



## MARIN COUNTY TRANSIT DISTRICT BOARD OF DIRECTORS

Join on Zoom: <https://www.zoom.us/j/87972683373>

Webinar ID: 879 7268 3373

Monday, September 13, 2021

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**Webinar ID:** 879 7268 3373

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### **How to provide comment on agenda items:**

- To provide written public comment prior to or during the meeting, please email [info@marintransit.org](mailto:info@marintransit.org) (if intended to be read aloud as public comment, please state "Public Comment" in subject line). Please email your comments no later than **9:00 A.M. Monday, September 13, 2021** to facilitate timely distribution to the Board of Directors. Please include the agenda item number you are addressing and include your name and address. Your comments will be forwarded to the Board of Directors and will be placed into the public record.
- During the meeting (only): Use the comment form available at <https://www.marintransit.org/meetings> to submit your meeting-related comments on this agenda. Your comments will become part of the public record.
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### AGENDA

Monday, September 13, 2021

#### **9:30 a.m. Convene as the Marin County Transit District Board of Directors**

1. Open Time for Public Expression (limited to three minutes per speaker on items not on the Transit District's agenda)
2. Board of Directors' Matters
3. General Manager's Report
  - a. General Manager's Oral Report
  - b. Monthly Monitoring Report: June 2021
4. Consent Calendar
  - a. Minutes for August 3, 2021 Board Meeting
  - b. Minutes for August 23, 2021 Special Board Meeting
  - c. Marin Transit Quarterly Performance Report for the Fourth Quarter of FY 2020/21
  - d. Clipper START Pilot Program Extension
  - e. Marin Transit Employment Compensation Framework Update FY2022
  - f. Amendment to Lease Agreement for Marin Transit Office Space
  - g. Extend Agreement with Golden Gate Bridge Highway and Transportation District for Operation and Maintenance of Local Fixed Route Service
  - h. Contract with Arntz Builders, Inc. for the Construction of Electric Bus Charging Infrastructure Improvements at 600 Rush Landing
  - i. Revised Marin Transit Procurement Policies and Procedures  
**Recommended Action: Approve.**
5. Award of Contract for Operation of Marin Access Services & Programs  
**Recommended Action: Award contract for Operation of Marin Access Services & Programs to Transdev Services, Inc. for an initial term of three years and five (5) months with three additional option years; authorize General**

**Manager to negotiate and finalize contract terms; and, approve associated budget amendment (2021-02).**

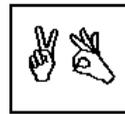
6. Revocable License Agreements with Golden Gate Bridge Highway and Transportation District for Paratransit Vehicle Parking

**Recommended Action: Authorize the General Manager to execute two revocable license agreements with Golden Gate Bridge Highway and Transportation District (GGBHTD) for paratransit vehicle parking in San Rafael and Novato.**

7. New Agreement for Paratransit Services Between Marin Transit and Golden Gate Bridge, Highway and Transportation District

**Recommended Action: Authorize the General Manager to negotiate and execute a new agreement for Paratransit services between Marin Transit and the Golden Gate Bridge, Highway and Transportation District (#1051).**

## **Adjourn**



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In case of Zoom outage dial 515-604-9094. Meeting ID: 142-334-233

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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: General Manager Report – Monthly Report: June 2021**

Dear Board Members:

**RECOMMENDATION:** This is a recurring information item.

**SUMMARY:** The attached monthly report provides an overview of Marin Transit operations for the monthly period ending June 30, 2021. The monthly reports summarize statistics on the performance of Marin Transit services and customer comments.

Overall systemwide ridership in June 2021 increased by 51.9 percent compared to June 2020, which represents a 41.9 percent decrease from the pre-COVID ridership in June 2019 and 1.1% increase from May 2021.

Ridership on fixed-route services increased by 52.3 percent from the prior year, which is a 39.5 percent decline compared to pre-COVID in June 2019. Ridership on Marin Access services increased by 41.7 percent compared to June 2020, which represents a 58.2 percent decline from June 2019. There were no yellow bus services due to school closures throughout the month. June 2021 was the sixteenth month of ridership affected by the ongoing COVID-19 global pandemic.

Additional detailed analyses of system performance and trends are provided in separate quarterly and annual reports, including route-level statistics and financials. These reports are available on the District's website at <https://marintransit.org/service-performance-and-reports>.

**FISCAL/STAFFING IMPACT:** None associated with this report.

Respectfully submitted,

Nancy Whelan  
General Manager

Attachments



Month: June 2021		Program							Total
Category	Fixed-Route Local	Fixed-Route Shuttle	Stagecoach & Muir Woods	Supplemental & Yellow Bus	Demand Response	Mobility Management	Systemwide		
<b>Commendation</b>	0	1	0	0	0	1	0	2	
<b>Service Delivery Complaint</b>	15	12	4	2	5	0	0	38	
Accessibility	0	1	0	1	0	0	0	2	
Driver Conduct Complaint	5	3	1	1	0	0	0	10	
Driving Complaint	5	2	0	0	3	0	0	10	
Early Trip	1	0	0	0	0	0	0	1	
Equipment Issue	0	0	0	0	0	0	0	0	
Farebox	0	0	0	0	0	0	0	0	
Late Trip	1	0	0	0	1	0	0	2	
Missed Connection	0	0	0	0	0	0	0	0	
Missed Trip	0	0	0	0	1	0	0	1	
No-Show	0	3	1	0	0	0	0	4	
Off-Route	0	0	0	0	0	0	0	0	
Pass-Up Complaint	3	3	2	0	0	0	0	8	
<b>Service Structure Complaint</b>	1	0	1	0	4	0	0	6	
Bus Stop Improvement Request	0	0	0	0	0	0	0	0	
Fares	0	0	0	0	0	0	0	0	
Other Complaint	1	0	1	0	0	0	0	2	
Scheduling Complaint	0	0	0	0	3	0	0	3	
Service Improvement Suggestion	0	0	0	0	1	0	0	1	
<b>Safety Complaint</b>	0	0	0	0	0	0	0	0	

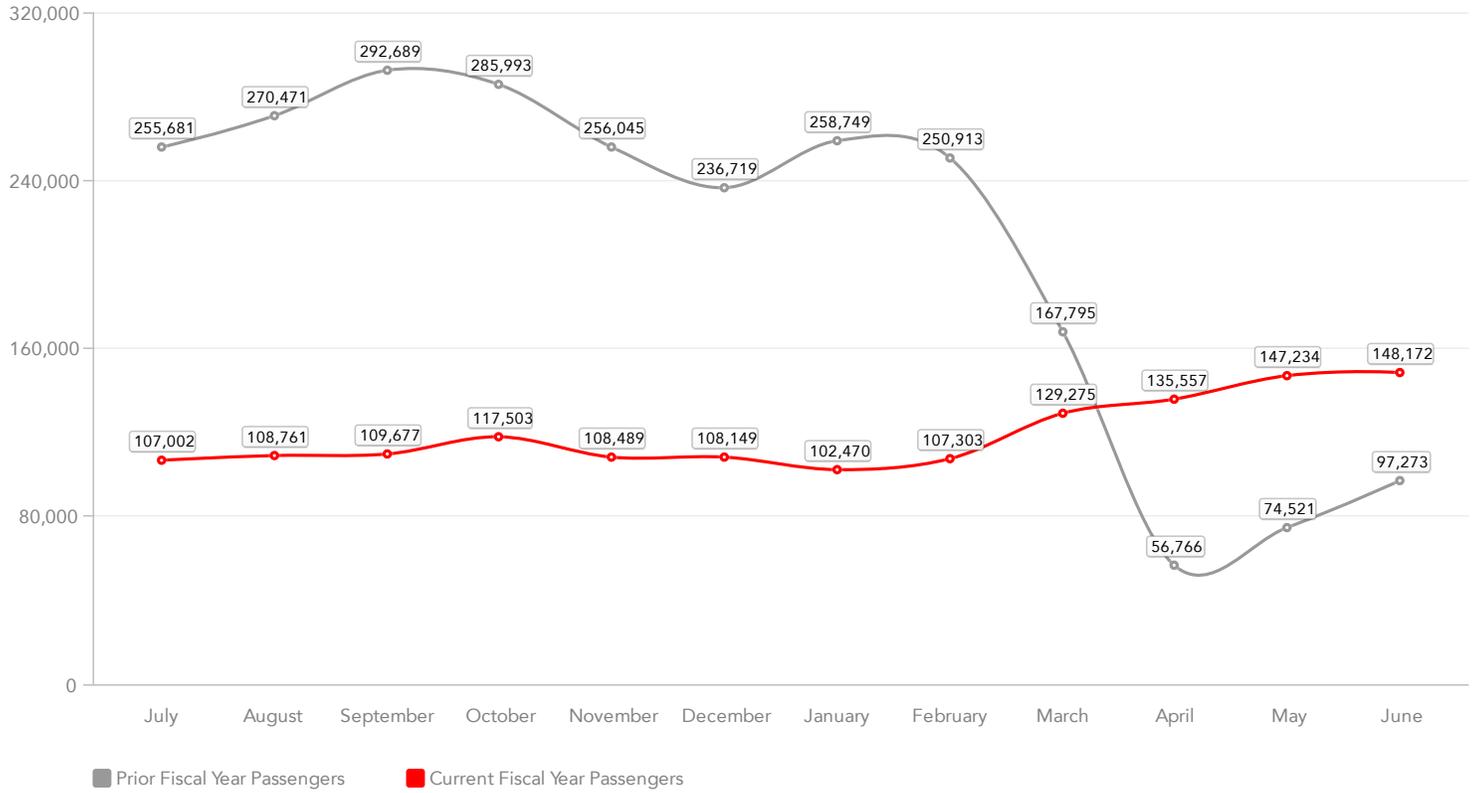
<b>Total Service Hours</b>	9,276	3,457	1,636	948	2,813	-	18,131	18,131
Commendations per 1,000 Hours	0.0	0.3	0.0	-	0.0	-	0.0	0.1
Complaints per 1,000 Hours	1.7	3.5	3.1	-	3.2	-	0.0	2.4

<b>Total Passengers</b>	112,314	19,441	8,450	7,967	4,538	1,145	153,855	153,855
Commendations per 1,000 Passenger	0.0	0.1	0.0	-	0.0	0.9	0.0	0.0
Complaints per 1,000 Passengers	0.1	0.6	0.6	-	2.0	0.0	0.0	0.3

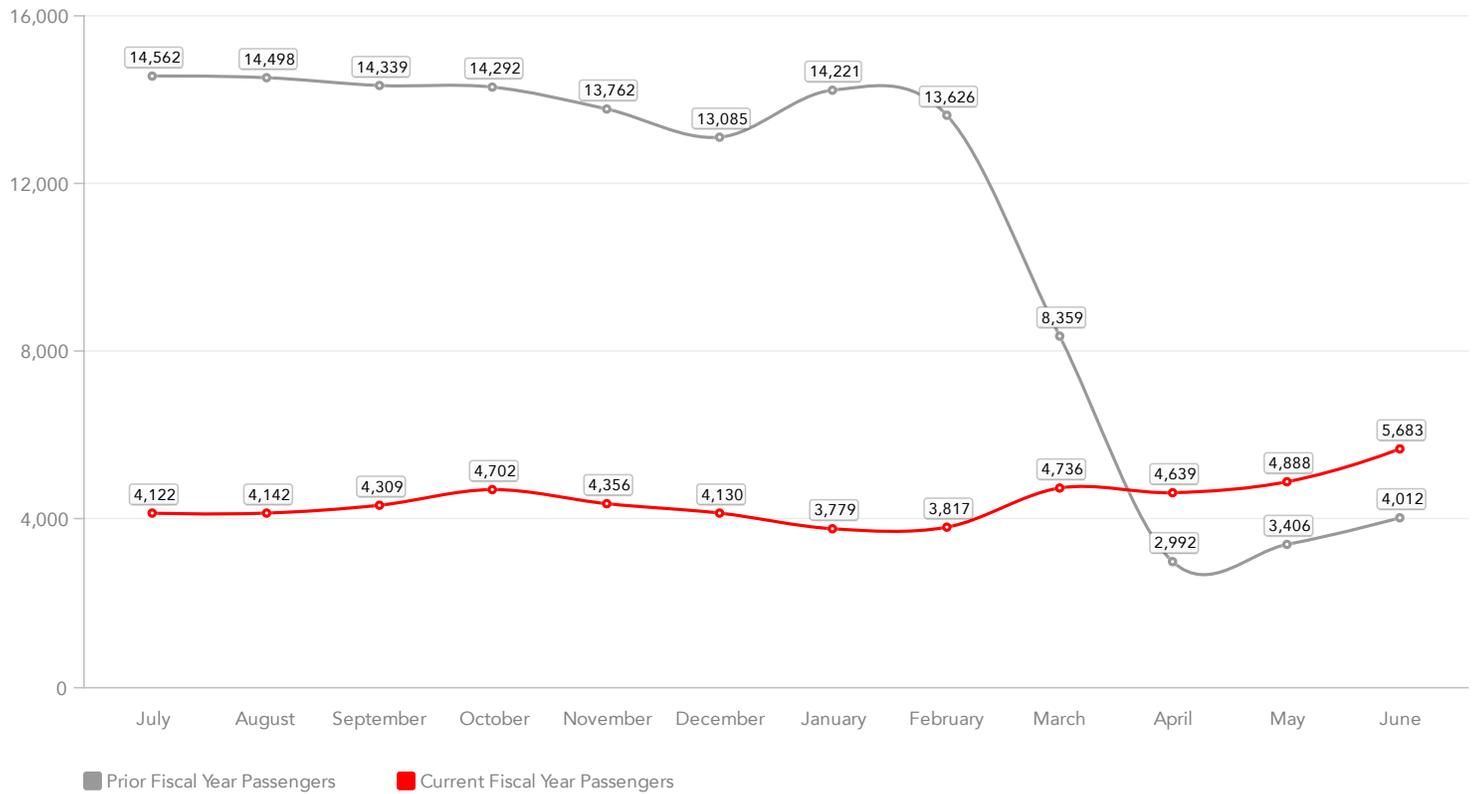
FISCAL YEAR MONTH  
2021 All

### Year-to-Date Ridership Trends

Fixed-Route Passengers (incl. Yellow Bus) by Month



Demand Response Passengers by Month

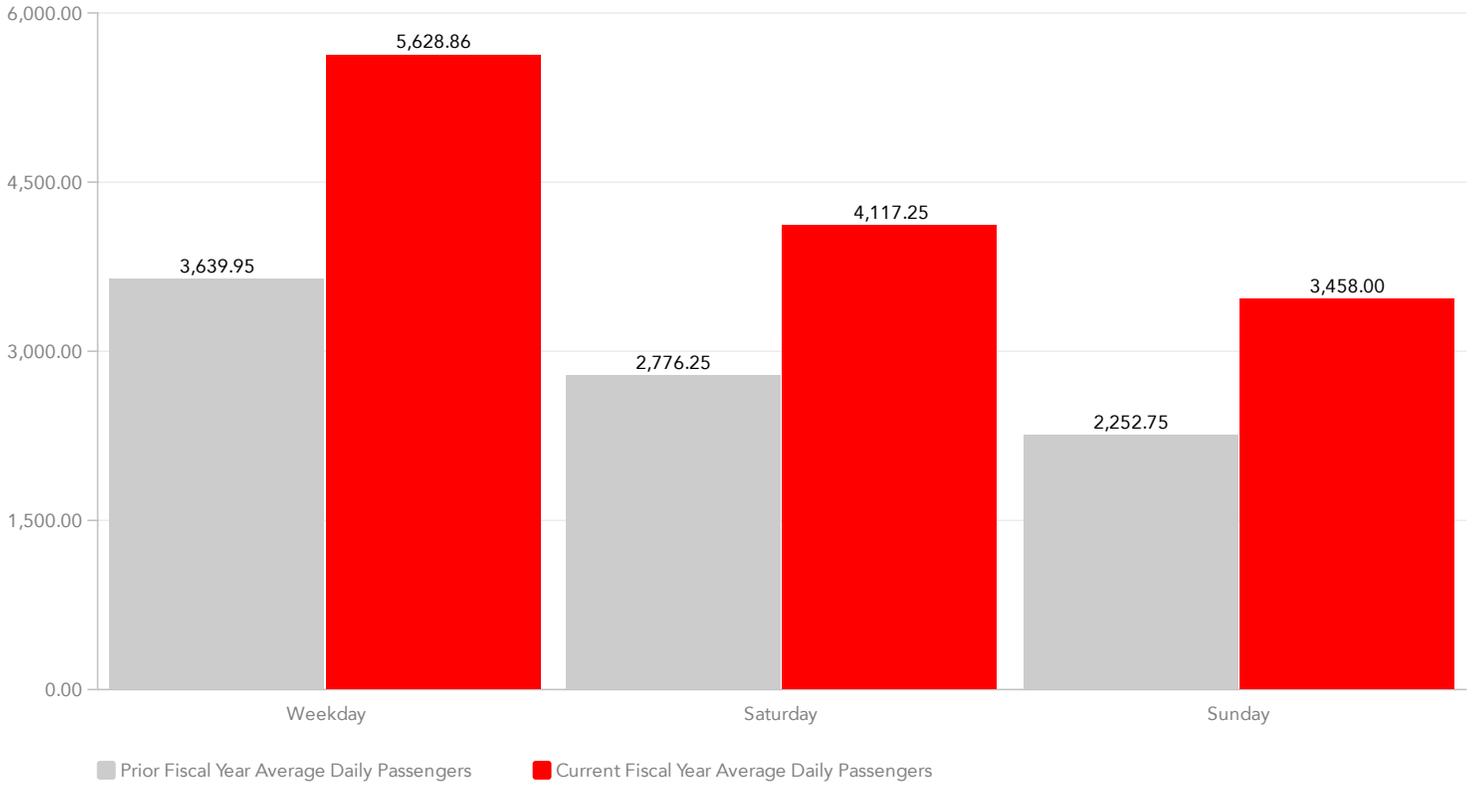


## Monthly Comparison

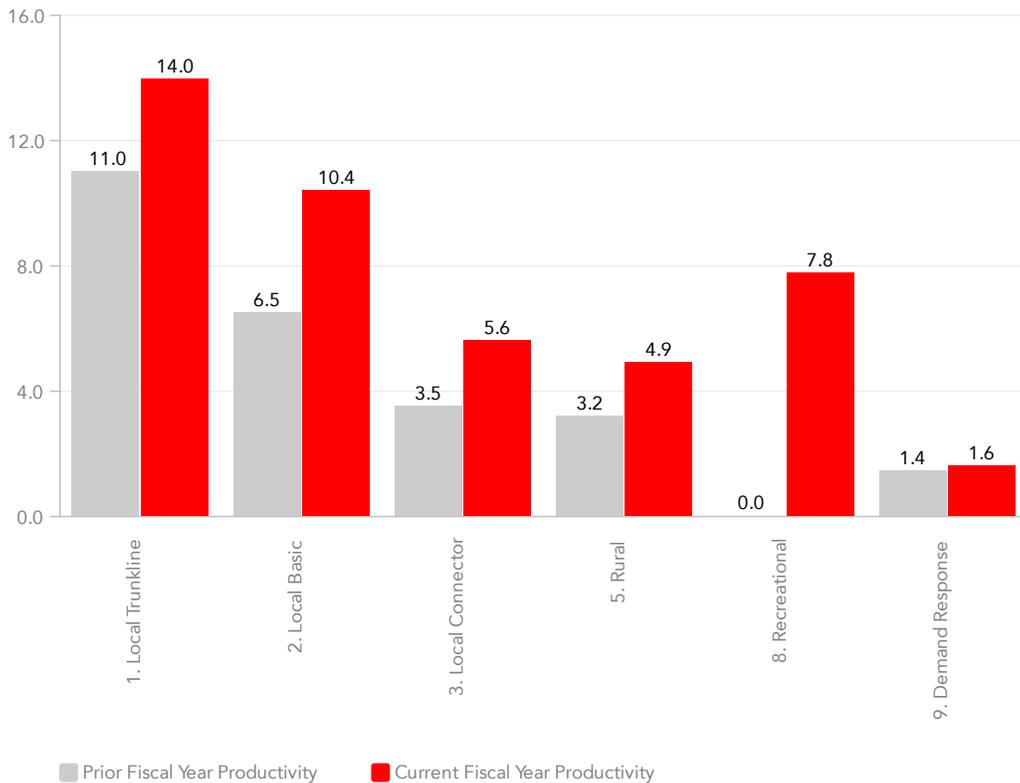
MONTH

Jun

Average Systemwide Daily Passengers



Productivity (pax/hr) by Typology



### Route Typologies

- 1. Local Trunkline:  
Routes 35, 36, 71X
- 2. Local Basic:  
Routes 17, 22, 23, 23X, 29, 49
- 3. Local Connector:  
Routes 219, 228, 233, 245, 251, 257
- 5. Rural:  
Routes 61, 68
- 8. Recreational:  
Routes 66/66F
- 9. Demand Response:  
Local Paratransit, Novato Dial-A-Ride,  
Rural Dial-A-Ride

## REGULAR MEETING OF THE MARIN COUNTY TRANSIT DISTRICT BOARD OF DIRECTORS

Held Monday, August 2, 2021 at 10:00 A.M.

### Roll Call

**Present:** President Colin, Vice President Arnold, Second Vice President Moulton-Peters, Director Connolly, Director Rice, Director Colbert

**Absent:** Director Lucan, Director Rodoni

**Director Colbert was in attendance as a voting member.**

Until further notice the Marin County Transit District meetings will not be providing an in-person meeting location for the public to attend. Members of the public are encouraged to participate remotely via Zoom.

**President Colin opened the meeting at 10:00 A.M.**

1. [Open Time for Public Expression \(limited to three minutes per speaker on items not on the Transit District's agenda\)](#)

President Colin asked if any member of the public wished to speak.

Veda Flores of Novato requested special accommodations for paratransit customers with hearing loss impairment.

2. [Board of Directors' Matters](#)

President Colin asked if any member of the Board wished to speak. Seeing none she called for the General Manager's Report.

3. [General Manager's Report](#)

- a. [General Manager's Oral Report](#)
- b. [Monthly Monitoring Report: May 2021](#)

#### Staff Report

General Manager Nancy Whelan introduced Asher Butnik, Marin Transit's new Transit Planner.

General Manager Nancy Whelan reported on the updated recommendation from the Metropolitan Transportation Commission (MTC) on the distribution of the American Rescue Plan (ARP) Funding. MTC has set aside \$157 million for hardship and focused recovery efforts. Consideration of these funds will be given to Santa Clara Valley Transportation Authority, Sonoma County Operators, and Marin Transit. The MTC Programming and Allocations Committee and Commission will assign the funds in September.

The MTC Blue Ribbon Transit Recovery Task Force concluded fourteen months of meetings on July 26, 2021. The Transformation Action Plan was adopted, and the Network Management Reform business case analysis will begin Fall 2021 and completed by mid-2022.

The Ross Valley Yellow Bus Program will resume service to White Hill Middle School, Hidden Valley Elementary, Ross Valley Charter at the end of August. While Hill Middle School passes will be sold via a lottery system. Pass sales to non-lottery participants will begin August 4.

Overall systemwide ridership in May 2021 increased by 95.2 percent compared to May 2020 which represents a 49.7 percent decrease from the pre-COVID ridership in May 2019 and 8.5 percent increase from April 2021.

Director Colbert welcomed Asher to Marin Transit.

4. [Consent Calendar](#)
  - a. [Minutes for July 12, 2021 Board Meeting](#)
  - b. [Award Contract for Riders Guide Printing and Distribution to Consolidated Printers, Inc.](#)
  - c. [Ninth Amendment to Agreement with Vivalon for Operation and Maintenance of Marin Access Demand Response Services for an Additional Month of Operation](#)

**Recommended Action: Approve.**

M/s: Director Moulton-Peters – Director Arnold

Ayes: President Colin, Vice President Arnold, Second Vice President Moulton-Peters, Director Connolly, Director Rice, Director Colbert

Noes: None

Absent: Director Lucan, Director Rodoni

Abstain: None

5. [Update on US 101 Part-Time Transit Lane Feasibility Study](#)  
[Staff Report](#)

Adam Dankberg from Kimley-Horn presented an update on US 101 Part-Time Transit Lane Feasibility Study. In June 2019, the Transportation Authority of Marin (TAM) entered into agreements with Caltrans to accept a planning grant to conduct the Marin County US 101 Part-Time Transit Lane Feasibility Study. The Feasibility Study assesses how Part-Time Transit Lanes would interact and relate to other capital investments underway and planned for the corridor.

Director Moulton-Peters asked for the approximate length of the improvements being discussed. Mr. Dankberg answered approximately 10 miles.

Director Rice asked why the area south of San Rafael was not included in the study. Derek McGill of the Transportation Authority of Marin answered that the area south of San Rafael was not included because of limited availability in southern and central San Rafael to accommodate an outside shoulder. Director Rice requested the inclusion of this context in future presentations.

Director Rice requested staff analysis on the study.

Robert Betts Director of Operations and Planning commented that the project gives the District the opportunity to have more consistent and more reliable schedules, and will benefit operations and riders by being more predictable in terms of making more efficient key transfer connections and improving ride times.

Director Moulton-Peters commented that communities throughout the Bay Area are making investments in similar infrastructure improvements.

**Recommended Action: Information only.**

6. [Countywide Fare Promotional and Pilot Programs](#)

[Staff Report](#)

Aida Banihashemi Manager of Planning and Marketing requested Board authorization to develop and implement Countywide fare promotional and pilot programs to offer near-term fare assistance to low-income families, students, and seniors.

If approved, Marin Transit staff would develop a detailed strategy and timeline to implement the proposed programs and would work closely with community and agency partners to cross-promote transit services during the promotional periods. Staff would monitor the performance and impact of these programs and evaluate them to determine if any of them should be considered for permanent adoption. If approved, staff would return to the Board with conclusions and recommendations for the programs.

Staff estimates that the proposed fare assistance programs will cost the District \$413,000. This amount includes administrative support and the anticipated loss in projected fare revenue. The anticipated loss in fare revenue for Free Youth Summer Pass and Free Ride for Seniors is based on projected return of ridership at 80% of pre-COVID. The calculation for Free Monthly Passes for families of low-income students accounts for up to 3 free Adult Monthly Passes per household and a 50 percent opt-in.

Director Arnold asked if staff would work with a consultant to support the deployment of the programs. Ms. Banihashemi responded that the District would likely work with a consultant to oversee the launch and marketing for the programs. Additionally, staff will seek support from community-based organizations to help with marketing, outreach, and education campaigns.

Director Moulton-Peters asked how the District would cover the anticipated loss in fare revenues from the implementation of free or reduced fare programs. Ms. Whelan answered that fare losses sustained from program implementation would be covered by federal COVID relief funds.

Director Colbert asked for clarification on the duration of the distribution of the free monthly passes for families of low-income students. Ms. Whelan confirmed it will be a one-time offer of 3 free monthly passes for family members equivalent to 3 months.

Director Connolly asked if the one-time offer of 3 free monthly passes for family members will continue if successful. Ms. Whelan answered that program participation, usage, and sustainability will be evaluated at the end of the program. Mr. Betts noted that if approved the program would also serve to create awareness of the monthly passes which offer unlimited travel on local Marin Transit routes.

President Colin asked if there will be follow up surveys after the completion of the pilot programs to evaluate ridership and effectiveness. Ms. Banihashemi answered that passes will be tracked via serial numbers and usage will be monitored throughout the program.

Veda Flores of Novato expressed support for the pilot programs and encouraged staff to collaborate with other Bay Area agencies launching similar pilot programs to develop and standardize pilot program performance and success measures. Ms. Flores requested that written materials for the pilot programs be offered in both Spanish and Vietnamese languages.

President Colin expressed support for standardized pilot program performance and success measures.

**Recommended Action: Approve.**

M/s: Director Arnold – Director Rice

Ayes: President Colin, Vice President Arnold, Second Vice President Moulton-Peters, Director Connolly, Director Rice, Director Colbert

Noes: None

Absent: Director Lucan, Director Rodoni

Abstain: None

7. [Supplemental School Service Update for FY 2021-22](#)

[Staff Report](#)

Operations Manager Kelly Zalewski presented an update on the Supplemental school program for the 2021-22 year. The District has historically provided extra public transit service to schools in Marin County using “supplemental” routes (100 series) and maximized supplemental service to schools by using the same bus/driver to serve multiple routes/schools each morning and afternoon. This was possible due to a spread of bell times at schools throughout the county. With the implementation of California Senate Bill 328 requiring high schools to start no earlier than 8:30am and middle schools to start no earlier than 8:00am, schools throughout Marin County have changed their start and end times and now begin and end their days within a very short window of time, or in the case of most high schools, the exact same time. As a result of the bell time changes and inability to purchase new vehicles by August 2021, staff have generated schedules that maximizes the number of trips while prioritizing service to high schools and service to high ridership routes. Staff contacted the Marin County Office of Education to notify them of the transportation limitations.

Director Connolly asked about the elimination of route 139 to Terra Linda High School. Mr. Betts answered that route 139 has historically had the lowest ridership of any supplemental route and noted that routes 257 and 245 service stops near Terra Linda High School every half hour.

Director Rice asked how the District is adjusting the supplemental school routes to the new school bell times in order to avoid student pass ups. Mr. Betts answered that staff have retained Pre-COVID service levels in high ridership locations like Redwood High School and Hall Middle School by combining routes. Staff will continue to monitor route service levels and reallocate resources as needed.

Director Moulton-Peters remarked that staff consider reaching out to state legislators and advise them to reconsider California Senate Bill 328 requiring high schools to start no earlier than 8:30am and middle schools to start no earlier than 8:00am.

Veda Flores of Novato asked about social distancing requirements on supplemental school routes.

Mr. Betts answered that social-distancing requirements between passengers have been eliminated. Passengers are responsible for ensuring they maintain a 6-foot distance from bus operators.

Kate Powers expressed support for the supplemental school routes and asked whether schools can expect the new routes to service the same point of origin bus stops previously serviced by the supplemental school routes.

Mr. Betts answered that the updated supplemental school routes now service more of the community in addition to stops previously serviced by the supplemental school routes.

President Colin requested ridership data and trends for the individual supplemental school routes.

President Colin reminded passengers that face masks are still required for trips on Marin Transit and Golden Gate buses and ferries.

**Adjourn** President Colin adjourned the meeting at 11:24 A.M.

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PRESIDENT

ATTEST:

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CLERK

## **SPECIAL BOARD MEETING OF THE MARIN COUNTY TRANSIT DISTRICT BOARD OF DIRECTORS**

**Held Monday, August 23, 2021 at 10:00 A.M.**

### **Roll Call**

**Present: President Colin, Vice President Arnold, Second Vice President Moulton-Peters, Director Colbert, Director Lucan, Director Rodoni, Director Connolly, Director Rice**

**Absent: None**

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**President Colin opened the meeting at 10:02 A.M.**

1. [Open Time for Public Expression \(limited to three minutes per speaker on items not on the Transit District's agenda\)](#)

President Colin asked if any member of the public wished to speak. Seeing none, she called for the Workshop on Service Contracts and Financial Outlook.

2. [Workshop on Service Contracts and Financial Outlook](#)

### [Staff Report](#)

General Manager Nancy Whelan introduced the purpose of the Board Workshop: to discuss service contracts that include all operations for all transit services operated by the District. Service contracts make up to 73 percent of the District's operating budget.

Robert Betts Director of Operations and Planning and Lauren Gradia Director of Finance and Capital Programs presented the Workshop on Service Contracts and Financial Outlook.

The District contracts with outside service providers to provide operations and maintenance support for local public transit and yellow school bus services in Marin County. In total, the District holds five contracts to provide these services, including: Marin Airporter (Fixed Route Public Transit), Golden Gate Bridge, Highway, and Transportation District (Fixed Route Public Transit), MV Transportation (Fixed Route Public Transit), Vivalon (Demand Response), and Michael's Transportation (Yellow School Bus Service). Within the next 22 months, all of the District's service contracts will end their current term. Two will end this fiscal year, including the Demand Response contract with Vivalon (scheduled to end January 31st, 2022) and the contract with

Golden Gate Transit (set to expire on June 30, 2022). The other three agreements have one more remaining option year that set them to expire next fiscal year on June 30, 2023.

In March of 2021, the District released a Request for Proposals (RFP) for Operation of Marin Access Services and Programs. This procurement was done in partnership with Golden Gate Transit and bids were due on May 21, 2021. Due to the uncertainty of if, and when, demand will return to these services, the RFP requested proposals based on a tiered annual hour service structure. This tiered approach will allow the selected bidder to grow their operation, and corresponding costs, as demand returns. The evaluation for this procurement is expected to conclude by September 1, 2021 and an award is set for the September 13, 2021 Board meeting.

Discussions with Golden Gate Transit (GGT) on the terms of a new agreement and contract began in January of 2021. Since that time, staff from both agencies have met multiple times to better understand each partner's goals and the financial impacts of a new agreement. A series of offers and counteroffers have been exchanged to give each other a sense of the cost and the expected service levels (revenue hours) to continue this partnership into the future. District staff identified July 1, 2021 as an internal deadline to reach an agreement on the rates and hours associated with a future agreement. As that deadline was not met, the District and GGT staff are considering options for operation of these services beyond June 30, 2022. An extension of the current agreement would allow for negotiations to continue while resolving uncertainties about future service levels, other fixed route contracts, and operations and maintenance facility availability.

Depending upon the result of the discussions with Golden Gate Transit, staff will consider how to package all other fixed route services not operated by Golden Gate Transit.

### **Discussion**

Mayor Kate opened the discussion for directors to ask clarifying questions before opening it up to public comment.

Director Connolly requested that quality and reliability of service receive high consideration during the contract and contractor evaluations.

Ms. Whelan confirmed that evaluations are broad, and price is only one small part of the formal evaluation. Quality of service is absolutely a key feature the District looks for when evaluating contracts. Mr. Betts noted that the expectations are the same with all our contractors except there are no formal financial penalties in the GGT agreement.

Director Rice asked if the green window of 6 months in the RFP process includes the development of the RFP issuance. Ms. Whelan responded that it takes 6 months to go through the full evaluation process to make a recommendation for an award. Director Rice asked why the District would have to pull all the other contracts in line in terms of the timing of the RFP issuance under the third scenario. Ms. Whelan responded that the District would want to have a package that would be out to bid that would be attractive to one or more bidders. It's a way to package the services in a way that would make sense to the industry and other potential providers.

Director Rice requested clarification on why paratransit services are a primary driver in the financial outlook and asked for a comparison of paratransit services in terms of the level of impact on the financial outlook as opposed to the other three drivers.

Lauren Gradia responded that paratransit demand is a driver because unlike fixed route which has a fixed schedule and costs, if there is no paratransit demand it saves the District money. The ratio of fixed route services to paratransit services is approximately 80 percent versus 20 percent, respectively.

Director Moulton-Peters asked for elaboration on the difference in operating costs between Golden Gate Transit, the highest cost provider, and the other contractors.

Ms. Whelan responded that contract negotiations with GGT are ongoing however notable differences include higher labor costs, wages, and benefits.

Director Moulton-Peters asked clarification on GGT's negotiations around fixed costs. Ms. Whelan responded that fixed costs are the management costs, and these are costs that are being reevaluated.

Mr. Rodoni emphasized the importance of quality of service and suggested that wages and benefits play a role in the evaluation matrix to ensure that contractors provide good wages and benefits. Director Rodoni asked how much competition can be expected during the bidding process for scenario 3.

Ms. Whelan answered that there are enough service hours to attract a variety of bidders. Another competitive piece would be the availability of parking and a maintenance facility. These factors will affect the variety of bidders.

Ms. Whelan stated the District has amended contracts with all contractors and has requested they all raise operator wages, primarily for front-line workers. The upcoming RFPs will request increases in benefits to employees.

Director Lucan asked for a high-level overview of the components of the service contracts.

Ms. Whelan responded that staff look at the number of service hours, staffing, management availability, and primary points of contact between staff and customers. Contracts ensure contractors have staff available to address and resolve customer service complaints as well as any maintenance issues. The District contracts with GGT customer service for all fixed route programs.

Director Lucan stated that he is primarily concerned about the customer service side of each contract. He asked if it makes sense to centralize customer service. Ms. Whelan responded that customer service is relatively centralized. GGT handles customer service for all fixed routes. All feedback is entered into a central database for resolution by staff or contractors. Ms. Gradia noted that in the 2016 agreement with GGT for customer service the hourly rate was separated because they are providing customer service all District service, not just the services operated by GGT. Mr. Lucan asked how bus cleanliness is monitored.

Robert Betts discussed how staff monitor cleanliness on vehicles and elaborated on vehicle cleaning requirements in the contracts. Mr. Betts emphasized contract oversight as a big part of the staff role. Key Performance Indicators (KPIs) are thresholds or expectations related to service qualities such as complaints, late trips, missed trips, driver courtesy and other driver violations. There are specific metrics for all contractors. A summary of customer complaints is provided to the Board each month to see the trends in different areas.

Director Colin asked why there isn't an RFP with GGT. While not completely sure of the historic reasoning behind this contractual relationship, Mr. Betts suspected that since GGT receives federal dollars, competing with the private industry would be a challenge in terms of responding to formal bids. Director Colin asked if all contracts with GGT share the same format. Ms. Whelan confirmed that all contracts with GGT share the same format.

Director Colin requested context to compare cost per revenue hour between providers. Mr. Betts responded that the District has conducted thorough research to compare cost per revenue hour between providers. Golden Gate Transit's cost is higher than the rest of the Bay Area. By comparison, GGT has a cost of \$335 per hour of service. AC Transit, San Francisco Municipal Railway (SF Muni), and SamTrans range between \$200 to \$225 per hour. Napa Valley Transit, Sonoma County Transit, Petaluma Transit, and Santa Rosa range between \$80 to \$120 per hour.

Robert Betts presented a slide on discussion questions. Director Colin called on each of the Directors to discuss each question.

**Should a short-term contract extension with GGT be pursued to allow additional time for negotiations? Discussion.**

Ms. Whelan stated that staff are looking for a short-term contract extension of 6 months with GGBHTD for operation of local fixed route transit services.

Director Arnold asked if contractor differences have been amplified by COVID-19. Robert Betts answered that there have been cost increases across the country primarily due to labor shortages. Director Arnold shared that this should be communicated. GGT has had cost savings because they are not providing services at the level they did pre-COVID. GGT's rider base is largely commuters into San Francisco, so they expected the ridership to have rebounded much sooner than it has.

Director Rice discussed how uncertainty may inform the structure of the RFP as well as how bidders respond. Director Rice asked for clarification on Reserve Level projections and asked for a recap of the reserve policy. Ms. Gradia responded that the District maintains an operations reserve that's between 2 to 6 months of the operating budget. The minimum reserve levels for the upcoming year are adopted alongside the yearly budget. The District would need between 3 to 6 months to make service changes if minimum reserve level thresholds are projected.

Director Rice asked about the impact of potential contract cost increases and how this will affect future contracts. Ms. Gradia responded that the District financial projection include between 6-8 percent increases for contract re-bids depending on the contract. The increases are built into the baseline projections. Director Rice asked how many years until staff anticipate the District will dip into the minimum reserve levels. Ms. Gradia answered that, for financial projections, staff try stay within reserve levels in the first 5 years and then in the 10-year outlook projections sometimes fall below the minimum reserve levels due to uncertainties in revenues and expenses. Director Rice expressed support for pursuing the acquisition of a maintenance facility.

Director Rice, Director Colbert, Director Connolly, Director Lucan, Director Rodoni, Second Vice President Moulton-Peters and President Colin all expressed support for pursuing a short-term contract extension with GGT to allow for additional time to negotiate.

**What additional efforts and strategies should be pursued to acquire and develop a maintenance facility? Discussion.**

Director Rice expressed support for acquiring and developing a maintenance facility.

Director Colbert shared that additional efforts and strategies should be pursued to acquire and develop a maintenance facility. It can only provide flexibility. Mr. Colbert noted that contractor wages and benefits

are an important part of the District’s equity efforts. Mr. Colbert encouraged staff to continue planning for the future.

Director Moulton-Peters remarked that GGT’s Novato parking facility appears to be unused. She shared that GGT should consider making this a part of the agreement to lease it to the District as a revenue generator. Ms. Moulton-Peters expressed support for continuing conversations with GGT and pursuing a maintenance facility.

Director Lucan expressed support for the acquisition of a maintenance facility. Mr. Lucan remarked on the importance of fully utilizing facilities that already exist.

Director Rodoni expressed support for pursuing and acquiring additional parking because parking opportunities will be needed for every District program. Mr. Rodoni suggested waiting on acquiring a maintenance facility. Mr. Rodoni encouraged staff to pursue leasing opportunities and remarked that maintenance contracts may become available in the future with local agencies like GGT.

President Colin expressed support for continuing to pursue the acquisition of parking opportunities and flexibility in contracts. Ms. Colin encouraged staff to look at wages and benefits for contractors through an equity lens while observing and reporting trade-offs to the Board.

The Marin Transit Board of Directors expressed gratitude to all staff for the workshop, the presentation, and the continued hard work.

General Manager Nancy Whelan acknowledged the uncertainties in transit and noted that a near-term solution for contracts and agreements is establishing minimum service hours and maximum service hours at a certain rate. The tiered structure in the paratransit contracts is one way staff are working with the uncertainty of the future. This is one way to give the District flexibility while providing certainty to contractors.

General Manager Nancy Whelan shared that the next meeting is on September 13, 2021 due to the Labor Day Holiday.

**Adjourn** President Colin adjourned the meeting at 11:32 A.M.

SINE DIE

\_\_\_\_\_  
PRESIDENT

ATTEST:

\_\_\_\_\_  
CLERK



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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Marin Transit Quarterly Performance Report for the Fourth Quarter of FY 2020/21**

**board of directors**

Dear Board Members:

kate colin  
president  
city of san rafael

**RECOMMENDATION:** Accept report.

judy arnold  
vice president  
supervisor district 5

**SUMMARY:** As part of the District's service monitoring process, staff have prepared a quarterly performance report alongside the quarterly financial report. Attached is the report for the fourth quarter of FY 2020/21.

stephanie moulton-peters  
2nd vice president  
supervisor district 3

The quarterly report provides route-level statistics and performance measures with financial data and an in-depth analysis of trends. The report discusses of any relevant external factors such as service changes.

damon connolly  
director  
supervisor district 1

Additional detailed analyses of system performance and trends are provided in an annual system performance report. This report is available on the District's website at <https://marintransit.org/service-performance-reports> in addition to the monthly reports.

eric lucan  
director  
city of novato

**FISCAL/STAFFING IMPACT:** None associated with this report.

katie rice  
director  
supervisor district 2

Respectfully submitted,

Aida Banihashemi  
Manager of Planning and Marketing

dennis rodoni  
director  
supervisor district 4

Attachments

brian colbert  
alternate  
town of san anselmo

## Quarterly Performance Report for FY 2020/21 Q4

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This report summarizes the operational performance of Marin Transit services for the fourth quarter of FY 2020/21 from April 1, 2021 through June 30, 2021. The Quarterly Performance Report provides detailed route-level statistics, analyzes trends, and evaluates performance measures established under Measure A and Measure AA.

### Report Format

The data presented in this report is generated directly from TransTrack, Marin Transit's data management system. TransTrack enables Marin Transit to consolidate and analyze all operational data from the District's transit programs and contractors as one system. The reporting tools capture all costs associated with service operations and are not limited to contractor costs. This reporting format most accurately represents the District's actual costs of providing service.

Route performance is presented relative to typology-based targets. The Board updated the targets on April 2, 2018 as part of a larger performance monitoring plan update. These typology-based targets aim to match routes and service levels to the markets they are intended to serve. All performance and financial data are consistent with the District's reporting for the National Transit Database.

### Performance Goals

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Performance goals at the route level are measured in both productivity (unlinked passengers per hour and per trip) and cost-effectiveness (subsidy per unlinked passenger trip). **Table 1** below summarizes route level performance goals by typology. Note that there are currently no productivity or cost-effectiveness goals identified for the Yellow Bus or Partnership service typologies.

**Table 1: Productivity and Subsidy Goals by Service Typology**

Service Typology	Routes	Unlinked Passenger Trips per Hour (at or above)	Subsidy per Passenger Trip (at or below)
Local Trunkline	35, 36, 71, 71x	20	\$4.50
Regular Local	17, 22, 23, 23X, 29, 49	18	\$6.50
Local Connector	219, 228, 233, 245, 251, 257	8	\$9.00
Supplemental	113, 115, 117, 119, 125, 135, 139, 145, 149, 151, 154, 171	20 per trip	\$3.00
Rural	61, 68	6	\$12.00
Recreational	66 (Muir Woods Shuttle)	25	\$3.00
Demand Response	Local DAR, Novato DAR, Dillon Beach/Tomales DAR, Point Reyes DAR	2	\$35.00

## Performance Summary

In the fourth quarter of FY 2020/21, Marin Transit carried a total of 446,185 passengers systemwide. This represents an increase of 86.7% in ridership compared to the fourth quarter of the previous fiscal year and an increase of 27% from the third quarter of this fiscal year. On fixed-route transit services, Marin Transit carried 430,966 riders. This is an increase of 88.6% from the fourth quarter of FY 2019/20 and an increase of 27.1% from the third quarter of this fiscal year. Marin Access services carried 15,219 trips on demand response and mobility management programs. This reflects an increase of 46.2% compared to the fourth quarter of the last fiscal year and an increase of 23.74% compared to the prior quarter in FY2020/21. The tables at the end of this report provide a breakdown of all route-level statistics.

### Local Trunkline (Routes 35, 36, and 71)

In the fourth quarter of FY 2020/21, Local Trunkline services carried 168,805 passengers. Supplemental Routes 135 and 171 provide added service to Routes 35, 36, and 71, and carried an additional 33,764 passengers. Collectively, these routes represent an increase of 97.7% compared to the fourth quarter of FY 2019/20 and an increase of 20.8% increase compared to the third quarter of FY2020/21. No routes met their productivity target of 20 passengers per hour, or subsidy target of \$4.50 per passenger. Local Trunkline and backup supplemental services accounted for 34.8% of fixed route service in revenue hours and 47% of fixed route ridership in the fourth quarter of FY2020/21.

### **Local Basic (Routes 17, 22, 23, 23x, 29, and 49)**

Local Basic services carried a total of 142,299 passengers during the fourth quarter of this fiscal year. Supplemental Route 117 provide backup service to Routes 17 and 22 and carried an additional 7,245 passengers. Combined, these routes account for an increase of 85.7% compared to last fiscal year, and an increase of 29.5% from the third quarter of this fiscal year. No routes met their performance target of 18 passengers per hour, or the subsidy target of \$6.50 per passenger. Local Basic routes and their backup routes represent 32.2% of fixed route revenue hours and 34.7% of fixed route ridership in the fourth quarter of FY2020/21.

### **Local Connector (Routes 219, 228, 233, 245, 251, and 257)**

During the fourth quarter of the fiscal year, Local Connector services carried 55,405 total passengers. This is 84.9% higher than the previous year and a 34.6% increase from the third quarter of this fiscal year. No routes met the productivity target of 8 passengers per hour, or the subsidy target of \$9.00 per passenger. Local Connector routes accounted for 21.5% of fixed route service in revenue hours and provided 12.9% of fixed-route ridership in the fourth quarter of FY2020/21.

### **Supplemental School (Routes 113, 115, 119, 125, 139, 145, 149, 151, and 154)**

Supplemental school services were suspended due to the COVID-19 pandemic Shelter in Place order and school closures except for Routes 125, 145, and 151. Route 145 resumed service in November 2020 and carried a total of 440 passengers in the fourth quarter. Routes 125 and 151 resumed service in February 2021 and carried a total of 3,895 passengers in the fourth quarter.

### **Supplemental Back Up Service (Routes 117, 135, and 171)**

Marin Transit created three new supplemental routes (117, 135, and 171) to provide temporary backup services to alleviate COVID-19 boarding capacity limitations. This backup service went into effect on August 10, 2020. In addition to the Canal corridor and Highway 101 bus pads, the District provides backup service in Mill Valley and Strawberry. Supplemental back-up service carried a total of 41,009 passengers during the fourth quarter of FY 2020/21. There are no performance targets established for this temporary service.

### **Rural (West Marin Stagecoach Routes 61 and 68)**

In the fourth quarter of the fiscal year, the two Stagecoach routes carried 17,882 passengers. This is a 79.2% increase from the prior year and a 41.9% increase compared to third quarter of FY21. Neither route met their productivity goal of 6 passengers per hour, or subsidy goal of \$12.00 per passenger. Stagecoach ridership represented 4.1% of fixed route ridership in the fourth quarter of FY2020/21.

### **Partnership Services (Route 122 – College of Marin Express)**

Route 122 resumed service on August 10, 2020, when the District established the supplemental backup routes. This route was suspended on February 22, 2021 and did not operate during the fourth quarter of FY2020/21.

### **Yellow Bus**

Ross Valley School District yellow bus service was suspended due to the COVID-19 pandemic Shelter in Place order and school closures.

### **Recreational (Route 66-Muir Woods Shuttle)**

The Muir Woods Shuttle service was suspended on March 16, 2020 due the COVID-19 pandemic, and resumed weekend-only service on June 19, 2021. For the two weekends it was operational during the fourth quarter of the fiscal year, it carried 1,231 passengers.

### **Marin Access**

Mobility Management programs offered by Marin Access include demand response services, Catch-A-Ride, and Volunteer Driver programs.

In the fourth quarter of FY 2020/21, local paratransit carried 10,164 passengers. The service productivity average of 1.8 passengers per hour did not meet the 2.0 standard. The number of passengers represents a 72.9% increase in ridership compared to the prior fiscal year. With a subsidy per passenger of \$82.00, the service did not meet the subsidy target of \$35.00 per passenger.

The Novato Dial-a-Ride service carried 558 passengers and met its 2.0 productivity standard at 2.1 passengers per hour. Ridership was 10.3% higher than in the previous fiscal year. The service did not meet the subsidy target of \$35.00 per passenger.

The Dillon Beach/Tomales Dial-a-Ride provides curb-to-curb pick-up and drop-off between Dillon Beach, Tomales, and Petaluma, and operates on Wednesdays only. During the fourth quarter of the fiscal year, the service carried 100 passengers, a 47.1% increase compared to last year. The service productivity average of 1 passenger per hour did not meet the 2.0 passengers per hour target. The service did not meet the subsidy target of \$35.00 per passenger.

In July 2016, Marin Transit added a new general public dial-a-ride service between Point Reyes Station and Novato. The service currently runs twice per month on the first and third Monday. In the fourth quarter of the fiscal year, the service carried 30 passengers, 11.8% lower than the fourth quarter of last year. At 1 passenger per hour, the rural dial-a-ride did not meet its 2.0 productivity target. The service did not meet its subsidy target of less than \$35.00 per passenger trip.

The Volunteer Driver Program completed 2,111 trips in the fourth quarter of FY 2020/21. This represents a 16.2% increase compared to the previous fiscal year.

The Catch-a-Ride program provided 1,146 one-way trips. This is a decrease of 15.4% compared to the prior year.

Marin Transit launched an updated on-demand microtransit service called Marin Transit Connect in July of 2020. This pilot program carried a total of 1,110 passengers in the fourth quarter of the FY 2020/21, a 47.6% increase from the prior year. There are currently no board-adopted performance targets for the Connect service. At the beginning of FY 2019/20, staff provided a one-year evaluation report of the previous Connect pilot program that suggested performance targets of 4.0 passengers per hour and \$15.00 per passenger trip. Connect performance continued to improve in FY 2019/20. At this time, the program is not meeting outlined targets, primarily due to low utilization from first-last mile commuters. Commuters were the largest rider group prior to the COVID-19 pandemic and have significantly reduced their travel due to the ongoing risk the virus poses. In July 2020, Marin Transit expanded the Connect service area from limited areas of Northern and Downtown San Rafael to 2.5 sq. miles surrounding all of Marin's SMART rail stations.

## **Ridership Trends**

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The Governor issued a Shelter-in-Place order for the State of California that began on March 16, 2020 in response to the COVID-19 global pandemic. The order advised the public to limit travel to essential trips only, including on public transportation. This led to a precipitous decline in travel demand and in overall ridership starting in FY 2019/20. Although ridership has increased in the fourth quarter of FY 2020/21 compared to the beginning of the pandemic, ridership continues to be significantly lower than pre-pandemic levels. Marin Transit continues to provide regular service. However, the pandemic has led to significant disruptions to Marin Transit operations, ridership, and corresponding fare revenue on fixed route and paratransit services. Marin Transit suspended yellow bus service in the Ross Valley and Muir Woods Shuttle service. Supplemental School Routes were largely suspended, and these resources were re-deployed in other areas of the County to assist with overcrowding issues. Staff continue to coordinate with schools to determine when these services will be re-instated. At this time, the Muir Woods Shuttle has resumed weekend/Holiday service from Pohono since mid-June 2021, and most Supplemental School routes began operation in August 2021.

In the fourth quarter of FY 2020/21, most ridership occurred on Local Trunkline and Supplemental backup routes that serve the Highway 101 corridor from Marin City to

Novato and the Canal to San Rafael Transit Center corridor. These transit corridors have historically been the busiest in Marin County and serve dense, lower-income, and minority communities. Residents in these corridors are more likely to be essential workers who rely on public transportation. The District is also seeing lower declines in ridership on West Marin Stagecoach routes and rural dial-ride services, likely because transit riders who live in more rural areas of the county do not have as many transportation options.

The 86.7% increase in overall ridership compared to the fourth quarter of FY 2020/21 is more a reflection of how steep ridership fell at the beginning of the pandemic than of how strong ridership growth this quarter has been, and is generally in line with the trends among bus transit agencies throughout the country and in the Bay Area. According to the National Transit Database, nationwide bus ridership increased 38% during the fourth quarter of FY 2020/21 compared to the prior year. The District continues to experience a slow and steady rebound in ridership, likely due to increased availability of vaccinees and the multi-agency (MCTD, GGBHTD, & SMART) effort to provide fare free transit to vaccinations. The recent spike of COVID-19 cases may dampen continued ridership growth going into the first quarter of FY 2021/22.

Regionally, Marin Transit fixed route services continue to perform relatively well compared to other North Bay transit agencies. In the fourth quarter of FY2020/21, Golden Gate Transit carried 190,642 passengers, representing less than half of Marin Transit's fixed route ridership (430,963), while SMART carried only 46,291 passengers. Similar to Marin Transit and the national trend, Golden Gate Transit experienced a 52.6% increase in ridership in this quarter compared to the fourth quarter of FY2019/20, and with their new expanded service in May 2021, SMART experienced a 153% increase in ridership compared to the fourth quarter last year. At 86.7%, Marin Transit experienced an increase in fixed route ridership in this quarter comparable to other Bay Area transit agencies that provide local countywide transit services. Comparing to other Countywide peer agencies, Napa Valley Transportation Authority (VINE), SamTrans, and Solano County Transit (SolTrans) experienced a 17.3%, 75.6%, and 2.2% increase in ridership, respectively.

Compared to the prior year, demand for Marin Access mobility management and demand response programs increased by 46.1% during the fourth quarter of FY 2020/21. Most Marin Access programs serve older adults who belong to a high-risk COVID-19 age cohort, and demand response ridership has not recovered to the extent that fixed route bus service has.

**Table 2** below compares these factors, and qualitatively evaluates their potential impact on ridership.

**Table 2: Factors Impacting Ridership Comparison**

Factor		FY 2019/20 Q4	FY 2020/21 Q4	Impact
Calendar	Weekdays	65	65	--
	Weekends & Holidays	26	26	--
	Muir Woods Shuttle	0	4	▲
Service Disruptions (cancelled/missed service)		24	15	▲
Rainfall (inches)		1.6	0.1	▲▲▲
Gas Prices		\$3.90	\$4.05	▼

The District continues to work with school districts to reinstate supplemental school routes as schools reopen for in-class learning. Staff increased capacities on vehicles to 50% in May and to 100% in July which helped alleviate pass-ups and inform future service and operations as the economy reopens. Staff will continue to closely monitor service and ridership levels and continue to respond to changing circumstances as needed.

Systemwide Performance Statistics

Typology	Route	Passengers	%Δ Passengers'	Revenue Hours	Operating Cost	Passengers per Revenue Hou	Subsidy per Passenger	Farebox Recovery
<b>1. Local</b>	<b>35</b>	92,557	▲44.4%	6,206	\$967,680	14.9	\$9.42	9.9%
<b>Trunkline</b>	<b>36</b>	45,186	▲59.3%	3,394	\$528,492	13.3	\$10.70	8.5%
	<b>71</b>	31,062	▲210.2%	3,539	\$585,427	8.8	\$17.67	6.2%
	<b>Rollup</b>	<b>168,805</b>	<b>▲64.7%</b>	<b>13,139</b>	<b>\$2,081,600</b>	<b>12.8</b>	<b>\$11.28</b>	<b>8.5%</b>
<b>2. Local Basic</b>	<b>17</b>	33,618	▲51.3%	3,446	\$367,141	9.8	\$9.82	10.1%
	<b>22</b>	24,955	▲74.5%	2,919	\$307,713	8.5	\$11.21	9.1%
	<b>23</b>	29,403	▲81.7%	2,765	\$422,804	10.6	\$13.29	7.6%
	<b>23X</b>	9,048	▲146.9%	668	\$104,457	13.5	\$10.50	9.1%
	<b>29</b>	6,001	▲81.4%	659	\$102,329	9.1	\$15.95	6.5%
	<b>49</b>	39,274	▲88.2%	3,844	\$410,146	10.2	\$9.49	9.2%
	<b>Rollup</b>	<b>142,299</b>	<b>▲76.7%</b>	<b>14,301</b>	<b>\$1,714,589</b>	<b>10.0</b>	<b>\$10.99</b>	<b>8.8%</b>
<b>3. Local</b>	<b>219</b>	8,273	▲125.8%	1,570	\$162,904	5.3	\$18.68	5.2%
<b>Connector</b>	<b>228</b>	11,089	▲109.7%	2,393	\$242,855	4.6	\$20.83	4.9%
	<b>233</b>	5,888	▲82.5%	1,022	\$104,021	5.8	\$16.63	5.9%
	<b>245</b>	6,301	▲63.0%	1,050	\$108,905	6.0	\$16.31	5.7%
	<b>251</b>	14,532	▲71.1%	2,365	\$244,245	6.1	\$15.85	5.7%
	<b>257</b>	9,322	▲72.0%	1,954	\$201,605	4.8	\$20.65	4.5%
	<b>Rollup</b>	<b>55,405</b>	<b>▲84.9%</b>	<b>10,354</b>	<b>\$1,064,535</b>	<b>5.4</b>	<b>\$18.21</b>	<b>5.2%</b>
<b>4. Supplemental</b>	<b>113</b>	0		0	\$0			
	<b>115</b>	0		0	\$0			
	<b>117</b>	7,245		1,170	\$142,494	6.2	\$18.48	6.0%
	<b>119</b>	0		0	\$0			
	<b>125</b>	572		72	\$11,255	8.0	\$18.64	5.3%
	<b>135</b>	18,710		1,411	\$170,636	13.3	\$8.03	11.9%
	<b>139</b>	0		0	\$0			
	<b>145</b>	440		187	\$24,476	2.4	\$54.46	2.1%
	<b>149</b>	0		0	\$0			
	<b>151</b>	3,323		981	\$124,665	3.4	\$36.47	2.8%
	<b>154</b>	0		0	\$0			
	<b>171</b>	15,054		2,161	\$280,808	7.0	\$17.50	6.2%
	<b>Covid</b>	0	▼100.0%	0	\$0			
	<b>Rollup</b>	<b>45,344</b>	<b>▲707.8%</b>	<b>5,981</b>	<b>\$754,334</b>	<b>7.6</b>	<b>\$15.51</b>	<b>6.7%</b>
<b>5. Rural</b>	<b>61</b>	5,264	▲150.0%	1,597	\$197,719	3.3	\$36.60	2.5%
	<b>68</b>	12,618	▲60.3%	2,519	\$306,765	5.0	\$23.31	4.1%
	<b>Rollup</b>	<b>17,882</b>	<b>▲79.2%</b>	<b>4,116</b>	<b>\$504,484</b>	<b>4.3</b>	<b>\$27.22</b>	<b>3.5%</b>
<b>6. Partnership</b>	<b>122</b>	0		0	\$0			
<b>Services</b>	<b>Rollup</b>	<b>0</b>		<b>0</b>	<b>\$0</b>			
<b>7. Yellow Bus</b>	<b>Hdn Valley</b>	0		0	\$0			
	<b>White Hill</b>	0	▼100.0%	0	\$0			
	<b>Rollup</b>	<b>0</b>	<b>▼100.0%</b>	<b>0</b>	<b>\$0</b>			
<b>8. Recreational</b>	<b>66</b>	1,231		158	\$19,174	7.8	\$15.32	1.6%
	<b>Rollup</b>	<b>1,231</b>		<b>158</b>	<b>\$19,174</b>	<b>7.8</b>	<b>\$15.32</b>	<b>1.6%</b>
<b>9. Demand</b>	<b>Dillon DAR</b>	100	▲47.1%	98	\$5,936	1.0	\$57.04	3.9%
<b>Response</b>	<b>Local Para</b>	10,164	▲72.9%	5,685	\$856,066	1.8	\$82.01	2.6%
	<b>MTC</b>	1,110	▲47.6%	1,572	\$158,774	0.7	\$138.04	3.5%
	<b>Novato DAR</b>	558	▲10.3%	268	\$33,879	2.1	\$58.06	4.4%
	<b>PtReyesDAR</b>	30	▼11.8%	32	\$1,912	1.0	\$61.40	3.7%
	<b>Rollup</b>	<b>11,962</b>	<b>▲65.2%</b>	<b>7,655</b>	<b>\$1,056,568</b>	<b>1.6</b>	<b>\$85.83</b>	<b>2.8%</b>
<b>Catch-A-Ride</b>	<b>CAR_Gen</b>	744	▲11.4%	0	\$55,125		\$70.34	5.1%
	<b>CAR_LowInc</b>	402	▼41.4%	0	\$27,155		\$63.81	5.5%

Typology	Route	Passengers	%Δ Passengers*	Revenue Hours	Operating Cost	Passengers per Revenue Hou	Subsidy per Passenger	Farebox Recovery
	<b>Rollup</b>	<b>1,146</b>	<b>▼15.4%</b>	<b>0</b>	<b>\$82,280</b>		<b>\$68.05</b>	<b>5.2%</b>
Volunteer Driver	VolDrvr	1,695	▲27.8%	2,499	\$26,381	0.7	\$15.56	0.0%
	VolDvrWM	416	▼15.3%	776	\$13,041	0.5	\$31.35	0.0%
	<b>Rollup</b>	<b>2,111</b>	<b>▲16.2%</b>	<b>3,275</b>	<b>\$39,422</b>	<b>0.6</b>	<b>\$18.67</b>	<b>0.0%</b>
<b>Rollup</b>		<b>446,185</b>	<b>▲86.7%</b>	<b>58,980</b>	<b>\$7,316,986</b>	<b>7.6</b>	<b>\$15.31</b>	<b>6.6%</b>

\* Change in passengers compared to same quarter of prior year

## FY 2021 Marin Access Outreach and Travel Training

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### Travel Navigator Reporting Month: April 2021

Date(s)	Event	Description	Attendees
<i>There were no Marin Access outreach or Travel Training events due to COVID-19.</i>			

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### Travel Navigator Reporting Month: May 2021

Date(s)	Event	Description	Attendees
5/13/2021	Navigating Transit Presentation at The Redwoods	General Marin Access Navigating Transit presentation for residents of The Redwoods Retirement Community in Mill Valley.	15

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### Travel Navigator Reporting Month: June 2021

Date(s)	Event	Description	Attendees
6/16/2021	Navigating Transit Presentation for Age Friendly Belvedere	General Marin Access Navigating Transit presentation for committee members of Age Friendly Belvedere.	12

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director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Clipper START Pilot Program Extension**

Dear Board Members:

**RECOMMENDATION:** Authorize a Resolution of Support extending Marin Transit's participation in the Regional Clipper START pilot program until June 2023.

**BACKGROUND:** In May 2018, the Metropolitan Transportation Commission (MTC) adopted Resolution No.4320, establishing the framework for a Means Based Transit Fare program to offer discounted transit rides to eligible low-income adults on select transit systems in the Bay Area during a pilot period of 18 months. The Clipper START program offers a 20 to 50 percent discount off the adult fare in addition to any existing Clipper discounts, to eligible low-income adults whose annual earnings are up to 200 percent of the federal poverty level.

The initial pilot began in mid-July 2020 with four transit operators – BART, Caltrain, Golden Gate Transit and Ferry, and Muni. In November 2020, six transit operators (Marin Transit, Petaluma Transit, Santa Rosa CityBus, SMART, Sonoma County Transit and WETA) were added to the pilot. In January 2021, 11 more transit operators were added. The 18-month long pilot program is set to expire in mid-January 2022.

Marin Transit staff prepared a detailed Title VI Fare Equity Analysis in Oct 2020. The analysis indicated that the Clipper START discount fare proposal does not result in a disparate impact on minority riders or a disproportionate burden on low-income riders.

In Oct 2020 your Board approved Marin Transit's participation in the region's means-based transit fare pilot program, known as Clipper START, and to offer a 50 percent discount off Marin Transit's adult cash fare to eligible low-income adult riders.

The pilot's original framework calls for a 12-month evaluation of the program to assess the project's design, implementation, and impact on improving affordability, mobility, and access to opportunity. Due to the COVID-19 pandemic and timing of the program launch, transit ridership has been very low which led to low program enrollment and Clipper START usage both of which have fallen short of projections.

Given these circumstances, the Metropolitan Transportation Commission approved extending the pilot period for an additional 18 months under the current framework, to June 30, 2023. The extension is envisioned to:

- Allow time for new enrollees to join the program under a “back to transit” scenario;
- Closely align with the timeline of the Fast Trak START, a means-based toll discount pilot for the purposes of decision-making around eligibility requirements and proof of eligibility documentation;
- Coincide with the timing and rollout of the next-generation Clipper system, scheduled in 2023, which increases the policy and design options for implementing program changes; and
- Allow for the operators who joined after the program launched to be fully considered as part of the program evaluation.

Staff recommends that your Board approve Marin Transit’s continued participation in the region’s means-based transit fare pilot program for the duration of the extended pilot until June 2023, and to continue to offer a 50 percent discount off our adult cash fare to eligible low-income adult riders.

**FISCAL/STAFFING IMPACT:**

MTC funding for subsidies remains available for an 18-month extension and MTC will continue to reimburse participating agencies for 10 percent of the Clipper START discount based on actual Clipper START ridership on their systems. In accordance with MTC’s proposed distribution formula, staff anticipate that there will be sufficient allocated funding to cover projected levels of participation for the duration of the pilot including the 18-month extension.

Staff estimates that the District’s share of fare revenue loss will be \$47,000 in FY2022 and approximately \$69,000 in FY2023 with the pilot phase ending in June 2023. These amounts are within the anticipated budget under the District’s ten-year financial projections.

Respectfully submitted,

Sincerely,



Aida Banihashemi  
Manager of Planning and Marketing

Attachment: Formal Resolution of Marin Transit Participation in Regional Means-Based Program (Clipper START)

**Resolution 2020-06, Revised**  
**Marin County Transit District**  
**Participation in Clipper START Pilot Program Extension**

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 et seq.; and

WHEREAS, transit affordability has been highlighted as a regional issue in MTC's Coordinated Plan, Plan Bay Area and other plans; and

WHEREAS, MTC has established the regional framework for the Regional Means-Based Transit Fare Pilot Program to improve transit affordability and access to opportunity for eligible low-income residents; and

WHEREAS, MTC has adopted a regional framework for the program, with participating operators, funding guidelines, and program conditions, pursuant to MTC Resolution No. 4320, Revised, to guide implementation of the Clipper START Pilot Program for the 36-month period spanning Fiscal Year 2020-21 through Fiscal Year 2022-23 ending on June 30, 2023.

