a member of the LLC, authorized to represent the company, must email, mail or appear in person in the offices of MTS to file the statement. If email or mail is used, the email address or mailing address used by the permit holder must be an email address or mailing address that is on file with the Chief Executive Officer. Failure to produce the statement may result in permit suspension or denial of permit renewal.

(Section 1.10 amended 11/12/2020)

(Section 1.10 amended 11/8/2018, effective 1/1/2019)

(Section 1.10 amended 5/12/2016)

(Section 1.10 amended 2/12/2015)

(Section 1.10 amended 8/7/2003)

(Section 1.10 amended 11/14/2002)

(Section 1.10 amended 6/24/1993)

Section 1.11 - Destruction, Permanent Replacement, Retirement or Inactive Status of For-Hire Vehicles

(a) Whenever a for-hire vehicle is destroyed, rendered permanently inoperative, is sold, or the permit holder is no longer the owner of the for-hire vehicle, the permit holder shall notify the Chief Executive Officer in writing within forty-eight (48) hours.

(b) If a taxicab permit holder plans to change where it is Substantially Located, the permit holder shall notify the Chief Executive Officer and the new jurisdiction in which it will become Substantially Located within six (6) months or as soon as practicable prior to making that change.

(c) A permit holder may place a for-hire vehicle under inactive status after written permission is obtained from the Chief Executive Officer. The following guidelines are to be used in granting permission for a for-hire vehicle to be placed and kept on inactive status:

- (1) No laps in payment of annual regulatory fees during any time of inactive status;
- (2) Permit must be in good standing (e.g. no pending disciplinary or enforcement action); and
- (3) Annual statement must be filed in accordance with Section 1.10(e).

(d) At any time a permit holder may bring a for-hire vehicle under inactive status back into service after written permission is obtained from the Chief Executive Officer. The following guidelines are to be used in granting permission to return a for hire vehicle under inactive status back to service:

- (1) Permit holder must notify Chief Executive Officer in writing of their intent to place their vehicle back into service;
- (2) Permit holder must show proof of a valid vehicle insurance policy as required by Section 1.9;
- (3) Permit holder must show proof of current vehicle registration;
- (4) Permit holder must show proof of current subscription to a dispatch service organization, if a taxicab; and
- (5) Vehicle must pass MTS required inspection.

(e) The Chief Executive Officer shall, as a matter of owner right, allow the replacement of a vehicle which is destroyed, rendered inoperative, sold or transferred, provided that the permit holder has complied with, and the for-hire vehicle is in conformance with, all applicable provisions of this Ordinance. An owner must remove the markings from the vehicle that indicate it is a taxicab or LSV before the owner disposes of it.

(Section 1.11 amended 2/14/2019)
(Section 1.11 amended 10/13/2016)
(Section 1.11 amended 8/7/2003)
(Section 1.11 amended 11/14/2002)

(Section 1.11 amended 2/13/1997)

Section 1.12 - Driver's Identification Cards

(a) No person shall drive or operate any for-hire vehicle under the authority of a permit granted under this Ordinance unless such person: displays a valid driver's identification card obtained annually through the Sheriff of the County of San Diego; or provides upon request a VDDP driver certificate with a commercial driver's license.

(b) No permit holder shall employ as a for-hire vehicle driver or operator any person who has not obtained a for-hire vehicle driver's identification card through the Sheriff of the County of San Diego or VDDP driver certificate with a commercial driver's license.

(c) No permit holder shall employ as a driver or operator any person whose privilege to operate a for-hire vehicle within the City has expired, or has been revoked, denied or suspended or prohibited.

(d) A driver may drive for more than one permit holder. The driver must, however, have on file with and accepted by the Sheriff of the County of San Diego, a separate application on forms provided by the Sheriff, for each permit holder with whom he has a current driving agreement. A driver may have on file with the Sheriff a maximum of four (4) such applications at any one time. It shall be unlawful for a driver to accept or solicit passengers for hire in the City or County while operating the taxicab or LSV of any permit holder for whom the driver does not have such an application on file with the Sheriff.

(e) No person shall drive or operate any for-hire vehicle, under the authority of a permit granted under this Ordinance unless such person has successfully completed an MTS-approved driver safety training course concerning driver safety rules and regulations, map reading, crime prevention, courtesy and professionalism, and compliance with the ADA. As determined by the Chief Executive Officer, a corresponding qualification examination may be required.

(f) No person who has received a notice of prohibition pursuant to Section 1.14, or whose privilege to operate a for-hire vehicle within the City has expired, or has been suspended, revoked or denied by the Sheriff, California Highway Patrol, or the Chief Executive Officer shall drive or operate a for-hire vehicle within the City.

(g) No for-hire vehicle driver's identification card shall be issued or renewed by the Sheriff to any of the following persons:

(1) Any person under the age of twenty-one (21) years.

(2) Any person who has been convicted of a felony involving a crime of force or violence against any person, or the theft of property, unless five (5) years have elapsed since ~~his or her~~their discharge from a penal institution or satisfactory completion of probation for such conviction during which period of time ~~his or her~~their record is good.

(3) Any person who has been convicted of assault, battery, resisting arrest, solicitation of prostitution, any infraction, misdemeanor, or felony involving force and violence, or any crime reasonably and rationally related to the paratransit industry or any similar business operation which bears upon the integrity or ability of the driver to operate a for-hire vehicle business and transport passengers, unless five (5) years shall have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation for such conviction.

(4) Any person who, within the five (5) years immediately preceding the processing of the application, has been convicted of or held by any final administrative determination to have been in violation of any statute, ordinance, or regulation reasonably and rationally related to the for-hire vehicle industry or any similar business operation which would have authorized the suspension or revocation of the driver's identification card in accordance with Section 1.14 of this Ordinance.

(5) Any person who is required to register as a sex offender pursuant to the California Penal Code.

(6) Any person who has provided false information of a material fact in their application within the past five (5) years.

(7) No person shall obtain or renew a driver's identification card unless such person has successfully completed a driver safety training course approved by the Chief Executive Officer.

(8) When a driver permanently no longer drives for an MTS For-Hire Vehicle Administration permit holder, the permit holder shall report this to the Sheriff's Department within ten (10) calendar days.

(h) The Sheriff is authorized to issue temporary for-hire vehicle driver identification cards pending the approval or denial of an application for a regular for-hire vehicle driver identification card. No temporary for-hire vehicle driver identification card shall be issued without the satisfactory completion of a local law enforcement agency record check of the applicant. Any temporary identification card so issued shall be valid for a period not to exceed ninety (90) days or until the date of approval or denial of the application for a regular for-hire vehicle driver identification card, whichever shall occur first. The issuance of a temporary identification card hereunder shall not authorize the operation of a for-hire vehicle following the denial of the application while pending the resolution of any appeal otherwise provided for in Section 1.16 of this Ordinance. The Sheriff or the Chief Executive Officer shall establish nonrefundable filing fees to defray the costs of processing regular and temporary driver identification cards.

(Section 1.12 amended 1/20/2022)

(Section 1.12 amended 11/12/2020)

(Section 1.12 amended 10/10/2019)

(Section 1.12 amended 11/8/2018, effective 1/1/2019)

(Section 1.12 amended 12/14/2017)

(Section 1.12 amended 5/12/2016)

(Section 1.12 amended 11/15/2012)

(Section 1.12 amended 8/7/2003)

(Section 1.12 amended 11/14/2002)

(Section 1.12 amended 9/24/1998)

(Section 1.12 amended 10/30/1997)

(Section 1.12 amended 11/9/1995)

Section 1.13 - Suspension and Revocation of Permit

(a) Permits may be suspended or revoked by the Chief Executive Officer at any time in case:

(1) The Chief Executive Officer finds the permit holder's past record to be unsatisfactory with respect to satisfying the provisions of this Ordinance.

(2) The permit holder fails to comply with the applicable provisions of this Ordinance.

(3) The drivers of the for-hire vehicle or vehicles fail to act in accordance with those provisions of this Ordinance which govern driver actions. The permit holder shall have strict liability in this regard; however, this provision shall not restrict the Chief Executive Officer's ability to penalize a driver for violations of those provisions of this Ordinance which govern driver actions.

(4) The owner ceases to operate a for hire vehicle without having obtained written permission from the Chief Executive Officer.

(5) The permit holder is found to be operating a for-hire vehicle that is under inactive status.

(6) The for-hire vehicle or vehicles, if operated as other than a taxicab, are operated at a rate of fare other than those fares on file with the Chief Executive Officer.

(7) The for-hire vehicle or vehicles, if operated as a LSV, are operated at a rate of fare greater than those fares on file with the Chief Executive Officer or posted on the taxicab or LSV pursuant to Section 2.2 (~~ab~~) of this Ordinance.

(8) The for-hire vehicle or vehicles, if operated as a taxicab, are operated at a rate of fare greater than current maximum rate established by the Board pursuant to Section 2.2(a) of this Ordinance or the applicable rate provided to passenger pursuant to Section 2.4 (q) of this Ordinance.

(9) The permit holder fails to begin operating the for-hire vehicle for which the permit is first approved within ninety (90) days after the approval date.

(10) The permit holder has been convicted of assault, battery, resisting arrest, solicitation of prostitution, any infraction, misdemeanor, or felony involving force and violence, or any crime reasonably and rationally related to the paratransit industry or any similar business operation which bears upon the integrity or ability of the applicant or permit holder to operate a for-hire vehicle business and transport passengers, unless five (5) years shall have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation for such conviction.

(11) The permit holder has been convicted of a crime that would require a person to register as a sex offender under the California Penal Code. For purposes of this section, a plea or verdict of guilty, a finding of guilt by a court, a plea of nolo contendere or a forfeiture of bail shall be considered a conviction.

(b) A permit holder shall be notified in writing within 10 working days when a credible complaint has been filed with the Chief Executive Officer by a member of the public where such complaint involves the permit holder, the driver of the permitted for-hire vehicle, or the dispatch service to which the permit holder is subscribed. It shall be the responsibility of the permit holder to investigate the complaint and report in writing to the Chief Executive Officer within 30 days the result of the investigation and any corrective action taken or proposed. Where the complainant has

agreed to the sharing of their identity, the results of the investigation, findings, and actions shall be communicated to the complainant.

(c) In the event the Chief Executive Officer finds a permit holder has failed to responsibly respond to notification of complaints or to initiate corrective action, the Chief Executive Officer shall issue a notice of proposed adverse action to the permit holder. If the circumstances of the complaint or subsequent investigation so warrant, the Chief Executive Officer may issue a notice of adverse action to a driver independently of or in conjunction with any adverse action proposed to the permit holder. The Chief Executive Officer shall refer to the Administrative Penalty Guidelines in determining a proposed adverse action.

(d) The permit holder or driver in receipt of a notice of proposed adverse action shall be given the opportunity to appear for an informal hearing before the Chief Executive Officer or designated representative. Failure to appear will constitute waiver of the hearing. Following the hearing or waiver thereof, the Chief Executive Officer shall issue the notice of adverse action if justified by the facts. If the Chief Executive Officer determines that the performance of the permit holder or driver involves criminal activity or constitutes a serious degradation of the public safety, convenience, or necessity, a notice of adverse action may be issued and the action effected without hearing.

(e) Upon a finding by the Chief Executive Officer that a permit holder falls within the provisions of this section, the permit holder or driver shall be notified that ~~his or her~~their permit has been subjected to an adverse action and that the matter is such that the action may be appealed. In lieu of an action provided for in the Administrative Penalty Guidelines, the Chief Executive Officer may impose a fine or a fine and a period of suspension for any violation(s) of this Ordinance.

(Section 1.13 amended 1/20/2022)

(Section 1.13 amended 2/14/2019)

(Section 1.13 amended 11/8/2018, effective 1/1/2019)

(Section 1.13 amended 12/14/2017)

(Section 1.13 amended 10/13/2016)

(Section 1.13 amended 5/12/2016)

(Section 1.13 amended 8/7/2003)

(Section 1.13 amended 11/14/2002)

(Section 1.13 amended 6/24/1999)

Section 1.14 - Suspension and Revocation of Driver's Identification Cards

(a) Driver's identification cards issued by the Sheriff may be suspended or revoked by the Chief Executive Officer at any time in case:

(1) The Chief Executive Officer finds the driver's past record to be unsatisfactory with respect to satisfying the provisions of this Ordinance; or

(2) The driver fails to comply with the applicable provisions of this Ordinance; or

(3) Circumstances furnish grounds for the denial, suspension, revocation or refusal to renew the driver's identification card by the Sheriff under the terms of the applicable Ordinance of the County of San Diego; or

(4) ~~His/her~~Their California Driver's License is revoked or suspended; or

(5) The driver is convicted of reckless driving or driving while under the influence of intoxicating liquors and/or narcotics; or

(6) The driver has been convicted of assault, battery, resisting arrest, solicitation of prostitution, any crime involving force and violence, or reasonably and rationally is related to the ability or integrity of the driver to operate a for-hire vehicle or transport passengers; or

(7) The driver has ever been convicted of a crime that requires registration under the California Penal Code as a sex offender.

(b) For purposes of Subsections (a) (1) through (a) (6) of this section, a plea of nolo contendere, or a forfeiture of bail shall be considered a conviction if it occurred within the five (5) years immediately preceding the date of application for a permit or identification card.

(c) Notwithstanding a driver's possession of a valid taxicab or LSV driver identification card, the Chief Executive Officer may deny, suspend, revoke, or refuse to renew the driver's privilege to operate a for-hire vehicle in the City if the driver falls within the provisions of this section. The Chief Executive Officer shall send a notice of prohibition the date postmarked to operate a taxicab or LSV to any holder of a Sheriff's driver identification card who is ineligible under Subsection (a) to operate a for-hire vehicle within the City limits. The notice of prohibition shall be appealable in accordance with Section 1.16.

(Section 1.14 amended 1/20/2022)

(Section 1.14 amended 10/10/2019)

(Section 1.14 amended 5/12/2016)

(Section 1.14 amended 8/7/2003)

(Section 1.14 amended 11/14/2002)

(Section 1.14 amended 6/24/1999)

Section 1.15 - Surrender of Medallion

(a) When a permit has been suspended or revoked, the operation of any for-hire vehicle authorized by such permit shall cease, and its medallion surrendered immediately to the Chief Executive Officer.

(Section 1.15 amended 11/14/2002)

Section 1.16 - Right of Administrative Appeal from Denial, Suspension or Revocation of Permit or Driver's Identification Card or Related Adverse Action

(a) The permit holder or driver shall be notified that ~~he or she~~they may file with the Chief Executive Officer a written administrative appeal ten (10) days after delivery of the notice of revocation or suspension, or the denial of a license, permit, or driver's identification card issued by the Sheriff, the notice of prohibition to operate or the imposition of a fine. The permit holder or driver shall set forth in the appeal the reasons why such action is not proper.

(b) If no administrative appeal is filed within the proper time, the permit or driver's identification card issued by the Sheriff shall be considered revoked, suspended or denied, and shall be surrendered, the fine be imposed, as applicable, or the notice of prohibition to operate take effect.

(c) Except as provided in Subsection (d), once an administrative appeal is filed, the revocation or suspension of the permit or driver's identification card issued by the Sheriff, the effect

of the notice of prohibition to operate, or the imposition of the fine shall be stayed pending the final determination of the administrative appeal.

(d) If, in the Chief Executive Officer's opinion, the continued operation of a for-hire vehicle or possession of a driver's identification card issued by the Sheriff represents an unsafe condition for any passenger or pedestrian, the revocation or suspension of the related permit, driver's identification card, or the effect of any notice of prohibition to operate shall not be stayed. A revocation or suspension of a permit imposed for failure to comply with Section 1.8 (g) or Section 1.9 is rebuttably presumed to represent an unsafe condition pending the determination of the appeal or the correction of the violation, whichever shall occur first. Notwithstanding, no medallion shall be reaffixed to a vehicle until the violation under Sections 1.8 (g) or 1.9 has been corrected.

(Section 1.16 amended 1/20/2022)

(Section 1.16 amended 11/12/2020)

(Section 1.16 amended 10/10/2019)

(Section 1.16 amended 8/7/2003)

(Section 1.16 amended 11/14/2002)

Section 1.17 - Procedure Upon Administrative Appeal

(a) When an appeal is filed, the Chief Executive Officer shall review the appeal, and based on additional information provided therein, may revise the findings and penalty; in accordance with the additional information provided; or cause the appeal to be assigned to a Hearing Officer, who shall expeditiously schedule the hearing before him/her.

(1) The Chief Executive Officer shall use California Department of General Services, Office of Administrative Hearings Administrative Law Judges as Hearing Officers. The assignment of Administrative Law Judges as Hearing Officers shall be determined by the California Department of General Services, Office of Administrative Hearings.

(2) The Hearing Officer shall be a member of the California State Bar and shall not be an MTS employee.

(b) The appellant and the Chief Executive Officer or designate shall each have the right to appear in person and be represented by legal counsel, to receive notice, to present evidence, to call and cross-examine witnesses under oath, and to present argument.

(c) An appellant may select an individual to interpret for them. MTS will not pay any costs or be held responsible for any aspect of the interpreter's ability to accurately interpret the hearing.

(1) The Hearing Officer shall have the power to compel attendance of witnesses and documents by subpoena, in accordance with state law.

(2) The formal rules of evidence need not apply, and any relevant evidence that is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs shall be admissible. Hearsay evidence may be considered by the Hearing Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The formal exceptions to the hearsay rule shall apply.

(d) The Chief Executive Officer shall promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings, and the preparation and submission of the record.

(e) The decision of the Hearing Officer shall be the final administrative remedy and shall be binding upon the parties to the appeal.

(f) If the Hearing Officer decides to suspend or revoke a permit or driver's identification card, the appellant shall immediately surrender the medallion or driver's identification card to the Chief Executive Officer.

(Section 1.17 amended 5/12/2016)

(Section 1.17 amended 11/15/2012)

Section 1.18 - Exceptions to Provisions

(a) The provisions of this Ordinance do not apply to:

(1) a vehicle properly licensed under the jurisdiction of the California Public Utilities Commission (CPUC) unless such vehicle also provides transportation services regulated by MTS under this Ordinance;

(2) public transit vehicles owned, operated, or contracted for by MTS and operators and drivers of such vehicles;

(3) a vehicle properly licensed by the State or County as an ambulance, and its driver if properly licensed by the California Highway Patrol pursuant to Vehicle Code section 12527 (i.e. for-hire driver for an ambulance); or

(4) a vehicle properly regulated by the California Highway Patrol pursuant to Vehicle Code sections 34500 et seq. (i.e. bus, schoolbuses, school pupil activity buses, or youth buses), and its driver if properly licensed by the California Highway Patrol pursuant to Vehicle Code sections 12523.6 (i.e. for-hire driver of vehicles for developmentally disabled) or 12517.3 (i.e. for-hire driver for a schoolbus, school pupil activity bus, or youth bus).