WHEREAS, MTC used the process and criteria set forth in Attachment A of Resolution No. 4439 to program funds appropriated in the Coronavirus Aid, Relief, and Economic Security (CARES) Act for the expansion of Clipper START Pilot to operators (Cohort 2) beyond the four (Cohort 1) operators as established in Resolution No. 4420; and

WHEREAS, Marin Transit has followed its Board-adopted fare policies and processes to be in compliance with Title VI analysis prior to implementing the Means-Based Fare Program; and

WHEREAS, Marin Transit recommends that its Board of Directors authorize a resolution of support for Marin Transit to continue participation in the Regional Means-Based Fare Program (Clipper START) for the duration of the extended pilot, to be funded in part under the Regional Means-Based Fare Program; and

WHEREAS, Marin Transit agrees to meet project delivery and obligation deadlines, comply with funding conditions placed on the receipt of funds allocated to the Regional Means-Based Fare Program (Clipper START), and satisfy all other conditions set forth in MTC Resolution No. 4320, Revised, and MTC Resolution No. 4439, and

WHEREAS, Marin Transit certifies that the project(s) and purpose(s) for which funds are being requested is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations

Section 1500 et seq.) and if relevant the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et seq. and the applicable regulations thereunder; and

WHEREAS, there is no legal impediment to Marin Transit making the funding request; and

WHEREAS, there is no pending or threatened litigation which might in any way adversely affect the ability of Marin Transit to deliver the proposed project(s) for which funds are being requested; and

WHEREAS, MTC will reimburse participating operators based on Clipper START ridership actual trips taken and MTC will take programming action to establish the maximum amount for each participating operator; now, therefore, be it

RESOLVED, that Marin Transit requests that MTC program funds available under its Clipper START Pilot Program, in the amounts requested for which Marin Transit is eligible, described in Attachment A of this Resolution; and

RESOLVED, that staff of Marin Transit shall forward a copy of this Resolution, and such other information as may be required, to MTC, the Transportation Authority of Marin, and such other agencies as appropriate.

**APPROVED AND PASSED this 13<sup>th</sup> day of September 2021**

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President, Board of Directors

ATTEST:

---

Nancy Whelan, General Manager

**ATTACHMENT A**

**Regional Means-Based Transit Fare Program Pilot (Clipper START)**

<b>Project Name</b>	<b>Project Description</b>	<b>Clipper START Program Funding Amounts</b>	
		<b>Share of Marin Transit (based on 60/40 formula)</b>	<b>State Transit Assistance (STA/CARES Act) Total</b>
Clipper START Pilot Program Implementation	Clipper START Pilot – Marin Transit offering on the adult cash fare to eligible low-income riders	3.4%	\$174,803



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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Marin Transit Employment Compensation Framework Update FY2022**

**board of directors**

kate colin  
president  
city of san rafael

judy arnold  
vice president  
supervisor district 5

stephanie moulton-peters  
2nd vice president  
supervisor district 3

damon connolly  
director  
supervisor district 1

eric lucan  
director  
city of novato

katie rice  
director  
supervisor district 2

dennis rodoni  
director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

Dear Board Members:

**RECOMMENDATION:** Approve update of annual Consumer Price Index (CPI) salary band range increase to include FY2020 CPI.

**BACKGROUND:**

In 2018, the Marin Transit contracted with a consultant to perform a total compensation study to ensure the District was providing a robust compensation package to attract and retain talented staff in the highly competitive Bay Area market. An adopted recommendation of the study was to adjust both the lower and upper salary band ranges for each job classification annually based on the Consumer Price Index (CPI). These increases are authorized by the Board as part of the annual budget process. The range increases are reflected in the District's Employment Compensation Framework. The District does not provide yearly Cost of Living Adjustments (COLA) and salary increases are based on the outcome of annual performance reviews.

Due to the pandemic and revenue uncertainty, Marin Transit froze the salary and benefits budget at the FY2020 year level for FY2021 and did not make performance-based salary adjustments and no increases were made to salary band levels. It was staff's intention to include the FY2020 and FY2021 CPI adjustment in the FY2022 budget. For this year, CPI was 1.6% in February and 2.9% in February of 2020.

**SUMMARY:**

Staff request the Board's approval to adjust the salary band ranges to include the FY2020 CPI increase. The new range values are included in Policy # HR-3 Employment Compensation Framework (Attachment A). The increase impacts three staff members who either fell below the low range or exceeded the high range when merit increases were awarded during annual performance reviews. This adjustment keeps the District's compensation competitive within the current employment market. Staff plan to engage a consultant to perform a compensation study in 2022.

**FISCAL/STAFFING IMPACT:** No direct fiscal impact. Updated salary ranges will allow for salary increases that are within the Board adopted FY2021/22 Operations Budget.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly Lundgren", with a long horizontal flourish extending to the right.

Holly Lundgren  
Human Resources Manager

Attachment A: Policy # HR-3 Employment Compensation Framework



## MARIN TRANSIT

### Employment Compensation Framework

Policy #:	HR-3
Subject:	Finance
Effective Date:	08/19/2013
Revision Date (1):	12/3/2018
Revision Date (2):	7/1/2019*
Revision Date (3):	11/2/2020**
Revision Date (4):	9/13/2021*(pending)
*salary ranges only-CPI adjustment	
**vesting schedule only	

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2 Summary of Management Benefits ..... 4  
3 Job Classification Characteristics ..... 5  
4 Advancement Process..... 6  
5 Salary Ranges by Job Classification ..... 7

## 1 Summary of Marin Transit Staff Benefits

HEALTH & WELLNESS BENEFITS	
Medical Insurance	: <i>Employer pays up to 95% of employee+1 premium for base HMO plan towards Employee and Employee +1 premiums; up to 95% of employee+2 premium for base HMO plan for Employee +2; or with proof of coverage, a cash payment equal to the employee only premium for the base HMO plan.</i>
Dental Insurance	: <i>Employer paid</i>
Vision Insurance	: <i>Employer paid</i>
Short-Term Disability Insurance	: <i>1% premium (state) Employer paid</i>
Long-Term Disability Insurance	: <i>Employer Paid Basic</i>
Transit Commute Benefit	: <i>Free Marin Local Transit plus free transit to work up to the federal taxable limit</i>
Dependent Care Assistance Plan	: <i>Available, employee funded, enrollment starting Jan. 1 of each year</i>
Health Flexible Spending Account	: <i>Available, employee funded, enrollment starting Jan. 1 of each year</i>
Employee Assistance Program	: <i>Employer paid</i>
Vacation	: <i>10 days (80 hours) vacation balances in excess of two times the annual accrual will be cashed out on June 30th. Upon commencement of third consecutive year of employment, employee accrues 15 vacation days annually.</i>
Sick Leave	: <i>12 days (96 hours) annually in Year 1 and 2 of employment, 9 days annually thereafter, unlimited accrual</i>
Holidays	: <i>10 fixed days (8 hours each) annually (New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, 4th of July, Labor Day, Veteran's Day, Thanksgiving Day &amp; Friday after Thanksgiving, Christmas Day); 1/2 day for Christmas Eve</i>
Jury Duty	: <i>If needed and employee meets criteria</i>
Bereavement Leave	: <i>If needed, up to 3 days (24 hours) per occurrence which meets criteria</i>
Administrative Leave	: <i>2 days (16 hours) annually on July 1, does not accrue.</i>
POST-EMPLOYMENT BENEFITS	
Defined Contribution Retirement	: <i>401(a) Employer paid 10% 0-2 years; 13% &gt;2 years; 15% &gt;4 years; vesting after 1 year</i>
Social Security	: <i>Employee/Employer Paid (currently 6.2%/6.2%)</i>
Life Insurance	: <i>1x Salary employer paid, supplemental coverage available</i>
Deferred Compensation	: <i>457 Plan available</i>

Updated September 13, 2021

## 2 Summary of Management Benefits

<b>HEALTH &amp; WELLNESS BENEFITS</b>	
Medical Insurance	: <i>Employer pays up to 95% of employee+1 premium for base HMO plan towards Employee and Employee +1 premiums; up to 95% of employee+2 premium for base HMO plan for Employee +2; or with proof of coverage, a cash payment equal to the employee only premium for the base HMO plan.</i>
Dental Insurance	: <i>Employer paid</i>
Vision Insurance	: <i>Employer paid</i>
Short-Term Disability Insurance	: <i>1% premium (state) Employer paid</i>
Long-Term Disability Insurance	: <i>Employer Paid Basic</i>
Transit Commute Benefit	: <i>Free Marin Local Transit plus free transit to work up to the federal taxable limit</i>
Dependent Care Assistance Plan	: <i>Available, employee funded</i>
Health Flexible Spending Account	: <i>Available, employee funded</i>
Employee Assistance Program	: <i>Employer paid</i>
<b>PAID LEAVE BENEFITS</b>	
Vacation	: <i>10 days (80 hours) vacation balances in excess of two times the annual accrual will be cashed out on June 30th. Upon commencement of third consecutive year of employment, employee accrues 15 vacation days annually.</i>
Sick Leave	: <i>12 days (96 hours) annually in Year 1 and 2 of employment, 9 days annually thereafter, unlimited accrual</i>
Holidays	: <i>10 fixed days (8 hours each) annually (New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, 4th of July, Labor Day, Veteran's Day, Thanksgiving Day &amp; Friday after Thanksgiving, Christmas Day), 1/2 day for Christmas Eve</i>
Jury Duty	: <i>If needed and employee meets criteria</i>
Bereavement Leave	: <i>If needed, up to 3 days (24 hours) per occurrence which meets criteria</i>
Management Administrative Leave	: <i>5 additional days (40 hours) annually on July 1, does not accrue.</i>
<b>POST-EMPLOYMENT BENEFITS</b>	
Defined Contribution Retirement	: <i>401(a) Employer paid 10% 0-2 years; 13% &gt;2 years; 15% &gt;4 years; vesting after 1 year</i>
Social Security	: <i>Employee/Employer Paid (currently 6.2%/6.2%)</i>
Life Insurance	: <i>1x Salary employer paid, supplemental coverage available</i>
Deferred Compensation	: <i>457 Plan available</i>

Updated September 13, 2021

### 3 Job Classification Characteristics

The following table includes jobs classifications and characteristics. Characteristics and abilities in each classification may be further targeted for specific departments and functions such as Administration, Finance, Operations, Planning and Capital.

<b>Class</b>	<b>General Class Characteristics</b>
Admin	<p>An Admin level position is an entry level position that does not require a college degree and may require little or no experience. An employee in this class would have the following characteristics and abilities:</p> <ul style="list-style-type: none"> <li>• Performs routine tasks and functions</li> <li>• Performs new task with direct supervision and training</li> <li>• Shows initiative to identify job related problems and solutions</li> </ul>
Analyst	<p>An Analyst level employee typically has a college degree or equivalent level relevant experience. An employee in this class typically has 1-5 years of experience and the following characteristics abilities:</p> <ul style="list-style-type: none"> <li>• Perform job specific duties</li> <li>• Research and solve problems with direct supervision</li> <li>• Maintain project budgets, tasks, and timelines</li> <li>• Exercise sound judgement</li> <li>• Maintain clear written and verbal communication</li> <li>• Recognize roadblocks</li> </ul>
Senior	<p>Senior level employees typically have a college degree and 5 to 15 years of experience. Senior level employees have all characteristics listed at the Analyst level along with the following abilities:</p> <ul style="list-style-type: none"> <li>• Develop and maintain project budgets, tasks, and timelines</li> <li>• Research and solve problems with general supervision</li> <li>• Present solutions for roadblocks</li> <li>• Use independent judgement</li> <li>• Take ownership of projects and programs</li> <li>• Demonstrate advanced skills in job specific tasks</li> <li>• Formally or informally provides direction and leadership for coworkers or other contractors</li> <li>• With minimal direction, represent agency to outside stakeholders</li> </ul>
Manager	<p>A Manager level employee typically has significant experience and has demonstrated sustained leadership and job-related expertise. Manager level employees have all characteristics listed at the Senior level along with the following abilities:</p> <ul style="list-style-type: none"> <li>• Develop projects and programs</li> <li>• Give clear direction and guidance to other staff and contractors</li> <li>• Expertise in job related topics (Professional certification, professional committee leadership etc.)</li> <li>• Act as a resource to Marin Transit staff</li> <li>• Conceptualize new project the improve or sustain the District</li> <li>• Track and manage multiple project budgets, tasks, and timelines</li> </ul>
Director	<p>A Director level position reports directly to the General Manager and is typically responsible for significant division or unit of the District. A Director has all the characteristics listed at the manager level along with:</p> <ul style="list-style-type: none"> <li>• Provides leadership at the District level</li> <li>• Identifies employees' strengths and identifies development paths</li> </ul>

Updated September 13, 2021

## **4 Advancement Process**

### **Moving from Analyst to the Senior Level**

Staff must demonstrate a sustained ability to operate at a senior level (see class characteristics). Managers will work with Analyst employees that have the relevant experience and qualifications to develop a path to Senior. This plan should include specifics steps including technical and soft skills that employee will need to take/demonstrate to be consider for a promotion to the Senior level. The plan should be reviewed by the General Manager. Performance will be monitored by the manager at the annual review, unless an interim review cycle is warranted. Completion of all items listed in the plan is not guarantee of promotion, employee must also demonstrate the independence and leadership needed for a senior level position. All Analysts are eligible for a promotion to the senior level, however there is no guarantee of promotion or a specific timeline for promotion (there is no cap on the number of Senior level employees), and promotions are at the General Manager's discretion.

### **Moving from Senior to the Manager Level**

There are a limited number of Manager level positions at Marin Transit. In addition to demonstrating the ability to perform at the Manager level, there needs to be an Agency need for a new manager or an open manager level position. In most cases, a formal recruitment will be made for a Manager level position and internal candidates may apply or be asked to interview as part of this process.

### **Moving from Manager to the Director Level**

There are a limited number of Director level positions at Marin Transit. In addition to demonstrating the ability to perform at the Director level, there needs to be an Agency need for an open Director-level position. In most cases, a formal recruitment will be made for a Director-level position and internal candidates can be consider as part of this process.

Updated September 13, 2021

## 5 Salary Ranges by Job Classification

**Classification**

*(number of current positions)<sup>1</sup>*

**FY2021/2022 Monthly Salary Range<sup>2</sup>**

	<b>Low</b>	<b>High</b>
Director/Deputy (2)	\$11,422	\$15,419
Manager (4)	\$9,858	\$13,309
Senior (3)	\$8,113	\$10,954
Analyst (4)	\$6,568	\$8,867
Administrative (1)	\$4,624	\$6,900
Part Time	Minimum wage	\$31.00/hour

(Muir Woods greeters, interns, outreach)

- 1) Staffing levels and classifications are approved by the Board annually through the budget process. The number of staff in each classification may change but will be consistent with the current year budget and will not exceed the total number of positions authorized to the General Manager.
- 2) Top salary ranges may not increase annually by more than the consumer price index (CPI, Feb 2020 2.90% +Feb 2021 1.6%). Individual salary increases subject to outcome of annual performance.



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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Amendment to Lease Agreement for Marin Transit Office Space**

**board of directors**

Dear Board Members:

kate colin  
president  
city of san rafael

**RECOMMENDATION:** Authorize General Manager to execute a five-year lease expansion and extension with Gabrielsen Family Limited Partnership II for 711 Grand Avenue, Suite 110 in San Rafael and approve the associated Budget Adjustment (#2022-01).

judy arnold  
vice president  
supervisor district 5

**SUMMARY:** In October 2012, Marin Transit staff moved from a shared space in the San Rafael Corporate Center into the District's current office space at 711 Grand Avenue in San Rafael. In 2017, the District expanded the office space from 3,603 square feet to the current 4,526 square feet and signed a new five year agreement.

stephanie moulton-peters  
2nd vice president  
supervisor district 3

The current office has ample parking, is located within walking distance to the San Rafael Transit Center and is in close proximity to many transit riders residing in the Canal Area of San Rafael. Marin Transit staff have used this office space creatively and efficiently. The office has space for 18 employees, of which eight (8) are in shared workspaces. The COVID-19 pandemic has increased the need for private workspaces to reduce the risk of transmission of the virus amongst staff. The additional space also provides long needed storage space for equipment and supplies.

damon connolly  
director  
supervisor district 1

eric lucan  
director  
city of novato

The proposed lease amendment takes advantage of an opportunity to add 1,939 square feet contiguous to the current office space that can be connected with an internal hallway. This expansion will increase office space to a total of 6,465 square feet, under a five-year lease term at a lower price per square foot. Staff is finalizing the design layout for the additional space that will allow for additional private work areas, needed storage, a conference room space with independent access, and in-suite (private) restrooms.

katie rice  
director  
supervisor district 2

dennisrodoni  
director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

There is currently a high vacancy rate for office space in Marin County, making this an opportune time to extend the office lease at a lower price per square foot. As part of the amended lease agreement the owner will provide an EV charger and parking to allow for the District to purchase an electric staff car. The owner will also replace

existing carpet and connect the office to the new suite that will be built to suit.

**FISCAL/STAFFING IMPACT:**

The office lease extension will reduce the price per square feet by 11% from \$2.65 to \$2.35 for a total of \$182,313 in the first lease year. On an annual basis this is a 27% increase in office lease costs for a 43% increase in leased space. For the current fiscal year, FY2022, the District's office lease costs will increase \$15,994. These costs include improvements to buildout and connect the new space. The price per square foot will increase by \$0.05 per year for five years. The agreement is expected to start February 1, 2022. The actual start will be contingent on the completion of the tenant improvements.

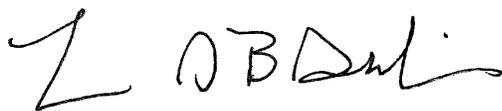
Budget Amendment 2022-01 will increase the District's budget for office lease expenses by \$16,000 for the amended lease. The lease expenses for the contract by fiscal year are shown in Table 1.

**Table 1: Office Rental Expenses**

<u>Fiscal Year</u>	<u>Months</u>	<u>Price Per Square Ft</u>	<u>Rent</u>
FY2021/22	5	\$2.35	\$75,964
FY2022/23	12	\$2.35-\$2.40	\$183,929
FY2023/24	12	\$2.40-\$2.45	\$187,808
FY2024/25	12	\$2.45-\$2.50	\$191,687
FY2025/26	12	\$2.50-\$2.55	\$195,566
FY2026/27	7	\$2.55	\$115,400

The budget amendment will allow for the increased lease expense in the current fiscal year. The ongoing increase to the office lease expenses will be added to the District's ten-year financial plan and will not significantly impact the plan.

Respectfully submitted,



Lauren Gradia  
 Director of Finance and Capital Programs

Attachment: Second Amendment to Lease for Office Space at 711 Grand Avenue

## SECOND AMENDMENT TO LEASE

This Second Amendment to Lease (“**Amendment**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2021 by and between GABRIELSEN FAMILY LIMITED PARTNERSHIP II, a California limited partnership (“**Landlord**”), and Marin County Transit District (“**Tenant**”).

### R E C I T A L S

A. Landlord and Tenant are parties to that certain Office Lease dated July 18, 2012 and amended March, 2018.(the “**Lease**”) with respect to the leasing of approximately 4,526 rentable square feet commonly known as Suite 100 (the “**Premises**”) located at 711 Grand Avenue, San Rafael, California (the “**Building**”).

B. The Term of the Lease is scheduled to expire on September 30, 2023.

C. Landlord and Tenant presently desire to amend the Lease to add additional square footage (Additional Premises) and extend the Term of the Lease, as more fully set forth below.

### A G R E E M E N T

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows.

1. **Defined Terms.** All capitalized terms not defined herein shall have the same respective meanings as are given such terms in the Lease unless expressly provided otherwise in this Amendment.
2. **Additional Premises.** The Premises shall be expanded by the addition of 1,939 square feet of contiguous space as shown on Exhibit A attached for a new total of 6,465 square feet.
3. **Extension of Lease Term.** The Term of the Lease is hereby extended until that time which is sixty (60) full months following the date of delivery of the Additional Premises. (the “**Expiration Date**”).

4. **Base Rent.** For the Extension of Lease Term base rent shall be as follows:

Months 1-12	\$2.35 per square foot	\$15,192.75 per month
Months 13-24	\$2.40 per square foot	\$15,516.00 per month
Months 25-36	\$2.45 per square foot	\$15,839.25 per month
Months 37-48	\$2.50 per square foot	\$16,162.50 per month
Months 49-60	\$2.55 per square foot	\$16,485.75 per month

5. **Additional Rent.** Section 9.2 and 9.3 of the lease shall be modified upon delivery of Additional Premises and commencement of rent to a new base year of 2021, and 23.40% share of direct expenses

6. **Landlord's Work.** Landlord shall perform the following work prior to delivery:

Connect existing suite to new additional space

Remodel to landlord standard the additional premises including remodeling the in suite private restrooms

Buildout interior additional premises to suit tenant with a design mutually agreed upon between Landlord and Tenant

Install new carpet throughout the entire space. Tenant shall cooperate with Landlord in moving furniture and preparing existing space for new carpet installation

Install electric vehicle charging stations in the parking lot for non-exclusive use of all tenants in the building

(“**Landlord's Work**”).

7. **Real Estate Brokers.** Tenant and Landlord warrant that they have had no dealings with any broker or agent in connection with this Amendment. Landlord covenants to pay, hold harmless and indemnify Tenant from and against any and all cost, expense or liability for any compensation, commissions or charges claimed by any broker or agent utilized by Landlord with respect to this Amendment or the negotiation hereof. Tenant covenants to pay, hold harmless and indemnify Landlord from and against any and all cost, expense or liability for

any compensation, commissions or charges claimed by any broker or agent utilized by Tenant with respect to this Amendment or the negotiation hereof.

8. **Authority.** Tenant and each person executing this Amendment on behalf of Tenant hereby covenants and warrants that (a) Tenant is in good standing under the laws of the State of California, (b) Tenant has full corporate power and authority to enter into this Amendment and to perform all Tenant’s obligations under the Lease, as amended by this Amendment, and (c) each person (and all of the persons if more than one signs) signing this Amendment on behalf of Tenant is duly and validly authorized to do so.

9. **No Offer.** Submission of this instrument for examination and signature by Tenant does not constitute an offer to lease or a reservation of or option for lease, and this instrument is not effective as a lease amendment or otherwise until executed and delivered by both Landlord and Tenant.

10. **Lease in Full Force and Effect.** This Amendment contains the entire understanding between the parties with respect to the matters contained herein. Tenant hereby affirms that on the date hereof no breach or default by either party has occurred and that the Lease, and all of its terms, conditions, covenants, agreements and provisions, except as hereby modified, are in full force and effect with no defenses or offsets thereto. No representations, warranties, covenants or agreements have been made concerning or affecting the subject matter of this Amendment, except as are contained herein and in the Lease. This Amendment may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change or modification or discharge is sought.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date first set forth above.

LANDLORD:

TENANT:

GABRIELSEN FAMILY LIMITED PARTNERSHIP II,  
a California limited partnership

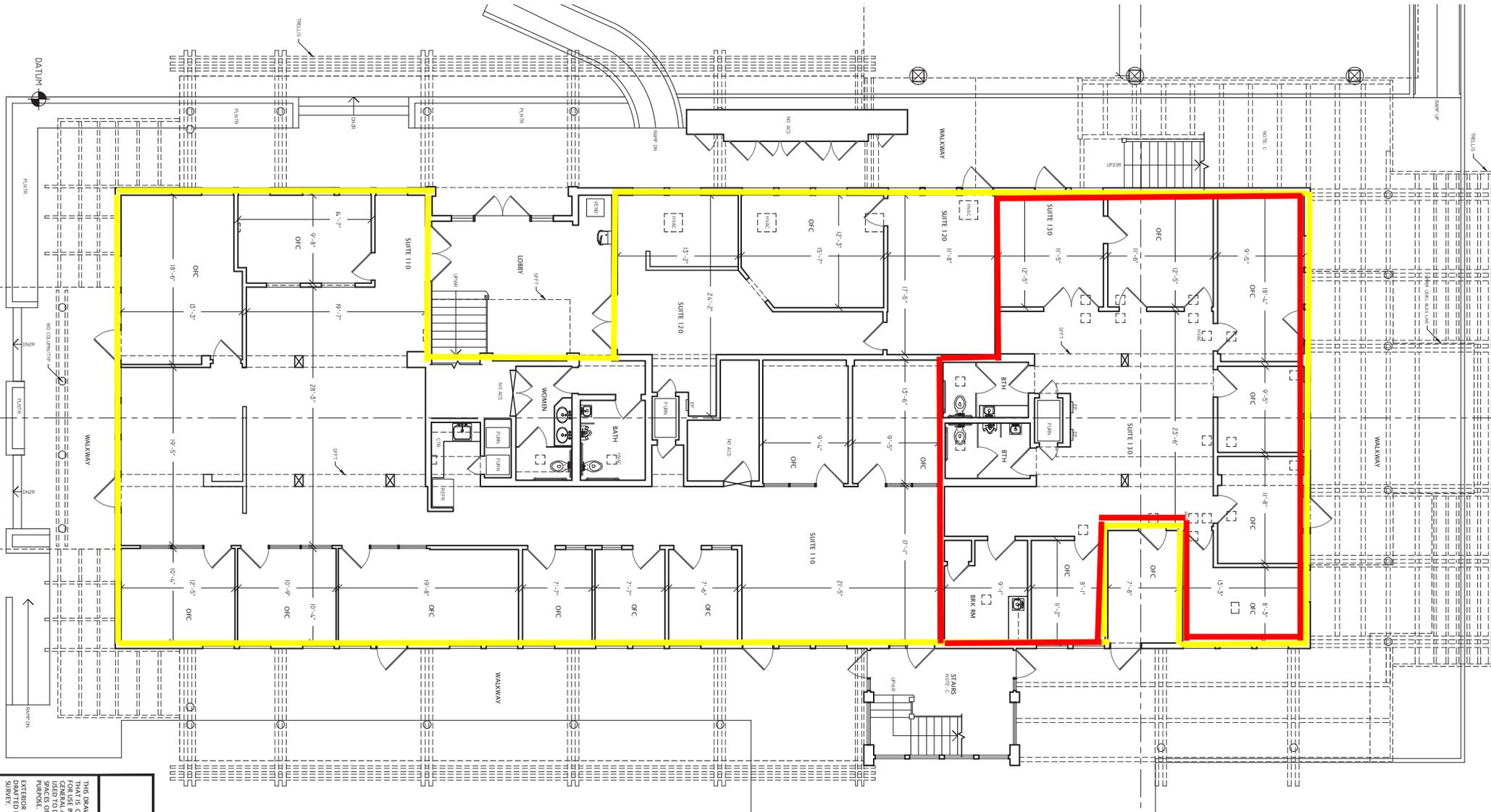
MARIN COUNTY TRANSIT DISTRICT,

By: \_\_\_\_\_

By: \_\_\_\_\_

General Partner

Name:



——— Additional Premises  
——— New Premises



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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Extend Agreement with Golden Gate Bridge Highway and Transportation District for Operation and Maintenance of Local Fixed Route Service**

**board of directors**

kate colin  
president  
city of san rafael

judy arnold  
vice president  
supervisor district 5

stephanie moulton-peters  
2nd vice president  
supervisor district 3

damon connolly  
director  
supervisor district 1

eric lucan  
director  
city of novato

katie rice  
director  
supervisor district 2

dennis rodoni  
director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

Dear Board Members:

**RECOMMENDATION:** Approve Third Amendment to the Agreement with Golden Gate Bridge Highway and Transportation District for Operation and Maintenance of Local Fixed Route Service to allow the agreement to be extended for six months and authorize the General Manager to extend the agreement for six months.

**SUMMARY:** In 2015 Marin Transit and Golden Gate Bridge Highway and Transportation District (GGBHTD) entered into an agreement (#141546) for operation and maintenance of local fixed route transit services for a term of five years with the option of extending for two additional one-year terms. The agreement was amended to adjust for Marin Transit's major service changes effective in June 2016 (#151682) and a second amendment (#202113) allows Marin Transit to reimburse GGBHTD for COVID-19 related enhanced cleaning protocols. Additionally, Marin Transit and GGBHTD agreed to exercise the two option years, making June 30, 2022 the end date of the agreement.

Staff from the two agencies began discussions of a new agreement in early 2021 with the intent of completing negotiations no later than October 1, 2021. Both agencies need several months to plan for service and financial changes that may result from a new agreement.

At the August 23, 2021 Marin Transit Board workshop, staff presented information on Marin Transit's five service contracts for operations and maintenance of local public transit and yellow school bus services in Marin County. Local fixed route services are provided under three contracts, including the agreement with GGBHTD, all of which will expire in the next 22 months. The result of the negotiations with GGBHTD will help determine how much local transit service Marin Transit will be able to provide over the next five years, and how future Requests for Proposals for transit service will be structured.

As noted in the workshop discussion on August 23<sup>rd</sup>, Marin Transit and GGBHTD are far apart on a new agreement. Both parties agree

that extending the existing agreement by six months will allow additional time needed for negotiations for a new agreement. The existing agreement allows for extensions beyond the option years for a period not- to-exceed one hundred twenty (120) calendar days. The proposed amendment revises the allowed extension period to six months.

Staff recommends that your Board approve a third amendment (#1046) to the agreement between Marin Transit and GGBHTD for operation and maintenance of local transit service and authorize the General Manager to extend the existing agreement by six months. If approved, negotiations for a new agreement will continue until January 1, 2022 and the amended agreement will terminate on December 31, 2022.

**FISCAL/STAFFING IMPACT:** The agreement allows for rates to increase by 2.7% annually. If approved, this amendment would extend the agreement into FY 2022/23 at the escalated rates for six months at an estimated total cost of \$5,320,311. There is no impact on Marin Transit's FY 2021/22 annual budget or on the near-term financial forecast.

Respectfully submitted,



Nancy Whelan  
General Manager

Attachment: Third Amendment (#1046) to the Agreement Between Marin Transit and GGBHTD

1046

**THIRD AMENDMENT TO AGREEMENT**  
**BY AND BETWEEN THE**  
**MARIN COUNTY TRANSIT DISTRICT AND GOLDEN GATE BRIDGE, HIGHWAY AND**  
**TRANSPORTATION DISTRICT DATED MAY 18, 2015**

THIS AMENDMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 2021, by and between the MARIN COUNTY TRANSIT DISTRICT, (hereinafter referred to as "Marin Transit" or "District") and GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, the District and the Contractor entered into an agreement (#141546) for operation and maintenance of local fixed route transit services; and

WHEREAS, the District and the Contractor amended the Agreement (#151682) to adjust Section 401 "Compensation to GGBHTD" to reflect service changes implemented in June 2016; and

WHEREAS, the District and the Contractor amended the Agreement (#202113) to allow for the District to reimburse the Contractor for the cost of labor and materials required to perform enhanced cleaning protocols to comply with public health guidance to mitigate the spread of COVID-19; and

WHEREAS, on July 1, 2019 the District and the Contractor mutually agreed to extend the Agreement for the first option year thereby extending the Agreement to June 30, 2021; and

WHEREAS, on November 2, 2020 the District and the Contractor mutually agreed to extend the Agreement for the second option year thereby extending the Agreement to June 30, 2022; and

WHEREAS, the District and the Contractor have been negotiating a new operations and maintenance agreement to take effect after the termination of the current agreement as previously extended; and

WHEREAS, the District and the Contractor have not yet agreed on terms for a new agreement and the parties desire to continue negotiations to allow for a smooth transition between agreements; and

WHEREAS, the Agreement allows the parties to mutually agree to extend the Base Contract Term, or an option term, on a month-to-month basis, for a period not-to-exceed one hundred twenty (120) calendar days at the most recently applicable Revenue Hour Rate including the 2.7% increase in the hourly rate; and

WHEREAS, the parties wish to further extend the agreement term by six months to allow for additional discussions of a new agreement.

NOW, THEREFORE, the parties hereby agree to the following amendments as set forth below:

AGREEMENT

- 1) Except as otherwise provided herein all terms and conditions of the agreement shall remain in full force and effect.
- 2) Section 104. Contract Date and Term of Contract, D. Contract Extensions is replaced with
  - D. **Contract Extensions.** In addition, the parties may by mutual agreement extend the Base Contract Term, or an option term, on a month-to-month basis, for a period not- to-exceed six months at the most recently applicable Revenue Hour Rate including the 2.7% increase in the hourly rate, should the anniversary date of the Commencement Date occur during the extension period of this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this

Addendum on the day first written above.

CONTRACTOR:

MARIN COUNTY TRANSIT DISTRICT:

By \_\_\_\_\_

\_\_\_\_\_



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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Contract with Arntz Builders, Inc. for the Construction of Electric Bus Charging Infrastructure improvements at 600 Rush Landing.**

**board of directors**

Dear Board Members:

kate colin  
president  
city of san rafael

**RECOMMENDATION:** Authorize Board President to execute a contract with Arntz Builders, Inc. for an amount not to exceed \$588,632.

judy arnold  
vice president  
supervisor district 5

**SUMMARY:**

Staff recommends that your Board authorize the Board President to enter into an agreement with Arntz Builders, Inc (Arntz Builders) for the construction of the bus charging infrastructure improvements at 600 Rush Landing Road in Novato. The project will allow for the charging of 4 Battery Electric Buses which are due to be delivered in December 2021.

stephanie moulton-peters  
2nd vice president  
supervisor district 3

damon connolly  
director  
supervisor district 1

Marin Transit released an Invitation for Bids (IFB) for this project on July 14, 2021 and held a public bid opening on August 11, 2021. Two bids were received from J.A. Gonsalves and Arntz Builders. Arntz Builders was the apparent low bidder. The table below shows the bids received.

eric lucan  
director  
city of novato

Bid Submitted by	Bid Amount
Arntz Builders	\$588,632
J.A. Gonsalves	\$869,000

katie rice  
director  
supervisor district 2

Bid Analysis by Marin Transit and the Project's Construction Manager, John Collins, determined that Arntz Builder's bid was both responsive and responsible, and meets all the construction requirements, thereby confirming them as the low bidder. The Intent to Award to Arntz Builders was issued on August 31, 2021.

dennisrodoni  
director  
supervisor district 4

Once the contract is awarded, staff expects construction to begin in October 2021 and anticipates completion in November 2021.

brian colbert  
alternate  
town of san anselmo

**PG&E EV Fleet Program – Project Status**

In June 2020, your Board authorized Marin Transit staff to submit an application for Pacific Gas and Electric (PG&E)'s EV Fleet program. Marin Transit was accepted into the program in September 2020, and

staff have been coordinating with PG&E staff to implement the project. Marin Transit is responsible for all infrastructure beyond the PG&E meter including wiring, trenching, and the chargers. PG&E will bring additional power to the site and will provide a small rebate for the bus chargers. PG&E will begin construction immediately following completion of Marin Transit's portion of the project and is estimated to take three weeks. Marin Transit is coordinating with PG&E on the construction schedule to ensure both schedules coincide.

**FISCAL IMPACT:** The bid came in under the Engineer's estimate and within the budgeted amount. The construction costs for this contract with Arntz Builders will not exceed \$588,632. These costs are included in the FY 2022 Budget as FS – Facility – Rush Landing Improvements. The project funded with District Capital Reserve funding and \$205,000 of federalized rental income from 600 Rush Landing.

Respectively submitted,

A handwritten signature in black ink, appearing to read "Anna Penoyar". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Anna Penoyar  
Capital Projects Manager

Attachment: Agreement between Marin County Transit District and Arntz Builders, Inc.

Contract # 1050

**MARIN COUNTY TRANSIT DISTRICT**

**PROJECT NO. 17104**

THIS AGREEMENT made and concluded, in triplicate, this 13th day of September, 2021 between the Marin County Transit District, party of the first part, and Arntz Builders, Inc., CONTRACTOR, part of the second part.

ARTICLE I, WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the said party of the first part, and under the conditions expressed in the Payment Bond and Performance Bond, bearing even with these presents, and hereunto annexed, the said party of the second part agrees with the said party of the first part, at his own proper cost and expense, to do all the work and furnish all the materials, except such as are mentioned in the specifications to be furnished by said party of the first part, necessary to construct and complete in a good, workmanlike and substantial manner and to the satisfaction of the District Engineer for:

**RUSH LANDING TRANSIT IMPROVEMENT PROJECT**

in accordance with the Special Provisions hereto annexed and also in accordance with the Standard Plans, dated 2018, the Standard Specifications dated 2018, and the Equipment Rental Rates and General Prevailing Wage Rates of the Department of Transportation (attached to the Contract Documents) which said Special Provisions, Standard Plans, Standard Specifications, and Equipment Rental Rates and General Prevailing Wage Rates are hereby specially referred to and by such reference made a part hereof.

The work to be done is shown on plans entitled:

**RUSH LANDING TRANSIT IMPROVEMENT PROJECT  
600 RUSH LANDING ROAD  
PROJECT NO 17104**

APPROVED: On September 13, 2021, which said project special provisions and project plans are hereby made a part of this contract.

ARTICLE II. The said party of the first hereby promises and agrees with said Contractor to employ, and does hereby employ, the said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to for the prices hereinafter set forth, and hereby contracts to pay the same at the time, in the manner and upon the conditions herein set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE III. The State general prevailing wage rates determined by the Director of Industrial Relations are hereby made a part of this contract. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid of bid of said

Contractor, then this instrument shall control, and nothing herein shall be considered as an acceptance of the said terms of said bid conflicting herewith.

ARTICLE IV. By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workmen’s compensation or to undertake self-insurance in **conformance** with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE V. Said Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the **Marin County Transit District**, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension on or discontinuance of work and for well and faithfully completing the work and the whole thereof, in the manner and according to the plans and specifications, and the requirements of the Engineer under them to wit:

Not to exceed: \$588,632

IN WITNESS WHEREOF, the Parties of these presents have hereunto set their hands the year and date first above written.

By: \_\_\_\_\_  
President, Board of Directors

By: \_\_\_\_\_  
Clerk

CONTRACTOR

By: \_\_\_\_\_  
\_\_\_\_\_  
(Print Name)



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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Revised Marin Transit Procurement Policies and Procedures**

**board of directors**

kate colin  
president  
city of san rafael

judy arnold  
vice president  
supervisor district 5

stephanie moulton-peters  
2nd vice president  
supervisor district 3

damon connolly  
director  
supervisor district 1

eric lucan  
director  
city of novato

katie rice  
director  
supervisor district 2

dennis rodoni  
director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

Dear Board Members:

**RECOMMENDATION:** Approve Revised Marin Transit Procurement Policies and Procedures (PU-02 #3)

**SUMMARY:** Staff recommends that your Board adopt revisions to the Marin Transit Procurement Policies and Procedures.

Your board originally adopted Procurement Policies and Procedures in April 2012 to ensure full and open competition and conform to applicable federal, state, and local law. In June 2018, your Board updated these policies to reflect requirements under the Federal Transit Administration (FTA) Super Circular 2 CFR part 200. In October 2020, your board updated policies to increase purchasing thresholds to be more in line with peer agencies. This fourth revision makes the following changes:

1. Corrects the threshold for contracts requiring Board approval from \$25,000 to \$50,000. The threshold will now be consistent with the prior revision which raised the General Manager's contract approval threshold to \$50,000. All contracts above \$50,000 or of public interest will continue to go to the Marin Transit Board for review and approval.
2. Adds the clause "Notification to FTA" to Appendix A – Applicability of Third-Party Contract Clauses. This Clause is required by FTA to be in all contracts. This is being added in response to Marin Transit's 2021 Federal Triennial Review.

**FISCAL/STAFFING IMPACT:** There is no fiscal impact associated with adopting the revised *Marin Transit Procurement Policies and Procedures, revision #3*.

Respectfully submitted,

Anna Penoyar  
Capital Projects Manager

Attachment – Marin Transit Procurement Policies & Procedures, revision #3



## **MARIN TRANSIT**

### **PROCUREMENT POLICIES AND PROCEDURES**

Policy #:	PU-02
Subject:	Procurement
Effective Date:	April 30, 2012
1 <sup>st</sup> Revision Date:	May 7, 2018
2 <sup>nd</sup> Revision Date:	October 5, 2020
3 <sup>rd</sup> Revision Date:	September 13, 2021

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## 1. APPLICABILITY

This document sets forth Marin Transit's requirements for solicitation, award, and administration of its procurement actions. The purpose of these policies and procedures is to ensure competitive procurements and conform to applicable Federal, State, and local law.

These policies and procedures apply to all Marin Transit contracts and purchases regardless of funding sources, except as specifically stated.

### 1.1. Governance

Marin Transit's procurement actions are primarily governed by the California Government Code Section 54201-54205 and by the Federal Transit Administration (FTA) Circular 4220.1F (C 4220.1F) and Super Circular, 2 CFR part 200. Additionally, as required under California Public Contract Code Division 2, of Part 3, of Chapter 1, of Article 12, Marin Transit shall purchase all supplies, equipment and materials, and construction of facilities and works, in the same manner, procedure and subject to the same limitations applicable to the County of Marin.

In all procurements using any amount of Federal funds, Federal requirements shall generally supersede State law. Where no Federal funds are involved, procurement actions shall be governed by applicable State law. References to statutes or regulations in this document shall be deemed to refer to any subsequent revisions or amendments which may be enacted from time to time.

### 1.2. Contracts Outside the Scope of This Policy

#### 1.2.1. Real Property

Procurements of real property consisting of land and any existing buildings and structures on that land are beyond the scope of this policy. However, this policy does apply to construction of buildings, structures, or appurtenances that were not on land when that land was acquired. This policy also applies to any alterations or repairs to building or structures existing on that land when that land was acquired, to transactions in support of real property acquisition such as real estate consultants, and to leases.

#### 1.2.2. Other Acquisitions

This policy shall not apply to: joint development projects (except construction); purchases from government-regulated entities such as public utilities that are granted market exclusivity by the regulating agency; purchases of professional subscriptions, memberships, seminars, and expenses in connection with industry meetings and conferences; travel

and living expenses on Marin Transit business; and other similar expenditures incidental to the routine conduct of Marin Transit's business.

### 1.2.3. Revenue Contracts

Revenue contracts are not subject to this policy. A revenue contract is one in which Marin Transit provides access to public transportation assets for the primary purpose of either producing revenues in connection with a public transportation-related activity or creating business opportunities involving the use of Marin Transit property. Where feasible, a competitive process suitable to the type and scope of the activity involved and the availability of competition shall be conducted, for example where there are several potential competitors for a limited opportunity (such as advertising space associated with Marin Transit assets). Where the nature of an opportunity allows reasonably unlimited access for all competitors, the opportunity shall be made available to all such parties without restriction.

### 1.2.4. Employment Contracts

Employment contracts are not subject to this policy, as they involve individuals becoming employees of Marin Transit.

## **2. CONTRACTING AUTHORITY AND CONTRACT APPROVAL**

### 2.1. Contract Approval Requirements

#### 2.1.1. Purchasing Thresholds

Micro-purchases are purchases of \$25,000 or less if no Federal funds are involved and \$10,000 or less if Federal funding is present.

Small purchases are purchases valued at more than the micro-purchase limit but less than the Federal Transit Administration small purchase threshold, currently \$150,000.

#### 2.1.2. Board of Marin Transit Approval

All contracts for goods or services in excess of \$50,000 must be awarded by approval of the Board of Marin Transit.

#### 2.1.3. General Manager Approval

All contracts valued at less than \$50,000 but over \$5,000 shall be approved by the General Manager in writing.

#### 2.1.4. Director Approval

Purchases under \$10,000 may be approved by the Director of Finance and Capital Programs or the Director of Operations and Planning.

#### 2.1.5. Delegations

The authorizations specified above may be delegated in whole or in part, by written direction of the holder of the authority.

#### 2.1.6. Change orders

The above authorizations apply to both new procurements and to change orders.

#### 2.1.7. Emergencies

The General Manager may authorize the award of contracts or change orders exceeding Marin Transit's threshold for approval in the following cases:

- When emergency action is required to prevent loss of life, damage to property, a threat to public safety or the environment, or the disruption of transit service or other essential functions of Marin Transit.
- Where an emergency has been declared by local, State or national officials affecting Marin Transit's service area, directly or indirectly, or a request for waiver of regulatory requirements has been entered on FTA's Emergency Docket.

All emergency procurements must be documented in writing.

### **3. GENERAL PROCUREMENT STANDARDS**

#### 3.1. Standards of Conduct

The Marin Transit Board of Directors has adopted a separate written code of conduct that conforms to FTA Circular 4220.1F. This sets forth the required standards of conduct relating to all procurement activities. The standards of conduct cover conflicts of interest and govern the actions of employees engaged in the selection, award, or administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of Marin Transit may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct provides for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of Marin Transit.

In addition, under the California Political Reform Act, all public agencies are required to adopt a conflict of interest code that designates positions required to file Statements of Economic Interests (Form 700).

### 3.2. Economic Purchasing

Marin Transit shall avoid acquisition of unnecessary or duplicative items. From time to time, Marin Transit shall review procurement activity to determine if certain classes of purchases should be consolidated or broken out to obtain more economical pricing. Where appropriate, analysis shall also be made of lease versus purchase alternatives or any other appropriate methodology to determine the most economical approach. Marin Transit shall enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

The District shall use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. Marin Transit shall use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

### 3.3. Specifications

All solicitations shall have a clear and accurate description of the technical requirements for the material, product, or service to be procured. These descriptions shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, describe minimum essential characteristics and standards to which the product or services must perform. Whenever practical, requirements shall be described in terms of functions to be performed or level of performance required, including the range of acceptable characteristics or minimum acceptable standards. Detailed product specifications are to be avoided if at all possible. When it is impractical or uneconomical to write a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance;

however, when this method is used, the specification must set forth the salient characteristics that the product must meet, and vendors shall be allowed to offer "equal" products meeting the salient characteristics. Specifications for bid solicitations, whether by small purchase or formal procurement, shall be sufficiently detailed to ensure that bidders may submit pricing on like products. Specifications or scopes of services for negotiated procurements may be more general and accommodate the possibility of alternative solutions or products.

### 3.4 Procurement Process and Oversight Responsibilities

Marin Transit shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) Marin Transit shall maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j) (1) Marin Transit may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to Marin Transit is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract will set a ceiling price that the contractor exceeds at its own risk. Further, Marin Transit will assert a high degree of oversight of the contract to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) In accordance with good administrative practice and sound business judgment, Marin Transit shall be entirely responsible for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to: source evaluation, protests, disputes, and claims. These standards do not relieve Marin Transit of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for Marin Transit's unless the matter is primarily a

Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

### 3.5 Joint Procurement

When appropriate, Marin Transit shall consider combining or “pooling” their procurements to obtain better pricing. In general, joint procurements are often more desirable than procurements through assignment (see 3.6.2 below) because an assignment does not represent the combined buying power of more than one purchaser at the time when prices are established. A joint procurement may also offer the advantage of permitting Marin Transit to acquire property and services more closely responsive to the District’s material requirements than would be available through assignment of existing contract rights.

### 3.6 Record Keeping

Marin Transit shall maintain records detailing the history of a procurement in a manner consistent with the size, complexity and cost of the contract. Federal regulations require these records to be maintained for three years after Marin Transit has made final payment and all other pending matters are closed. At a minimum, the procurement history must include the following information:

- Rationale for the method of procurement (i.e. IFB, RFP, sole source.)
- Sole source justification for any purchase that is not competitive
- Selection of contract type (i.e. fixed price, cost reimbursement)
- Reasons for contractor selection or rejection
- Written responsibility determination for the successful contractor
- Basis for contract price (i.e. cost/price analysis)

### 3.7 Use of Existing Contracts

#### 3.7.1 GSA, State of California, and Local Government Purchasing Schedules

Both the U.S. General Services Administration (GSA) and the California Department of Governmental Services maintain purchasing schedules or purchasing contracts for various commodities and services. Marin Transit may use contracts of this type in accordance with the governing law and regulations of the agency establishing them.

Marin Transit may also use other state or local government purchasing schedules. In this instance a state or local government has made an

arrangement with several vendors in which those vendors agree to provide essentially an option to the state or local government, and its subordinate government entities, to acquire specific property or services in the future at established prices. The state or local government then, with the agreement of the vendor, provides the listed property or services to others. The CalACT/MBTA Vehicle Purchasing Cooperative would be an example of this procurement method.

### 3.72 Acquisition Through Assigned Contract Rights “Piggybacking”

Marin Transit may use contract rights assigned from another agency when that agency finds that it has inadvertently acquired contract rights in excess of its needs (sometimes referred to as “piggybacking”). A number of FTA requirements must be met before such a contract may be used. FTA requires that the existing contract contain an assignability clause and all required FTA contract clauses and certifications; these clauses cannot be added by Marin Transit as part of its use of the existing contract. All quantities acquired by assigned contract rights must be within the original contract quantities (including options) and acquired within the term of the existing contract. Marin Transit must determine that the agency with the contract complied with all FTA requirements relating to competition and performance of a cost or price analysis. Marin Transit must also perform its own cost or price analysis to determine that the prices it shall pay are fair and reasonable. Marin Transit staff shall ensure all appropriate documentation from the original awarding agency is retained in the procurement file for that acquisition.

### 3.7.3 Options

Marin Transit may include options in its contracts to ensure the future availability of property or services. An option is a unilateral right such that for a specified time the District may acquire more equipment, supplies, or services than originally procured. An option may also extend the term of the contract.

### 3.7.4 Impermissible Contract Actions

The following contract actions are not permitted on projects funded with Federal assistance.

#### 3.7.4.1 Improper Contract Expansion

A contract shall not be expanded when it includes a larger scope, greater quantities, or options beyond the original reasonably anticipated needs. A contract shall not be expanded when excess capacity has been added primarily to permit assignment of those contract rights to another entity.

### 3.7.4.2 Cardinal Change

A significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change. Such practices are sometimes informally referred to as “tag-ons”. A change within the scope of the contract (sometimes referred to as “in-scope” change) is not a “tag-on” or cardinal change.

Recognizing a cardinal change to a contract can be difficult. FTA has not developed a finite list of acceptable contract changes. Tests to determine if a change is a cardinal change involve the nature and extent of the work to be performed, the amount of effort involved, whether the change was originally contemplated at the time the original contract was entered into, or the cumulative impact on the contract’s quantity, quality, costs and delivery terms.

In the case of rolling stock, a major change in quantity or a substitution of major end items not contemplated when competition for the original award took place would generally be a cardinal change. Additional guidance on cardinal changes can be found on page V-7 and V-8 of the FTA Circular 4220.1F and in the FTA Best Practices Procurement Manual, section 9.2.1- Contract Scope and Cardinal Changes.

### 3.8 Protests

Marin Transit has adopted a bid protest policy to provide remedy for supplier protests that cannot be informally resolved.

### 3.9 Contract Period

The period of contract performance for rolling stock and replacement parts cannot exceed five years, inclusive of options, as defined in FTA Circular 4220.1F. The length of all other contracts shall be based upon sound business judgment, including consideration of issues such as the nature of the item being purchased, the need to afford the contractor a reasonable opportunity to recapture any start-up costs, the need to afford competing vendors the opportunity to do business with Marin Transit, and the relative benefit to Marin Transit of a longer or shorter contract term. All contracts must specify a contract period of performance, either in the form of delivery schedules for contract deliverables such as commodities, or a specific end date for service contracts.

## **4. FULL AND OPEN COMPETITION**

#### 4.1. Competition

All procurement transactions shall be conducted in a manner intended to maximize full and open competition. Full and open competition means that all responsible sources are permitted to compete. In implementing this standard, staff members are expected to be aggressive in identifying potential vendors for each procurement. At a minimum, each procurement expected to cost above \$150,000 (the FTA small purchase threshold) shall be posted on Marin Transit website's procurement page for downloading, and known vendors shall be directly informed of the project and encouraged to respond to the solicitation. In addition, each competitive procurement above the small purchase threshold may be advertised in local, and, as appropriate, regional, national and trade publications. The advertisement and notice should provide the solicitation title, the date of any pre-bid or pre-proposal conference, and the date and time for receipt of responses to the solicitation. Advertisements and notices shall be issued at the beginning of the solicitation period or as soon after as practical to accommodate the advertising schedules of publications. For procurements within the small purchase threshold formal advertising is not required but may be used if appropriate.

#### 4.2. Restrictions on Competition

All procurement transactions over \$3,500 shall be conducted in a manner providing full and open competition, without providing an unfair competitive advantage to any potential vendor. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Unreasonable requirements placed on firms in order for them to qualify to do business.
- Unnecessary or excessive experience, excessive bonding, insurance, warranty or similar requirements which affect an otherwise qualified firm's ability to compete. Such requirements must also, however, be established in a manner consistent with protection of Marin Transit's interests.
- Noncompetitive pricing practices between firms or between affiliated companies.
- Noncompetitive awards to any person or firm on retainer contracts.
- Organizational conflicts of interest.
- Specifying only a "brand name" product, without specifying that equivalent products shall be accepted and providing salient characteristics or other descriptive information sufficient to allow bidders to identify and propose such equivalent products.

- The use of specification requirements and evaluation criteria that unnecessarily favor an incumbent contractor.
- Any arbitrary action in the procurement process.

#### 4.3. Geographic Preferences

This section is applicable only to FTA-funded procurements.

Procurement transactions shall be conducted in a manner that prohibits the use of statutory or administratively imposed state, local, or tribal geographical preferences in the solicitation and evaluation of bids or proposals, except in those cases where applicable Federal statutes or regulations expressly mandate or permit geographic preference. This does not preempt State or local licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services, provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

#### 4.4 Record of Procurement Transactions

Marin Transit shall use written procedures for procurement transactions. These procedures ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications shall be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description shall be used to define the performance or other salient requirements of procurement. The specific features of the named brand that must be met by offers shall be clearly stated; and
- Identify all requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Marin Transit shall ensure that all prequalified lists of persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, Marin Transit will not preclude potential bidders from qualifying during the solicitation period.

#### 4.5 Metric Measurements

Marin Transit will accept property and services with dimensions expressed in metric measurements, to the extent practicable and feasible.

### **5. CONTRACT TYPES**

#### 5.1. Typical Contract Types

##### 5.1.1. Firm Fixed Price

A firm fixed price contract includes a price that remains fixed irrespective of the contractor's cost experience in performing the contract. A firm fixed price contract may include an economic price adjustment provision, incentives, or both.

##### 5.1.2. Cost Reimbursement and Cost plus Fixed Fee

A cost plus fixed fee contract provides that the contractor shall be reimbursed for its labor and material costs and for its direct expenses, plus a fixed fee for profit that is paid regardless of any overrun or under-run of the total costs established at time of contract award. The intent is to provide the contractor with an incentive to work as efficiently as possible in order that the fee shall represent a higher percentage of its costs. This type of contract may also provide for other types of fee as incentives for improved performance.

#### 5.2. FTA Prohibited or Restricted Contract Types

##### 5.2.1. Cost Plus a Percentage of Cost – Prohibited

Contracts that are structured with payment provisions based on the incurrence and payment of actual costs, such as direct labor, with a fixed percent mark-up on the actual costs incurred for (a) profit, (b) indirect costs, (c) or both, are prohibited by Federal statute.

##### 5.2.2. Percentage of Construction Cost - Prohibited

##### 5.2.3. Time and Materials – Restricted

A time and material contract or change order is one in which a clear scope cannot be defined, due to unknown conditions or circumstances affecting the work. Typically, this shall involve an emergency situation. Since such contracts provide no incentive for the contractor to work efficiently or in a cost-effective manner, FTA restricts their use to situations in which no other type of contract is feasible. Such contracts shall specify a ceiling price (a limitation of funding) that the contractor shall not exceed except at its own risk. The contractor's accounting system must be verified to ensure that it is adequate to properly segregate and bill costs and

thorough oversight is required to verify the amount of work performed and materials used. Every effort shall be made to limit the scope of a time and materials contract or change order until another type of contract or change order can be established.

## **6. METHODS OF PROCUREMENT**

### **6.1. Micro-purchases**

Micro-purchases are purchases of \$10,000 or less if Federal funds are involved, or \$25,000 for projects entirely funded without Federal funds. Micro-purchases can be made without obtaining competitive quotations. These purchases are exempt from FTA's Buy America requirements. Davis–Bacon prevailing wage requirements, however, shall apply to Federal construction contracts exceeding \$2,000. Micro-purchases shall be distributed equitably among qualified suppliers. Purchases shall not be divided or reduced in size merely to come within the micro-purchase limit.

The only documentation requirement for micro-purchases is a determination that the price is fair and reasonable and a description of how this determination was made. The documentation shall state that: "The price(s) paid for items are determined to be fair and reasonable, based on the following:"

- Adequate competition (two or more quotes received with an award made to lowest)
- Current price lists or off-the-shelf pricing
- Catalog price
- Prices found reasonable on recent previous purchases
- Advertisements
- Similar items in a related industry
- Independent price estimate (attach documentation)
- Other (cite basis)

### **6.2. Small Purchases**

Small purchases are relatively simple and informal solicitations for services, supplies, or other property valued at more than the micro-purchase limit but less than the FTA small purchase threshold, currently \$150,000. These purchases are exempt from FTA's Buy America requirements.

The following procedures apply to small purchases:

- Price or rate quotes must be obtained from an adequate number of qualified sources.
- Purchases shall not be divided or reduced in size merely to come within the small purchase limit.
- The request for quotes and the actual quoted prices must be documented in the procurement file.

### 6.3 Purchase by Sealed Bids (formal advertising).

a) Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

b) For sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

c) If sealed bids are used, the following requirements apply:

- (i) Bids shall be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids shall be opened publicly;

- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.
- (d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- (1) Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
  - (2) Proposals shall be solicited from an adequate number of qualified sources;
  - (3) Marin Transit shall have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
  - (4) Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
  - (5) Marin Transit may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (e) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
- (1) The item is available only from a single source;
  - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from Marin Transit; or

(4) After solicitation of a number of sources, competition is determined inadequate.

## 6.4 Competitive Solicitations (IFB and RFP)

### 6.4.1 General Standards for Either IFB or RFP

#### 6.4.2 Advertising

The intent of advertising a solicitation is to make every reasonable effort to inform potential vendors of the business opportunity. Each such solicitation shall be posted on the procurement page of Marin Transit's website. If deemed appropriate the solicitation shall be published in appropriate local, regional, national, and trade media designed to reach the target vendor pool or posted on applicable trade association or other websites.

#### 6.4.3 Pre-Qualification

Pre-qualification or other methods of restricting responses shall not ordinarily be used unless required for security or public safety reasons or by law. If vendors are to be pre-qualified for a specific procurement, the following requirements apply:

- The qualifications standards must be limited to those essential for the procurement.
- Any pre-qualification list used is current.
- The prequalification process must include enough qualified sources to provide maximum full and open competition.
- Potential bidders or offerors must be permitted to qualify during the solicitation period (from the issuance of the solicitation to its closing date). However, a particular solicitation need not be held open to accommodate a potential supplier that applies for approval before or during that solicitation, nor must prequalification evaluations of bidders, offerors, or property presented for review during the solicitation period be expedited or shortened to conform to the solicitation period.

- Any prequalification testing, or testing of potential approved equal products, must take into account (1) the frequency of solicitations for an item; if an item is solicited on a regular basis, the testing may allow the provider to participate in future solicitations; if the solicitation is unique or rare, more consideration should be given to allowing completion of the testing process for that procurement; (2) the length of time required to reasonably test the item to verify acceptability; and (3) the cost to Marin Transit of conducting a testing process.

#### 6.4.4 Selection Procedures

Marin Transit shall have written selection procedures that ensure fair, unbiased evaluation of competing offers for all types of competitive procurement transactions.

If Marin Transit intends to reserve its right to award to other than the low bidder or offeror, this information shall be stated in the solicitation document.

If Marin Transit intends to reserve its right to reject all bids or offers, this information shall be stated in the solicitation document.

#### 6.4.5 Amendments

Responses to any questions from prospective sources, or any amendments to the solicitation, shall be distributed to all parties known to have received the solicitation, and posted on the Marin Transit website. Should the amendment substantially change the terms of the solicitation, the period for receipt of offers shall be extended to allow offerors to revise their submittals accordingly.

#### 6.4.6 Invitation for Bid (IFB)

Bids in excess of the small purchase limit are publicly solicited through a formal Invitation for Bids (IFB) and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the IFB is lowest in price.

Competitive sealed bidding is the preferred method of procurement for acquiring property, construction, and other services.

#### 6.4.7 When to use IFB

A sealed bid (IFB) should be used when the following circumstances are present:

- A complete, adequate, precise, and realistic specification or purchase description is available.
- Two or more responsible bidders are willing and able to compete effectively for the business.
- The procurement generally lends itself to a fixed price contract.
- The successful bidder can be selected on the basis of price and those price-related factors listed in the solicitation including, but not limited to, transportation costs, life cycle costs, and discounts expected to be taken. Apart from responsibility determinations contractor selection may not be determined on the basis of other factors whose costs cannot be measured at the time of award.
- Discussions with one or more bidders after bids have been submitted are expected to be unnecessary as award of the contract shall be made based on price and price-related factors alone. However, a pre-bid conference with prospective bidders before bids have been received can be useful.

#### 6.4.8 IFB Procedures

The following procedures apply to sealed bid procurements:

- The invitation for bids is publicly advertised.
- Bids are solicited from an adequate number of known suppliers.
- The invitation for bids, including any specifications and pertinent attachments, describes the property or services sought in sufficient detail that a prospective bidder shall be able to submit a proper bid.
- Bidders are allowed sufficient time to prepare bids before the date of bid opening.
- All bids are publicly opened at the time and place prescribed in the invitation for bids.
- A firm fixed price contract is usually awarded in writing to the lowest responsive and responsible bidder, but a fixed price incentive contract or inclusion of an economic price adjustment provision can sometimes be appropriate. When specified in the bidding documents, factors such as transportation costs and life cycle costs affect the determination of the lowest bid; payment discounts are used to determine the low bid only when prior experience indicates that such discounts are typically taken.

- Any or all bids may be rejected if there is a sound, documented business reason.

#### 6.4.9 Single Bid

In the event that a single responsive bid is received from a responsible bidder, Marin Transit may negotiate with the bidder to ensure that a fair and reasonable price is obtained. If the responsive bid from the lowest responsible bidder exceeds available funds, Marin Transit may negotiate with the apparent low bidder to obtain a contract price within available funds, provided that Marin Transit has established, in writing conditions and procedures for such negotiations prior to issuance of the IFB and summarized them therein. Marin Transit may not, as part of a negotiation process, modify or alter the scope and specification defined in the IFB in a manner that might have attracted additional bidders if incorporated in the solicitation.

#### 6.4.10 Request for Proposal (RFP)

The competitive negotiation procurement process is conducted through a formal Request for Proposals (RFP). This method of procurement is generally used when the nature of the procurement does not lend itself to sealed bidding and Marin Transit expects more than one source shall be willing and able to submit an offer or proposal.

#### 6.4.11 When to use RFP

The competitive negotiation method (RFP) of procurement is appropriate when the following conditions exist:

- A complete, adequate, and realistic specification or purchase description is not available.
- The selection of the successful offeror requires consideration of factors other than price.
- Discussions with offerors are anticipated to be needed.

##### 6.4.11.1 Contract Type for RFP

Either a fixed price or cost reimbursable type contract may be awarded under this process.

##### 6.4.11.2 Evaluation Factors

Each RFP must include a description of the factors other than price by which proposals shall be evaluated. Evaluation factors and sub factors shall be listed in order of their relative importance. Evaluation factors

may include, but are not limited to, technical design, technical approach, length of delivery schedules, quality of proposed personnel, past performance, and management plan.

#### 6.4.13 Revised Proposals

The most common tool used by procurement officials in competitive negotiations is a request for a revised proposal. Typically, the deficiencies of a proposal are listed and explained. A complete revised proposal, including price (except under the Brooks Act) is requested from each offeror in the competitive range. Unless explicitly stated otherwise, the revised offer extinguishes the prior offer. The proposer should identify all changes in the revised offer. The submission of the revised offers can trigger another round of evaluations, determination of a new competitive range, and discussions. This cycle may be repeated as many times as necessary to obtain the most advantageous offers.

#### 6.4.14 Best and Final Offer

A best and final offer (BAFO) may be requested of each offeror in the competitive range at the conclusion of discussions (negotiations) with those offerors. A "best and final offer" is requested from those offerors in the competitive range. If the other offers have no viable chance of being made competitive by this time, a BAFO may be requested from only one proposer; recognizing that there is little competitive pressure under those circumstances. If any offeror does not respond to this request, their most recent offer shall be considered the best and final offer.

#### 6.4.15 Special Procurement Considerations

##### 6.4.15.1 Two-Step Procurement Procedures

This is a procurement method involving the submittal of unpriced technical proposals in the first step, and a price submittal in the second step. This method can be used in both sealed bid and competitively negotiated procurements.

The first step is a review of the prospective contractors' technical approach to Marin Transit's request and technical qualifications to carry out that approach. Marin Transit may then narrow the competitive range to prospective contractors that demonstrate a technically satisfactory approach and have satisfactory qualifications.

The second step consists of soliciting and reviewing complete bids (sometimes referred to as —two-step sealed bidding) or proposals

(as in —competitive negotiations), including price, submitted by each prospective contractor determined to be qualified. Absent exceptional circumstances, Marin Transit should attempt to solicit bids or proposals from at least three qualified prospective contractors. Unlike qualifications-based procurement procedures required for A&E services, Marin Transit shall consider all bid or proposal prices submitted as well as other technical factors, rather than limiting reviews to the most qualified bidder or offeror.

#### 6.4.15.2 Architectural and Engineering (A&E) and Other Professional Services

Marin Transit shall use qualification-based competitive proposal procedures based on the Brooks Act, of the United States Code.

Qualifications-based procurement procedures must be used not only when contracting for A&E services, but also for other services listed in 49 U.S.C. § 5325(b)(1) that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property. For example, a contractor performing program management, project design, construction management, or engineering services in which that contractor would select the finished products to be acquired for an FTA assisted construction project must be selected through qualifications-based procurement procedures.

Marin Transit is prohibited by FTA from using qualifications-based procurement procedures to acquire other types of services if those services are not directly in support of, directly connected to, directly related to, or do not lead to construction, alteration, or repair of real property. Even if a contractor has performed services listed herein in support of a construction, alteration, or repair project involving real property, selection of that contractor to perform similar services not relating to construction may not be made through the use of qualifications-based procurement procedures.

A project involving construction does not always require that qualifications-based procurement procedures be used. Whether or not qualifications-based procurement procedures may be used depends on the actual services to be performed in connection with the construction project. For example, the design or fabrication of message signs, signals, movable barriers, and similar property that shall become off-the-shelf items or shall be fabricated and delivered as final end products for installation in an FTA assisted construction project are not services for which qualifications-based procurement procedures may be used. Nor are actual construction, alteration, or repair to real property the type of services for which qualifications-based procurement procedures may be used.

The following procedures apply to qualifications-based procurements:

- An offeror's technical qualifications are evaluated to determine contract award.
- Price is excluded as an evaluation factor.
- Negotiations are first conducted with only the most qualified offeror.
- Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price Marin Transit believes to be fair and reasonable.

When no Federal funds are involved in funding a procurement for professional services, Marin Transit shall comply with the requirements of California Government Code §4525, which defines a process similar to the Brooks Act to be used for all professional service procurements.

#### 6.4.15.3 Design Build

The design-build procurement method consists of contracting for design and construction simultaneously with contract award to a single contractor, consortium, joint venture, team, or partnership that shall be responsible for both the project design and construction. Information on selecting the appropriate procurement method and selection process can be found in FTA Circular 4220.1F pages VI-14-VI-16.

Design build projects must also comply with any State of California Requirements.

#### 6.4.16 Sole Source

Non-competitive (sole source) procurements are accomplished through solicitation and acceptance of a proposal from only one source. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with this section. Guidance as to what is “outside the scope” of a contract may be found in section 1.2 of this document.

##### 6.4.16.1 Justification for Sole Source

Sole source procurement may be used when only one source is practicably available, and the award of a contract is infeasible under competitive small purchase procedures, sealed bids, or proposals and at least one of the following circumstances applies:

The item is available only from one responsible source because:

- It involves a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted and is available to Marin Transit only from one source and has not in the past been available to Marin Transit from another source.
- Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.
- Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
- Unacceptable Delay. In the case of a follow-on contract for the continued development or production of highly specialized equipment or major component thereof, award to another contractor would result in unacceptable delays in fulfilling Marin Transit's needs.
- A single bid or proposal was received in response to a solicitation and competition was determined to be inadequate.
  - Adequate Competition. Competition is adequate when the reasons for few responses were caused by conditions beyond Marin Transit's control. Many unrelated factors beyond the District's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, the competition requirements shall be fulfilled, and the procurement shall qualify as a valid competitive award.
  - Inadequate Competition. Competition is inadequate when, caused by conditions within the District's control. For example, if the specifications used were unduly restrictive.
- An unusual and urgent need for the property or services exists such that Marin Transit would be seriously injured unless it were permitted to limit the solicitation. Marin Transit may also limit the solicitation when an urgent public need or emergency shall not permit a delay resulting from competitive solicitation for the property or services.

- FTA authorizes noncompetitive negotiations (e.g., in the original grant application and approval process).
- Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.

Sole source is not justified based on a failure to plan.

#### 6.4.16.2 Documentation

When less than full and open competition is available the following procedures apply:

- A written sole source justification must be prepared justifying the decision based on the criteria in section 6.4.16 above.
- A cost analysis must be prepared or obtained verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits.

#### 6.4.17 Options

An option is a unilateral right in a contract by which, for a specified time, Marin Transit may elect to purchase additional or alternative equipment, supplies, or services called for by the solicitation and/or contract, or may elect to extend the term of the contract. The use of options must be limited to quantities of goods or services that are reasonably anticipated to be required by Marin Transit during the term of the contract; options may not be included solely with the intent of assigning them to another entity in the future; however, contracts may include a provision allowing assignment to other agencies in the event of a change in Marin Transit's anticipated requirements, in accordance with FTA regulations and guidance.

The option quantities or periods must be defined in the solicitation; contained in the offer upon which a contract is awarded; and evaluated as part of the initial award process; i.e., the options must be evaluated in combination with prices for the base quantity to determine the low bidder. When an option has not been evaluated to determine the low bidder for award of the contract, exercise of the option shall be considered a sole source procurement and must be justified as such.

The exercise of an option must be in accordance with the terms and conditions of the option as stated in the initial contract, and an option may not be exercised unless it is determined that the option price is

better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised, cost and other factors considered.

If sequential options (e.g., a series of one-year extensions) exist, the failure to timely and properly exercise any option shall void all subsequent options.

Marin Transit may exercise options in contracts of other public agencies (“piggybacking”) in accordance with FTA regulations and guidance. This process requires the following:

- A documented verification that the contract containing the option was procured in accordance with all FTA requirements, including obtaining copies of the relevant documents from the procuring agency.
- A separate contract or purchase order should be entered into between the vendor and Marin Transit.
- Where purchases are made from State or local purchasing schedules or contracts which do not include all FTA requirements, the necessary contract terms, representations and certifications may be added by agreement of the parties. However, the contract may not be modified to substantively change the product or services being acquired.

#### 6.4.18 Electronic Commerce

Marin Transit may employ electronic commerce to conduct procurements; specifically electronic bidding or reverse auctions. In advance of using this procurement method written procedures must be established in compliance with FTA Circular 4220.1F, Chapter III, §3. f.

#### 6.5 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) Marin Transit must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

## **7 CONTRACT COST AND PRICE ANALYSIS**

### **7.1 Requirement**

A cost or price analysis must be performed for every FTA-funded procurement action, including change orders in excess of the Simplified Acquisition Threshold of \$150,000. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. FTA's "Pricing Guide for Grantees" provides guidance in performing the appropriate degree of cost or price analysis.

### **7.2 Independent Cost Estimate**

Any cost or price analysis must be based on an independent cost estimate, which should be developed before a solicitation is issued, but in no event after the receipt of bids or proposals. For change orders, the independent estimate must be prepared without knowledge of the contractor's proposed pricing.

### **7.3 Cost Analysis**

A cost analysis must be performed when the offeror is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost. A cost analysis is not required when the pricing reflects a catalog or market price of a commercial product sold in substantial quantities to the general public or is based on prices set by law or regulation.

A cost analysis shall be necessary when adequate price competition is lacking, including sole source procurements (including change orders), unless

price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation. Where change orders involve items for which unit prices are included in the contract, a cost analysis is not required.

Profit is to be negotiated as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration should be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts shall be allowable only to the extent that costs incurred, or cost estimates included in negotiated prices are consistent with Federal cost principles allowable under Subpart E—Cost Principles of Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards Price Analysis

A price analysis looks at the price as a whole without examination of its various components.

Several techniques may be used in performing a price analysis:

- Comparing prices to those obtained for previous procurements.
- Comparing prices to those obtained by other agencies for like items.
- Comparing the range of prices received for the procurement involved, a price more than 10 percent higher or lower than the other prices received may raise questions as to whether the bidder interpreted the bid requirements differently than did the other bidders and may render the bid price unreasonable.
- Requiring each bidder to certify that the prices offered are no higher than those charged other customers for items of similar quality and quantity.

A price analysis may be used in all instances where a cost analysis is not required to determine the reasonableness of the proposed contract price.

Adequate price competition may be determined to exist when the perception of competition exists, even if only one bid or proposal is received; conversely, the receipt of multiple bids or proposals with widely differing prices may not constitute adequate price competition.

## **8 CONTRACT PROVISIONS**

### **8.1 Federal Contract Provisions**

To the greatest extent possible, Marin Transit shall employ appropriate standard contract provisions for each type of procurement. Contract provisions are usually contained in a set of General Conditions, which are standard for all procurements of that type, and in a set of Special Provisions, which are customized to either: add to, delete, or modify portions of the General Conditions. Each contract shall include all Federally-mandated provisions, in accordance with the matrix contained in FTA Procurement Circular 4220.1F (“Circular”), Appendix D, and in Appendix A to the FTA Best Practices Procurement Manual, (“BPPM”).

## 8.2 Disadvantaged Business Enterprise (DBE)

In accordance with Marin Transit’s Disadvantaged Business Enterprise Policy, DBE firms shall have an opportunity to participate in awards of contracts and subcontracts. Solicitations shall state if there is a DBE goal for the project, and outreach shall be made to DBE firms and the DBE community.

## 8.3 Liquidated Damages

Marin Transit may use liquidated damages when it reasonably expects to suffer damages through delayed contract completion or lack of contractor performance. The rate and measurement standards shall be calculated to reasonably reflect Marin Transit’s costs should the standards not be met and shall be specified in the solicitation and contract. The assessment for damages is often established at a specific rate per day for each day beyond the contract’s delivery date or performance period. A measurement other than a day or another period of time, however, shall be established if that measurement is appropriate. The procurement file should include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered on a Federally-funded project must be credited to the project account involved unless FTA permits otherwise.

## 8.4 Bonding Requirements

### 8.4.1 Construction

Marin Transit shall require bid, performance, and payment bonds in compliance with requirements for construction-related procurements as defined in FTA Circular 4220.1F, Chapter IV, §2. h, if Federal funds are involved. FTA requires, for all construction contracts in excess of the Federal small purchase threshold (currently \$150,000), that the contractor provide a bid bond equal to 5 percent of the bid amount; a performance bond for 100 percent of the contract price; and a payment bond equal to 100 percent of the contract price. A payment bond is executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided

for in the contract. On award, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the District beyond 60 days from the time the award is made.

#### 8.4.2 Non-Construction

For non-construction contracts, bonding requirements are discouraged except where applicable law or regulation provides for such bonding, or Marin Transit determines that such a requirement is necessary as part of the overall risk management plan for a project. In making this determination, consideration should be given to the additional project costs to be expected, and the potential effect of limiting the vendor pool.

#### 8.4.3 Alternate Method of Security

To the extent permitted by applicable law and regulation, Marin Transit may permit substitution of cash, a cashier's check made payable to the district, a certified check made payable to the district, or a bond executed by an admitted surety insurer made payable to the district.

No bond may be required unless the requirement is specifically identified in the solicitation document.

### 8.5 Industry Contracts

Marin Transit shall take special care when using an industry developed contract or contract that is provided by a bidder or offeror. Not only may that contract lack the required Federal provisions, but its terms may also be unfavorable to Marin Transit. This policy does not prohibit the use of industry forms, specifications, or contract terms when their use would benefit the District and would accommodate Federal requirements.

### 8.6 Levine Act

All solicitations shall include the following statement:

*California Government Code § 84308, commonly referred to as the "Levine Act," precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract.*

### 8.7 Non-Collusion Declaration

California PUC Section 7106 requires bidders on all public works contracts to declare under penalty of perjury that the bidder has not participated in various

collusive activities. This declaration is required for every bid on every public works contract. This declaration must also include a representation that the person executing the declaration on behalf of a corporation or other entity is fully empowered to execute the declaration.

## 8.8 Payment Provisions

### 8.8.1 Advance Payments

The use of FTA funds for payments in advance of the incurrence of costs by the contractor is generally prohibited, without prior written approval from FTA. FTA does permit advance payments from FTA funds for those purchases where advance payment is customary in the commercial marketplace such as utility services, rents and subscriptions. FTA approval of such advance payments is required when the amount exceeds \$100,000. Marin Transit should not make advance payments using other funds (including local match funds) except where (a) it is customary in the industry, or (b) there are sound business reasons (e.g. to enable a more cost-effective pricing structure) for doing so; in the latter case, the file shall be documented to fully justify the advance payment. In making this determination, consideration should be given to factors such as the additional cost of requiring a vendor to fund the purchase of costly equipment and materials for a custom-built piece of equipment, and the potential for restricting competition.

### 8.8.2 Progress Payments

Progress payments are to be made only for costs incurred and value received in the performance of the contract. "Value received" requires that Marin Transit must obtain title or other adequate security interest in the items paid for in the progress payment, through a bill of sale, or other documented security interest sufficient to establish ownership and exclude the items from any bankruptcy or other seizure of assets. In the case of studies or design contracts, this requirement may be satisfied by receipt and acceptance of a preliminary or final document. A contract involving progress payments must specify that all documents, designs, working papers and other materials for which a progress payment is made, complete or incomplete, become the property of Marin Transit. Progress payments for construction contracts may be made on a percentage of completion basis; this method may not be used for non-construction contracts.

## **9 RECEIPT AND EVALUATION OF BIDS AND PROPOSALS**

### 9.1 Sealed Bids

Sealed bids must be received prior to the exact time specified in the IFB. Late bids are not acceptable and shall be returned to the bidder unopened. The

envelope of each bid received shall be stamped with the date and time of receipt, to verify timeliness. Bids shall be publicly opened, and the bid prices read. Each bid should be recorded in writing, including the name of the bidder and the bid price.

### 9.2 Competitive Proposals

Proposals must be received prior to the exact time specified in the RFP. Proposals are not publicly opened. A list of proposals shall be made available, including the name of the proposer and the number of copies received.

### 9.3 Responsiveness Review

Both bids and proposals are subject to requirements of responsiveness. Usually the requirement of responsiveness for a bid is more complex than for a proposal. This is because a bid is "locked in" at the time of receipt, and proposals are subject to discussions and negotiations. As a result, many items required with a sealed bid need not be submitted with a proposal. Responsiveness looks at the submittal as of the time it was received, and an offeror cannot later correct a deficiency. Any defect in an area of responsiveness requires the rejection of the bid or proposal. Consequently, only items essential to the award should be specified as matters of responsiveness. The submittal of product samples, for example, is usually better treated as a matter of responsibility. Generally, matters of responsiveness include timeliness of receipt, proper signatures for a commitment by the offeror to provide the items solicited, required DBE submittals, and, where required, bid bonds. Proper completion of the pricing form is a matter of responsiveness for sealed bids; any exception to the terms and conditions of an IFB renders a bid non-responsive.

### 9.4 Responsibility Review

Contractors must be capable of successfully performing under the terms and conditions of the proposed contract. The responsibility review considers the following:

- **Technical Capacity:** The necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them to perform the project successfully within the allocated time. This evaluation looks at the contractor's staffing, management systems, equipment, and ability to accurately track costs and submit proper invoices. Possession of any required licenses should also be verified.
- **Financial Resources:** The necessary capital to finance the contract performance. This evaluation looks at the contractor's financial statements, banking relationships and financial and credit history. Prior financial difficulties or even bankruptcies do not necessarily render a

contractor non-responsible but require a deeper look at its current financial situation.

- Past Performance: Any prior default or other failure to complete a contract should be investigated.
- Integrity and Ethics: Compliance with applicable laws and regulations, including affirmative action and DBE requirements, and other public policies. Any debarment or suspension at the Federal or State level should be investigated; Marin Transit shall not award a contract to a firm currently debarred or suspended by the Federal government or the State of California. The file for every procurement above the small purchase limit shall include documentation that the awardee is not listed on the U.S. General Services Administration's Excluded Parties List System or the State of California Department of Labor Standards Enforcement (DLSE) list of debarments found at <http://www.epls.gov> .

## 9.5 Evaluations

### 9.5.1 General

When evaluating bids or proposals, all evaluation factors specified in the solicitation documents should be considered, and the bids or offers should only be evaluated based on the evaluation factors included in those solicitation documents. Evaluation factors may not be modified after bids or proposals have been submitted without re-opening the solicitation.

### 9.5.2 Options

In awarding the contract that shall include options, the following standards apply:

- Evaluation Required. In general, Marin Transit shall evaluate bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded.
- Evaluation Not Required. Marin Transit need not evaluate bids or offers for any option quantities if it determines that evaluation would not be in its best interests. An example of a circumstance that may support this determination not to evaluate bids or offers for option quantities is when Marin Transit is reasonably certain that funds shall not be available to permit it to exercise the option.

### 9.5.3 Evaluators

In addition to evaluators with experience in technical or public policy matters related to the procurement, other evaluators may also include auditors and financial experts to the extent that Marin Transit determines

would be necessary or helpful. Evaluation duties may be assigned to Marin Transit staff or to outside (including contracted) evaluators based on the proposal complexity and size.

## **10 CONTRACT ADMINISTRATION**

### **10.1 Contract Administration**

Contract administration ensures that Marin Transit and its contractors comply with the terms, conditions, and specifications of their contracts and applicable Federal, State and local requirements.

### **10.2 File Contents**

For sealed bid procurements and competitive negotiations, the contract administration file should include the following:

- The executed contract and notice of award;
- Performance and payment bonds, bond-related documentation, and correspondence with any sureties;
- Contract-required insurance documentation;
- Post-award (pre-performance) correspondence from or to the contractor or other Governmental agencies;
- Notice to proceed;
- Approvals or disapprovals of contract submittals required by the contract and requests for waivers or deviations from contractual requirements;
- Modifications/changes to the contracts including the rationale for the change, change orders issued, and documentation reflecting any time and or increases to or decreases from the contract price as a result of those modifications;
- Documentation regarding settlement of claims and disputes including, as appropriate, results of audit and legal reviews of the claims and approval by the proper authority (i.e., city council, board of directors, executive director) of the settlement amount;
- Documentation regarding stop work and suspension of work orders and termination actions (convenience as well as default); and
- Documentation relating to contract close-out.

For small purchases and micro-purchases documentation may only need to consist of standard purchasing documents.

## **11 CHANGE ORDERS**

### **11.1 Definition**

A change order means an order authorized by Marin Transit directing the contractor to make changes, pursuant to contract provisions for such changes, with or without the consent of the contractor. There are two general types of change orders: (1) changes within the general scope of the contract; and (2) cardinal changes. A cardinal change means a major deviation from the original purpose of the work or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract. (An example of the difference would be a contract to build a garage: adding a window would be within the general scope of the contract, while adding a house would not.) A cardinal change can also be created by a series of incremental change orders that have the cumulative effect of changing the scope beyond the original intent of the parties. See section 3.6.4 for changes which are impermissible under Federal contracting requirements.

### **11.2 Submittal**

Change orders may be initiated by either Marin Transit or the contractor. In either case, the formal process begins with a request by Marin Transit for the contractor to submit a proposal identifying both the scope and cost of the proposed change. The request should be detailed enough for the contractor to submit a firm fixed price, or hourly rates on a not-to-exceed basis, if the original contract was on a reimbursable-cost basis. If the proposed change shall affect the contract's insurance requirements, the change should be addressed in the request for a change proposal. Occasionally in construction, the precise scope of the work cannot be reasonably determined until the work is undertaken; in those cases, the change order may be issued on the basis of payment for time and materials, including a markup for overhead and profit. This pricing formula, however, should be used only when absolutely necessary, and the scope should only extend to the point where a firm price can be established.

### **11.3 Evaluation**

The contractor's proposal should be reviewed and approved using the same evaluation process as was used in determining contractor responsiveness and responsibility in the original contract award. Responsiveness would address primarily whether the changed proposal adequately addresses the requested scope; responsibility issues would include price reasonableness (a cost or price analysis is required for every contract action, including change orders), schedule impacts; impact on the DBE goal, and the qualifications of the personnel or subcontractors proposed to perform the work. If the change

is outside the scope of the contract, it is considered a sole source procurement, and must be justified as such. Marin Transit must investigate whether other sources for the changed work are reasonably available and document the file accordingly. The same process should be followed for in-scope changes if the contractor's price cannot be determined to be fair and reasonable. Change orders are subject to negotiation.

#### 11.4 Documentation

A separate file for change orders containing the documentation described above must be maintained as part of the procurement record.

### **12 CONTRACT CLOSEOUT**

Prior to authorizing final payment on a project, it should be established that the work under the contract has been completed and the contract is ready for closeout. A contract is complete only after all deliverable items and services called for under the contract have been delivered and accepted by Marin Transit. These deliverable items include such things as reports, spare parts, warranty documents, and proof of insurance (where required by the contract terms).

## APPENDIX A –

**APPLICABILITY OF THIRD-PARTY CONTRACT CLAUSES**  
*(excluding micro-purchases, except for construction contracts over \$2,000)*

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal government obligations to third parties by use of a disclaimer	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All
Access to Records	All	All	All	All	All
Federal changes	All	All	All	All	All
Civil Rights (EEO, Title VI & ADA)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Energy Conservation	All	All	All	All	All
Notification to FTA	All	All	All	All	All
Termination Provisions (not required of states)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000 (for steel, iron, manufactured products)
Provisions for resolution of disputes, breaches, or other litigation	>\$150,000 (see Note)	>\$150,000 (see Note)	>\$150,000 (see Note)	>\$150,000 (see Note)	>\$150,000 (see Note)
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel

**APPLICABILITY OF THIRD-PARTY CONTRACT CLAUSES**  
(excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
<i>Fly America</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>
<i>Davis Bacon Act</i>				<i>&gt;\$2,000 (including ferry vessels)</i>	
<i>Copeland Anti-Kickback Act Section 1 Section 2</i>				<i>All &gt;\$2,000 (including ferry vessels)</i>	
<i>Contract Work Hours &amp; Safety Standards Act</i>		<i>&gt;\$100,000</i>	<i>&gt;\$100,000</i>	<i>&gt;\$100,000 (including ferry vessels)</i>	
<i>Bonding (not required of states)</i>				<i>&gt;\$100,000 (including ferry vessels)</i>	
<i>Seismic Safety</i>	<i>A&amp;E for new buildings &amp; additions</i>			<i>New buildings &amp; additions</i>	
<i>Transit Employee Protective Arrangements</i>		<i>Transit operations funded with Section 5307, 5309, 5311 or 5316 funds</i>			
<i>Charter Service Operations</i>		<i>All</i>			
<i>School Bus Operations</i>		<i>All</i>			
<i>Drug and Alcohol Testing</i>		<i>Transit operations funded with Section 5307, 5309 or 5311 funds</i>			
<i>Patent Rights</i>	<i>Research &amp; development</i>				

**APPLICABILITY OF THIRD-PARTY CONTRACT CLAUSES**  
(excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
<i>Rights in Data and Copyrights requirements</i>	<i>Research &amp; development</i>				
<i>Special DOL EEO clause for construction projects</i>				<i>&gt;\$10,000</i>	
<i>Disadvantaged Business Enterprises (DBEs)</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Prompt Payment</i>	<i>All if threshold for DBE program met</i>	<i>All if threshold for DBE program met</i>	<i>All if threshold for DBE program met</i>	<i>All if threshold for DBE program met</i>	<i>All if threshold for DBE program met</i>
<i>Recycled Products</i>		<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>		<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>	<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>
<i>ADA Access</i>	<i>A&amp;E</i>	<i>All</i>	<i>All</i>	<i>All</i>	
<i>Special Notification Requirements for States</i>	<i>Limited to states</i>	<i>Limited to states</i>	<i>Limited to states</i>	<i>Limited to states</i>	<i>Limited to states</i>

## APPENDIX B – FEDERAL CERTIFICATIONS REPORTS AND FORMS

CERTIFICATIONS, REPORTS, AND FORMS	COMMENTS
Bus Testing Certification	All procurements of new model transit buses and vans and existing models being modified with major changeover changes.
TVM Certification	All rolling stock procurements.
Buy America Certification	Procurements of steel, iron or manufactured products exceeding \$100,000.
Pre-award Review	FTA Annual Certification for any rolling stock procurement.
Pre-award Buy America Certification	Rolling stock procurements exceeding \$100,000.
Pre-award Purchaser's Requirement	All rolling stock procurements.
Post Delivery Review	FTA Annual Certification for any rolling stock procurement.
Post Delivery Buy America Certification	Rolling stock procurements exceeding \$100,000.
Post Delivery Purchaser's Requirement	All rolling stock procurements to the extent required by Federal law and regulations.
On-Site Inspector's Report	Rolling stock except for procurements of: <ul style="list-style-type: none"> <li>• 10 or fewer vehicles</li> <li>• 20 or fewer vehicles serving rural areas or small urbanized areas</li> <li>• Any amount of primary manufactured standard production and unmodified vans that after visual inspection road testing meet the contract specifications</li> </ul>
Federal Motor Vehicles Safety Standards Pre-award Review and Post Delivery	Motor vehicle procurements
Lobbying	Procurements exceeding \$100,000
Standard Form LLL and Quarterly Updates (when required)	Procurements exceeding \$100,000 where contractor engages in lobbying activities.



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September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Award of Contract for Operation of Marin Access Services and Programs**

Dear Board Members:

**RECOMMENDATION:**

Award contract for Operation of Marin Access Services & Programs to Transdev Services, Inc. for an initial term of three years and five (5) months with three additional option years; authorize General Manager to negotiate and finalize contract terms; and approve associated budget amendment (2021-02).

**SUMMARY:**

On March 3, 2020, Marin Transit issued a Request for Proposals for the Operation of Marin Access Services & Programs. The goals of this procurement are: (1) to bring all of Marin Access's services and programs under one contract, (2) to create an integrated call center improving the overall rider experience and staff oversight, (3) to explore additional and more efficient service delivery models, (4) to increase the resilience and stability of Marin Access, and (5) to explore potential reductions to operations costs. A subcommittee of members from Marin Transit and Golden Gate Bridge and Highway District (GGBHTD) advisory committees, including riders and community partners or other stakeholders, provided input that helped to shape the final RFP.

Staff developed the RFP recognizing the new realities of the COVID-19 pandemic and uncertainties about if, or when demand for these services and programs would return. A scope of services and corresponding cost proposals were requested that account for potential growth in demand as the pandemic subsides. Under this new contract, all Marin Access services and programs will be operated by one contractor, with the exception of the Catch-A-Ride program. The new contract will allow greater flexibility and opportunity to explore alternative service models for how Marin Access services and programs are delivered, with the intention of improving the rider experience and streamlining operations.

The base contract term is for three (3) years and five (5) months with three (3) additional option years. In July 2021, Marin Transit completed the purchase of a new facility at 3000 Kerner Blvd in San Rafael to support the maintenance needs of this contract. Concurrently, Marin

Transit developed an agreement with GGBHTD for vehicle parking at two GGBHTD facilities in San Rafael and Novato. This contract will be operated out of these three facilities and does not require the contractor to lease facilities. This will be the first contract that Marin Transit provides the selected contractor all needed facilities and a full fleet of vehicles for the operation.

Under Marin Transit's Procurement Policy, and as a recipient of federal funds, Marin Transit is required to competitively procure goods and services; the only exception to this requirement is intergovernmental agreements such as Marin Transit's agreement with GGBHTD for operation of local fixed route transit service. This procurement was developed as a "Best Value" procurement, as indicated in the RFP, and allows Marin Transit to select the offer deemed most advantageous and of greatest value to the agency. The following technical and price factors were identified as evaluation criteria in the RFP:

<b>Criteria</b>	<b>Max Points Available</b>
Project Understanding	10 pts
Qualifications & Experience	25 pts
Approach and Work Plan	40 pts
<b>Subtotal</b>	<b>75 pts</b>
<b>Price proposal</b>	<b>25 pts</b>
<b>Total</b>	<b>100 pts</b>
Bonus: Innovation / Value Added	10 pts
Bonus: Preference for complying with Labor Code 1072	10 pts
Bonus: Preference for providing compensation premium for bilingual staff	5 pts
<b>Total with Bonus</b>	<b>125 pts</b>

### **Proposals and Scoring**

Marin Transit received proposals from Transdev Services, Inc. and Vivalon, the incumbent contractor (formerly known as Whistlestop) by the deadline of May 21, 2021. Both firms were invited to interview with a technical panel made up of Marin Transit staff, GGBHTD staff, and a representative from Santa Rosa CityBus. To ensure that the technical evaluation was independent of cost considerations, the technical panel did not score the cost proposals; a separate panel made up of Marin Transit staff and consultants reviewed and scored the cost proposals.

The technical evaluation panel reviewed the proposals and developed a series of clarifying questions and subsequent follow-up questions. Each firm was given the opportunity to revise and update their proposal following each request for clarifications from the evaluation panel. On August 16, 2021, Marin Transit issued a request for Best and Final Offers from both firms.

Marin Transit staff conducted a thorough procurement which included an extended period of review to allow the evaluation panel to carefully consider the proposals and determine which was of best value to the District. Below is a summary of the final scoring of the proposals, including Best and Final Offers received.

<b>Criteria</b>	<b>Max Points Available</b>	<b>Transdev Services, Inc.</b>	<b>Vivalon</b>
Cover Letter	0 pts (Y/N)	Y	Y
Project Understanding	10 pts	8.00 pts	7.75 pts
Qualifications & Experience	25 pts	22.00 pts	15.75 pts
Approach and Work Plan	40 pts	36.25 pts	29.25 pts
<b>Subtotal</b>	<b>75 pts</b>	<b>66.25 pts</b>	<b>52.75 pts</b>
<b>Price proposal</b>	<b>25 pts</b>	<b>17.50 pts</b>	<b>22.75 pts</b>
Required Forms	0 pts (Y/N)	Y	Y
<b>Total</b>	<b>100 pts</b>	<b>83.75 pts</b>	<b>75.50 pts</b>
Bonus: Innovation / Value Added	10 pts	7.75 pts	2.75 pts
Bonus: Preference for complying with Labor Code 1072	10 pts	10.00 pts	10.00 pts
Bonus: Preference for providing compensation premium for bilingual staff	5 pts	5.00 pts	5.00 pts
<b>Total with Bonus</b>	<b>125 pts</b>	<b>106.50 pts</b>	<b>93.25 pts</b>

Based on the scoring shown above, staff recommends award to Transdev Services, Inc. Strengths of the Transdev Services, Inc. proposal include organizational experience, staff technical experience, experience with start-up at new facilities, regional and corporate support, strong references from peer transit agencies, employee support, IT / software support, technical support, and innovation. Given the technical nature of the provision of these services required under the Americans with Disabilities Act (ADA), including eligibility and service delivery, the evaluation team determined that Transdev best demonstrated the knowledge and capabilities to meet the current regulation and any future changes and updates.

Unlike fixed route service with regular scheduled service, demand response schedules change daily and require advanced technology to support efficient and productive operations. Marin Transit provides all the technology needed to schedule, dispatch, and operate these services but the day-to-day

operation requires the contractor to have an in-depth understanding of the technology and tools. The Transdev team has extensive experience with these applications. Their team has nearly 250 combined years of experience supporting Trapeze demand response software, including support staff that are former software developers from Trapeze that will be available to support the demand response software. Additionally, Transdev has a team of IT help desk employees to assist with tech support for both routine and critical issues 24 hours a day. Transdev is also able to bring additional tools that directly integrate with Marin Transit's existing systems to better monitor all programs, and to quickly adapt and make changes for more efficient and productive service.

Staff are confident that the Transdev proposal offers the best value to the District and will result in overall improvements to operations and the rider experience. Transdev will comply with California Labor Code 1072 and retain all drivers and front-line staff who choose to transition with the transfer of the contract. Transdev is offering increased starting wages for drivers and enhanced benefits for these employees. In addition, all bilingual staff will receive a compensation premium to their base wage.

Staff has drafted the contract for Operation of Marin Access Services and Programs and Deputy County Counsel has reviewed the draft contract. The draft contract is provided as Attachment B. Staff anticipates negotiating final contract terms related to readiness and responsibilities for the new facility at 3000 Kerner. Examples of the terms to be finalized include security and facility access, utilities, and IT and Technology sections which are found in the draft contract Section 308 – Facility Use and Operations (pages 38 – 41). Staff recommend that your Board authorize the General Manager to negotiate and finalize the contract terms for an amount not to exceed \$23,697,064, contingent upon final review of the contract terms by County Counsel.

#### **FISCAL/STAFFING IMPACT:**

Due to the fluctuating and unpredictable demand due to the COVID-19 pandemic, the tiered pricing structure of the contract allows for greater flexibility and a scaling of the operation based on demand. The contract has fixed and variable rates that vary when the number of hours operated change significantly. The proposed pricing is about \$500,000 more per year than the adopted SRTP costs for these services over the term of the contract. The increased pricing is consistent with cost increases other Bay Area transit agencies have seen in recent paratransit service procurements. The increased costs reflect the challenging labor market and the contract includes better wages and benefits for drivers and staff than our current paratransit contract.

The Transdev Services, Inc. summary pricing proposal is shown below. This pricing is subject to final negotiations.

<b>Transdev Fixed and Variable Price Summary</b>					
	Base	Tier 1	Tier 2	Tier 3	Tier 4
Monthly Revenue Hour Range	< 2,500	2,501-3,500	3,501-4,500	4,501-5,500	> 5,501
Total Estimated Revenue + Scheduled Hours	2,000	3,000	4,000	5,000	6,000
FY 2021/22 Monthly Fixed Fee	\$ 220,914	\$ 241,053	\$ 261,969	<b>\$ 291,527</b>	<b>\$ 333,220</b>
FY 2021/22 Hourly Rate	\$ 46.47	\$ 44.20	\$ 42.79	<b>\$ 41.83</b>	<b>\$ 41.45</b>

Costs escalate annually as shown below.

Year	Annual Cost Escalation Rate
FY 2022/23 (year 2)	3.90%
FY 2023/24 (year 3)	3.69%
FY 2024/25 (year 4)	3.33%
FY 2025/26 (option year 1)	3.00%
FY 2026/27 (option year 2)	3.79%
FY 2027/28 (option year 3)	3.83%

The contract maximum, or Not to Exceed amount, for the base contract is \$23.7 million plus an additional \$23.4 million for the option years. The calculated contract maximum is based on the budgeted revenue hours for FY2021/22, along with adjusted Short Range Transit Plan hours, combined with the current Transdev Service Inc. pricing schedule. Costs include start-up expenses and expenditures related to the setup of the maintenance facility. Final pricing may be adjusted in the negotiations but will not increase above the Not to Exceed amount without additional Board approval. Significant variances in demand for mandated services could also increase (or decrease) contract costs. If service demand were to increase above projections, a contract amendment would be needed to increase the contract maximum. Board approval will be required to award option years.

Contract Maximums							
	Base Contract				Option Years		
	FY22 (5 months)	FY23	FY24	FY25	FY26	FY27	FY28
Tier	3	3	3	4	4	4	4
Hours	22,750	68,487	69,875	71,293	72,743	74,225	75,739
Fixed	\$1,457,635	\$3,634,759	\$3,768,881	\$4,131,795	\$4,118,599	\$4,118,599	\$4,151,788
Variable	\$951,633	\$2,976,539	\$3,148,923	\$3,289,654	\$3,457,258	\$3,661,393	\$3,879,168
Start up costs	\$178,281			\$7,266			
Equipment/Facility Costs	\$151,698						
<b>Annual Total</b>	<b>\$2,739,247</b>	<b>\$6,611,297</b>	<b>\$6,917,805</b>	<b>\$7,428,715</b>	<b>\$7,575,857</b>	<b>\$7,779,992</b>	<b>\$8,030,956</b>
<b>Contract Maximum</b>		<b>\$23,697,064</b>			<b>\$23,386,805</b>		

The contract maximums include costs for regional paratransit that are reimbursed by GGBHTD. GGBHTD is also responsible for reimbursing a portion of local paratransit costs (currently 22.3%). Costs for local and regional paratransit will be allocated between the District and GGBHTD as detailed under a separate contract between GGBHTD and Marin Transit. The estimates for these components in the tables below will be adjusted according to actual operations data and final allocation agreements.

<b>Estimated Regional Paratransit Costs (included in Contract Maximums)</b>							
	Base Contract				Option Years		
	FY22 (6 months)	FY23	FY24	FY25	FY26	FY27	FY28
Regional Hours	2,200	5,000	5,000	5,000	5,000	5,000	5,000
Regional Paratransit	\$329,816	\$580,783	\$602,214	\$643,893	\$649,495	\$661,660	\$671,267

<b>Estimated GGBHTD Local Paratransit Costs (included in Contract Maximums)</b>							
	Base Contract				Option Years		
	FY22 (6 months)	FY23	FY24	FY25	FY26	FY27	FY28
Local Hours	16,958	55,000	60,000	65,000	65,000	65,000	65,000
Est. GGBHTD Share	22.3%	22.3%	22.3%	22.3%	22.3%	22.3%	22.3%
	\$398,728	\$1,132,862	\$1,224,912	\$1,350,668	\$1,368,555	\$1,394,665	\$1,427,527

If approved by your Board, budget amendment #2021-02 (Attachment C) will increase Marin Transit's FY2021/22 operations budget for Marin Access purchased transportation costs by \$348,939 to allow for the increased contract costs. These costs will be spread across Local Paratransit, Regional Paratransit, Transit Connect, and Dial-A-Ride services. One time start-up costs of \$178,281 and Equipment/Facility Costs of \$151,698 are included in the Not to Exceed amount. Equipment and facility costs will be expended from the Capital budget with the existing Infrastructure Support project (IF). Option years will be recommended for Board approval as needed and are subject to available funding.

Respectfully submitted,



Joanna Huitt  
Senior Mobility Planner

**Attachments:**

Attachment A: Marin Access Contract Award Presentation

Attachment B: Marin Access Draft Contract

Attachment C: Budget Amendment #2021-02



# **Recommendation for Award: Operation of Marin Access Services & Programs Contract**

**September 13, 2021**

- » **Marin Access Services & Programs Overview**
- » **Goals of Procurement**
- » **Request for Proposal Process**
- » **Evaluation Criteria & Proposal Scoring**
- » **Recommendation for Award & Strengths of Proposal**
- » **Timeline & Next Steps**



## Paratransit

Door-to-door, shared ride service for ADA-eligible riders



## Travel Navigators

One-stop resource for program information & eligibility



## Volunteer Driver

Mileage reimbursement for seniors & people with disabilities



## Travel Training

Group presentations on public transit & other mobility options



## Catch-A-Ride

Discounted taxi rides for seniors & people with disabilities



## Fare Assistance

Fare assistance for those that qualify via Medi-Cal or income



## Marin Transit CONNECT

On-demand, general public shuttle service



## Dial-A-Ride

Pre-scheduled, general public shuttle service

## Existing

### Marin Access



Operations (Scheduling/Dispatch) & Maintenance



Marin Access Mobility Management



Catch-A-Ride & Connect Administration & Scheduling

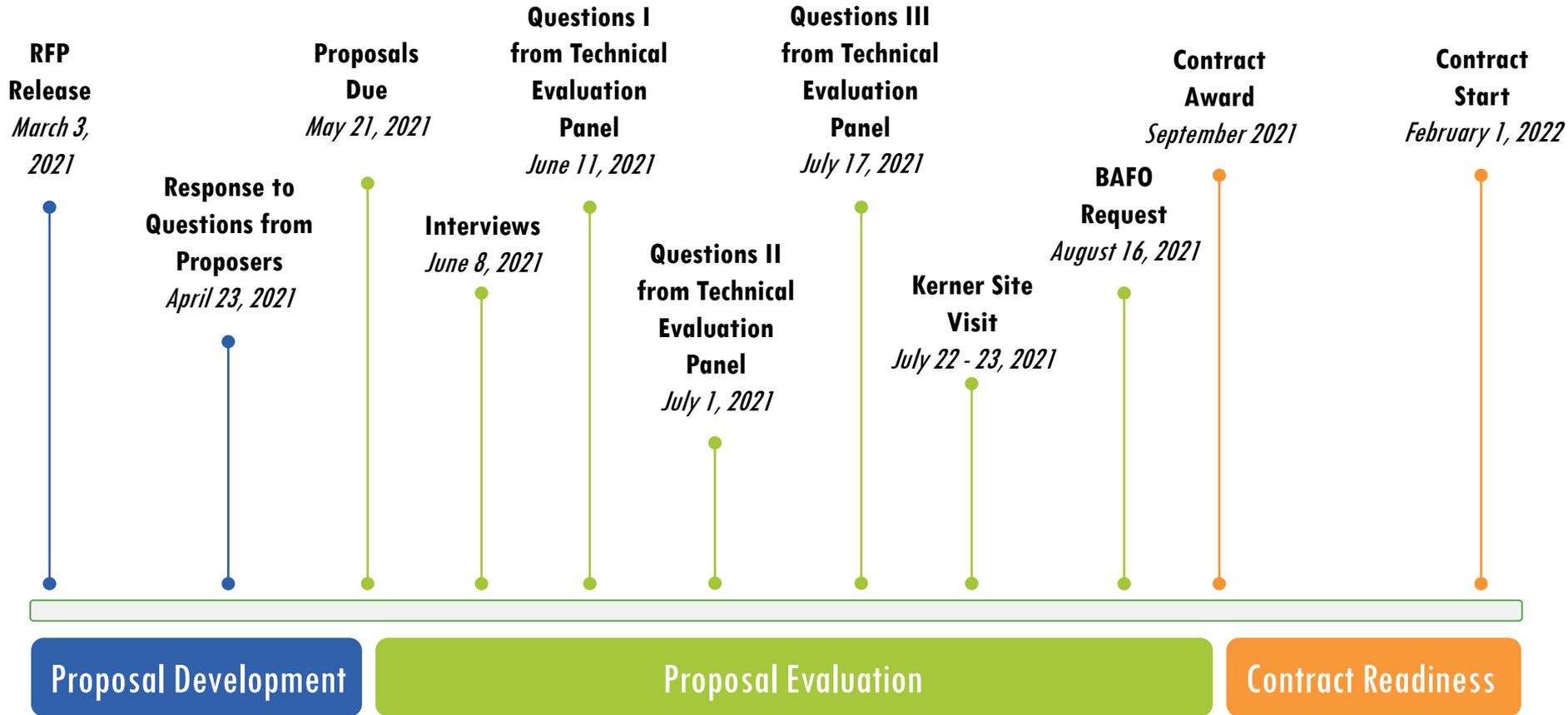
## Future

### Marin Access

Successful Bidder

Operations (Scheduling/Dispatch), Maintenance, Program Administration, & Mobility Management

# RFP Process



- » This procurement was a **Best Value Procurement** which allows for selection of the offer deemed most advantageous and of greatest value.
- » The evaluation criteria allowed for scoring based on a combination of technical and price factors.

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<b>Total with Bonus</b>	<b>125 pts</b>

# Proposal Scoring

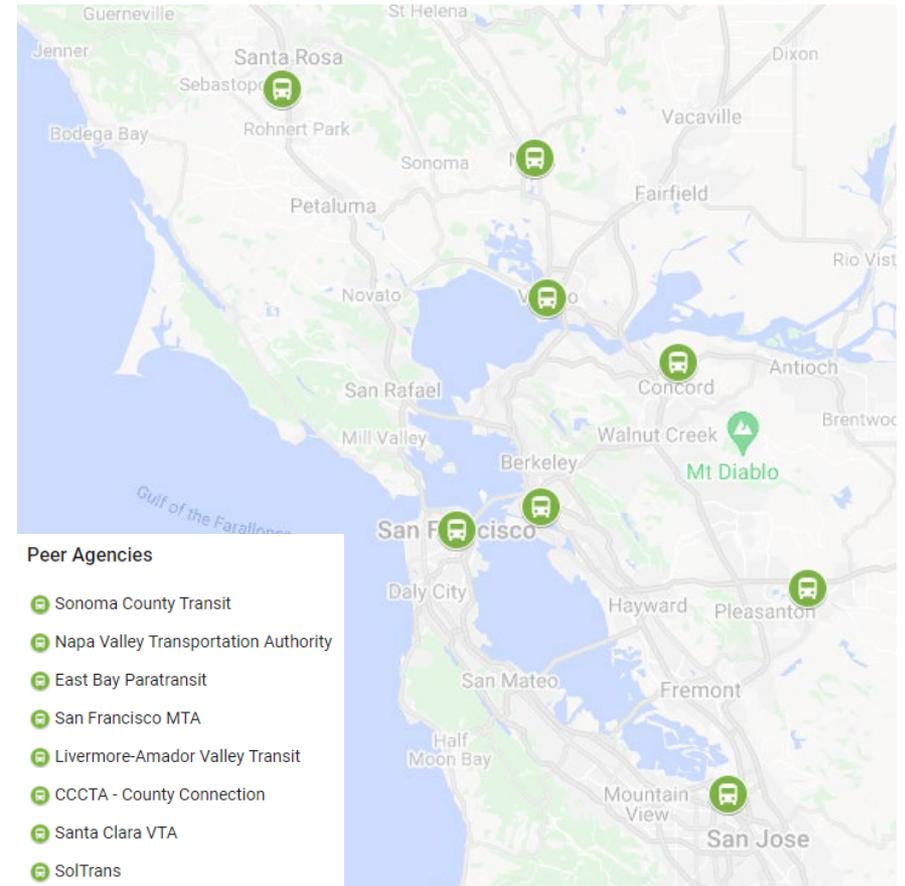


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<b>Total with Bonus</b>	<b>125 pts</b>	<b>106.50 pts</b>	<b>93.25 pts</b>

## Strengths of Proposal

- » Organizational Experience
- » Staff Technical Experience
- » Start-Up at New Facilities
- » Regional & Corporate Support
- » Strong References from Peer Transit Agencies
- » Employee Support
- » IT / Software Support
- » Technical Support
- » Innovation

## Peer Agencies that Contract with Transdev Services, Inc.



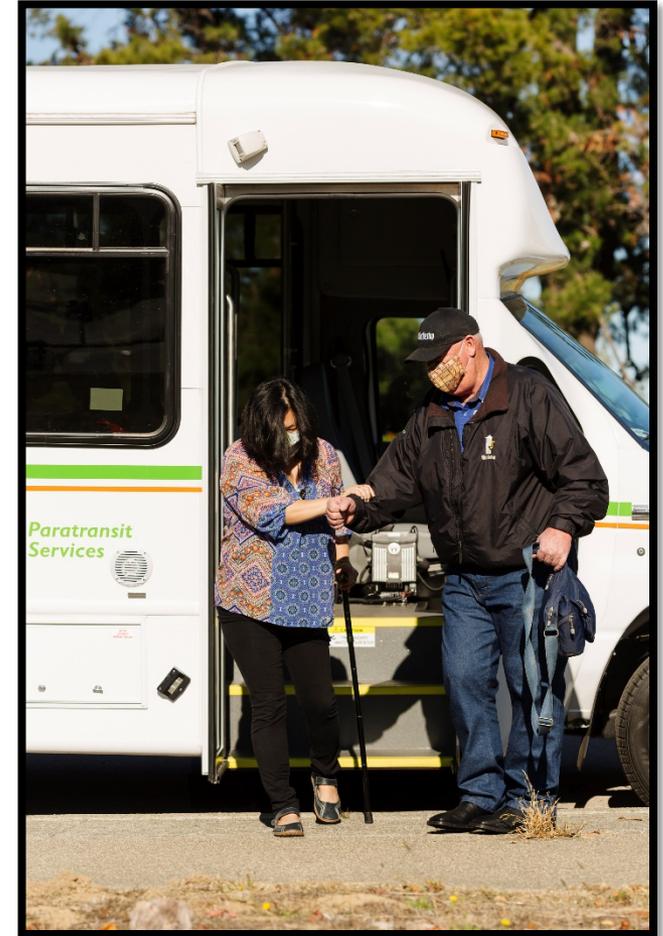
## Key Value-Added Aspects of Proposal

- » Understanding of regulations of the Americans with Disabilities Act and experience implementing ADA programs
- » Experience operating FTA funded transit services throughout CA
- » Understanding of demand response scheduling software and depth of support available from staff
- » Better employee wages & benefits



- » Customer facing employees will be offered positions with Transdev
- » Same scheduling and eligibility procedures/software
- » Integrated call center with cross-trained staff expected to improve call responsiveness and program legibility
- » Enhanced, 24-hour IT expected to reduce delays in resolving customer issues
- » Additional customer facing tools, such as scheduling apps are offered and may be implemented
- » Better operations monitoring tools will lead to better customer service
- » Formalized Standard Operating Procedures will provide a consistent, reliable customer experience

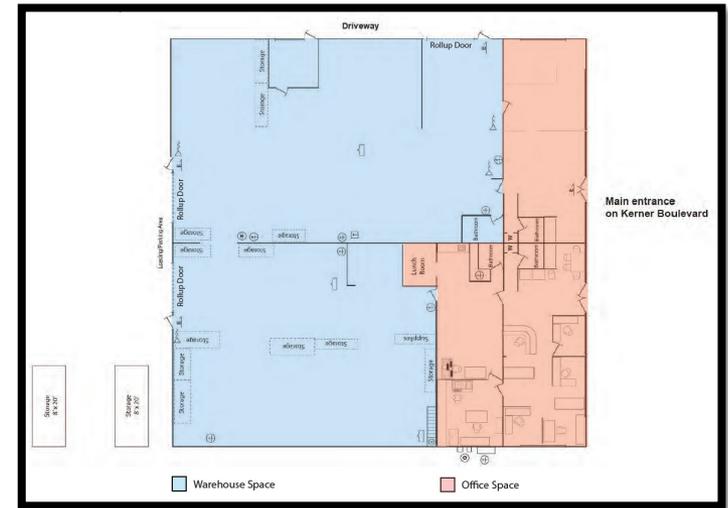
- » **Seamless Transition**
- » **We will continue to provide pre-scheduled, door-to-door, accessible service**
- » **We will maintain the high level of customer service that riders are used to**
- » **The scheduling process and vehicles will remain the same**
- » **We anticipate improvements in scheduling, customer service, and enhanced support for trip planning**



- » Proposed pricing approximately \$500k more per year than the adopted SRTP costs for these services
- » The increase pricing is consistent with cost increases other Bay Area transit agencies have seen in recent RFPs for paratransit services
- » The increased costs reflect the challenging labor market
- » The contract includes better wages and benefits for drivers and staff than our current paratransit contract

**Staff recommend authorizing the General Manager to finalize the contract terms.**

- » Contract terms to be finalized are largely related to buildout and readiness of the new facility
- » Opportunities for cost reductions may be identified
- » County counsel will review and weigh in on the final contract terms





# Questions?



**Joanna Huitt**

Senior Mobility Planner

[jhuitt@marintransit.org](mailto:jhuitt@marintransit.org)

#<Contract Number>

**OPERATION OF MARIN ACCESS SERVICES AND PROGRAMS  
CONTRACT**

**Between**

**MARIN COUNTY TRANSIT DISTRICT**

**and**

**TRANSDEV SERVICES, INC.**

# ARTICLE 1—DEFINITIONS AND INTRODUCTORY PROVISIONS

## SEC. 101 DEFINITIONS

As used in this Contract:

1. **Adequate, Appropriate, Proper, Sufficient.** The terms “Adequate, Appropriate, Proper, Sufficient”, or variations thereof as used throughout this Contract, mean performing work or duties under the Contract in accordance with the standards and requirements of the Contract Documents and in accordance with the standards and requirements generally accepted as standards in the transit industry.
2. **Americans with Disabilities Act of 1990 (ADA).** The terms “Americans with Disabilities Act of 1990” or “ADA” mean the statute enacted by the United States Congress as Public Law Number 101-336 and all amendments thereto.
3. **ADA Paratransit Service Area.** The term “ADA Paratransit Service Area” means the geographic areas identified in Attachment B: Service Area Map to this Contract. The ADA Paratransit Service Area is measured in accordance with Section 37.131(a) of Title 49 of the Code of Federal Regulations to include corridors within  $\frac{3}{4}$  mile of each public fixed route (non-commuter) bus service provided within Marin County and, for the purposes of the GGBHTD’s non-commuter, fixed route services, to include corridors within  $\frac{3}{4}$  mile of public fixed route (non-commuter) bus service routes serving portions of Contra Costa, San Francisco, and Sonoma Counties. The geographic scope of the ADA Paratransit Service Area may be revised from time to time in response to changes to the MCTD and GGBHTD fixed route network and Attachment O will be revised by MCTD to reflect any such revisions. The mandated ADA Paratransit Service Area does not include areas beyond the  $\frac{3}{4}$  mile measure indicated above.
  - a. Local ADA Paratransit Service Area: Consistent with Attachment B, the Local ADA Mandated Complementary Paratransit Service is provided within  $\frac{3}{4}$  of a mile of either side of each MCTD non-commuter bus route in Marin, and during the comparable hours of service for each such bus route; and
  - b. Local Extended Service Area: Consistent with Attachment B, the extended service areas incorporate former areas served by MCTD non-commuter bus routes. These areas were “grandfathered in” to avoid discontinuing service to existing riders and expand mobility for paratransit riders.
  - c. Regional ADA Paratransit Service Area: Consistent with Attachment B, Regional ADA Mandated Complementary Paratransit Service is provided within  $\frac{3}{4}$  of a mile of either side of each GGBHTD regional non-commuter bus route in Marin, Sonoma, San Francisco, and Contra Costa counties during the comparable hours of service for each such bus route; and
  - d. Regional Extended Service Area:
    - i. Sonoma County: Based on long-standing operational procedures with Sonoma County, Santa Rosa and Petaluma operators, GGBHTD may direct the provision of extended paratransit service to offer enhanced customer service in a single-ride trip rather than requiring a transfer for a short-distance trip. Generally, this extended paratransit service is provided up to  $\frac{1}{2}$  mile beyond the ADA Mandated Complementary Paratransit Service area identified in Attachment B; these trips are part of the mandatory Regional service area. The trips provided in this Regional Extended Area originate or end in a county other than Sonoma County.
    - ii. San Francisco: Based on long-standing operational procedures with the San Francisco Municipal Transportation Agency (“MUNI”), GGBHTD may direct the provision of extended

paratransit service to offer enhanced customer service in a single-ride trip rather than requiring a transfer for a short-distance trip. Generally, this extended paratransit service is provided beyond the ADA Mandated Complementary Paratransit Service area identified in Attachment B; these trips are part of the mandatory Regional service area. The trips provided in this Regional Extended Area originate or end in a county other than San Francisco.

4. **Americans with Disabilities Act Mandated Complementary Paratransit Service.** The terms “Americans with Disabilities Act Mandated Complementary Paratransit Service” or “ADA Mandated Complementary Paratransit Service” mean the complementary paratransit service required of providers of designated public transportation in accordance with the ADA, Subpart F of Part 37 of Title 49 of the Code of Federal Regulations (CFR), as amended or as may be amended, and FTA Circular 4710.1 and characterized by six service criteria set forth in Section 37.131 of Title 49 of the CFR. The terms Americans with Disabilities Act Mandated Complementary Paratransit Service and ADA Mandated Complementary Paratransit Service do not include paratransit service provided in Extended Paratransit Service Areas identified in paragraphs 14 and 22 b of this section.
5. **Assumed Annual Revenue Hours.** The term “Assumed Annual Revenue Hours” means the estimated revenue hours on an annual basis that MCTD and GGBHTD anticipate will meet the Complementary ADA Paratransit and Non-ADA Demand Response Service demands during the term of this Contract. The Assumed Annual Revenue Hours for each base and option year of the Contract are set out in Section 304 of this document.
6. **Commencement Date.** The term “Commencement Date” means the date on which CONTRACTOR assumes responsibility for Revenue Service under this Contract.
7. **Complementary ADA Paratransit Services.**
  - a. **Local ADA Paratransit Services.** The term “Local ADA Paratransit Services” means the ADA Mandated Complementary Paratransit Service along local and regional routes contained entirely within the borders of Marin County.
  - b. **Regional ADA Paratransit Services.** The term “Regional ADA Paratransit Services” means ADA Mandated Complementary Paratransit Service along the stops and alignment of GGBHTD regional routes that extend beyond the borders of Marin County. MCTD contracts for and manages the Regional Paratransit service on behalf of the GGBHTD through a separate funding agreement with GGBHTD. Regional Paratransit Service will include origins and destinations primarily beginning in one county and ending in another county within the GGBHTD service area where service is accessible to the general public (i.e. not in areas along freeways where the service is not accessible).
8. **Contract.** The term “Contract” means this Contract between the MCTD and the CONTRACTOR for the operation and maintenance of Marin Access Paratransit and Mobility Management Call Center as described in MCTD Request for Proposals (RFP).
9. **Contract Documents.** The term “Contract Documents” means the following documents that collectively constitute the obligations of CONTRACTOR. In the event of an inconsistency or conflict among Contract Documents, the documents shall control in the following order of precedence: (1) any Contract Amendments; (2) this Contract and the Attachments hereto; (3) CONTRACTOR’s Proposal in response to the RFP; and (4) the RFP and any addenda thereto.
10. **CONTRACTOR.** The term “CONTRACTOR” means the entity entering into this Contract with MCTD to provide the services described in the Contract Documents.
11. **Days.** The term “Days” means regular business days of MCTD (Monday-Friday excluding holidays), unless otherwise specifically indicated as “calendar days”.

12. **Deadhead Hours.** The term “Deadhead Hours” means the hours paratransit vehicles are operated on route from a dispatching point to the first passenger pick-up point and from the last passenger drop-off point to the dispatch location. The definition of Deadhead Hours excludes time when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service) or for scheduled operator time off (e.g., lunch, rest breaks, and out of services).
13. **Deadhead Miles.** The term “Deadhead Miles” means the miles paratransit vehicles are operated on route from a dispatching point to the first passenger pick-up point and from the last passenger drop-off point to the dispatch location. The definition of Deadhead Miles excludes any vehicle miles accumulated when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service) or for scheduled operator time off (e.g., lunch, rest breaks, and out of services).
14. **Deviated Fixed Route.** The term “Deviated Fixed Route” applies to services that offer a mix of scheduled fixed route and curb-to-curb service. These services allow patrons to make pre-scheduled or same day reserved trips during some portions of the service hours and offer scheduled pickups at public bus stops during other portions of the service hours. Deviated Fixed Route Services fall under the Local pricing. Marin Access Paratransit eligible riders may schedule deviations within 3/4 miles of Stagecoach routes by calling designated number. No deviations will be made on weekends on Route 61. Paratransit eligible riders may call the scheduling center for weekend paratransit service to complement Route 61.
15. **Extended Paratransit Service Area (Marin County).** The term “Extended Paratransit Service Area” means area within Marin County beyond ¾ mile measure of public fixed route (non-commuter) bus service routes within which specialized transportation services for ADA paratransit-eligible passengers may be provided if MCTD determines available resources permit. The paratransit service provided in the Extended Paratransit Service Area-Marin County is not ADA Mandated Complementary Paratransit Service and, therefore, not subject to the six service criteria set forth in Section 37.131 of Title 49 of the CFR. The Extended Paratransit Service Area is shown in Attachment B – Service Area Map.
16. **Extended Paratransit Service Area (Regional Service).** The term “Extended Paratransit Service Area” outside Marin County refers to areas beyond the ¾ mile measure of public fixed route (non-commuter) bus service routes where service for ADA paratransit-eligible passengers are to be provided to avoid having to transfer riders between the Contractor and other paratransit agencies in the region. The paratransit service provided in the Extended Paratransit Service Area is not ADA Mandated Complementary Paratransit Service and, therefore, not subject to the six service criteria set forth in Section 37.131 of Title 49 of the CFR. The current Extended Paratransit Service Area stretches throughout San Francisco proper. This is shown in Attachment B – Service Area Map. This area is subject to change as is deemed appropriate by GGBHTD.
17. **Facilities.** The term “Facilities” means the buildings, structures, and grounds provided by the MCTD and listed in Attachment F to be used by CONTRACTOR in providing services under this Contract.
18. **Fixed Monthly Fee.** The term “Fixed Monthly Fee” means the fixed amount to be paid to the CONTRACTOR by the MCTD on a monthly basis during the Contract Term, set forth in <Attachment TBD> hereto, as compensation for the CONTRACTOR’s fixed cost of providing the services covered by this Contract.
19. **Federal Transit Administration (FTA).** The term “Federal Transit Administration” or “FTA” refers to the Federal Transit Administration of the United States Department of Transportation or its successor entity.
20. **Governing Body of the Marin County Transit District.** The term “Governing Body of the Marin County Transit District” or “MCTD Governing Body” means the Marin County Transit District Board of Directors.
21. **Holiday Schedule.** The term “Holiday Schedule” means a modified schedule to provide a different level of transit service on designated days. The MCTD holiday schedule can be found at <https://marintransit.org/holidays>.

22. **Key Personnel.** The term “Key Personnel” means the following CONTRACTOR personnel: the Project Manager, Operations Manager, Maintenance Manager, Safety and Training Manager, Call Center Manager, and Marin Access Program Manager.
23. **Low Income Fare Assistance Program.** The term “Low Income Fare Assistance program” refers to the program offered to eligible Marin Access clients that provides a monthly fare assistance stipend.
24. **Marin Access Mobility Management Center.** The term “Marin Access Mobility Management Center” refers to the suite of programs and services offered by Marin Transit to serve the transportation related needs of older adults and individuals with disabilities in Marin County.
25. **MCTD General Manager.** The term “MCTD General Manager” means the General Manager of MCTD or the person designated in writing by MCTD General Manager to carry out his or her duties under this Contract.
26. **MCTD Project Manager.** The term “MCTD Project Manager” means the individual designated by MCTD General Manager to administer MCTD’s responsibilities under this Contract or the person sub-designated by MCTD Project Manager to carry out his or her responsibilities under the Contract.
27. **Mobile Data Terminals.** The term “Mobile Data Terminals” (MDT) means the communication system provided by MCTD for all data communication between dispatchers and operators. MCTD uses Galaxy TabE 16G Tablet Mobile Data Terminals.
28. **National Transit Database.** The term “National Transit Database” or “NTD” means the uniform reporting system that the U.S. Secretary of Transportation is required to maintain, and to which FTA grant recipients, including MCTD, are required to report pursuant to Section 5335 of Title 49 of the U.S. Code.
29. **Non-ADA Demand Response Services.** Non-ADA services include both general public and non-general public services that offer riders curb-to-curb, pre-scheduled or on-demand transportation. Non-ADA services currently include Dial-A-Ride (Novato Dial-A-Ride, Point Reyes Dial-A-Ride, and the Dillon Beach / Tomales Dial-A-Ride), Connect, and Shopper Shuttles (Wednesday Marin Valley Shoppers, the Thursday Rotary Manor Shoppers and the Friday Martinelli House Shoppers).
30. **Normal Wear and Tear.** The term “Normal Wear and Tear” means damage or loss to a Revenue Vehicle, Facility, or item of Equipment resulting from ordinary use and demand over time. The age of the Revenue Vehicle, Facility, or item of Equipment, and the miles accumulated on a Revenue Vehicle, are among the factors MCTD uses to distinguish Normal Wear and Tear from wear and tear that is the result of abuse or improper use.
31. **On-Time Performance.** The term “On-Time Performance” means the level of success in schedule adherence (avoiding Late and Early Trips) and is further defined in Section 302.
32. **Proposal.** The term “Proposal” means the written documents submitted by CONTRACTOR in response to MCTD Request for Proposals (RFP).
33. **Revenue Vehicle.** The term “Revenue Vehicle” means the vehicles utilized to provide revenue in accordance with this Contract, as identified in Attachment D.
34. **Radio System.** The term “Radio System” means the communication systems provided by MCTD for voice communications with operators. Marin Transit participates in the Marin Emergency Radio Authority (MERA) emergency response program. All vehicles are equipped with MERA radios for voice communications.
35. **Revenue Hours.** The term “Revenue Hours” means the time when a vehicle is operating from the first passenger pick-up point until the vehicle arrives at the last passenger drop off point whether or not the passengers are available to be served. The definition of Revenue Hours excludes Deadhead Hours and time when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service) or for scheduled operator time off (e.g., lunch, rest breaks, and out of services).

36. **Revenue Hour Rate.** The term “Revenue Hour Rate” means the rate to be paid to CONTRACTOR by MCTD on a monthly basis during the Contract Term, set forth in <Attachment TBD> hereto, as compensation for CONTRACTOR’s variable costs of providing the services covered by this Contract.
37. **Revenue Miles.** The term “Revenue Miles” means the distance traveled when a vehicle is operating from the first passenger pick-up point until the vehicle arrives at the last passenger drop off point whether or not the passengers are available to be served. The definition of Revenue Miles excludes Deadhead Miles and any vehicle miles accumulated when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service) or for scheduled operator time off (e.g., lunch, rest breaks, and out of services).
38. **Scheduling/Dispatch System.** The term “Scheduling/Dispatch System” means the dispatch and scheduling software provided by MCTD. MCTD provides TripSpark PASS software. Included with TripSpark PASS software are the following modules: PASS Workstation, MONS, DriverMate, SUS, Passenger Portal, Notifications, Reports, and Ripple.
39. **Service Hours.** The term “Service Hours” means the required service hours for non-ADA services such as Connect. Drivers are expected to be available during all service hours.
40. **Special Services.** The term “Special Services” means additional transportation requirements above the existing scope in support of community events that may occur annually or on a one- time basis.
41. **Support Vehicle.** The term “Support Vehicle” means any CONTRACTOR-provided vehicle needed to support the operation and maintenance of services provided under this Contract, including, but not limited to, cars, vans, tow trucks, lifted-equipped vans, and service trucks.
42. **System.** The term “System” means a complete and organized sum of integral parts that make up a working unit such as hardware, software, mechanical, electrical, and structural systems. Examples include but are not limited to bus washes, building structures, flooring, fire/life safety, plumbing, mechanical, electrical, pneumatic, HVAC, and lighting systems.
43. **Total Vehicle Hours.** The term “Total Vehicles Hours” for any Contract period, means the combined total of Deadhead Hours and Revenue Hours during that period.
44. **Total Vehicle Miles.** The term “Total Vehicle Miles” for any Contract period, means the combined total of Deadhead Miles and Revenue Miles during that period.
45. **TransTrack.** The term “TransTrack” means the software utilized by MCTD for collection and reporting of CONTRACTOR generated data.
46. **Travel Navigator.** The term “Travel Navigator” means the front-line staff members that perform scheduling; eligibility and administration; counseling, information, & referral services; customer service; and travel training, outreach, and presentations related to the Marin Access suite of programs.
47. **Vehicle Trip.** The term “Vehicle Trip” means the operation of a Revenue Vehicle in scheduled service from the first geographic time point to the last geographic time point on a route or pattern servicing all applicable bus stops along the route or pattern and adhering to the published departure times.
48. **Volunteer Driver Program(s).** The term “Volunteer Driver Program(s)” refers to the STAR and TRIP programs that offer eligible participants monthly reimbursements for reported trips, up to the allowable monthly limits of one hundred miles for STAR participants and four hundred miles for TRIP participants.
49. **Volunteer Driver Reimbursement.** The term “Volunteer Driver Reimbursement” means the reimbursement for trips reported by Volunteer Driver Program participants. Volunteer driver hours associated with these trips are not included in revenue hour or service hour calculations.

All references to transit terminology in this Contract not defined above will be as defined in the Federal Transit Administration National Transit Database (NTD) Glossary as amended or revised. The NTD glossary can be found

at <https://www.transit.dot.gov/ntd/national-transit-database-ntd-glossary>. To the extent that the definitions in the NTD glossary change after the Effective Date of this Contract, those changes will govern external reporting requirements but will not impact provisions relating to revenues and compensation provisions of this Contract.

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## SEC. 102 GENERAL OBLIGATIONS OF THE PARTIES

1. **In General.** CONTRACTOR shall manage and operate Complementary ADA Paratransit services and Non-ADA Demand Response Services; appropriately maintain a fleet of Revenue Vehicles and Equipment provided by MCTD and GGBHTD in compliance with vendors' specifications and standards; and provide, operate, and maintain all Support Vehicles necessary to accomplish its obligations under this Contract. CONTRACTOR shall provide an appropriately trained workforce and provide equipment and materials (except those items provided by MCTD in accordance with this Contract) needed to operate the Revenue Vehicles over the routes and in accordance with the Revenue Hours established by MCTD.

CONTRACTOR shall manage and operate the Mobility Management Call Center including all program duties related to scheduling; eligibility and administration; counseling, information, and resources; customer service; and travel training, outreach, and presentations. CONTRACTOR shall provide an appropriately trained workforce and provide equipment and materials (except those items provided by MCTD in accordance with this Contract) needed to operate the Mobility Management Call Center in accordance with the policies established by MCTD.

2. **Project Management.** CONTRACTOR shall manage the Contract activities, (i.e., the "Project") according to the terms of this contract and defined operating procedures developed in coordination with MCTD. CONTRACTOR shall adhere to mutually agreed upon communication protocol and use identified project management tools designated in Attachment L. The MCTD shall have the right to establish additional requirements that are reasonable for the operation of this service, pursuant to a Contract Amendment or the service change process set forth in this Contract.
3. **CONTRACTOR's Responsibilities.** CONTRACTOR's performance shall be in accordance with the obligations of this Contract and the Attachments and forms attached hereto. CONTRACTOR's responsibilities shall include the following:
  - a. Administration
    - i. Maintain written and verbal communications with MCTD to the satisfaction of MCTD Project Managers or their designees.
    - ii. Comply with and/or assist with MCTD's monitoring and auditing programs, including general program reporting, Title VI submittals, Disadvantaged Business Enterprise Program, and Section 5335(a) reports for National Transit Database (NTD) submittals.
    - iii. Assist with MCTD's ongoing programs, including customer satisfaction surveys that may be periodically undertaken.
    - iv. Respond promptly and precisely to MCTD's requests for information according to the schedule set by MCTD.
    - v. File all operating, financial, and performance reports and invoices in accordance with this Contract in order to allow MCTD to review their content in a timely manner.
    - vi. Provide insurance coverage and indemnification as required in this Contract.
    - vii. Refer all MCTD or Marin Access related media inquiries to the designated MCTD representative and cooperate in providing public information through MCTD.
    - viii. Provide all office equipment (including computers, hardware, software, and copiers) that CONTRACTOR determines will be needed for operation of MCTD's Services, to supplement the Equipment provided by MCTD as listed in Attachment F.

- ix. Notify MCTD Project Manager in writing of any issues or concerns in proposed MCTD programs or services, service area expansions, alterations, and/or reductions in service in a timely manner.
- x. Notify MCTD in writing of any issues or concerns in proposed vehicle or other capital purchases.
- xi. Identify, develop, and propose to MCTD new or revised programs, services or service performance ideas intended to improve the rider experience and/or create cost savings for MCTD; provided that the decision to implement any such proposal shall be at the sole discretion of MCTD.
- xii. Comply with all FTA drug and alcohol testing requirements and assist MCTD in auditing and monitoring compliance with those requirements.
- xiii. Comply with the Equal Employment Opportunity (EEO) Program and with FTA's EEO Program Guidelines.
- xiv. Comply with all applicable Federal, State, and local laws and regulations.
- xv. Assist in the administration of the MCTD's Vehicle Advertising Program (if relevant).
- xvi. Maintain confidentiality of all rider information whether the information is stored on paper, electronically, communicated orally or through any other means.
- xvii. Ensure all staff are familiar with MCTD and Marin Access programs and services available to residents of Marin County.
- xviii. Ensure all staff are familiar with and in compliance of all Marin Access operational policies and procedures.
- xix. Ensure all staff are familiar with applicable regulations under the Americans with Disabilities Act (ADA) as they apply to ADA paratransit eligibility and service.
- xx. Complete all administrative tasks related to the Marin Access suite of programs.

b. Operations

- i. Meet all operations, equipment, and maintenance requirements established by this Contract.
- ii. Operate and maintain all Revenue Vehicles provided by MCTD, including new Revenue Vehicles purchased during the Contract Term (except those that MCTD determines, in its sole discretion, should be operated and/or maintained by another CONTRACTOR).
- iii. Operate and maintain the Mobility Management Call Center.
- iv. Meet performance and safety standards, as set forth in this Contract and the Attachments hereto.
- v. Provide for the acquisition (by purchase or lease) of the Support Vehicles needed to support the service, and provide for the registration, insurance, maintenance, fueling, repair, and all other associated costs relating to the Support Vehicles.
- vi. Meet employee hiring standards, training standards, and staffing levels as specified in this Contract.
- vii. Provide properly trained, qualified personnel having management, operation, and vehicle maintenance expertise necessary to operate MCTD's services, and administer personnel matters regarding CONTRACTOR's employees.
- viii. Provide properly trained and qualified personnel in sufficient quantities to fully support the service.