(b) For compliance purposes, MTS inspectors may inspect all vehicles listed in Section 1.18 (a) to ensure they are not exceeding the authority granted by their license or operating as unlicensed private- hire transportation provider.

(Section 1.18 amended 10/10/2019)

(Section 1.18 amended 12/14/2017)

(Section 1.18 amended 5/12/2016)

(Section 1.18 amended 11/15/2012)

(Section renumbered to 1.18 9/24/1998)

(Section 1.17 amended 1/12/1995)

(Section 1.17 amended 6/24/1993)

Section 1.19 - Chief Executive Officer's Authority to Adopt Rules and Promulgate a Schedule of Fines

(a) Except where Board action is specifically required in this Ordinance, the Chief Executive Officer may adopt any rules and regulations reasonable and necessary to implement the provisions of this Ordinance. The Chief Executive Officer shall promulgate a schedule of

administrative fines and penalties for violations of this Ordinance in lieu of the revocation or suspension of a permit or identification card issued by the Sheriff, a copy of which schedule shall be filed with the Clerk of the Board.

(Section 1.19 amended 10/10/2019)
(Section renumbered to 1.19 9/24/1998)

Section 1.20 - Americans with Disabilities Act

(a) Permit holders, vehicles, and drivers are required to comply with the requirements of the federal Americans with Disabilities Act (ADA), and ADA regulations are hereby incorporated into MTS Ordinance No. 11 by reference. A violation of ADA requirements is a violation of this Ordinance and subject to a fine or suspension or revocation or a combination.

(Section renumbered to 1.20 9/24/1998)
(Section 1.19(a) was added 4/10/1997)

SECTION 2.0 - TAXICABS AND/OR LSVs

Section 2.1 - Types of Service

(a) A taxicab or LSV is authorized to provide exclusive ride and group ride service.

(Section 2.0 and 2.1 amended 8/7/2003)

Section 2.2 - Rates of Fare

(a) After a noticed and open public hearing of the Taxicab Advisory Committee, MTS shall establish a maximum rate of fare for exclusive ride and group ride hire of taxicabs and/or LSVs. A permit holder may petition the Board for any desired change in the maximum taxicab or LSV rates for exclusive ride and/or zone rates and group ride hire.

(b) Taxicab trips from San Diego International Airport shall not be charged more than the authorized maximum rate of fare. Notwithstanding, rates for trips originating at the airport may include an extra charge equal to the Airport Access Fee assessed against the individual taxicab operator by the San Diego County Regional Airport Authority. The extra may not be charged on any trip that does not originate at the airport or on any trip where the taxicab operator does not pay the fee to the San Diego County Regional Airport Authority. The extra charge may only be charged to the passenger by visually identifying the Airport Access Fee on the taxicab meter. A driver may not verbally request payment. All taxicabs utilizing the Airport Access Fee must have a decal, approved by the Chief Executive Officer and the County of San Diego Office of Weights and Measures. The decal shall identify and accurately describe the extra charge consistent with regulatory requirements.

(c) All taxicabs shall accept major credit cards including, but not limited to, VISA, MasterCard, American Express, and Discover. Credit Card fees shall not be passed onto passengers.

(d) The taxicab permit holder or taxicab driver shall disclose fares, fees or rates to the passenger. The taxicab permit holder or taxicab driver may disclose by website, mobile telephone application or telephone orders.

(e) It shall be unlawful for a permit holder or driver to operate any taxicab in the City or County, unless the vehicle is equipped with a Taximeter that meets the requirements of the State of California.

(1) If Hard Meter, each taxicab permit holder shall have the Taximeter set by properly licensed personnel for the rate that he/she will charge and have the Taximeter sealed and inspected.

(2) If Soft Meter, a certificate of approval must be provided by the California Department of Food and Agriculture Division of Measurement Standards

(3) The Taximeter shall calculate fares upon the basis of a combination of mileage traveled and time elapsed. When operative with respect to fare indication, the fare-indicating mechanism shall be actuated by the mileage mechanism whenever the vehicle is in motion at such a speed that the rate of mileage revenue equals or exceeds the time rate, and may be actuated by the time mechanism whenever the vehicle speed is less than this, and when the vehicle is not in motion.

(4) Waiting time shall include all time when a taxicab occupied or engaged by a passenger is not in motion or is traveling at a speed which is slow enough for the time rate to exceed the mileage rate. Waiting time will also include the time consumed while standing at the direction of the passenger or person who has engaged the taxicab.

(5) It shall be the duty of every permit holder operating a taxicab to keep the Taximeter in proper condition so that the Taximeter will, at all times, correctly and accurately indicate the charge for the distance traveled and waiting time. The Taximeter shall be at all times subject to the charge for the distance traveled and waiting time.

(6) The Taximeter shall be at all times subject to inspection by an MTS inspector or any peace officer. The MTS inspector or peace officer is hereby authorized at ~~his or her~~their instance or upon complaint of any person to investigate or cause to be investigated the Taximeter, and upon discovery of any inaccuracy in the Taximeter, or if the Taximeter is unsealed, to remove or cause to be removed the vehicle equipped with this taximeter from the streets of the City until the Taximeter has been correctly adjusted and sealed. Before being returned to service, the vehicle and Taximeter must be inspected and approved by the Chief Executive Officer.

(7) Any device repairperson who places into service, repairs, or recalibrates a Taximeter shall record the tire size and pressure of the drive wheels of that vehicle, as tested, on the repair person's sticker.

(8) It shall be the duty of the permit holder to ensure the proper device repair person's sticker is affixed to the Taximeter and to ensure the tires are the proper size.

(f) It shall be unlawful for any driver of a taxicab, while carrying exclusive or group ride passengers, to display the flag or device attached to the Taximeter in such a position as to denote that the vehicle is for hire, or is not employed, or to have the flag or other attached device in such a position as to prevent the Taximeter from operating. It shall be unlawful for any driver to throw the flag into a position which causes the Taximeter to record when the vehicle is not actually employed, or to fail to throw the flag or other device into non-recording position at the termination of each and every service.

(g) The Taximeter shall be so placed in the taxicab that the reading dial showing the amount of fare to be charged shall be well-lighted and easily readable by the passenger riding in such taxicab.

(h) It shall be unlawful for any permit holder and/or driver of a taxicab or LSV to demand of a passenger a charge for hire which is greater than the current maximum rate approved by the Board pursuant to Section 2.2 (a) or (b) of this Ordinance.

(i) Except as provided in this section, it shall be unlawful for any permit holder and/or driver to demand of a passenger a charge for hire which is greater than the authorized permit holder's meter maximum rate pursuant to Sections ~~2.1 (a), or~~ 2.2 (~~ae~~) of this Ordinance.

(j) Nothing in this Ordinance shall preclude a dispatch service, permit holder, or driver from agreeing with prospective passenger(s) to a rate of fare which is equal to or less than the maximum rates of fare if the agreement is entered into in advance of the passenger(s) hiring the taxicab for the trip. To ensure the fare agreement is equal to or less than the maximum rates of fare, the taximeter shall remain in recording position until the termination of the trip.

(Section 2.2 amended 1/20/2022)

(Section 2.2 amended 12/12/2019)

(Section 2.2 amended 11/8/2018, effective 1/1/2019)

(Section 2.2 amended 12/14/2017)

(Section 2.2 amended 5/12/2016)

(Section 2.2(c)(2) amended 11/15/2012)

(Section 2.2(b) amended 4/19/2012)

(Section 2.2 amended 8/7/2003)

(Section 2.2 amended 5/8/2003)

(Section 2.2 amended 11/14/2002)

(Section 2.2 amended 6/24/1999)

(Section 2.2 amended 9/24/1998; Section 2.2c operative May 1, 1999)

(Section 2.2 amended 10/30/1997)

(Section 2.2 amended 4/10/1997)

Section 2.3 - Equipment and Specifications

(a) No taxicab shall be operated until the taximeter thereon has been inspected, tested, approved and sealed, if applicable, by an authorized representative of the State of California, and thereafter so maintained in a manner satisfactory to the Chief Executive Officer.

(b) Each taxicab may be equipped with a device which plainly indicates to a person outside the taxicab whether the taximeter is in operation or is not in operation.

(c) **Mandatory Exterior Markings:** The permit holder must display one of the following exterior markings schemes on each taxicab:

(1) **Exterior Marking Scheme 1:** The following must be displayed if in use of Exterior Marking Scheme 1:

(A) The permit holder's trade name shall be painted or permanently affixed in letters and numerals four (4) inches high all on one line on the upper third part of both rear doors or both rear quarter panels utilizing "Univers" or other Chief Executive Officer pre-approved font in any solid color ~~black or white~~ lettering to produce maximum contrast adequately spaced for maximum readability. In the

event the trade name does not fit on one line utilizing four (4) inch lettering, the trade name lettering must be as large as possible, up to four (4) inches in height, to enable the trade name to fit on one line.

(B) The medallion number shall be painted or permanently affixed, on both rear doors or both rear quarter panels, one (1) inch below the permit holder's trade name, six (6) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in any solid color ~~black or white~~ lettering to produce maximum contrast adequately spaced for maximum readability.

(2) Exterior Marking Scheme 2: The following must be displayed if in use of Exterior Marking Scheme 2:

(A) The permit holder's trade name shall be painted or permanently affixed in letters and numerals four (4) inches high all on one line on the upper third part of both front doors utilizing "Univers" or other Chief Executive Officer pre-approved font in any solid color ~~black or white~~ lettering to produce maximum contrast adequately spaced for maximum readability. In the event the trade name does not fit on one line utilizing four (4) inch lettering, the trade name lettering must be as large as possible, up to four (4) inches in height, to enable the trade name to fit on one line.

(B) The medallion number shall be painted or permanently affixed, on both front doors, one (1) inch below the permit holder's trade name, six (6) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability.

(C) The permit holder's trade name and medallion number shall be painted or permanently affixed on the rear of the taxicab, four (4) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability. In the event the rear of the vehicle does not have four inches of vertical space for the trade name and medallion number, the rear lettering may be less than four inches, provided that it is easily readable from a distance of 50 feet.

(3) —Exterior Marking Scheme 3: Shall only apply to taxicab vehicles with an ~~n~~ unladen weight of 6,000 pounds or less. The following must be displayed if in use of Exterior Marking Scheme 3:

:

(A) —The permit holder's trade name shall be permanently affixed to the upper edge of the front and rear windshields and lower part of both left and right rear windows, three (3) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in any solid color to produce maximum contrast adequately spaced for maximum readability.

(B) —The medallion number shall be permanently affixed on the upper right side of the front windshield, upper left part of the rear windshield, and both right and left rear glass panels. The Medallion number shall be a minimum of (4) inches high utilizing "Univers" or other Chief Executive Officer pre-approved font any

in any solid color to produce maximum contrast adequately spaced for maximum readability.

(d) Optional Exterior Vehicle Markings. The permit holder has the option of choosing to post any combination of the below-listed five options on ~~his or her~~their taxicab which must be posted only at the specific location and in the size noted.

(1) Trade Name Logo. If the permit holder chooses to display ~~his or her~~their trade name logo, the trade name logo shall be posted only on the rear portion of both side rear quarter ~~panels~~panels or bottom parts of the front or rear windshields- farthest removed from the driver. The logo shall not exceed (6) six inches in diameter.

(2) Dispatch Service Provider. If the permit holder chooses to display the dispatch service provider name or logo, the dispatch service provider name or logo cannot utilize the words "cab" or taxi." The dispatch service provider name or logo must be displayed only on the rear portion of both side rear quarter panels.

(3) Dispatch TelephoneService Telephone Number. If permit holder chooses to display the dispatch service a telephone number, the telephone number must be no more than three (3) inches in height and posted only on the top front portion of both front side quarter panels or lower part of left and right rear windows-

(4) "Driver Carries Only \$ _____ Change". If the permit holder chooses to post "Driver Carries only \$ _____ Change", postings must be located only on rear quarter panels near the rear door but clear of the rates of fare.

(5) "Leased to Driver". If permit holder chooses to post "Leased to Driver," it must be posted only on both side rear quarter panels near the rear door but clear of the rate of fares in lettering no larger than 1 inch.

(6) Body Numbers. If the permit holder chooses to post an internally assigned body number, different from the medallion number, the body number shall be posted in one (1) inch numerals on the front and rear bumpers.

(e) All other exterior vehicle markings are prohibited unless they are directly related to the permit holder's business and pre-approved by the Chief Executive Officer.

(f) All taxicabs shall be equipped and operated so that they may be dispatched by two-way radio or two-way electronic communication, monitored by a dispatcher, in response to a telephone or other request for service by a prospective passenger.

(1) Means of dispatch device must be turned on, and audible to driver, at all times the taxicab is in service.

(2) Dispatch equipment, such as a two-way radio, cellular phone or tablet, shall be securely mounted within the vehicle in such a way to be visible to peace officers and MTS inspectors and allow for hands-free operation while the vehicle is in motion.

(g) If radio dispatch capability is utilized, the dispatch service must abide by the following: the radio dispatch capability described in paragraph (d) of this section must be provided so as to conform to the regulations of the Federal Communications Commission (FCC) pertaining to Land Transportation Radio Services. Failure to conform to those regulations will additionally constitute a failure to meet the requirements of this section.

- (1) The current valid FCC license shall be on file with MTS.
- (2) Taxicab permit holder shall provide current proof the radio or electronic device has passed inspection by an MTS-approved inspector.
- (3) Taxicab radios shall have the capability to receive or transmit only on frequencies specified in the FCC license of the radio service subscribed to by the permit holder.

(h) Each permit holder shall equip each permitted taxicab with a device capable of electronically processing credit card transactions. The device must be visible to all passengers and must allow the passenger to operate the payment device independently of the driver, without having to hand the credit card to the driver. The device must be fully operational at all times. The permit holder dispatch service, or driver shall be the merchant of record associated with the device. Any means of electronic credit card acceptance is acceptable so long as it complies with the provisions set forth in Section 1.8 (s).

(Section 2.3 amended 1/20/2022)

(Section 2.3 amended 11/12/2020)

(Section 2.3 amended 12/12/2019)

(Section 2.3 amended 11/8/2018, effective 1/1/2019)

(Section 2.3 amended 12/14/2017)

(Section 2.3 amended 10/13/2016)

(Section 2.3 amended 5/12/2016)

(Section 2.3 amended 2/12/2015)

(Section 2.3 amended 11/15/2012)

(Section 2.3 amended 6/27/2002)

(Section 2.3 amended 9/24/1998; Section 2.3c operative May 1, 1999)

(Section 2.3 amended 6/27/1991; effective 7/27/1991)

(Section 2.3 amended 4/10/1997)

Section 2.4 - Operating Regulations

- (a) Operating regulations shall be promulgated and adopted from time to time by resolution of the Board. These resolutions will have the force of law and will be published and processed as though set forth in this Ordinance.
- (b) Any driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to the destination safely and expeditiously.
- (c) A failure of the driver of any taxicab or LSV to assist a passenger with the loading or unloading of a reasonable size, number, and kind of passenger luggage or other items, when requested to do so, shall be specifically defined as a violation of this section.
 - (1) A driver is not required to lift any single piece of passenger luggage or other item that exceeds 25 pounds in weight. The requirement for loading or unloading assistance shall be limited to retrieval from or deposit onto the nearest curbside adjacent to the legally parked taxicab or LSV. A sign in the form of a transparent decal may be affixed to the rear-door, side window stating that, "DRIVER IS NOT REQUIRED TO LOAD LUGGAGE IN EXCESS OF 25 POUNDS PER ITEM OR OF A SIZE OR KIND THAT WILL NOT SAFELY FIT IN THE DESIGNATED LUGGAGE AREA OF THIS VEHICLE."

~~(2) — (2)~~ A driver with a ~~lawful~~ disability that prevents ~~them~~him/her from handling items as defined in subsection (12) above must receive prior approval from MTS and provide is, upon submission of proof of such disability, relieved of responsibility for the requirements of subsection (12) — supporting documentation of such a disability. After receiving MTS approval, A driver ~~so situated~~ may affix a small sign either in the passenger section of the vehicle to be clearly visible to a rear seat passenger or on the inside of the trunk cover lid stating that, "DRIVER HAS DISABILITY THAT PREVENTS HANDLING OF LUGGAGE."

(d) It shall be unlawful for taxicab operators to refuse or discourage a prospective or actual fare based upon trip length within City or County, or method of payment. Driver shall not refuse payment by credit card.

(1) A vehicle designated as an LSV may refuse a prospective or actual fare if the trip distance is outside allowed areas of operations.

(2) A failure to promptly dispatch (within the standards required by Sections 2.6(a)(1), (2), and (3) of this Ordinance), or any action by a driver of any taxicab or LSV to refuse or discourage a prospective or actual passenger who must transport foodstuffs or who must meet a medical appointment, irrespective of trip length, shall be specifically defined as a violation of this section so long as that prospective passenger has notified the dispatch service of this circumstance at the time a request for taxi service was made.

(e) No driver of any taxicab or LSV shall stop, park, or otherwise leave standing a taxicab or LSV on the same side of the street in any block in which taxicabs or LSVs are already stopped, parked, or otherwise standing except the taxicab or LSV may actively unload in a passenger loading zone or be parked in a marked taxi/LSV stand.

(f) No driver shall stop, park or otherwise leave standing a taxicab or LSV within one-hundred (100) feet of any other taxicab or LSV except in a marked taxi/LSV stand or while actively loading or unloading passengers.

(g) An out-of-service sign must be displayed when the taxicab or LSV is not available for hire and is being operated or is lawfully parked for purposes of maintenance, inspection, or personal use. The sign must be placed in a location in the vehicle that is clearly visible from the exterior of the vehicle. The sign must be of durable material and written in block letters in black ink and easily readable from a distance of not less than ten (10) feet.