- ix. Provide appropriately trained and qualified safety personnel to investigate accidents and unsafe practices in a timely manner and provide reports of those investigations to MCTD in accordance with this Contract.
  - x. Immediately report to MCTD any accidents, including passenger accidents, or any other non-routine event or operational deviation, in accordance with this Contract.
  - xi. Provide safe operation of the Revenue Vehicles and the Support Vehicles, cooperate with law enforcement agencies regarding security activities on board vehicles and elsewhere, provide safe workplace practices and safe working conditions for vehicle and Equipment maintenance, and meet safety and security requirements at the Facilities in accordance with Section 315.
  - xii. Provide, through contract or otherwise, for the maintenance and cleaning of the Facilities, and for safety and security of the Facilities, including appropriate procedures for Facilities access and control.
  - xiii. Manage all Radio System equipment and coordinate with MCTD for the timely maintenance of radios in vehicles and the Facilities.
  - xiv. Promptly notify MCTD Project Managers of any deficiencies or defects in any Equipment or vehicles furnished by MCTD, in accordance with this Contract as further described in Section 301.
  - xv. Ensure compliance and enforcement of all MCTD passenger rules, policies, and procedures as provided to CONTRACTOR by MCTD
  - xvi. Assist MCTD in marketing efforts including on-board distribution or collection of passenger information and provision of driver(s) and vehicle(s) for promotional events.
  - xvii. Provide for vehicle scheduling, dispatching, and operator deployment using the TripSpark PASS software provided by the MCTD.
  - xviii. Manage and implement the posting and timely removal of MCTD publications and announcements.
  - xix. Ensure excellent customer service.
  - xx. Ensure all staff receive appropriate training and information related to all MCTD and Marin Access programs and services as needed to assist callers.
  - xxi. Ensure all staff are familiar with Marin Access operational policies and procedures as well as ADA regulations as they apply to ADA paratransit and the Contractor's required adherence thereto.
- c. Maintenance
- i. Maintain all Equipment, Revenue Vehicles, and Support Vehicles in accordance with this Contract and provide qualified personnel who can assist MCTD in troubleshooting defects and working with manufacturers to resolve problems.
  - ii. Maintain, preserve, and protect all MCTD provided Equipment, tools, and materials in good working order and in accordance with the vendors' specifications.
  - iii. Notify MCTD within seventy-two (72) hours in the event that any MCTD provided Equipment becomes damaged or is otherwise inoperable.
  - iv. Provide tires and replacement tires in sufficient quantities and of sufficient quality to assure that Revenue Vehicles will be available to maintain MCTD service and satisfy other contractual requirements.
  - v. Provide all of the appropriate tools needed for the maintenance of Revenue Vehicles.
  - vi. Identify, acquire, and maintain a sufficient parts inventory to properly maintain the various types and number of Revenue Vehicles in MCTD fleet.

- vii. Properly dispose of all hazardous materials including, waste oil, grease, and automatic transmission fluid, in accordance with all applicable local, State, and Federal laws and regulations.
  - viii. As requested, process the disposal or donation of any Revenue Vehicles, identified by MCTD for disposal or donation. This will involve readying the vehicle for auction including removing any and all equipment (e.g. radios, MDTs, fueling equipment) and removing any vehicle decaling. MCTD will reimburse contractor for additional costs related to readying a vehicle for auction. The CONTRACTOR will alert MCTD when a vehicle is ready to go to auction and provide the MCTD vehicle number, condition of vehicle, and ending mileage. MCTD will then contact the auction house within five (5) business days for vehicle pickup. The auction house and CONTRACTOR will coordinate final pickup of the vehicle.
  - ix. Work with vehicle manufacturers, dealerships, and local warranty shops during the initial warranty period.
  - x. Make repairs to, adjustments to, updates to and programming of AVL/radio systems, scheduling/dispatch system, and fare collection equipment. All repairs, adjustments, and updates should be completed after and through consultation with MCTD personnel.
  - xi. Maintain all vehicles in accordance with FTA requirements.
  - xii. Provide MCTD and GGBHTD with a Preventative Maintenance Plan, as is required by the FTA, that clearly outlines the preventative maintenance schedule.
  - xiii. Report to MCTD and GGBHTD on a \_\_\_\_\_ basis compliance with Preventative Maintenance Plan and make vehicle files available for inspection by either organization upon request to ensure accurate monthly reporting.
- d. Fares
- i. Collect fares in a manner that complies with MCTD and GGBHTD's established and published fare policy.
  - ii. Empty fareboxes, collect and deposit and report actual revenues.
  - iii. Contractor is responsible for maintaining a secure space for processing fares collected and having sufficient controls and procedures to ensure proper cash handling. Cash handling procedures are subject to review by MCTD.

4. **MCTD's Responsibilities.** The MCTD's responsibilities include the following:

- a. Administration
  - i. Identify, develop, and plan for new and revised services, and develop service scopes for competitive procurement within the Transportation Improvement Program/Short Range Transit Plan.
  - ii. Establish and periodically evaluate all policies regarding the operation and performance of MCTD's fixed route and paratransit system.
  - iii. Provide continuing service planning and capital planning (short and long range).
  - iv. Coordinate informational reports and manage appropriate information systems.
  - v. Establish routes and schedule services and define service areas. GGBHTD is responsible for establishing Regional fixed routes, schedules and service areas and has the right to make modifications as it deems necessary.
  - vi. Communicate with CONTRACTOR, the media, and the public.

- vii. Carry out marketing activities, including publication of materials that increase accessibility for visually and hearing-impaired persons in accordance with the ADA.
  - viii. Carry out marketing, public notification, and outreach activities that address the needs of Limited English Proficient populations as specified in MCTD's Title VI Program.
  - ix. Administer and monitor this Contract, audit CONTRACTOR's books, records, and accounts, and evaluate and inspect CONTRACTOR's work and procedures as deemed appropriate for contract compliance.
  - x. Comply with Federal, State, and local laws and regulations.
  - xi. Prepare for and provide official notice of all public meetings, including those for which CONTRACTOR is responsible for the presentation of informational items.
  - xii. Collaborate in the administration of the vehicle advertising program for MCTD-owned vehicles.
  - xiii. Audit CONTRACTOR's invoices prior to reimbursement.
- b. Operations
- i. Establish operations and maintenance requirements and performance standards for CONTRACTOR.
  - ii. Determine compliance with Contract performance standards and provide incentives, as appropriate.
  - iii. Investigate unsafe practices as MCTD deems appropriate.
  - iv. Provide sufficient Revenue Vehicles for use in the service described in this Contract and determine the paint schemes and logos for Revenue Vehicles, including those vehicles provided by CONTRACTOR.
  - v. Provide the Equipment, tools, and materials that are specifically designated as MCTD's responsibility in this Contract.
  - vi. Communicate information concerning deficiencies in service to CONTRACTOR in a timely manner.
  - vii. Pay CONTRACTOR for services rendered as provided in this Contract. The granting of any payment by MCTD, or the receipt thereof by CONTRACTOR, shall in no way imply acceptance of work.
- c. Maintenance
- i. Inspect, monitor and audit vehicle maintenance practices and activities for all MCTD and GGBHTD-provided vehicles.
- d. Fares
- i. Establish and evaluate fare policies and fare structure, and review and evaluate ridership trends.

## SEC. 103 REPRESENTATIONS, WARRANTIES, AND STANDARD OF PERFORMANCE

1. **CONTRACTOR Representations and Warranties.** CONTRACTOR represents, warrants, and covenants as follows:
  - a. Maintenance of Licenses and Permits. CONTRACTOR has, and through the Contract Term, shall maintain all required licenses, permits, status, professional ability, skills, and capacity to perform the Work in accordance with the requirements of the Contract Documents, other than permits and licenses pertaining to the Facilities obtained by MCTD and GGBHTD.

- b. Laws, Regulations, and Governmental Approvals. CONTRACTOR has familiarized itself with the requirements of all applicable Federal, State, and local laws and regulations and the condition of any required governmental approvals, prior to entering into this Contract. CONTRACTOR acknowledges and agrees that it is responsible for complying with such laws and regulations, and, except as otherwise provided in the Contract Documents, for obtaining governmental approvals at its sole cost and without any increase in compensation on account of such compliance, regardless of whether such compliance would require additional time for performance or additional labor, equipment and/or materials not expressly provided for in the Contract Documents.
  - c. Legal Proceedings. There are no existing or threatened legal proceedings against CONTRACTOR, as of the date of execution of this Contract that would have an adverse effect on its ability to perform its obligations under the Contract, its financial condition, or its operations.
  - d. Status and Authority. (a) CONTRACTOR is a corporation, joint venture, 501(c)3 nonprofit, or partnership duly organized and licensed to do business in the State of California, with all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted; (b) if a joint venture or partnership, each member of CONTRACTOR is duly qualified to do business, and is in good standing, and will remain in good standing throughout the term of the Contract and for as long thereafter as any obligations remain outstanding under the Contract Documents; and (c) the execution and performance of this Contract will not result in a breach or default under the organizational documents of any such Person or under the terms of any indenture, loan, credit agreement, or related instrument to which such Person is a party or by which it is otherwise bound.
  - e. Variety of Vehicles. CONTRACTOR acknowledges that MCTD and GGBHTD have a variety of Revenue Vehicles in its fleet and may purchase an additional variety of Revenue Vehicles during the Contract Term and agrees that the compensation to be paid to CONTRACTOR (as described in Section 401 and Attachment A) covers the full cost of operating and maintaining a variety of Revenue Vehicle types and providing the services required under this Contract.
2. **Standard of Performance.** CONTRACTOR shall perform the work diligently, carefully, and in a timely and professional manner, in accordance with the standards and requirements in the Contract Documents and in accordance with standards and practices generally accepted as standards of the industry; and shall have and maintain all required authority, licenses, professional ability, skills, personnel, and capacity to perform its obligations under this Contract. CONTRACTOR shall perform all work as an independent CONTRACTOR.

## SEC. 104 NOTICES AND TERM OF CONTRACT

- 1. **Notice of Award.** Within seven (7) Days after the date this Contract is approved by MCTD Governing Body, the CONTRACTOR will submit the following to MCTD: (1) the insurance policies as specified in Section 506 (or a declaration page indicating coverages specified in Section 506, so long as the full insurance policy is submitted to MCTD within twenty-one (21) calendar days of the Award); (2) the list of CONTRACTOR's Key Personnel (as identified in CONTRACTOR's Proposal in response to the RFP); and (3) CONTRACTOR's complete organizational chart.
- 2. **Submittals.**
  - a. 45 Day Submittals. Within forty-five (45) calendar days after Contract approval, CONTRACTOR shall submit to MCTD, for its review and approval, the following plans and programs: (1) the Transition and Start-up Plan; (2) the Training Programs and Manuals; (3) the Vehicle Maintenance Program, including the Preventative Maintenance Program; (4) the Staffing and Personnel Plan, (5) the

Emergency Operations Plan, (6) the Continuity of Operations Plan; and (7) the Emergency Preparedness Plan.

- b. **90 Day Submittals.** Within ninety (90) calendar days after Contract approval, CONTRACTOR shall submit to MCTD for its review and approval, the following plans and programs specific to MCTD contract: (1) the Drug and Alcohol Policy Program; (2) the EEO Program/Affirmative Plan; (3) the Safety and Security Plan/Program; (4) the Hazardous Material Training Program; and (5) the Disadvantaged Business Enterprise (DBE) Program plan.
  - c. **Maintenance of Effort.** All CONTRACTOR plans and programs shall be consistent with the plans and programs submitted with CONTRACTOR's proposal in response to the RFP, and shall contain at least the same level of effort (e.g., the required activities during transition and start-up; the hours of specific training, etc.) as set forth in CONTRACTOR's proposal.
3. **Contract Term.** The term of this Contract is for three (3) years and five (5) months (the Base Contract Term), beginning on the Commencement Date, with three (3) one (1) year options, for a total possible Contract term of six (6) years and five (5) months. The Contract Term will commence on February 1, 2022 (the Commencement Date).
  4. **Assumption of Responsibility.** CONTRACTOR shall assume responsibility for the provision of Revenue Service and all other obligations under this Contract on the Commencement Date.
  5. **Options.**
    - a. **Exercise by MCTD.** At least ninety (90) calendar days prior to the end of the last year of the Base Contract Term, MCTD shall notify CONTRACTOR whether it intends to exercise the option(s). This notification shall specify whether one or more than one option is being exercised. If only the first option is exercised at that time, MCTD shall provide notice in writing at least ninety (90) calendar days prior to the end of that option term whether MCTD intends to exercise the remaining option. The decisions as to whether to exercise the option(s) shall be in MCTD's sole discretion. In addition, MCTD also reserves the right to extend the Base Contract Term, or an option term, on a month-to-month basis, for a period of not-to-exceed six months at then-current Fixed Monthly Fee and Service Hour Rate. Performance during any such extension shall be subject to all terms and conditions of this Contract.
    - b. **Nature of Option and Calculation of Option Prices.** The option(s) provided under this Contract is the unilateral right of MCTD to obtain transit services from CONTRACTOR for the option term. The Revenue Hour Rate for each option year shall be as set forth for that year in Attachment A. CONTRACTOR acknowledges and agrees that it is contractually obligated, upon exercise of the option by MCTD, to provide the services described hereunder at the fees and rates established for the applicable option year.

## ARTICLE 2—PERSONNEL REQUIREMENTS

### SEC. 201 GENERAL REQUIREMENTS FOR CONTRACTOR PERSONNEL

1. **In General.** CONTRACTOR shall be responsible for providing qualified personnel capable of performing all of CONTRACTOR's responsibilities and obligations under this Contract. The total number and qualifications of personnel necessary for operations, maintenance, and other service requirements shall be in accordance with this Contract and with CONTRACTOR's Staffing and Personnel Plan, set forth in <Attachment TBD>. On request, CONTRACTOR shall provide a written update of all current employees, by number and by function (i.e., operators, dispatchers, call center personnel, mechanics, supervisors, etc.) working under this

Contract. Such written update shall specifically identify all new employees, their positions, and where applicable, their training status.

**2. Key Personnel.**

- a. Key Personnel List. In order to manage and perform the service required by this Contract, the CONTRACTOR will provide and maintain throughout the Contract Term the following Key Personnel:
    - i. Project Manager
    - ii. Operations Manager
    - iii. Maintenance Manager
    - iv. Safety and Training Manager
    - v. Call Center Manager
    - vi. Marin Access Program Manager
  - b. Dedication to Project. Unless otherwise specifically authorized in writing by the MCTD: (a) the Key Personnel providing services under this Contract shall be the same individuals identified in the CONTRACTOR's response to the RFP and in the Staffing and Personnel Plan in Attachment F; (b) all Key Personnel shall be dedicated to the performance of work for the MCTD under this Contract at the percentage stated in the RFP and in the Staffing and Personnel Plan in <Attachment TBD>; and (c) the CONTRACTOR shall provide a separate individual for each Key Personnel position.
  - c. Changes and Vacancies. CONTRACTOR shall provide the MCTD at least thirty (30) Days advance notice prior to any contemplated change to Key Personnel, and the MCTD must provide written approval of such change prior to the action being taken. CONTRACTOR shall fill any vacancy in a Key Personnel position within thirty (30) calendar days of the date of the vacancy, with an individual whose qualifications and experience meet the requirements of the position. Subject to the MCTD's approval, a vacancy may be temporarily filled by a qualified individual on an interim basis while a more extensive search for a replacement is conducted. Interim personnel must not hold a separate Key Personnel position. Failure to provide a satisfactory replacement for a Key Personnel position within thirty (30) calendar days shall result in a deduction of the amount of the salary and benefits of the individual, during the full period of the vacancy, from the MCTD's monthly payments to the CONTRACTOR.
  - d. MCTD Right to Request a Change. The MCTD reserves the right to request a change of any Key Personnel during the term of the Contract if the MCTD determines such removal is in the best interest of the MCTD to assure the provision of services that meet the requirements of this Contract.
- 3. Project Manager.** CONTRACTOR's Project Manager shall supervise the day-to-day operation of the service, as well as the management of the project's accounts and operating records. The Project Manager or individuals designated under subsection C of this Section shall be available by telephone or in person during all hours of operations to make decisions as necessary at the request of MCTD.
- 4. Additional Management.** In addition to the Project Manager, CONTRACTOR shall designate two (2) members of management with the authority and responsibility to (1) make binding decisions, acting as agent for CONTRACTOR; and (2) respond in person to any emergency or accident involving extensive property damage or injuries. CONTRACTOR shall provide the names, titles, and telephone numbers of those individuals to MCTD.
- 5. Corporate Support.** CONTRACTOR shall not include in its personnel costs or corporate support expenses charged to MCTD any time spent by Key Personnel on matters other than the performance of services for MCTD under this Contract. CONTRACTOR may not use any Revenue Vehicles or Equipment provided by MCTD or GGBHTD, for any work not directly related to the performance of services for MCTD under this Contract. The MCTD reserves the right to review and audit CONTRACTOR's compliance with these

prohibitions at any time during the Contract term. If and to the extent that MCTD determines that CONTRACTOR has engaged in any such prohibited use, MCTD reserves the right, in its discretion, to bill CONTRACTOR for the fair market value of such use, or to deduct the fair market value of such use from CONTRACTOR's monthly invoice.

6. **MCTD Project Manager.** All notices and communications required to be submitted by CONTRACTOR under this Contract shall be submitted to MCTD Project Manager.

## SEC. 202 PERSONNEL PERFORMANCE STANDARDS AND REQUIREMENTS

1. **Personnel Standards.** CONTRACTOR shall require that all personnel providing any services for MCTD under this Contract maintain a professional, courteous attitude toward MCTD customers, including answering to the best of their abilities all passenger questions (including questions about schedules) and performing other tasks as directed. CONTRACTOR shall use appropriate employee screening and selection criteria (including the hiring standards set forth in this Section) to assure the employment of the best qualified applicants available, emphasizing competence, reliability, and good customer service skills. Promptly upon MCTD's request, CONTRACTOR shall take appropriate disciplinary action against any employee who MCTD considers unsuitable for such work or who has displayed any act of discourtesy, rudeness, use of profanity, or any other act deemed unacceptable by MCTD (including any act inconsistent with CONTRACTOR's Standards of Conduct).
2. **Personnel Policies.**
  - a. General Requirement. CONTRACTOR shall follow its personnel program and policies in carrying out recruitment, hiring, training, and performance reviews, as set forth in its Staffing and Personnel Plan. CONTRACTOR shall comply with its Staffing and Personnel Plan throughout the term of this Contract. CONTRACTOR shall give written notice to MCTD of any material changes in its personnel program and policies.
  - b. Compliance with Applicable Law. CONTRACTOR's personnel policies and personnel wages and work hours shall be in accordance with applicable local, State, and Federal laws and regulations.
  - c. Standard of Conduct. CONTRACTOR shall apply its standards of conduct, which are subject to MCTD approval. All of CONTRACTOR's employees performing work under this Contract shall strictly adhere to CONTRACTOR's standards of conduct. Material changes in these standards shall require prior written approval by MCTD. Failure of CONTRACTOR to enforce these standards shall be grounds for termination of this Contract for default under Section 410.
  - d. Background Checks and Hiring Standards.
    - i. CONTRACTOR shall make all reasonable efforts to ensure that employees having contact with the public in the course of their assigned duties are of good moral character. CONTRACTOR, prior to hiring, shall conduct employee candidate background checks of all positions, especially those positions to be considered safety-sensitive in nature. The MCTD considers all positions to be safety-sensitive unless they are administrative in function only.
    - ii. The background checks conducted by CONTRACTOR shall be in accordance with MCTD standards and applicable Federal and State law, and shall include the use of a licensed background check vendor to carry out criminal background checks. Criminal background checks must include arrest and conviction records (county, state, and nationwide) for all jurisdictions in which the applicant has resided in the previous ten (10) years.
    - iii. Any decision regarding whether or not to hire an individual on the basis of a prior felony or misdemeanor conviction record shall be made by CONTRACTOR on a case-by-case basis, taking into account the nature and gravity of the criminal offense committed by such

individual, the relationship of such offense to the nature and requirements of the job involved, considerations of business necessity, the time elapsed since the commission of the offense and/or the completion of the sentence, and other relevant considerations set forth in applicable EEOC guidance.

- iv. CONTRACTOR shall ensure that employees are tested in accordance with the FTA Alcohol and Drug Testing Regulations, including pre-employment, reasonable cause, return to duty, post-accident, and random testing in accordance with 49 CFR Part 655. CONTRACTOR shall adjust annual random testing rates to comply with any future amendments to the Federal requirements.
  - 1. Contractor(s) will comply with:
    - a. U.S. Department of Transportation (DOT) regulations, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," 49 CFR Part 40 to the extent applicable.
    - b. Federal Transit Administration (FTA) "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable.
  - 2. The Contractor agrees to establish and implement a drug and alcohol testing program that complies with relevant United States Department of Transportation regulations, produce any documentation necessary to establish its compliance with these regulations, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or Marin Transit to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under DOT regulations and review the testing process. The Contractor agrees further to certify annually its compliance with 49 CFR Parts 653 and 654 before March 1 and to submit the Management Information System (MIS) reports before March 1 to Marin Transit General Manager. To certify compliance the Contractor will use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to submit before contract implementation a copy of the Policy Statement developed to implement its drug and alcohol testing program.
  - 3. Marin Transit will conduct ongoing oversight to ensure the Contractor's compliance with the DOT/FTA regulations during the term of the contract. The Contractor(s) will provide Marin Transit with a copy of their Anti-Drug and Alcohol Misuse Policy and related forms, quarterly and annual drug and alcohol testing reports, and other information as requested. Non-compliance may result in suspension or termination of contract and/or non-payment of outstanding invoices.
- v. CONTRACTOR shall maintain all records relating to background checks conducted on all employees providing services under this Contract. For purposes of audit and oversight by MCTD, and unless prohibited by law, CONTRACTOR shall make all background check records and drug and alcohol reporting available to MCTD representatives for the periods and at the location specified in Section 504 of this Contract.
- e. Confidentiality. All persons working, volunteering, or doing business with CONTRACTOR have no authorization to obtain access to client information in any form. All client information is to be treated as private and confidential, including the fact that a person has received transit services.

Any other information that should reasonably be recognized as confidential information shall be treated as such. The privacy and confidentiality of all clients is protected under Federal, State and Local laws and regulations. Any client information seen or heard by CONTRACTOR staff is considered private and confidential and confidentiality must be maintained whether the information is stored on paper, electronically, communicated orally or through any other means. CONTRACTOR staff are not authorized to seek or deliberately obtain access to client information unless as required to perform job duties. Client information is for transit purposes only and any unauthorized disclosure of client information, or any other confidential or proprietary information from Marin County Transit District is unethical and/or illegal, and is grounds for disciplinary action, up to and including immediate dismissal from employment or termination of the contracted arrangement. This duty of confidentiality and non-disclosure continues to apply even after CONTRACTOR staff are longer working directly, or indirectly, for CONTRACTOR. All CONTRACTOR staff will be required to sign a confidentiality statement at hire.

3. **Staffing Levels.** CONTRACTOR shall employ and provide, throughout the Contract Term, no less than the number of personnel by position as specified in its Staffing and Personnel Plan. Any changes to the level of staffing must be approved by MCTD and may, in MCTD's discretion, require the negotiation of a reduction in the applicable Fixed Monthly Payment or Service Hour Rate. CONTRACTOR shall provide MCTD written notification of any variance to the staffing levels that could impact service immediately upon the occurrence of such variance. CONTRACTOR shall accompany any such notification with a "recovery plan" that addresses personnel shortages.
4. **Training.**
  - a. General Requirement. CONTRACTOR shall require that all employees of CONTRACTOR complete its Training Program, as set forth in <Attachment TBD>. CONTRACTOR shall be responsible for implementing all aspects of its Training Program throughout the term of the Contract. Training shall include courses and instruction in all aspects of the operation and maintenance of services under this Contract. Any material changes to CONTRACTOR's Training Program shall require prior written approval by MCTD.
  - b. MCTD-Provided Training. CONTRACTOR will work with MCTD staff to schedule MCTD training in compliance with federal regulations, such as Title VI and Limited English Proficiency, as a part of a regular meeting with frontline staff.
  - c. ADA Sensitivity Training. CONTRACTOR shall require all personnel to complete ADA sensitivity training to better prepare those employees to address situations relating to the physical and cognitive disabilities of the ADA Paratransit clients. This training should give particular emphasis to situations that may arise in working with clients who experience cognitive or psychiatric impairments. Training should occur at the time of hire, with bi-annual refresher training, and as needed related to customer service issues that may arise.
  - d. Drug and Alcohol. CONTRACTOR shall require that all safety-sensitive employees, as defined by the FTA, complete drug and alcohol training in accordance with 49 CFR Part 655. In addition, CONTRACTOR shall provide a Drug and Alcohol Program Manager who has been trained, through a FTA-approved Drug and Alcohol Program Management course, within ninety (90) Days after Contract award, or as soon thereafter as practical, based on course availability.
  - e. Required Safety and Security Training. CONTRACTOR shall provide the following safety and security training, including annual refresher training, maintained in a separate employee file:
    - i. Emergency Response training for all employees.

- ii. National Incident Management System (NIMS) training and Incident Command System (ICS) training for CONTRACTOR operations and safety managers as specified in Section 315.
  - iii. Training in MCTD and CONTRACTOR policies, procedures, and protocols, including safety, security and incident response plans for all employees, position appropriate.
  - iv. OSHA-required training (i.e., Occupational Safety and Health Training, Personal Protective Equipment, Drug-Free Workplace, Lock Out Tag Out, Confined Spaces, Hazardous Communications, etc.).
- f. **Implicit Bias, Diversity, and Inclusion Training.** CONTRACTOR shall require all personnel to complete an implicit bias, diversity and inclusion training as defined in Training Program, as set forth in <Attachment TBD>.
  - g. **Timing of Training.** CONTRACTOR shall implement its Training Program in a way that will assure that personnel training is not conducted during peak service hour periods at the expense of fulfilling the duties of the contract.
  - h. **Costs of Training.** CONTRACTOR acknowledges and agrees that all costs of training required for this Contract are included in its Service Hour Rate, including the cost of training associated with any new Revenue Vehicles.
  - i. **Post Training Testing Program.** CONTRACTOR shall, on a regular basis throughout the term of the Contract, conduct the post-training testing program developed by CONTRACTOR to ensure that the information provided during training is understood and absorbed by the employees. Any employee who receives a failing grade will be required to receive additional training and testing until that employee receives a passing grade. Until the employee receives a passing grade, CONTRACTOR shall not permit that employee to perform any function that could jeopardize the safety of MCTD or MCTD's customers.
  - j. **Training Plan.** CONTRACTOR shall, on an annual basis, provide an updated training plan for all employee classifications including new-hire training and refresher training.
5. **Uniforms.**
- a. **General Requirement.** CONTRACTOR shall cause all vehicle operators and personnel available to the public to be attired in such uniforms or clothing as specified by CONTRACTOR and approved by MCTD. The cost of such uniforms shall be borne by CONTRACTOR and is included in the Service Hour Rate. CONTRACTOR shall submit a sample of the uniform to MCTD for approval within forty-five (45) calendar days of Contract award.
  - b. **Cost of Uniform Changes.** Any cost associated with a change in uniforms proposed by CONTRACTOR shall be borne by CONTRACTOR. CONTRACTOR shall submit to MCTD for its approval a sample of any proposed change in uniform to be worn by each uniformed job category. Any cost associated with a change in uniform required by MCTD shall be the responsibility of MCTD.
6. **Labor Productivity.** CONTRACTOR shall promote productivity and efficiency in carrying out this Contract by implementing strategies that serve to maximize efficiency of the employee workforce.
7. **Passenger Comments.** CONTRACTOR shall ensure that all project personnel report all passenger comments and any operational problems to CONTRACTOR. The logging of comments shall include a written description of each comment. CONTRACTOR shall respond to passenger comments in accordance with MCTD Customer Comment Process set forth in <Attachment TBD> and the process set forth in Section 409 and 602 of this Contract. CONTRACTOR shall provide information requested by MCTD and otherwise cooperate with MCTD in the resolution of any comments appealed to MCTD pursuant to MCTD Customer Comment Process.
8. **Collective Bargaining Agreements.**

- a. CONTRACTOR Collective Bargaining Agreement Negotiations. CONTRACTOR shall negotiate a collective bargaining agreement with any labor organization that is designated or selected, in accordance with applicable law, as the collective bargaining representative of CONTRACTOR's employees. Any such collective bargaining agreement shall include provisions addressing health benefits, retirement, grievance procedures, recognition of seniority, and related matters that are normally the subject of collective bargaining between management and labor in the private sector transportation industry.
  - b. Limitations on Term. CONTRACTOR shall not enter into a collective bargaining agreement or other labor contract with labor organization representing its workforce for a longer term than the Base Term of this Contract with MCTD, or if any option is exercised, for longer than the term of that option.
9. **Responsibility for Accrued Paid Time Off.** CONTRACTOR shall pay out to employees any accrued vacation, sick time, or other paid time off prior to the termination of this Contract or any option years exercised. Such payments are the sole expense of CONTRACTOR, and no additional compensation shall be provided by MCTD for this CONTRACTOR expense.
10. **Retirement Obligations.** CONTRACTOR shall also be solely liable and responsible for any retirement obligations or liabilities to its employees, under any 401(k) or other retirement plan. The responsibility for any such obligations and liabilities shall survive the termination of this Contract.

## SEC. 203 VEHICLE OPERATORS

1. **General Requirement.** CONTRACTOR shall employ and maintain, throughout the Contract Term, a level of vehicle operators sufficient to meet the daily operator shift requirement, as well as sufficient extra-board and stand-by operators to allow for the expected call-outs, vacations, no-shows, etc., typically experienced in a transit system of MCTD's size. All operators shall be fully trained and qualified to operate the vehicles for the services provided under this Contract.
2. **Requirements for Operators.** CONTRACTOR shall have rules and requirements in place, and shall provide such rules and requirements to each vehicle operator, to ensure that each operator employed by CONTRACTOR satisfies the following minimum requirements:
  1. Each vehicle operator shall have a valid California Commercial Driver's License, Class B or above with appropriate endorsements, as well as any other licenses required by applicable local, State, and Federal laws and regulations.
  2. Each vehicle operator shall be subject to periodic as well as random testing related to drug and alcohol use conducted by CONTRACTOR in accordance with applicable Federal laws and regulations. A summary report of drug testing results (exclusive of individual test results) will be provided to MCTD upon request. Any vehicle operator who does not pass the medical examination or whose drug/alcohol screening tests do not comply with applicable standards for alcohol or drug use shall not be permitted to operate any vehicle used to provide service under this Contract.
  3. Each vehicle operator will have CPR and First Aid training (with refresher training occurring every two (2) years for those with continued employment).
  4. Each vehicle operator shall be alert, careful, and competent in terms of driving ability and habits.
  5. Each vehicle operator shall be courteous to all passengers.
  6. Each vehicle operator shall be neat and clean in appearance and shall wear a regulation uniform and identification badge at all times while in revenue service.
  7. Vehicle operators shall have completed CONTRACTOR's Training Program and shall be fully trained in defensive driving and vehicle handling in accordance with a defined defensive driving program,

prior to operating any vehicle in Revenue Service. CONTRACTOR shall also maintain ongoing training for vehicle operators.

8. Adequate numbers of fully qualified vehicle operators shall be available as back-up operators during all operating hours to ensure consistent and reliable service.
9. Vehicle operators shall be trained in, and be cognizant of, all operational procedures relating to MCTD's Services.
10. Vehicle operators shall be trained in, and be cognizant of, the technology (including on-board technology) of the vehicles they operate.
11. Vehicle operators shall, pursuant to requests by MCTD, hand out notices to passengers or otherwise render assistance in MCTD's monitoring and supervising operations.
12. Vehicle operators shall honor special passes, collect coupons and cash, and collect other fare media authorized by MCTD.
13. Vehicle operators shall have available at all times during operation of any Revenue Vehicles in connection with these services a timepiece having an accuracy of +/- one (1) minute per month and the timepiece shall be set each day.
14. Vehicle operators must immediately report to CONTRACTOR any traffic accidents, passenger accidents, or other non-routine event.
15. Vehicle operators are not permitted to use personal cell phones or other electronic devices (including entertainment games but excluding global positioning systems), or to use MCTD-provided or CONTRACTOR-provided cell phones or electronic devices for personal purposes while operating in Revenue Service.
16. Tobacco products may not be used inside any MCTD vehicle, in proximity to any MCTD or GGBHTD vehicle, and their use is prohibited at or near fuel tanks or pumps and in any restricted areas.
17. Vehicle operators must have in their possession at all times while on duty a valid California CDL and shall wear and display identification badges at all times while on duty. All such licenses, cards, and badges shall be subject to inspection by MCTD at any time.
18. Vehicle operators, prior to beginning Revenue Service, shall inspect their assigned vehicles daily in a timely manner before pulling out of the yard in accordance with Federal, State, and MCTD requirements and CONTRACTOR procedures. If there are any defects, the vehicle operator must enter the defect on a CONTRACTOR-provided pre-trip/post trip inspection form and immediately report the defect to a designated CONTRACTOR operations staff member for determination of usability of the vehicle. All reported defects shall also be validated by CONTRACTOR maintenance staff. The vehicle operator must sign and date the pre-trip/post trip inspection form prior to leaving the bus yard. The pre-trip/post trip inspection form shall remain with the vehicle during that day and shall be replaced on a daily basis.
19. Vehicle operators shall immediately report mechanical breakdowns and/or in-service failures of Revenue Vehicles by radio or via the operators' MDTs to Dispatch. Upon receipt of such report, CONTRACTOR shall immediately document the service interruption log and notify vehicle maintenance staff of the occurrence.
20. All vehicle operators shall demonstrate, through examination, an ability to speak, read, and write Standard English.

### 3. **Hiring Principles.**

1. **Satisfactory Driving Record.** CONTRACTOR shall not employ any person as a vehicle operator whose driving record is not acceptable as provided in CONTRACTOR's Staffing and Personnel Plan. This information should be compiled and verified in conjunction with Section 202B(d) and paragraph (3) of this subsection.

2. **Employment Experience.** Prior to offering employment to any person as a vehicle operator, CONTRACTOR shall obtain from each such person detailed information concerning such person's employment experience, driving record, professional driving experience, motor vehicle violations and accidents, criminal history, personal and character references, and complaints filed against such person in the course of any employment as a professional driver, whether by any bus service provider or otherwise. CONTRACTOR shall investigate and verify the accuracy of the information obtained from all job applicants.
3. **Background Checks and Re-Checks.** CONTRACTOR shall perform the background checks described in Section 202B(d) prior to offering employment to any person as a vehicle operator. The background check will include, at a minimum, a Motor Vehicle Record (MVR) report and a report from a licensed Live-Scan background check vendor. CONTRACTOR shall perform a MVR re-check every year for all vehicle operators and other employees in safety sensitive positions within thirty (30) Days of the anniversary of their individual hiring dates. CONTRACTOR will provide MCTD a summary report for all background checks and re-checks on request.
4. **Training Requirements.** CONTRACTOR shall conduct training for vehicle operators in accordance with its stated Training Program, which must include both classroom and behind-the-wheel training for newly hired employees and experienced drivers (e.g., employees of the prior operator). Training should occur at the time of hire, with bi-annual refresher training, and as needed related to customer service issues that may arise. The MCTD may monitor any training provided. The vehicle operator training program shall contain, at a minimum, the following components:
  1. California Commercial Driver's License, Class B or above, driving and testing preparation;
  2. ADA Sensitivity;
  3. Passenger Empathy and Sensitivity;
  4. Passenger Assistance Training;
  5. Blood Borne Pathogen procedures;
  6. Local geography familiarization to ensure the most direct paths of travel in service delivery;
  7. Map reading and interpretation;
  8. Turn-by-turn navigation system;
  9. Customer courtesy, problem resolution, and instruction in dealing with difficult customers and situations;
  10. Safety, bus maneuvering, defensive driving and accident procedures;
  11. Transit safety, security, and incident command system procedures;
  12. Overview of Scheduling/Dispatch Systems, including full MDT utilization features;
  13. Radio etiquette;
  14. Effects and consequences of prohibited drug use on personal health, safety, and the work environment, including addressing signs and symptoms that may indicate drug use;
  15. MCTD policies and Services Eligibility Determinations; and
  16. Correct operation and use of wheelchair tie-downs, lifts, and other essential on board equipment.

## SEC. 204 DISPATCHERS

1. **General Requirement.** CONTRACTOR shall employ and maintain, throughout the Contract Term, properly trained dispatch personnel in sufficient numbers and with an adequate mix of skills, to assign vehicles and operators, facilitate the daily planned deployment of service, assist road supervisors and vehicle operators with in-service problem resolution, and to operate the Communication System.

2. **Requirements.** All dispatch personnel shall demonstrate, through examination, an ability to speak, read, and write Standard English.
3. **Components of Dispatcher Training.** All dispatch personnel are required to complete CONTRACTOR's Training Program. CONTRACTOR shall also maintain ongoing training requirements for dispatchers. Training should occur at the time of hire, with bi-annual refresher training, and as needed related to customer service issues that may arise. Training programs shall contain, at a minimum, the following components:
  1. Communications System and use of related Services software and technology tools;
  2. Local geography familiarization;
  3. MCTD Services policies and procedures;
  4. ADA Sensitivity;
  5. Passenger Empathy and Sensitivity;
  6. DOT and MCTD emergency action plan implementation strategies;
  7. Customer relations, empathy, and problem resolution;
  8. Accident/incident procedures;
  9. Transit safety, security, and incident command system procedures;
  10. Mapping and schedule familiarization;
  11. Vehicle change procedures and dynamic scheduling (methods and practices);
  12. Vehicle operator training; and
  13. Reporting and troubleshooting vehicle maintenance problems.
4. **Drug and Alcohol Testing.** All dispatchers shall be subject to drug and alcohol testing in accordance with applicable Federal laws and regulations.

## SEC. 205 TRAVEL NAVIGATORS / CALL CENTER PERSONNEL

1. **General Requirement.** CONTRACTOR shall have on duty, throughout the Contract Term, properly trained call center personnel in sufficient numbers and with an adequate variety of skills to: (1) take reservations daily between the hours of 8 am and 5 pm; (2) optimize runs and/or Revenue Hours; (3) manage subscription master files; (4) communicate routing concerns to vehicle operators and MCTD staff; (5) assist in software parameter analysis and testing; (6) operate any related software and other appropriate scheduling tools; (7) provide counseling, information, and resources to callers; (8) perform eligibility and administration tasks related to Marin Access programs; and (9) perform travel training, outreach, and presentations.
2. **Requirements.** All call center personnel shall demonstrate, through examination, an ability to speak, read, and write Standard English. CONTRACTOR shall provide a minimum of one bilingual Spanish-speaking call center staff member between 8 am and 5 pm and have the capability to provide translations for callers speaking other languages upon request.
3. **Components of Call Center Personnel Training.** All call center personnel are required to complete CONTRACTOR's Training Program. CONTRACTOR shall also maintain ongoing training requirements for call center personnel. Training should occur at the time of hire, with bi-annual refresher training, and as needed related to customer service issues that may arise. Training programs shall contain, at a minimum, the following components:
  1. MCTD reservation, scheduling, and dispatch software;
  2. Local geography familiarization;
  3. MCTD Services policies and procedures;
  4. ADA Sensitivity;

5. Passenger Empathy and Sensitivity;
  6. MCTD programs and services including Complementary ADA Paratransit, Non-ADA Demand Response Services, Volunteer Driver Programs, and the Low-Income Fare Assistance Program;
  7. Americans with Disability Act Requirements;
  8. Marin Access and Complementary ADA Paratransit eligibility requirements and standards for all Marin Access programs;
  9. Customer relations, empathy, and problem resolution;
  10. Dynamic scheduling methods and practices to optimize routes with the purpose of improving productivity, minimizing unnecessary mileage, determining first on/first off placement for mobility devices, inserting unscheduled trips, and other practices specified by MCTD;
  11. Manage and maintain the subscription trip master files assuring compliance with the ADA and maximizing productivity; and
  12. Reporting and troubleshooting scheduling problems.
4. **Drug and Alcohol Testing.** All call center personnel shall be subject to drug and alcohol testing in accordance with applicable Federal laws and regulations.

## SEC. 206 ROAD SUPERVISORS

1. **General Requirement.** At a minimum, CONTRACTOR shall have on duty, throughout the Contract Term, sufficient road supervisors necessary to properly manage operations and Revenue Vehicles in service and to respond to incidents within sixty (60) minutes or prior to the next scheduled trip, during all hours of operations. Road supervisors shall be deployed in a manner consistent with CONTRACTOR's Proposal responding to the RFP, and shall be equipped with the appropriate communication and safety equipment, and assigned to a designated CONTRACTOR-provided road supervision vehicle suitable for response to emergencies, in-service problems, and other events.
2. **Responsibilities and Requirements.** Road supervisors shall be responsible for on-street road supervision throughout the service area during the time that the vehicles are in revenue service to:
  1. ensure quality service delivery on a regular basis;
  2. monitor and review on-time performance;
  3. work with Marin Transit staff to identify operational efficiencies to improve revenue and non-revenue operations;
  4. provide extensive field support in an effort to minimize service interruption;
  5. address specific service problems and service interruptions;
  6. inspect rider destinations to ensure they are accessible by paratransit vehicles; and
  7. complete specific projects as requested.
3. **Training Requirements.** All supervisors employed by CONTRACTOR shall fully meet all training requirements for vehicle operators, as required by the terms of this Contract and the CONTRACTOR's Training Program, prior to being placed into service as a supervisor. Training should occur at the time of hire, with bi-annual refresher training, and as needed related to customer service issues that may arise.
4. **Drug and Alcohol Testing.** All supervisors shall be subject to drug and alcohol testing in accordance with applicable Federal laws and regulations.

## SEC. 207 MAINTENANCE PERSONNEL

1. **General Requirement.** CONTRACTOR shall employ and maintain, throughout the Contract Term, maintenance personnel in sufficient numbers, and with the appropriate mix of skills, to maintain and service the assigned mix of Revenue Vehicles. The maintenance workforce must include a complement of mechanics collectively capable of repairing and maintaining all systems of the Revenue Vehicles, including air conditioners, heating units, engines and transmissions, differentials, suspension systems, brakes, electrical systems, wheelchair lifts and ramps and other passenger assist mechanisms, and all other related systems consistent with light and medium duty transit fleet maintenance functions. CONTRACTOR may provide some of the required maintenance services through outside contracts consistent with Contract terms. CONTRACTOR shall ensure that the complement of mechanics and outside contractors collectively have, at a minimum, knowledge of and the ability to:
  1. Complete reliable and safe preventive maintenance inspections;
  2. Independently diagnose and repair defects on systems as necessary;
  3. Use automotive test equipment and specialized tools effectively;
  4. Obtain precision measurements as required;
  5. Diagnose and perform repairs on systems related to automotive, light-duty trucks, and paratransit vehicles;
  6. Diagnose, repair, and maintain vehicle drivetrains including: engines, transmissions, driveshaft, differentials, and exhaust systems, and after treatment devices;
  7. Diagnose, repair, and maintain vehicle brake systems, suspension/steering, electrical/electronic systems, and related sub components;
  8. Diagnose, repair, and maintain air conditioning, heating and ventilation systems;
  9. Adjust, repair, or replace damaged body parts and window glass and perform structural repairs;
  10. Diagnose, repair, and maintain wheelchair lifts and ramps;
  11. Read and understand parts and repair manuals, and electrical/vacuum schematics;
  12. Effectively utilize fuel management systems;
  13. Properly understand and utilize a Materials Safety Data Sheet (MSDS) book.
2. **Skills and Availability.**
  1. Requirements. CONTRACTOR shall ensure that the skills, capability, and availability of sufficient vehicle maintenance personnel who are adequately matched to the type of maintenance and repairs needed for all Services at the time they are needed. This level of staffing shall be identified in CONTRACTOR's Staffing and Personnel Plan (Attachment F).
  2. Scheduling of Maintenance. CONTRACTOR's VMP shall ensure that all maintenance activities are carried out at times that do not interfere with scheduling of Revenue Vehicles to meet peak period service demands.
  3. Availability of Mechanics. CONTRACTOR shall ensure that sufficient fully qualified, experienced vehicle mechanics shall be available during all hours of service to respond to any in-service failures or Revenue Vehicle or equipment problems that arise in the yard during the pre-trip and post trip vehicle inspections.
3. **Training.** Training for all maintenance personnel shall be in accordance with the CONTRACTOR's Training Program and shall include Automotive Service Excellence ("ASE") certification training, vendor-provided training, maintenance safety training, and security and emergency preparedness training. Staff certifications must be made available to MCTD and GGBHTD upon request.

4. **Components of Maintenance Training.** Training programs must contain, at a minimum, the following components:
1. Wheelchair lift and ramp manufacturers' training;
  2. Hazmat and stormwater training;
  3. OSHA and DOT compliance, health and safety training;
  4. Hazardous waste operations and emergency response training;
  5. Bloodborne Pathogens training;
  6. Lockout/tagout training;
  7. Material handling and storage requirements training;
  8. Forklift or loading equipment training (if applicable);
  9. Vehicle Fire Suppression Training; and
  10. **New Vehicle Training.** CONTRACTOR will cooperate with MCTD to provide space for and schedule all vehicle mechanics for new vehicle service training, as needed, with the receipt of either expansion or replacement vehicles. The MCTD, CONTRACTOR, and the supplier of the new vehicles will work together to develop an appropriate vehicle maintenance training plan.
5. **License Requirements.** CONTRACTOR shall require all vehicle mechanics to maintain a valid California CDL, Class C or above.
6. **Skill Level.** CONTRACTOR shall maintain the full staffing levels, by skill level category and number, as identified in CONTRACTOR's Staffing and Personnel Plan. If the total number of Revenue Vehicles assigned by MCTD to CONTRACTOR changes, CONTRACTOR shall maintain the proposed ratio of maintenance personnel, by skill level category, to Revenue Vehicles, as detailed in CONTRACTOR's Staffing and Personnel Plan. The skill levels required for CONTRACTOR's maintenance personnel are as follows:
1. **A-Level maintenance technician or mechanic job duties** are defined as performing preventive maintenance, diagnosis, service and repair of steering, suspension, brakes, engines, transmissions, differentials, electrical, wheelchair lifts, and air conditioning systems. This level technician or mechanic shall have the ability to perform part analysis on damaged parts and assist with inventory control. A-Level maintenance technicians or mechanics must have three (3) years or more of automotive/diesel repair experience or have graduated from an automotive technology course at an accredited trade school or college and have two (2) years or more experience.
  2. **B-Level maintenance technician or mechanic job duties** are defined as performing preventive maintenance, diagnosis, service and repair of steering, suspension, brakes, engines, transmissions, differentials, electrical, wheelchair lifts, and air conditioning systems. This level technician or mechanic shall have the ability to perform part analysis on damaged parts and assist with inventory control. B-Level maintenance technicians or mechanics must have a minimum of two (2) years or more of automotive/diesel repair experience or have graduated from an automotive technology course at an accredited trade school or college and have one (1) year or more experience.
  3. **C-Level maintenance technician or mechanic job duties** are defined as performing general preventive maintenance including tire repair and replacement, lube/oil/filter servicing, brake jobs and general minor maintenance repairs. This position may also include fueling responsibilities and assisting with inventory control. C-Level maintenance technicians or mechanics must have a minimum of one (1) year experience of automotive/diesel repair and or a combination of training and experience or have graduated from an automotive technology course at an accredited trade school or college.

7. **Drug and Alcohol Testing.** All maintenance personnel shall be subject to drug and alcohol testing in accordance with applicable Federal laws and regulations.

## ARTICLE 3 -- OPERATIONS AND MAINTENANCE RESPONSIBILITIES

### SEC. 301 VEHICLES

1. **MCTD and GGBHTD Responsibility.** The MCTD and GGBHTD will provide the CONTRACTOR with sufficient Revenue Vehicles for operation of the Marin Access Paratransit Services required to be provided under this Contract. The MCTD or GGBHTD may, in its sole discretion, change the mix of Revenue Vehicles and/or add Revenue Vehicles to the fleet during the Contract Term. Such actions shall not be the basis for any increase in the CONTRACTOR's Fixed Monthly Fee or Service Hour Rate, except as may be provided under Section 305.
2. **Use of Vehicles.** The Revenue Vehicles provided by MCTD and GGBHTD under this Contract shall be used by CONTRACTOR only for the Services covered by this Contract, except as otherwise authorized or directed by MCTD or GGBHTD in writing.
3. **Inspection of New Vehicles.** Upon taking possession of any new Revenue Vehicles furnished by MCTD or GGBHTD during the Contract Term, CONTRACTOR shall inspect such Revenue Vehicles and notify MCTD or GGBHTD in writing within seventy-two (72) hours if any such Revenue Vehicles have defects, unless more than three (3) vehicles are under inspection at one time, in which event the notice period shall be within five (5) Days after taking possession. If CONTRACTOR subsequently discovers latent defects, including excessive wear to tires, in any new MCTD-provided Revenue Vehicles that could not have been discovered by a reasonable inspection at the time of receipt, CONTRACTOR shall notify MCTD or GGBHTD in writing within seventy-two (72) hours after it determines that such latent defects exist.
4. **CONTRACTOR Responsibility.**
  1. **Support Vehicles.** CONTRACTOR shall be responsible for providing sufficient Support Vehicles to support the Services provided under this Contract. Such Support Vehicles shall include vehicles for road supervision, inspection, and maintenance functions, including tow trucks, forklifts, and maintenance service vehicles. The number of Support Vehicles provided shall be at the discretion of CONTRACTOR, based on its determination of what is required to meet the requirements of this Contract.
  2. **Spare Parts and Tires.** CONTRACTOR shall also be responsible for providing and maintaining (a) an adequate inventory of spare parts and materials (including lubricants and fluids) to assure proper maintenance and operation of Revenue Vehicles while taking into account the lead time required for shipping and other transportation and delivery requirements and (b) tires in sufficient quantity for the Revenue Vehicles, in compliance with all requirements set forth in Section 306E hereof.
5. **Vehicle Acquisition Plan.**

1. **CONTRACTOR Obligations.** CONTRACTOR shall operate and maintain all of the various types of Revenue Vehicles that are provided by MCTD and GGBHTD at the start of services under this Contract, or that are purchased by MCTD or GGBHTD during the Contract Term, in compliance with the intervals, specifications, and procedures in the manufacturers' operations and maintenance manuals. The full cost of such operation and maintenance is fully compensated for by the Fixed Monthly Fee and Service Hour Rate.
  
2. **Substantial Deviations from Plan.** In the event of any substantial deviation from the Vehicle Acquisition Plan attached to the RFP, CONTRACTOR may request a re-negotiation of the then-applicable Fixed Monthly Fee and/or Service Hour Rate. As used in this subsection, the term "substantial deviation" means that (1) the actual timing of vehicle acquisition by MCTD or GGBHTD is twelve (12) months or more later than the timing set forth or assumed in the Vehicle Acquisition Plan, or (2) more than twenty percent (20%) of the vehicles actually acquired by MCTD or GGBHTD are different in type, and have different maintenance requirements, than the vehicles listed in the Vehicle Acquisition Plan.

## SEC. 302 OPERATING PERFORMANCE STANDARDS

1. **Operation of Vehicles.** CONTRACTOR shall operate all MCTD and GGBHTD-provided vehicles in accordance with all applicable local, State, and Federal laws and regulations with regard to safety, comfort, and convenience of passengers and the general public, emphasizing accident prevention strategies and techniques.
  
2. **Service Characteristics.** CONTRACTOR shall provide all Revenue Service according to hours established by the MCTD. CONTRACTOR shall ensure that the direction, loading, departure, and general performance of vehicles are coordinated to ensure adherence to On-Time Performance standards and to achieve maximum daily route productivity.
  
3. **Capacity Denials.** CONTRACTOR shall create Manifests and schedule ADA Paratransit Services so as to ensure that there is no operational pattern or practice of capacity constraints in violation of 49 CFR Section 37.131(f). The term "Capacity Denials" shall mean any denial of multiple trip requests within the parameters set forth in Section 37.131(b)(2) of title 49 of the CFR in the same month. Section 305 sets forth the process for allowable service changes including those needed to respond to Capacity Constraints.
  
4. **At Fault Accidents/Incidents.** At Fault accidents will be measured on a per 100,000 mile basis. The term "At Fault Accident/Incident" means accidents or incidents that are determined to have been preventable under the methodology defined in CONTRACTORS Safety and Training manual.
  
5. **Road Calls.** Road calls will be measured on a monthly basis.
  
6. **On-Time Performance.** On-Time Performance will be measured by the MCTD on a monthly basis. Regional ADA paratransit Service and Local ADA paratransit Service will be reported separately. The CONTRACTOR shall strive to maintain on-time performance; however, the CONTRACTOR shall not be held responsible for failure to provide on-time service due to unusual weather, unforeseen traffic conditions, or naturally occurring disasters if sufficient documentation is provided to MCTD. The CONTRACTOR is responsible for

reporting ongoing traffic issues that affect on-time performance. The minimum On-Time Performance standards include:

1. Passengers are not required to board the vehicle until 5 minutes after the beginning of their pickup window;
  2. A trip is on-time when the vehicle arrives at the pick-up point within the MCTD defined window of 15 minutes before or 15 minutes after the scheduled pick-up time;
  3. At no time should the On-Time Performance drop below a 90% for either the Local or Regional services. This does not include times when the CONTRACTOR is late due to unforeseen circumstances such as traffic caused by roadway accidents, natural disasters, unexpected road closures, or unpredicted inclement weather.
7. **Passenger Trip Completion (Missed Trips).** A passenger Trip is considered to be a Missed Trip if the Revenue Vehicle: a) arrives and leaves before the beginning of the pickup window without picking up the rider and without any indication from the rider that they no longer want to make the trip; b) does not wait the required time within the pickup window, there is no contact with the rider, and the vehicle departs without the rider; c) arrives after the end of the pickup window and departs without picking up the rider; and d) does not arrive at the pick-up location. No trips shall be missed due to unavailability of drivers or vehicles.
8. **Passengers per Revenue Hour (PRH).** Throughout the Contract, the CONTRACTOR shall maintain and deliver an average level of Passengers per Revenue Hour that is no less than 2.0 for Local Service, 1.0 for Regional Service, and 3.0 for Non-ADA Service measured on a monthly basis. For purposes of this Contract, Passengers per Revenue Hour shall be calculated by dividing the number of Marin Access Paratransit passenger trips delivered to the scheduled destinations in a month by the number of Revenue Hours in that month.
9. **Capacity Constraints.** CONTRACTOR shall create Manifests and schedule ADA Paratransit Services so as to ensure that there is no operational pattern or practice of capacity constraints in violation of 49 CFR Section 37.131(f). The term "Capacity Constraints" shall mean any denial of multiple trip requests within the parameters set forth in Section 37.131(b)(2) of title 49 of the CFR in the same month. Section 305 sets forth the process for allowable service changes including those needed to respond to Capacity Constraints.

## SEC. 303 SCHEDULES

1. CONTRACTOR shall operate the MCTD's Demand Response Services in accordance with the budgeted and approved Revenue Hours established by the MCTD.

## SEC. 304 ASSUMED ANNUAL REVENUE HOURS

**Provision of Service.** Attachment A: Estimated Activity Levels by Tier reflects the anticipated range of annual demand for Complementary ADA Paratransit and Non-ADA Demand Response Services during the term of the contract.

## SEC. 305 ALLOWABLE SERVICE CHANGES

### 1. **Description of Services Changes.**

- a. Authority of MCTD. The MCTD may modify or adjust the services provided under this Contract at any time in response to changes in demand.
- b. Allowable Service Changes. Allowable modifications and adjustments may include: extending, deleting from, or adding to Marin Access service area and a corresponding revision of Services; temporarily increasing vehicles in operation to avoid or address a capacity constraint in violation of Section 37.131(f)(3) of the Code of Federal Regulations; reallocating, decreasing or increasing Revenue Hours or the frequency of service; or modifying requirements or scope relating to the maintenance of vehicles (hereafter collectively referred to as "Service Changes"). Except as provided in subsection F of this Section, changes in Revenue Vehicle fleet mix do not constitute a Service Change for purposes of this Section.

### 2. **Process for Service Changes.**

- a. Proposed Changes. MCTD and CONTRACTOR will periodically evaluate ridership changes, changes in hours of service demand, productivity of the subscription master files, Passengers Per Revenue Hour, capacity constraints, and On-Time Performance to determine if a service change is appropriate.

### 3. **Other Service.** If MCTD determines that other services should be added to its system, MCTD reserves the right, in its sole discretion, to implement those other services through this Contract, or to separately procure and contract for those other services from an alternate provider.

### 4. **Special Services.** If MCTD determines that Special Services are needed to meet a particular transit need within the scope of this Contract (e.g. special event service, emergency planning exercises, MCTD sponsored activities), MCTD shall provide notice to CONTRACTOR of the Special Services to be provided and the date on which the provision of such services shall commence. Given the very nature of Special Services, MCTD may itself be provided limited advanced information and notice of requests. However, MCTD will endeavor to provide CONTRACTOR with as much advance notice as feasible. CONTRACTOR shall be compensated for Special Services on the basis of the then applicable Service Hour Rate.

- a. CONTRACTOR shall implement Special Services in accordance with the schedule established by MCTD.

### 5. **Bus Back Up Services.** To the extent vehicles and drivers are available, paratransit service will also include prompt response to any request from a GGBHTD bus dispatcher for a paratransit vehicle to transport a passenger with disabilities from a GGBHTD fixed-route bus (bus backup service). A GGBHTD bus dispatcher shall make such a request when an incident occurs that prevents a person with a disability from being accommodated on GGBHTD fixed-route bus service and GGBHTD equipment and personnel are unavailable to provide backup service to the passenger. The passenger should be transported to his/her destination or to an accessible bus stop location where the passenger can board a GGBHTD bus to complete his/her trip. These services should be identified separately on the monthly invoice.

### 6. **Possible Rate Adjustments.**

- a. If there is a cumulative increase in revenue hours of more than fifteen percent (15%) over Tier 4 as shown in Attachment A: Estimated Activity Levels by Tier.

- b. Procedure. Any request for a rate change under this subsection shall be in writing and shall provide quantitative documentation that the Service Change in question has resulted, or will result, in additional costs to the CONTRACTOR in the operation or maintenance of Revenue Vehicles under this Contract. The MCTD is not obligated to agree to such a request but will review, discuss, and consider any such request in good faith. Any proposed rate changes that apply to the ADA paratransit services referenced herein will require the agreement of both MCTD and GGBHTD.

## SEC. 306 VEHICLE MAINTENANCE

1. **Vehicle Safety.** CONTRACTOR shall maintain all Revenue Vehicles and Support Vehicles in accordance with the manufacturers' specifications and standards and all local, State, and Federal requirements for safety, and in accordance with the CONTRACTOR Vehicle Maintenance Plan and Preventive Maintenance Program in <Attachment TBD>.
2. **Revenue Vehicle Maintenance.** CONTRACTOR shall complete from bumper to bumper all maintenance and repair of the Revenue Vehicles, including the routine replacement of components, within the Contract price; and in accordance with all manufacturers' specifications and standards, preventive maintenance manuals, and Vehicle Maintenance Plan in Attachment
  - a. CONTRACTOR shall use all OEM or OEM-approved equivalent components, parts, and fluids. CONTRACTOR may not use any non-OEM equivalent products, components, or fluids without prior written approval of MCTD and the OEM manufacturer.
3. **Availability of Equipment.** CONTRACTOR shall ensure that a minimum of eighty-five percent (85%) of all Revenue Vehicles are in operable condition and available for Revenue Service at all times. The total number of Revenue Vehicles out of service shall not exceed fifteen percent (15%) of the peak requirement for Services. All Revenue Vehicles shall, to the maximum extent feasible or as otherwise agreed, be used and maintained by classification on an equal and uniform basis so that miles are accrued evenly amongst vehicles initially placed into service during comparable periods. Maintenance activities shall be scheduled to assure that the maximum numbers of Revenue Vehicles are available for Revenue Service during peak periods. CONTRACTOR shall ensure that an adequate supply of spare parts is available in order to maintain the Revenue Vehicles on a timely basis in accordance with this Section, taking into account the lead time required for shipping, customs clearance, and other transportation and delivery requirements.
4. **MCTD & GGBHTD Inspection.** The MCTD and GGBHTD reserve the right, in their sole discretion at any time and either directly or through a CONTRACTOR, to review CONTRACTOR's maintenance records and inspect and reject temporarily or permanently, by notice to CONTRACTOR, any vehicle CONTRACTOR proposes to use or subsequently utilizes that MCTD or GGBHTD deems unacceptable due to uncleanliness, appearance, mechanical failure, or safety concerns.
5. **Pre-trip and Post-trip Inspections.** CONTRACTOR shall ensure that all vehicle operators conduct a daily vehicle pre-trip inspection prior to being placed in service and a post-trip inspection at the end of service. Vehicle operators shall immediately report defects identified during the pre-trip inspection to a designated

CONTRACTOR operations staff member. In addition, all defects reported on CONTRACTOR-provided pre-trip/post-trip inspection form shall be validated by CONTRACTOR maintenance staff. The MCTD and GGBHTD may, without prior notice, perform random inspections of the daily pre-trip/post-trip inspection forms as well as monitor vehicle operators during their inspections. CONTRACTOR shall make necessary repairs, adjustments, or additions at CONTRACTOR's sole expense, prior to placing any Revenue Vehicle in service. CONTRACTOR shall maintain inspection forms as required by Department of Transportation regulations, and MCTD may review such inspection forms during the Contract Term.

6. **Defects.** Any defects noted by the vehicle operator inspector shall be noted on a pre-trip/post trip inspection form. Appropriate action shall be taken by CONTRACTOR to correct defective items noted in a defect report prior to the operation of the Revenue Vehicle.
7. **Records.** A written record of all inspections and repairs shall be kept by CONTRACTOR. As requested, CONTRACTOR shall provide inspection and repair reports to MCTD.
8. **Unsafe Vehicles.** Revenue Vehicles shall not be operated with defects or other required repairs that make them unsafe to operate.
9. **Repair Standards.** CONTRACTOR shall ensure that all repair work is performed by maintenance personnel who have demonstrated experience and documented training in the work to be done. Maintenance personnel shall have the necessary equipment and tools to perform any authorized work.
10. **Major Engine and Transmission Overhauls.** When CONTRACTOR determines that a major engine or transmission overhaul is required, CONTRACTOR shall notify vehicle owner, MCTD or GGBHTD. The MCTD or GGBHTD may, in its discretion, retire the vehicle, have the overhaul performed by a third party, perform the repairs themselves, or direct CONTRACTOR to perform such work. If CONTRACTOR performs the work, the payment to CONTRACTOR will be for replacement engines or transmissions (as the case may be). CONTRACTOR shall use all OEM or OEM-approved components during routine maintenance and overhauls. CONTRACTOR may not use any non-OEM equivalent products, components, or fluids without prior written approval of MCTD or GGBHTD and the OEM manufacturer. MCTD or GGBHTD shall not pay for Major Engine and Transmission overhauls on CONTRACTOR owned vehicles.
11. **Preventive Maintenance Program.** CONTRACTOR shall follow the Preventive Maintenance Program in <Attachment TBD> and shall perform preventive maintenance in accordance with the intervals, specifications, and procedures set forth in the manufacturers' operations and maintenance manuals, including staffing, level of expertise, and reporting forms. Preventive maintenance should, to the maximum extent feasible, be conducted during off peak periods, and should be conducted in an expeditious manner to minimize the amount of time vehicles are out of Revenue Service. Any material changes to the maintenance program shall be provided to MCTD. CONTRACTOR shall perform all weekly, monthly, and yearly preventive maintenance as scheduled in CONTRACTOR's Preventive Maintenance Program. See Attachment I – Marin Access Reporting Requirements.
12. **PMI Repairs.**
  - a. **Inspection.** Without notice, MCTD may perform random Revenue Vehicle inspections in order to determine if the schedules for PMIs are being adhered to and the Revenue Vehicles are being maintained in accordance with all local, State, and Federal requirements for safety and in

accordance with all manufacturers' maintenance recommendations and warranties. The MCTD expects and requires the Revenue Vehicles to be maintained in good operating condition.

- b. **Repair Schedule.** The MCTD will submit inspection reports to CONTRACTOR, and all noted open items shall be completed by CONTRACTOR within fifteen (15) calendar days. If the repair items are safety related, the Revenue Vehicle shall not be permitted to re-enter service until all the repairs are completed and signed off on by a MCTD maintenance representative. A copy of the completed Inspection Report shall be returned to CONTRACTOR's maintenance representative of the Facility in which the Revenue Vehicle is housed and shall be signed by CONTRACTOR's maintenance representative. The PMI will be considered incomplete if items listed on the discrepancy sheet(s) are not properly repaired within the prescribed time period.

- 13. **Road Calls.** CONTRACTOR shall provide a monthly report to MCTD Project Manager disclosing the number of valid mechanical road calls in the calendar month. The report shall be provided to MCTD no later than ten (10) Days following the reported month electronically via email or on paper, if so requested by MCTD. Alternatively, Road Calls may be reported on a per occurrence basis in MCTD provided TransTrack software.
- 14. **Graffiti.** CONTRACTOR shall immediately remove or cover graffiti on all Revenue Vehicles and support vehicles including any graffiti on advertising.
- 15. **Fueling.** Revenue Vehicles used for the services under this Contract shall be fueled by CONTRACTOR at Marin County Civic Center Fleet facility at times specified by Marin County officials. CONTRACTOR may fuel vehicles at other locations with the prior approval of MCTD.
- 16. **Specific Maintenance Items.** CONTRACTOR shall maintain the vehicle operators' First Aid kits, fire extinguishers and other required safety equipment.
- 17. **Fire Suppression.** CONTRACTOR shall perform an annual Fire Suppression and portable extinguisher PMI and certification on all Revenue Vehicles, and shall be responsible for the annual charging of the fire suppression bottles on all Revenue Vehicles. CONTRACTOR shall follow all Federal, State, and local guidelines in conducting these inspections, and shall use a certified technician to perform any inspections or repairs.
- 18. **Personal Protective Equipment.** CONTRACTOR shall be responsible for provision of personal protective equipment (PPE) needed to protect operators and riders during normal operations. PPE may include: gloves, first aid kits, biohazard kits, etc.
- 19. **Electrical repairs.** CONTRACTOR shall ensure that all electrical work is performed in accordance with the vehicle manufacturers' specifications and standards. Branching of wires, direct wiring, or circumventing safety systems by by-passing circuit protection devices is prohibited. When necessary to re-wire a particular system or systems differently than what is shown in the electrical schematic, CONTRACTOR must obtain prior approval from the OEM manufacturer.
- 20. **Breakdowns and Accidents.** In the event of a Revenue Vehicle breakdown, accident, or other event rendering the Revenue Vehicle unfit for service, CONTRACTOR shall provide a replacement vehicle within thirty (30) minutes after the vehicle operator reports (or should have reported) the occurrence.