(h) A taxicab driver may seek passengers by driving through any public street or place without stops, other than those due to obstruction of traffic, and at such speed as not to interfere with or impede traffic.

(i) It shall be unlawful, however, for the driver to seek passengers by stopping at or driving slowly in the vicinity of an entertainment center or transportation center or any other location of public gathering, in such a manner as to interfere with public access to or departure from that center or location, or so as to interfere with or impede traffic.

(j) It shall also be unlawful for a taxicab or LSV driver, having parked and left ~~his or her~~their taxicab or LSV, to solicit patronage among pedestrians on the sidewalk, or at any entertainment center, transportation center, or other location of public gathering.

(k) No person shall solicit passengers for a taxicab or LSV other than the driver thereof; however, the Chief Executive Officer may authorize a dispatcher to solicit passengers and assist in

loading passengers at such times and places as, in ~~his or her~~their discretion, public service and traffic conditions require.

(l) It shall be unlawful for the driver or operator of any taxicab or LSV to remain standing in any established taxicab or LSV stand or passenger loading zone, unless the driver or operator remains within twelve (12) feet of ~~his or her~~their taxicab or LSV, except when the driver or operator is actually engaged in assisting passengers to load or unload.

(m) Only paying passengers and persons specifically authorized by the Chief Executive Officer may occupy a taxicab or LSV that is already occupied by a paying passenger. No driver, once a paying passenger has occupied the taxicab or LSV, shall permit any other nonpaying passenger to occupy or ride in the taxicab or LSV.

(n) It shall be unlawful to respond to a call for service dispatched to another operator except when an LSV refers service to another operator because the trip distance is outside of the approved area of jurisdiction.

(o) The taxicab or LSV driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer or MTS inspector. The trip log will accurately show the driver's name, taxicab or LSV number, date, time, beginning odometer reading, starting and ending locations, type of service provided, and fare paid for each trip provided.

(1) The daily trip log shall consist, at a minimum, of a five- by seven-inch paper form retained on a stiff-board writing surface with ruled lines and columns sufficient to contain the required information. All entries will be in black or dark blue ink, block letters, and be clearly legible. Colored paper that is lightly shaded is allowed provided there is sufficient contrast for entries to be easily read. Onboard electronically generated reports that meet the legibility requirements are acceptable.

(2) The driver shall deliver trip logs to the permit holder upon request or at a weekly interval, whichever is less.

(3) If a taxicab, the trip log shall be retained for at least 18 months.

(p) All operating regulations set forth in Section 1.8 apply.

(q) The permit holder or the driver of the taxicab shall notify the passenger of the applicable rate prior to the passenger accepting the ride for walkup rides and street hails. The rate may be provided on the exterior of the vehicle, with an application of a mobile phone, device, or other internet-connected device, or be clearly visible in either print or electronic form inside the taxicab.

(Section 2.4 amended 1/20/2022)

(Section 2.4 amended 11/8/2018, effective 1/1/2019)

(Section 2.4 amended 12/14/2017)

(Section 2.4 amended 10/13/2016)

(Section 2.4 amended 5/12/2016)

(Section 2.4 amended 2/12/2015)

(Section 2.4 amended 11/15/2012)

(Section 2.4 amended 8/7/2003)

(Section 2.4 amended 11/14/2002)

(Section 2.4 amended 6/24/1999)

(Section 2.4 amended 2/13/1997)

(Section 2.4 amended 6/27/1991; effective 7/27/1991)

Section 2.5 - Stands

(a) The Chief Executive Officer may establish, locate and designate shared use taxicab/LSV stands for one or more taxicabs/LSVs, which stands when so established shall be appropriately designated "Taxis/LSVs Only." The operating regulations of this Ordinance shall apply to such stands and to taxicab/LSV stands established by the San Diego Unified Port District in areas under its jurisdiction within the City.

(b) Each taxicab or LSV stand established hereunder may be in operation twenty-four (24) hours of every day, unless otherwise specified by the Chief Executive Officer.

(c) Any individual, partnership, association, or other organization may petition MTS requesting that a new taxicab/LSV stand be established, or that the location of an existing taxicab/LSV stand be changed to another location. A nonrefundable filing fee to be determined by the Chief Executive Officer must be paid at the time the petition is submitted.

(d) It shall be unlawful for a vehicle other than a taxicab or LSV with a proper MTS taxicab or LSV permit to occupy a taxi/LSV stand.

(e) LSVs may only occupy taxicab stands that are specially signed, designated their approved use.

(Section 2.5 amended 11/15/2012)

(Section 2.5 amended 8/7/2003)

Section 2.6 - Dispatch Services

(a) In order to provide taxicab dispatch service required by Section 2.3(d, e), the dispatch service organization adding or changing subscribers after July 1, 1991 shall establish and conform to written policies and procedures concerning the following:

- (1) Standard time elapse for answering the telephone service-request line(s).
- (2) Standard time elapse for the taxicab's arrival at requested pick-up location.
- (3) Passenger's request for a specific driver ("personals").
- (4) Additional two-way communication devices (mobile or cellular phones) in taxicabs
- (5) Lost and found for passengers' items.
- (6) Assignment of vehicle body numbers.
- (7) Immediately notify the permit holder of all lost items and inquiries.

Current written policies and procedures shall be available to subscribers from the radio dispatch organization, and on file with MTS.

(b) Dispatch service organizations shall, be able to receive and respond to service requests or other operational questions 24 hours a day, have dispatch staff on duty for lost and

found pick-ups and drop offs during reasonable hours or by appointment, at a preapproved physical commercial business location, answer telephone-request line(s), properly dispatch those requests to all members, provide radio response to all licensed radio frequencies/channels, and respond to direct requests from drivers, permit holders, and MTS as well as law enforcement and local regulatory agencies.

(c) Dispatch services shall keep written records of all requests for taxi service, calls dispatched, and the time(s) each taxicab goes in and out of service. These records shall be kept on file for a minimum of six (6) months, and made available to MTS, upon request.

(d) No person, partnership, corporation, association, other organization providing radio or other dispatch service shall dispatch a request for service to a driver, owner, or vehicle unless the driver, owner, and vehicle are properly licensed to provide the service requested.

(e) The Chief Executive Officer may, at any time, revoke or suspend the taxicab privileges of or fine any person, partnership, corporation, association, other organization providing radio or other dispatch service that violates a provision of this ordinance.

(Section 2.6 amended 11/12/2020)

(Section 2.6 amended 11/8/2018, effective 1/1/2019)

(Section 2.6 amended 12/14/2017)

(Section 2.6 amended 10/13/2016)

(Section 2.6 amended 11/15/2012)

(Section 2.6 amended 8/7/2003)

(Section 2.6 amended 9/24/1998)

(Section 2.6 added 6/27/1991; effective 7/27/1991)

Section 2.7 - Driver Safety Requirements

(a) No taxicab vehicle shall be operated unless such vehicle is equipped with an emergency signaling or any other emergency electronic communication device approved by the Chief Executive Officer.

(b) No taxicab vehicle may be operated with window tinting, shades, or markings that could interfere with a clear view of the cab interior from the outside, unless equipped by the vehicle manufacturer and approved by an MTS inspector.

(c) Taxicab dispatch services required by Section 2.3 shall at all times have a dispatch staff person on duty who has successfully completed a driver safety training course approved by the Chief Executive Officer.

(d) The use of a cellular phone or other similar electronic device by drivers is prohibited at all times when the vehicle is in motion. Otherwise, California Vehicle Code rules apply.

(Section 2.7 amended 11/12/2020)

(Section 2.7 amended 11/8/2018, effective 1/1/2019)

(Section 2.7 amended 12/14/2017)

(Section 2.7 amended 10/13/2016)

(Section 2.7 amended 5/12/2016)

(Section 2.7 amended 11/15/2012)

(Section 2.7 amended 8/7/2003)

(Section 2.7 added 9/24/1998)

Section 2.8 – Prearranged Trips by Taxicabs

(a) A Prearranged Trip shall mean a trip using an online enabled application, dispatch or Internet Web site.

(b) A MTS taxicab permit holder may provide Prearranged Trips anywhere within San Diego County.

(c) A taxicab not permitted by MTS, but permitted by another authorized agency within San Diego County, may provide Prearranged Trips within City or County. MTS will not require such a taxicab to apply for a permit with MTS if the taxicab is not Substantially Located in City or County. MTS will require such a taxicab to comply with mechanical safety regulations within Section 1.8 (g) as a public health, safety and welfare measure.

(Section 2.8 amended 11/12/2020)

(Section 2.8 amended 2/14/2019)

(Section 2.8 added 11/8/2018, effective 1/1/2019)

SECTION 3.0 - CHARTER VEHICLES

Section 3.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for charter services.

(b) If a permit holder desires to change the rates of fare being charged for charter services during any calendar year, ~~he~~they shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(c) No permit holder shall charge any rate of fare for charter services unless said rates are on file with the Chief Executive Officer as aforesaid, and duly displayed.

(d) The rates of fare shall be established by a prearranged written contract on a per-mile or per-hour basis.

(Section 3.1 amended 1/20/2022)

(Section 3.1 amended 4/10/1997)

Section 3.2 - Operating Regulations

(a) It shall be unlawful for any charter vehicle to remain standing on any public street in the City, except such reasonable time necessary when enabling passengers to load or unload.

(b) It shall be unlawful for any person, either as owner, driver, or agent, to approach and solicit patronage upon the streets, sidewalks, in any theater, hall, hotel, public resort, railway or airport, or light rail transit station.

(c) The charter for-hire vehicle driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer or MTS inspector. The trip log will accurately show the driver's name and the medallion number on the vehicle. In addition, the trip log

shall identify the scheduling parties by name, date, and time of the prearranged hire. If the trip is medical in nature, the passenger's name may be omitted.

- (d) All other operating regulations defined in Section 1.8 apply.

(Section 3.2 amended 12/14/2017)

(Section 3.2 amended 11/14/2002)

SECTION 4.0 - SIGHTSEEING VEHICLES

Section 4.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder of sightseeing vehicle services.

(b) If a permit holder desires to change the rates of fare being charged for sightseeing services during any calendar year, the permit holder shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said changes.

(c) No permit holder shall charge any rate of fare for sightseeing services unless said rates are on file with the Chief Executive Officer as aforesaid, and duly displayed.

- (d) The rate of fare shall be established on a per capita or per event basis.

(Section 4.1 amended 11/8/2018, effective 1/1/2019)

(Section 4.1 amended 4/10/1997)

Section 4.2 - Operating Regulations

(a) It shall be unlawful for any sightseeing vehicle to remain standing on any public street in the City, except such reasonable time necessary when enabling passengers to load or unload.

(b) It shall be unlawful for any person, either as owner, driver, or agent, to approach and solicit patronage upon the streets, sidewalks, in any theater, hall, hotel, public resort, railway or airport, or light rail transit station.

- (c) All other operating regulations defined in Section 1.8 apply, except Section 1.8 (x).

(Section 5.0 amended 11/12/2020)

SECTION 5.0 - NONEMERGENCY MEDICAL VEHICLES

Section 5.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for nonemergency medical vehicle services.

(b) If a permit holder desires to change the rates of fare being charged for nonemergency medical vehicle services during any calendar year, ~~he~~they shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(c) No permit holder shall charge any rate of fare for nonemergency medical vehicle services unless said rates are on file with the Chief Executive Officer as aforesaid.

(d) The rate of fare for exclusive ride service shall be established on a per capita plus per mile basis.

(e) The rates of fare for shared ride service shall be established on a per capita plus per mile basis, or on a per capita plus per zone basis.

(Section 5.1 amended 1/20/2022)
(Section 5.1 amended 12/14/2017)
(Section 5.1 amended 4/10/1997)

Section 5.2 - Operating and Equipment Regulations

(a) It shall be unlawful for any nonemergency medical vehicle to remain standing on any public street in the City, except when enabling passengers to load or unload.

(b) All other operating regulations defined in Section 1.8 apply.

(c) Special equipment on a nonemergency medical vehicle shall, at all times the vehicle is in operation, be in proper working order. Such vehicles equipped with wheelchair ramps or lifts shall have proper device(s) to secure each wheelchair on board.

(d) The permit holder is responsible for ensuring that the driver of a nonemergency medical vehicle is properly trained:

(1) in the use of any of the vehicle's special equipment;

(2) concerning supervision of or assistance to the disabled passengers whom the driver is to transport.

(Section 5.2 amended 6/22/1995)
(Section 5.2 amended 6/24/1993)

Section 5.3 - Driver Identification Cards

In addition to the requirements set forth in Section 1.12, nonemergency medical vehicle drivers shall acquire and maintain valid proof of proper first-aid and CPR training.

(Section 5.3 added 6/24/1993)

SECTION 6.0 - JITNEY VEHICLES

Section 6.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for jitney services.

(b) If a permit holder desires to change the rates of fare being charged for jitney services during any calendar year, ~~he~~ they shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(c) No permit holder shall charge any rate of fare for jitney services unless said rates are on file with the Chief Executive Officer and duly displayed.

(d) The rates of fare shall be established on a per capita basis.

(Section 6.1 amended 1/20/2022)

(Section 6.1 amended 11/8/2018, effective 1/1/2019)

(Section 6.1 amended 4/10/1997)

Section 6.2 - Jitney Routes

(a) A permit holder who wishes to provide a fixed route service shall apply to the Chief Executive Officer for authorization to serve a defined route with a specific vehicle. No for-hire vehicle may be operated as a jitney until it has met all other requirements of this Ordinance and has been approved for service on a specific fixed route. A jitney may be authorized to serve more than one route; however, a jitney may provide fixed route service on only those routes which the Chief Executive Officer has approved in writing for that vehicle.

(b) The application for a fixed route shall be in writing and shall contain the following information:

(1) A description of the vehicle(s) which will be utilizing the route;

(2) A detailed written description of the route, to include starting location, ending location, and the street name and direction of travel for all streets to be used in the route;

(3) A map in sufficient detail to clearly indicate the proposed route;

(4) The fare to be charged; and

(5) Such other information as the Chief Executive Officer may, in ~~his or her~~ their discretion, require.

(c) Upon approval of a fixed route by the Chief Executive Officer, the permit holder shall display a representation of the route, the fare, and the permit holder's trade name on each side of the vehicle in letters large enough to be easily read by potential customers in accordance with the standards established by the Chief Executive Officer under Section 6.5 of this Ordinance. Only one (1) route may be displayed on a vehicle at any time.

(d) If a permit holder wishes to alter ~~his or her~~ their approved fixed route(s), ~~he or she~~ they must apply in writing to the Chief Executive Officer, submitting the information required in Section 6.2 (b).

(e) The Chief Executive Officer may, in ~~his or her~~their discretion, place conditions on the approval of fixed routes.

(f) The Chief Executive Officer may change a route that has been approved previously when the Chief Executive Officer finds it necessary to do so. A change of route may be necessary when a street has been closed temporarily or permanently because of construction, or the direction of a street has been changed, or a street has been vacated, or for similar reasons as determined by the Chief Executive Officer. The Chief Executive Officer shall notify in writing any permit holder whose route has been changed. The Chief Executive Officer's change of a route is subject to appeal under Section 1.16 of this Ordinance.

(g) Except as provided for within this subsection, an approved fixed route may not be transferred to another vehicle or permit holder. A permit holder may receive approval for a vehicle that is replacing a jitney already in service to use the approved fixed routes of the replaced vehicle.

(h) A permit holder may apply for a non-fixed, flexible route within an MTS determined geographic boundary and operational timeframe that MTS determines to be beneficial to passengers and businesses located within such boundaries. The application for a non-fixed, flexible route shall be in writing and shall contain the following information:

(1) A description of the vehicle(s) which will be utilizing the route;

(2) A map in sufficient detail to clearly indicate the proposed operation within the MTS approved geographic boundary;

(3) The fare to be charged; and

(4) Such other reasonable information as the Chief Executive Officer may, ~~in his or her~~their discretion, require.

(Section 6.2 amended 1/20/2022)
(Section 6.2 amended 11/12/2020)
(Section 6.2 amended 11/14/2002)

Section 6.3 – Operating Regulations

(a) It is unlawful for any jitney to remain standing on any public street in the City, except when enabling passengers to load or unload, or except when standing in a jitney holding zone for the time period established by MTS.

(b) It is unlawful for any person including, but not limited to, a jitney owner, driver, or agent thereof, to approach and solicit patronage upon the streets, sidewalks, in any theater, hall, hotel, public resort, railway, airport, or light rail transit station.

(c) A peace officer or MTS inspector may authorize a dispatcher to solicit passengers and assist with loading passengers at such times and places as, in his/her discretion, public service and traffic conditions require.

(d) Except when a driver or operator is actually engaged in assisting passengers to load or unload, a jitney driver or operator must remain within twelve (12) feet of his/her jitney while the jitney is in service.

(e) It is unlawful for a jitney vehicle to operate a fixed route service on other than that route designated by the Chief Executive Officer.

(f) It shall be unlawful for a jitney driver to load or unload passengers in any place other than an authorized jitney stop, bus stop, or passenger loading zone.

(g) All other operating regulations defined in Section 1.8 apply.

(Section 6.3 amended 11/14/2002)

Section 6.4 - Jitney Holding Zones

(a) The Chief Executive Officer may, by resolution, locate and designate holding zones for one (1) or more jitneys, which holding zones when so established, shall be designated by appropriate signs. The operating regulations of Section 6.3 shall apply to any holding zones so established, and to holding zones established by the San Diego Unified Port District in areas under its jurisdiction. The Chief Executive Officer may, by ~~his or her~~their discretion, establish the maximum number of jitneys permitted to remain standing at one time in a holding zone.

(b) Each holding zone established hereunder shall be in operation twenty-four (24) hours of every day, unless otherwise specified by the Chief Executive Officer. The Chief Executive Officer shall adopt written standards to determine whether to allow holding zones to be in operation fewer than twenty-four (24) hours every day. If a holding zone is to be in operation fewer than twenty-four (24) hours every day, the Chief Executive Officer shall cause signs to be posted at or near the holding zone indicating the hours and days of operation.

(c) The Chief Executive Officer may, on ~~his or her~~their own motion, establish holding zones.

(d) Any individual, partnership, corporation, association or other organization may petition MTS requesting that a new holding zone be established. The petition must be filed in writing with the Chief Executive Officer or his/her designee. The petition must state the reason for the request and the proposed location(s). The Board may approve, deny, or modify the request.

(e) Whether initiated by the Chief Executive Officer under Subsection (c) of this section or by persons described in Subsection (d) of this section, before any holding zone is established, the proposed location of any holding zone must be reviewed by the Traffic Engineer of the City. The Traffic Engineer shall report his/her recommendations to approve, deny, or modify the proposed location in writing to the Chief Executive Officer. The Traffic Engineer's report shall include a statement of reasons supporting the recommendation to the Chief Executive Officer.

(f) The Chief Executive Officer shall, by resolution, establish a maximum time limit for individual jitneys to remain standing in any holding zone. The time limit shall apply uniformly to all holding zones.

(g) It shall be unlawful for a vehicle other than a jitney with a proper MTS jitney permit to occupy a jitney holding zone.

(Section 6.4 amended 1/20/2022)
(Section 6.4 amended 11/15/2012)

Section 6.5 - Equipment and Specifications

(a) Each jitney shall bear on the outside, signs clearly designating the route which it serves. The specifications of the sign are subject to the approval of the Chief Executive Officer. The Chief Executive Officer shall adopt written standards for approval or denial of the size of the signs, the location of the signs on the vehicle, the size of the lettering or graphics on the signs, and other specifications that the Chief Executive Officer finds necessary.

(b) All jitney vehicles must bear a trade name and shall be assigned a body number by the permit holder. The trade name and body number so assigned shall be placed on the vehicle in accordance with written standards adopted by the Chief Executive Officer.

Any violation of this Ordinance shall constitute an infraction unless otherwise specified.

SECTION 7.0 – LOW-SPEED VEHICLES

Section 7.1 – Low-Speed Vehicle (LSV) Definition

Low-Speed Vehicles (LSV) shall mean every vehicle that is designated per the requirements of Ordinance No. 11, Section 1.1(r). LSVs may operate by zones and/or a prearranged basis as set forth in Section 1.1 (b) (1)-(5).

(Section 7.1 amended 2/14/2019)

(Section 7.1 amended 11/8/2018, effective 1/1/2019)

(Section 7.0 and 7.1 added 8/7/2003)

Section 7.2 – Establishment of Zones

The Chief Executive Officer shall establish and authorize the use of zones of operation.

(Section 7.2 added 8/7/2003)

Section 7.3 – Zone Rates of Fare

(a) All vehicles permitted as LSV may use two methods of seeking compensation, either by zone rates or on a prearranged basis. Either method may be used when working inside of an approved zone. However, when operating on a prearranged charter basis, within an approved zone, no operator may exceed the maximum number of vehicles that are permitted.

(b) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for LSV services.

(c) When a permit holder desires to change the rates of fare being charged for LSV services during any calendar year, ~~he~~they shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(d) No permit holder shall charge any rate of fare for LSV services unless said rates are on file with the Chief Executive Officer as aforesaid, and duly displayed.

(e) The rates of fare shall be established by a zone and/or prearranged written contract on a per-mile or per-hour basis.

(f) The maximum rates of fare shall be established pursuant to Section 2.2.

(Section 7.3 amended 1/20/2022)
(Section 7.3 amended 10/13/2016)
(Section 7.3 added 8/7/2003)

Section 7.4 – Spare Vehicle Policy

(a) The following sets out procedures for LSV permit holders to place a spare vehicle into service as either a temporary replacement for a permitted vehicle that is out of service for recharging or mechanical problems.

(1) Spare LSVs must be marked with the approved company markings.

(2) In place of the medallion number, the spare LSV must be marked "Spare LSV." Where more than one spare LSV is being requested, under the provisions of paragraph 9, the LSVs will be marked "Spare LSV 1," "Spare LSV 2," and so on. The "Spare LSV" marking should be sized to fit in approximately the same space as the medallion number would otherwise be placed with legibility and visibility being the primary criteria.

(3) Spare LSVs must be inspected upon initial issuance and annually thereafter.

(4) All spare LSVs must meet all MTS insurance requirements.

(5) To use a spare LSV that meets the requirements of 1 through 4 above, the permit holder must communicate in writing (facsimile is acceptable), a request to place a spare LSV into service.

The request must state:

(A) the medallion number of the LSV being taken out of service, the reason for being out of service, and the location of the out-of-service LSV; and

(B) the estimated time the spare LSV will be in use.

(6) When the out-of-service LSV is ready to re-enter service, the permit holder must immediately notify MTS in writing (facsimile is acceptable).

(7) The out-of-service LSV may not be required to be reinspected to be placed back into service.

(8) The spare LSV must be removed from service at the time the LSV it has been replacing is placed back into service.

(9) Under normal circumstances, a permit holder may utilize spare LSVs. Permit holders may utilize spare LSVs in a ratio of 3:1 permits held.

(10) Spare LSVs that are placed in service may only operate inside of the MTS-approved zone or zones. A permit holder shall not operate more spare vehicles than he/she has regular permitted vehicles.

(11) A permit holder found to have operated a spare LSV in deliberate violation of these procedures will be subject to immediate suspension/revocation of the permit and the loss of the spare LSV utilization privilege.

(Section 7.4 amended 10/13/2016)
(Section 7.4 amended 10/16/2003)
(Section 7.4 added 8/7/2003)

Section 7.5 – LSV Driver Identification Cards

(a) Refer to Section 1.12 of this Ordinance to reference driver and permit holder ID requirements.

(Section 7.5 added 8/7/2003)

Section 7.6 - Equipment and Specifications

(a) Each LSV shall display whether out of service in accordance with section 2.4 (g) of this Ordinance, which shall indicate to a person outside the LSV whether the LSV is in operation or is not.

(b) Exterior Markings

(1) Mandatory Exterior Vehicle Markings. The medallion number shall be painted or permanently affixed, on the front of the vehicle, one (1) inch below the permit holder's trade name, two (2) inches high, utilizing "Univrs" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability.

(2) Optional Exterior Vehicle Markings. The permit holder has the option of choosing to post any combination of the below-listed five options on ~~his or her~~their LSV which must be posted only at the specific location and in the size noted and are subject to the Chief Executive Officer's approval.

(A) Trade Name Logo. If the permit holder chooses to display ~~his or her~~their trade name logo, the trade name logo shall be posted only on the rear portion of both side rear quarter panels.

(B) Radio Service Provider. If the permit holder chooses to display the radio service provider name or logo, the radio service provider name or logo cannot utilize the words "cab" or taxi." The radio service provider name or logo must be displayed only on the rear portion of both side rear quarter panels.

(C) Telephone Number. If permit holder chooses to display a telephone number, the telephone number must be no more than two (2) inches in height and posted only on the top front portion of both front side quarter panels.

(D) "Driver Carries Only \$_____ Change". If the permit holder chooses to post "Driver Carries only \$_____ Change", postings must be located only on panels near the rear door but clear of the rates of fare.

(E) "Leased to Driver". If permit holder chooses to post "Leased to Driver," it must be posted only on both rear quarter panels near the rear door area but clear of the rate of fares in lettering no larger than 1 inch.

(3) All other exterior vehicle markings are prohibited unless they are directly related to the permit holder's business and pre-approved by the Chief Executive Officer.

(c) All LSVs shall be equipped and operated so that they have adequate means of electronic communication during business hours. The LSV company business address shall serve as the storefront for the purpose of handling lost and found items. All other operational requirements shall be met as set forth in section 1.8 (c).

(Section 7.6 amended 1/20/2022)

(Section 7.6 amended 11/8/2018, effective 1/1/2019)

(Section 7.6 amended 12/14/2017)

(Section 7.6 amended 10/4/2016)

(Section 7.6 added 8/7/2003)

SECTION 8 - EFFECTIVE DATE OF ORDINANCE

This Ordinance shall be effective 30 days after adoption, and before the expiration of 15 days after its passage, this Ordinance shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of San Diego.

Amended: 1/20/2022

Amended: 11/12/2020

Amended: 12/12/2019

Amended: 10/10/2019

Amended: 2/14/2019

Amended: 11/8/2018

Amended: 9/20/2018

Amended: 12/14/2017

Amended: 10/13/2016

Amended: 5/12/2016

Amended: 9/17/2015

Amended: 2/12/2015

Amended: 11/15/2012

Amended: 4/19/2012

Amended: 10/16/2003

Amended: 8/7/2003

Amended: 5/8/2003

Amended: 11/14/2002

Amended: 6/27/2002

Amended: 5/23/2002

Amended: 6/24/1999

Amended: 9/24/1998

Amended: 10/30/1997

Amended: 4/10/1997

Amended: 2/13/1997

Amended: 11/9/1995

Amended: 6/22/1995

Amended: 1/12/1995

Amended: 6/24/1993

Amended: 6/27/1991

Amended: 5/23/1991

Amended: 10/11/1990

Repealed & Readopted: 8/9/1990
Amended: 4/12/1990
Amended: 4/27/1989
Adopted: 8/11/1988



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 9

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

January 20, 2022

SUBJECT:

**PURCHASE FOUR (4) INDUSTRIAL BATTERY POWERED SCRUBBERS – 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. L1611.0-22 (in substantially the same format as Attachment A), with Maintex Inc., for the purchase of four (4) industrial battery powered scrubbers as detailed in the scope of work (Attachment B), in the amount of \$110,939.40 (Attachment C).

Budget Impact

The total budget for this project shall not exceed \$110,939.40. This project is funded by MTS Capital Improvement Project (CIP) 2008114801- Station Cleaning Equipment.

DISCUSSION:

San Diego Trolley, Inc. (SDTI) Facilities Department is purchasing four (4) industrial battery powered scrubbers. These are used to clean various SDTI properties, and will replace old scrubbers that have exceeded their useful life.

On November 4, 2021 MTS issued an Invitation for Bids (IFB) for the scrubbers. Three (3) bids were received by the deadline of December 9, 2021 and are summarized as follows:

Company	Cost	Tax	Total	Certifications
Maintex Inc.	\$102,960.00	\$7,979.40	\$110,939.40	N/A
Brady Industries DBA Mission Janitorial & Abrasives Supplies	\$103,596.00	\$8,028.69	\$111,624.69	N/A
Aviate Enterprises Inc.	\$108,708.48	\$8,424.91	\$117,133.39	Small Business (SB); Disabled Veteran Business Enterprise (DVBE)

MTS staff has deemed Maintex to be the lowest responsive and responsible bidder.



Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc. No. L1611.0-22 (in substantially the same format as Attachment A), with Maintex Inc., for the purchase of four (4) industrial battery powered scrubbers as detailed in the scope of work (Attachment B), in the amount of \$110,939.40 (Attachment C).

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

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

Attachments: A. Draft Agreement MTS Doc. No. L1611.0-22
B. Scope of Work
C. Bid Pricing

STANDARD AGREEMENT**FOR****MTS DOC. NO. L1611.0-22****PURCHASE FOUR (4) INDUSTRIAL BATTERY POWERED SCRUBBERS**

THIS AGREEMENT is entered into this _____ day of _____, 2022 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: Maintex Inc. Address: 13300 E Nelson Avenue
City of Industry CA 91746
City State Zip
Form of Business: Corporation
(Corporation, Partnership, Sole Proprietor, etc.) Email: stu@maintex.com
Telephone: (800) 446-1888

Authorized person to sign contracts Stuart Silverman CEO
Name Title

The Contractor agrees to provide services as specified in the conformed Scope of Work (Exhibit A), Contractor's Bid Pricing Form (Exhibit B), and in accordance with the Standard Agreement, including Standard Conditions (Exhibit C), and signed MTS Forms (Exhibit D).

The contract is effective February 1, 2022. Delivery of the scrubbers shall be fourteen (14) weeks from issuance of the Notice to Proceed letter. The termination date of the contract shall be June 30, 2022.

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$110,939.40 without the express written consent of MTS.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	MAINTEX INC.
By: <u>Sharon Cooney, Chief Executive Officer</u>	By _____
Approved as to form:	Title: _____
By: <u>Karen Landers, General Counsel</u>	

SCOPE OF WORK/TECHNICAL SPECIFICATIONS

1.1. INTRODUCTION

Contractor shall furnish four (4) new (never used), Tennant Model T12XP Cylindrical Battery Powered Scrubbers.

Delivery will be eight (8) weeks or less after Notice to Proceed.

Payment terms shall be net 30 days from delivery and acceptance of the units by the MTS PM.

1.2. TECHNICAL SPECIFICATIONS AND SALIENT CHARACTERISTICS



A. The scrubber shall:

- i. Have a spacious operator compartment and will allow the operator to enter or exit the machine from either side of the machine. The operator shall have a speed pedal as well as a brake pedal.
- ii. Have a 36-volt battery system. The machine shall include a heavy duty battery package of at least 360 AH. The machine shall include a 110 volt Built in Battery Charger.
- iii. Have standard electronic controls, visible and easily accessible to the operator. The machine display shall include an hour meter and battery discharge indicator. Instrument circuit protection shall be with resettable circuit breakers. The machine shall have standard on-board self-diagnostic capabilities. Machine scrubbing functions shall be controlled via an electronic touch panel. The machine shall be capable of scrubbing with one-button operation to control all scrubbing functions.
- iv. Have 12 inch minimum diameter solid rear tires. The machine shall have a 10 inch minimum diameter solid, non-marking front tire.
- v. Be powered by a 1.2 horsepower/.89 kW propel motor. The propelling motor shall be an AC brushless power motor rather than a higher maintenance DC powered motor.

- vi. Be capable of making a U-turn in a 73 inch/1,855 mm aisle.
- vii. Have adjustable flow drain cuffs on the recovery tank drain hose that prevents splashing on the operator.
- viii. Be equipped with a deluxe seat with a seat belt.
- ix. Have a cleaning path of 32 inches/810 mm with two cylindrical brushes. The machine shall have a Side Scrubbing Brush with a cleaning path of 41 inches with two cylindrical brushes and a scrubbing side brush. The cylindrical brushes shall have up to 250 pounds/114 kg of down pressure. The cylindrical brushes shall be able to be changed without the use of tools. The cylindrical scrub head shall be entirely within the machine frame. The cylindrical brushes shall be powered by two (2) 1.0 horsepower / 0.75 kW drive 600 rpm motors.
- x. Be equipped with a .3 cubic foot/10 L debris hopper.
- xi. Have an instant solution control on the steering wheel. By tapping the instant water on off bar on the steering wheel shuts down the solution on turns. By tapping it again, turns back on the water. The machine shall have a solution tank with minimum capacity of 35 gallon. The machine shall have a 44 gallon recovery tank and includes a 9 gallon demisting chamber. The recovery tank shall have a debris tray to remove any vacuumed up debris. The solution and recovery tanks shall be hygienic allowing full clean out and inspection of the interior of the tanks.
- xii. Have a parabolic breakaway squeegee design. The squeegee shall automatically lift when machine is reversed to prevent damage. The squeegee blades shall be able to be changed without the use of tools. The machine shall have a 0.8 hp/ 0.6 kW 14,500 rpm vacuum fan with 65 inches/1,650 mm of water lift.
- xiii. Have corner rollers to protect the machine from an accidental impact.
- xiv. The vacuum fan shall be protected by an in-line synthetic filter.
- xv. Have a solution empty and recovery tank full indicator.
- xvi. Have a recovery tank debris tray.
- xvii. Have a built in storage space on the machine.
- xviii. Have an internal, welded steel frame for structure and strength. The machine frame shall be no wider than 37.25 inches. The machine frame shall be painted with a powder-coated paint. The machine shall have stainless steel hardware in vital components below the bumper. The machine shall have color-coded and numbered wiring. The machine shall be equipped with LED headlights. The machine shall meet Underwriter Laboratory's specifications for Type E and have a UL certification label affixed to the machine.
- xix. Have a seat switch which prohibits machine operation when the seat is unoccupied. The machine shall have an automatic parking brake. The machine shall have a steering wheel that allows all scrubbing functions be completed without taking your hands from the steering wheel. The machine shall have propelling and brake pedals laid out for a single foot operation like an automobile.

- xx. Be equipped with protective soft front corner rollers. The machine shall have an audible chime when the machine is in reverse to alert operator of switch position.
 - xxi. Have routine maintenance functions that are color coded yellow for quick and easy identification. The machine shall be equipped with a rear safety Audio visual LED back up alarm.
- B. Ec-H2O Scrubbing System – The machine must be equipped with an electrically activated water scrubbing system. This requires the machine to clean without the use of detergent. Scrubbers that solely rely on detergent to clean are not acceptable. The machine shall be capable of continuously scrubbing for up to 110 minutes before an empty/fill cycle. The machine shall have a switch on the operator console that allows the operator to change between the electrical activated water scrubbing technology and conventional scrubbing modes. The machine shall have an on-board delivery system certified by the National Floor Safety Institute.
- C. Rear Squeegee Protection -- The machine shall be equipped with a tubular heavy duty rear squeegee guard. Front Bumper Protection -- The machine shall be equipped with a tubular steel front bumper that bolts directly to the steel frame of the unit.
- D. Spray Hose -- The machine shall be equipped with a 10 foot spray hose. The hose shall retract on a retractable reel.
- E. Vacuum Wand -- The machine shall have a vacuum wand to get around obstructions and other areas. The unit shall have a 2 inch diameter hose that is 7.25 feet long.
- F. Battery Watering System -- The machine shall have a battery watering system designed to extend the battery life by maintaining the appropriate water levels.
- G. The machine shall carry a 36-month or 2,000 hours (whichever comes first) factory parts warranty. The machine shall carry a 24-month labor and 6 months travel factory warranty. The machine shall carry a full satisfaction guarantee – If not satisfied with the performance of the machine within the first six months, machine may be returned for a full refund, including any freight charges. Warranty shall begin upon delivery and acceptance of the machines. If the manufacturer offers a warranty with a term in excess of the warranty specified in this IFB, the machines shall be subject to the full term of that warranty. All transportation of machines for warranty repairs shall be at the expense of the bidder/manufacturer. Bidder shall submit with bid a copy of the manufacturer's standard warranty and identify a single point warranty, and repair facility.
- H. The manufacturer shall have local Factory-Direct Service. The manufacturer shall provide an operator's manual and training video at no charge within fifteen (15) days of receipt of the PO. The manufacturer shall have parts and service manuals readily available at time of machine purchase. The machine shall be delivered complete and ready for operation. The machine shall include service level reminders for the operator. Once delivered, a factory-direct sales representative shall install the machine on-site.