21. **Heating and Air Conditioning.** CONTRACTOR shall perform an annual heating and air conditioning preventive maintenance inspection on all Revenue Vehicles. If the heating or air conditioning on a Revenue Vehicle fails to function properly while in service, CONTRACTOR shall provide a replacement Revenue Vehicle within thirty (30) minutes after the failure was reported (or should have been reported).
22. **Warranties.** CONTRACTOR shall be responsible for managing all Revenue Vehicle-related warranty repairs.
23. **Inventory.** CONTRACTOR shall maintain an adequate inventory of spare parts, supplies, tools, and other equipment to conduct maintenance and repairs on vehicles and other equipment in a timely manner in order to assure the capability of providing full Revenue Service at all times as required by this Contract.
24. **Tires.**
- a. CONTRACTOR Obligation. CONTRACTOR shall be responsible for providing tires for the performance of the Contract.
  - b. Tire Replacement
    - i. CONTRACTOR is also responsible for ensuring that vehicles are equipped with safe and functional tires and that there is an adequate stock of tires on hand at all times, including at the end of the Contract Term. All replacement tires shall be properly sized and load-rated for vehicle weight and duty type, and only new (non-recap or grooved) tires may be utilized on the vehicle steering axle.
    - ii. At the completion or termination of the Contract, CONTRACTOR shall return all Revenue Vehicles with useable tires free and clear of any lien. Any tire lease entered into by CONTRACTOR shall not exceed the base Contract Term and the period of any option term exercised by MCTD.
  - c. Obligation to Recycle. CONTRACTOR shall be responsible for recycling all worn out and replaced tires.
25. **Condition Upon Return.** Upon termination of this Contract (for whatever reason), CONTRACTOR shall be responsible for ensuring, and shall warrant to MCTD, that the Revenue Vehicles have been properly serviced and maintained and are in good repair, in accordance with this Contract. CONTRACTOR shall return such Vehicles to MCTD in sound mechanical condition, Normal Wear and Tear excluded. The inspection process for this assessment is described in subsection G of this Section.
26. **Turnover Inspection and Audit Process.**
- a. General Requirements. CONTRACTOR shall be responsible for return of all Revenue Vehicles and Equipment to MCTD in the condition in which CONTRACTOR received those Revenue Vehicles and Equipment (with the exception of Normal Wear and Tear) including body condition, system condition and function, all ancillary equipment (intact and functional), and overall vehicle operation and performance. This requirement extends to fare boxes and any other MCTD-provided equipment. Prior to the termination of this Contract, MCTD, CONTRACTOR, and the new contractor (if any) taking over operations and maintenance responsibility for MCTD, shall participate in the Revenue Vehicle, Facilities, and Equipment turnover inspection and audit process set forth in this subsection.

- b. Third Party Inspections. The detailed turnover inspection and audit will be performed by an independent third party selected by MCTD that is experienced in paratransit operations and maintenance and vehicle and equipment inspections. The MCTD shall be responsible for the expenses of the audit. The third-party inspector will conduct individual inspections on each Revenue Vehicle prior to the return of each Revenue Vehicle to MCTD. Such inspections will be timed to ensure that any necessary repairs are completed and will require that CONTRACTOR conduct any needed repairs.
- c. Purpose. As the owner of certain assets, MCTD is committed to protecting those assets and ensuring that MCTD's contractors maintain the assets in good repair. This inspection process is one means used by MCTD to so protect those assets. The purpose of the inspection and audit will be to establish the condition of the Revenue Vehicle fleet and the Equipment, as of the audit date, to determine if the Revenue Vehicles and Equipment have been maintained in accordance with the standards required under this Contract, and to determine the specific repairs and maintenance that needs to be performed by Revenue Vehicle, Facility, or Equipment item in order to ensure that all Revenue Vehicles, Facilities, and Equipment will meet the requirements set forth in this Section and the other Contract Documents.
- d. Process. Once the independent third-party inspector has completed its inspection, MCTD will release the results of the inspection report to the outgoing CONTRACTOR and MCTD's incoming contractor. CONTRACTOR shall be responsible for promptly completing all repairs and/or maintenance identified during the inspection and audit as necessary to meet such condition requirements by the Contract termination date, and shall also be responsible for the cost of all such repairs and maintenance.
- i. Following the completion of repairs indicated on the initial inspection report, MCTD may require the independent third party inspector to conduct an item-by-item re-inspection of the Revenue Vehicles, Facilities and Equipment to verify whether satisfactory repair of MCTD assets has been completed. Any re-inspection report shall include the third party inspector's cost estimate for outstanding repairs, parts, materials and labor (at fair market rates) for work not completed.
  - ii. Any repair identified on a re-inspection report shall be addressed at CONTRACTOR's cost, subject to verification and sign off by MCTD (or MCTD's designee), on an item-by-item basis and, at MCTD's sole discretion, may be performed by CONTRACTOR or another entity subject to MCTD's approval. The process of inspection, re-inspection, and repair of the Revenue Vehicles and Equipment shall continue until the date that the incoming contractor assumes responsibility for Revenue Service under a subsequent contract. Nothing in this Section shall be interpreted to relieve CONTRACTOR of its obligation to maintain MCTD-provided assets during the transition period. Further, the cost of any repairs identified on a re-inspection report that are not completed by the initiation of Services under a contract immediately subsequent to this Contract shall be withheld by MCTD from CONTRACTOR's final invoice under this Contract. The amount of the funds withheld will be sufficient to effectuate the identified repairs that have not been completed by CONTRACTOR to MCTD's satisfaction.
- e. Final Day of Transition. During the twenty-four (24) hours prior to the Commencement Date of the new contract (as set out in the transition schedule established by MCTD), the new contractor assuming responsibility for Revenue Service will conduct a final quick inspection of the Revenue Vehicle fleet and note any safety items or body damage. The MCTD, the outgoing CONTRACTOR, and the incoming contractor shall also be on hand for that inspection to verify the incoming contractor's

findings. The independent third party, selected by MCTD, may also be present at the final inspection and will facilitate the final turnover process. Any items identified in this final inspection in addition to items previously identified by the third-party inspector may serve as a basis for MCTD to withhold amounts from CONTRACTOR's final invoice in accordance.

- f. **Disputes.** If any dispute arises in the turnover inspection and audit process, MCTD shall first attempt to facilitate the resolution of such dispute through meetings and conferences with CONTRACTOR and the new contractor. If the dispute remains unresolved for thirty (30) calendar days, MCTD may invoke an expedited mandatory arbitration process, using an outside neutral arbitrator selected by MCTD with the concurrence of CONTRACTOR and the new contractor, for a final and binding decision on all matters in dispute. In the absence of concurrence, MCTD shall obtain a list of potential arbitrators from the American Arbitration Association and shall select the neutral arbitrator from that list after consultation with the parties. Prior to binding arbitration, MCTD shall require the parties to participate in a mediation process conducted by a neutral third party selected jointly by the parties. CONTRACTOR and the new contractor shall participate in the mandatory arbitration process and the mediation process. In addition, MCTD may choose, in its discretion, to participate in the arbitration and mediation processes. During the disputes process, MCTD may, in its discretion, direct CONTRACTOR to continue the process of repairing Revenue Vehicles, Facilities, and Equipment. If appropriate, the arbitration may address cost allocation for repairs if that allocation is in dispute.
- g. **Consent of Parties.** By execution of this Contract, MCTD and CONTRACTOR hereby consent to the mediation and arbitration process described in paragraph f and further agree to comply fully with any resulting arbitration decision, subject to any rights to contest such decision in accordance with applicable State law.
- h. **Costs.** The costs of any mediation or arbitration under this subsection shall be borne equally by CONTRACTOR and the new contractor.
- i. **Documentation.** If CONTRACTOR claims any Equipment as its property at the end of the Contract Term, it shall support that claim with invoices and other appropriate evidence of ownership.

## SEC. 307 VEHICLES – CLEANING AND APPEARANCE

1. **General Obligation.** CONTRACTOR shall be responsible for the appearance of all Revenue Vehicles and Support Vehicles and shall maintain the cleanliness of vehicles in accordance with the performance standards set forth in this Section and CONTRACTOR's Vehicle Maintenance Plan.
2. **Standards.** CONTRACTOR shall clean and maintain all Revenue Vehicles used by CONTRACTOR in carrying out services under this Contract in accordance with the following standards: The CONTRACTOR will ensure the cleanliness of each vehicle prior to the commencement of each service day. The exterior of each vehicle will be kept clean from road dust, mud, tar, grime, and graffiti. Vehicles will be washed frequently enough to ensure a professional appearance while maintaining compliance with rainwater and runoff regulations.
  - a. The interior floor of each vehicle will be kept swept and mopped by the CONTRACTOR.
  - b. The interior of each vehicle will be thoroughly cleaned at least once every two weeks. This complete cleaning will include (but not be limited to) ceiling, walls, area behind the seats, floors, operator's area and dash, ancillary equipment, and windows.
  - c. Seats will be cleaned regularly and marks and stains removed promptly. Seats that are worn, excessively stained, or torn will be replaced.

- d. The interior will be maintained free from roaches and other vermin at all times. The CONTRACTOR is expressly prohibited from using any vermin control product that would be hazardous to the health and well-being of the passengers and operator of such vehicle.
- e. The interior passenger compartment of each vehicle will be free of noxious odors from cleaning products, vermin control products, and exhaust fumes emitted by the engine of such vehicle.
- f. Dependent upon the national and state level status with the COVID-19 pandemic, the CONTRACTOR will continue MCTD's safety cleaning, which includes daily clean and disinfect in-service vehicles with an emphasis on high touch areas, spot clean high touch areas during service hours, provide elevated cleaning if a vehicle is reported to have carried an infected or potentially infected person, use EPA-List N disinfectants applied through methods outlined in the APTA or EPA/CDC recommendations, until such time as MCTD notifies the CONTRACTOR to discontinue the COVID cleaning protocol.

## SEC. 308 FACILITY USE AND OPERATIONS

1. **MCTD Obligations.** The MCTD shall provide Facilities adequate for the provision of Contract services. MCTD shall be responsible for all permitting and environmental compliance requirements relating to the operation of those Facilities.
2. **Contractor Obligations.** Contractor shall be responsible for Hazmat and OSHA compliance and inspection.
3. **Kerner Facility.**
  - a. **Contractor Responsibilities**
    - i. **Permitted Use.** CONTRACTOR may use the premises during its service hours on Monday through Friday and on weekends. CONTRACTOR shall conduct its operations in a safe, orderly, courteous, and professional manner, and shall follow any directions or instructions provided by Marin Transit.
    - ii. **Prohibited Use.** CONTRACTOR shall not use the Property or Premises for any purpose other than as specifically authorized by this Agreement.
    - iii. **Facility Access.** CONTRACTOR shall coordinate with MCTD to control access to the facility through use of a key card system.
    - iv. **Utilities.** Contractor shall be responsible for provision and cost of utilities at 3000 Kerner facility including but not limited to, electricity, water, internet and data, and garbage collection.
      1. **Internet and Data.** Internet and data plan provided must include sufficient bandwidth to support utilization of all technology systems required for provision of services. Service must include redundancy and a failover service to ensure seamless operations. Contractor is responsible for provision of any and all equipment needed to ensure internet access, such as routers and firewall.

- 2. **Phone Lines.** Contractor shall use District provided phone numbers, including but not limited to the list below and will assist with porting of phone numbers from the incumbent contractor. All phone numbers used for operation of Marin Access services and programs are the property of the District and shall be returned to the District at the end of the contract or should the contract be terminated.

Program	Phone Number
Dial-A-Ride	415-892-7899
Travel Navigator	415-454-0902
Para Scheduling	415-454-0964
Para Cancellation	415-457-4630
CAR Scheduling	855-760-0920

- v. **IT and Technology.** CONTRACTOR shall be responsible for IT support for technology provided to support operations including but not limited to: fleet management software, operational add-ons for Trapeze software products, and staff computers. CONTRACTOR shall be responsible for updates to phone system messaging through coordination with MCTD and GGBHTD staff.
- vi. **Compliance with Laws.** CONTRACTOR shall not do or permit anything to be done in, on or about the Property and Premises, or bring or keep anything in, on or about the Property and Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation (collectively "laws") now in force or which may hereafter be enacted or promulgated by any public authority. CONTRACTOR shall be solely responsible for any and all costs associated with noncompliance with any such laws.
- vii. **Hazardous Materials.** No hazardous materials shall be handled, stored, transported or otherwise kept at any time upon the Property and Premises, other than gasoline, diesel fuel, oil or petroleum products contained in vehicles permitted to operate thereon by this Agreement. CONTRACTOR shall bear full and exclusive responsibility for any release of hazardous or nonhazardous chemicals or substances arising from its use of the Property and Premises. In the event of such release, CONTRACTOR shall immediately notify MCTD. CONTRACTOR shall be solely responsible for all claims and expenses associated with the response to, removal and remediation of the release, including, without limit, payment of fines or penalties levied against GGBHTD or MCTD by any agency as a result of the release and shall hold harmless, indemnify and defend (with counsel satisfactory to GGBHTD and MCTD) GGBHTD and MCTD from any claims arising from such release. This indemnification shall survive the termination of this Agreement.

For purposes of this section only, the term "claims" shall include (i) all notices, orders, directives, administrative or judicial proceedings, fines, penalties, fees or charges imposed by any governmental agency with jurisdiction, and (ii) any claim, cause of action or administrative or judicial proceeding brought against the indemnified party, its directors, officers, employees or agents, or for any loss, cost (including reasonable attorneys' fees), damage or liability, sustained or suffered by any person or entity, including the indemnified party.

- viii. **Contractor's Obligations.** No alterations shall be made to the Premises by CONTRACTOR, including paving and alterations to fencing and gates without the prior written permission of MCTD. If the Property and Premises or any improvement located on the Premises and Property, including the secured gate access at the entrance and the access control mechanisms controlling the automatic gates access to the Property are damaged or destroyed by CONTRACTOR use, CONTRACTOR shall, at its sole cost and expense, repair the Property and Premises or improvement located thereon, to the condition it was in before damaged or before CONTRACTOR use, after securing MCTD approval of plans to repair said damage or authorization to use MCTD designated repair services.
- ix. **Assumption of Risk.** CONTRACTOR shall assume all risk of damage to any and all property of CONTRACTOR and MCTD vehicles and equipment and any injury to persons upon the Property and Premises associated with its use, except for any damage or injury caused solely by the active negligence or willful misconduct of the MCTD. CONTRACTOR waives all claims, demands and lawsuits and releases MCTD from any and all liability CONTRACTOR may have against MCTD concerning the Property and Premises or CONTRACTOR use of said Property and Premises.
4. **Parking Facilities.** The MCTD shall enter in a Revocable License Agreement for the use of two parking locations on property owned by the Golden Gate Bridge Highway and Transportation District. The facilities are located at 1011 Andersen Dr, San Rafael, CA and at 801 Golden Gate Place, Novato, CA. Detailed maps of the locations are included as Attachment X to this agreement. The facilities are provided "as-is" with an access gate, security camera, and night-time roving security.
- a. **Contractor Responsibilities.**
- i. **Permitted Use.** CONTRACTOR shall enter the property and use the premises designated by GGBHTD using the access route designated in Attachment X. CONTRACTOR shall abide by the five miles per hour speed limit within the property boundaries. CONTRACTOR may use the premises during its service hours on Monday through Friday and on weekends. CONTRACTOR shall conduct its operations in a safe, orderly, courteous, and professional manner, and shall follow any directions or instructions provided by GGBHTD and Marin Transit.
- ii. **Prohibited Use.** CONTRACTOR shall not use the Property or Premises for any purpose other than as specifically authorized by this Agreement. CONTRACTOR shall not in any interfere with GGBHTD use of the Property. CONTRACTOR shall use only the Premises and access to the Premises as shown in Attachment X.
1. **1011 Andersen Location.** CONTRACTOR shall not obstruct or block secured areas of the Property and shall yield to GGBHTD's employees and invitees and their vehicles entering and exiting the Property. CONTRACTOR shall not maintain or repair its vehicles on the Property or in the Premises, except for emergency repairs

or maintenance. Parking of paratransit vehicles and employee vehicles is limited to parking within the Premises in the designated parking area shown in Attachment X. No parking is permitted in GGBHTD'S Employee Parking Lot.

2. **801 Golden Gate Place Location.** CONTRACTOR shall use only the Premises and access to the Premises designated by GGBHTD in Attachment X. Licensee shall not obstruct or block the private railroad crossing, shall yield to SMART trains, shall not obstruct the private street access or gate access to the adjacent property owner, North Marin Water District, the secured areas of the Property and shall yield to GGBHTD's buses, employees and their vehicles entering and exiting the Property. CONTRACTOR shall not maintain or repair its vehicles on the Property or in the Premises, except for emergency repairs or maintenance. Parking of paratransit and Marin Connect dial-a-ride vehicles and its contractors' vehicles is limited to parking within the Premises in the designated parking area shown in Attachment X. No parking is permitted in the Licensor employee parking lot
- b. **Site Facilities.** CONTRACTOR shall be responsible for contracting for and provision of small storage shed and port-a-let facilities at each site.
  - c. **Compliance with Laws.** CONTRACTOR shall not do or permit anything to be done in, on or about the Property and Premises, or bring or keep anything in, on or about the Property and Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation (collectively "laws") now in force or which may hereafter be enacted or promulgated by any public authority. CONTRACTOR shall be solely responsible for any and all costs associated with noncompliance with any such laws.
  - d. **Hazardous Materials.** No hazardous materials shall be handled, stored, transported or otherwise kept at any time upon the Property and Premises, other than gasoline, diesel fuel, oil or petroleum products contained in vehicles permitted to operate thereon by this Agreement. CONTRACTOR shall bear full and exclusive responsibility for any release of hazardous or nonhazardous chemicals or substances arising from its use of the Property and Premises. In the event of such release, CONTRACTOR shall immediately notify MCTD. CONTRACTOR shall be solely responsible for all claims and expenses associated with the response to, removal and remediation of the release, including, without limit, payment of fines or penalties levied against GGBHTD or MCTD by any agency as a result of the release and shall hold harmless, indemnify and defend (with counsel satisfactory to GGBHTD and MCTD) GGBHTD and MCTD from any claims arising from such release. This indemnification shall survive the termination of this Agreement.

For purposes of this section only, the term "claims" shall include (i) all notices, orders, directives, administrative or judicial proceedings, fines, penalties, fees or charges imposed by any governmental agency with jurisdiction, and (ii) any claim, cause of action or administrative or

judicial proceeding brought against the indemnified party, its directors, officers, employees or agents, or for any loss, cost (including reasonable attorneys' fees), damage or liability, sustained or suffered by any person or entity, including the indemnified party.

- e. **Contractor's Obligations.** No alterations shall be made to the Premises by CONTRACTOR, including paving and alterations to fencing and gates without the prior written permission of GGBHTD. If the Property and Premises or any improvement located on the Premises and Property, including the secured gate access at the entrance and the access control mechanisms controlling the automatic gates access to the Property are damaged or destroyed by CONTRACTOR use, CONTRACTOR Licensee shall, at its sole cost and expense, repair the Property and Premises or improvement located thereon, to the condition it was in before damaged or before CONTRACTOR use, after securing GGBHTD approval of plans to repair said damage or authorization to use GGBHTD designated repair services.
- f. **Assumption of Risk.** CONTRACTOR shall assume all risk of damage to any and all property of CONTRACTOR and MCTD vehicles and equipment and any injury to persons upon the Property and Premises associated with its use, except for any damage or injury caused solely by the active negligence or willful misconduct of the GGBHTD. CONTRACTOR waives all claims, demands and lawsuits and releases the GGBHTD and MCTD from any and all liability CONTRACTOR may have against GGBHTD and MCTD concerning the Property and Premises or CONTRACTOR use of said Property and Premises.

## SEC. 309 EQUIPMENT

1. **MCTD Responsibility.** The MCTD shall provide CONTRACTOR with the Scheduling/Dispatch Equipment necessary to support the operation and maintenance of Services under this Contract. The Equipment provided by MCTD is listed in Attachment D.
2. **CONTRACTOR Responsibilities.** CONTRACTOR shall provide all Equipment necessary to support the operation and maintenance of Contract services with the exception of 1) Capital equipment and spare parts for any new MCTD-purchased vehicles; 2) Radio system; and 3) Scheduling/Dispatch Equipment necessary to support the operation and maintenance of services under this contract.

## SEC. 310 VEHICLE AND EQUIPMENT INVENTORY

1. **Initial Equipment Inventory.** The MCTD shall provide CONTRACTOR with an initial inventory and list of all Equipment to be provided. The existing Equipment and other property owned or leased by MCTD may be utilized only for the provision of Services by CONTRACTOR during the term of the Contract.
2. **Equipment Inventory.** The CONTRACTOR shall maintain an inventory of all equipment provided by the MCTD throughout the life of the contract. Inventory documentation shall be made available to the MCTD staff upon request.
3. **Obligation to Return Equipment.** CONTRACTOR shall be responsible for returning to MCTD at the termination of this Contract Equipment that is of equivalent type, value (as of the date acquired), and condition as the Vehicles and Equipment identified in the initial inventory and Equipment list, Normal Wear and Tear excluded.

4. **Final Equipment Inventory.** The MCTD shall conduct a final inventory prior to the conclusion of the Contract Term. If any Equipment or other property is determined, on the basis of a comparison to the initial inventory, to be missing, damaged, otherwise unavailable for use, or in a condition that is in excess of Normal Wear and Tear, CONTRACTOR shall be responsible for either replacing such Equipment, tools, or other property or compensating MCTD for its replacement value. The MCTD may deduct any amounts due to MCTD for the replacement of Equipment or property from the final monthly payment due to CONTRACTOR.
5. **Sales of Surplus Property.** CONTRACTOR shall, in consultation with MCTD, identify any MCTD Equipment or other property that it believes to be obsolete or no longer needed for Services. The MCTD may sell or otherwise dispose of such property in accordance with State and Federal law. The proceeds of any such sale shall be the property of MCTD.

## SEC. 311 FAREBOXES AND FAREBOX MAINTENANCE

1. **MCTD Obligations.** MCTD and GGBHTD shall provide fareboxes to CONTRACTOR on all new vehicles. CONTRACTOR shall be responsible for farebox maintenance. Farebox maintenance shall include ensuring securement to the vehicle and clearing jammed fareboxes.
2. **CONTRACTOR Obligations.** CONTRACTOR's vehicle operators shall record and maintain all data necessary for the satisfactory operation of the farebox.
3. **Farebox Key Controls.** The MCTD shall issue CONTRACTOR farebox keys to enable CONTRACTOR staff to access MCTD fare boxes. CONTRACTOR shall be responsible for adhering to the following procedures and requirements: (1) maintaining a written log of all personnel issued farebox keys, which shall be made available to MCTD upon request; (2) implementing safeguards to inspect key inventory quarterly; (3) collecting keys from personnel who are no-longer employed by CONTRACTOR; and (4) reporting in the log all keys acquired to replace lost, stolen, or otherwise unaccounted for keys. CONTRACTOR shall be responsible for the cost of replacing any lost or stolen keys it is issued and shall be responsible for the cost of re-keying all fare boxes in the event that any key has been lost, stolen, or otherwise cannot be accounted for.

## SEC. 312 FARE STRUCTURE

1. **MCTD and CONTRACTOR Responsibilities.** The MCTD shall determine the fare rate and fare structure for Complementary ADA Paratransit Local Services and Non-ADA Demand Response Services and GGBHTD shall determine the fare rate and fare structure for Complementary ADA Paratransit Regional Services. The MCTD and GGBHTD reserve the right, in their discretion, to implement any fare adjustments deemed appropriate subject to any required public hearing process. CONTRACTOR shall be responsible for implementing and complying with MCTD and GGBHTD's fare policy and structure. Fares are calculated by the TripSpark PASS system at the time of booking.
2. **Methods of Payment.** CONTRACTOR shall accept all means of payment approved by MCTD, including, but not limited to, cash, tickets, credits, Clipper, and electronic payments. Passengers may pay roundtrip at the time of boarding for intercounty trips. The CONTRACTOR will be responsible for issuing Marin Access branded receipts at the riders request as well as for issuing a roundtrip voucher to the clients (valid only on the date of issue).

3. **Promotional Tickets.** Should MCTD offer any promotional tickets, the printing and distribution of promotional ride tickets will be the responsibility of the MCTD. Tracking of ride tickets will be the responsibility of the Contractor.
4. **Electronic Payment.** The tracking and management of value added to individual or organization accounts via electronic payment will be the responsibility of the contractor.

## SEC. 313 FARE COLLECTION

1. **CONTRACTOR Obligations.**
  - a. **Fare Collection.** Collect fares in a manner that complies with the MCTD's established and published fare policy.
  - b. **Fare Recording.** CONTRACTOR's vehicle operators shall record each passenger boarding by fare type, including recording of non-fare boarding. CONTRACTOR shall retain any tickets or tokens collected in place of cash, for the purpose of fare verification.
  - c. **Fare Retention and Documentation.** CONTRACTOR will retain the cash fares collected as partial payment of the monthly invoice. TripSpark PASS software will document the dollar value of the fares required to be collected. Each month, the CONTRACTOR will deduct the total cash fares required to be collected from the amount invoiced.
2. **Changes.** The MCTD may make changes to the fare collection and recording process. CONTRACTOR shall cooperate in implementing any such changes and shall implement appropriate procedures consistent with all such changes.

## SEC. 314 FUEL

1. **CONTRACTOR Obligation.** The MCTD will provide CONTRACTOR with access to the fueling facilities at the Marin County Civic Center Fleet facility. CONTRACTOR is responsible for training staff on appropriate fueling practices, maintaining proper conduct during fueling, reporting any issues with fuel sensors, and working within the County of Marin fueling guidelines with respect to fueling times and access to fuel islands.

## SEC. 315 SAFETY, SECURITY, AND EMERGENCY MANAGEMENT

1. **CONTRACTOR Obligations.** CONTRACTOR shall be responsible for the safety and security of the passengers and the Vehicles, Systems, and Equipment provided by the MCTD for the CONTRACTOR's use, and for providing a safe workplace for its employees in the performance of Vehicle and Equipment maintenance responsibilities. CONTRACTOR shall work cooperatively with MCTD staff, other contractors, and local, State and Federal representatives in developing and implementing safety and security procedures. CONTRACTOR shall provide MCTD with a copy of its Safety, Security, and Emergency Management Program (to be updated annually and made part of this document as <Attachment TBD>). CONTRACTOR's Safety, Security, and Emergency Management Program will be complementary to any MCTD Emergency Response, Safety and Communications Plans. CONTRACTOR will also develop and implement a plan that meets the criteria set forth in 49 CFR Part 673 for FTA's Public Transportation Agency Safety Plan (PTASP). CONTRACTOR'S plan will be incorporated into Marin Transit's agency plan and updated annually.

## 2. **CONTRACTOR Personnel.**

- a. Responsible Staff. CONTRACTOR, as part of its Staffing and Personnel Plan, shall designate its operations and safety/training managers to direct the CONTRACTOR's safety, system security and emergency preparedness programs. This staff person shall have sufficient training and experience to assist the MCTD in the coordination of emergency preparedness activities, write and amend the CONTRACTOR's Emergency Operations Plan, Continuity of Operations Plan and Emergency Preparedness Plan, and generate required reports. The designated managers will be asked to participate in Marin Emergency Operations Center exercises and training, and will complete the following National Incident Management System (NIMS) training courses within the first three months of the contract: IS-700-National Incident Management System, An Introduction and ICS100 – Introduction to the Incident Command System. Both courses are available through an interactive web-based program. Information on NIMS training is available at:  
[https://www.fema.gov/pdf/emergency/nims/nims\\_training\\_program.pdf](https://www.fema.gov/pdf/emergency/nims/nims_training_program.pdf)

MCTD will work with CONTRACTOR to identify appropriate emergency management training for staff and certification programs for designated managers.

- b. Attendance at Meetings. CONTRACTOR shall require its operations manager to participate, on behalf of CONTRACTOR, in regular meetings and special meetings with MCTD as requested. See Attachment K – Marin Access Meeting List.
- c. Activities. CONTRACTOR shall be required to participate in activities in support of the MCTD's efforts to meet and prepare for emergencies. As directed by MCTD staff, CONTRACTOR's operations manager shall participate in select exercises and training opportunities under the Marin County Emergency Operations Center. CONTRACTOR's managers assigned to system security and emergency preparedness shall coordinate these events with the designated MCTD staff and additional CONTRACTOR staff if required, and shall arrange for the use of appropriate MCTD assets if needed.
- d. Training. CONTRACTOR shall ensure that training of all Managers, Supervisors, and Front Line employees follows Federal, local, state recommendations, and includes:
  - i. Training in emergency and incident response and personal security training (e.g., Drug Free Work Place Initiatives, Amber Alert and Community Safe House Programs, Employee Assistance Programs, and Workplace Violence Prevention and Awareness Programs); and
  - ii. Safety/OSHA related training (e.g., first aid, personal protective equipment, etc.).
  - iii. Training in the Americans with Disabilities Act and associated regulations
  - iv. All areas of required training for proficiency in specific roles
- e. CONTRACTOR shall conduct refresher and/or re-training on an annual basis.
- f. CONTRACTOR shall maintain documentation of training and shall provide it to the MCTD upon request.

## 3. **Emergencies.**

- a. Response by CONTRACTOR. Upon verbal or written authorization from MCTD Project Manager, CONTRACTOR shall respond to emergency situations within Marin County with CONTRACTOR personnel and MCTD-owned vehicles. In the event of a major emergency or natural disaster, such as a fire, flood, or man-made catastrophe, CONTRACTOR shall make labor, management, transportation, and communications resources available to the extent feasible for emergency assistance. CONTRACTOR will deploy vehicles in a manner determined by the Marin County Mass Transportation and Evacuation Plan (DRAFT June 2010).

- b. Record keeping. MCTD will be obligated to compensate CONTRACTOR for emergency service that significantly exceeds the normal expense of operating the service. MCTD will provide CONTRACTOR with systems to document costs for paratransit staff hours, vehicle operating hours, and miles over and above the baseline cost of maintaining normal service. CONTRACTOR will provide documentation of all costs related to emergency service within 5 business days of an incident.
  - c. Safety. CONTRACTOR shall be responsible for the safety of its personnel and for any worker's compensation claims that might result from performance of emergency service.
4. **FTA Required Public Transportation Agency Safety Plan.** CONTRACTOR will develop and implement a plan that meets the criteria set forth in 49 CFR Part 673 for FTA's Public Transportation Agency Safety Plan (PTASP). CONTRACTOR'S plan will be incorporated into Marin Transit's agency plan and updated annually.
5. **Audits.** CONTRACTOR shall conduct a self-audit on safety, security, and emergency preparedness on an annual basis. CONTRACTOR shall also participate in periodic MCTD audits and monitoring. These audits/monitoring will be based upon Federal, State, and local programs and guidelines, audit results, and MCTD-established policies and procedures. The MCTD may conduct site visits of the Facilities at any time during the Contract Term for purposes of audits and monitoring. CONTRACTOR shall make available any and all records, files, logs and associated documentation to the MCTD's designated representatives as requested. CONTRACTOR shall also assist the MCTD during any local, State, or Federal safety or security audits.
6. **Reporting.** CONTRACTOR shall be responsible for regular reporting of information to the MCTD relating to system safety and security. The following is a reference list of required reports and the timing of the report.
- a. Monthly.
    - i. Security and Emergency Incident Report.
    - ii. NTD Safety and Security Report.
    - iii. Training sessions completed related to system safety and emergency. Training should be classified as either CONTRACTOR-required or a Federal or State requirement.
  - b. Quarterly.
    - i. Safety meeting agenda, attendance, and minutes, including corrective actions taken as a result of items identified through the safety committee.
  - c. Semi-Annually.
    - i. OSHA Hazard Analysis.
  - d. Annually.
    - i. Results of annual self-audit.
    - ii. Year End Trend Analysis, to be included in Monthly Safety/Security incident Trend Analysis.
    - iii. Additional information required for NTD

As other reports are required by local, State or Federal agencies, the CONTRACTOR will be notified of its responsibility to provide those reports and information.

6. **Workplace Safety.** CONTRACTOR shall provide a safe workplace and safe working environment for all staff and all operations/maintenance activities, in accordance with required Federal, State, and local

requirements. CONTRACTOR shall exercise reasonable care in discovering and preventing violations and in correcting identified hazards.

## SEC. 316 ADVERTISING

1. **MCTD Rights and Responsibilities.** The MCTD shall be responsible for marketing, public relations, and advertising services for all Marin Access programs and services, and its decisions on all such matters shall be final. The MCTD shall establish the terms and conditions of any interior or exterior vehicle advertising, including the selection of advertising contractors. Proceeds of any advertisement shall be the sole property of the MCTD.
2. **CONTRACTOR Obligations.**
  - a. Cooperation. CONTRACTOR shall cooperate with MCTD in the implementation of MCTD's marketing and advertising activities.
  - b. Rider Alerts. CONTRACTOR shall be responsible for posting, or otherwise making available on board, passenger information provided by MCTD.
  - c. Facilitation. CONTRACTOR shall make requested vehicles available at the assigned maintenance facilities for installation, repair, and maintenance of advertising upon a minimum of twenty-four (24) hour notice, unless it notifies MCTD in advance that it cannot comply due to operational requirements. CONTRACTOR shall permit access to any Revenue Vehicles available in the yard for advertising activities so long as it does not impact service requirements.
  - d. Monitoring. CONTRACTOR shall monitor advertising installations and shall report to MCTD's Advertisement Department any quality concerns, including the lifting of advertisements, paint damage, or safety violations that occur, within forty-eight (48) hours of the time CONTRACTOR observes or should have observed that concern(s). This report should be supported by photos and include, to the extent possible, the estimated cost of any necessary repairs.
  - e. Graffiti. CONTRACTOR shall immediately remove or cover graffiti on all advertising.
  - f. Responsibility for Damages. CONTRACTOR shall be responsible for any damage to MCTD Equipment, Revenue Vehicles, or advertising to the extent that such damage results from actions or omissions taken by CONTRACTOR or any of its employees, agents, or subcontractors. CONTRACTOR shall not be responsible for any such damage to the extent caused by the action or omission of MCTD's advertising contractor or other third parties. CONTRACTOR may, at MCTD's discretion, also be responsible for repairs without compensation for such work if CONTRACTOR fails to provide MCTD with timely notice of quality concerns.
  - g. Unused Advertising Space. In the event that there is unsold exterior advertising space on MCTD or GGBHTD owned vehicles, CONTRACTOR will have the right to use this space for driver recruitment advertisements. CONTRACTOR will be responsible only for direct cost of advertisement preparation and installation.

## SEC. 317 COOPERATION WITH OTHER AGENCIES AND CONTRACTORS.

1. **Cooperation with Other Contractors.** CONTRACTOR acknowledges that one or more other contractors of MCTD have certain responsibilities regarding the provision of transit or paratransit services in Marin County. CONTRACTOR agrees to cooperate and coordinate fully with such other contractors when appropriate, and further agrees not to interfere with such other contractors in the performance of their respective duties.

## ARTICLE 4 – MOBILITY MANAGEMENT CALL CENTER RESPONSIBILITIES

### SEC. 401 CALL CENTER PERFORMANCE STANDARDS

1. **Operation of Call Center.** The Marin Access Mobility Management Call Center is designed to help older adults and individuals with disabilities in Marin County understand and utilize their transportation options within the County and larger Bay Area. The Mobility Management Center is staffed by a team that is responsible for (1) Scheduling of trips for all Complementary ADA Paratransit Services and Non-ADA Services, (2) High quality customer service, including call center services and in-person public outreach, (3) Eligibility determination and enrollment for all Marin Access services, including Complementary ADA paratransit, Non-ADA services, STAR and TRIP Volunteer Driver Reimbursement programs, and the low-income fare assistance program, (4) Administration of the District's low-income fare assistance program and management of the STAR and TRIP Volunteer Driver reimbursement programs.
  - a. CONTRACTOR shall operate the Call Center and related responsibilities in accordance with all stated policies and procedures.
  - b. Call Center staff who regularly assist the public in person, over the phone, and via email will identify themselves as "Marin Access Travel Navigators." The following bullet points describe the tasks and responsibilities that Travel Navigators regularly assume to respond to all requests for transportation information and eligibility, assist callers or visitors with eligibility applications, and provide technical assistance or problem resolution.
    - i. Contractor will provide Complementary ADA Paratransit and Non-ADA Demand Response scheduling services in both English and Spanish during all business hours with staffing to ensure the appropriate coverage will be provided between 8am and 5pm every day.
    - ii. Contractor staff must be available to answer this phone number during all business hours. Travel Navigators will respond to calls with a standard, scripted greeting provided by Marin Transit. Outside of these hours, calls will be transferred to a machine or other method to record messages. Contractor will respond to these messages during business hours.
    - iii. While performing their duties, Travel Navigators employed by Contractor must maintain a clean and neat appearance and must wear employee badges that clearly display the employee's name, position, and photo, as well as the Marin Transit or Marin Access logo.
    - iv. Travel Navigators must have sufficient knowledge and training to provide high level customer support and problem resolution. Travel Navigators shall have subject area expertise in the following: Americans with Disabilities Act (ADA) regulations as they relate to paratransit and public transit; regional and local paratransit eligibility process; ADA regulations and best practices regarding paratransit eligibility; all Marin Transit and Marin Access programs including the fixed route bus routes; and other transportation options available in Marin County.
    - v. Travel Navigators should be able to effectively and appropriately interact with and provide service to persons who are very elderly and/or have a disability. Contractor will provide travel training services, including group presentations and individualized travel training via phone, virtual conference, and/or in-person.
  - c. Call Center Personnel will be able to provide information to customers including, but not limited to, the following:
    - i. Marin Transit and Marin Access programs and services;
    - ii. Other available private, public, and non-profit transportation programs that support mobility in Marin County;

- iii. Clipper Card, including Senior Clipper Card and RTC Card enrollment;
  - iv. Contact information for fixed-route customer service in Marin County and other Bay Area counties;
  - v. Comprehensive transportation counseling based on the consumer's needs;
  - vi. Specific trip planning as appropriate;
  - vii. Technical support, advice, and assistance to aid Marin Access consumers in utilizing online tools available to schedule, manage and pay for rides on Marin Access and Marin Transit services. The District will provide Contractor with training on all user-facing online tools developed by Marin Transit.
  - viii. Travel Navigators will work with new and existing customers to review their travel needs and patterns, help them understand the available services, and develop individual mobility plans.
  - ix. Travel Navigators are required to assist potential riders with filling out all required paperwork deemed necessary for eligibility.
  - x. In-person counseling and eligibility interviews shall occur in a private office to ensure that personal information is not compromised.
- d. Contractor will assess and determine eligibility for all Marin Access programs, including Complementary ADA Paratransit, Non-ADA Demand Response Services, Volunteer Driver Programs (STAR/TRIP), Low Income Fare Assistance (LIFA), and Travel Training.
- i. To determine eligibility, Contractor will follow guidelines determined by Marin Transit and set forth under the ADA.
  - ii. Contractor will enter all applicant data into relevant databases or software and update customer information to ensure it is current and accurate.
  - iii. Contractor will distribute rider orientation material on all Marin Access programs. Marin Transit will develop and design all printed materials. Depending on the nature of the material, it will be printed by either Marin Transit or Contractor. Printing and mailing costs incurred by Contractor will be reimbursed as part of the monthly billing process.
  - iv. Travel Navigators will determine applicant eligibility for the District's low-income fare assistance program and assign or distribute tickets or credits to qualified riders.
- e. Contractor's Project Manager or designated staff will respond promptly to customer complaints and, if appropriate, coordinate such responses with District staff. Contractor will record all complaints, suggestions, and commendations in the District's TransTrack data management system and assign them to the appropriate supervisor at Marin Transit or contractor. Procedures must be established to ensure that project management staff is aware of passenger complaints and operational problems. All customer complaints and comments must be logged and reported to Marin Transit in a timely manner.
- f. Contractor will maintain office hours at rotating satellite locations throughout Marin County. Contractor will not be required to bear any cost associated with office space at off-site locations.
- g. Travel Navigators participate in District's travel training related group program outreach presentations and provide on-site eligibility determinations as appropriate.

## **2. Marin Access and ADA Paratransit Eligibility Determination**

- a. The Contractor will conduct Marin Access and ADA eligibility assessments for the Marin Access suite of programs, on behalf of Marin Transit and GGBHTD.
- b. Applicants will submit applications to the Travel Navigators by email; online; or by mail. Marin Transit will provide email log-in information to existing web-based platforms used for eligibility determination.

- c. Travel Navigators are required to assist potential riders with filling out all required paperwork deemed necessary for eligibility.
- d. Upon receipt of a completed application packet, Travel Navigator will verify the functional abilities, disabilities, and/or medical information described and provided by the applicant by interviewing the applicant by phone. Travel Navigator will clarify with the applicant any documentation issues and/or concerns that may exist in the certification process and answer any questions or concerns of the applicant regarding the service, process, expectations, and/or reasonable modifications.
- e. If the applicant is unable to participate in a telephone-based interview, or if an interview via telephone is inconclusive or ineffective, Travel Navigator will interview the applicant in person at the Travel Navigator Offices.
- f. Marin Transit will provide paratransit applicants with paratransit transportation at no charge to and from an applicant's residence to the interview site if requested by the applicant. Applicants are allowed one personal care attendant that can provide assistance to the applicant throughout the eligibility certification process. Contractor will coordinate with Marin Transit and the applicant in advance to schedule those rides.
- g. Contractor's interview will evaluate the applicant's physical, cognitive, and visual limitations. At this time, Marin Transit does not require functional assessments of applicants but reserves the right to do so during the term of this contract. Such a functional assessment will evaluate the applicant's functional and cognitive abilities to perform various skills necessary to take a trip on public transit independently. Contractor will continue the interview with the applicant until Contractor has sufficient information to make an eligibility determination for that applicant. However, if the interview is not determinative, Contractor will conduct a medical verification.
- h. PROFESSIONAL VERIFICATION: All applicants are required to submit a professional verification form as part of their application for ADA Paratransit. If the eligibility forms do not yield sufficient information to establish eligibility, then Contractor shall obtain additional information about the applicant's disability by contacting the most appropriate licensed professional. The applicant must provide contact information for the licensed professional who is most knowledgeable about the applicant's disability or medical condition.
- i. Upon completion of the interview and the potential medical verification, Contractor will determine whether the applicant is eligible, and, if eligible, the duration of the eligibility. Contractor determines eligibility based on ADA-defined eligibility, which defines three categories of eligibility (see 49 CFR Section 37.123€ (1)-(3)). If Contractor determined an applicant is eligible, Contractor then determines the duration and extent of eligibility (Temporary; Conditional; or Unconditional). For applicants with acute short-term medical needs, such as chemotherapy or radiation treatment, Marin Transit will grant temporary unconditional eligibility. If conditional eligibility is granted, Contractor determines under which conditions the applicant can use paratransit. Contractor will also determine whether the applicant will usually travel with a personal care attendant, use any mobility aids, or travel with a service animal.
- j. Contractor must ensure that its documentation is true and accurate when recording eligibility information in the database(s) provided by Marin Transit and during all record keeping processes. Evaluations not fully documented, or which require clarification are considered incomplete. Once an eligibility determination is made the Contractor will, within the required 21 days, prepare a summary of their evaluation and the basis for their eligibility determination, prepare and mail the written determination ("Eligibility Determination Letter") to the applicant, and save the Eligibility Determination Letter in the appropriate location(s) as identified by Marin Transit.

- k. For approved applicants, the Eligibility Determination Letter will have, at a minimum, the customer's ID number, whether the eligibility is temporary or conditional, and if temporary or conditional, what time constraints or conditions apply, and the duration of eligibility. Any ADA paratransit eligible clients, other than those receiving unconditional eligibility, who disagrees with the Contractor's determination have the right to appeal the decision. Marin Transit will facilitate the appeals process. For all ADA paratransit eligible clients not determined to have unconditional eligibility, the Eligibility Determination Letter will also inform him or her of his or her right to appeal decision and will provide instructions on how to submit the appeal. Eligibility Determination Letters must be sent by Contractor within three (3) business days of the eligibility determination being made and within the ADA required 21 days for the entire certification approval process.
  - l. For ineligible applicants, Contractor will explain in the Eligibility Determination Letter why the applicant has been denied eligibility. Contractor will also inform him or her of his or her right to appeal the decision and will provide instructions on how to submit an appeal. Marin Transit will facilitate the appeals process.
3. Program Management and Administration
- a. Non-ADA Demand Response Services
    - i. Non-ADA Demand Response Services are intended to increase same-day mobility for Marin Access and paratransit eligible riders.
    - ii. Marin Transit has an existing agreement with Uber to provide technology that will allow the District to use agency owned accessible vehicles to provide same-day transportation services. These services will be offered in concentrated areas within the County with the goals of expanding the same-day transportation services offered in accessible vehicles and encouraging short first/last mile connections to the existing transit network. The Uber technology will allow users to register and request rides using a smartphone or personal computer. Travel Navigators will provide customer and scheduling support over the phone to riders unfamiliar or uncomfortable with signing up and booking rides through the online tools.
    - iii. Manage consumer accounts and monitor usage to ensure they are in compliance with protocols established by the District. The District reserves the right to change the Non-ADA Demand Response service customer usage protocols that will be in effect at the beginning of the Agreement term.
    - iv. Ensure service quality and help prevent service-related problems from providers and avoid misuse of the program by customers and contractors.
    - v. Support the Non-ADA Demand Response Services for those in need including eligibility, trip booking, and trip management as appropriate.
  - b. Volunteer Driver Program (STAR and TRIP)
    - i. Since 2011, Marin Access has administered and supported two non-traditional volunteer driver programs (VDP) based on the TRIP (Transportation Reimbursement and Information Program) model. Under this model, riders recruit their own drivers and reimburse them for mileage costs using funds from the sponsoring agency (in this case, Marin Transit). In East Marin, the program is known as STAR. In West Marin, the program is known as TRIP. TRIP in West Marin is slightly different than STAR because West Marin Senior Services occasionally recruits and vets volunteer drivers and matches them with riders who need assistance.
    - ii. Contractor will:

1. Receive and process reimbursement requests from program participants monthly. Drivers of eligible trips are reimbursed at a rate of \$.60 per mile in east Marin County and \$.60 per mile in west Marin County, with payment to come through the hands of the rider to the driver. Except in extenuating circumstances approved by the District, riders can qualify for up to 100 miles per month in east Marin County and 400 miles per month in west Marin County. All proposed changes to the reimbursement rate and the policy on reimbursable miles must be approved in advance by the District.
  2. Ensure that program participants meet program requirements as described in the Program Rider and Driver Handbooks. This will include eligibility requirements, volunteer driver specifications, geographic boundaries, prohibition on reimbursements for rides already reimbursed by other programs, and monthly mileage caps.
  3. Verify that VDP does not reimburse rides where the driver is a family member of the rider. A hardship exception to this rule is allowed with the approval of the District Mobility Management staff.
  4. Assist VDP customers in identifying potential driver candidates, provide marketing and publicity to effectively publicize the program to potential volunteers and riders, monitor service quality and effectiveness, and prevent fraud.
  5. Provide all other components, services, or resources necessary for the successful operation of the current or future VDP, including those not specified in this Agreement.
  6. Invoice MCTD on a monthly basis for all reimbursements paid to riders or their delegate.
- c. Low Income Fare Assistance Program
- i. In July 2020, Marin Transit introduced a comprehensive fare assistance program for Marin Access eligible riders. Eligible participants receive \$20 of credit per month to use for trips on local paratransit or Non-ADA Demand Response Services. Eligible riders can opt-in to receive a free pass to use on Marin Transit local bus service.
  - ii. Contractor will:
    1. Receive and process eligibility applications for the Low-Income Fare Assistance program.
    2. Confirm current Medi-Cal eligibility or annual income falls within the acceptable threshold.
    3. Perform annual recertification processing for all participants.
    4. Manage consumer accounts and monitor usage to ensure compliance with protocols established by the District. The District reserves the right to change the Low-Income Fare Assistance customer usage protocols that will be in effect at the beginning of the Agreement term.
    5. Ensure service quality and help prevent service-related problems from providers and avoid misuse of the program by customers and contractors.
    6. Provide all other components, services, or resources necessary for the successful operation of the current or future LIFA program, including those not specified in this Agreement.
4. Provide input on all Marin Access facing marketing materials. Documents can be found at <https://marintransit.org/brochures>.

5. Conduct or participate in a minimum of 12 Customer Information sessions and/or workshops annually. The Contractor shall maintain documentation of all such workshops with records of attendance and all instructional materials provided to attendees.
6. In conjunction with Marin Transit, participate in the Paratransit Appeals Committee when customers submit appeals regarding paratransit services (Suspension Appeals / Eligibility Appeals).
7. Develop, implement, and administer a Customer feedback system, which shall include quality assurance call monitoring and post-trip telephone calls to a sample of riders to solicit information about the quality of the ride. Customer feedback shall also include telephone and in-person processing of Customer complaints and commendations; All Customer complaints and commendations are to be entered into Marin Transit's Trans Track system for tracking. In addition, Contractor will perform an annual Customer satisfaction survey using sample size requirements and questions approved by the District.
8. Provide management participation in and statistical reporting to regular customer-oriented meetings, including the Marin Paratransit Coordinating Council, the Advisory Committee on Accessibility of the GGBHTD, the Marin Mobility Consortium and the Housing and Transportation Committee of the Marin Commission on Aging.
9. **Service Characteristics.** CONTRACTOR shall provide all Call Center services according to hours established by the MCTD. CONTRACTOR shall ensure that all personnel roles and requirements ensure adherence to Call Center Performance standards.
10. **Average Hold Time.** Average Hold time will be measured on a monthly basis and shall include hour-by-hour averages for each day of the month. CONTRACTOR is required to ensure that average hold times do not result in capacity constraints as detailed in Sec. 302 J.
11. **Capacity Constraints.** CONTRACTOR shall operate the Call Center so as to ensure that there is no operational pattern or practice of capacity constraints in violation of 49 CFR Section 37.131(f). Section 305 sets forth the process for allowable service changes including those needed to respond to Capacity Constraints.
12. **Reporting, Coordination, and General Administration**
  - a. The Contractor will be required to attend all meetings and/or training sessions as identified by Marin Transit. The Contractor may be excused from attendance only by prior written consent from Marin Transit.
  - b. Use District's TransTrack data management system to monthly record and report on call center and eligibility operations and trip data as detailed in the Reporting Requirements section. Monthly narrative reports shall be provided to District at a standing meeting with a copy to be provided via written communication. Provide periodic reports as defined by Marin Transit staff.
  - c. Track volunteer driver program usage to ensure that annual mileage reimbursements do not exceed available program funds.
  - d. Support Marin Transit led marketing efforts for programs managed or operated under this contract. As requested by Marin Transit, contact riders and volunteer drivers by telephone for follow-up discussions or surveys.

## SEC. 402 SCHEDULES

1. CONTRACTOR shall operate the Mobility Management Call Center in accordance with the budgeted and approved Call Center hours established by the MCTD.

2. Demand Response Scheduling Software. The MCTD uses TripSpark PASS v18 as its software application for demand response services scheduling. All trips shall be scheduled using TripSpark PASS scheduling software. CONTRACTOR is responsible for ensuring that all dispatch and scheduling staff are trained on the most recent version of PASS. CONTRACTOR is responsible for coordinating with MCTD staff to ensure that the scheduling software is used to maximum advantage for efficiently scheduling and dispatching paratransit trips. CONTRACTOR will be required to work with Marin Transit and TripSpark software to facilitate any upgrades or changes to the software and settings throughout the period of the Contract. CONTRACTOR and MCTD will jointly determine the most appropriate time to implement upgrades based on the stability of the product. CONTRACTOR agrees to become familiar with new innovations that may be implemented in future versions of the software and utilize them as requested to ensure maximum efficiency going forward.
  - a. TripSpark PASS scheduling software is hosted by TripSpark and TripSpark staff perform most routine maintenance tasks for PASS. Access to the scheduling system will be provided to the CONTRACTOR via a web connection. The CONTRACTOR must provide adequate desktop computers necessary for the scheduling staff and call center personnel / dispatchers to interact with the software. The CONTRACTOR must make available adequate and appropriate space at their location for all Marin Transit network equipment that will be provided for the operation of the system.
  
3. Eligibility Platform. The MCTD uses a custom eligibility platform built in TransTrack as its software application for Complementary ADA Paratransit, Non-ADA Demand Response service, and all Marin Access service eligibility and administrative tasks. CONTRACTOR is responsible for ensuring that all call center personnel are trained on the most recent version of the Eligibility Platform. CONTRACTOR is responsible for coordinating with MCTD staff to ensure that the platform is used to maximum advantage for efficiently managing eligibility and administrative tasks. CONTRACTOR will be required to work with Marin Transit and TransTrack software to facilitate any upgrades or changes to the software and settings throughout the period of the Contract. CONTRACTOR and MCTD will jointly determine the most appropriate time to implement upgrades based on the stability of the product. CONTRACTOR agrees to become familiar with new innovations that may be implemented in future versions of the software and utilize them as requested to ensure maximum efficiency going forward.
  - a. TransTrack software is hosted by TransTrack and TransTrack staff perform most routine maintenance tasks for the Eligibility Platform. Access to the Eligibility Platform will be provided to the CONTRACTOR via a web connection. The CONTRACTOR must provide adequate desktop computers necessary for the scheduling staff and call center personnel to interact with the software. The CONTRACTOR must make available adequate and appropriate space at their location for all Marin Transit network equipment that will be provided for the operation of the system.

## SEC. 403 ASSUMED ANNUAL CALL CENTER VOLUMES

**Provision of Service.** Attachment A: Estimated Activity Levels by Tier reflects the anticipated annual demand for Mobility Management Call Center services during the term of the contract:

## SEC. 404 ALLOWABLE SERVICE CHANGES

### 7. Description of Services Changes.

- a. Authority of MCTD. The MCTD may modify or adjust the programs provided under this Contract at any time in response to changes in demand.
- b. Allowable Program Changes. Allowable modifications and adjustments may include: adjusting program eligibility policies or procedures; the addition or deletion of programs or aspects of programs; adjustments to administrative policies and procedures; and adjustments to reporting requirements.

**8. Process for Service Changes.**

- b. Proposed Changes. MCTD and CONTRACTOR will periodically evaluate program eligibility, program participation, and industry standards, or peer agency offerings, to determine if a service change is appropriate.

9. **Other Service**. If MCTD determines that other programs should be added to its offerings, MCTD reserves the right, in its sole discretion, to implement those other programs through this Contract, or to separately procure and contract for those other services from an alternate provider.

10. **Special Services**. If MCTD determines that Special Services are needed to meet a particular need within the scope of this Contract (e.g. special limited term program(s), scenario planning exercises, MCTD sponsored activities), MCTD shall provide notice to CONTRACTOR of the Special Services to be provided and the date on which the provision of such services shall commence. Given the very nature of Special Services, MCTD may itself be provided limited advanced information and notice of requests. However, MCTD will endeavor to provide CONTRACTOR with as much advance notice as feasible. CONTRACTOR shall be compensated for Special Services on the basis of the then applicable Fixed Fee.

- a. CONTRACTOR shall implement Special Services in accordance with the schedule established by MCTD.

**11. Possible Rate Adjustments.**

- a. If there is a cumulative increase in call center volumes of more than fifteen percent (15%) over Tier 4 as shown in Attachment A: Estimated Activity Levels by Tier.
- b. Procedure. Any request for a rate change under this subsection shall be in writing and shall provide quantitative documentation that the Service Change in question has resulted, or will result, in additional costs to the CONTRACTOR in the operation or maintenance of Revenue Vehicles under this Contract. The MCTD is not obligated to agree to such a request but will review, discuss, and consider any such request in good faith.

## SEC. 405 SCHEDULING/DISPATCH SYSTEM

**1. General Requirements.**

- a. Objectives of Scheduling/Dispatch System. The MCTD shall provide CONTRACTOR with the use of the Scheduling/Dispatch System that is designed to: increase efficiency; promote and enhance overall system quality through tracking schedule adherence; provide the technology and means for more accurate and reliable scheduling / dispatching; validate CONTRACTOR billing; provide more accurate and timely information and data on system and CONTRACTOR performance; and provide assistance in documenting incidents and accidents.

- b. CONTRACTOR Obligation to Utilize. CONTRACTOR is required to properly use MCTD's Scheduling/Dispatch System for the scheduling and dispatch of MCTD and Marin Access Demand Response service. This software is to be accessed by the CONTRACTOR via the internet. CONTRACTOR is responsible for providing all desktop computers and related equipment to be used by call center personnel, dispatchers, and supervisors as well as primary and secondary internet connections
- c. Service Productivity. CONTRACTOR shall utilize the Scheduling/Dispatch System to ensure daily schedules are as efficient as possible while remaining within the confines of the ADA (Americans with Disabilities Act of 1990).
- d. Reporting. CONTRACTOR will ensure complete and accurate data is transmitted between Scheduling/Dispatch System and TransTrack ensuring accurate monthly invoices and program statistics.
- e. Reporting of Malfunctions. In the event the Scheduling/Dispatch System malfunctions, the CONTRACTOR will work to resolve the issues through coordination with MCTD personnel and will notify the appropriate MCTD personnel of any effect on service delivery, monthly invoices, or statistical reporting. Failures affecting service delivery for the paratransit system (i.e. inoperable scheduling/dispatch software) shall be reported to MCTD immediately.

## 2. **Operator Use and Training.**

- a. General Requirements. CONTRACTOR shall administer an MDT Operator Training Program. This Training Program shall include information on the purpose, objectives, capabilities, and key features of the MDT; procedures for logging into the system at the start of operations and for logging off at specified times or events; procedures for using MDT for communication with dispatchers; procedures for determining fares to be collected, and actions or steps to be taken in the event of system problems or malfunctions.
- b. Training. CONTRACTOR shall assure that all vehicle operators are fully trained in the use of the onboard MDT equipment in accordance with the MDT Operator Training Program. The CONTRACTOR shall also assure that all dispatch and scheduling staff are fully trained in the use of the Communications System as it pertains to their functions within the Paratransit Program. The CONTRACTOR shall provide the MCTD with the MDT Operator Training Program documents and shall update and provide documents annually or as requested.
- c. Mandatory Use. CONTRACTOR shall assure that each vehicle operator logs into the MDT, ensures that the System is functioning properly at the commencement of the vehicle operator's run or operation, and uses the MDT throughout his or her daily operation of a Revenue Vehicle. CONTRACTOR shall consistently monitor these requirements and shall enforce and remedy any failure of a vehicle operator to comply.
- d. Elements of Training. CONTRACTOR shall assure that all vehicle operators are specifically trained on the following tasks:
  - i. Logging onto the MDT
  - ii. Break logins;
  - iii. Reading the MDT display;
  - iv. Using the text messaging (canned messages) features of the MDT;
  - v. Using canned messages to communicate;
  - vi. Acknowledging data messages from dispatch;
  - vii. Performing ride events including arrival and departure;
  - viii. Navigation using the GPS features of the MDT;
  - ix. Reading and adhering to schedules on the MDT;

- x. MDT error messages
- xi. Reading and adhering to fare collection on the MDT; and
- xii. Logging out.

### 3. **Dispatcher Use and Training.**

- a. General Requirements. CONTRACTOR shall administer a Scheduling/Dispatching System Training Program. This Training Program shall include information on the purpose, objectives, capabilities, and key features of the Scheduling/Dispatching System; methods and procedures for monitoring late passenger trips, early departures, fare collection, service accidents and incidents; procedures for logging in by the dispatcher in the event of vehicle operator failure; and requirements for maintaining dispatch logs and incident logs.
- b. Training. CONTRACTOR shall ensure that each individual involved in dispatching is fully trained in the use of the Scheduling/Dispatching System and equipment, in accordance with the Dispatcher Training Program. The CONTRACTOR will ensure that communications on the Radio system is kept to a minimum by proper use of the MTDs and that all communications held over the radio are as concise and professional as possible. CONTRACTOR will also comply with any training required by the Marin Emergency Radio Authority (MERA) for operators' use of the radio system in the ADA Paratransit Program. The CONTRACTOR shall provide the MCTD with the Dispatcher Training Program documents and shall update and provide documents annually or as requested.
- c. Mandatory Use. CONTRACTOR shall require its dispatchers to log in or connect vehicle operators to the Scheduling/Dispatch System in the event a vehicle operator fails to take that action upon commencement of the vehicle operator's run or operations to the full capability of the Scheduling/Dispatch System, its equipment, materials, and components.
- d. Elements of Training. CONTRACTOR should provide training at hire and refresher training bi-annually for all Dispatchers. CONTRACTOR shall assure that all dispatchers are specifically trained on the following tasks:
  - i. Startup and shutdown of the TripSpark PASS application;
  - ii. Trip scheduling;
  - iii. Login and logout procedures;
  - iv. Monitoring and managing of service delivery (proper scheduling order, lateness avoidance, etc.);
  - v. Monitoring information flow to the MDTs;
  - vi. Understanding and controlling the map display;
  - vii. Voice call management;
  - viii. Data message management;
  - ix. Incident report management;
  - x. Handling emergencies; and
  - xi. Reporting mechanical issues to maintenance and assisting vehicle operators with the assessment of problems to ensure their accurate description.

### 4. **Call Center Personnel Use and Training**

- a. General Requirement. CONTRACTOR will handle all incoming requests for rides, eligibility, and information & referral seven (7) days per week.
- b. Staffing Levels. CONTRACTOR shall maintain, at a minimum, a staffing level in accordance with its Staffing and Personnel Plan. CONTRACTOR shall provide a complement of trained call center personnel during all hours of operations with the collective ability to communicate effectively in English and Spanish. If the CONTRACTOR's staffing proposal does not achieve the Contract

Performance Standards, the CONTRACTOR is required to staff up, at no additional cost to the MCTD, until the staffing level successfully maintains the quality standard.

- c. **Scheduling.**
  - i. Marin Access Paratransit Service is an advanced reservation service. Riders may reserve a ride up to seven (7) days in advance. However, in accordance with the Americans with Disabilities Act, riders may call as late as the close of business (5:00 pm) on the day before the requested trip to make a reservation. The CONTRACTOR may negotiate trip pick-up times with a passenger consistent with FTA guidance as provided in Circular 4710.1 section 8.4.5 and other FTA guidance and best practices as may be appropriate.
  - ii. Non-ADA Demand Response services require a mix of advance or same day reservation service. Riders may reserve a ride on-demand or up to seven (7) days in advance.
- d. **Training.** CONTRACTOR shall ensure that each individual involved in scheduling is fully trained in the use of the Scheduling/Dispatching System and equipment, in accordance with the Call Center Personnel Training Program.
- e. **Mandatory Use.** CONTRACTOR shall require its call center personnel to log into to the Scheduling/Dispatch System upon commencement of their shift.
- f. **Elements of Training.** CONTRACTOR should provide training at hire and refresher training bi-annually for all call center personnel. CONTRACTOR shall assure that all call center personnel are specifically trained on the following tasks:
  - i. Startup and shutdown of the TripSpark PASS application;
  - ii. Trip scheduling;
  - iii. Login and logout procedures;
  - iv. Monitoring and managing of service delivery (proper scheduling order, lateness avoidance, etc.); and
  - v. Understanding and controlling the map display.

## 5. **Maintenance.**

- a. **General Requirements.** CONTRACTOR will be responsible for the maintenance and repair of the Scheduling/Dispatch System, including all the equipment, materials, and systems therein, in accordance with industry standards and with the manufacturers' manuals, standards, specifications, and instructions for proper maintenance and repair. The MCTD shall be responsible for all modifications, major repairs, or replacement of MDT units.
- b. **Annual Fees.** MCTD will be responsible for paying all costs associated with the annual licensing fees for the Scheduling/Dispatch System.
- c. **Reporting.** CONTRACTOR shall be responsible for promptly reporting all Scheduling/Dispatch System maintenance problems to MCTD and recording such problems for tracking purposes. CONTRACTOR will make every effort to correct the maintenance problem as soon as feasible.
- d. **User Logins.** CONTRACTOR shall maintain and provide, upon request, a list of all active users of the Dispatching/Scheduling System.
- e. **Change of Equipment.** The MCTD may replace one or more components of the Scheduling/Dispatch System during the life of this Contract. CONTRACTOR will cooperate in any change of equipment and/or software and will ensure their staff are trained in the proper use of any new system put in place.

- 6. **Data Collection.** CONTRACTOR shall be responsible for regularly reviewing all information collected or reported on the Scheduling/Dispatch System, and for making all such information available to MCTD upon its request.

## SEC. 406 ELIGIBILITY PLATFORM

1. General Requirements.
  - a. Objectives of Eligibility Platform. The MCTD shall provide CONTRACTOR with the use of the Eligibility Platform that is designed to act as a repository for all eligibility and administrative data for Marin Access programs.
  - b. CONTRACTOR Obligation to Utilize. CONTRACTOR is required to properly use MCTD's Eligibility Platform to perform eligibility and administration tasks for the Mobility Management Call Center. This software is to be accessed by the CONTRACTOR via the internet. CONTRACTOR is responsible for providing all desktop computers and related equipment to be used by call center personnel, dispatchers, and supervisors as well as primary and secondary internet connections
  - c. Service Productivity. CONTRACTOR shall utilize the Eligibility Platform to perform tasks related to eligibility and administration.
  - d. Reporting. CONTRACTOR will ensure complete and accurate data is input into the Eligibility Platform ensuring accurate monthly invoices and program statistics.
  - e. Reporting of Malfunctions. In the event the Eligibility Platform malfunctions, the CONTRACTOR will work to resolve the issues through coordination with MCTD personnel and will notify the appropriate MCTD personnel of any effect on service delivery, monthly invoices, or statistical reporting. Failures affecting service delivery for the Mobility Management Call Center shall be reported to MCTD immediately.
2. **Call Center Personnel Use and Training.**
  - a. General Requirement. CONTRACTOR will handle all incoming requests information and eligibility seven (7) days per week.
  - b. Staffing Levels. CONTRACTOR shall maintain, at a minimum, a staffing level in accordance with its Staffing and Personnel Plan. CONTRACTOR shall provide a complement of trained call center personnel during all hours of operations with the collective ability to communicate effectively in English and Spanish. If the CONTRACTOR's staffing proposal does not achieve the Contract Performance Standards, the CONTRACTOR is required to staff up, at no additional cost to the MCTD, until the staffing level successfully maintains the quality standard.
  - c. Intake and Eligibility. The eligibility process for Marin Access programs is available to all residents of Marin. Community members may submit eligibility applications via phone, online, or via paper application. The CONTRACTOR must complete eligibility determinations consistent with Marin Transit eligibility policies and the Americans with Disabilities Act as provided for in FTA Circular 4710.1 section 9 and other FTA guidance and best practices as may be appropriate.
  - d. Training. CONTRACTOR shall ensure that each individual involved in eligibility is fully trained in the use of the Eligibility Platform and equipment, in accordance with the Training Program.
  - e. Mandatory Use. CONTRACTOR shall require its call center personnel to log into to the Eligibility Platform upon commencement of their shift.
  - f. Elements of Training. CONTRACTOR should provide training at hire and refresher training bi-annually for all call center personnel. CONTRACTOR shall assure that all call center personnel are specifically trained on the following tasks:
    - i. Startup and shutdown of the Eligibility Platform;
    - ii. Login and logout procedures;
    - iii. Inputting data & appropriate use of "views" related to Marin Access programs and services;
    - iv. Monitoring and managing of eligibility; and
    - v. Understanding and monitoring performance related reports.

### 3. Maintenance.

- a. General Requirements. CONTRACTOR will be responsible for use of the Eligibility system. The MCTD shall be responsible for all modifications, adjustments, or additions to the functionality of the Eligibility System.
  - b. Annual Fees. MCTD will be responsible for paying all costs associated with the annual licensing fees and upkeep of the Eligibility System.
  - c. Reporting. CONTRACTOR shall be responsible for promptly reporting all Eligibility system maintenance problems to MCTD and recording such problems for tracking purposes. CONTRACTOR will make every effort to identify and report the maintenance problem as soon as feasible.
  - d. User Logins. CONTRACTOR shall maintain and provide, upon request, a list of all active users of the Dispatching/Scheduling System.
  - e. Change of Equipment. The MCTD may replace one or more components of the Scheduling/Dispatch System during the life of this Contract. CONTRACTOR will cooperate in any change of equipment and/or software and will ensure their staff are trained in the proper use of any new system put in place.
4. **Data Collection.** CONTRACTOR shall be responsible for ensuring data integrity and reviewing all information collected or reported on the Eligibility System.