1.3. INVOICES

Invoices must be sent to the MTS Accounting Department, via email, at ap@sdmts.com. All invoices must have the Purchase Order and/or contract number clearly displayed to ensure timely payment. MTS will not pay on packing slips, receiving documents, delivery documents, or other similar documents. Invoices must be submitted for payment.

Contractors must also indicate if any of the invoiced amount(s) is for service or work provided by a subcontractor and indicate the amount that will be paid to the subcontractor. Contractors must also comply with the prompt payment requirements in the *Prompt Progress Payments* section of the Standard Conditions.

1.4. WARRANTY

Bidders shall outline in detail their warranty on the equipment offered, including the method of adjustment in cases of equipment, component or parts failure. Warranty shall also be stated for installation labor, materials, and method of adjustment.

1.5. REPLACEMENT PARTS

Replacement parts and technical support for the specified equipment must be guaranteed by the manufacturer; to be available for a ten (10) year period from the date of purchase. Manufacturer shall keep parts books and maintenance manuals up-to-date for that period.

1.6. DELIVERY AND ACCEPTANCE

Equipment or any deliverable provided under this contract shall be delivered F.O.B. to SDTI, 1341 Commercial Street, San Diego, California 92113 unless otherwise specified, 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 shall indicate delivery date on the Bid Form unless already specified, in which case, shall be made within the time set forth. Delivery is part of the consideration and must be adhered to as specified.

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 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).

FURNISH FOUR (4) INDUSTRIAL SCRUBBERS

MTS DOC. NO. L1611.0-22

		MAINTEX INC.	
Description	Qty	Unit Cost	Extended Total
Powered Scrubbers	4	\$ 25,740.00	\$ 102,960.00
		Sales Tax	\$ 7,979.40
Delivery cost for all four units (if applicable)		\$	-
Overall Total		\$	110,939.40



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 10

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

January 20, 2022

SUBJECT:

CREATIVE MARKETING BRANDING SERVICES – CONTRACT AMENDMENT

RECOMMENDATION:

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

- 1) Ratify Amendment No. 3 to MTS Doc. No. G2053.3-18 with Civilian, Inc., a Small Business (Civilian) in the amount of \$99,000.00 (Attachment A); and
- 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 4 to MTS Doc. No. G2053.4-18 (in substantially the same format as Attachment B), with Civilian to add additional funds of \$600,000.00 for on-call creatives services and media buy/ad placement.

Budget Impact

The total budget for this project shall not exceed \$3,092,150 (\$2,492,150 current contract value plus \$600,000 for Amendment No. 2). This project is funded by the Marketing department operating budget account 551010-571140.

Description	On Call Creative Services	Media Buy/Ad Placement	Total Amount
Current Board Approved Amount	\$990,150.00	\$1,403,000.00	\$2,393,150.00
Ratify Amendment 3 – Increase funds for on-call creative services	\$99,000.00	-	\$99,000.00
Today's Board action - Approve Amendment 4 – Increase funds for on-call creative services and media buy	\$140,000.00	\$460,000.00	\$600,000.00
New Board Approved Amount			\$3,092,150.00



DISCUSSION:

On June 14, 2018 (AI 30), the MTS Board approved a five-year, \$486,100 contract with Civilian, Inc. for On-Call Creative, Marketing, and Branding Services, from July 1, 2018 to June 30, 2023. On July 25, 2019 (AI 10), the Board authorized increasing the contract funding by \$1,907,050, for a new contract total of \$2,393,150. This additional funding was approved to accommodate costs related to the Elevate SD 2020 community outreach efforts and to allow Civilian to directly buy advertisements on MTS's efforts as part of the campaigns underway. During that time, MTS and Civilian also developed MTS's *Choose Transit* and *Free Ride Day* promotions.

Since 2019, MTS's creative marketing and communication needs have further increased beyond staff's original estimates in order to communicate with our ridership and the community throughout the COVID-19 pandemic. On July 26, 2021, under her Board Policy 41 authority, the CEO authorized an additional \$99,000 in funding for these services (Attachment A), which the Board is asked to ratify today. Today's proposed action would further increase the contract funding to provide sufficient funding to meet MTS's creative communication needs through contract end in June 2023.

MTS's primary goal during the term of this contract has been to work with Civilian to develop a variety of marketing, branding, communications and public outreach strategies as part of a five-year ridership campaign to coincide with major service changes in an effort to reverse the decline in ridership. Civilian's expertise has helped MTS gain millions of impressions and exposure through various advertising mediums such as digital displays, online videos, paid media, radio and TV partnerships, billboards, and more.

With Civilian's assistance, MTS has implemented and will implement a number of marketing campaigns and communication efforts that were not anticipated when the original contract and on-call creative service needs were established. The need for increased local marketing and communication campaigns resulted in the funds in this contract being exhausted more quickly than originally anticipated. The additional campaigns not included in original plans included:

- COVID-19 response – this includes the Clean Ride campaign and the Eat, Shop, Play business support program
- Ridership recovery campaign (anticipated to last through 2023 and possibly longer)
- Public education efforts for potential transit funding initiatives in November 2022
- Youth Opportunity Pass promotion

Funds will be added to the following:

- On-Call Services

Efforts included many tasks that have already been completed and/or are currently in the works, such as marketing planning, special event planning and implementation, community advisory committee support, PRONTO, Mid-Coast launch and more. However, since a large portion of the approved on-call services budget has been allocated for COVID-19 response and other strategic support, MTS is seeking an additional budget of \$140,000.00 for on-call services for the remainder of the contract (January 2022 through June 2023). The added funding will continue to pay for on-call services through the remainder of the contract.

- Media Buy Commissions

In order for Civilian to perform the advertising buys on behalf of MTS, we would need to continue to include a standard 15% agency commission fee (on ad buy dollars spent) as payment for those services. The \$150 hourly rate for on-call services would not apply, since the industry standard and mark up on media buying efforts is based on a universal 15% commission.

- Ad Placement Budget

MTS spent approximately \$461,000.00 in FY21 for advertising campaigns which included efforts to launch PRONTO and the Mid-Coast Extension of the UC San Diego Blue Line. Marketing anticipates a similar annual advertising budget of approximately \$460,000.00 to pay for advertising associated with ridership recovery and public education efforts for a potential transit funding measure in the final year of this contract.

The table below shows the anticipated annual cost for the 15% media buy-agency commission fees and the ad placement budget for Fiscal Year 2022 and 2023. Funding will be used for media buy commission and ad placement among a variety of channels including digital, mobile, social, print, outdoor, television, radio, direct mail.

	FY22	FY23	TOTAL
Ad Placement	\$200,000	\$200,000	\$400,000
Media Buy (15%)	\$30,000	\$30,000	\$60,000
	\$230,000	\$230,000	\$460,000

Once amendments are approved, staff will develop specific work plans and task orders for these various initiatives, which may include future subcontracting opportunities.

Therefore, staff recommends that the MTS Board of Directors:

- 1) Ratify Amendment No. 3 to MTS Doc. No. G2053.3-18 in the amount of \$99,000.00 (Attachment A); and
- 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 4 to MTS Doc. No. G2053.4-18 (in substantially the same format as Attachment B), with Civilian, Inc., to add additional funds of \$600,000.00.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

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

Attachments: A. Amendment 3, MTS Doc No. G2053.3-18
B. Amendment 4, Draft MTS Doc No. G2053.4-18



Metropolitan Transit System

Att. A, AI 10, 01/20/2022

1255 Imperial Avenue, Suite 1000
San Diego, CA 92101
Tel 619.231.1466 Fax 619.234.3407

Amendment 3

Effective Date: July 26, 2021

MTS Doc No. G2053.3-18

CREATIVE, MARKETING, BRANDING SERVICES

Civilian Inc.
Stacey Nelson Smith
Chief Operating Officer
2468 Historic Decatur Road, Suite 250
San Diego, CA, 92106

This shall serve as Amendment No.3 to the original contract G2053.0-18 as further described below.

SCOPE

There is no change to the scope of work. Consultant shall continue to provide services in accordance with the terms and conditions of the original contract and amendments.

SCHEDULE

There is no change to the schedule of this contract.


PAYMENT

This contract amendment shall authorize additional costs for on-call creative marketing and brand service, as specified in the scope of work in the original agreement, not to exceed \$99,000. The total value of this contract including this amendment shall be in the amount of \$2,492,150. This amount shall not be exceeded without prior written approval from MTS.

Please sign and return a copy 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.

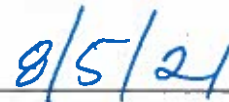
Sincerely,

Agreed:

 for
Sharon Cooney
Chief Executive Officer


Stacey Nelson Smith
Chief Operating Officer
Civilian Inc.

Date:



1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • sdmts.com



San Diego Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego. MTS is also the For-Hire Vehicle administrator for nine cities.

Amendment 4

Effective Date: January 20, 2022

MTS Doc No. G2053.4-18

CREATIVE, MARKETING AND BRANDING SERVICES

Civilian, Inc.
Stacey Nelson Smith
Chief Operating Officer
2468 Historic Decatur Road, Suite 250
San Diego, CA

This shall serve as Amendment No.4 to the original agreement G2053.0-18 as further described below.

SCOPE

Pursuant to the contract, MTS shall add funds for on-call services and media buy/ad commissions.

SCHEDULE

There is no change to the schedule of this contract.

PAYMENT

This contract amendment shall authorize an additional \$600,000.00 (\$140,000.00 for on-call services and \$460,000.00 for media buy). The total value of this contract including this amendment shall be in the amount of \$3,092,150. This amount shall not be exceeded without prior written approval from MTS.

Please sign and return the copy 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

Stacey Nelson Smith
Chief Operating Officer
Civilian, Inc.

Date: _____



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/20/22

Agenda Item No. 11

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

**FIRST RESPONDER NETWORK AUTHORITY (FIRSTNET) SERVICES FOR FIVE (5) YEARS
– AMENDMENT NO. 2**

AGENDA ITEM WILL BE PROVIDED BEFORE BOARD MEETING





DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 12

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

PURCHASE AND DELIVERY OF PRODUCTION SWITCH TAMPER – 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. L1604.0-22 (in substantially the same format as Attachment A) with Harsco Metro Rail, LLC, in the amount of \$1,456,010.79 for the purchase and delivery of a production switch tamper (Attachment B).

Budget Impact

The total budget for this project shall not exceed at \$1,456,010.79. This project is funded by the MTS Capital Improvement Budget (CIP) 2005114901 - On-Track Equipment Replacement.

DISCUSSION:

MTS is looking for a Contractor to purchase and deliver a new production switch tamper for Maintenance of Way's (MOW) Track Department. It will replace the current outdated tamper that is beyond its useful life.

A production switch tamper is a critical piece of track equipment used to correct surface and alignment problems on the track. This helps prevent the risk of trains derailing and makes a train ride smooth. It also increases staff response time to weather related track issues such as washouts and heat kinks. Overall, it helps ensure that the tracks stay in a state of good repair.

On September 23, 2021, MTS issued an Invitation for Bids (IFB) seeking a contractor to purchase and deliver a production switch tamper. Two bids were received by the deadline of November 29, 2021 and are summarized as follows:

Name	Firm Certification	Total Cost
Harsco Metro Rail, LLC	n/a	\$1,456,010.79
Plasser American Corporation	n/a	\$2,509,978.58
<i>MTS Independent Cost Estimate (ICE)</i>		<i>\$1,254,654.73</i>



Based on the bids received, and in comparison with the ICE, MTS staff recommends awarding the contract to Harsco Metro Rail, LLC. Staff has determined the price to be fair and reasonable.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc. No. L1604.0-22 (in substantially the same format as Attachment A) with Harsco Metro Rail, LLC, in the amount of \$1,456,010.79 for the purchase and delivery of a production switch tamper (Attachment B).

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

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

Attachments: A. Agreement Draft MTS Doc. No. L1604.0-22
B. Scope of Work
C. Costs

**STANDARD AGREEMENT
FOR
MTS DOC. NO. L1604.0-22
PURCHASE & DELIVER A PRODUCTION SWITCH TAMPER**

THIS AGREEMENT is entered into this _____ day of _____, 2022 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: Harsco Metro Rail, LLC Address: 3440 Toringdon Way
Charlotte NC 28277
 Form of Business: Corporation City State Zip
 (Corporation, Partnership, Sole Proprietor, etc.) Email: dcombs3@harsco.com
 Telephone: (803) 822-7558

Authorized person to sign contracts Douglas Combs President
 Name Title

The Contractor agrees to provide services as specified in the conformed Scope of Work (Exhibit A), Contractor's Bid Pricing Form (Exhibit B), and in accordance with the Standard Agreement, including Standard Conditions (Exhibit C), and signed MTS Forms (Exhibit D).

The contract is effective February 1, 2022. Delivery of all orders must be shipped in a timely manner. MTS has determined that 180 calendar days or less from the date of Notice to Proceed (NTP) is a satisfactory time for delivery. The contract will terminate September 30, 2022.

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$1,456,010.79 without the express written consent of MTS.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	HARSCO METRO RAIL, LLC
By: _____ Sharon Cooney, Chief Executive Officer	By _____
Approved as to form:	
By: _____ Karen Landers, General Counsel	Title: _____

1. SCOPE OF WORK/TECHNICAL SPECIFICATIONS

PART 1 – GENERAL SPECIFICATIONS

1.1. DESCRIPTION OF WORK

The work consists; in general, of furnishing and delivering a new production / switch tamper.

1.2. SPECIFICATIONS

Contractor will purchase and deliver a Tamper, Cummins 6.7L **Tier IV** 250 HP Diesel Engine Model MK4 Tamper or an approved equal meeting the following minimum requirements:

- A. Hydraulic drive with 2-speed drive axles
- B. Variable displacement propel motors
- C. Full time 4-wheel drive with trunnion-mounted front axle and rear elastomeric suspension springs
- D. 28" wheels (insulated)
- E. 16 tamping tines, with hydraulically driven vibrators operating at 50 Hz
- F. Positive tool displacement of 3/8 inch
- G. Variable tamping depth with in-cabin control
- H. Single rail clamp with ability to lift from ball or base of rail
- I. Single operator cab with:
 - i. Joystick controls
 - ii. Touch screen monitor(s)
 - iii. Jump Seat for Two Secure Rider Positions
- J. Safety Glass Windshield and Wipers
- K. Enclosed Cab with Hydraulic Driven Air Conditioner
- L. Light-based surfacing and lining system with Bullet Projectors
- M. Lumbar support suspension with seat belt and swivel base
- N. Dual facing air horns
- O. Paint AREA work equipment yellow
- P. Operation and Maintenance and Parts manuals on pdf format.

1.3. SPECIFIC REQUIREMENTS

- A. **FRAME:** High strength box beam welded steel construction. Computer designed and analyzed for stress and deflection. The boxed beam type frame shall be welded in fixtures to assure accurate fits and high-quality welds.
- B. **WHEELS & AXLES:** 28-inch (711 mm) diameter single-wear solid steel wheels mounted on heavy duty solid railroad type axles.
- C. **SUSPENSION:** Trunnion mounted front axle. Rear axle is fitted with elastomeric suspension springs.
- D. **DRIVE TRAIN:** Each axle fitted with a two-speed gearbox directly driven by a variable displacement drive motor providing full time four-wheel drive with automatic speed control. The low gear used in work mode and the high gear is used in travel mode.

Variable displacement motors provide high torque for starting on grades and seamless transition through travel speeds up to 30 mph (48 kph). Full time 4 wheel drive to be standard feature in work and travel.

- E. BRAKES: Air operated, tread type brakes feature high friction, composition shoe acting on each wheel. Spring applied, air released secondary brake operation provides automatic brake actuation in case of air pressure loss. Spring applied brake to also function as a parking brake.
- F. ENGINE: Cummins QSB Tier IV Final Certified, 6 cylinder, 6.7 liter turbocharged diesel that develops 250 BHP (186kW) @ 2200 rpm (BHP rating adjustable to optimize Tier IV Performance).
- G. CAB: Large, fully enclosed and climatized rear cab accessible from either side of the machine via a rear platform and rear entry door. Excellent visibility in work and travel.
- H. ELECTRICAL SYSTEM: 24 VDC with a 175-amp alternator.
- I. CONTROL SYSTEM: A distributed I/O control system. Ergonomic operator control through arm panel keypads, joysticks, a keyboard, and a 17-inch LCD color monitor as a graphical interface.

Based on a primary computer located in the cab that performs the role of system controller to a group of networked I/O modules. The primary computer provides the processing power for controlling the user interface, the machine control logic and the lining system, including measuring, recording, analyzing and lining curves.

An industrial network cable connecting to a series of I/O modules that are remotely located around the machine, each local to their interacting devices. Standard electrical system diagnostics, use of "pop-out" graphical diagnostic screens providing ability for operators/technicians to rapidly locate and solve most control system problems without the use of a schematic or multi-meter.

To include:

- i. All output channels detect, report and count short circuits
 - ii. All output channels detect, report and count open circuits
 - iii. Output channels monitor and display load current in Amps
 - iv. Short circuit "testing" of digital input channels
 - v. All digital I/O channels include status LED indicators
 - vi. Module status is monitored and reported in the case of failure
 - vii. Network communication is monitored and reported in case of failure
 - viii. Component and cable number listings for each module channel
- J. HYDRAULIC SYSTEM: Two variable displacement piston pumps and 7 fixed displacement gear pumps. Hydraulic solenoid valves are 24 volts.
- K. AIR SYSTEM: Engine-mounted air compressor that can produce up to 28 SCFM depending on speed and turbo boost pressure. The nominal operating pressure is 100 psi. The system should include a 3 cubic foot reservoir with ASME certification.

- L. HYDRAULIC TANK CAPACITY: 696.5 liters (184 gallons).
- M. FUEL TANK CAPACITY: 700 liters (185 gallons).
- N. TRAVEL SPEED: 30 mph (48 kph) on level track.
- O. COMBO CLAMP SYSTEM: A Combo Clamp multi-purpose lifting and lining assembly capable of clamping and jacking the track in both production and switch tamping modes. Lifting from the ball of the rail during production work and can lift as required from either the ball or base of the rail with the same clamp in switch tamping. Clamping pressure is adjustable from the cab.
- P. TAMPING SYSTEM: Four (4) heavy duty hydro mechanical vibrators which drive sixteen (16) abrasion-resistant tamping tools. The hydraulically driven vibrators should operate at 3000 V.P.M. (50 Hz) and develop a positive tool displacement of 3/8 inch (9.5 mm). Workheads to feature lateral traverse extension to enable tamping the majority of the switch area.