## SEC. 407 PHONE SYSTEM

1. CONTRACTOR shall utilize the MCTD provided phone system and established phone numbers to perform all duties of the call center.
2. CONTRACTOR shall update and maintain the public facing messaging as directed by MCTD staff.
3. CONTRACTOR shall have personnel available to answer telephones from at least thirty (30) minutes prior to the first scheduled pick-up until operations end.
  - a. If Marin Access services are modified to begin earlier or later, or to end earlier or later than currently scheduled, the time period when passenger service is available shall be adjusted accordingly.
4. CONTRACTOR shall maintain an appropriate number of staff to operate the Marin Access Mobility Management Call Center.
  - a. CONTRACTOR shall add scheduling staff and telephone line(s) if MCTD determines that an unacceptable pattern or practice is established of service request callers being placed on "Hold" because insufficient personnel are available to answer telephones or handle dispatching duties. An unacceptable pattern or practice shall exist if more than five percent (5%) of callers are placed on hold for more than 180 seconds before personnel begin assisting the caller or the average initial hold time exceeds 120 seconds. Answering the telephone to ask the caller to remain on hold is not "assisting the caller." If any secondary holds are necessary, personnel shall check back with the caller at least once every minute.
5. CONTRACTOR shall maintain business office phones with a number different than the service request numbers.
6. CONTRACTOR personnel shall treat all passengers in a courteous and respectful manner consistent with the requirements of the ADA and good business practice. If MCTD determines that a pattern of indefensible passenger relations complaints is established, CONTRACTOR shall upgrade its passenger relations training program to MCTD's satisfaction and retrain its personnel as necessary to reduce complaints.

7. A minimum of one person must be available in the office during standard business to provide information in English and Spanish.

## SEC. 408 ADVERTISING

3. **MCTD Rights and Responsibilities.** The MCTD shall be responsible for marketing, public relations, and advertising services for all Marin Access programs and services, and its decisions on all such matters shall be final. The MCTD shall establish the terms and conditions of any advertising, including the selection of advertising contractors. Proceeds of any advertisement shall be the sole property of the MCTD.
4. **CONTRACTOR Obligations.**
  - a. Cooperation. CONTRACTOR shall cooperate with MCTD in the implementation of MCTD's marketing and advertising activities.
  - b. Rider Alerts. CONTRACTOR shall be responsible for posting, or otherwise making available passenger information provided by MCTD.
  - c. Monitoring. CONTRACTOR shall monitor advertising installations and shall report to MCTD any quality concerns within forty-eight (48) hours of the time CONTRACTOR observes or should have observed that concern(s). This report should be supported by photos and include, to the extent possible, the estimated cost of any necessary repairs.

## SEC. 409 CUSTOMER RELATIONS

1. **General Requirement.** CONTRACTOR will actively solicit information from customers for the purpose of continually improving customer satisfaction with the program. In fulfilling this requirement, CONTRACTOR shall perform the following tasks:
  - a. Provide timely and thorough input, when requested, on Marin Access marketing materials, Rider's Guides, Rider Surveys, and other public facing materials and information.
  - b. Participate in customer information sessions and/or workshops as requested by MCTD.
  - c. In conjunction with MCTD, participate in the Paratransit Appeals Committee when customers submit appeals regarding paratransit services (Suspension Appeals / Eligibility Appeals).
  - d. From time-to-time Marin Transit will undertake passenger surveys and data collection to better understand service usage and passenger opinions. Authorized representatives of Marin Transit will administer these surveys. It is the responsibility of the Contractor to ensure the cooperation of all personnel with any operational procedures pertaining to survey work, including the distribution of survey questionnaires, and other survey or data collection material.
  - e. The Contractor will cause operators of vehicles and road supervisors to cooperate and comply with reasonable requests by Marin Transit to collect data on passenger counts, and distribute notices, schedules, or other promotional materials to passengers in connection with the services provided.
  - f. Contractor will ensure an adequate supply of comment cards on each vehicle and will ensure their staff encourages rider feedback. Marin Transit Identified Meetings and/or Training Session
  - g. The Contractor will be required to attend all meetings and/or training sessions as identified by Marin Transit. The Contractor may be excused from attendance only by prior written consent from Marin Transit.
  - h. Develop, implement, and administer a customer feedback procedure, which shall include monitoring calls for quality assurance and post-trip telephone calls to a sample of riders to solicit information about the quality of the ride. Customer feedback shall also include telephone and in-

person processing of customer complaints and commendations. All customer complaints and commendations are to be entered into MCTD's TransTrack system for tracking. In addition, CONTRACTOR may periodically be asked to perform a Customer satisfaction survey using sample size requirements and questions approved by MCTD.

- i. Provide management participation in and statistical reporting to regular customer oriented meetings, including the Marin Paratransit Coordinating Council, the Advisory Committee on Accessibility of the GGBHTD, the Marin Mobility Consortium, and the Housing and Transportation Committee of the Marin Commission on Aging.
  - j. Ensure that a bilingual Spanish-speaking staff person is available between 8 am and 5 pm to handle requests and complaints from Spanish-speaking customers and have the capability to provide translations for callers speaking other languages.
2. **Reasonable Modification Requests.** MCTD has designated a Reasonable Modification Coordinator to coordinate efforts of Marin Transit and Marin Access to comply with reasonable modification requirements including determinations of requests and handling complaints. CONTRACTOR will work with the MCTD Reasonable Modification Coordinator to provide modifications granted by the Coordinator. Further, CONTRACTOR may be asked to provide input on requested modifications prior to a grant determination being made.
  3. **TITLE VI & ADA Complaints.** MCTD is dedicated to operating a transit system that serves people of all abilities and ensuring that no person is excluded from participation in, denied the benefits of, or discriminated against under its projects, programs or activities on the basis of race, color, creed, national origin, sex or age. Riders that believe they have been excluded from, denied the benefits of, or been subjected to discrimination due to their disability while using Marin Transit or Marin Access services are encouraged to report it to the Transit District. CONTRACTOR must be familiar with MCTD policy related to the Americans with Disabilities Act and Title VI. CONTRACTOR will work with MCTD to review ADA / Title VI complaints where appropriate and to direct riders to MCTD policy and information in order to submit ADA / Title VI complaints.

## SEC. 410 COOPERATION WITH OTHER AGENCIES AND CONTRACTORS.

1. **Integration with Other Services.** CONTRACTOR will coordinate their services with other providers to the fullest possible extent, including scheduling of trips and transfers between other paratransit and fixed route transit services. This coordination will include information and referral services for clients as well as coordination planning with other agencies and provide information to riders about other MCTD programs. All CONTRACTOR staff working on this project must be educated on the history of MCTD, the nature of their contracts for transportation in Marin, and all programs available through Marin Access. Additional information or assistance with referrals to other services may be requested as new technology is incorporated into MCTD's program. The CONTRACTOR will cooperate with adjoining transit operators in the provision of Regional Paratransit service between operator service areas and will coordinate with adjoining paratransit operators to arrange inter-operator transfers of passengers or continuing travel between origins and destinations beyond GGBHTD designated ADA complementary paratransit service area, as needed.

## ARTICLE 5—COMPENSATION AND COMMERCIAL TERMS

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## SEC. 501 COMPENSATION TO CONTRACTOR

1. **Basis for Compensation.** All compensation to the CONTRACTOR for services under this Contract shall be in accordance with the Fixed Monthly Fee and the Revenue Hour Rate for each year of the Base Contract Term and for each option year, as set forth in <Attachment TBD> to this Contract.
2. **Compensation for Fixed and Variable Costs.** CONTRACTOR's fixed costs shall be compensated monthly on the basis of a Fixed Monthly Fee in accordance with <Attachment TBD>. CONTRACTOR's variable costs for the operation of services and maintenance of the Revenue and Support Vehicles and Equipment, and associated services provided under this Contract, shall be compensated monthly on the basis of a Revenue Hour Rate in accordance with <Attachment TBD>.
3. **Monthly Amount Payable.** The amount due to the CONTRACTOR each month for its services under this Contract will equal the sum of (1) the Fixed Monthly Fee; plus (2) the number of Revenue Hours actually operated in that month, multiplied by the applicable Revenue Hour Rate; and minus fares required to be collected by the CONTRACTOR. Any Special Services provided by the CONTRACTOR shall be compensated using the Revenue Hour Rate in effect at the time those services are provided. CONTRACTOR shall not invoice the MCTD for work not performed.
4. **Scope of Compensation.**
  - a. **Inclusion in Rates.** Except as provided in paragraph (2) of this subsection, the compensation provided to the CONTRACTOR as described in this Section shall cover all costs of services provided and Work performed under this Contract, including (a) all costs of operating, maintaining, and repairing the Revenue Vehicles and replacing vehicle components and parts as necessary; (b) all costs of operating and maintaining and repairing the Support Vehicles (whether supplied by the MCTD or the CONTRACTOR) and replacing vehicle components and parts as necessary; (c) all costs of maintaining and repairing the Equipment provided by the MCTD; (d) the costs of purchasing or otherwise obtaining any Equipment, materials, and supplies (including spare parts and tires) necessary for the performance of services (other than Equipment provided by the MCTD); (e) all costs of training; (f) all costs associated with the implementation of the CONTRACTOR'S required plans and programs; (g) the cost of repairs and parts for vehicle accident damage; (h) the cost of fuel for the Support Vehicles; (i) all costs associated with the administration and enforcement of warranties; and (j) all costs associated with the removal of hazardous materials.
  - b. **Exclusion from Rates.** CONTRACTOR shall not be responsible for (a) fuel costs of the Revenue Vehicles used in providing services under this Contract; and (b) engine and transmission overhauls as provided in Section 306.
5. **Fixed Price Obligations.** CONTRACTOR'S Fixed Monthly Fee and Revenue Hour Rates set forth in <Attachment TBD> are firm fixed price amounts that are not subject to increase during the Base Contract Term or the option years. CONTRACTOR acknowledges and agrees that it assumes the risk of increases in the cost of doing business over the Base Contract Term and the option years, subject to any rate adjustments it may seek pursuant to Section 305E. However, in the event of an unanticipated and exceptional change in applicable law or regulations after the date of execution of this Contract that directly results in additional costs of providing operations and maintenance services hereunder, the CONTRACTOR may request that the MCTD allow an adjustment in its Fixed Monthly Fee or Service Hour Rate. The MCTD

is not obligated to agree to such a request, but will review, discuss, and consider any such request in good faith.

6. **Price Summary.** CONTRACTOR'S Fixed Monthly Payment and Revenue Hour Rates are based upon the CONTRACTOR'S Detailed Base Year and Option Year Price Forms, which shall be utilized as provided in subsection G hereof.
7. **Total Cost Summary Information.** The CONTRACTOR'S Detailed Base Year and Option Year Price Forms information may be used by the MCTD and the CONTRACTOR for the following purposes: (a) determination of disputes over costs or invoices; (b) determination of costs associated with change orders, service changes, or Contract amendments; (c) resolution of claims; (d) audits by the MCTD or other Federal or State agencies with audit authority; and (e) other Contract oversight purposes determined appropriate by the MCTD in its discretion.

## SEC. 502 INVOICES

1. **In General.** During the term of the Contract, CONTRACTOR shall submit monthly invoices to MCTD's Accounts Payable office, in the format prescribed by MCTD, with appropriate documentation in accordance with this Section.
2. **Billing Process.**
  - a. **Invoice.** CONTRACTOR shall submit an invoice to MCTD for each month of service by the 10<sup>th</sup> of the following month. The invoice shall (a) set forth the applicable Fixed Monthly Fee and Revenue Hour Rate; (b) specify the number of Revenue Hours operated in the month (as documented by the TransTrack Hours & Miles Report); and (c) calculate the total amount due.
  - b. **Net Amount Payable.** The net amount payable to the CONTRACTOR for a month will be the total amount due under paragraph (B)(a), less the sum of any fares collected as required by Section 313.
  - c. **Payment.** Subject to subsection C hereof, the MCTD shall make payment according to its semi-monthly check run schedule (available upon request).
  - d. **Progress Payment.** Subject to documented need for funds to allow for timely payments to employees and vendors, MCTD may make a progress payment of up to \$250,000 per month to reduce or eliminate CONTRACTORS need to borrow funds.
  - e. **Reservation of Rights.** The MCTD reserves the right to obtain from the CONTRACTOR any information needed to support any charges included in an invoice.
3. **Direct Costs.** In addition to fixed contract fees and the variable rate, Contractor may invoice MCTD monthly for direct costs incurred per terms below.
  - a. **Invoice.** Contractor shall submit an invoice to MCTD for each month of service by the 10<sup>th</sup> of the following month. The invoice shall set forth the applicable reimbursable amounts for pre-approved costs.
  - b. **Direct Costs.** Direct costs include Volunteer Driver Program reimbursements and other pre-approved items.
  - c. **COVID-19 Pandemic Related Costs.** Costs associated with the COVID-19 pandemic, including cleaning services and supplies must be pre-approved by MCTD and include supporting documentation. MCTD will work with Contractor to establish the appropriate level of cleaning and associated costs based on current conditions.

- d. Storage Shed and Port-a-let Related Costs. Costs associated with the provision of storage sheds and/or port-a-let facilities at the parking facilities that are invoiced to MCTD must include supporting documentation.
  - e. Payment. Subject to subsection C hereof, the MCTD shall make payment according to its semi-monthly check run schedule (available upon request).
  - f. Progress Payment. Subject to documented need for funds to allow for timely payments to employees and vendors, MCTD may make a progress payment of up to \$250,000 per month to reduce or eliminate CONTRACTORS need to borrow funds.
  - g. Reservation of Rights. The MCTD reserves the right to obtain from the CONTRACTOR any information needed to support any charges included in an invoice.
4. **MCTD Review.** If MCTD determines, based on its review of an invoice, that payment has been requested for services that were not provided in accordance with this Contract or that failed to meet service specifications, or if MCTD otherwise questions or objects to the contents of an invoice, MCTD shall so notify CONTRACTOR and give CONTRACTOR the opportunity to correct the invoice or provide further necessary documentation or explanation within ten (10) calendar days. If such correction or documentation is not provided to the satisfaction of MCTD within the identified time, MCTD will withhold payment of the disputed amount and make payment of any undisputed amount due.
5. **Audits and Statements.**
- a. Annual Statement. CONTRACTOR shall have prepared, within ninety (90) calendar days after each anniversary date of this Contract, an annual financial statement of its revenues and expenses for services provided under this Contract.
  - b. Discretionary Audits. In addition to the annual audits performed under paragraph (a.), MCTD reserves the right to conduct, at any time, an audit of any records of CONTRACTOR that are related directly or indirectly to the services provided under this Contract. The cost of any discretionary audit will be paid by MCTD.
  - c. Adjustments. Any overpayment or underpayment uncovered in any audit under paragraph (a) or (b) may be charged or credited (as the case may be) against future amounts otherwise due to CONTRACTOR. Appropriate financial adjustments to future payments shall be made by MCTD based upon any inconsistency, irregularity, discrepancy, under-billing, or unsubstantiated billing revealed as a result of any audit.
  - d. Notice to CONTRACTOR. Prior to withholding payment or deducting amounts from future invoices, MCTD will give notice to CONTRACTOR and provide CONTRACTOR with an opportunity to state its position on the issue presented. Any dispute that cannot be resolved by CONTRACTOR and MCTD is subject to resolution under Section 509.
5. **Compensation Premium for Bilingual Staff.**
- a. Marin Transit will assist Contractor's efforts to retain staff who have demonstrated bilingual (Spanish/English) skills to improve the customer service experience for Marin Transit's passengers. Marin Transit will pay Contractor a quarterly supplemental payment to cover the cost of the premium pay for individual bi-lingual drivers, if the following conditions are met:
  - b. Driver or provider demonstrates that they have at least a B1 (intermediate) level of fluency and this fluency can be documented/certified.
  - c. Driver or provider must be paid at least a \$1.00 premium beyond the standard wage rate that they would otherwise qualify for based on the contractor's wage structure.

- d. Contractor must maintain records that verify each qualifying staff member's hours worked.
- e. Marin Transit will pay \$1.50/hour premium for hours worked in each quarter by qualifying drivers.

6. **Address for Invoices.** Invoices for payment shall forwarded to:

Accounts Payable  
 Marin Transit  
 711 Grand Avenue #110  
 San Rafael CA 94901  
 ap@marintransit.org

Invoices shall be accompanied by any reports required by of this Contract.

6. **Final Month Invoice.** The MCTD may, in its discretion, withhold all or any portion of the amounts due for the final month of service by CONTRACTOR, pending the resolution of any disputes, the successful completion of all transition requirements under Section 507, and the completion of the turnover audit process (including the performance of any necessary maintenance and repairs) under Section 306 hereof.

## SEC. 503 LIQUIDATED DAMAGES

1. **Notification and Imposition of Liquidated Damages.** To emphasize the need for high quality transit services at all times, the MCTD establishes and enforces the following system of financial penalties (liquidated damages) to be imposed upon CONTRACTOR for various infractions as described here. Liquidated damages shall be assessed each month for the previous month, except as noted. Due to the nature of the services to be rendered, the CONTRACTOR and MCTD agree that it is extremely difficult to ascertain actual damages that may result from failure on the part of the CONTRACTOR to perform any of its contractual obligations. Therefore, the CONTRACTOR's liability shall be limited to and fixed at the sums stated in this section, as liquidated damages. Liquidated damages shall not be assessed for occurrences beyond the CONTRACTOR's control.
- a. **Notification Steps.** The MCTD intends to provide notice to CONTRACTOR for the first occurrence that can be the basis of the assessment of liquidated damages under subsection C of this Section. Upon the occurrence of the second violation at any time during the Contract term, the MCTD intends to provide written notice to CONTRACTOR as a warning that liquidated damages will be assessed on the occurrence of another violation. A third violation shall be the basis of the imposition of the liquidated damages at issue. Notwithstanding the preceding sentence: (a) the MCTD may, in its discretion, impose liquidated damages for any violation without following the three-step process described above; and (b) such three-step process shall not apply to vehicle maintenance liquidated damages under subsections C (3) and (4).

- b. Multiple Assessments. The MCTD does not intend to impose multiple liquidated damages under this Section for the same incident, occurrence, or other event, but retains the discretion to do so in appropriate circumstances.
- c. Moratorium. The MCTD shall not impose liquidated damages under this Section for the first ninety (90) days of the first year of the Base Contract Term, except for any liquidated damages that relate to violations of safety requirements.
- d. Adjustments to Liquidated Damages. The MCTD reserves the right through Amendment to this Agreement, to make adjustments and modifications to the Liquidated Damages thresholds, standards, and assessment amounts during the Agreement Term.

## **2. Deduction and Assessment of Liquidated Damages.**

- a. Assessment by MCTD.
  - i. Basis of Assessment. The liquidated damages set forth in subsection A shall be calculated, assessed, and reported by the MCTD to CONTRACTOR on a monthly basis. Liquidated damages shall be assessed on the basis of the information provided in CONTRACTOR's invoices, reports, and other documentation as required under this Contract, as well as through the various reporting mechanisms available to the MCTD, including Communications System reports, visual observations, inspections, ride checks, data surveys, passenger comments, and such other means the MCTD may utilize.
  - ii. Notice. The MCTD will provide CONTRACTOR with a listing of liquidated damages assessed each month, itemized by category and dollar amount. The MCTD will establish appropriate forms for such notification and assessment.

## **3. Response by CONTRACTOR.**

- a. CONTRACTOR shall respond to the MCTD in writing within five (5) days of receipt of the notice of assessment of liquidated damages. CONTRACTOR shall have an opportunity to demonstrate to the MCTD that it made all reasonable efforts to comply with its contractual obligations and that its failure to comply was due to circumstances beyond the control of CONTRACTOR, or any person for whom CONTRACTOR is legally or contractually responsible, as consistent with the Force Majeure definition set out in Section 511. The circumstances beyond CONTRACTOR's control do not include delays which may reasonably be anticipated on a daily basis on any given roadway or in any given area.
- b. On the basis of CONTRACTOR's demonstration under subparagraph (a), the MCTD reserves the right to reduce or waive the liquidated damages at issue. In the absence of a sufficient

demonstration from CONTRACTOR, all amounts of liquidated damages imposed under this Section shall be deducted by the MCTD from CONTRACTOR's next monthly invoice.

**4. Agreement of CONTRACTOR.**

- a. CONTRACTOR understands and agrees that if it fails to meet the schedule, maintenance, and other performance requirements of this Contract, the MCTD will suffer damages which cannot be quantified as of the date of execution of this Contract. CONTRACTOR hereby agrees to have deducted from its invoices, or to pay directly upon request, the liquidated damages amounts stated in this Section. CONTRACTOR further agrees that amounts payable under this Section are in the nature of liquidated damages and are not a penalty, and that such amounts are reasonable in light of the actual or anticipated harm incurred and the difficulties of proof of actual loss.

**5. Categories of Liquidated Damages.** The following liquidated damages shall be assessed by the MCTD on CONTRACTOR for each failure to perform as described below.

**Operating Liquidated Damages**

Description of Violation	Assessed Amount
1) Late Pull Out for shift (>10 minutes)	\$250 per occurrence
2) Paratransit Trips where the driver arrives >20 minutes late	\$500
3) More than 5 Verified Complaints per Month	\$100 per additional complaint
4) Failure to Submit Reports	\$100 per report
5) Falsification of Reports	\$1,000
6) Failure to Properly Input or Maintain Data in TransTrack	\$150 per occurrence
7) Heating or Air Conditioning Failure in Service	\$100
8) Unsafe Operation of Vehicle	\$100
9) Negligence or Misuse of Marin Transit or GGBHTD Facilities	\$1,500

Description of Violation	Assessed Amount
10) Reckless or Dangerous Operation of MCTD or GGBHTD Vehicle	\$1,500
11) Use of Cell Phone during Vehicle Operation	\$1,500
12) Operator / Call Center Staff Discourtesy	\$100
13) Operator not Wearing Seatbelt during Vehicle Operation	\$100
14) Operators not Adequately Trained or Failing to Properly Operate Mobile Data Terminals Including Failed Inputs such as Performing Arrivals and Departures	\$100
15) Operators not Adequately Trained or Failing to Properly Collect and Input Passenger Fares	\$100
16) Schedules or Complaint Cards Not Available on Vehicles	\$100
17) Rider Alerts/ Posters not Posted on Vehicles	\$100
18) Radio Communication Not Maintained	\$100 per occurrence after two warnings
19) ADA Related Operator Error, e.g., Failure to properly secure wheelchair	\$500
20) Negligence of CONTRACTOR Staff Resulting in Serious Injury to Passengers	\$500
21) Failure to provide audio or video footage in the event of an incident, accident, or request by MCTD or GGBHTD	\$150 per occurrence

### Maintenance Liquidated Damages

Description of Violation	Assessed Amount
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1) Failure to Complete Scheduled Inspection/Oil Change/Lube Intervals/Engine Tune-Ups On-time	\$250
2) Failure to Maintain Clean Vehicles	\$100/day
3) Failure to Complete Preventive Maintenance of Air Conditioning	\$100
4) Insufficient Inventory of Spare Parts	\$150 per day bus out of service
5) Failure to Make Timely Repairs of Accident Damage	\$150
6) Failure to Make Timely Repairs or Report Operational Issues or Failures of MDT or Camera systems	\$150 per occurrence
7) Not Maintaining Clear Vehicle Maintenance Records	\$500
8) Not Providing Maintenance Reports to Marin Transit	\$100
9) Failing an Inspection by California Highway Patrol (CHP)	\$750
10) Safety Violations in Maintenance Yard or Vehicle Condition	\$500
11) Failure to Keep Wheelchair Lifts in Proper Working Condition	\$750
12) Failure to Keep Glass and Windows in Proper Condition	\$100

6. **Reservation of Rights.** Neither the agreement of the MCTD to accept liquidated damages as compensation for its damages for CONTRACTOR's failure to perform, nor the imposition or assessment of any liquidated damages under this Section, shall affect any other rights and remedies of the MCTD under this Contract, including the right of the MCTD to terminate this Contract in accordance with the termination provisions hereof. In addition, in the event of a pattern of repeated failures by CONTRACTOR in any of the liquidated damages categories in subsection C, the MCTD may in its discretion double or triple the stated liquidated damage amount.

## SEC. 504 PERFORMANCE MINIMUMS

1. **General Requirement.** Minimum performance standards are to be maintained throughout the term of the contact. The following metrics represent the minimum standard for performance:

<b>Performance Standard</b>	<b>Minimum</b>
<b>Service Standards</b>	
Capacity Denials	0
Local Paratransit Productivity (passengers/rev. hour)	2.0
Regional Paratransit Productivity (passengers/rev. hour)	1.0
Non-ADA Service Productivity (passengers/rev. hour)	3.0
At Fault Accidents / Incidents (per 100,00 miles)	< 2
Road Calls (per month)	< 3
Valid Complaints (per 10,000 rides)	< 10
On Time Performance (Each Service Separately)	>=90%
Missed Trips	< 2%
No Shows (% of performed trips)	< 2.0
On-Time Preventative Maintenance Inspections	80%
<b>Call Center Standards</b>	
Average Hold Time	< 2 min
Average Eligibility Processing Time	5 days
Minimum Percentage of Hours where Hold Time < 2 min	70%
Minimum Percentage of Hours where Hold Time < 4 min	90%

2. MCTD acknowledges that a settling in period is necessary to make adjustments to best suit the needs of this service. No incentives or disincentives will be applied during Fiscal Year 2021-2022 while actual service data is captured and evaluated. At the end of this Fiscal Year, MCTD and CONTRACTOR will meet to review the actual system data, and potentially modify the performance standards required, which upon agreement will be included in the contract as an amendment to be the standard going forward for the remainder of the contract. This will include an assessment of the impact on service by the deadhead from the newly provided facilities to understand if an adjustment should be made based on actual service data gathered during this period.

## SEC. 505 RISK OF LOSS OR DAMAGE

CONTRACTOR shall be responsible for the Revenue and Support Vehicles, Equipment, tires, supplies, and Facilities, whether owned by CONTRACTOR or MCTD, used in the performance of the services under the Contract, and shall also be responsible for all losses or damages (whether or not the fault of CONTRACTOR) with respect to any such vehicles, Equipment, tires, or supplies, subject to Normal Wear and Tear. In the event of damage to or loss of a Revenue Vehicle due to an accident, CONTRACTOR shall be responsible for replacement costs in accordance with Section 21 of FTA's Master Agreement and in accordance with FTA Circulars 5010.1D and 9030.1D.

## SEC. 506 INSURANCE

1. **Mandatory Insurance Policies.** Before providing services under this CONTRACTOR, CONTRACTOR shall acquire and maintain the following insurance coverage for the term of this CONTRACTOR from an insurer acceptable to Marin Transit. The limits of this insurance are not to be construed as a limit of CONTRACTOR's liability under this agreement. Vehicles must be insured to replacement value.

- a. Commercial General Liability.

- i. *Minimum Scope of Insurance.* Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Occurrence form number CG 0001 or equivalent. MCTD must review a non-ISO form prior to acceptance of the CONTRACTOR.

The policy shall include but not be limited to: premises and operations; contractual liability covering indemnity provisions contained in the Contract; personal injury; explosion, collapse and underground coverage; products and completed operations and broad form property damage. The policy shall contain a waiver of subrogation in favor of MCTD and GGBHTD.

- ii. *Mandatory Policy Contents or Endorsement Provisions.* MCTD, and the public entity awarding the CONTRACTOR if other than MCTD, and their officials, employees and volunteers, as well as GGBHTD, and their officials, employees, agents, and volunteers, shall be named as additional insured parties on the face of all policies when service is contracted with a non-governmental agency, for liability arising out of activities performed by or on behalf of CONTRACTOR, products and completed operations of CONTRACTOR, and/or Premises owned, leased or used by CONTRACTOR. The coverage shall contain no special limitations to the scope of protection afforded to MCTD, GGBHTD, and their respective officials, employees, agents, or volunteers. In cases of contracted service being provided by a governmental agency with self-insurance or at MCTD's discretion, provide a letter shall be provided signed by a duly authorized representative of the governmental agency to that effect to MCTD's General Manager, with a carbon copy (cc) sent to GGBHTD's General Manager, acknowledging that said governmental agency will cover MCTD and GGBHTD, in cases of any liability on the part of said transit operator.

CONTRACTOR's insurance coverage shall be primary, and any insurance or self-insurance maintained by MCTD, GGBHTD, and their respective officials, employees, and volunteers or other insureds shall be in excess of the CONTRACTOR's insurance and shall not contribute with it. The coverage shall state that CONTRACTOR's insurance shall apply separately to

each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

The CONTRACTOR shall provide written confirmation that MCTD and GGBHTD are named as an additional insured on the policy for all activities engaged in by CONTRACTOR under the terms of this CONTRACTOR. The CONTRACTOR shall provide Marin Transit with notice upon any receipt of any claim.

- iii. *Minimum Limits of Insurance.* Subject to the option and agreement of MCTD, CONTRACTOR shall maintain limits of no less than Five Million Dollars (\$5,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage.

b. Automobile Liability Coverage

- i. *Minimum Scope of Insurance.* Coverage shall be at least as broad as the Insurance Services Office (ISO) form number CA 0001 (Ed. 1/87), or its equivalent, covering automobile liability Code 1 "any auto".
- ii. *Mandatory Policy Contents or Endorsement Provisions.* Policy is to include ISO endorsement form CA 0029. Automobile liability is to cover all vehicles owned, leased, hired or borrowed by CONTRACTOR. The policy must include as additional insureds MCTD, GGBHTD, and their respective officials, employees, agents, or volunteers, and shall contain no special limitations to the scope of protection afforded to MCTD, its officials, employees or volunteers.

CONTRACTOR'S insurance coverage shall be primary, and any insurance or self-insurance maintained by MCTD, GGBHTD, and their respective officials, employees and volunteers or other insureds shall be in excess of the CONTRACTOR's insurance and shall not contribute with it. The coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- iii. *Minimum Limits of Insurance.* Subject to the option and agreement of MCTD, CONTRACTOR shall maintain limits of no less than Five Million Dollars (\$5,000,000) combined single limit per accident for bodily injury and/or property damage.

c. Automobile Physical Damage Insurance for Vehicles

- i. Auto (bus) physical insurance to cover the vehicles used in this contract. Such Vehicles will be insured at actual cash value of the vehicle at time of loss or the cost to repair or replace with like kind and quality with deduction for depreciation. MCTD and GGBHTD shall be named Loss Payee under the policy and CONTRACTOR shall also pay any deductibles included on such insurance policy. The policy should include a waiver of subrogation in favor of the MCTD, the GGBHTD, and their respective representatives.

d. Workers' Compensation and Employers' Liability Insurance

- i. *Minimum Scope of Insurance.* Workers' Compensation Insurance as required by the Labor Code of the State of California and Employers Liability insurance.
- ii. *Mandatory Policy Contents or Endorsement Provisions.* Workers' Compensation Insurance as required by the Labor Code of the State of California and Employers Liability insurance.

A waiver of subrogation endorsement must accompany each policy required under this section, stating:

“It is understood and agreed the Company waives any right of subrogation against the Marin County Transit District, the GGBHTD and their respective representatives which might arise by reason of any payment under this policy for work performed by Assured under the Contract.”

- iii. *Minimum Limits of Insurance.* CONTRACTOR shall maintain limits no less than Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000) per accident.

2. **Effective Dates, Cancellation, and Limits Diminution of Mandatory Insurance Policies.** All required insurance policies shall be in effect until final acceptance of CONTRACTOR's work by MCTD and shall provide that they may not be canceled or materially diminished in limits without first providing MCTD with thirty (30) days written notice of intended cancellation or diminution. If CONTRACTOR fails to maintain the required insurance, MCTD may secure insurance and deduct the cost from any funds owing to CONTRACTOR. The policies of insurance CONTRACTOR is to provide under this agreement shall be for a period of not less than one year.
3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII if admitted. A non-admitted insurer shall have a Best's rating of no less than A-X.
4. **Applicability to Subcontractors.** In addition to the above policies, if CONTRACTOR hires a subcontractor under this Contract, CONTRACTOR shall require subcontractor to provide insurance identical to the coverage required under this Contract, except as specified below, and shall require subcontractor to name CONTRACTOR, the MCTD, and the GGBHTD as additional insureds under its Contract. Certificate(s) of Insurance(s) and original endorsement(s) providing such coverage shall be provided to MCTD.

Should CONTRACTOR enter into Contract or assign work contemplated under this Contract to a taxi company or other provider that utilizes smaller vehicles (such as sedans, station wagons, or minivans) in the provision of transportation services, all provisions of the above paragraph shall apply but the Business Automobile Liability Insurance limits for each occurrence may be reduced to One Million Dollars (\$1,000,000) per occurrence. This is subject to the approval of MCTD.

5. **Deductibles and Self-Insured Retentions.** Except as otherwise provided in this Contract, any deductibles or self-insured retentions must be declared to and approved by MCTD. CONTRACTOR shall be solely responsible for all deductibles or self-insured retentions, if any.
6. **Verification of Coverage.** CONTRACTOR shall furnish MCTD and the GGBHTD with Certificate(s) of Insurance and with original endorsement(s) affecting coverage required by this clause. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person that insurer is authorized to bind coverage on its behalf. The certificate(s) and endorsement(s) are to be on forms provided by MCTD or on forms received and approved by MCTD before work commences. MCTD reserves the right to require complete, certified copies of all required insurance policies, at any time.

7. **Failure to Procure and Maintain the Required Insurance.** CONTRACTOR shall not render services under the terms and conditions of this Contract unless each type of required insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance and endorsement(s) to MCTD as required. If CONTRACTOR fails to procure and maintain the required insurance, MCTD may do so, and the premiums of such insurance shall be paid by CONTRACTOR to MCTD upon demand. The policies of insurance CONTRACTOR is to provide under this Contract shall be for a period of not less than one year and proof of required coverages shall be provided annually. CONTRACTOR acknowledges that failure to maintain the insurance coverage as described herein at any time during the term of this Contract constitutes a material breach of this Contract.

In the event that CONTRACTOR receives any notice of cancellation, cessation or suspension of coverage, if shall immediately notify MCTD.

Marin Transit and CONTRACTOR specifically agree and acknowledge that, should CONTRACTOR's insurance coverage lapse for any reason during the term of this agreement and/or any extension thereof, such lapse shall be grounds for immediate termination of this contract by Marin Transit.

8. **Additional Coverage or Endorsements.** MCTD has the right to request additional coverages and/or endorsements on the insurance as MCTD deems necessary. The amounts, insurance policy forms, endorsement(s) and insurer(s) issuing the insurance shall be satisfactory to MCTD and GGBHTD.
9. **Certificate of Insurance.** Prior to the commencement of the term of the Agreement, and prior to commencement of service by the CONTRACTOR or of the CONTRACTORS subcontractors or agents, Contractor and its contractors, subcontractors and agents shall deliver to MCTD a Certificate of Insurance which shall indicate compliance with the insurance requirements of this Section and shall stipulate that thirty (30) days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to MCTD.

This insurance shall be issued by an insurance company or companies authorized to do business in the State of California with minimum "Best's" ratings of B+ and with minimum policyholder surplus of Twenty-five Million dollars (\$25,000,000). All policies shall be issued in a form satisfactory to the General Manager of the MCTD and shall be issued specifically as primary insurance over and above any insurance that MCTD may carry. The insurer shall agree that its policy for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance affected by the MCTD.

## SEC. 507 INDEMNIFICATION

1. **General Requirement.** Contractor agrees to indemnify, keep and save harmless MCTD and GGBHTD, their successors and assigns, and their respective directors, officers, agents and employees (collectively, "Indemnitees") against any and all suits, claims or actions arising out of any injury or injuries to, or death or deaths of, persons or property that may occur, or that may be alleged to have occurred, from any cause or causes whatsoever, while in, upon, about, or in any way connected with the use of the Property by Licensee, its agents, employees, contractors, subcontractors or invitees. Provided, however, that the foregoing shall not apply to any claims for loss, damage, injury or liability caused by the sole negligence or

willful misconduct on the part of an Indemnitee. Contractor further agrees to defend (with counsel satisfactory to MCTD and GGBHTD) any and all such actions, suits or claims, and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith, and if any judgment be rendered against the Indemnitees in any such action, Contractor shall, at its expense, satisfy and discharge the same. Contractor waives any and all rights to any type of express or implied indemnity against Indemnitees arising out of Contractor use of the Property. This indemnity shall survive the termination of this Agreement. If any term of this indemnity provision is found to be void or unenforceable, the remainder of the provision shall remain in full force and effect.

In addition, Contractor and its subcontractors and agents shall release, defend (with counsel satisfactory to MCTD and GGBHTD) and indemnify MCTD and GGBHTD from and against all liability, costs or expense resulting from Contractor its contractors, subcontractors and agents failure to obtain required authority, permits and licenses from other governmental agencies, including but not limited to authorized permits from the California Public Utility Commission. This section survives the termination of the Agreement.

2. **Handling of Claims.** The MCTD agrees that it will notify CONTRACTOR in writing within ten (10) Days of receipt or notice of any claim described in subsection A; provided that the failure of MCTD to so notify CONTRACTOR shall not relieve CONTRACTOR of any of its obligations under this Section. CONTRACTOR shall have the right to assume the defense of all claims that might be threatened or instituted and agrees that it will assume all responsibility for the investigation, handling, and defense of such claims unless MCTD notifies CONTRACTOR that it elects to be represented by counsel of its own selection in connection with any such claim. If MCTD elects to be represented by its own counsel, MCTD will pay the costs of such representation. The MCTD shall provide such assistance (except financial) for the defense of any claim as may be reasonably required by CONTRACTOR. The MCTD shall not make any admission of liability with respect to a claim or seek to settle or compromise a claim without the prior written consent of CONTRACTOR. CONTRACTOR agrees to inform the MCTD and the GGBHTD as to all correspondence and proceedings in respect to any claim as to which indemnity is sought and to consult with MCTD and the GGBHTD with respect to all matters relating to any claim.

## SEC. 508 DISCLAIMER OF LIABILITY

The MCTD will not hold harmless, defend or indemnify CONTRACTOR for any liability whatsoever.

## SEC. 509 TERMINATION FOR CONVENIENCE

1. **In General.** The performance of work under this Contract may be terminated by MCTD in accordance with this Section in whole, or from time to time in part, whenever MCTD determines that such termination is in the best interest of MCTD. Any such termination shall be affected by delivery to CONTRACTOR of forty-five (45) calendar days advance written notice of termination specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.
2. **Actions Following Termination Notice.** Upon receipt of a notice of termination, and except as otherwise directed by MCTD, CONTRACTOR shall: (1) stop work under the Contract on the date and to the extent specified in the notice of termination; (2) place no further orders or subcontracts for materials, services, or Facilities, except as may be necessary for completion of such portion of the work under the Contract as is

not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination; (4) assign to MCTD in the manner, at the times, and to the extent directed by MCTD, all of the right, title and interest of CONTRACTOR under the orders and subcontracts so terminated; (5) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of MCTD, to the extent MCTD may require, which approval or ratification shall be final for all the purposes of this Section; (6) transfer title to MCTD and deliver in the manner, at the times, and to the extent, if any, directed by MCTD, supplies, equipment, and other material produced as a part of, or acquired in connection with the performance of the work terminated, and any information and other property that, if the Contract had been completed, would have been required to be furnished to MCTD; (7) complete any such part of the work as shall not have been terminated by the notice of termination; and (8) take such action as may be necessary, or as MCTD may direct, for the protection and preservation of the property related to the Contract that is in the possession of CONTRACTOR and in which MCTD has or may acquire an interest. Payments by MCTD to CONTRACTOR shall be made by the date of termination but not thereafter. Except as otherwise provided, settlement of claims by CONTRACTOR under this Section shall be in accordance with the provisions set forth in 48 CFR Part 49, as amended from time to time.

## SEC. 510 TERMINATION BY MUTUAL AGREEMENT

This Contract may be terminated by mutual agreement of the parties. Such termination shall be effective in accordance with a written agreement by the parties. Any other act of termination shall be in accordance with the termination by convenience or default provisions contained in Section 509 and Section 511, respectively.

## SEC. 511 TERMINATION FOR DEFAULT

1. **Events of Default.** The MCTD may, subject to the provisions of subsection B of this Section, by thirty (30) calendar days advance written notice of default to CONTRACTOR, terminate the whole or any part of this Contract in any one of the following circumstances:
  - a. If CONTRACTOR fails to provide the services in the manner required by this Contract or in accordance with the performance standards articulated herein;
  - b. If CONTRACTOR fails to perform any of the provisions of this Contract in accordance with its terms; or
  - c. If CONTRACTOR fails to make progress in the prosecution of the work under the Contract as to endanger such performance.
2. **Opportunity to Cure.** If MCTD determines that an event of default has occurred, MCTD shall provide CONTRACTOR with the opportunity to cure the default within thirty (30) calendar days after receipt of the default notice under subsection A; provided that MCTD may, in its sole discretion, provide an additional period for cure if CONTRACTOR demonstrates to the satisfaction of MCTD that there is a reasonable likelihood that such additional time will allow CONTRACTOR to effectuate a cure.
3. **Procurement by MCTD.** If MCTD terminates this Contract in whole or in part as provided in subsection A of this Section, MCTD may procure, upon such terms and in such manner as MCTD may deem appropriate, services similar to those so terminated. CONTRACTOR shall be liable to MCTD for costs associated with the termination of this Contract and the procurement of replacement services by MCTD, and also for any costs of the replacement supplies or services that are in excess of what MCTD would have paid under the Contract in the absence of default from the date of termination to the expiration date of the Contract.

CONTRACTOR shall continue the performance of this Contract to the extent not terminated under the provisions of this Section. Any disputes arising under this Section that cannot be resolved by CONTRACTOR and MCTD are subject to resolution pursuant to Section 509 of this Contract.

4. **Force Majeure.** CONTRACTOR shall not be liable for any failure to perform if CONTRACTOR demonstrates to the satisfaction of MCTD that the failure to perform the Contract was due to events that were beyond the control and without the fault or negligence of CONTRACTOR and that could not have been avoided or prevented by due diligence and reasonable efforts of CONTRACTOR. Examples of such *Force Majeure* events include acts of God, civil disturbances, fire, war, floods, the imposition of unforeseeable governmental measures to control the COVID-19 pandemic as of the date of Contract (for example, the Parties specifically agree that the imposition of another governmental Shelter in Place order that prohibits the use of public transit for some categories of non-essential riders -- such as the March 16, 2020 County of Marin Shelter in Place Order -- is unforeseeable at this point in time), or other natural disasters, but do not include labor-related incidents, such as strikes or work stoppages. An example of an event that does not qualify as a *Force Majeure* event is a foreseeable government measure to control the COVID-19 pandemic such as mandatory vaccination requirements for bus drivers, more strict social distancing requirements, or more strict mask requirements.
5. **Claims.** Except as otherwise provided, settlement of claims by CONTRACTOR under this termination clause shall be in accordance with the provisions set forth in 48 CFR Part 49, as amended from time to time.

## SEC. 512 CANCELLATION OF CONTRACT

In any of the following cases, MCTD shall have the right to cancel this Contract without expense to MCTD: (1) CONTRACTOR is guilty of a knowing or intentional misrepresentation; (2) the Contract is obtained by fraud, collusion, conspiracy, or other unlawful means; (3) the Contract conflicts with any statutory or constitutional provision of the State of California or the United States; or (4) there is a change in ownership or control of CONTRACTOR after the date of Contract Award, and MCTD has not approved the assignment of this Contract to the new owner or controlling entity. This section shall not be construed to limit MCTD's right to terminate this Contract for convenience or default, as provided in Sections 511.

## SEC. 513 SECTION 13(c) OBLIGATIONS

1. **In General.** Except as provided in subsection B of this Section, MCTD shall be administratively and financially responsible for obligations under Section 13(c) of the Federal Transit Act (49 U.S.C. §5333(b)) and MCTD's July 6, 2000 and March 27, 2003 13(c) Arrangements.
2. **CONTRACTOR Obligations.**
  - a. **Financial Liability.** CONTRACTOR shall have financial liability for any 13(c) claims or obligations that are created by acts or omissions of CONTRACTOR that are not directed by MCTD. CONTRACTOR agrees that it is bound to the terms of the July 6, 2000 and March 27, 2003 13(c) Arrangements. In addition, CONTRACTOR shall cooperate with MCTD (including the provision of payroll records and other information) in the resolution or defense of any 13(c) claims or disputes, and in the implementation of any 13(c) remedies.
  - b. **Restrictions on Activities.** CONTRACTOR shall not assist or encourage any employee to file or otherwise pursue a 13(c) claim against MCTD or take any action that is contrary to the interests of MCTD under 13(c) or its 13(c) arrangements or agreements, relating to the termination of services under this Contract, any future transition from CONTRACTOR to another service provider, or any other

action or event relating to this Contract. If CONTRACTOR fails to comply with this obligation, CONTRACTOR shall be financially liable for all costs incurred by MCTD (including attorneys' fees) associated with any 13(c) claims or delays in the receipt of Federal grants.

## SEC. 514 CONTRACTOR USE OF MCTD / GGBHTD RESOURCES

1. **In General.** Contractor shall use MCTD / GGBHTD resources only for the purposes stated in <Attachment TBD>.

## ARTICLE 6—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

### SEC. 601 REPORTING

1. **CONTRACTOR Obligation.** In order to document services provided under the Contract, CONTRACTOR shall maintain all records requested by MCTD and as required for good business practices as detailed in Attachment I – Marin Access Reporting Requirements. CONTRACTOR shall take appropriate steps to ensure the proper monitoring of service levels, and maintenance and operations activities related to the services provided under this Contract. CONTRACTOR shall permit authorized representatives of MCTD to examine all data and records related to this Contract upon request or according to scheduled reporting periods.
2. **Management Level Reporting.** CONTRACTOR shall provide management level reporting to MCTD on a monthly basis that includes detailed information describing and quantifying the level of service and the quality of the service provided by CONTRACTOR. For specific service issues, CONTRACTOR shall, upon request of MCTD, provide additional information. Either party may recommend, from time to time, additions, modifications, or deletions to the reports and reasonable requests shall be accommodated by CONTRACTOR.
3. **Integrated Data Management System (TransTrack).** CONTRACTOR will provide all inputs and generate all of the reports described below using MCTD's integrated, web-based data collection system. The Data Management System is a customized version of the Web-based Transit Performance Manager software package developed by TransTrack Systems, Inc.®. CONTRACTOR will work with MCTD and their contractor, TransTrack, to ensure the proper data integration is set-up to automatically transfer data from CONTRACTOR automated reporting systems (e.g. TripSpark PASS) on a regular basis to the system. Additional manual inputs such as vehicle maintenance and customer service records will be added daily by CONTRACTOR.
4. **Required Reports.** CONTRACTOR is required to provide all of the reports described in this section and in Attachment I – Marin Access Reporting Requirements at the frequency that is specified for each report. Some reporting requirements may change as MCTD's external reporting requirements change. These reports will be used to monitor performance along with MCTD staff field inspections.
  - a. **Ridership Reports.** A summary of actual revenue hours for each month from MCTD's TransTrack software will be included with the CONTRACTOR's invoice. This report should be submitted within ten (10) working days after the end of the month.
  - b. **Trip Denials/Missed Trips.** Trip denials, number of missed trips, and detailed documentation for each instance should also be reported monthly as these are requirements of the FTA Triennial Audit. This report should be submitted within ten (10) working days after the end of the month.

- c. Quarterly Preventive Maintenance and Vehicle Mileage Update Reports. CONTRACTOR shall submit a Quarterly Preventive Maintenance (PM) Report to MCTD indicating the date and mileage for when the last PM was performed for each vehicle and the type of PM (e.g., "A", "B", LOF, Brake Inspection, HVAC Inspection.) that was performed. This report will match the CONTRACTOR's maintenance records and will be audited by MCTD or GGBHTD on a random announced or unannounced basis. This report should be submitted within ten (10) working days after the end of the quarter.
- d. Daily Accident/Incident Report. A daily Accident/incident Report will be e-mailed to MCTD within 24 hours of each accident/incident occurring on a MCTD route. Any major accident involving injuries or significant damage to MCTD vehicles will be immediately reported through direct person-to-person contact, followed by a written summary of the accident/incident.
- e. Passenger Complaints/Commendations. Passenger complaints and commendations will be entered directly into TransTrack software on an as received basis. A monthly summary with detailed documentation regarding the resolution of each complaint should be within ten (10) working days after the end of the month.
- f. Monthly Road Call/Missed Trip/Incident Report. CONTRACTOR shall submit a monthly report of all road calls, missed trips, and incidents within ten (10) working days after the end of each month. Missed trips or major incidents shall also be reported to MCTD immediately via email. Denied trips (including trips that did not occur due to contractor lateness) or major incidents should also be reported to Marin Transit immediately via email or phone call to Marin Transit staff.
- g. FTA-National Transit Database (NTD) Reporting. In accordance with the Federal Transit Administration (FTA) guidelines, CONTRACTOR will be responsible for the tracking, collecting, and preparation of National Transit Database (NTD) report data. MCTD may also require passenger mile sampling, as required by NTD every three years. MCTD will work with CONTRACTOR for developing processes and procedures for collecting and reporting this data.
- h. Annual Drug and Alcohol MIS Report. CONTRACTOR (and any subcontractor(s)) shall prepare and submit their annual Management Information System (MIS) report online, as required by the FTA, and shall provide a signed original report to MCTD no later than March 10 annually for the previous calendar year's drug and alcohol testing rates. The report must be in accordance with established Federal guidelines.
- i. Disadvantaged Business Enterprise Participation Report. Semi-annual reports on the participation of any subcontractors that are DBE certified, no later than November 15 and May 15.
- j. Special Reports. CONTRACTOR shall prepare and provide any special reports, or more detailed information, as requested by MCTD.
5. **Meetings.** CONTRACTOR shall meet with MCTD Project Managers as described in Attachment K – Marin Access Meeting List and more frequently as necessary. Meetings with other key MCTD and CONTRACTOR staff will be held on a regular basis, as well as on an as needed basis. The MCTD shall include key CONTRACTOR staff in appropriate meetings related to service, planning, maintenance, and operations, as

well as in circumstances in which MCTD is contemplating the purchase of new equipment or systems or is preparing to make significant planning decisions.

6. **Federal Triennial Reviews and NTD Reviews.** CONTRACTOR will participate in Federal Triennial Reviews pertaining to MCTD or the GGBHTD. This will include NTD audits and Drug and Alcohol Program Reviews.

## SEC. 602 COMPLAINT RESOLUTION

### 1. Customer Complaints.

- a. Intake of Complaints. CONTRACTOR will be responsible for the intake of comments from the customers and for ensuring all comments are input into the TransTrack system. If a complaint is lodged through the MCTD administrative office, MCTD will provide CONTRACTOR with the complaint documentation through the TransTrack System.
- b. Required CONTRACTOR Process. CONTRACTOR shall establish a process for the thorough and prompt resolution of all customer complaints, in accordance with this Section. The process shall be completed and closed out in TransTrack within two (2) business days from the date of receipt of the complaint, and shall include, at a minimum, the following:
  - i. contemporaneous documentation of the nature of the complaint;
  - i. passenger contact information;
  - ii. investigation, follow-up, and investigative reports;
  - iii. audio and video documentation where available; and
  - iv. complaint resolution, including any remedial action taken.
- c. Complaint Validity. For purposes of this Section, MCTD will consider a customer complaint valid unless MCTD determines that CONTRACTOR has sufficiently documented that the complaint is not valid.

### 2. Title VI and ADA Complaints.

- a. Required CONTRACTOR Process. CONTRACTOR shall ensure that any passengers with a complaint that may be Title VI or ADA related are aware of their right to file a Title VI or ADA complaint and that all such complaints are directed to the MCTD Civil Rights Officer for investigation. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI or the ADA may file a complaint. Information on MCTD's Title VI Civil Rights Program is available at [www.marintransit.org/titlevi.html](http://www.marintransit.org/titlevi.html). Information on MCTD's ADA Program is available at <https://marintransit.org/reasonable-modification>.
- b. Filing of Complaints. Passengers may file a complaint in writing using the Title VI Complaint Form available at <https://marintransit.org/titlevi> or the ADA Complaint Form available at <https://marintransit.org/reasonable-modification>. Both forms are available in English and Spanish. The Forms are available in accessible formats upon request to MCTD. Verbal complaints will be accepted and transcribed by the Civil Rights Officer. Those passengers who prefer to make a verbal complaint can call (415) 226-0855 or TDD 711.
- c. Complaint Investigation. CONTRACTOR will cooperate fully with MCTD's efforts to complete an investigative report for each Title VI or ADA complaint received. CONTRACTOR will comply with any MCTD findings and recommendations based on the conclusions of the report.

## SEC. 603 ACCIDENT AND INCIDENT REPORTING

In the event of an accident involving vehicle damage, property damage, passenger injury or fatality, an emergency, or other non-routine event, CONTRACTOR shall notify MCTD Project Manager within one (1) hour after CONTRACTOR learns of such event. CONTRACTOR shall report all media inquiries or media on scene to MCTD's Project Manager immediately. CONTRACTOR shall, if requested by MCTD, follow up with specific details from the accident or incident investigation within three (4) hours from the time MCTD was originally notified. CONTRACTOR shall prepare all reports required by the Contract relating to such accident or other non-routine event. CONTRACTOR shall comply with all applicable laws and regulations in the case of any accident or other non-routine event. In addition, the CONTRACTOR shall be responsible for replacement costs in accordance with Section 404. In the event that the accident or incident occurs on a GGBHTD owned vehicle or during the operation of Regional Service CONTRACTOR shall notify the designated GGBHTD representative and MCTD Project Manager following the protocol described above.

## SEC. 604 AUDIT AND INSPECTION OF RECORDS

CONTRACTOR agrees that MCTD, GGBHTD, the Comptroller General of the United States, and the U.S. Secretary of Transportation, or any of their duly authorized representatives, shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls, and other data and records, and to audit the books, records, and accounts relating to the performance of the Contract. Further, CONTRACTOR agrees to maintain all such required books, records, and accounts, at a site in Marin County, California, in a non-archived status, during the term of this Contract (including any option years) and for at least three (3) years after MCTD has made final payment and all other pending matters are closed. In addition, CONTRACTOR shall assist and cooperate with MCTD in the audit and monitoring of all program requirements, including EEO compliance, Drug and Alcohol compliance, and Safety/Security compliance, and shall permit MCTD and GGBHTD to perform on-site inspections of CONTRACTOR's procedures and programs.

## SEC. 605 OWNERSHIP OF DOCUMENTS

CONTRACTOR agrees that any and all information, in oral or written form, whether obtained from MCTD, its agents or assigns, or other sources, or generated by CONTRACTOR pursuant to the Contract, shall not be used for any purpose other than fulfilling the requirements of this Contract. Any documents, reports, or data generated by CONTRACTOR (other than CONTRACTOR's internal documents) in connection with the performance of the Contract shall become the sole property of MCTD, subject to any rights asserted by the FTA. CONTRACTOR may retain copies of such items for its files. CONTRACTOR shall not release any documents, reports, or data from this project without prior written consent of MCTD.

## SEC. 606 REPLACEMENT SERVICES

### 1. Plan and Response.

- a. CONTRACTOR Plan. In the event that CONTRACTOR is unable, due to any event not caused by MCTD or not constituting a *Force Majeure* event under Section 511 of this Contract, to provide services in full compliance with the requirements of this Contract, CONTRACTOR shall deliver a plan to MCTD within twenty-four (24) hours after the event detailing what actions will be taken and what the schedule will be to resume providing services in full compliance with the requirements of the Contract.

- b. **MCTD Response.** If CONTRACTOR has not resumed providing services in full compliance with the requirements of the Contract within fifteen (15) calendar days of the event, then MCTD may obtain the services of a replacement operator or provide the services with its own resources (collectively referred to as “replacement services”). The MCTD may utilize such replacement services as a substitute for all or any part of CONTRACTOR’s services and may maintain such replacement services in effect until either: (a) CONTRACTOR is able to resume performance in full compliance with this Contract; or (b) MCTD terminates CONTRACTOR and obtains a permanent replacement contractor.
2. **Liability; Limits on Compensation.** If MCTD utilizes replacement services under this Section, CONTRACTOR shall be liable to MCTD for (1) the actual amount by which the cost of such services exceeds the amount that would have been payable under this Contract for comparable services; plus (2) the administrative costs incurred by MCTD in obtaining the replacement services. During the period in which any replacement services are provided, the only compensation payable to CONTRACTOR shall be for any Revenue Hours CONTRACTOR itself actually provides.
  3. **Savings Clause.** Any action taken by MCTD pursuant to this Section in response to CONTRACTOR’s failure to perform shall not preclude MCTD from subsequently finding CONTRACTOR in default of this Contract for the same or any related failure to perform.

## SEC. 607 CONTINUITY OF SERVICES

1. **CONTRACTOR Obligation.** CONTRACTOR recognizes that the services under the Contract are vital to MCTD and must be continued without interruption and that, upon Contract expiration or termination, another entity, either MCTD or another provider, may continue those services. CONTRACTOR agrees to: (1) fully cooperate in any procurement process conducted by MCTD; (2) furnish phase-in training for the new contractor; and (3) exercise its best efforts and cooperate to affect an orderly and efficient transition to the subsequent provider (including, the provision of access to Revenue Vehicles, coordination of equipment transfers, policy and procedural documents, and related actions).
2. **Transition Requirements.** CONTRACTOR shall, upon MCTD’s written notice (1) furnish phase-in, phase-out services for up to ninety (90) calendar days after the Contract expire or terminates; and (2) negotiate in good faith a plan with the subsequent provider to determine the nature and extent of phase-in, phase-out service required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to MCTD’s approval. CONTRACTOR shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by the Contract are maintained at the required level of proficiency.
3. **Compensation.** CONTRACTOR shall be reimbursed for all reasonable phase-in, phase-out costs that are incurred and not compensated by MCTD under the method of compensation in this Contract, within the agreed period after Contract expiration or termination that directly result from phase-in, phase-out operations. At the end of the Contract Term, MCTD may, in accordance with Section 402F, withhold any amount from the final invoice to CONTRACTOR determined by MCTD to be due by CONTRACTOR to MCTD as a result of CONTRACTOR’s phase out and a subsequent CONTRACTOR’s phase in of contract operations. The MCTD shall require its subsequent provider to indemnify CONTRACTOR for liability that directly results from CONTRACTOR’s phase-in, phase-out operations during such agreed period, provided that such indemnification shall not extend to liability that arises out of negligent or willful acts or omissions of CONTRACTOR. The MCTD shall also require the subsequent provider to name CONTRACTOR as an additional insured (without exclusions) for purposes of general liability coverage in the performance of phase-in, phase-out operations.

## SEC. 608 EMERGENCIES

1. **Emergency Operations Plan.** CONTRACTOR shall develop, implement, and maintain an Emergency Operations Plan to respond to emergencies and routine problems that may occur. Written procedures and processes must be approved by MCTD thirty (30) calendar days prior to the start of service and be updated annually. The occurrences that should be covered by the Plan include:
  - a. Passenger injuries;
  - b. Deaths;
  - c. Disturbances;
  - d. Illnesses;
  - e. Vehicle failures;
  - f. Inclement weather;
  - g. Accidents;
  - h. Detours;
  - i. Employee Injuries; and
  - j. Security Incidents.
2. **Continuity of Operations Plan.** CONTRACTOR shall prepare and maintain during the term of the Contract a Continuity of Operations Plan (COOP) that complies with Federal Preparedness Circular 65 dated June 15, 2004 (FPC 65), updated annually. CONTRACTOR shall also assist MCTD in developing and maintaining emergency planning efforts including emergency preparedness and disaster recovery planning.
3. **Emergency Preparedness Plan.** CONTRACTOR shall develop, implement, and maintain an Emergency Preparedness Plan and submit to MCTD on an annual basis. At a minimum, the Plan shall address:
  1. The ability to prioritize service requests to manage resources during an emergency.
  2. Intra-agency and interagency communication systems. Backup capabilities for communications, dispatch, and power supply, and access to fuel resources.
  3. A plan to support the needs of individuals with access and functional needs.
  4. A plan to support staffing demands for expanded operations and identification of essential personnel.
  5. An inventory of vehicles, total seating capacity, maximum number of securement positions, and personnel available to direct, support, and deliver service and identifies staff that can perform more than one role.
  6. A process and supporting resources to ensure that staff will report to work during a disaster.
  7. Anticipating hours of service rules that apply to drivers holding a commercial driver's license.
  8. Procedures for complete documentation of services provided.
  9. After action evaluation of CONTRACTOR emergency response and application of lessons learned.

## SEC. 609 DISPUTES

1. **Applicability.** Any dispute between CONTRACTOR and MCTD relating to the implementation or administration of this Contract shall be resolved in accordance with this Section.
2. **Informal Resolution.** The Parties shall first attempt to resolve the dispute informally in meetings or communications between CONTRACTOR and MCTD Project Managers. If the dispute remains unresolved fifteen (15) Days after it first arises, CONTRACTOR may request MCTD Director of Operations and Planning to issue a recommended decision on the matter in dispute. The MCTD Director of Operations and Planning shall issue the recommended decision in writing within thirty (30) Days and provide a copy to CONTRACTOR.

3. **Interim Review.** If CONTRACTOR contests the recommended decision of MCTD Director of Operations and Planning, CONTRACTOR shall provide its reasons for contesting the decision and the decision shall be reviewed by the General Manager, who may modify or confirm the decision. The MCTD General Manager may, upon request of CONTRACTOR, review the action of the Director of Operations and Planning and may modify or confirm the Director of Operations and Planning's recommended decision.
4. **Review by MCTD Governing Body.** The recommended decision of MCTD shall become final unless, within fifteen (15) Days of receipt of such recommended decision, CONTRACTOR submits a written request for review of the decision to MCTD Governing Body. In connection with any such review, CONTRACTOR and MCTD General Manager shall be afforded an opportunity to be heard and to offer evidence on the issues presented. If the dispute remains unresolved after review and CONTRACTOR objects to the decision issued by MCTD Governing Body, CONTRACTOR may seek judicial resolution of the dispute in the Eighth Judicial District Court of California. Prior to seeking judicial resolution in the Superior Court of the County of Marin, the parties may mutually agree to mediate the dispute.
5. **CONTRACTOR Responsibility.** Pending final resolution of a dispute under this Section, CONTRACTOR shall proceed diligently with performance in accordance with this Contract and MCTD's recommended decision.

## SEC. 610 INSPECTION OF WORK

1. **Right to Inspect.** All work (which term in this Section includes services performed, material furnished or utilized in the performance of services, and workmanship in the performance of services) shall be subject to inspection and testing by MCTD to the extent practicable at all times and places during the term of this Contract. All inspections by MCTD shall be made in such a manner as to not unduly delay the work. The MCTD shall have the right to enter the premises used by CONTRACTOR for the purpose of inspecting and auditing all data and records that pertain to CONTRACTOR's performance under this Contract, and observing management and operational practices. The MCTD shall also have the right to enter the premises used by CONTRACTOR for the purpose of inspecting vehicles that are used to provide services under this Contract.
2. **Corrections and Adjustments.** If any work performed is not in conformity with the requirements of the Contract, MCTD shall have the right to require CONTRACTOR to perform the work again in conformity with such requirements at no cost to MCTD. When the work to be performed is of such a nature that the defect cannot be corrected by re-performing the work, MCTD shall have the right to: (1) require CONTRACTOR to immediately take all necessary steps to ensure future performance of the work in conformity with the requirements of the Contract, and (2) reduce the Contract price to reflect the reduced value of the work performed; or (3) assess appropriate liquidated damages. In the event CONTRACTOR fails promptly to perform the work again or take necessary steps to ensure future performance of the work in conformity with the requirements of the Contract, MCTD shall have the right to either by contract or otherwise have the work performed in conformity with the Contract requirements and charge to CONTRACTOR any costs to MCTD that are directly related to the performance of such work, or terminate the Contract for default as provided in Section 410.

## SEC. 611 SUBCONTRACTING OF CONTRACT WORK AND TRANSFER OF INTERESTS

1. **Requirement for MCTD Approval.** CONTRACTOR may not enter into any subcontract without the prior written approval of MCTD, which will not be unreasonably withheld. In any case in which CONTRACTOR

desires to subcontract, it shall provide MCTD with all proposed subcontracting agreements and documents (including scope of work and terms of compensation). If permitted to subcontract, CONTRACTOR shall be fully responsible for all work performed by its subcontractors. Any approval of a subcontract shall not be construed as making MCTD a party to such subcontract, giving the subcontractor privity of contract with MCTD, or subjecting MCTD to liability of any kind to any subcontractor. Further, the entering into of a subcontract shall not, under any circumstances, relieve CONTRACTOR of its liability and obligations under this Contract and all transactions with MCTD must be through CONTRACTOR.

2. **Effect of Subcontracting.** CONTRACTOR may not, by subcontract, modify its obligation to perform in full accordance with its Proposal, change its Key Personnel, alter any of its required programs, or otherwise modify the basis upon which CONTRACTOR was selected and the Contract award made. Any action of CONTRACTOR in violation of the preceding sentence shall constitute a breach of the Contract and an act of default.
3. **Required Subcontract Terms.** CONTRACTOR shall include in each subcontract (at all tiers) appropriate terms and conditions to ensure that the subcontractor shall have the same duties and obligations to CONTRACTOR for its work that CONTRACTOR has to MCTD for such work under this Contract, that the subcontractors shall perform all of its work in full compliance with the requirements and standards of this Contract, and that the subcontractor shall comply with the other applicable provisions of this Contract, including the Federal laws and regulations identified in Attachment R.
4. **Assignment.** There shall be no assignment/transfer of interests or delegation of CONTRACTOR's rights, duties, or responsibilities under this Contract, except at the direction or with the prior written approval of MCTD.

## SEC. 612 INDEPENDENT CONTRACTOR

Under the terms of the Contract, CONTRACTOR is an independent contractor and has and retains full control and supervision of the services performed by and full control over the employment and direct compensation and discharge of all persons, other than MCTD employees, assisting in the performance of its services. CONTRACTOR agrees to be solely responsible for all matters relating to wages, hours of work, and working conditions and payment of employees, including compliance with social security, all payroll taxes and withholdings, unemployment compensation, workers' compensation, and all other requirements relating to such matters. CONTRACTOR agrees to be responsible for its own acts and those of its subordinates, employees, and any and all subcontractors during the term of the Contract.

## SEC. 613 LICENSING, PERMITS, AND TAXES

CONTRACTOR shall be appropriately licensed for the work required pursuant to this Contract. The cost for any required licenses or permits shall be the responsibility of CONTRACTOR. CONTRACTOR shall be liable for any and all taxes due as a result of the Contract.

## SEC. 614 LACK OF FUNDS

1. **Funding Requirement.** Entering into the Contract is subject to receipt by MCTD of local and Federal funds adequate to carry out the provisions in full.
2. **Cancellation or Reductions.** The MCTD may cancel or reduce the amount of service to be rendered if MCTD determines that such action is in MCTD's best interests, or there will be a lack of funding available

for the service. In such event, MCTD will notify CONTRACTOR in writing thirty (30) calendar days in advance of the date such cancellation or reduction is to be effective. A cancellation of the Contract for Lack of Funds will be processed in accordance with the Termination for Convenience provisions of Section 408. If a reduction in Contract services for Lack of Funds results in a decrease in Revenue Hours in a Contract Year in excess of the applicable percentage set forth in \_\_\_\_\_, the service change shall be processed in accordance with \_\_\_\_\_, Allowable Service Changes.

## SEC. 615 CONFLICT OF INTEREST

1. **General Rule for MCTD Employees.** No employee, officer, agent, immediate family member or Board member of MCTD shall participate in the selection, award, or administration of the Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when one of the following has a financial or other interest in any firm proposing on or selected for the award:
  - a. The employee, officer, agent or Board member,
  - b. Any member of the employee's immediate family;
  - c. The employee's business partner; or
  - d. An organization that employs, or is about to employ, any of the above.
2. **Gratuities.** The MCTD's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, subcontractors, or other parties to sub-agreements.
3. **Organizational Conflict of Interest.** Prior to entering into the Contract, CONTRACTOR is required to inform MCTD of any real or apparent organizational conflict of interest. Such organizational conflict of interest (OCI) exists when the nature of the work to be performed under a contract may, without some restriction on future activities, result in an unfair competitive advantage to CONTRACTOR, or may impact CONTRACTOR's objectivity in performing the Contract work. In its Proposal in response to the RFP, CONTRACTOR signed and submitted an Organizational Conflict of Interest Statement certifying that it has no organization conflicts of interest with MCTD. An OCI exists when a person or business entity has an unfair competitive advantage because of other activities or relationships with other persons. An OCI exists when any of the following circumstances arise:
  - a. **Lack of Impartiality or Impaired Objectivity.** When the supplier is unable, or potentially unable, to provide impartial and objective assistance or advice to MCTD due to other activities, relationships, contracts, or circumstances.
  - b. **Unequal Access to Information.** The supplier has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
  - c. **Biased Ground Rules.** During the conduct of an earlier procurement, the supplier has established the ground rules for a future procurement by developing the specifications, evaluation factors, or similar documents.

## SEC. 616 DEBARRED

CONTRACTOR has provided MCTD with a certification addressing its debarment and suspension status and that of its principals. CONTRACTOR shall promptly inform MCTD of any change in the suspension or debarment status of CONTRACTOR or its principals during the term of this Contract.

## SEC. 617 ANTIDISCRIMINATION AND EEO REQUIREMENTS

1. **General Requirements.** CONTRACTOR shall not in any way, directly or indirectly, in the performance of this Contract, discriminate against any person because of age, race, color, disability, sex, national origin, or religious creed.
2. **Compliance with EEO Requirements.**
  - a. **CONTRACTOR Duty.** CONTRACTOR shall comply with all EEO Program requirements in FTA Circular 4704.1, Equal Employment Opportunity Program Guidelines, or any updated version thereof.
  - b. **Cooperation in Audits.** CONTRACTOR shall cooperate in any audits performed by FTA and shall cooperate with and assist MCTD in the monitoring and auditing program requirements including permitting MCTD to perform onsite inspections for the program administration/management guidelines, and procedures. This requirement shall include providing MCTD with copies of records related to CONTRACTOR's EEO efforts prior to each site visit.
  - c. **EEO Plan.** CONTRACTOR shall, no later than thirty (30) days after the end of each calendar year, prepare and submit to MCTD, an EEO Plan (if applicable) or confirm in writing that the copy on file with MCTD is the most active plan. The plan shall be consistent with established Federal guidelines.
  - d. **Program Amendments.** CONTRACTOR shall comply with all program amendments as required by the FTA and/or MCTD and all applicable Federal and State mandates.

## SEC. 619 COMPLIANCE WITH LAWS AND REGULATIONS

CONTRACTOR shall give all notices and comply with all Federal, State, and local laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these provisions of this Contract and the Federal laws, regulations and requirements specified in <Attachment TBD> to this Contract. If the Contract documents are at variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, CONTRACTOR shall furnish to MCTD General Manager certificates of compliance with all such laws, orders, and regulations.

## SEC. 620 WAIVER OF TERMS OR CONDITIONS

The failure of MCTD or CONTRACTOR to enforce one or more of the terms or conditions of this Contract or to exercise any of its rights or privileges, or the waiver by MCTD of any breach of such terms or conditions, shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no waiver had occurred.

## SEC. 621 INTERPRETATION, JURISDICTION, AND VENUE

All contractual agreements shall be subject to, governed by, and construed and interpreted solely according to the laws of the State of California. CONTRACTOR hereby consents and submits to the jurisdiction of the appropriate courts of California or of the United States having jurisdiction in California for adjudication of any suit or cause of action arising under or in connection with the Contract documents, or the performance of such Contract, and agrees that any such suit or cause of action may be brought in any such court.

## SEC. 622 CONSTRUCTION

For the purposes of this Contract the use of the words "include" or "including" followed by a list is not intended to indicate that the list is an all-inclusive list.

**SEC. 623 OFFICIAL RECEIPT**

Communications shall be considered received at the time actually received by the addressees or designated agents. Communications to MCTD should be addressed to MCTD Project Manager and to the Contracting Officer, as follows:

Marin Transit  
711 Grand Ave.  
San Rafael, California 94901

Communications to CONTRACTOR shall be addressed as follows:

<contractor>

**SEC. 624 RESTRICTIONS ON ASSIGNMENT**

This Contract or any portion hereof shall not be assigned, nor shall the interests, rights, duties or responsibilities of CONTRACTOR be transferred or delegated, unless MCTD in its sole discretion grants prior written approval thereto. This provision extends to any purchase, merger, or consolidation (in whole or in part), and to any change in control that would cause CONTRACTOR's responsibilities under this Contract to be transferred to or assumed by a new, different, or restructured entity. This provision is separate and apart from the provisions concerning subcontracting set forth in Section 511.

**SEC. 625 SEVERABILITY**

In the event any provision of this Contract is declared or determined to be unlawful, invalid, or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the Contract and each provision of the Contract will be and is deemed to be separate and severable from each other provision.

**SEC. 626 ENTIRE AGREEMENT; AMENDMENT REQUIRED**

This Contract constitutes the entire agreement between CONTRACTOR and MCTD, and supersedes all prior negotiations, agreements, and understandings with respect thereto. No change, modification, or amendment to the obligations or responsibilities of the parties under the terms of this Contract shall be effective unless it is made by written Amendment, considered and approved by MCTD Governing Body, and duly executed by both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth below their endorsements.

MARIN COUNTY TRANSIT DISTRICT

<contractor>

By: \_\_\_\_\_

By: \_\_\_\_\_

DRAFT

## Attachment C: Budget Amendment #2022-02

Description	Function	Program	Project	GL	Original	Change	Final
Increase local paratransit budget and adjust LPT/LPG split	Operations	LPT	NA	5080101- Purchased Transportation	\$2,940,912	\$192,093	\$3,133,005
	Operations	LPG	NA	5080101- Purchased Transportation	\$401,033	\$252,411	\$653,444
Decrease regional paratransit budget	Operations	RPT	NA	5080101- Purchased Transportation	\$659,320	(\$43,046)	\$616,274
Increase Transit Connect Budget	Operations	TCT	NA	5080101- Purchased Transportation	\$533,726	\$56,712	\$590,438
Increase Rural Dial A Ride Budget	Operations	TOM	NA	5080101- Purchased Transportation	\$32,845	\$2,674	\$35,519
Increase Novato Dial A Ride Budget	Operations	NDR	NA	5040152-Oil and Fuel	\$241,500	(\$3,190)	\$256,962
Decrease customer service (moved to purchased transportation)	Operations	MMP	NA	5030320- Customer Service	\$33,944	\$5,338	\$39,282
	Operations	LPG	NA	5030320- Customer Service	\$12,269	(\$5,153)	\$7,116
	Operations	LPT	NA	5030320- Customer Service	\$116,285	(\$48,840)	\$67,445
	Operations	RPT	NA	5030320- Customer Service	\$7,223	(\$3,034)	\$4,189
	Operations	TCT	NA	5030320- Customer Service	\$33,944	(\$14,256)	\$19,688
	Operations	CAR	NA	5030320- Customer Service	\$101,832	(\$42,769)	\$59,062
Total Change for 2022-02						\$348,939	



711 grand ave, #110  
san rafael, ca 94901

ph: 415.226.0855  
fax: 415.226.0856  
[marintransit.org](http://marintransit.org)

September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Revocable License Agreements with Golden Gate Bridge Highway and Transportation District (GGBHTD) for Paratransit Vehicle Parking**

**board of directors**

kate colin  
president  
city of san rafael

judy arnold  
vice president  
supervisor district 5

stephanie moulton-peters  
2nd vice president  
supervisor district 3

damon connolly  
director  
supervisor district 1

eric lucan  
director  
city of novato

katie rice  
director  
supervisor district 2

dennis rodoni  
director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

Dear Board Members:

**RECOMMENDATION:** Authorize the General Manager to execute two revocable license agreements with Golden Gate Bridge Highway and Transportation District (GGBHTD) for paratransit vehicle parking in San Rafael and Novato.

**SUMMARY:** Marin Transit has long sought ownership of an operations and maintenance facility for its transit vehicle fleet. Prior to January 2020 when Marin Transit acquired a bus parking site at 600 Rush Landing in Novato, all transit vehicle parking and maintenance facilities were provided by the contractors operating and maintaining our vehicles. Service operations and maintenance contractors were required to provide operations and maintenance facilities with each 5-7 year contract competitively procured by Marin Transit. Competition for these contracts has been limited by the lack of available bus parking and maintenance facilities.

In July 2021 Marin Transit acquired 3000 Kerner Blvd. in San Rafael for paratransit vehicle maintenance and Marin Access contract operations office space. The new Kerner site provides an important resource to support the operation but is not large enough to allow overnight parking of the paratransit fleet. In an effort to provide the full fleet and facilities as part of the Marin Access contract, GGBHTD agreed to provide parking for Marin Access vehicles at its yards in San Rafael and Novato. Marin Transit and GGBHTD collaborated on developing the Request for Proposals (RFP) for Operation of Marin Access Services and Programs and offered these facilities to potential contractors. The RFP was released in March 2021.

ADA mandated paratransit services are a shared responsibility in Marin County between Marin Transit and GGBHTD and services are coordinated through an agreement between the two agencies. Since Marin Transit holds the contract with the contracted service provider, the agreement between the agencies outlines the terms and financial arrangement to allow GGBHTD to fulfill their ADA requirement. This agreement is re-negotiated each time Marin Transit executes a new

paratransit (Marin Access services) contract. Marin Transit's contract for Marin Access services and Marin Transit's contract with GGBHTD for paratransit services will be considered for approval by your Board on September 13, 2021.

GGBHTD is providing Marin Transit access to paratransit parking through Revocable License Agreements at two sites for no fee. The agreements are for the exclusive purpose of parking vehicles used in demand response services and the private vehicles of the operators. The agreements also allow for locating a small equipment shed and a port-a-potty for the use of the operators. The Revocable License Agreements will terminate upon the termination of the paratransit contract between Marin Transit and GGBHTD.

Drafts of the Revocable License Agreements are attached. The parties are finalizing the insurance requirements to harmonize them with the proposed Operation of Marin Access Services and Programs contract. Staff recommends that you authorize the General Manager to finalize and execute these no fee license agreements for paratransit parking with GGBHTD.

**FISCAL/STAFFING IMPACT:** There is no fiscal or staffing impact related to this item.

Respectfully submitted,



Nancy Whelan  
General Manager

Attachments: Draft Revocable License Agreement for Paratransit Parking in Novato  
Draft Revocable License Agreement for Paratransit Parking in San Rafael

## REVOCABLE LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement"), dated \_\_\_\_\_, is made by and between the GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT, a public agency, ("Licensor") and MARIN COUNTY TRANSIT DISTRICT, a public agency ("Licensee").

### RECITALS

Licensor, a public agency that provides public transportation, is the owner of that certain real property, APN#143-022-01 and 143-073-01 located at 801 Golden Gate Place in the City of Novato, County of Marin, State of California, commonly known as the Novato Bus Lot, D-2 ("Novato Bus Lot or D2"), which is depicted on Exhibit A (Property).

Licensee, is a public agency that provides bus transportation services to the public, including fixed route service, paratransit service, and dial-a-ride service (Marin Connect).

Licensor and Licensee provide paratransit services to the public within Marin County and regionally in Marin, Sonoma, San Francisco and Contra Costa Counties using paratransit vehicles owned by Licensee and owned by Licensor, which are operated by Licensee under a separate agreement between the Licensor and Licensee.

Licensee requests the use of an approximately 15,200 SF portion of the Novato Bus Lot at the rear of its Employee Parking area, as depicted in Exhibit B, attached hereto and incorporated by this reference ("Premises") to park approximately 26 of its paratransit and Marin Connect dial-a-ride vehicles, along with operators' personal vehicles and an equipment storage container and a port-a-potty.

Licensor is willing to permit Licensee to use the Premises for these purposes in accordance with the terms, conditions and covenants of this Agreement.

Licensee recognizes that the Property is accessed using a private signalized crossing of railroad right of way (ROW) at Milepost 28.35 owned by the Sonoma Marin Area Rail Transit District (SMART) in a designated quiet zone, which crossing is shared with an adjacent property owner, the North Marin Water District, and that the street access to the Property on the east side of said private railroad crossing is a private street, Golden Gate Place. No rights to the SMART ROW or the private crossing, other than the right to use the private crossing in accordance with the terms, conditions and covenants of this Agreement, are conferred by this Agreement.

Licensee recognizes that the Property is a secured facility and access to and from the Premises is through secured gates requiring card access, into a discrete portion of the Property, before transiting to the locked gate to the Premises.

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the parties agree as follows:

**1. GRANT OF LICENSE.**

Licensor hereby grants to Licensee, its contractors, operators, and invitees, subject to all of the conditions set forth herein, a non-exclusive, revocable License ("License") to use the Premises for the exclusive purpose of parking its paratransit and Marin Connect dial-a-ride vehicles and the private vehicles of the operators of those vehicles in the designated area for paratransit and dial-a-ride vehicle parking, for locating a small equipment shed and a port-a-potty for use of its paratransit and Marin Connect operators at the designated location on the Property, in the Premises, as depicted in Exhibit B and Exhibit C Access Route.

**2. TERM/TERMINATION.**

The term of this Agreement shall commence on February 1, 2022, and shall continue in effect until terminated as set forth herein:

(a) Either party may terminate this Agreement by giving sixty (60) calendar days' written notice.

(b) The Agreement shall be deemed terminated upon Licensee's discontinuance of the use of the Property and Premises for the purposes outlined in the Agreement for a period of 60 days.

(c) The Agreement shall terminate upon the termination of the paratransit contract between Licensee and Licensee.

(d) If Licensee defaults with respect to any obligation, covenant or condition of this Agreement and fails to correct the default within seven (7) days after receipt of notice from Licensor to do so, Licensor may immediately terminate this Agreement by notice to Licensee in accordance with Paragraph 9.3 Notices.

**3. LICENSE FEE. NONE**

**4. USE.**

Licensee shall use the Property and the Premises solely for the purposes described in Section 1 of this Agreement. Licensee shall be solely responsible for any and all costs associated with its use of the Property and Premises, as outlined herein and as further outlined in the contract for paratransit service dated February 1, 2022, and any subsequent or superseding contract between the parties for the purpose of providing paratransit service, the contract between Licensee and its paratransit and Marin Connect dial-a-ride service provider and any subsequent or superseding contract between Licensee and its contractor for the purpose of providing paratransit and Marin Connect dial-a-ride service. Licensee accepts the Premises in its "as is" unpaved condition with existing perimeter fencing and one access gate at end of the employee parking lot. Licensee accepts that security is limited to a security camera at the secured gate access to the employee parking lot area of Property and night-time roving security

that drives through the Licensor secured overnight bus parking area in the adjacent and separate area of the Property. Any additional security desired by Licensee will need to be provided at its own expense.

**4.1 Permitted Use.** Licensee and its paratransit operators shall enter the Property and use the Premises designated by Licensor using the access route designated on Exhibit C. Licensee and its contractors, operators and invitees shall abide by the five (5) mile per hour speed limit when within the Property boundaries. Licensee may use the Premises during its service hours on Monday through Friday and on weekends as agreed by the respective staff of Licensor and Licensee. Licensee shall conduct its operations in a safe, orderly, courteous and professional manner, and shall follow any directions or instructions provided by Licensor's employees or representatives.

**4.2 Prohibited Use.** Licensee shall not use the Property or Premises for any purpose other than as specifically authorized by this Agreement. Licensee shall not in any way interfere with Licensor use of the Property. Licensee shall use only the Premises and access to the Premises designated by the Licensor in Exhibits B and C. Licensee shall not obstruct or block the private railroad crossing, shall yield to SMART trains, shall not obstruct the private street access or gate access to the adjacent property owner, North Marin Water District, the secured areas of the Property and shall yield to Licensor's buses, employees and their vehicles entering and exiting the Property. Licensee shall not maintain or repair its vehicles on the Property or in the Premises, except for emergency repairs or maintenance. Parking of Licensee paratransit and Marin Connect dial-a-ride vehicles and its contractors' vehicles is limited to parking within the Premises in the designated parking area shown on Exhibit B. No parking is permitted in the Licensor employee parking lot.

**4.3 Prior Rights.** This License is made subject and subordinate to the prior and continuing right and obligation of Licensor, its successors and assigns, to use the Property in the performance of its transit operations. There is reserved unto Licensor, its successors and assigns, the right to construct, reconstruct, maintain and use existing and future facilities and appurtenances, including, without limitation, existing and future transportation and communication facilities and appurtenances in, upon, over, under, across and along the Property. There is further reserved unto Licensor, its successors and assigns the right to redevelop the Property in the future for purposes other than transportation. Licensor waives any and all rights it may have to receive from Licensor assistance, benefits or other payments under Federal and State Uniform Relocation Acts (USC Title 42, Section 4201 et seq. CA GC Sec 7260 et seq) as a result of Licensor making use or reclaiming possession of all or any portion of the Property and Premises. This License is made subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title which may affect the Property.

The parties acknowledge and agree that this License does not create any possessory or property interest in the Property, but is merely a temporary, revocable authorization for a non-exclusive, non-possessory use of the Property.

**4.4 Compliance with Laws.** Licensee shall not do or permit anything to be done in, on or about the Property and Premises, or bring or keep anything in, on or about the Property and Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or

regulation (collectively "laws") now in force or which may hereafter be enacted or promulgated by any public authority. Licensee shall be solely responsible for any and all costs associated with noncompliance with any such laws.

**4.5 Hazardous Materials.** No hazardous materials shall be handled, stored, transported or otherwise kept at any time upon the Property and Premises, other than gasoline, diesel fuel, oil or petroleum products contained in vehicles permitted to operate thereon by this Agreement. Licensee shall bear full and exclusive responsibility for any release of hazardous or nonhazardous chemicals or substances arising from its use of the Property and Premises. In the event of such release, Licensee shall immediately notify Licensor. Licensee shall be solely responsible for all claims and expenses associated with the response to, removal and remediation of the release, including, without limit, payment of fines or penalties levied against Licensor by any agency as a result of the release and shall hold harmless, indemnify and defend (with counsel satisfactory to Licensor) Licensor from any claims arising from such release. This indemnification shall survive the termination of this Agreement.

For purposes of this section only, the term "claims" shall include (i) all notices, orders, directives, administrative or judicial proceedings, fines, penalties, fees or charges imposed by any governmental agency with jurisdiction, and (ii) any claim, cause of action or administrative or judicial proceeding brought against the indemnified party, its directors, officers, employees or agents, or for any loss, cost (including reasonable attorneys' fees), damage or liability, sustained or suffered by any person or entity, including the indemnified party.

## **5. MAINTENANCE, REPAIRS AND ALTERATIONS.**

**5.1** Licensee has examined and inspected and knows the condition of the Property and the Premises and accepts it in its present condition. Licensee shall not maintain or repair its vehicles while the vehicles are located on the Property and Premises, except for emergency repairs or maintenance.

**5.2 Licensor's Obligations.** Licensor is responsible for repair and maintenance of the perimeter fencing, security controlled gates providing access to the Premises and paving of the private street access and pavement of the designated access route through the employee parking lot leading to the Premises.

Licensee expressly waives the benefit of any statute now or hereinafter in effect which would otherwise afford Licensee the right to make repairs at Licensor expense or to terminate this Agreement because of Licensor failure to keep Property and Premises in good order, condition and repair.

**5.3 Licensee's Obligations.** No alterations shall be made to the Premises by Licensee, including paving and alterations to fencing and gates without the prior written permission of Licensor. If the Property and Premises or any improvement located on the Premises and Property, including the secured gate access at the entrance to the Property at Golden Gate Place and the access control mechanisms controlling the automatic gates access to the Property are damaged or destroyed by Licensee use, Licensee shall, at its sole cost and expense, repair the Property and Premises or improvement located thereon, to the condition it was in before

damaged or before Licensee use, after securing Licensor approval of plans to repair said damage or authorization to use Licensor designated repair services.

## **6. ASSUMPTION OF RISK.**

Licensee shall assume all risk of damage to any and all property of Licensee and any injury to persons upon the Property and Premises associated with its use, except for any damage or injury caused solely by the active negligence or willful misconduct of the Licensor. Licensee waives all claims, demands and lawsuits and releases the Licensor from any and all liability Licensee may have against Licensor concerning the Property and Premises or Licensee use of said Property and Premises.

## **7. INDEMNITY AND INSURANCE.**

**7.1 Indemnity.** Licensee shall indemnify, keep and save harmless Licensor, the Sonoma-Marín Area Rail Transit District, the North Marin Water District and their successors and assigns, and their respective directors, officers, agents and employees (collectively, "Indemnitees") against any and all suits, claims or actions arising out of any injury or injuries to, or death or deaths of, persons or property that may occur, or that may be alleged to have occurred, from any cause or causes whatsoever, while in, upon, about, or in any way connected with the use of the Property and Premises by Licensee, its agents, employees, contractors, subcontractors or invitees. Provided, however, that the foregoing shall not apply to any claims for loss, damage, injury or liability caused by the sole negligence or willful misconduct on the part of an Indemnatee. Licensee further agrees to defend (with counsel satisfactory to Licensor) any and all such actions, suits or claims, and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith, and if any judgment be rendered against the Indemnitees in any such action. Licensee shall, at its expense, satisfy and discharge the same. Licensee waives any and all rights to any type of express or implied indemnity against Indemnitees arising out of Licensee use of the Property and Premises. This indemnity shall survive the termination of this Agreement. If any term of this indemnity provision is found to be void or unenforceable, the remainder of the provision shall remain in full force and effect.

In addition, Licensee and its contractors, subcontractors and agents shall release, defend (with counsel satisfactory to Licensor) and indemnify Licensor from and against all liability, costs or expense resulting from Licensee or its contractors, subcontractors and agents failure to obtain required authority, permits and licenses from other governmental agencies, including but not limited to authorized permits from the California Public Utility Commission.

## **7.2 Insurance.**

**(a) Workers' Compensation.** As required by Section 1860 of the California Labor Code (Chapter 1000, Statutes of 1965), or any subsequent amendments or successor acts thereto governing the liability of employers to their employees, Licensee, its contractors, subcontractors and agents shall secure Workers' Compensation coverage with an Employer's Liability limit of \$1,000,000. Licensee shall ensure the procurement and maintenance of such insurance by all contractors or subcontractors engaged on the Premises. The policy shall contain a waiver of subrogation in favor of Licensor, the Golden Gate Bridge, Highway and Transportation District,

its successors and assigns, and its directors, officers, employees, agents, contractors and any other person acting on Licensor behalf, as they now or as they may hereafter be constituted singly, jointly or severally.

(b) **Bodily Injury, Death and Property Damage Liability Insurance.** Licensee, its contractors, subcontractors and agents shall also procure and maintain at all times during the term of this Agreement comprehensive broad form Commercial General Liability insurance coverage and Automobile insurance covering Licensee, Licensor, its successors and assigns, and its directors, officers, employees, its contractors, subcontractors and agents for any liability arising out of the use of, or occurring in, on, or about the Property and Premise. Licensee shall insure the procurement and maintenance of such insurance by all contractors or subcontractors engaged on the Premises. The policy(ies) shall include coverage for all vehicles, licensed or unlicensed, on or off the Property and Premises, used by or on behalf of Licensee during the term of this Agreement. The policy(ies) shall be subject to a limit for each occurrence of Ten Million Dollars (\$10,000,000) naming as additional insureds Licensor, the Sonoma- Marin Area Rail Transit District, North Marin Water District and their successors and assigns and their respective directors, officers, employees and agents (collectively, "Insureds"). The insurer(s) shall agree that its policy(ies) is Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering Insureds.

Inclusion of Insureds as an additional insured shall not in any way affect its rights as respects to any claim, demand, suit or judgment made, brought or recovered against Licensee. Said policy shall protect Licensee and Insureds in the same manner as though a separate policy had been issued to each; but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured.

Prior to commencement of the term of the Agreement, and prior to commencement of service by Licensee or any Licensee contractors, subcontractors or agents, Licensee, and its contractors, subcontractors and agents shall deliver to Licensor a Certificate of Insurance which shall indicate compliance with the insurance requirements of this Section 7 and shall stipulate that thirty (30) days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to Licensor.

The insurance shall be issued by an insurance company or companies authorized to do business in the State of California with minimum "Best's" ratings of B+ and with minimum policyholder surplus of Twenty-five Million dollars (\$25,000,000). All policies shall be issued in a form satisfactory to the General Manager of the Licensor and shall be issued specifically as primary insurance over and above any insurance that the Licensor may carry. The insurer shall agree that its policy for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance affected by the Licensors.

Licensee, to the extent it is a public agency, may self-insure any or all of the above-required coverages, upon proof of adequately funded reserves, either through a shared pool of reserves or through its own reserves. Upon request of Licensor, Licensee must provide Licensor

with evidence of the existence of sufficient reserves to fund the coverage levels required under this Agreement. Contractors or subcontractors to Licensee may not self insure.

## **8. ASSIGNMENT.**

Licensee shall not voluntarily or by operation of law assign or otherwise transfer all or any part of Licensee interest in this License or in the use of the Property and Premises, without Licensor prior written consent, which may be withheld in Licensor sole discretion. Licensor shall respond to Licensee request for consent thereunder in a timely manner and any attempted assignment or transfer without such consent shall be void, and shall constitute a breach of this Agreement.

## **9. GENERAL PROVISIONS.**

**9.1 Severability.** The invalidity of any provision of this Agreement as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

**9.2 Entire Agreement.** This Agreement contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

**9.3 Notices.** Any notice required or permitted to be given hereunder, including notice of termination, shall be in writing and may be given by personal delivery or by certified mail, and if given personally or by mail, shall be deemed sufficiently given if addressed to Licensee or to Licensor at the addresses noted below:

If to MCTD/Licensee: Marin County Transit District  
 Marin Transit  
 711 Grand Avenue #110  
 San Rafael CA 94901  
 Attn: Nancy Whelan, General Manager

If to GGBHTD/Licensor: Golden Gate Bridge, Highway & Transportation District  
 P.O. Box 29000, Presidio Station  
 San Francisco, CA 94129-9000  
 Attention: Norma Jellison, Manager of Real Estate Services and  
 Property Development

With a Copy to: Jon Gaffney, ADA Compliance and Program Manager

Each notice shall specify the paragraph of this Agreement, if any, pursuant or with reference to which it is given. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to Licensor hereunder shall be concurrently transmitted to such party or parties at such addresses as Licensor

may from time to time hereafter designate by notice to Licensee. Notice given under this section shall be deemed in compliance with applicable statutory notice requirements, if any.

**9.4 Waivers.** No waiver by Licensor or Licensee of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Licensor or Licensee of the same or any other provision. Licensor consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Licensor consent to or approval of any subsequent act by Licensee.

**9.5 Cumulative Remedies.** No remedy or election under this Agreement shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

**9.6 Binding Effect: Choice of Law.** Subject to any provisions hereof governing assignment by Licensee, this Agreement shall bind the parties, their personal representatives, successors and assigns. This Agreement shall be governed by the laws of the State of California applicable to licenses entered into, and to be wholly performed, within the State. The language of all parts of this Agreement shall be construed with its fair meaning and not strictly for or against the Licensor or Licensee.

**9.7 Attorneys' Fees.** If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorneys' fees and court costs to be paid by the losing party.

**9.8 Consent.** Whenever under this Agreement the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed and all such determinations shall be made on a reasonable basis and in a reasonable manner.

**9.9 Authority.** Each individual executing this Agreement on behalf of Licensee and Licensor represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said party.

**9.10 Captions.** The captions used herein are for convenience only and are not a part of this Agreement and do not in any way amplify the terms or provisions hereof.

**9.11 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

**LICENSOR:**

**LICENSEE:**

**GOLDEN GATE BRIDGE, HIGHWAY  
AND TRANSPORTATION DISTRICT**

**MARIN COUNTY TRANSIT DISTRICT**

By: \_\_\_\_\_  
Denis J Mulligan  
Its: General Manager

By: \_\_\_\_\_  
Nancy Whelan  
Its: General Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for the District

\_\_\_\_\_  
Attorney

DRAFT

**EXHIBIT A**

**Property**

**801 Golden Gate Place, Novato, CA**

**Novato Bus Lot D2**

DRAFT

**EXHIBIT A**  
Property



**EXHIBIT B**

**Premises**

DRAFT

**EXHIBIT B**  
Premises



**EXHIBIT C**

Access Route

DRAFT

**EXHIBIT C**  
Access Route



## **REVOCABLE LICENSE AGREEMENT**

THIS LICENSE AGREEMENT ("Agreement"), dated \_\_\_\_\_, is made by and between the GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT, a public agency, ("Licensor") and MARIN COUNTY TRANSIT DISTRICT, a public agency ("Licensee").

### **RECITALS**

Licensor, a public agency that provides public transportation, is the owner of that certain real property, APN#018-142-57, -71, -74 and 018-180-53, located at 1011 Andersen Drive in the City of San Rafael, County of Marin, State of California, which is depicted on Exhibit A (Property).

Licensee is a public agency that provides bus transportation services to the public, including fixed route service, paratransit service, and dial-a-ride service (Marin Connect).

Licensor and Licensee provide paratransit services to the public within Marin County and regionally in Marin, Sonoma, San Francisco, and Contra Costa Counties using paratransit vehicles owned by Licensee and owned by Licensor, which are operated by Licensee under a separate agreement between the Licensor and Licensee.

Licensee requests the use of an approximately 37,600 SF portion of the Property adjacent to the rear portion of the Employee Parking area, as depicted in Exhibit B, attached hereto and incorporated by this reference ("Premises") to park approximately 32 of its paratransit vehicles, along with operators' personal vehicles and an equipment storage container and a port-a-potty.

Licensor is willing to permit Licensee to use the Premises for these purposes in accordance with the terms, conditions and covenants of this Agreement.

Licensee recognizes that the Property is a secured facility and access to and from the Premises is through secured gates requiring card access, into the Employee Parking Lot, a discrete portion of the Property, before transiting to the Premises.

Licensee recognizes that park and ride vehicles including commuter van(s) use a portion of the Employee Parking Lot.

Licensor reserves the right to temporarily alter the access route to the Premises or provide a temporary alternate parking area if required by a District construction project in the Employee Parking Lot.

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the parties agree as follows:

#### **1. GRANT OF LICENSE.**

Licensor hereby grants to Licensee, its contractors, operators, and invitees, subject to all of the conditions set forth herein, a non-exclusive, revocable License ("License") to use the Premises

for the exclusive purpose of parking its paratransit vehicles and the private vehicles of the operators of those vehicles in the parking area designated for paratransit vehicle parking, for locating a small equipment shed and a port-a-potty for use of its paratransit operators at the designated location on the Property, in the Premises adjacent to back portion of the Employee Parking Lot as depicted in Exhibit B.

## **2. TERM/TERMINATION.**

The term of this Agreement shall commence on February 1, 2022 and shall continue in effect until terminated as set forth herein:

- (a) Either party may terminate this Agreement by giving sixty (60) calendar days' written notice.
- (b) The Agreement shall be deemed terminated upon Licensee's discontinuance of the use of the Property and Premises for the purposes outlined in the Agreement for a period of 60 days.
- (c) The Agreement shall terminate upon the termination of the paratransit contract between Licensee and Licensee.
- (d) If Licensee defaults with respect to any obligation, covenant or condition of this Agreement and fails to correct the default within seven (7) days after receipt of notice from Licensor to do so, Licensor may immediately terminate this Agreement by notice to Licensee in accordance with **Paragraph 9.3 Notices**.

### **3. LICENSE FEE. NONE**

### **4. USE.**

Licensee shall use the Property and the Premises solely for the purposes described in Section 1 of this Agreement. Licensee shall be solely responsible for any and all costs associated with its use of the Property and Premises, as outlined herein and as further outlined in the contract for paratransit service dated February 1, 2022 and any subsequent or superseding contract between the parties for the purpose of providing paratransit service, the contract between Licensee and its paratransit service provider and any subsequent or superseding contract between Licensee and its contractor for the purpose of providing paratransit service. Licensee accepts the Premises in its "as is" unpaved condition with existing perimeter fencing and access gate located in the back of the Employee Parking Lot. Licensee accepts that security is limited to a security camera at the secured gate access to the Employee Parking Lot area of Property and night-time roving security that drives through the Licensor secured overnight bus parking area in the adjacent and separate area of the Property. Any additional security desired by Licensee will need to be provided at its own expense.

**4.1 Permitted Use.** Licensee and its paratransit operators shall enter the Property and use the Premises designated by Licensor transiting to the Premises through directional aisles. Licensee and its contractors, operators and invitees shall abide by the five (5) mile per hour speed limit when within the Property boundaries. Licensee may use the Premises during its service hours on Monday through Friday and on weekends as agreed by the respective staff of Licensor and

Licensee. Licensee shall conduct its operations in a safe, orderly, courteous and professional manner, and shall follow any directions or instructions provided by Licensor's employees or representatives.

**4.2 Prohibited Use.** Licensee shall not use the Property or Premises for any purpose other than as specifically authorized by this Agreement. Licensee shall not in any way interfere with Licensor use of the Property. Licensee shall use only the Premises and access to the Premises through the Employee Parking Lot. Licensee shall not obstruct or block the secured areas of the Property and shall yield to Licensor's employees and invitees and their vehicles entering and exiting the Property. Licensee shall not maintain or repair its vehicles on the Property or in the Premises, except for emergency repairs or maintenance. Parking of Licensee paratransit vehicles and its contractors' vehicles is limited to parking within the Premises in the designated parking area shown on Exhibit B. No parking is permitted in the Licensor's Employee Parking Lot.

**4.3 Prior Rights.** This License is made subject and subordinate to the prior and continuing right and obligation of Licensor, its successors and assigns, to use the Property in the performance of its transit operations. There is reserved unto Licensor, its successors and assigns, the right to construct, reconstruct, maintain and use existing and future facilities and appurtenances, including, without limitation, existing and future transportation and communication facilities and appurtenances in, upon, over, under, across and along the Property. There is further reserved unto Licensor, its successors and assigns the right to redevelop the Property in the future for purposes other than transportation. Licensor waives any and all rights it may have to receive from Licensor assistance, benefits or other payments under Federal and State Uniform Relocation Acts (USC Title 42, Section 4201 et seq. CA GC Sec 7260 et seq) as a result of Licensor making use or reclaiming possession of all or any portion of the Property and Premises. This License is made subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title which may affect the Property.

The parties acknowledge and agree that this License does not create any possessory or property interest in the Property, but is merely a temporary, revocable authorization for a non-exclusive, non-possessory use of the Property.

**4.4 Compliance with Laws.** Licensee shall not do or permit anything to be done in, on or about the Property and Premises, or bring or keep anything in, on or about the Property and Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation (collectively "laws") now in force or which may hereafter be enacted or promulgated by any public authority. Licensee shall be solely responsible for any and all costs associated with noncompliance with any such laws.

**4.5 Hazardous Materials.** No hazardous materials shall be handled, stored, transported or otherwise kept at any time upon the Property and Premises, other than gasoline, diesel fuel, oil or petroleum products contained in vehicles permitted to operate thereon by this Agreement. Licensee shall bear full and exclusive responsibility for any release of hazardous or nonhazardous chemicals or substances arising from its use of the Property and Premises. In the event of such release, Licensee shall immediately notify Licensor. Licensee shall be solely responsible for all claims and expenses associated with the response to, removal and remediation of the release, including, without limit, payment of fines or penalties levied against Licensor by

any agency as a result of the release and shall hold harmless, indemnify and defend (with counsel satisfactory to Licensor) Licensor from any claims arising from such release. This indemnification shall survive the termination of this Agreement.

For purposes of this section only, the term "claims" shall include (i) all notices, orders, directives, administrative or judicial proceedings, fines, penalties, fees or charges imposed by any governmental agency with jurisdiction, and (ii) any claim, cause of action or administrative or judicial proceeding brought against the indemnified party, its directors, officers, employees or agents, or for any loss, cost (including reasonable attorneys' fees), damage or liability, sustained or suffered by any person or entity, including the indemnified party.

## **5. MAINTENANCE, REPAIRS AND ALTERATIONS.**

**5.1 Condition of Premises.** Licensee has examined and inspected and knows the condition of the Property and the Premises and accepts it in its present condition. Licensee shall not maintain or repair its vehicles while the vehicles are located on the Property and Premises, except for emergency repairs or maintenance.

**5.2 Licensor's Obligations.** Licensor is responsible for repair and maintenance of the perimeter fencing, security controlled gates providing access to the Property and Premises and the pavement of the Employee Parking Lot leading to the Premises.

Licensee expressly waives the benefit of any statute now or hereinafter in effect which would otherwise afford Licensee the right to make repairs at Licensor expense or to terminate this Agreement because of Licensor failure to keep Property and Premises in good order, condition and repair.

**5.3 Licensee's Obligations.** No alterations shall be made to the Premises by Licensee, including paving and alterations to fencing and gates without the prior written permission of Licensor. If the Property and Premises or any improvement located on the Premises and Property, including the secured gate access at the entrance to the Employee Parking Lot and the access control mechanisms controlling the automatic gates access to the Property are damaged or destroyed by Licensee use, Licensee shall, at its sole cost and expense, repair the Property and Premises or improvement located thereon, to the condition it was in before damaged or before Licensee use, after securing Licensor approval of plans to repair said damage or authorization to use Licensor designated repair services.

## **6. ASSUMPTION OF RISK.**

Licensee shall assume all risk of damage to any and all property of Licensee and any injury to persons upon the Property and Premises associated with its use, except for any damage or injury caused solely by the active negligence or willful misconduct of the Licensor. Licensee waives all claims, demands and lawsuits and releases the Licensor from any and all liability Licensee may have against Licensor concerning the Property and Premises or Licensee use of said Property and Premises.

## 7. INDEMNITY AND INSURANCE.

**7.1 Indemnity.** Licensee shall indemnify, keep and save harmless Licensor, the and its successors and assigns, and its respective directors, officers, agents, employees and invitees (collectively, "Indemnitees") against any and all suits, claims or actions arising out of any injury or injuries to, or death or deaths of, persons or property that may occur, or that may be alleged to have occurred, from any cause or causes whatsoever, while in, upon, about, or in any way connected with the use of the Property and Premises by Licensee, its agents, employees, contractors, subcontractors or invitees. Provided, however, that the foregoing shall not apply to any claims for loss, damage, injury or liability caused by the sole negligence or willful misconduct on the part of an Indemnitee. Licensee further agrees to defend (with counsel satisfactory to Licensor) any and all such actions, suits or claims, and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith, and if any judgment be rendered against the Indemnitees in any such action. Licensee shall, at its expense, satisfy and discharge the same. Licensee waives any and all rights to any type of express or implied indemnity against Indemnitees arising out of Licensee use of the Property and Premises. This indemnity shall survive the termination of this Agreement. If any term of this indemnity provision is found to be void or unenforceable, the remainder of the provision shall remain in full force and effect.

In addition, Licensee and its contractors, subcontractors and agents shall release, defend (with counsel satisfactory to Licensor) and indemnify Licensor from and against all liability, costs or expense resulting from Licensee or its contractors, subcontractors and agents failure to obtain required authority, permits and licenses from other governmental agencies, including but not limited to authorized permits from the California Public Utility Commission.

### **7.2 Insurance.**

(a) **Workers' Compensation.** As required by Section 1860 of the California Labor Code (Chapter 1000, Statutes of 1965), or any subsequent amendments or successor acts thereto governing the liability of employers to their employees, Licensee, its contractors, subcontractors and agents shall secure Workers' Compensation coverage with an Employer's Liability limit of \$1,000,000. Licensee shall ensure the procurement and maintenance of such insurance by all contractors or subcontractors engaged on the Premises. The policy shall contain a waiver of subrogation in favor of Licensor, the Golden Gate Bridge, Highway and Transportation District, its successors and assigns, and its directors, officers, employees, agents, contractors and any other person acting on Licensor behalf, as they now or as they may hereafter be constituted singly, jointly or severally.

(b) **Bodily Injury, Death and Property Damage Liability Insurance.** Licensee, its contractors, subcontractors and agents shall also procure and maintain at all times during the term of this Agreement comprehensive broad form Commercial General Liability insurance coverage and Automobile insurance covering Licensee, Licensor, its successors and assigns, and its directors, officers, employees, its contractors, subcontractors and agents for any liability arising out of the use of, or occurring in, on, or about the Property and Premise. Licensee shall insure the procurement and maintenance of such insurance by all contractors or subcontractors engaged on the Premises. The policy(ies) shall include coverage for all vehicles, licensed or

unlicensed, on or off the Property and Premises, used by or on behalf of Licensee during the term of this Agreement. The policy(ies) shall be subject to a limit for each occurrence of Ten Million Dollars (\$10,000,000) naming as additional insureds Licensor and its successors and assigns and its directors, officers, employees, agents and invitees (collectively, "Insureds"). The insurer(s) shall agree that its policy(ies) is Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering Insureds.

Inclusion of Insureds as an additional insured shall not in any way affect its rights as respects to any claim, demand, suit or judgment made, brought or recovered against Licensee. Said policy shall protect Licensee and Insureds in the same manner as though a separate policy had been issued to each; but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured.

Prior to commencement of the term of the Agreement, and prior to commencement of service by Licensee or any Licensee contractors, subcontractors or agents, Licensee, and its contractors, subcontractors and agents shall deliver to Licensor a Certificate of Insurance which shall indicate compliance with the insurance requirements of this Section 7 and shall stipulate that thirty (30) days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to Licensor.

The insurance shall be issued by an insurance company or companies authorized to do business in the State of California with minimum "Best's" ratings of B+ and with minimum policyholder surplus of Twenty-five Million dollars (\$25,000,000). All policies shall be issued in a form satisfactory to the General Manager of the Licensor and shall be issued specifically as primary insurance over and above any insurance that the Licensor may carry. The insurer shall agree that its policy for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance affected by the Licensors.

Licensee, to the extent it is a public agency, may self-insure any or all of the above-required coverages, upon proof of adequately funded reserves, either through a shared pool of reserves or through its own reserves. Upon request of Licensor, Licensee must provide Licensor with evidence of the existence of sufficient reserves to fund the coverage levels required under this Agreement. Contractors or subcontractors to Licensee may not self-insure.

## **8. ASSIGNMENT.**

Licensee shall not voluntarily or by operation of law assign or otherwise transfer all or any part of Licensee interest in this License or in the use of the Property and Premises, without Licensor prior written consent, which may be withheld in Licensor sole discretion. Licensor shall respond to Licensee request for consent thereunder in a timely manner and any attempted assignment or transfer without such consent shall be void, and shall constitute a breach of this Agreement.

## **9. GENERAL PROVISIONS.**

**9.1 Severability.** The invalidity of any provision of this Agreement as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

**9.2 Entire Agreement.** This Agreement contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

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 Attn: Nancy Whelan, General Manager

If to GGBHTD/Licensor: Golden Gate Bridge, Highway & Transportation District  
 P.O. Box 9000, Presidio Station  
 San Francisco, CA 94129  
 Attention: Norma Jellison, Manager of Real Estate Services and  
 Property Development

With a Copy to: Jon Gaffney, ADA Compliance and Program Manager

And a copy to: Hanson Bridgett LLP  
 425 Market Street, 26th Floor  
 San Francisco, CA 94105  
 Attn.: Kimon Manolius

Each notice shall specify the paragraph of this Agreement, if any, pursuant or with reference to which it is given. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to Licensor hereunder shall be concurrently transmitted to such party or parties at such addresses as Licensor may from time to time hereafter designate by notice to Licensee. Notice given under this section shall be deemed in compliance with applicable statutory notice requirements, if any.

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**9.7 Attorneys' Fees.** If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorneys' fees and court costs to be paid by the losing party.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

**LICENSOR:**

**LICENSEE:**

**GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT**

**MARIN COUNTY TRANSIT DISTRICT**

By: \_\_\_\_\_  
Denis J. Mulligan  
Its: General Manager

By: \_\_\_\_\_  
Nancy Whelan  
Its: General Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for the District

\_\_\_\_\_  
Attorney

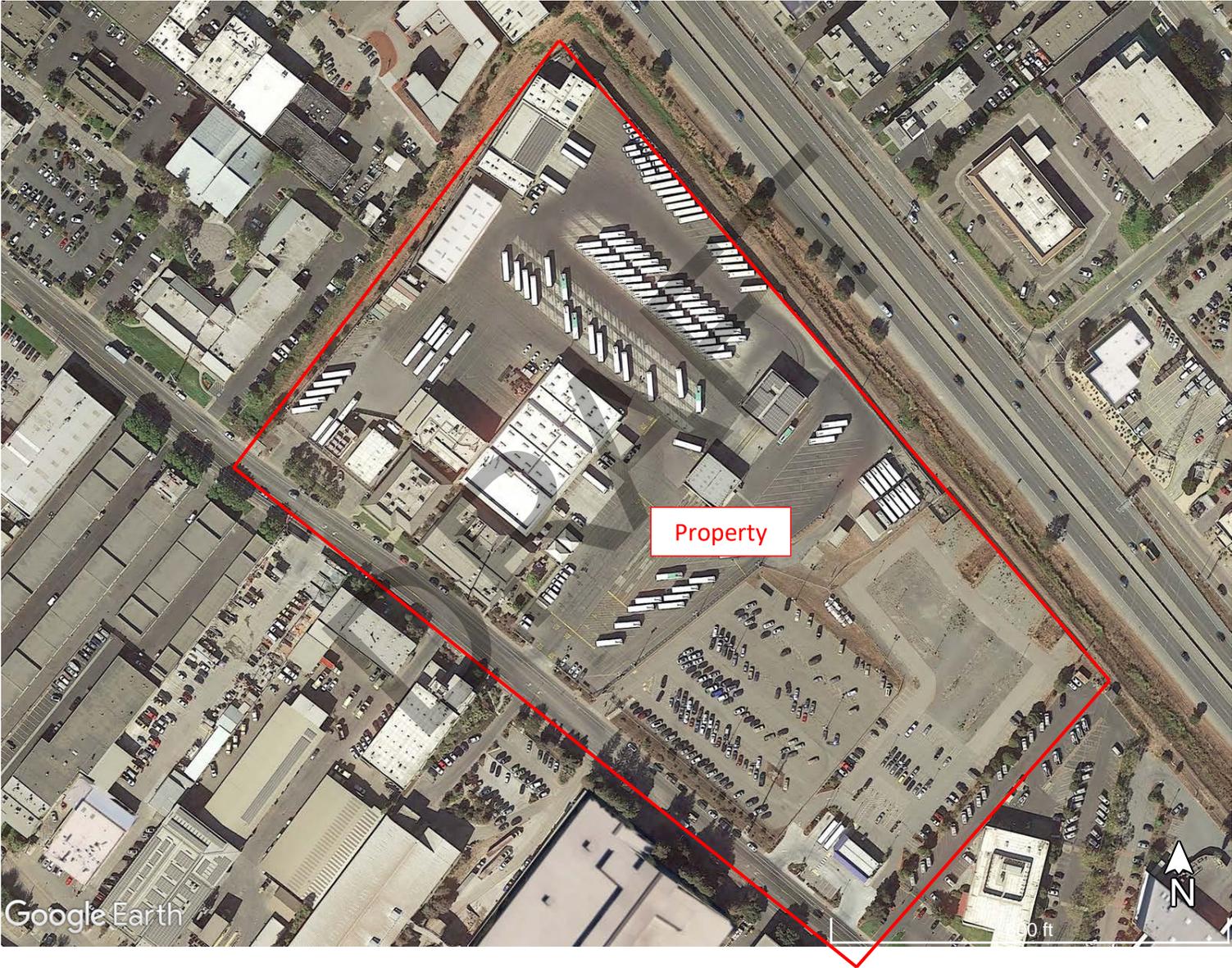
**EXHIBIT A**

**Property**

**1011 Andersen Drive, San Rafael, Marin County CA  
APN#018-142- 57, -71, -74 and 018-180-53**

DRAFT

Exhibit A  
Property



**EXHIBIT B**

**Premises**

DRAFT

**Exhibit B**  
Premises

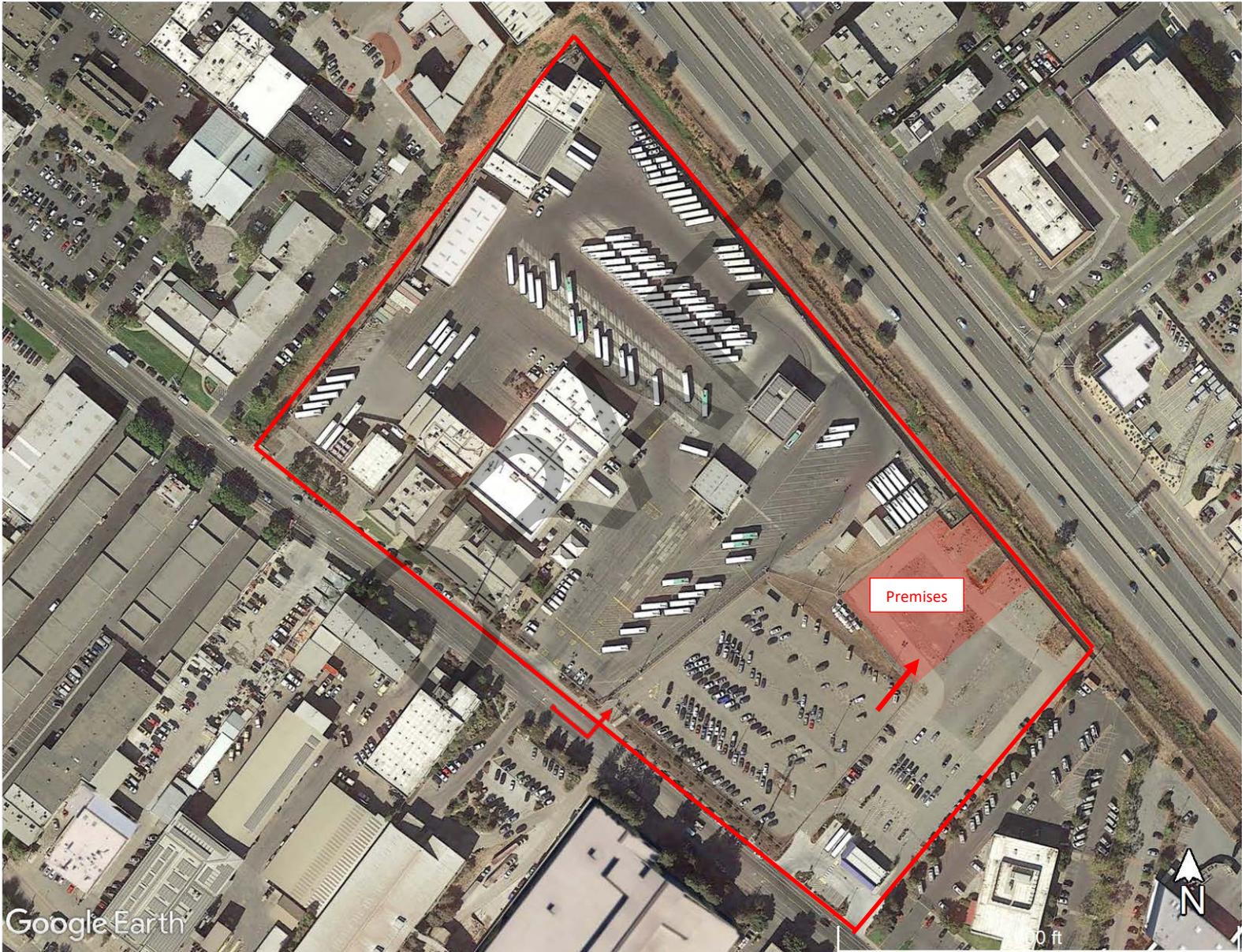


**EXHIBIT C**

**Access Route**

DRAFT

**Exhibit C**  
Access Route





711 grand ave, #110  
san rafael, ca 94901

ph: 415.226.0855  
fax: 415.226.0856  
[marintransit.org](http://marintransit.org)

September 13, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: New Agreement for Paratransit Services Between Marin Transit and Golden Gate Bridge, Highway and Transportation District**

**board of directors**

Dear Board Members:

kate colin  
president  
city of san rafael

**RECOMMENDATION:** Authorize the General Manager to negotiate and execute a new agreement for Paratransit services between Marin Transit and the Golden Gate Bridge, Highway and Transportation District (#1051).

judy arnold  
vice president  
supervisor district 5

**BACKGROUND:** Marin Transit is currently in an agreement with the Golden Gate Bridge, Highway and Transportation District (GGBHTD) to manage ADA paratransit service on behalf of GGBHTD. The terms of this agreement largely parallel those within Marin Transit's current Operations & Maintenance agreement for paratransit services with Vivalon. These agreements began on January 1, 2016, for a four and a half year term and included two option years. In February 2022, the terms of these agreements will have exhausted all option years and new agreements will need to be in place as of February 2022.

stephanie moulton-peters  
2nd vice president  
supervisor district 3

damon connolly  
director  
supervisor district 1

**SUMMARY:** The new agreement between Marin Transit and GGBHTD for Marin Transit to administer paratransit services on behalf of GGBHTD will commence on February 1, 2022. This will coincide with the commencement date with the new contracted operator agreement for Marin Access Services and will terminate with the termination of the Marin Access Services agreement.

eric lucan  
director  
city of novato

The scope and terms of the new agreement between GGBHTD and Marin Transit will remain substantially the same. Under these terms, Marin Transit is responsible for holding the paratransit contract with the service provider and managing that contract to ensure paratransit services are delivered on behalf of GGBHTD in accordance with the ADA and the contract with the provider. GGBHTD's responsibilities include compensation to Marin Transit for the regional paratransit services and a portion of the local paratransit services.

katie rice  
director  
supervisor district 2

dennis rodoni  
director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

The most significant change from the existing agreement will be moving language currently located in the Local Fixed Route Service

contract between the two agencies (specifically Section 403, Paratransit Costs) out of the Fixed Route agreement and into the new paratransit agreement. This language spells out how GGBHTD compensates Marin Transit for providing the ADA service and how the two agencies share the costs on the local paratransit services. New language in this section captures how the monthly fixed fees of the new agreement are split between programs and agencies. These terms are now captured in Section 301 of the new agreement.

The draft agreement is included as an attachment to this letter. Marin Transit's legal counsel will review the agreement and approve as to form before it is executed. GGBHTD staff is expected to present this agreement to their Board for approval in the coming months.

**FISCAL/STAFFING IMPACT:** Under this contract, GGBHTD reimburses Marin Transit for the costs of providing regional paratransit including fixed and variable costs from the purchased transportation agreement, fuel, scheduling software, eligibility, and other associated costs, net of fare revenue. The actual costs of service vary based on the demand for paratransit service. In FY2020/21, demand was historically low and GGBHTD reimbursed Marin Transit \$574,546 for regional paratransit costs. Over the life of this contract, GGBHTD reimbursements are estimated around \$800,000 per year, or \$2.8 million over the base contract term.

Under this contract, GGBHTD also reimburses Marin Transit for a portion of the mandated local paratransit service costs based on the agreement that the two agencies have a shared responsibility under the ADA. The percent of service costs has varied from the current 22.3% to 25.7% based on the amount of fixed route service each agency provides that requires complementary paratransit.

In FY2020/21, demand was historically low, and GGBHTD reimbursed Marin Transit, \$693,171 for their share of local paratransit costs. Over the life of the contract, GGBHTD reimbursement for local paratransit costs are expected to be around \$1.2 million per year or \$4.2 million over the base contract term.

The contracts financial terms are similar to the prior contract and consistent with the revenue projection included in the District's ten year financial model.

Respectfully submitted,



Kelly Zalewski,  
Operations Manager

Attachment: Draft Agreement between Marin Transit and GGBHTD for Paratransit Service

#1051

**PARATRANSIT CONTRACT**

**Between**

**MARIN COUNTY TRANSIT DISTRICT**

**and**

**GOLDEN GATE BRIDGE, HIGHWAY  
AND TRANSPORTATION DISTRICT**

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## AGREEMENT FOR PARATRANSIT SERVICES

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2015, by and between the GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT (hereinafter referred to as the "GGBHTD") and the MARIN COUNTY TRANSIT DISTRICT (hereinafter referred to as the "MCTD"), provides for Americans with Disabilities Act ("ADA") Paratransit Services and additional paratransit services in the counties of Marin, Sonoma and San Francisco, and portions of western Contra Costa County, California (hereinafter "Contract") to complement the GGBHTD fixed route services.

### RECITALS

- A. Whereas, the MCTD has extensive experience in the provision of paratransit services and the MCTD has been the responsible public entity for the provision of paratransit services within the County of Marin, California, and
- B. Whereas, the paratransit services provided by the MCTD historically have achieved public acceptance and been performed to the benefit of elderly persons and persons with disabilities within the County of Marin, California, and
- C. Whereas, the regulations implementing the ADA require the GGBHTD and the MCTD to provide complementary paratransit services, and
- D. Whereas, the MCTD and the GGBHTD jointly prepared an ADA Paratransit Plan pursuant to 49 CFR §37.141, initially adopted in June and July 1992 and updated annually through January 1996, which describes each agency's paratransit services and provisions to maintain their respective compliance with the paratransit requirements of the ADA, and
- E. Whereas, the GGBHTD remains fully compliant with the paratransit requirements of the ADA, including providing annual status reports and updates of the Paratransit Plan through the GGBHTD's Short-Range Transit Planning process, and assuring ongoing public input into the provision of its paratransit services through the GGBHTD's Advisory Committee on Accessibility and Paratransit Coordinating Councils of Marin, San Francisco, and Sonoma Counties, and
- F. Whereas, the MCTD and the GGBHTD believe it to be of mutual benefit for the MCTD to continue in its role as the primary public entity directly responsible for the provision of ADA paratransit services under their joint Paratransit Plan, and
- G. Whereas, the MCTD historically has contracted to provide ADA paratransit service within the MCTD's service area on the GGBHTD's behalf, and
- H. Whereas, the MCTD continues to be willing to administer an agreement for the provision of ADA complementary paratransit services on the GGBHTD's behalf, provided that the MCTD is adequately compensated by the GGBHTD for services rendered on its behalf, and

I. Whereas, the GGBHTD continues to be willing to compensate the MCTD for the specified paratransit services detailed herein, and

J. Whereas, the parties desire to develop a paratransit contract that defines the paratransit services provided by MCTD on behalf of the GGBHTD and addresses reciprocal obligations, and

K. Whereas, the GGBHTD wishes to continue to engage the MCTD to render certain paratransit services as hereinafter described and the MCTD desires to enter into this Agreement with the GGBHTD for the provision of said service,

NOW THEREFORE, the parties hereto agree as follows:

#### **ARTICLE 1—DEFINITIONS AND INTRODUCTORY PROVISIONS**

##### **SEC. 101 DEFINITIONS**

A. As used in this Contract:

1. **ADA Paratransit Service Area.** The term “ADA Paratransit Service Area” means the geographic area identified in Attachment A to this Contract. The ADA Paratransit Service Area is measured in accordance with Section 37.131(a) of Title 49 of the Code of Federal Regulations to include corridors within  $\frac{3}{4}$  mile of each public fixed route (non-commuter) bus service provided within Marin County and, for the purposes of the GGBHTD’s non-commuter, fixed route services, to also include corridors within  $\frac{3}{4}$  mile of public fixed route (non-commuter) bus service routes serving portions of Contra Costa, San Francisco, and Sonoma counties. The geographic scope of the ADA Paratransit Service Area may be revised from time to time by either party, and Attachment A will be revised accordingly to reflect any such revisions. The ADA Paratransit Service Area does not include areas beyond the  $\frac{3}{4}$  mile measure indicated above unless noted on Attachment A.
2. **Americans with Disabilities Act Mandated Complementary Paratransit Service.** The terms “Americans with Disabilities Act Mandated Complementary Paratransit Service” or “ADA-Mandated Complementary Paratransit Service” mean the complementary paratransit service required of providers of designated public transportation in accordance with the ADA, Subpart F of Part 37 of Title 49 of the Code of Federal Regulations (CFR), as amended or as may be amended, and FTA Circular 4710.1 characterized, in part, by six service criteria set forth in Section 37.131 of Title 49 of the CFR. The terms Americans with Disabilities Act Mandated Complementary Paratransit Service and ADA-Mandated Complementary Paratransit Service do not include paratransit service provided in the Extended Paratransit Service Areas identified in Sections 102 A.2 and 103 B.2 of this Contract.

3. **Americans with Disabilities Act of 1990 (“ADA”).** The terms “Americans with Disabilities Act of 1990” or “ADA” mean the statute enacted by the United States Congress as Public Law Number 101-336.
4. **Assumed Annual Revenue Hours.** The term “Assumed Annual Revenue Hours” means the estimated revenue hours on an annual basis that the MCTD and the GGBHTD anticipate will meet the Local and Regional paratransit service demands during the term of this Contract. The Assumed Annual Revenue Hours for each base and option year of the Contract are set out in Section 201 A.
5. **Commencement Date.** The term “Commencement Date” means February 1, 2022.
6. **Complementary ADA Paratransit Services.**
  - a. **Local ADA Paratransit Services.** The term “Local ADA Paratransit Services” means the ADA Mandated Complementary Paratransit Service along local and regional routes contained entirely within the borders of Marin County.
  - b. **Regional ADA Paratransit Services.** The term “Regional ADA Paratransit Services” means ADA Mandated Complementary Paratransit Service along the stops and alignment of GGBHTD regional routes that extend beyond the borders of Marin County. MCTD contracts for and manages the Regional Paratransit service on behalf of the GGBHTD through a separate funding agreement with GGBHTD. Regional Paratransit Service will include origins and destinations primarily beginning in one county and ending in another county within the GGBHTD service area where service is accessible to the general public (i.e. not in areas along freeways where the service is not accessible).
7. **Contract.** The term “Contract” means this interagency Agreement for Paratransit Services.
8. **Contractor.** The term “Contractor” means the operator under contract with the MCTD to provide paratransit services pursuant to the Marin Access Paratransit Operations and Maintenance Contract (also referred to herein as the Marin Access Paratransit Services Contract).
9. **Deadhead Hours.** The term “Deadhead Hours” means the hours that paratransit vehicles are operated on route from a dispatching point to the first passenger pick-up point and from the last passenger drop-off point to the dispatch location. The definition of Deadhead Hours excludes time when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service), or for scheduled operator time off (e.g., lunch, rest breaks and out of service).
10. **Deadhead Miles.** The term “Deadhead Miles” means the miles that paratransit vehicles are operated on route from a dispatching point to the first passenger pick-up point and

from the last passenger drop-off point to the dispatch location. The definition of Deadhead Miles excludes any vehicle miles accumulated when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service), or for scheduled operator time off (e.g., lunch, rest breaks and out of service).

11. **Extended Paratransit Service Area-Marin County.** The term “Extended Paratransit Service Area-Marin County” means the area within Marin County beyond the  $\frac{3}{4}$  mile measure of designated public fixed route (non-commuter) bus service routes within which specialized transportation services for ADA paratransit-eligible passengers may be provided if MCTD determines available resources permit. The paratransit service provided in the Extended Paratransit Service Area-Marin County is not ADA-Mandated Complementary Paratransit Service and, therefore, not subject to the six service criteria set forth in Section 37.131 of Title 49 of the CFR.
12. **Extended Paratransit Service Area (Regional Service).** The term “Extended Paratransit Service Area” outside Marin County refers to areas beyond the  $\frac{3}{4}$  mile measure of public fixed route (non-commuter) bus service routes where service for ADA paratransit-eligible passengers are to be provided to avoid having to transfer riders between the Contractor and other paratransit agencies in the region. The paratransit service provided in the Extended Paratransit Service Area is not ADA Mandated Complementary Paratransit Service and, therefore, not subject to the six service criteria set forth in Section 37.131 of Title 49 of the CFR. The current Extended Paratransit Service Area stretches throughout San Francisco proper. This is shown in Attachment A – Service Area Map. This area is subject to change as is deemed appropriate by GGBHTD.
13. **Federal Transit Administration (“FTA”).** The term “Federal Transit Administration” or “FTA” refers to the Federal Transit Administration of the United States Department of Transportation or its successor entity.
14. **Fixed Monthly Fee.** The term “Fixed Monthly Fee” means the fixed amount set forth in Attachment B hereto, for the Contractor’s fixed cost of providing the services covered by Marin Access Paratransit Operations and Maintenance Contract.
15. **Local & Regional Marin Access Paratransit.** The term “Marin Access Paratransit” is the name given to local and regional paratransit services. The term Marin Access Paratransit does not include Marin Transit services including deviated fixed route, flex route, dial-a-ride and other special transit services.
16. **Revenue Hours.** The term “Revenue Hours” means the time when a vehicle is operating from the first passenger pick-up point until the vehicle arrives at the last passenger

drop-off point whether or not the passengers are available to be served. The definition of Revenue Hours excludes Deadhead Hours and time when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service), or for scheduled operator time off (e.g., lunch, rest breaks and out of service).

17. **Revenue Hour Rate.** The term “Revenue Hour Rate” means the rate for reimbursement of Contractor expenses on a monthly basis during the Contract Term, set forth in Attachment B hereto, as compensation for the Contractor’s variable costs of providing the services covered by the Marin Access Paratransit Operations and Maintenance Contract.
  18. **Revenue Miles.** The term “Revenue Miles” means the distance traveled when a vehicle is operating from the first passenger pick-up point until the vehicle arrives at the last passenger drop-off point whether or not the passengers are available to be served. The definition of Revenue Miles excludes Deadhead Miles and any vehicle miles accumulated when the vehicles are engaged in refueling, vehicle maintenance testing or operator training (when not also performing revenue service), or for scheduled operator time off (e.g., lunch, rest breaks and out of service).
  19. **Total Vehicle Hours.** The term “Total Vehicles Hours” for any Contract period, means the combined total of Deadhead Hours and Revenue Hours during that period.
  20. **Total Vehicle Miles.** The term “Total Vehicle Miles” for any Contract period, means the combined total of Deadhead Miles and Revenue Miles during that period.
- B. All references to transit terminology in this Contract not defined above shall have the definitions provided in the FTA National Transit Database (NTD) Glossary, as amended or revised. The NTD glossary can be found at <https://www.transit.dot.gov/ntd/national-transit-database-ntd-glossary>. To the extent that the definitions in the NTD glossary change after the Effective Date of this Contract, those changes will govern external reporting requirements but will not impact provisions relating to revenues or compensation under this Contract. The NTD definitions relating to revenues and compensation existing as of the Effective Date will control the revenue and compensation provisions of this Contract. The parties may meet and confer with regard to the effects of any NTD definitional changes.

## SEC. 102 SERVICES PROVIDED ON BEHALF OF THE GGBHTD

- A. **Regional Paratransit Service.** The MCTD will be responsible, on behalf of the GGBHTD, for administering the provision of regional paratransit service to eligible individuals in accordance with all applicable federal, state and local laws and regulations through the Contractor. Regional paratransit service will include origins and destinations primarily beginning in one county and ending in another county within the GGBHTD’s service area, more particularly described as follows:

1. Regional ADA Paratransit Service Area: Consistent with Attachment A, Regional ADA-Mandated Complementary Paratransit Service is provided within  $\frac{3}{4}$  of a mile of either side of each GGBHTD regional non-commuter bus route in Marin, Sonoma, San Francisco, and Contra Costa counties during the comparable hours of service for each such bus route; and
2. Regional Extended Service Area:
  - i. Sonoma County: Based on long-standing operational procedures with Sonoma County, Santa Rosa, and Petaluma operators, the GGBHTD may direct the provision of extended paratransit service to offer enhanced customer service in a single-ride trip rather than requiring a transfer for a short-distance trip in Sonoma County. Generally, this extended paratransit service is provided up to  $\frac{1}{2}$  mile beyond the ADA-Mandated Complementary Paratransit Service Area identified in Attachment A and is not restricted by the six service criteria set forth in Subpart F of Part 37 of the CFR. The trips provided in this Regional Extended Area originate or end in a county other than Sonoma County. The MCTD will require the Contractor to continue to provide these trips. The GGBHTD is responsible for the cost of all paratransit service provided in this Regional Extended Area, and the MCTD will pay no portion of such service.
  - ii. San Francisco: Based on long-standing operational procedures with the San Francisco Municipal Transportation Agency ("SFMTA"), the GGBHTD may direct the provision of extended paratransit service to offer enhanced customer service in a single-ride trip rather than requiring a transfer for a short-distance trip in San Francisco. Generally, this extended paratransit service is provided beyond the ADA-Mandated Complementary Paratransit Service Area identified in Attachment A and is not restricted by the six service criteria set forth in Subpart F of Part 37 of the CFR. The trips provided in this Regional Extended Area originate or end in a county other than San Francisco. The MCTD will require the Contractor to continue to provide these trips. The GGBHTD is responsible for the cost of all paratransit service provided in this Regional Extended Area, and the MCTD will pay no portion of such service.
3. In accordance with GGBHTD Board policy, the GGBHTD will pay for regional paratransit service beyond the ADA-Mandated Complementary Paratransit Service Area identified in Attachment A, or otherwise beyond the requirements of Subpart F of Part 37 of the CFR, only as specified in Paragraph (2) of this subsection A.