Manually adjustable tamping tool positions for skewed or unevenly spaced ties. Tamping tools for individual workheads can be positioned closer together (squeezed in) prior to the work cycle, allowing insertion in areas of tight tie spacing.

Workhead depth variable from within the cab using operator defined settings on a pop-out workhead panel. This panel to include current workhead position according to the workhead transducer along with the upper (standby) position and lower (squeeze) position for each workhead. Automatically returning the workheads to a lower standby position when indexing during production runs (production mode), and to a higher position when moving workheads through a switch (switch mode).

Tamps per cycle to be individually set for each workhead. Enabling changing cross level in a curve by a large amount where the lift is minimal on one side and double tamping that side may be undesirable.

Workhead squeeze pressure graphically monitored during tamping, allowing the operator to discern tamping quality and the potential need for additional tamps per cycle due to varied ballast conditions. Squeeze pressure setting adjusted with the computer from the operator's position.

- Q. LEVELLING SYSTEM: A leveling system utilizing an infrared light source, 2 receivers, and a shadowboard to form a three-point reference system. An Inclinator on the receiver buggy measures track crosslevel. Automatic ramp-in and ramp-out capabilities and automatic correction of lift and crosslevel are featured.
- R. LINING SYSTEMS: A three-point Lining system providing automatic "best fit" of curves with the ability to easily adjust the fits and print out curve data and graphs.

Based on pre-plotting of the curve either by the tamper or any other source and utilization of this alignment data to program the correction of the track prior to performing corrections. The current position of the track, the corrected alignment, the anticipated "throws" of the track, the time, data and track position can be plotted on board the machine or viewed on the operator's display screen.

The machine control processor will perform an analysis of this curve data and generate a best correction of the curve for consideration. If not acceptable, this can be manually modified by “rubberbanding” to the desired position. The graphic output of the system highlights, using colors, the various on-screen information.

A solid-state removable USB flash drive to be used for the transfer of track recordings and production reporting data. Curves that have been recorded may be transferred to this device and subsequently read by a PC equipped with an optional office version (USB port required). The alignment of curves may be viewed in the office environment, modified or engineered as desired, saved to removable flash drive and returned to the machine for use. Upon insertion of the USB flash drive, curve data files shall transfer automatically.

The proposal shall include the option to integrate a non-contact, inertial track geometry measurement system into the tamper. The system shall measure and record a full complement of track geometry including: gauge, curvature, superelevation, cross-level, twist, left/right alignment, and surface. Following measurement, the system shall determine smoothed geometry and automatically calculate throws.

PART 2 – EXECUTION

1.4. HANDLING AND DELIVERY

All materials are to be delivered to the MTS C Yard located at 1535 Newton Ave, San Diego, CA 92113. Contractor to notify MTS 48 hours prior to delivery. Contact info will be released upon contract award.

Delivery of all orders must be shipped in a timely manner. MTS has determined that 180 calendar days or less from the date of Notice to Proceed (NTP) is a satisfactory time for delivery.

PART 3 – MEASUREMENT AND PAYMENT

1.5. MEASUREMENT AND PAYMENT

The contract price paid for the one (1) tamper shall include full compensation for furnishing and delivering as specified.

1.6. INVOICES

Invoices must be sent to the MTS Accounting Department, via email, at ap@sdmts.com. All invoices must have the Purchase Order and contract number clearly displayed to ensure timely payment. MTS will not pay on packing slips, receiving documents, delivery documents, or other similar documents. Invoices must be submitted for payment.

Contractors must also indicate if any of the invoiced amount(s) is for service or work provided by a subcontractor and indicate the amount that will be paid to the subcontractor. Contractors must also comply with the prompt payment requirements in the *Prompt Progress Payments* section of the Standard Conditions.

1.7. WARRANTY

Bidders shall outline in detail their warranty on the equipment offered, including the method of adjustment in cases of equipment, component or parts failure. Warranty shall also be stated for installation labor, materials, and method of adjustment.

1.8. REPLACEMENT PARTS

Replacement parts and technical support for the specified equipment must be guaranteed by the manufacturer; to be available for a ten (10) year period from the date of purchase. Manufacturer shall keep parts books and maintenance manuals up-to-date for that period.

1.9. DELIVERY AND ACCEPTANCE

Equipment or any deliverable provided under this contract shall be delivered F.O.B. to the address above, 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 shall indicate delivery date on the Bid Form unless already specified, in which case, shall be made within the time set forth. Delivery is part of the consideration and must be adhered to as specified.

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 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).

L1604.0-22
PURCHASE & DELIVER A PRODUCTION/SWITCH TAMPER
HARSCO METRO RAIL, LLC

Description	Total
Harsco Rail Model Mark IV (or Approved Equal)	\$ 1,000,415.00
Option – Training	\$ 104,960.00
Laser Alignment System (or Approved Equal)	\$ 63,785.00
Surface Fit	\$ 15,205.00
Production Reporting	\$ 4,160.00
Dual Reference Lining w Double Barrel Receivers (or Approved Equal)	\$ 18,280.00
Dual Power Kit - 15 AMP, no radio (or Approved Equal)	\$ 985.00
Mobile Asset Reporting System	\$ 2,900.00
Option - Inertial Track Geometry System	\$ 98,675.00
Sub-Total	\$ 1,309,365.00
Tax	\$ 101,475.79
Delivery Cost of Tamper to MTS	\$ 45,170.00
Overall Not-to-Exceed Amount	\$ 1,456,010.79



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 13

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

MASSACHUSETTS UPPER PARKING LOT PAVING – WORK ORDER

RECOMMENDATION:

That the San Diego Metropolitan System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute Work Order MTSJOC275-26 under Job Order Contract (JOC) to MTS Doc. No. PWG275.0-19 (in substantially the same format as Attachment A), with ABC General Contractor, Inc. (ABCGC), in the amount of \$98,656.68 for the mill and overlay of asphalt at the upper Massachusetts Trolley Station parking lot.

Budget Impact

The total budget for this work order shall not exceed \$98,656.68. 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 \$1,923.81. This project is funded by the Facilities Operations Budget 380016-536300.

DISCUSSION:

The existing asphalt concrete at the upper Massachusetts Trolley Station parking lot is beyond useful service life, and thus, needs to be repaved. This project generally consists of mill and overlay of approximately 33,268 square feet (sq. ft.) of the existing parking lot, installation of new pavement markings and removal and installation of wheel stops. This work will bring the parking lot up to a state of good repair, thus mitigating potential risks and costs to MTS in the future.

On April 12, 2019, MTS issued an Invitation for Bids (IFB) seeking a contractor to provide on-call 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. All potential contractors are subject to the pricing within this catalogue. Each contractor then includes an adjustment factor, escalating their proposed price from the catalogue price, to determine the total cost of the task order. The adjustment factor represents an average percentage increase over the catalogue price (i.e. 1.25 adjustment factor represents 25% above the catalogue price) for that respective task within the project. In order to select the lowest responsive and responsible bidder, MTS staff compares each contractor's proposed adjustment factor.

Three (3) bids were received and MTS determined that ABCGC was the lowest responsive and responsible bidder. On June 13, 2019, the MTS Board of Directors authorized the CEO to execute MTS Doc. No. PWG275.0-19 with ABCGC for Civil Construction Services.

Today's proposed action would issue a work order to ABCGC under this JOC master agreement. Pricing for this repair work order was reviewed and determined to be fair and reasonable. ABCGC will provide all materials, labor, and equipment for the mill and overlay of the asphalt at the upper Massachusetts Trolley Station parking lot. Work is expected to be completed by March 2022.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute Work Order MTSJOC275-26 under Job Order Contract (JOC) to MTS Doc. No. PWG275.0-19 (in substantially the same format as Attachment A), with ABC General Contractor, Inc. (ABCGC), in the amount of \$98,656.68 for the mill and overlay of asphalt at the upper Massachusetts Trolley Station parking lot.

/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 MTSJOC275-26, MTS Doc No. PWG275.0-19

JOB ORDER CONTRACT
WORK ORDER

PWG275.0-19
CONTRACT NUMBER

MTSJOC275-26
WORK ORDER NUMBER

THIS AGREEMENT is entered into this _____ day of _____ 2022, 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: ABC General Contractor, Inc. Address: 3120 National Avenue

Form of Business: Corporation San Diego, CA 92113
(Corporation, partnership, sole proprietor, etc.)

Telephone: (619) 247-7113

Authorized person to sign contracts: Kenneth Czubernat President
Name Title

Pursuant to the existing Job Order Contract (MTS Doc. No. PWG275.0-19), MTS issues a Work Order to Contractor to complete the detailed Scope of Work (attached as Exhibit A.), the Cost Breakdown for the Scope of Work (attached as Exhibit B.), and the subcontractor listing form applicable to this Work Order (attached as Exhibit C.)

TOTAL PAYMENTS TO CONTRACTOR SHALL NOT EXCEED \$98,656.68

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	ABC GENERAL CONTRACTOR, INC.
By: <u>Sharon Cooney, Chief Executive Officer</u>	Firm: _____
Approved as to form:	By: _____ Signature
By: <u>Karen Landers, General Counsel</u>	Title: _____



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/22

Agenda Item No. 14

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

**ON-CALL COMMUNICATION AND LOW VOLTAGE WIRING SERVICES – 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. PWG339.0-22 (in substantially the same format as Attachment A), with Communication Wiring Specialist (CWS), Inc., a Small Business (SB), for On Call Communication and Low Voltage Wiring Service for a five (5) years base term in the amount of \$303,860.00.

Budget Impact

The total budget for this project shall not exceed \$303,860.00 (inclusive of CA Sales Tax). This project is funded by the Information Technology (IT) Operations Budget 661010-571250.

Year	Budget Amount
Base Year 1 (FY22)	\$59,922.00
Base Year 2 (FY23)	\$59,922.00
Base Year 3 (FY24)	\$60,782.00
Base Year 4 (FY25)	\$60,782.00
Base Year 5 (FY26)	\$62,452.00
Grand Total	\$303,860.00

DISCUSSION:

MTS has a need for a well-experienced service provider to render both routine and urgent low voltage systems wiring services to support its business operations. The work will include communications wiring installations, routine maintenance services for MTS's telephone and fiber optic systems, cabling services relative to the support of MTS's network, wireless Local-Area Network (LAN) transmission systems, and expert wiring assistance in the course of equipment transfers and relocation of IT infrastructure.

Because demand for expert wiring services has significantly increased at MTS, staff has recognized that a multi-year competitively procured service agreement will be better suited to



meet MTS's near and mid-term needs. MTS will gain time and labor efficiencies and achieve significant cost savings by having an on-call contract for this service rather than generating individual, one-time purchase orders for each requirement.

On September 14, 2021, MTS released a Request for Proposals (RFP) for On-Call Communication and Low Voltage Wiring Service for five (5) years.

On October 22, 2021, MTS received a total of three (3) proposals from the following firms: CWS, NetXperts Inc. and National Electric Works Inc.

A selection committee consisting of representatives from the Capital Projects, Finance and IT departments met and scored the proposals based on the following:

1. Qualifications, Related Experience and Reference of Proposer	25%
2. Proposed Staffing, Organizational Structure, and Service Management Plan	15%
3. Work Plan	20%
4. Cost and Price	40%
Total	100%

The following table illustrates the initial scores and ranking of each firm:

Proposer Name	Firm Certification	Total Avg. Tech Score	Cost Score	Total Avg. Score (max. 100)	Ranking
Communication Wiring Specialist	Small Business (SB)	53.00	40.00	93.00	1
NetXperts Inc.	SB	45.33	26.71	72.04	2
National Electric Works Inc.	Minority Business Enterprise (MBE)	44.00	22.31	66.31	3

Based upon consideration of both technical and cost factors, the selection committee determined that CWS, Inc. is the highest ranked proposer and presented the overall best value to MTS.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc. No. PWG339.0-22 (in substantially the same format as Attachment A), with Communication Wiring Specialist (CWS), Inc., for On Call Communication and Low Voltage Wiring Service for a five (5) years base term in the amount of \$303,860.00.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

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

Attachments: A. Draft Agreement, MTS Doc. No. PWG339.0-22
B. Cost Proposal

**STANDARD AGREEMENT
FOR
MTS DOC. NO. PWG339.0-22**

ON CALL COMMUNICATION AND LOW VOLTAGE WIRING SERVICES

THIS AGREEMENT is entered into this _____ day of _____, 2022 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: <u>Communication Wiring Specialist, Inc.</u>	Address: <u>8909-F Complex Drive</u>
	<u>San Diego</u> <u>CA</u> <u>92123</u>
	City State Zip
Form of Business: <u>Corporation</u> (Corporation, Partnership, Sole Proprietor, etc.)	Email: <u>eric@cwssandiego.com</u>
Telephone: <u>(858) 278-4545</u>	
Authorized person to sign contracts _____	Eric Templin President
	Name Title

The Contractor agrees to provide services as specified in the conformed Scope of Work (Exhibit A), Contractor's Cost/Pricing Form (Exhibit B), and in accordance with the Standard Agreement, including Standard Conditions (Exhibit C), Federal Requirements and signed MTS Forms (Exhibit D), Policy 44C Travel Guidelines for Contractors (Exhibit E).

The contract term is for a 5-year base period and shall be effective February 1, 2022 through January 31, 2027.

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$303,860.00 without the express written consent of MTS.

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

*MTS may ask for a breakdown of the markup %

*MTS may ask for a breakdown of the markup %

Proposers are responsible for verifying the formulas and numbers

IMPORTANT: Do not edit this section within the red border				Year 3		
	Description	Estimated Materials Amount \$30,000	Qty Estimated Hours	*Markup %	Hourly Rate	Extended Total
1	Straight Time Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		800		\$ 69.00	\$ 55,200.00
2	Saturday Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 102.00	\$ 1,020.00
3	Sunday and Holiday Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 122.00	\$ 1,220.00
4	After Standard Business Hours, Hourly Rate Labor <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 75.00	\$ 750.00
5	*Mark-up % on materials/supplies in the amount estimated at \$30,000 annually	\$ 30,000		8.00%		\$ 2,400.00
6	SUB TOTAL					\$ 60,590.00
7	8% CA Sales Tax (on materials/supplies lines 5)					\$ 192.00
8	TOTAL					\$ 60,782.00

*MTS may ask for a breakdown of the markup %

Proposers are responsible for verifying the formulas and numbers

IMPORTANT: Do not edit this section within the red border				Year 4		
	Description	Estimated Materials Amount \$30,000	Qty Estimated Hours	*Mark-up %	Hourly Rate	Extended Total
1	Straight Time Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		800		\$ 69.00	\$ 55,200.00
2	Saturday Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 102.00	\$ 1,020.00
3	Sunday and Holiday Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 122.00	\$ 1,220.00
4	After Standard Business Hours, Hourly Rate Labor <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 75.00	\$ 750.00
5	*Mark-up % on materials/supplies in the amount estimated at \$30,000 annually	\$ 30,000		8.00%		\$ 2,400.00
6	SUB TOTAL					\$ 60,590.00
7	8% CA Sales Tax (on materials/supplies lines 5)					\$ 192.00
8	TOTAL					\$ 60,782.00

*MTS may ask for a breakdown of the markup %

Proposers are responsible for verifying the formulas and numbers

IMPORTANT: Do not edit this section within the red border				Year 5		
	Description	Estimated Materials Amount \$30,000	Qty Estimated Hours	*Mark-up %	Hourly Rate	Extended Total
1	Straight Time Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		800		\$ 71.00	\$ 56,800.00
2	Saturday Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 104.00	\$ 1,040.00
3	Sunday and Holiday Hourly Rate Labor 8:00 AM to 5:00 PM <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 125.00	\$ 1,250.00
4	After Standard Business Hours, Hourly Rate Labor <i>*full burden rates all inclusive of all other charges, including travel, expenses, administrator cost etc.</i>		10		\$ 77.00	\$ 770.00
5	*Mark-up % on materials/supplies in the amount estimated at \$30,000 annually	\$ 30,000		8.00%		\$ 2,400.00
6	SUB TOTAL					\$ 62,260.00
7	8% CA Sales Tax (on materials/supplies lines 5)					\$ 192.00
8	TOTAL					\$ 62,452.00

*MTS may ask for a breakdown of the markup %

Proposers are responsible for verifying the formulas and numbers

TOTALS SUMMARY

Base Years

Year 1 \$ 59,922.00

Year 2 \$ 59,922.00

Year 3 \$ 60,782.00

Year 4 \$ 60,782.00

Year 5 \$ 62,452.00

(BASIS OF AWARD) GRAND TOTAL (All Inclusive of all
charges e.g Tax etc.):

\$ 303,860.00

Proposers: Do not edit this page. Totals will auto-populate.

*MTS may ask for a breakdown of the markup %

Proposers are responsible for verifying the formulas and numbers



**Metropolitan
Transit
System**

DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 15

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

January 20, 2022

SUBJECT:

**ZERO-EMISSION BUS (ZEB) PROCUREMENT PROJECT: 60-FOOT LOW-FLOOR
ELECTRIC BUSES – CONTRACT AMENDMENT (NEW FLYER)**

RECOMMENDATION:

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

- 1) Ratify Amendment No. 1 (Attachment A) to MTS Doc. No. B0722.0-21 with New Flyer for a credit in the amount of (\$728,347.95); and
- 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. B0722.0-21 (insubstantially the same format as Attachment B) with New Flyer, in the amount of \$822,188.27 per technical specification changes for the twelve (12) 60-foot low-floor electric battery-powered buses.

Budget Impact

The total budget for this project is **\$18,652,085.72**, and the total Amendment 2 shall not exceed \$822,188.27 (inclusive of 3.8125 % partial sales tax exemption-ZEB). This project is funded by Capital Improvement Project (CIP) 1009113201 – Iris Rapid ZEB Bus Procurement and 1001105501 – ZEB Pilot Program. Costs will be paid by Transit and Intercity Rail Capital Program (TIRCP), Low Carbon Transit Operations Program (LCTOP) and Transportation Development Act (TDA) funding.

Description	Amount
Current Board Approved Amount	\$18,558,245.40
Ratify Amendment 1 (Training credit)	(\$728,347.95)
Subtotal	\$17,829,897.45
<i>Approve Amendment 2 (Pricing adjustment per technical specification changes)</i>	\$822,188.27
New Board Approved Amount	\$18,652,085.72
Difference from Original Board Approved Amount	\$93,840.32



DISCUSSION:

In February 2021, the Board authorized the purchase of twelve (12) 60-foot articulated ZEB buses from New Flyer from the California State Bus Contract (ref: RFP #0000014840), to service a Rapid route connecting passengers from the Otay border to Trolley service in Imperial Beach (Iris Transit Center). This electric bus purchase will be supported by the first scalable/modular overhead charging infrastructure built at MTS's South Bay Division.

The ZEBs will be utilized on a designated Rapid route from the Otay border to the Iris Transit Center. This project is considered the beginning of MTS's ZEB fleet transition that will be the next step in understanding charging infrastructure technology and build-out. Staff will also analyze characteristics such as route profiles, passenger loads, operator performance, and battery capacity with this bus type. In order to run the buses, overhead pantograph depot chargers will be installed to primarily charge buses overnight. The Phase I and II design was completed and bid was awarded for the infrastructure construction.

Amendment No. 1

This amendment was issued to correct an inadvertent error on the proposed cost of training. The original quote for training was in the amount of \$66,213.45 per bus (total of \$794,561.40) but this is only a one-time cost at \$66,213.45 ($\$794,561.40 - \$66,213.45 = \$728,347.95$ credit) for all 12 buses.

Amendment No. 2

Today's proposed action would authorize Amendment 2 for the price adjustment per the technical specification changes for the twelve (12) 60-foot articulated ZEB buses from New Flyer from the California State Bus Contract.

The vehicles are expected to be delivered in mid-2022. As part of the technical changes and price change adjustments, the New Flyer buses will include the following:

Description
ADD Full INIT farecard reader system with one PROXmobil reader.
ADD Full Conduent system including APC installed at factory.
ADD Viriciti data logger with Basic Electric, Insights, and Smart Driving packages
ADD Genfare Odyssey farebox Odyssey (part #C24003+0529)
NF-supplied Goodyear G652 tires - 305/70R/22.5
ADD streetside depot charger port

The buses are equipped with 611 KW of stored energy and will be charged through overhead depot chargers at South Bay operating facilities. Buses will also be equipped with plug in charging options to allow for remote charging at other MTS facilities, if necessary.

The buses are equipped with 611 KW of stored energy and will be charged through overhead depot chargers at South Bay operating facilities. Buses will also be equipped with plug in charging options to allow for remote charging at other MTS facilities, if necessary.

Therefore, staff is requesting that the MTS Board of Directors:

- 1) Ratify Amendment No. 1 (Attachment A) to MTS Doc. No. B0722.0-21 with New Flyer for a credit in the amount of (\$728,347.95); and

- 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. B0722.0-21 (insubstantially the same format as Attachment B) with New Flyer, in the amount of \$822,188.27 per technical specification changes for the twelve (12) 60-foot low-floor electric battery-powered buses.

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

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

Attachments: A. Amendment No. 1, MTS Doc. No. B0722.1-21
B. Draft Amendment No. 2, MTS Doc. No. B0722.2-21

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

Amendment 1

Date: July 8, 2021
12 60FT BATTERY ELECTRIC BUSES (BEB)

MTS Doc No. B0722.1-21

New Flyer of America, LLC
Ms. Jennifer McNeill
V.P., Sales and Marketing
711 Kernaghan Avenue
Winnipeg, Manitoba, CANADA R2C 3T4

This shall serve as Amendment No. 1 to the original agreement B0722.0-21 (Ref: PO #4500040166) as further described below.

TECHNICAL SPECIFICATIONS

This amendment is to authorize the following changes for the 12 60-foot battery electric buses (BEB):

1. Correction on total cost of Training from \$794,561.40 to \$66,213.45 (a reduction of \$728,347.95, non-taxable).

SCHEDULE

There shall be no change to the schedule.

PAYMENT

This contract amendment shall authorize a reduction of costs not to exceed \$728,347.95. The total value of this contract including this amendment shall be in the amount of \$17,829,897.45 (\$18,558,245.40 - \$728,347.95). 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


Ms. Jennifer McNeill, V.P., Sales and
Marketing
New Flyer of America, LLC

Date: July 22, 2021



Metropolitan Transit System

Amendment 2

Date: January 14, 2022
12 60FT BATTERY ELECTRIC BUSES (BEB)

MTS Doc No. B0722.2-21

New Flyer of America, LLC
Ms. Jennifer McNeill
V.P., Sales and Marketing
711 Kernaghan Avenue
Winnipeg, Manitoba, CANADA R2C 3T4

This shall serve as Amendment No. 2 to the original agreement B0722.0-21 (Ref: PO #4500040166) as further described below.

TECHNICAL SPECIFICATIONS

This amendment is to authorize the technical specification changes for the 12 60-foot battery electric buses (BEB) per attached Price Change Summary.

SCHEDULE

There shall be no change to the schedule.

PAYMENT

This contract amendment shall authorize an increase in the amount of \$822,188.27. The total value of this contract including this amendment shall be in the amount of \$18,652,085.72 (\$17,829,897.45 + \$822,188.27). 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

Ms. Jennifer McNeill, V.P., Sales and
Marketing
New Flyer of America, LLC

Date: _____

Attachment(s): New Flyer Price Summary dated 1/7/22

Cc: M. Wygant, T. Pascarella, W. Wells, K. Whatley, M. Daney, E. Cheng, C. Aquino, Procurement file





Price Change Summary

Property:	San Diego
Option Origin:	19-017
Sales Release No.:	TBD
Quantity:	12
Type:	XE60
Price Change No.:	1
Revision:	D
Date:	07-Jan-22

	Each	Total
Original Contract Price Base Coach	\$ 1,218,484	\$ 14,621,807
Base Bus Price Change Total	\$ 209,765	\$ 2,517,174
PPM Changes	\$ 65,999	\$ 791,994
Contract Spares Base Bus Price Change Total	\$ -	\$ -
Revised Price Base Bus (including ADA & delivery)	\$ 1,494,248	\$ 17,930,975
ADA components	\$ 41,532	\$ 498,385
Delivery	\$ 21,250	\$ 255,000
Bus Price Excluding ADA and Delivery	\$ 1,431,466	\$ 17,177,590
Sales Tax 3.8125%	\$ 54,575	\$ 654,896
Total Bus Price with Tax	\$ 1,548,823	\$ 18,585,871
Tooling Costs (Included in Base Bus Price) Total	\$ 162,472	\$ 162,472
Revised Contract Spares Priced Separately		\$ 162,472
Original Contract Price for Miscellaneous (If priced separately)		\$ -
Miscellaneous Price Change Total (Training)	\$ 66,213.45	\$ 66,213.45
Revised Miscellaneous Priced Separately		\$ 66,213.45
Original Total Contract Price		\$ 14,621,807.28
Total Contract Price Changes		\$ 3,375,381.36
Revised Total Contract Price including Tax		\$ 18,652,084.27



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 16

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

**RAIL REPLACEMENT - AMERICA PLAZA AND KETTNER GRADE CROSSING - WORK
ORDER**

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to:

- 1) Execute Change Order MTS JOC 269-11.04 under Job Order Contract (JOC) to MTS Doc. No. PWG269.0-19 (in substantially the same format as Attachment A), with Herzog Contracting Corp. (Herzog), in the amount of \$92,758.90 for additional labor to notch the rubber rail interface to fit over the direct fixation fasteners; and
- 2) Execute Change Order MTS JOC 269-11.05 under JOC to MTS Doc. No. PWG269.0-19 (in substantially the same format as Attachment B), with Herzog, in the amount of \$31,180.04 for additional contractor administration overhead due to a two-week delay on owner furnished material.

Budget Impact

The total budget for this project shall not exceed \$1,024,133.85. Under MTS Doc No. L1282.0-16 with The Gordian Group, MTS will pay a 1.95% JOC software license fee in the amount of \$19,517.05 for the overall project costs. The project is funded by MTS Capital Improvement Project (CIP) budget number 2005112201 (Rail Replacement – America Plaza & Kettner).

DISCUSSION:

The UC San Diego Blue Line previously terminated service at America Plaza. With the opening of the Mid-Coast extension in November 2021, Blue Line Trolley service continues through America Plaza, across the Kettner Blvd. grade crossing, and continues north to the new terminal at the University Town Center (UTC).



To minimize the potential risk of future service disruptions, this project replaced approximately 800 track feet of existing rail, including waterproofing, fasteners, and rubber rail interface at the America Plaza Trolley Station, and replace the existing grade crossing at Kettner Blvd. The Board approved the initial Work Order for this project on June 27, 2021 (AI 9).

Following execution of the original work order, the designer and contractor performed some field investigation, and jointly determined that some of the elastic fasteners needed to be switched to rigid. The rigid fasteners are more expensive than the elastic, resulting in the Change Order 01 cost increase. The Board approved Change Order for this project on September 16, 2021 (AI 12), which included \$150,000 contingency reserve for unforeseen conditions on the job site, so as to avoid any work slowdown.

Utilizing the aforementioned contingency, staff will issue Change Orders 02 and 03 for the procurement of shims for the fastener assemblies, and for the installation of the conduit and junction boxes for future loop detectors, the removal and replacement of ties and ballast, and the replacement of an insulated joint, respectively.

Today's proposed action will authorize the issuance of Change Orders 04 and 05 for additional labor to notch the rubber rail interface to fit over the direct fixation fasteners, and additional contractor administration overhead due to a two-week delay on owner-furnished material, respectively. Furthermore, Change Order 05 will add 60 calendar days to the Work Order to allow time for the traffic signal junction box lids to be delivered and installed. Board authority is required for these Change Orders because there was not sufficient contingency remaining after the approval of Change Orders 02 and 03. No further change orders are anticipated for this project.

The Work Order and amendments are summarized below:

Work Order No.	Purpose	Amount	Subs.	Board Approval Date	Contingency Funds Remaining
MTSJOC269-11	Original Work Order	\$698,473.76	Acme Safety and Supply Corp. (Disadvantaged Business Enterprise (DBE)) - \$3,000; Angus Asphalt (Small Business (SB)) - \$50,000; and Penhall - \$20,000	6/27/21 (AI 9)	n/a
MTSJOC269-11.01	Change Order 01 -	\$51,721.15		9/16/21 (AI 12)	\$150,000.00

	procurement of additional direct fixation fasteners - plus \$150,00.00 contingency				
MTSJOC269-11.02	Change Order 02 - procurement of shims	\$33,676.50		9/16/21(AI 12) (contingency)	\$116,323.50
MTSJOC269-11.03	Change Order 03 - installation of conduit and junction boxes	\$93,064.22	Poot Trucking (DBE) - \$10,000	9/16/21(AI 12) (contingency)	\$23,259.28
	Subtotal	\$900,194.91			
MTSJOC269-11.04	Change Order 04 - additional labor	\$92,758.90	Acme Safety and Supply Corp (DBE) - \$5,000	Today's Proposed Action	\$(69,499.62)
MTSJOC269-11.05	Change Order 05 - additional contractor administration	\$31,180.04		Today's Proposed Action	\$(100,679.66)
	Total	\$1,024,133.85			

Pricing for this repair task order was reviewed and determined to be fair and reasonable, and Work Orders will be issued to Herzog in the amount of \$123,938.94. The work is scheduled to be completed in February 2022.

Therefore, staff recommends that the MTS Board of Directors authorize the Chief Executive Officer (CEO) to:

- 1) Execute Change Order MTS JOC 269-11.04 under Job Order Contract (JOC) to MTS Doc. No. PWG269.0-19 (in substantially the same format as Attachment A), with Herzog Contracting Corp. (Herzog), in the amount of \$92,758.90 for additional labor to notch the rubber rail interface to fit over the direct fixation fasteners; and
- 2) Execute Change Order MTS JOC 269-11.05 under JOC to MTS Doc. No. PWG269.0-19 (in substantially the same format as Attachment B), with Herzog, in the amount of \$31,180.04 for additional contractor administration overhead due to a two-week delay on owner furnished material.

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

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

Attachments: A. Draft Change Order MTSJOC269-11.04, MTS Doc No. PWG269.0-19
B. Draft Change Order MTSJOC269-11.05, MTS Doc No. PWG269.0-19

CONSTRUCTION CHANGE ORDER

Project Name: **America Plaza Rail Replacement**

Date: **1/20/22**

To: **MTS**

Contract Number: **PWG269.0-19**

From (Contractor): **Herzog Contracting, Corp.**

CCO Number: **MTSJOC269-11.04**

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:
This job order supplement is for additional labor to notch the rubber rail interface to fit over the direct fixation fasteners.

A. Contractor Cost Proposal

\$ 92,758.90 L.S.
\$ - L.S.

Subtotal A: \$ 92,758.90

B. Subcontractors Costs

\$ -

Subtotal B: \$ -

C. Contractor Credits

Subtotal C: \$ -

Total = (A + B + C) Total: \$ 92,758.90

Original Contract value:	\$ 698,473.76
Adjustment by Change Order No. 1 through Change Order 3 (if applicable)	\$ 178,461.87
Adjustment by this Change Order	\$ 92,758.90
New Contract Amount	Total: \$ 969,694.53

The Contract Time due to this Change Order will be: ☐ Increased ☐ Decreased ☒ Unchanged by 0 days

Original Completion Date:	11/4/21
Adjustment by Change Order No. 1 through Change Order 3 (if applicable)	30
Adjustment by this Change Order	0
New Completion Date	12/4/21

Milestones Affected: NONE

Contractor

Date:

MTS Chief Executive Officer

Date:

CONSTRUCTION CHANGE ORDER

Project Name: **America Plaza Rail Replacement**

Date: **1/20/22**

To: **MTS**

Contract Number: **PWG269.0-19**

From (Contractor): **Herzog Contracting, Corp.**

CCO Number: **MTSJOC269-11.05**
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:
This job order supplement is for additional contractor administration overhead due to a two-week delay on owner furnished material.

A. Contractor Cost Proposal

\$ 31,180.04 L.S.
\$ - L.S.

Subtotal A: \$ 31,180.04

B. Subcontractors Costs

\$ -

Subtotal B: \$ -

C. Contractor Credits

Subtotal C: \$ -

Total = (A + B + C) Total: \$ 31,180.04

Original Contract value:

\$ 698,473.76

Adjustment by Change Order No. 1 through Change Order 4 (if applicable)

\$ 271,220.77

Adjustment by this Change Order

\$ 31,180.04

New Contract Amount

Total:

\$ 1,000,874.57

The Contract Time due to this Change Order will be: ☒ Increased ☐ Decreased ☐ Unchanged

by 60 days

Original Completion Date:

11/4/21

Adjustment by Change Order No. 1 through Change Order 4 (if applicable)

30

Adjustment by this Change Order

60

New Completion Date

2/2/22

Milestones Affected: NONE

Contractor

Date:

MTS Chief Executive Officer

Date:



DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 17

**MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS**

January 20, 2022

SUBJECT:

**PROVISION OF HPE CONFIGURE TO ORDER (CTO) SERVERS AND SUPPORT FOR
CLOSED-CIRCUIT TELEVISION (CCTV) VIDEO STORAGE OF SAN DIEGO
METROPOLITAN TRANSIT SYSTEM (MTS) SERVER REFRESH AND MID-COAST TROLLEY
PROJECT – 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 with Nth Generation Computing Inc. for the provision of HPE CTO Servers and ongoing support services for CCTV Video Storage of MTS Server Refresh and Mid-Coast Trolley Extension Project in the amount of \$256,048.91.

Budget Impact

The total budget for this project shall not exceed \$256,048.91 (inclusive of CA 7.75% Sales Tax). This project is funded by the Information Technology (IT) Operating Budget 661010-571250 and Capital Improvement Program (CIP) 2002010601 and 1007100501.

Funding Source	Description	Subtotal
CIP: 2002010601 Mid-Coast CCTV Equipment	Hardware, Initial Install and Set-up, (inclusive of Sales Tax 7.75%); Hardware License (non-taxable)	\$46,509.21
CIP 1007100501 MTS Server Refresh	Hardware, Initial Install and Set-up, (inclusive of Sales Tax 7.75%); Hardware License (non-taxable)	\$155,030.70
571250-661010 IT Operating Budget	Maintenance Support (non-taxable)	\$54,509.00
Grand Total:		\$256,048.91



DISCUSSION:

MTS is refreshing its current CCTV servers and purchasing back-up servers for Mid-Coast. It is critical to refresh the CCTV servers as MTS Security relies heavily on these systems to monitor trolley stations and provide additional support during security incidents. The CCTV servers provide MTS staff with the capability to view and download footage, allowing MTS to work closely with the local law enforcement regarding crimes occurring at or near our transit properties. This CCTV server refresh will take place at ten (10) trolley stations and provide three (3) back-up servers for Mid-Coast.

On November 9, 2021, MTS issued an Invitation for Bid (IFB) to procure thirteen (13) HPE CTO Servers for the Video Storage of MTS Refresh and Mid-Coast Project. The servers were to include a 60-month support license with call center troubleshooting. A total of five (5) bids were received on the due date of December 2, 2021. The apparent first (1st) lowest bidder withdrew its bid as they can no longer commit to the original price and lead time provided. The second (2nd) and third (3rd) lowest bidders were deemed non-responsive as both bidders were unable to submit a complete pricing of the listed equipment. Therefore, their bids were not considered.

The remaining responsive and responsible bids had the following total amounts, inclusive of delivery charges and CA sales tax:

Proposer Name	Firm Certification	Overall Total Amount
NTH GENERATION COMPUTING INC.	N/A	\$256,048.91
SMART IT PROS	N/A	\$319,626.43
<i>MTS Independent Cost Estimate (ICE)</i>		<i>\$371,957.00</i>

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 a comparison of bids received and MTS's ICE.

Therefore, staff recommends that the MTS Board of Directors authorize the Chief Executive Officer (CEO) to execute a Purchase Order with Nth Generation Computing Inc. for the provision of HPE CTO Servers and ongoing support services for CCTV Video Storage of MTS Server Refresh and Mid-Coast Trolley Extension Project in the amount of \$256,048.91.

/S/ Sharon Cooney
Sharon Cooney
Chief Executive Officer

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

Attachment: A. Nth Generation Computing Inc. Bid Price Form

SECTION 5.0 – ATTACHMENT 1
MTS BID PRICING FORM- CCTV HPE CONFIGURE TO ORDER (CTO) SERVER

TABLE 1: PR-10086658 (3 Servers for Mid-coast CCTV)

ITEM#	PRODUCT NUMBER	PRODUCT DESCRIPTION	QTY (UNITS)	TAXABLE Y(YES) or N(NO)	UNIT PRICE (USD)	EXTENDED PRICE (USD)
1	P19718-B21	HPE ProLiant DL380 Gen10 12LFF NC Configure-to-order Server	3	Y	\$ 1,169.00	\$ 3,507.00
2	P19718-B21 ABA	HPE DL380 G10 CTO Mod-X 12LFF WO NIC	3	Y	\$ -	\$ -
3	P23549-L21	Intel Xeon-Silver 4210R (2.4GHz/10-core/100W) FIO Processor Kit for HPE ProLiant DL380 Gen10	3	Y	\$ 579.00	\$ 1,737.00
4	P00920-B21	HPE 16GB (1x16GB) Single Rank x4 DDR4-2933 CAS-21-21-21 Registered Smart Memory Kit	6	Y	\$ 510.00	\$ 3,060.00
5	P00920-B21 OD1	Factory Integrated	6	Y	\$ -	\$ -
6	826687-B21	HPE DL38X Gen10 2SFF Premium HDD Front NVMe or Front/Rear SAS/SATA Kit	3	Y	\$ 195.00	\$ 585.00
7	826687-B21 OD1	Factory Integrated	3	Y	\$ -	\$ -
8	P18422-B21	HPE 480GB SATA 6G Read Intensive SFF SC Multi Vendor SSD	6	Y	\$ 360.00	\$ 2,160.00
9	P18422-B21 OD1	Factory Integrated	6	Y	\$ -	\$ -
10	819201-B21	HPE 8TB SAS 12G Business Critical 7.2K LFF SC 1-year Warranty 512e Multi Vendor HDD	27	Y	\$ 832.00	\$ 22,464.00
11	819201-B21 OD1	Factory Integrated	27	Y	\$ -	\$ -
12	R2U55C	NVIDIA Quadro P2200 Graphics Accelerator for HPE	3	Y	\$ 504.00	\$ 1,512.00
13	R2U55C OD1	Factory Integrated	3	Y	\$ -	\$ -
14	P01366-B21	HPE 96W Smart Storage Lithium-ion Battery with 145mm Cable Kit	3	Y	\$ 110.00	\$ 330.00
15	P01366-B21 OD1	Factory Integrated	3	Y	\$ -	\$ -
16	804338-B21	HPE Smart Array P816i-a SR Gen10 (16 Internal Lanes/4GB Cache/SmartCache) 12G SAS Modular Controller	3	Y	\$ 970.00	\$ 2,910.00
17	804338-B21 OD1	Factory Integrated	3	Y	\$ -	\$ -
18	629135-B22	HPE Ethernet 1Gb 4-port FLR-T BCM5719 Adapter	3	Y	\$ 252.00	\$ 756.00
19	629135-B22 OD1	Factory Integrated	3	Y	\$ -	\$ -
20	865414-B21	HPE 800W Flex Slot Platinum Hot Plug Low Halogen Power Supply Kit	6	Y	\$ 285.00	\$ 1,710.00
21	865414-B21 OD1	Factory Integrated	6	Y	\$ -	\$ -
22	E5Y43A	HPE OneView for ProLiant DL Server including 3yr 24x7 Support FIO Bundle Physical 1-server LTU	3	Y	\$ 510.00	\$ 1,530.00
23	867809-B21	HPE Gen10 2U Bezel Kit	3	Y	\$ 53.00	\$ 159.00
24	867809-B21 OD1	Factory Integrated	3	Y	\$ -	\$ -
25	733662-B21	HPE 2U Large Form Factor Easy Install Rail Kit	3	Y	\$ 123.00	\$ 369.00
26	733662-B21 OD1	Factory Integrated	3	Y	\$ -	\$ -
27	826706-B21	HPE DL380 Gen10 High Performance Heat Sink Kit	3	Y	\$ 125.00	\$ 375.00
28	826706-B21 OD1	Factory Integrated	3	Y	\$ -	\$ -
29	HU4A6A5	HPE 5Y Tech Care Essential Service	3	N	\$ -	\$ -
30	HU4A6A5 SVN	HPE One View w/Ilo Support	3	N	\$ 156.00	\$ 468.00
31	HU4A6A5 WAH	HPE DL38x Gen10 Support	3	N	\$ 4,037.00	\$ 12,111.00
Subtotal:						\$ 55,743.00

TABLE 2: PR-10086621 (10 Servers for MTS CCTV Warranty Refresh)

ITEM#	PRODUCT NUMBER	PRODUCT DESCRIPTION	QTY (UNITS)	TAXABLE Y(YES) or N(NO)	UNIT PRICE (USD)	EXTENDED PRICE (USD)
1	P19718-B21	HPE ProLiant DL380 Gen10 12LFF NC Configure-to-order Server	10	Y	\$ 1,169.00	\$ 11,690.00
2	P19718-B21 ABA	HPE DL380 G10 CTO Mod-X 12LFF WO NIC	10	Y	\$ -	\$ -
3	P23549-L21	Intel Xeon-Silver 4210R (2.4GHz/10-core/100W) FIO Processor Kit for HPE ProLiant DL380 Gen10	10	Y	\$ 579.00	\$ 5,790.00
4	P00920-B21	HPE 16GB (1x16GB) Single Rank x4 DDR4-2933 CAS-21-21-21 Registered Smart Memory Kit	20	Y	\$ 510.00	\$ 10,200.00
5	P00920-B21 0D1	Factory Integrated	20	Y	\$ -	\$ -
6	826687-B21	HPE DL38X Gen10 2SFF Premium HDD Front NVMe or Front/Rear SAS/SATA Kit	10	Y	\$ 195.00	\$ 1,950.00
7	826687-B21 0D1	Factory Integrated	10	Y	\$ -	\$ -
8	P18422-B21	HPE 480GB SATA 6G Read Intensive SFF SC Multi Vendor SSD	20	Y	\$ 360.00	\$ 7,200.00
9	P18422-B21 0D1	Factory Integrated	20	Y	\$ -	\$ -
10	819201-B21	HPE 8TB SAS 12G Business Critical 7.2K LFF SC 1-year Warranty 512e Multi Vendor HDD	90	Y	\$ 832.00	\$ 74,880.00
11	819201-B21 0D1	Factory Integrated	90	Y	\$ -	\$ -
12	R2U55C	NVIDIA Quadro P2200 Graphics Accelerator for HPE	10	Y	\$ 504.00	\$ 5,040.00
13	R2U55C 0D1	Factory Integrated	10	Y	\$ -	\$ -
14	P01366-B21	HPE 96W Smart Storage Lithium-ion Battery with 145mm Cable Kit	10	Y	\$ 110.00	\$ 1,100.00
15	P01366-B21 0D1	Factory Integrated	10	Y	\$ -	\$ -
16	804338-B21	HPE Smart Array P816i-a SR Gen10 (16 Internal Lanes/4GB Cache/SmartCache) 12G SAS Modular Controller	10	Y	\$ 970.00	\$ 9,700.00
17	804338-B21 0D1	Factory Integrated	10	Y	\$ -	\$ -
18	629135-B22	HPE Ethernet 1Gb 4-port FLR-T BCM5719 Adapter	10	Y	\$ 252.00	\$ 2,520.00
19	629135-B22 0D1	Factory Integrated	10	Y	\$ -	\$ -
20	865414-B21	HPE 800W Flex Slot Platinum Hot Plug Low Halogen Power Supply Kit	20	Y	\$ 285.00	\$ 5,700.00
21	865414-B21 0D1	Factory Integrated	20	Y	\$ -	\$ -
22	E5Y43A	HPE OneView for ProLiant DL Server including 3yr 24x7 Support FIO Bundle Physical 1-server LTU	10	Y	\$ 510.00	\$ 5,100.00
23	867809-B21	HPE Gen10 2U Bezel Kit	10	Y	\$ 53.00	\$ 530.00
24	867809-B21 0D1	Factory Integrated	10	Y	\$ -	\$ -
25	733662-B21	HPE 2U Large Form Factor Easy Install Rail Kit	10	Y	\$ 123.00	\$ 1,230.00
26	733662-B21 0D1	Factory Integrated	10	Y	\$ -	\$ -
27	826706-B21	HPE DL380 Gen10 High Performance Heat Sink Kit	10	Y	\$ 125.00	\$ 1,250.00
28	826706-B21 0D1	Factory Integrated	10	Y	\$ -	\$ -
29	HU4A6A5	HPE 5Y Tech Care Essential Service	10	N	\$ -	\$ -
30	HU4A6A5 SVN	HPE One View w/llo Support	10	N	\$ 156.00	\$ 1,560.00
31	HU4A6A5 WAH	HPE DL38x Gen10 Support	10	N	\$ 4,037.00	\$ 40,370.00
Subtotal:						\$ 185,810.00

San Diego, California Sales Tax (7.75%) for Taxable line items only:		\$ 14,495.91
Freight Charges/ Shipping FOB specified destination (No Charge):		\$ -
GRAND TOTAL (Basis of Award):		\$ 256,048.91



**Metropolitan
Transit
System**

DRAFT FOR EXECUTIVE COMMITTEE REVIEW DATE: 01/13/2022

Agenda Item No. 18

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS

January 20, 2022

SUBJECT:

**ESTABLISH AUTOMATED CLEARING HOUSE (ACH) DEBIT BANK CHECKING ACCOUNT
FOR WORKERS' COMPENSATION THIRD PARTY ADMINISTRATION SERVICES**

RECOMMENDATION:

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

- 1) Authorize the Chief Executive Officer (CEO) to amend the Workers' Compensation Third Party Administrator Contract with CorVel Enterprise Comp, Inc. to set up a separate bank checking account to pay workers' compensation related expenses (CorVel Account); and
- 2) Waive the application of Board Policy 41 (Signature Authority) for payments made from the CorVel Account.

Budget Impact

None. MTS is required by law to provide various workers' compensation benefits and payments to employees, former employees, medical providers, and others in a timely manner. Any discretionary payments under the workers' compensation system that exceed \$50,000 require Board approval under Board Policy 51. Non-discretionary payments are generally paid as required by law. The proposed action does not alter the amount of liability for such benefits and payments.

DISCUSSION:

At the November 18, 2021 MTS Board meeting (AI 11), the Board approved a new third-party administrator (TPA) contract for workers' compensation claims administration services with CorVel Enterprise Comp, Inc. The contract will commence on February 1, 2022 and will run for a base period of five years with the potential to extend the contract for up to five additional years.

There will be a change to the banking arrangements over the system currently in place with the outgoing TPA. CorVel will open a checking account on behalf of MTS. The account will be in



CorVel's name and tax identification number. Details about how the account will be administered are provided in Attachment A (MTS/CorVel Banking Documentation).

The checking account will be set up in this manner as it is similar to how the majority of other self-insured entities that retain the services of a TPA pay their workers' compensation expenses. MTS recently surveyed other California public transit agencies and determined that the bank checking accounts they use to pay workers' compensation expenses are also placed in the TPA's name rather than their own.

Examples of payments to be paid to other parties from the proposed ACH debit checking account include the following:

- Indemnity payments to injured workers (such as total temporary disability, wage loss and permanent disability advances);
- Mileage reimbursements to employees;
- Stipulated settlements and compromise & release settlements to injured workers ordered by the Workers' Compensation Appeals Board (WCAB);
- Medical provider invoices (such as physician visits, qualified medical exams, agreed medical exams, physical therapy, acupuncture, etc.);
- Surgical procedures and hospitalization fees;
- Rehabilitation facility fees;
- Interpreter services, qualified transportation and home health care nursing visits;
- Nurse case management;
- Surveillance and "arise out of employment/course of employment" (AOE/COE) investigations;
- Applicant's attorneys deposition fees.

CorVel will not issue payments to itself for the ancillary services it provides to MTS (i.e., managed care, bill review, preferred provider network savings, medical provider network, and Medicare/Medicaid reporting). Instead, those expenses will be invoiced separately on a monthly basis from CorVel to MTS.

Waiver or Policy 41 Approval Limits

Board Policy 41 sets various approval limits for expenditures and the staff positions with such authority, ranging from expenditures up to \$3,500 (various managers), \$5,000 (directors), \$50,000 (Director of Capital Projects, Chief Operating Officers, Chief Financial Officer, Chief of Staff, General Counsel), and \$100,000 (CEO). *Discretionary* payments as settlement of a workers' compensation claim are also limited by Board Policy 51 – giving the CEO authority to approve up to \$50,000. That authority is not being changed by today's proposed action.

Today's proposed action would clarify that the payment of *non-discretionary* amounts that MTS is required by law to pay under the workers' compensation system, such as temporary disability, permanent disability, medical provider costs, mileage reimbursement, and other benefits are not subject to the approval limits in Board Policy 41. CorVel, as our TPA, will make the payments from the CorVel Account as they become due and payable, while providing a regular accounting to MTS of such payments and obligations. CorVel will be required to receive prior written approval from MTS staff for any individual payments from the CorVel account over \$10,000, as an extra oversight and budget/accounting measure.

MTS is required by law to provide various workers' compensation benefits and payments to employees, former employees, medical providers, and others in a timely manner.

Therefore, staff recommends that the MTS Board of Directors:

1. Authorize the CEO to amend the Workers' Compensation Third Party Administrator Contract with CorVel Enterprise Comp, Inc. to set up a separate bank checking account to pay workers' compensation related expenses (CorVel Account); and
2. Waive the application of Board Policy 41 (Signature Authority) for payments made from the CorVel Account.

/S/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

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

Attachment: A. MTS/CorVel Banking Documentation



Attachment A

MTS/CorVel Banking Documentation

Account Setup

- CorVel will establish a Wells Fargo checking account on behalf of MTS, using CorVel's name and Tax ID. The bank account established by CorVel will be a non-interest bearing Wholesale Checking account dedicated for the payments of MTS with no co-mingling of funds with other entities. CorVel will be responsible for issuing payments, performing monthly bank reconciliations, and handling banking fees. The Wells Fargo bank account will be funded by daily ACH debit, initiated by CorVel Treasury.

Daily ACH Debit Funding Process:

- CorVel Treasury will initiate daily ACH debits to replenish the CorVel-managed Wells Fargo bank account. The debits will be processed with an effective date of the following business day. The daily funds that will be drawn from the MTS external bank account will equal the total dollar amount of checks processed that day, reduced by any financial credits from the day (including voided / stopped checks, claim refunds, subrogation, or recoveries). Payments will be released once the funds post to the CorVel-managed account.

Wells Fargo Checking Account Features

- **Positive Pay with Payee Validation & ACH Fraud Filter**
 - Treasury Services will handle Positive Pay and payment validations on the account. Payments issued from the account are included in an encrypted file uploaded to Wells Fargo. Any payments presented that do not exactly match the positive pay data are reviewed daily and addressed. CorVel also does not allow unauthorized debits, and any unauthorized debits are part of a daily review.
- **Automated Bank Reconciliation**
 - CorVel will send the Bank Reconciliation monthly via email to a designated customer distribution within the first three business days of the month. The reconciliation includes the Wells Fargo bank statement, reconciliation report showing payments that have cleared and payments still outstanding, summary check register, and an audit document signed and approved by two CorVel accountants.
- **Direct Deposit**
 - CorVel has an integrated platform with Wells Fargo to allow Direct Deposit / EFT payments to Providers and Claimants. Currently CorVel processes over 80% of payments via EFT instead of physical checks, and the numbers continue to grow. The processing of the payments, whether as a physical check or electronic payment, is the same until the final stage of releasing the MTS check run. After funding has been verified and payments for the check run are released, those designated as physical checks are sent to one queue to continue the printing process while EFTs are sent to another queue to upload to the bank. EFT payments are posted to the payee's account the day after they are submitted to the bank.
- **Online Reporting**
 - Customers are given reporting-only access to Wells Fargo Commercial Electronic Office.
- **No banking fees**
- **CorVel daily transaction reconciliation**

Tax Reporting: 1099's will be reported under CorVel's name and Tax ID. 1099 reporting will be filed by CorVel from implementation date through the end of the year.

Escheatment: CorVel is fully responsible for all escheatment. CorVel starts reviewing unclaimed property (physical checks that have not been cashed) starting at 60 days from the date the payment was issued. This assists in faster resolution as the hope is that payees will be tracked down faster and new payments issued if necessary and

cashed. Promoting the EFT/ Direct Deposit program is also part of the Escheatment process to encourage payees to register to receive payments via electronic means and again prevent delays in receipt / cashing of funds, thereby reducing the number of unclaimed property filings. With this process, CorVel has very minimal filing to states in regards to unclaimed property.

Daily Payment Workflow: Once bills have gone through adjuster review / bill processing and are approved for payment, they enter the check run queue. Payments in the queue by 9:00 AM Pacific will be included in the day's check run and assigned the payment date and payment number.

Reporting: Every Friday, CorVel Treasury will send a weekly report along with a financial statement via email to a confirmed customer distribution list. The reporting will be sent for a previous weekly date range, and will include the following attachments:

- **Payment Detail Report (Excel and/or PDF format)**
 - This report will contain all the details for payments issued, payments stopped / voided, and claim refunds processed within the designated reporting date range. Any subrogation or recoveries will be captured in a separate report, but the details will be included as line item descriptions / totals at the bottom of the payment detail report to show that day's financial total.
 - Each row of the report will include the specific details for individual payments and refunds (payment number, payment code classification, payment issue date, claim number, claimant name, claimant date of injury, payee name, service dates for respective payment, financial category, payment type, and payment amount). There are additional fields available in CareMC that can be added per customer request.
- **Subrogation / Recovery Report (Excel and/or PDF format)**
 - If there are any subrogation or recoveries processed during the reporting period, a separate report will be included with the details for these transactions. This report will be run for the same date range of the payment detail report, and the report will include the details for each transaction (transaction process date, claim number, claimant name, claimant accident date, recovery type, transaction number, receipt type, and transaction total). There are additional fields available in CareMC that can be added per customer request.
- **Financial Statement (PDF format)**
 - CorVel Treasury will provide a weekly financial statement for MTS records that will match the payment detail and subrogation / recovery reporting run out of the claim system. The statement will additionally show the business dates that the respective ACH debits were processed to balance to the claim reporting.