#### **B. Other Services and Payment**

**Other Services.** To the extent paratransit vehicles and drivers are available and subject to the terms of the MCTD's contract with the Contractor, paratransit service will also include, prompt response to any request from a GGBHTD bus dispatcher for a paratransit vehicle to transport a passenger with disabilities from a GGBHTD fixed-route bus (bus backup service).

A GGBHTD bus dispatcher shall make such a request when an incident occurs that prevents a person with a disability from being accommodated on GGBHTD fixed-route bus service and GGBHTD equipment and personnel are unavailable to provide backup service to the passenger. The passenger should be transported to his/her destination or to an accessible bus stop location where the passenger can board a GGBHTD bus to complete his/her trip. The GGBHTD is responsible for paying the cost for these Other Services.

**C. Local ADA Paratransit Service (Marin County).**

As stated in Section 301, the GGBHTD will pay for a portion of the local paratransit service provided as a complement to fixed-route services operating within Marin County (ADA-Mandated Complementary Paratransit Service). The method for determining that share is further defined in Section 301.

**SEC 103 GENERAL OBLIGATIONS OF THE PARTIES**

- A. In General.** Under this Contract, the MCTD shall be responsible, on behalf of the GGBHTD, for administering the contract for the provision of paratransit service to eligible individuals by the Contractor. The MCTD shall be the lead agency for compliance with all applicable federal, state, and local laws and regulations relating to the provision of paratransit services. The contracted paratransit service shall be provided as fully as possible in accordance with the Joint Americans with Disabilities Act Paratransit Plan prepared by both the MCTD and the GGBHTD and the ongoing public input process followed by both parties in the provision of their coordinated ADA paratransit services.

The MCTD and the GGBHTD each understand and accept their respective responsibilities under the ADA, and each is dedicated to acting responsibly to deliver the level of service required by the ADA. The MCTD and the GGBHTD each recognize that their service footprints, both now and in the future, will result in some overlap in ADA Paratransit Services responsibilities. Each party bears the responsibility for its interpretation of its paratransit obligations under the applicable law.

**B. The MCTD's Responsibilities.**

1. The MCTD will enter into an Operations and Maintenance Contract for Marin Access Paratransit Services with a qualified vendor for the provision of local and regional paratransit services. This service agreement is subject to the review and concurrence of the GGBHTD.
  - i. The MCTD will ensure that the Marin Access Paratransit Services Contract includes the Contractor's responsibilities for: provision and maintenance of vehicles and other capital equipment; collection of farebox revenues; purchase of fuel from fuel pumps owned and operated by the County of Marin; scheduling of services; report and monitoring requirements; service delivery problems (including emergencies and disasters) and complaint resolution

procedures; performance standards; marketing of services; driver training; compliance with state and/or federal employee drug and alcohol testing programs; and other applicable requirements.

ii. The MCTD will ensure that the scope of the Marin Access Paratransit Services Contract, includes maintenance of vehicles and equipment (including the service scheduling system) based on standards in compliance with FTA and all other applicable requirements; maintenance of warranties and coordination with the vehicle or equipment manufacturer or service company representative for any necessary warranty work; and periodic reporting requirements.

iii. The MCTD will inform the GGBHTD of any unanticipated expenses related to the provision of services under the Marin Access Paratransit Services Contract within a reasonable time of becoming aware of such expenses, require the Contractor to provide documentation of those unanticipated expenses, and initiate discussions with the GGBHTD regarding the allocation of those unanticipated expenses. By their very nature, unanticipated expenses tend not to be readily identifiable. However, one example of expenses that may fall within this paragraph would be expenses related to the installation of capital equipment, such as cameras, on buses in the existing fleet. Another example may be a change in ADA requirements that necessitates a significant additional expenditure. MCTD will obtain GGBHTD's written approval before incurring unanticipated expenses (when practicable) for which a contribution from GGBHTD is sought.

2. Local Extended Service Area -- Marin County If the MCTD concludes that available resources permit, paratransit services provided within Marin County may extend beyond the  $\frac{3}{4}$  mile measure on either side of each MCTD local service route and GGBHTD regional non-commuter bus route and may be provided outside the comparable hours of service for such bus routes so long as the trips provided in the extended service area and beyond the extended hours originate and end within Marin County without any transportation into another county. The paratransit services provided in this Local Extended Paratransit Service Area – Marin County extend beyond the ADA-Mandated Complementary Paratransit Service Area identified in Attachment A and are not restricted by the six service criteria set forth in Subpart F of Part 37 of the CFR. The MCTD is responsible for the cost of service to the Local Extended Paratransit Service Area – Marin County and service provided during extended hours. The GGBHTD will not participate financially for any Paratransit Service provided in the Local Extended Paratransit Service Area – Marin County, nor for paratransit services provided outside the hours of comparable fixed route service. The MCTD's determination to provide service in this Extended Paratransit Service Area, or extended hours, will not alter the portion that the GGBHTD is required to pay for Local Paratransit Service pursuant to Section 301.

3. The MCTD will require the Contractor to administer fare and other revenue collections associated with operation of paratransit services and monitor, and report such to the GGBHTD. The MCTD will credit the GGBHTD with fares collected for regional paratransit services and for the GGBHTD's share for local paratransit services.
4. The MCTD, either directly or through the Contractor, will provide the GGBHTD with a monthly report, fiscal year cumulative and year-end reports, and special reports, as requested, addressing the paratransit service that has been provided. Regular monthly, fiscal year cumulative and year-end reports will include Total Vehicle Hours, Total and Revenue Vehicle Miles operated, passenger counts, passenger no-shows and cancellations, categories and number of mobility aids, on-time performance, fares and other revenues collected, extended service requests, extended service provided, and Contractor's service performance. Special reports may include such information as origins and destinations of travel. The MCTD will also provide the GGBHTD, either directly or through the Contractor, any needed information that is requested for inquiries related to paratransit services for purposes of audits or otherwise. The MCTD will require that the Contractor maintain and provide information necessary to meet Federal National Transit Database reporting requirements. In addition, the MCTD will provide the GGBHTD with adequate notice of any meetings scheduled between the MCTD and the Contractor to discuss monthly reports, fiscal year cumulative and year-end reports, and/or special reports to afford the GGBHTD an opportunity to participate in such meetings.
5. The MCTD will monitor costs and consult with the GGBHTD on a regular basis regarding the operation of the paratransit service. The MCTD staff shall cooperate and shall ensure that the Contractor will cooperate with the GGBHTD in developing operating policies; marketing services; monitoring service delivery, including consideration of origins and destinations and service area responsibility; resolving issues; operating cost-effectively, including taking the opportunity to improve efficiency and implement policies or procedures that result in cost savings or other service improvements; developing and maintaining service arrangements with adjoining operators; providing for emergency preparedness; and operating the paratransit scheduling system and its related components. The MCTD will require the Contractor to cooperate with adjoining transit operators in the provision of regional paratransit service between operator service areas and require the Contractor to work with adjoining paratransit operators to arrange inter-operator transfers of passengers or continuing travel between origins and destinations beyond the ADA-Mandated Complementary Paratransit Service Area identified in Attachment A to the extent directed by the GGBHTD in accordance with Sections 102 A. 2 and 102 B. In addition, the MCTD will provide the GGBHTD with adequate notice of any meetings scheduled between the MCTD and the Contractor to discuss paratransit operations issues to afford the GGBHTD an opportunity to participate in such meetings.

6. The MCTD has designated a Reasonable Modification Coordinator to coordinate efforts to comply with the reasonable modification requirements of Part 37 of Title 49 of the CFR, including determinations following requests and handling of complaints related to requests for reasonable modifications. The MCTD will require the Contractor to provide any reasonable modification request granted by the MCTD Reasonable Modification Coordinator or granted by the GGBHTD staff responsible for reasonable modification coordination and communicated to the MCTD.
7. The MCTD shall have primary responsibility for the resolution of passenger complaints, including complaints related to the handling of reasonable modification requests, concerning the provision of paratransit service by the Contractor. Through access to the TransTrack report, the MCTD will provide the GGBHTD with timely notice of all recorded problems or complaints. In addition, the MCTD will provide the GGBHTD specific notification of problems and complaints that the MCTD determines to be major problems and complaints. In determining whether a particular problem or complaint is a major complaint, the MCTD will give particular weight to problems or complaints alleging violation of Title VI of the Civil Rights Act of 1964 and potentially requiring action on the part of either party under Section 402 of this Contract. The MCTD will cooperate with the GGBHTD if that agency chooses to become involved in the resolution of complaints that the GGBHTD staff believes warrants the GGBHTD's attention.
8. The MCTD will cooperate with the GGBHTD and work with the Advisory Committee on Accessibility and the Paratransit Coordinating Councils of each county served by the GGBHTD to ensure the ongoing public input process associated with continued implementation of the MCTD's and the GGBHTD's adopted Joint ADA Paratransit Plan and provision of ADA Paratransit Service.

**C. The GGBHTD's Responsibilities.**

1. Administration.

- a) The GGBHTD will monitor costs and consult with the MCTD on a regular basis regarding the operation of the paratransit service and review the MCTD's invoices prior to reimbursement and audit as appropriate.
- b) The GGBHTD will continue to cooperate with the MCTD and work with the Advisory Committee on Accessibility and the Paratransit Coordinating Councils of each county served by the GGBHTD to ensure the ongoing public input process associated with continued implementation of the MCTD's and GGBHTD's adopted Joint ADA Paratransit Plan and provision of ADA Paratransit Service.
- c) The GGBHTD shall pay the MCTD for services rendered as provided in this Contract, including unanticipated expenses for such services allocated to the GGBHTD provided that the parties have the opportunity to discuss

unanticipated expenses contemplated under Section 103B(iii) prior to the MCTD's submission of any invoice including such expenses. The GGBHTD will not pay for costs which should have been brought to its attention in advance of incurring such cost.

2. Operations.

- a) The GGBHTD will provide Revenue Vehicles for use in the service described in this Contract. The parties will meet annually to determine vehicle requirements for the following budget year.
- b) In the event that the GGBHTD determines that the paratransit services provided by the Contractor are deficient in any way, the GGBHTD will communicate information concerning those deficiencies in service to the MCTD in a timely manner.

3. Maintenance.

- a) The GGBHTD will inspect, monitor, and audit vehicle maintenance practices and activities for all GGBHTD-provided vehicles.
- b) The GGBHTD will compensate the MCTD for engine and transmission repairs performed on GGBHTD-provided Revenue Vehicles provided that the GGBHTD has provided prior authorization for those repairs. The MCTD will require the Contractor to notify the GGBHTD of such repairs in advance of parts purchase or work performed. The GGBHTD reserves the right to have repairs performed by entities other than the Contractor. The GGBHTD will not pay for unauthorized major repairs.

4. Fares.

- a) The GGBHTD will establish and evaluate passenger fares, fare policies, and fare structures for regional paratransit service.
- b) The GGBHTD will be provided an adequate opportunity by the MCTD to participate in the decision-making process for any changes to fares, fare policies, and/or fare structure for local paratransit service.

5. Parking.

- a. The GGBHTD will provide parking in Marin County for paratransit, Marin Connect, and dial-a-ride vehicles through a Revocable License Agreement.

#### SEC. 104 REPRESENTATIONS, WARRANTIES, AND STANDARD OF PERFORMANCE

- A. Representations and Warranties.** The parties represent, warrant, and covenant as follows: the parties have and, through the Contract Term, shall maintain all required licenses, permits, status, professional ability, skills and capacity to perform their respective obligations hereunder in accordance with the requirements of the Contract.
1. Laws, Regulations, and Governmental Approvals. The parties have familiarized themselves with the requirements of all applicable federal, state, and local laws and regulations pertaining to this Contract and the condition of any required governmental approvals, prior to entering into this Contract, and further acknowledge and agree that they are responsible for complying with such laws and regulations.
- B. Standard of Performance.** The parties shall perform their respective obligations under this Contract diligently, carefully, and in a timely and professional manner, in accordance with the standards and requirements in the Contract and in accordance with standards and practices generally accepted as standards of the industry; and shall have and maintain all required authority, licenses, professional ability, skills, personnel, and capacity to perform their obligations under this Contract.

#### SEC. 105 CONTRACT DATES AND TERM OF CONTRACT

- A. Contract Dates.** This Contract shall take effect on the date above first written (the Effective Date). The MCTD shall assume responsibility for the paratransit services under this Contract on the Commencement Date of February 1, 2022.
- B. Contract Term.** The term of this Contract is for three years and five months (the Base Contract Term), beginning on the Commencement Date, with three (3) one (1) year options, for a total possible Contract term of six and a half (6½) years. The initial term (Contract Year One) is a five-month period ending on June 30, 2022. Contract Year Two and the succeeding Contract Years and Option Years will begin on July 1 of the respective calendar years.
- C. Options.**
1. Exercise. At least three hundred fifty (350) calendar days prior to the end of the last year of the Base Contract Term, the GGBHTD shall notify the MCTD in writing as to whether it intends to exercise the option(s). This notification shall specify whether one or more than one option is being exercised. If only the first option is exercised at that time, the GGBHTD shall provide notice in writing at least one hundred eighty (180) calendar days prior to the end of that option term whether the GGBHTD intends to exercise the remaining option.
  2. Nature of Option and Calculation of Option Prices. The option(s) provided under this Contract are the unilateral right of the GGBHTD to obtain paratransit services through the MCTD for the option year(s) at the rate for that option year(s) set forth in

Attachment B. The MCTD acknowledges and agrees that it is contractually obligated, upon exercise of the option by the GGBHTD, to arrange for the provision of the services described hereunder at the fees and rates established for the applicable option year(s).

- D. Contract Extensions.** In addition, the parties may by mutual agreement extend the Base Contract Term, or an option term, on a month-to-month basis, at the most recently applicable rate for a period not-to-exceed one hundred twenty (120) calendar days.

**ARTICLE 2 – OPERATIONS AND EQUIPMENT**

**SEC. 201 ASSUMED ANNUAL REVENUE HOURS**

**A. Provision of Service.** The following estimates reflect the anticipated demand for Marin Access Paratransit during the term of the contract:

	<b>Estimated Local Hours</b>	<b>Estimated Regional Hours</b>
Contract Initial Six Months:	30,172	5,176
Contract Year Two:	62,455	10,560
Contract Year Three:	64,640	10,771
Contract Year Four:	66,903	10,987
Contract Year Five:	69,903	11,206
Option Year One:	71,668	11,431
Option Year Two:	74,176	11,659

**B. Local ADA Paratransit Service (Marin County).**

The projections for local paratransit service demand cited above in subsection A include both ADA-Mandated Paratransit Service and Extended Paratransit Service. (Hours operated under other contractual agreements between MCTD and the Contractor are not included.) As stated in Section 301, the GGBHTD will pay only a portion of the local paratransit service provided as a complement to fixed route services operating within Marin County (ADA-Mandated Complementary Paratransit Service). The method for determining that share is further defined in Section 301, and is set forth below in paragraph C. The GGBHTD will not participate financially for any paratransit service provided in the Local Extended Paratransit Service Area – Marin County, nor for paratransit services provided outside the hours of comparable fixed route service.

**C. Calculation for GGBHTD Share of Local ADA Paratransit.**

The process for calculating the GGBHTD share of local paratransit costs is as follows:

1. The calculation of GGBHTD's share of trips that require complementary local paratransit service will be the ratio of the GGBHTD's scheduled non-commute bus trips compared to the total number of scheduled non-commute bus trips provided by the two parties. Trips on routes not legally required to provide complementary paratransit service will be excluded from the total trips calculation. By August 1<sup>st</sup> of each year, each party will be responsible for determining which routes and trips require complementary local paratransit, and the parties will review the total number of scheduled non-commute bus trips provided within Marin County during the prior fiscal year. This list will also be used as the basis for determining trip eligibility by Contractor.
2. The calculated percentage in paragraph C.1 will be applied to the total local paratransit costs for legally mandated ADA paratransit service on a monthly basis. MCTD will exclude the costs of any Extended Paratransit Service in Marin County from total local paratransit costs, based on Trapeze reported trips.

**SEC. 202 ALLOWABLE SERVICE CHANGES**

**A. Description of Service Changes.**

1. Authority of the GGBHTD. The GGBHTD may modify or adjust the paratransit services provided through this Contract at any time in response to changes in paratransit demand.
2. Allowable Service Changes. Allowable modifications and adjustments may include: extending, deleting from, or adding to Marin Access Paratransit service area and a corresponding revision of services; temporarily increasing vehicles in operation to avoid or address a capacity constraint in violation of Section 37.131(f)(3) of the Code of Federal Regulations; reallocating, decreasing, or increasing Revenue Hours or the frequency of service; or modifying requirements or scope relating to the maintenance of vehicles (hereafter collectively referred to as "Service Changes").

**B. Process for Service Changes.**

1. Proposed Changes. The GGBHTD and the MCTD will evaluate ridership changes, changes in hours of service demand, passengers per Revenue Hour, capacity constraints, and on-time performance on a quarterly basis to determine if a service change is appropriate.

**C. Possible Rate Adjustments.**

1. If there is a demand-driven increase or decrease in Paratransit Service Revenue Hours of more than fifteen percent (15%) over a Contract Year as compared to the Assumed Annual Revenue Hour range set out for that Contract Year in Section 201, the MCTD may be required to consider a rate change requested by the GGBHTD or requested by the Contractor. Any such rate change request shall be in writing and shall provide quantitative documentation that the Service Change in question has resulted, or will result, in additional costs to the Contractor or cost savings to the MCTD or the GGBHTD in the operation or maintenance of Revenue Vehicles under the Marin Access Paratransit Operations and Maintenance Contract. The MCTD and the GGBHTD shall consult regarding any such request and shall attempt to review, discuss, consider, and reach agreement with respect to any such request in good faith.

#### **SEC. 203      VEHICLES**

- A. The MCTD and the GGBHTD shall jointly provide all vehicles and ancillary equipment, such as mobile data terminals, radios, and fareboxes. The obligation under this section includes all vehicles necessary to meet the demand for Local and Regional trips. The GGBHTD will purchase and hold title to all vehicles required for use in Regional service and a proportionate share of vehicles required for use in Local service. GGBHTD will not participate in the cost of any replacement or expansion vehicles for services that are not GGBHTD's responsibility to provide. The parties will jointly develop a fleet plan. The parties will meet every year prior to the preparation of each agency's annual budget, to update the fleet plan and review each agency's anticipated needs for replacement and/or expansion vehicles.
- B. All vehicles used under the Marin Access Paratransit Services Contract shall be uniformly decal and dispatched interchangeably by the Contractor on both local and regional paratransit services with the exception that Measure AA decals will not be placed on any vehicle not funded by Measure AA.

#### **SEC. 204      EQUIPMENT**

The MCTD and the GGBHTD shall jointly provide all capital equipment to this Contract. This includes the scheduling/dispatch equipment necessary to support the operation and maintenance of services under the Marin Access Paratransit Services Contract.

### **ARTICLE 3—COMPENSATION AND COMMERCIAL TERMS**

#### **SEC. 301      COMPENSATION TO MCTD**

- A. **Compensation for Paratransit Services (Fixed Costs).** The GGBHTD shall compensate the MCTD for fixed administrative costs associated with providing local and regional paratransit services as set forth below. MCTD and GGBHTD agree that GGBHTD will pay for a portion of these fixed fees to support the management, maintenance, scheduling, dispatching, and ADA eligibility requirements needed to support the service.

- a. The parties seek a metric to calculate the GGBHTD's share of paratransit costs that is transparent and easily determined with minimal staff time required.
- b. GGBHTD's proportional share of the fixed fee is based on methodology provided herein shall be effective at the start of the agreement and this methodology shall remain in place throughout the life of this Contract.
- c. Eligibility Processing – The MCTD contracts for “Travel Navigator” services with an outside vendor to provide information and eligibility services for all of its Mobility Management programs. The Travel Navigator contract includes information and referral and eligibility processing for all Marin Access Paratransit Services. The monthly cost of Marin Access information and referral and Eligibility Processing will be split between the MCTD and the GGBHTD as outlined in section 301.A.d.
- d. The methodology for calculating the GGBHTD's share of paratransit fixed costs consists of the calculation of three factors: trips booked by the scheduling team, revenue hours of service, and total miles. The table below shows how these factors will be used to split the associated costs and which agency is responsible for these costs.

	<b>Cost Included</b>	<b>Cost Allocation Factor</b>	<b>Local Expenses</b>	<b>Regional Expenses</b>	<b>Other Expenses</b>
<b>Responsibility</b>			Split between GGBHTD & MCTD based on Section 301.b	100% GGBHTD	100% MCTD
<b>Call Center Costs</b>	Call Center Staff including Schedulers & Dispatchers	Trips Booked Thru Call Center	% Local Para Trip Booked	% Regional Para Trips Booked	% “Other” Non-ADA Trips Booked
<b>Program Eligibility Costs</b>	(80%) of Access Program Manager and Travel Navigators	Trips Booked Thru Call Center	% Local Para Trips	% Regional Para Trips	“Other” Non-ADA Trips
<b>Mobility Management</b>	(20%) of Access Program Manager and Travel Navigators				20% of Costs
<b>Maintenance Costs</b>	Maintenance Managers and Staff	Total Miles Operated	Local Para Total Miles	Local Regional Total Miles	“Other” Non-ADA Total Miles
<b>All Other Costs</b>	All other staff excluding drivers	50% Revenue Hours / 50% Total Miles	% Local Para Revenue Hours /	% Regional Para Revenue	% “Other” Non-ADA Revenue

			% Local Para Total Miles	Hours / % Regional Para Total Miles	Hours / % "Other" Non-ADA Total Miles
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- e. Attachment E shows a listing of summary of Revenue Hours, Total Miles, and Trips booked by program for July 2021. Based on these factors, GGBHTD will pay 27% of the total fixed fees for the initial five months of the agreement. By June 1st of each year of this Contract, each party will be responsible for updating these values and recalculating the split of fixed fees. Unless the percentage split changes for more than 5% for either party compared to the previous year, the split will remain the same. If the split changes by more than 5% of the previous year, the split will change to the new amount.

**B. Compensation for Local Paratransit Services (Variable Costs).** The GGBHTD shall compensate the MCTD for local paratransit services as set forth below. MCTD and GGBHTD agree that the GGBHTD will pay for a portion of the local paratransit service provided as a complement to fixed route services operating within Marin County, based on the following:

- a. The parties seek a metric to calculate the GGBHTD's share of paratransit costs that is transparent and easily determined with minimal staff time required.
- b. GGBHTD's local paratransit share based on methodology provided herein shall be effective FY 2021/22 (February 1, 2022, through June 30, 2022), and this methodology shall remain in place throughout the life of this Contract.
- c. The methodology for calculating the GGBHTD's share of local paratransit costs consists of the calculation of two factors: the ratio of fixed route trips that require complementary local paratransit service and the paratransit costs for legally mandated local paratransit service. The calculation of each factor is provided in paragraphs d. and e of this section.
- d. The calculation of the share of trips that require complementary local paratransit service will be the ratio of the GGBHTD's scheduled non-commute bus trips compared to the total number of scheduled non-commute bus trips provided by the two parties. Trips on routes not legally required to provide complementary paratransit service will be excluded from the total trips calculation. Attachment C shows a listing of all routes and trips for each party and which routes and trips which will be excluded for FY 21-22. By August 1st of each year of this Contract, each party will be responsible for determining which routes and trips require complementary local paratransit, and the parties will review the total number of scheduled non-commute bus trips provided within Marin County during the prior Fiscal Year. This list will also be used as the basis for determining trip eligibility by the contractor.

- e. The calculated percentage in paragraph d. will be applied to the total local paratransit costs for legally mandated service on a monthly basis for the current Fiscal Year. Attachment D provides a sample calculation of GGBHTD's share of FY 2021 local paratransit costs. GGBHTD will pay only for its portion of legally mandated paratransit trips. MCTD will pay for all local services that are not legally required.
  - f. GGBHTD is responsible for funding its share of the vehicles needed to provide its share of the local paratransit service. It will be determined how many vehicles are required to operate local paratransit services, and GGBHTD's proportionate share of vehicles. MCTD will work with GGBHTD so that the proportionate share of vehicles currently programmed for replacement can be reprogrammed by MTC to GGBHTD.
  - g. GGBHTD shall be credited with a proportionate amount of fares collected from local paratransit patrons.
  - h. The MCTD shall provide GGBHTD with information on the proportionate number of local paratransit passengers, hours, and miles for purposes of including the data in GGBHTD reporting, including but not limited to NTD and State Controller reporting.
- C. Compensation for Regional Paratransit Services (Variable Cost).** The GGBHTD shall compensate the MCTD for regional paratransit services as set forth below.
- 1. Contractor Expenses. Contractor expenses shall be based on the terms of the Operations and Maintenance Contract for Marin Access Paratransit Services including subsequent contract amendments that have been reviewed and concurred with by the GGBHTD. Attachment B sets forth the Contractor monthly revenue hour rates for regional and local paratransit services resulting from a competitive procurement conducted by MCTD. GGBHTD acknowledges that these rates will be in effect as of the Contract Commencement Date through FY2027/28.
  - 2. MCTD Expenses. Total compensation to the MCTD for ongoing costs associated with the regional paratransit service during the term of this Contract includes the following:
    - a) Fuel –
      - 1. During the term of this Contract, the MCTD anticipates that, to the extent feasible, the Contractor will purchase fuel from County of Marin-owned and operated fuel pumps for the provision of services under the Marin Access Paratransit Services Contract to realize savings compared to the cost of fuel purchased from retail commercial sources. The GGBHTD shall pay the MCTD directly for fuel consumed in the provision of regional paratransit service at the cost charged to the MCTD by the County of Marin. The MCTD will include documentation provided by Marin County on fuel usage and costs with quarterly invoices.

2. The GGBHTD's payment amount for fuel consumed shall be calculated based on the ratio of actual mileage operated in provision of the regional paratransit service compared to the combined Total Vehicle Miles operated for all Marin Access Paratransit Service. The GGBHTD shall not pay for fuel used for any services provided by the Contractor under other contracts using shared vehicles, although it is understood those miles will be included to determine the combined Total Vehicle Miles.
- b) Radio Service – During the term of this Contract, and in accordance with the Marin Access Paratransit Contract, the MCTD will supply the Contractor with radio service secured through the Marin Emergency Radio Authority (MERA) or other comparable provider for use by the Contractor in the provision of the Marin Access Paratransit Contract services. The MCTD provides this radio service as an expense shared with the GGBHTD with the costs allocated based on the prior year's Total Vehicle Miles. The GGBHTD's share of the radio expense will be allocated on the basis of the ratio of actual mileage operated in provision of the regional paratransit service for the prior year compared to the combined Total Vehicle Miles operated for all Marin Access Paratransit Service and, any services provided by the Contractor under other contracts using vehicles provided by the Contractor.
- c) Mobile Data Terminal (MDT) Service – During the term of this Contract, the MCTD will supply the Contractor with MDT service for use by the Contractor in the provision of Marin Access Paratransit Services. MDT costs include ongoing software maintenance for the Trapeze TripSpark and Samsung Galaxy TabE 16G Tablet Mobile Data Terminals systems as well as cellular airtime used by the mobile devices in the delivery of paratransit services. The MCTD provides this MDT service as an expense shared with the GGBHTD. The GGBHTD's share of the MDT expense will be allocated on the basis of the ratio of actual mileage operated in provision of the regional paratransit service for the prior year compared to the combined Total Vehicle Miles operated for all Marin Access Paratransit Service and, any services provided by the Contractor under other contracts using vehicles provided by the Contractor.
- d) Demand Response Scheduling Software Costs – The MCTD and the GGBHTD use TripSpark PASS v18 as the software application for demand response services scheduling. TripSpark PASS scheduling software is hosted by TripSpark. The monthly cost of maintaining the software, including the annual license agreement, is split between the MCTD and the GGBHTD based upon the percentage of trips booked for each program (local and regional).
3. Fares. The Contractor will retain the cash fares collected as partial payment of the monthly invoice. Trapeze PASS software will document the dollar value of the fares

required to be collected. Each month, the Contractor will deduct the total cash fares required to be collected from the amount invoiced to MCTD. The MCTD will, in turn, deduct the amount of Regional fare revenue from the total expenses invoiced by the MCTD to the GGBHTD.

4. Other Services. The GGBHTD shall compensate the MCTD for Other Services, pursuant to Section 103 B, at the Contractor's Hourly Rate in effect as of the date of service. The MCTD will indicate charges related to Other Services separately from the Local Paratransit Service on invoices.

## SEC. 302 INVOICES

**A. In General.** During the term of the Contract, the MCTD shall submit invoices to the GGBHTD Accounts Payable office. Invoices for both Local and Regional service will be in the format presented with appropriate documentation in accordance with this Section.

### B. Quarterly Billing Process

1. Regional Paratransit Invoice. The MCTD shall submit an invoice to the GGBHTD each quarter that includes the GGBHTD's share of (a) the amount represented by the actual Vehicle Revenue Hours operated during that period multiplied by the Revenue Hour Rate; (b) the Fixed Monthly Fee for the three months of the quarter; (c) the monthly fee for eligibility processing during the quarter; (d) the fuel based on actual Total Vehicle Miles operated during the relevant three-month period; (e) quarterly MDT operational costs based on actual Total Vehicle Miles operated during the prior fiscal year; (f) quarterly radio expenses based on actual Total Vehicle Miles operated during the prior fiscal year; (g) quarterly MDT License Agreement costs based on actual Total Vehicle Miles operated during the prior fiscal year; and (h) a credit for actual fares collected in the provision of Regional Paratransit Services during the quarter.
2. Local Paratransit Invoice. The MCTD shall submit an invoice to the GGBHTD each quarter for the GGBHTD's share of the cost of ADA-Mandated Local Paratransit Service, as calculated in accordance with Section 403 of the Local Service Agreement. Annually MCTD shall include documentation for actual Vehicle Revenue Hours operated for ADA-Mandated Local Paratransit Service. GGBHTD may request documentation for other expenses that MCTD incurs attributable to the provision of Local Paratransit Service.
3. Payment. Subject to subsection C below, the GGBHTD shall make payment to the MCTD within thirty (30) calendar days after the GGBHTD receives each quarterly invoice.

**C. Invoice Review.** In connection with the GGBHTD's review of MCTD invoices, GGBHTD reserves the right to obtain from the MCTD any information needed to support any charges included in the invoice. If the GGBHTD determines that payment has been requested for services that were not provided in accordance with this Contract, or otherwise questions or objects to the contents of the invoice, the GGBHTD shall notify the MCTD and provide an opportunity to correct the

invoice or provide further necessary documentation or explanation within ten (10) days. If such correction or documentation is not provided to the satisfaction of the GGBHTD within the required time, the GGBHTD may withhold payment of the disputed amount, but must pay any undisputed amounts that are due. If the invoice controversy is one that gives rise to a dispute between the MCTD and the GGBHTD concerning the appropriateness of payments made by MCTD to the Contractor with respect to services provided by the Contractor on behalf of the GGBHTD, the dispute will be resolved in accordance with Section 408 of this agreement.

**D. Audits and Statements.**

1. Annual Statement. The MCTD shall provide the GGBHTD, within sixty (60) calendar days after each anniversary date of this Contract, an unaudited statement of revenues and expenditures under the Marin Access Paratransit Services Contract for the previous fiscal year. The parties shall meet to review and confirm that the amounts reported are consistent with this Contract. The intent of the report and review is to ensure accurate external reporting.
2. Discretionary Audits. In addition to the annual statements provided under paragraph 1, the GGBHTD reserves the right to conduct, at any time, an audit of any records of the MCTD that are related directly or indirectly to the services provided under this Contract. The cost of any discretionary audit will be borne by the GGBHTD. The parties will collaborate and cooperate on any audits or reviews by funding agencies.
3. Adjustments. Any overpayment or underpayment uncovered in any audit under paragraph 2 may be charged or credited (as the case may be) against future amounts otherwise due. The GGBHTD shall notify the MCTD prior to assessing any such charge or credit, and any resulting dispute shall be subject to resolution under the procedures in Section 408 of this Contract.

**E. Final Audit.** The GGBHTD may conduct a final audit of the MCTD's records, directly or indirectly related to the services provided under this Contract, three (3) months prior to the conclusion of the term of this Contract. Such final audit shall be paid for by the GGBHTD.

**F. Address for Invoices.** Invoices for payment shall be so marked, prepared in triplicate, and include a reference to this Contract number and the purchase order number assigned to this Contract, and shall be consecutively numbered and forwarded to:

Accounts Payable  
GGBHTD  
P.O. Box 9000  
San Francisco, CA 94129

Invoices shall be accompanied by any reports required by Section 401 of this Contract.

**SEC. 303 PERFORMANCE INDICATORS**

- A. **General Requirement.** The MCTD wishes to incentivize the Contractor to provide the most cost effective and efficient service possible while still maintaining a quality customer experience.
- B. **Minimum Metrics for Local and Regional Performance Standards.** The MCTD will require that the Contractor maintain minimum performance standards throughout the term of the Marin Access Paratransit Services Contract. Failure by the Contractor to maintain these standards may result in cancellation of that contract. The following metrics represent the minimum standard for performance under that contract:

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Performance Standard	Minimum
<b>Service Standards</b>	
Capacity Denials	0
Local Paratransit Productivity (passengers/rev. hour)	2.0
Regional Paratransit Productivity (passengers/rev. hour)	1.0
Non-ADA Service Productivity (passengers/rev. hour)	3.0
At Fault Accidents / Incidents (per 100,00 miles)	< 2
Road Calls (per month)	< 3
Valid Complaints (per 10,000 rides)	< 10
On Time Performance (Each Service Separately)	>=90%
Missed Trips	< 2%
No Shows (% of performed trips)	< 2.0
On-Time Preventative Maintenance Inspections	80%
<b>Call Center Standards</b>	
Average Hold Time	< 2 min
Average Eligibility Processing Time	5 days
Minimum Percentage of Hours where Hold Time < 2 min	70%
Minimum Percentage of Hours where Hold Time < 4 min	90%

**C. Liquidated Damages.** To emphasize the need for high quality transit services at all times, the MCTD and GGBHTD established a system of financial penalties (liquidated damages) to be imposed upon the contractor for various infractions. Prior to initiating the notification steps and assessing liquidated damages, MCTD and GGBHTD will meet to agree on the liquidated damages to be assessed.

#### SEC. 304 RISK OF LOSS OR DAMAGE

The MCTD will require the Contractor to be responsible for loss or damage to the revenue and support vehicles, equipment, tires, supplies, and facilities, whether owned by the GGBHTD or the MCTD, used in the performance of the services under the Marin Access Paratransit Services Contract. In the event of damage to or loss of a Revenue Vehicle due to an accident, the MCTD will hold the Contractor responsible for replacement costs of such vehicle. If the damaged vehicle was acquired with federal assistance, replacement costs for the vehicle will be determined in accordance with Section 19 of FTA's Master Agreement and in accordance with FTA Circulars 5010.1D and 9030.1D. The MCTD and the GGBHTD will cooperate with the Contractor in addressing any issues with FTA that arise out of such damage to or loss of a federally-assisted vehicle.

#### SEC. 305 INSURANCE

**To address the insurance requirements related to the provision of Local and Regional paratransit service, the MCTD agrees to include, and has included, the following language in the Marin Access Paratransit Services Contract with the Contractor. GGBHTD may request proof of insurance at any time during the Contract term:**

- A. Mandatory Insurance Policies.** Before providing services under this Contract, the Contractor shall acquire and maintain the following insurance coverage for the term of this Contract from an insurer acceptable to Marin Transit. The limits of this insurance are not to be construed as a limit of the Contractor's liability under this agreement. Vehicles must be insured to replacement value.

1. Commercial General Liability.

- a) *Minimum Scope of Insurance.* Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Occurrence form number CG 0001 or equivalent. The MCTD must review a non-ISO form prior to acceptance of the Contractor.

The policy shall include but not be limited to: premises and operations; contractual liability covering indemnity provisions contained in the Contract; personal injury; explosion, collapse and underground coverage; products and completed operations and broad form property damage. The policy shall contain a waiver of subrogation in favor of MCTD.

- b) *Mandatory Policy Contents or Endorsement Provisions.* The MCTD, and the public entity awarding the Contractor if other than the MCTD, and their officials, employees and volunteers, as well as the GGBHTD, and their officials, employees,

agents, and volunteers, shall be named as additional insured parties on the face of all policies when service is contracted with a non-governmental agency, for liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, and/or Premises owned, leased or used by the Contractor. The coverage shall contain no special limitations to the scope of protection afforded to the MCTD, GGBHTD, and their respective officials, employees, agents, or volunteers. In cases of contracted service being provided by a governmental agency with self-insurance or at the MCTD's discretion, a letter shall be provided signed by a duly authorized representative of the governmental agency to that effect to the MCTD's General Manager, with a carbon copy (cc) sent to the GGBHTD's General Manager, acknowledging that said governmental agency will cover the MCTD and the GGBHTD, in cases of any liability on the part of said transit operator.

The Contractor's insurance coverage shall be primary, and any insurance or self-insurance maintained by the MCTD, GGBHTD, and their respective officials, employees, and volunteers or other insureds shall be in excess of the Contractor's insurance and shall not contribute with it. The coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

The Contractor shall provide written confirmation that the MCTD and the GGBHTD are named as an additional insureds on the policy for all activities engaged in by Contractor under the terms of this Contract. The Contractor shall provide Marin Transit with notice upon any receipt of any claim.

- c) *Minimum Limits of Insurance.* Subject to the option and agreement of the MCTD, the Contractor shall maintain limits of no less than Five Million Dollars (\$5,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage.

## 2. Automobile Liability Coverage

- a) *Minimum Scope of Insurance.* Coverage shall be at least as broad as the Insurance Services Office (ISO) form number CA 0001 (Ed. 1/87), or its equivalent, covering automobile liability Code 1 "any auto".
- b) *Mandatory Policy Contents or Endorsement Provisions.* Policy is to include ISO endorsement form CA 0029. Automobile liability is to cover all vehicles owned, leased, hired or borrowed by the Contractor. The policy must include as additional insureds MCTD, GGBHTD, and their respective officials, employees, agents, or volunteers, and shall contain no special limitations to the scope of protection afforded to the MCTD, its officials, employees, or volunteers.

Contractor's insurance coverage shall be primary, and any insurance or self-insurance maintained by MCTD, GGBHTD, and their respective officials, employees and volunteers or other insureds shall be in excess of the Contractor's insurance and shall not contribute with it. The coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- c) *Minimum Limits of Insurance.* Subject to the option and agreement of the MCTD, the Contractor shall maintain limits of no less than Five Million Dollars (\$5,000,000) combined single limit per accident for bodily injury and/or property damage.

3. Automobile Physical Damage Insurance for Vehicles

Auto (bus) physical insurance to cover the vehicles used in this contract. Such Vehicles will be insured at replacement cost, and Contractor shall also pay any deductibles included on such insurance policy. The policy should include a waiver of subrogation in favor of the MCTD, the GGBHTD, and their respective representatives.

4. Workers' Compensation and Employers' Liability Insurance

- a) *Minimum Scope of Insurance.* Workers' Compensation Insurance as required by the Labor Code of the State of California and Employers Liability insurance.
- b) *Mandatory Policy Contents or Endorsement Provisions.* Workers' Compensation Insurance as required by the Labor Code of the State of California and Employers Liability insurance.

A waiver of subrogation endorsement must accompany each policy required under this section, stating:

"It is understood and agreed the Company waives any right of subrogation against the Marin County Transit District, the Golden Gate, Bridge, Highway and Transportation District and their respective representatives which might arise by reason of any payment under this policy for work performed by Assured under the Contract."

- c) *Minimum Limits of Insurance.* The Contractor shall maintain limits no less than Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000) per accident.

**B. Effective Dates, Cancellation, and Limits Diminution of Mandatory Insurance Policies.** All required insurance policies shall be in effect until final acceptance of the Contractor's work by the MCTD and shall provide that they may not be canceled or materially diminished in limits without first providing the MCTD with thirty (30) days written notice of intended cancellation or

diminution. If the Contractor fails to maintain the required insurance, The MCTD may secure insurance and deduct the cost from any funds owing to the Contractor. The policies of insurance the Contractor is to provide under this agreement shall be for a period of not less than one year.

- C. Acceptability Of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII if admitted. A non-admitted insurer shall have a Best's rating of no less than A-X.
- D. Applicability to Subcontractors.** In addition to the above policies, if the Contractor hires a subcontractor under this Contract, the Contractor shall require the subcontractor to provide insurance identical to the coverage required under this Contract, except as specified below, and shall require the subcontractor to name the Contractor, the MCTD, and the GGBHTD as additional insureds under its Contract. Certificate(s) of Insurance(s) and original endorsement(s) providing such coverage shall be provided to the MCTD.

Should the Contractor enter into a contract or assign work contemplated under this Contract to a taxi company or other provider that utilizes smaller vehicles (such as sedans, station wagons, or minivans) in the provision of transportation services, all provisions of the above paragraph shall apply but the Business Automobile Liability Insurance limits for each occurrence may be reduced to One Million Dollars (\$1,000,000) per occurrence. This is subject to the approval of the MCTD.

- E. Deductibles and Self-Insured Retentions.** Except as otherwise provided in this Contract, any deductibles or self-insured retentions must be declared to and approved by the MCTD. The Contractor shall be solely responsible for all deductibles or self-insured retentions, if any.
- F. Verification of Coverage.** The Contractor shall furnish the MCTD and the GGBHTD with Certificate(s) of Insurance and with original endorsement(s) affecting coverage required by this clause. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person that insurer is authorized to bind coverage on its behalf. The certificate(s) and endorsement(s) are to be on forms provided by the MCTD or on forms received and approved by the MCTD before work commences. The MCTD reserves the right to require complete, certified copies of all required insurance policies, at any time.
- G. Failure to Procure and Maintain the Required Insurance.** The Contractor shall not render services under the terms and conditions of this Contract unless each type of required insurance coverage and endorsement is in effect and the Contractor has delivered the certificate(s) of insurance and endorsement(s) to the MCTD as required. If the Contractor fails to procure and maintain the required insurance, the MCTD may do so, and the premiums of such insurance shall be paid by the Contractor to the MCTD upon demand. The policies of insurance the Contractor is to provide under this Contract shall be for a period of not less than one year, and proof of required coverages shall be provided annually. The Contractor acknowledges that failure to maintain the insurance coverage as described herein at any time during the term of this Contract constitutes a material breach of this Contract.

In the event that the Contractor receives any notice of cancellation, cessation or suspension of coverage, it shall immediately notify the MCTD.

The MCTD and the Contractor specifically agree and acknowledge that, should the Contractor's insurance coverage lapse for any reason during the term of this agreement and/or any extension thereof, such lapse shall be grounds for immediate termination of this contract by the MCTD.

- H. Additional Coverage or Endorsements.** The MCTD has the right to request additional coverages and/or endorsements on the insurance as the MCTD deems necessary, and the MCTD shall compensate the Contractor for any additional cost incurred for such coverages and/or endorsements. The amounts, insurance policy forms, endorsement(s) and insurer(s) issuing the insurance shall be satisfactory to the MCTD and the GGBHTD.

#### **SEC. 306 INDEMNIFICATION BY THE CONTRACTOR**

**To address the indemnification requirements related to the provision of Local and Regional Paratransit Service, the MCTD agrees to include, and has included the following language in the Marin Access Paratransit Services Contract with the Contractor:**

- A. General Requirement.** Contractor agrees to protect, defend, indemnify and hold MCTD, its Governing Body, officers, employees, agents, and the Golden Gate Bridge, Highway and Transportation District, its Directors, officers, employees and agents, free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character (hereinafter collectively "claims") in connection with or arising directly or indirectly out of the Contract or the performance hereof by Contractor, any subcontractor of Contractor, or any person for whom Contractor is legally or contractually responsible, whether or not it is alleged or determined that the action on which the claim was based was caused by the negligence or willful misconduct of Contractor, any subcontractor, or any other person for whom Contractor is legally or contractually responsible. Without limiting the generality of the foregoing, any and all such claims, relating to personal injury, any tangible or intangible property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. Contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, at its sole expense and agrees to bear all other costs and expenses related thereto, whether or not it is alleged or determined that Contractor was negligent, and without regard to whether such claim is groundless, false, or fraudulent.
- B. Handling of Claims.** The MCTD agrees that it will notify Contractor in writing within ten (10) Days of receipt or notice of any claim described in subsection A; provided that the failure of MCTD to so notify Contractor shall not relieve Contractor of any of its obligations under this Section. Contractor shall have the right to assume the defense of all claims that might be threatened or instituted, and agrees that it will assume all responsibility for the investigation, handling, and defense of such claims unless MCTD notifies Contractor that it elects to be

represented by counsel of its own selection in connection with any such claim. If MCTD elects to be represented by its own counsel, MCTD will pay the costs of such representation. The MCTD shall provide such assistance (except financial) for the defense of any claim as may be reasonably required by Contractor. The MCTD shall not make any admission of liability with respect to a claim or seek to settle or compromise a claim without the prior written consent of Contractor. Contractor agrees to inform the MCTD and the GGBHTD as to all correspondence and proceedings in respect to any claim as to which indemnity is sought and to consult with the MCTD and the GGBHTD with respect to all matters relating to any claim.

#### **SEC. 307            TERMINATION FOR CONVENIENCE**

- A. In General.** The performance of work under this Contract may be terminated by the GGBHTD in accordance with this Section in whole, or from time to time in part, whenever the GGBHTD determines that such termination is in the best interest of the GGBHTD. Any such termination shall be effected by delivery to the MCTD of one hundred and twenty (120) calendar days' advance written notice of termination specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.
- B. Actions Following Termination Notice.** Upon receipt of a notice of termination, and except as otherwise directed by the GGBHTD, the MCTD shall: (1) stop work under the Contract on the date and to the extent specified in the notice of termination; (2) place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination; (4) assign to the GGBHTD in the manner, at the times, and to the extent directed by the GGBHTD, all of the right, title, and interest of the MCTD under the orders and subcontracts so terminated; (5) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the GGBHTD, to the extent the GGBHTD may require, which approval or ratification shall be final for all the purposes of this Section; (6) transfer title to the GGBHTD and deliver in the manner, at the times, and to the extent, if any, directed by the GGBHTD, supplies, equipment, and other material produced as a part of, or acquired in connection with the performance of the work terminated, and in which the GGBHTD has acquired an ownership interest, and any information and other property which, if the Contract had been completed, would have been required to be furnished to the GGBHTD; (7) complete any such part of the work as shall not have been terminated by the notice of termination; and (8) take such action as may be necessary, or as the GGBHTD may direct, for the protection and preservation of the property related to the Contract which is in the possession of the MCTD and in which the GGBHTD has or may acquire an interest. Except as otherwise provided, settlement of claims by the MCTD under this Section shall be in accordance with the provisions set forth in 48 CFR Part 49, as amended from time to time.
- C. Compensation.** The MCTD shall be compensated for the reasonable costs of termination, and any other compensable costs incurred before termination, if any. The MCTD shall be compensated for the costs of all labor, equipment, materials, supplies, and services provided in conformance with the requirements of this Contract, up to the effective date of termination.

## SEC. 308 TERMINATION BY MUTUAL AGREEMENT

This Contract may be terminated by mutual agreement of the parties. Such termination shall be effective in accordance with a written agreement by the parties. Any other act of termination shall be in accordance with the termination by convenience or default provisions contained in Section 307 and Section 309, respectively.

## SEC. 309 TERMINATION FOR DEFAULT

- A. **Default.** Either party may, subject to the provisions of subsection B of this Section, by one hundred twenty (120) calendar days' advance written notice of default to the other party, terminate the whole or any part of this Contract if such other party fails to perform any of the requirements of this Contract in accordance with its terms. A standard of materiality will apply to determinations of whether or not a default has occurred.
- B. **Opportunity to Cure.** The party providing notice under subsection A that a default has occurred shall provide the other party with the opportunity to cure the default within one hundred twenty (120) calendar days after receipt of the default notice, provided that the party providing notice may, in its sole discretion, provide an additional period for cure if the other party demonstrates to the satisfaction of the party providing notice that there is a reasonable likelihood that such additional time will allow for a satisfactory cure.
- C. **Procurement by the GGBHTD.** If the GGBHTD terminates this Contract in whole or in part as provided in subsection A of this Section, the GGBHTD may procure, upon such terms and in such manner as the GGBHTD may deem appropriate, services similar to those so terminated. The MCTD shall be liable to the GGBHTD for costs associated with the termination of this Contract and the procurement of replacement services by the GGBHTD, and also for any costs of the replacement supplies or services that are in excess of what the GGBHTD would have paid under the Contract in the absence of default from the date of termination to the expiration date of the Contract. The MCTD shall continue the performance of this Contract to the extent not terminated under the provisions of this Section. Any disputes arising under this Section that cannot be resolved by the MCTD and the GGBHTD are subject to resolution pursuant to Section 408 of this Contract.
- D. **Force Majeure.** A party shall not be liable for any failure to perform if it demonstrates to the satisfaction of the other party that the failure to perform the Contract was due to events which were beyond its control and without its fault or negligence and could not have been avoided or prevented by its due diligence and reasonable efforts. Examples of such *Force Majeure* events include acts of God, civil disturbances, fire, war, floods, or other natural disasters, but do not include labor-related incidents, such as strikes or work stoppages.
- E. **Claims.** Except as otherwise provided, settlement of claims by either party under this termination clause shall be in accordance with the provisions set forth in 48 CFR Part 49, as amended from time to time.

**SEC. 310 RESPONSIBILITY FOR EMPLOYEE COSTS; WORKFORCE MANAGEMENT**

- A. In General.** The MCTD will require the Contractor to be responsible for all employee costs and expenses incurred in connection with the services provided under the Marin Access Paratransit Services Contract, and shall not be entitled to any additional reimbursement for any employee costs or expenses arising as a result of fluctuations in volume or levels of service provided under that contract.
- B. Workforce Management.** The Marin Access Paratransit Services Contract requires the Contractor to manage its overall workforce to avoid or minimize any adverse impact on employees resulting from fluctuations in volume or level of services provided that contract, or from the termination of that contract or expiration of that contract's Contract Term.

**ARTICLE 4—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS**

**SEC. 401 REPORTING**

- A. External Reporting by the GGBHTD.** The GGBHTD will report all NTD data for all GGBHTD paratransit services including those services provided by the MCTD through the Contractor and in accordance with this Contract, effective FY 2021/22. The data reported will include all regional paratransit services provided and GGBHTD's proportionate share of local paratransit services provided. The proportionate share of local paratransit service will be based on the proportionate payment made by GGBHTD for local paratransit services in accordance with Section 403 of the Local Service Agreement.
- B. The MCTD's Obligation.** In order to document services provided under the Contract, MCTD shall maintain, and require the Contractor to maintain, all records requested by the GGBHTD and as required for good business practices. The MCTD shall take appropriate steps to ensure the proper monitoring of service levels, and maintenance and operations activities related to the services provided under this Contract. The MCTD shall permit, and require the Contractor to permit, authorized representatives of the GGBHTD to examine all data and records related to this Contract upon request or according to scheduled reporting periods.
1. FTA-National Transit Database (NTD) Data. The MCTD will be responsible for, and require the Contractor to be responsible for, the tracking, collection, and preparation of the NTD report data in accordance with FTA guidelines.
  2. Special Reports. The MCTD shall prepare and provide, or require the Contractor to prepare and provide, any special reports, or more detailed information, requested by the GGBHTD. The GGBHTD will compensate the MCTD and the Contractor for any necessary programming or additional software necessary to complete such report. The GGBHTD's approval for such a charge will be obtained in advance by the MCTD on its behalf and/or on behalf of the Contractor.

- C. Meetings.** The MCTD shall meet with the GGBHTD monthly to discuss services provided and issues arising under this Contract. Meetings with key MCTD and GGBHTD staff also will be held on an as-needed basis.

## **SEC. 402 COMPLAINT RESOLUTION**

MCTD will require the Contractor to follow these procedures for the handling and resolution of customer complaints:

### **A. Customer Complaints.**

1. Intake of Complaints. The Contractor will be responsible for the initial intake of comments from the customers including comments about reasonable modification requests. In the event that a complaint is lodged through the MCTD administrative office, the MCTD will provide the Contractor with the complaint documentation through the TransTrack System.
2. Required Contractor Process. The Contractor shall establish a process for the thorough and prompt resolution of all customer complaints, in accordance with this Section. The process shall be completed and closed out in TransTrack within two (2) business days from the date of receipt of the complaint, and shall include, at a minimum, the following:
  - (a) contemporaneous documentation of the nature of the complaint;
  - (b) passenger contact information;
  - (c) investigation, follow-up, and investigative reports; and
  - (d) complaint resolution, including any remedial action taken.
3. Complaint Validity. For purposes of this Section, the MCTD will consider a customer complaint valid unless the MCTD determines that the Contractor has sufficiently documented that the complaint is not valid.

### **B. Title VI Complaints.**

1. Required Contractor Process. The Contractor shall establish a process for the thorough and prompt consideration of all Title VI complaints. The MCTD and the GGBHTD shall be immediately notified of all such complaints in writing. In addition, at a minimum, the process shall include the following:
  - (a) intake procedures and complaint evaluation;
  - (b) passenger contact information;

- (c) investigation, follow-up, and investigative reports (including the information described below in the description of report evaluation criteria in paragraph (2)); and
  - (d) proposed complaint resolution.
2. Complaint Investigation. All Title VI passenger complaint investigative reports will be evaluated by the MCTD and the GGBHTD for compliance with federal requirements. The Contractor is responsible for assuring that each completed investigative report provides full and complete documentation for each of the following requirements:
- (e) statement of issues;
  - (f) respondent's reply to each issue; and
  - (g) findings of fact.
3. Complaint Resolution Plan. Prior to implementation, the Contractor shall submit its Title VI Complaint Resolution Plan to the MCTD and the GGBHTD for evaluation and approval.

#### **SEC. 403 ACCIDENT AND INCIDENT REPORTING**

The MCTD will require the Contractor to follow the following procedures for accident and incident reporting: in the event of an accident involving vehicle damage, property damage, passenger injury or fatality, an emergency, or other non-routine event, the Contractor shall notify the MCTD Project Manager within one (1) hour after the Contractor learns of such event. The Contractor shall report all media inquiries or media on the scene to the MCTD's Project Manager immediately. Contractor shall, if requested by MCTD, follow up with specific details from the accident or incident investigation within three (3) hours from the time the MCTD was originally notified. The Contractor shall prepare all reports required by the Contract relating to such accident or other non-routine event. The Contractor shall comply with all applicable laws and regulations in the case of any accident or other non-routine event. In addition, the Contractor shall be responsible for replacement costs in accordance with Section 404. In the event that the accident or incident occurs on a GGBHTD-owned vehicle or during the operation of Regional Service, the Contractor shall follow notify the designated GGBHTD representative following the protocol and time periods described above.

#### **SEC. 404 AUDIT AND INSPECTION OF RECORDS**

The MCTD agrees, and will require the Contractor to agree, that the GGBHTD, the Comptroller General of the United States, and the U. S. Secretary of Transportation, or any of their duly authorized representatives, shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls, and other data and records, and to audit the books, records, and accounts relating to the performance of the Contract. Further, the MCTD agrees to maintain, and will require the Contractor to maintain, all such required books, records, and accounts, at a site in Marin County, California, in a non-archived status, during the term of this Contract (including any option years) and for at least three

(3) years after the GGBHTD has made final payment and all other pending matters are closed. In addition, the MCTD shall assist and cooperate, and will require the Contractor to assist and cooperate, with the GGBHTD in the audit and monitoring of all program requirements, including EEO compliance, Drug and Alcohol compliance, and Safety/Security compliance, and shall permit the GGBHTD to perform on-site inspections of the MCTD and the Contractor's procedures and programs.

#### **SEC. 405 OWNERSHIP OF DOCUMENTS**

The MCTD agrees that any and all information, in oral or written form, whether obtained from the GGBHTD, its agents or assigns, or other sources, or generated by the MCTD pursuant to the Contract, shall not be used for any purpose other than fulfilling the requirements of this Contract. Any documents, reports, or data generated by the MCTD (other than the MCTD's internal documents) in connection with the performance of this Contract shall become the sole property of the GGBHTD, subject to any rights asserted by the FTA. The MCTD may retain copies of such items for its files. The MCTD shall not release any documents, reports, or data from this project without prior written consent of the GGBHTD, unless required to do so by law. When required by law to release such documents, reports or data, the MCTD will provide GGBHTD with notice prior to the release with specific detail of the request and the information that will be provided.

#### **SEC. 406 REPLACEMENT SERVICES**

##### **A. Plan and Response.**

1. Contractor Plan. In the event that the Contractor is unable, due to any event not caused by the MCTD, the GGBHTD, or not constituting a *Force Majeure* event generally consistent with Section 309D of this Contract, to provide services in full compliance with the requirements of the Marin Access Paratransit Services Contract, the MCTD shall require the Contractor to deliver a plan to the MCTD and the GGBHTD within twenty-four (24) hours after the event detailing what actions will be taken and what the schedule will be to resume providing services in full compliance with the requirements of the Marin Access Paratransit Services Contract.
2. MCTD and GGBHTD Response. If the Contractor has not resumed providing services in full compliance with the requirements of the Marin Access Paratransit Services Contract within fifteen (15) calendar days of the event, then the MCTD may, after consultation with the GGBHTD, obtain the services of a replacement operator or provide the services with its own resources (collectively referred to as "replacement services"). In coordination with the GGBHTD, the MCTD may utilize such replacement services as a substitute for all or any part of the Contractor's services, and may maintain such replacement services in effect until either: (a) the Contractor is able to resume performance in full compliance with the Marin Access Paratransit Services Contract; or (b) the MCTD terminates the Contractor and obtains a permanent replacement contractor.

- B. Liability; Limits on Compensation.** If the MCTD utilizes replacement services under this Section, the Contractor shall be liable to the MCTD for (1) the actual amount by which the cost of such

services exceeds the amount that would have been payable under the Marin Access Paratransit Services Contract for comparable services; plus (2) the administrative costs incurred by the MCTD and the GGBHTD in obtaining the replacement services. During the period in which any replacement services are provided, the only compensation payable to the Contractor shall be for any Revenue Hours the Contractor itself actually provides. The MCTD shall pass on to the GGBHTD a proportionate share of any recovery received by the MCTD from the Contractor under this subsection.

- C. **Savings Clause.** Any action taken by the MCTD pursuant to this Section in response to the Contractor's failure to perform shall not preclude the MCTD from subsequently finding the Contractor in default of the Marin Access Paratransit Services Contract for the same or any related failure to perform.

#### SEC. 407 CONTINUITY OF SERVICES

- A. **MCTD Obligation.** If the GGBHTD assumes direct responsibility for contracting for paratransit services upon expiration or termination of this Contract, the MCTD agrees to fully cooperate in any procurement process conducted by the GGBHTD and to exercise its best efforts to effect an orderly and efficient transition to the new operator.
- B. **Compensation.** The GGBHTD shall compensate the MCTD for the reasonable costs of the services it provides under this Section, in the amounts agreed upon by the parties.

#### SEC. 408 DISPUTES

- A. **Applicability.** Any dispute between the MCTD and the GGBHTD relating to the implementation or administration of this Contract shall be resolved in accordance with this Section.
- B. **Informal Resolution.** The Parties shall first attempt to resolve the dispute informally in meetings or communications for a period of sixty (60) calendar days.
- C. **Mediation or Arbitration.** Prior to seeking judicial resolution of a dispute in state court, the parties may mutually agree to mediate the dispute or to submit the dispute to binding arbitration.
- D. **Responsibility.** Pending final resolution of a dispute under this Section, the parties shall proceed diligently with performance in accordance with this Contract, without prejudice to each party's respective rights or position in that process. If the dispute is over action or determination of the GGBHTD, the MCTD shall proceed in accordance with that action without prejudice to its rights in the dispute.

#### SEC. 409 INSPECTION OF WORK

- A. **Right to Inspect.** All work (which term in this Section includes services performed, material furnished or utilized in the performance of services, and workmanship in the performance of

services) shall be subject to inspection and testing by the GGBHTD to the extent practicable at all times and places during the term of this Contract. All inspections by the GGBHTD shall be made in such a manner as to not unduly delay the work. The GGBHTD shall have the right to enter the premises used by the Contractor and/or the MCTD for the purpose of inspecting and auditing all data and records which pertain to the Contractor's performance under the Marin Access Paratransit Services Contract or the MCTD's performance under this Contract, and observing management and operational practices. The GGBHTD shall also have the right to enter the premises used by the Contractor for the purpose of inspecting vehicles that are used to provide services under the Marin Access Paratransit Services Contract.

- B. Corrections and Adjustments.** If maintenance work or other work is not performed in accordance with the requirements of the Marin Access Paratransit Services Contract, the GGBHTD shall have the right to require that the MCTD to (1) cause the Contractor to perform such work again correctly at no additional cost to the GGBHTD or the MCTD; or (2) deduct a fair and reasonable amount from the payments to the Contractor.

#### **SEC. 410 RESPONSIBILITIES OF THE CONTRACTOR**

Under the terms of the Contract, the MCTD will require that the Contractor has and retains full control and supervision of the services performed by and full control over the employment and direct compensation and discharge of all persons, other than MCTD and GGBHTD employees, consultants, or other contractors, assisting in the performance of its services. The MCTD will ensure that the Contractor agrees to be solely responsible for all matters relating to wages, rates of pay, hours of work, working conditions, and payment of its employees, including compliance with social security, all payroll taxes and withholdings, unemployment compensation, workers' compensation, and all other requirements relating to such matters. Further, MCTD will ensure that the Contractor agrees to be responsible for its own acts and those of its subordinates, employees, and any and all subcontractors during the term of the Contract.

#### **SEC. 411 LACK OF FUNDS**

- A. Funding Requirement.** Entering into the Contract is subject to receipt by the GGBHTD of local, state, and federal funds adequate to carry out the provisions in full.
- B. Cancellation or Reductions.** The GGBHTD may cancel or reduce the amount of service to be rendered if the GGBHTD determines that such action is in the GGBHTD's best interests, or there will be a lack of funding available for the service. In such event, the GGBHTD will, if possible, notify the MCTD in writing one hundred and twenty (120) calendar days in advance of the date such cancellation or reduction is to be effective. A cancellation of the Contract for lack of funds will be processed in accordance with the Termination for Convenience provisions of Section 308. If a reduction in Contract services for lack of funds results in a decrease in Revenue Hours in a contract year in excess of the minimum Revenue Hours for that year set forth in Section 202, the service change shall be processed in accordance with Section 202.

#### SEC. 412 CONFLICT OF INTEREST

- A. General Rule.** No employee, officer, or agent of either the MCTD or the GGBHTD shall participate in the selection, or in the award or administration, of the Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when one of the following has a financial or other interest in any entity selected for the award:
1. the employee, or an officer or agent of the employee;
  2. any member of the employee's immediate family;
  3. the employee's business partner; or
  4. an organization which employs, or is about to employ, any of the above.
- B. Gratuities.** The MCTD and the GGBHTD's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, subcontractors, or other parties to subagreements.
- C. Organizational Conflict of Interest.** The GGBHTD and the MCTD both agree to follow their respective rules and procedures, and FTA requirements, regarding Organizational Conflicts of Interest during the Contract Term.

#### SEC. 413 ANTIDISCRIMINATION AND EEO REQUIREMENTS

- A. General Requirements.** The parties shall not in any way, directly or indirectly, in the performance of this Contract, discriminate against any person because of age, race, color, disability, sex, national origin, or religious creed.
- B. Compliance with EEO Requirements.**
1. Duty. The parties shall comply, and the MCTD will require the Contractor to comply, with all EEO Program requirements in FTA Circular 4704.1, Equal Employment Opportunity Program Guidelines, or any updated version thereof.
  2. Cooperation in Audits. The parties shall cooperate in any audits performed by FTA and shall cooperate with and assist the other in the monitoring and auditing program requirements including permitting the other to perform on-site inspections for the program administration/management guidelines, and procedures. This requirement shall include providing each other with copies of records related to EEO efforts prior to each site visit.
  3. Program Amendments. The parties shall comply with all program amendments as required by the FTA and/or all applicable federal and state mandates.

#### SEC. 414 COMPLIANCE WITH LAWS AND REGULATIONS

The parties shall give all notices and comply with all federal, state, and local laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these provisions of this Contract. If the Contract documents are at variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, each party shall furnish to the other certificates of compliance with all such laws, orders, and regulations.

**SEC. 415 WAIVER OF TERMS OR CONDITIONS**

The failure of either party to enforce one or more of the terms or conditions of this Contract or to exercise any of its rights or privileges, or the waiver of any breach of such terms or conditions, shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no waiver had occurred.

**SEC. 416 INTERPRETATION, JURISDICTION, AND VENUE**

All contractual agreements shall be subject to, governed by, and construed and interpreted solely according to the laws of the State of California. Both parties hereby consent and submit to the jurisdiction of the appropriate courts of California or of the United States having jurisdiction in California for adjudication of any suit or cause of action arising under or in connection with the Contract documents, or the performance of such Contract, and agrees that any such suit or cause of action may be brought in any such court.

**SEC. 417 CONSTRUCTION**

For the purposes of this Contract, the use of the words “include” or “including” followed by a list is not intended to indicate that the list is an all-inclusive list.

**SEC. 418 OFFICIAL RECEIPT**

Communications shall be considered received at the time actually received by the addressees or designated agents. Communications to the MCTD should be addressed to the MCTD Project Manager, as follows:

Marin Transit  
711 Grand Ave., Suite 110  
San Rafael, CA 94901

Communications to the GGBHTD shall be addressed as follows:

GGBHTD – Bus Division  
1011 Andersen Drive  
San Rafael, CA 94901

**SEC. 419 PROHIBITION ON ASSIGNMENT**

Neither party shall assign, transfer, or delegate to any party any of its duties or obligations under this Contract.

**SEC. 420 SEVERABILITY**

In the event any provision of this Contract is declared or determined to be unlawful, invalid, or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the Contract, and each provision of the Contract will be and is deemed to be separate and severable from each other provision.

**SEC. 421 INDEMNITY OBLIGATION CARRY OVER**

All indemnity obligations, known or unknown, arising during the term of the prior Agreement for Regional Paratransit Services dated June 23, 2014, as amended, carry over as indemnity obligations under this Contract.

**SEC. 422 ENTIRE AGREEMENT; AMENDMENT REQUIRED**

Together with Sections 319 and 403 of the Local Service Agreement, this Contract constitutes the entire agreement between the GGBHTD and the MCTD for paratransit services, and supersedes all prior negotiations, agreements, and understandings with respect thereto. No change, modification, or amendment to the obligations or responsibilities of the parties under the terms of this Contract shall be effective unless it is made by written Amendment, considered and approved by the MCTD and the GGBHTD's respective Governing Body, and duly executed by both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth below their endorsements.

MARIN COUNTY MCTD

GOLDEN GATE BRIDGE, HIGHWAY AND  
TRANSPORTATION DISTRICT

By: \_\_\_\_\_  
Kate Colin  
President of the Board

By: \_\_\_\_\_  
Barbara Pahre  
President, Board of Directors

Approved as to form:

ATTEST:

By: \_\_\_\_\_  
Brian Case

By: \_\_\_\_\_  
TBD

County Counsel

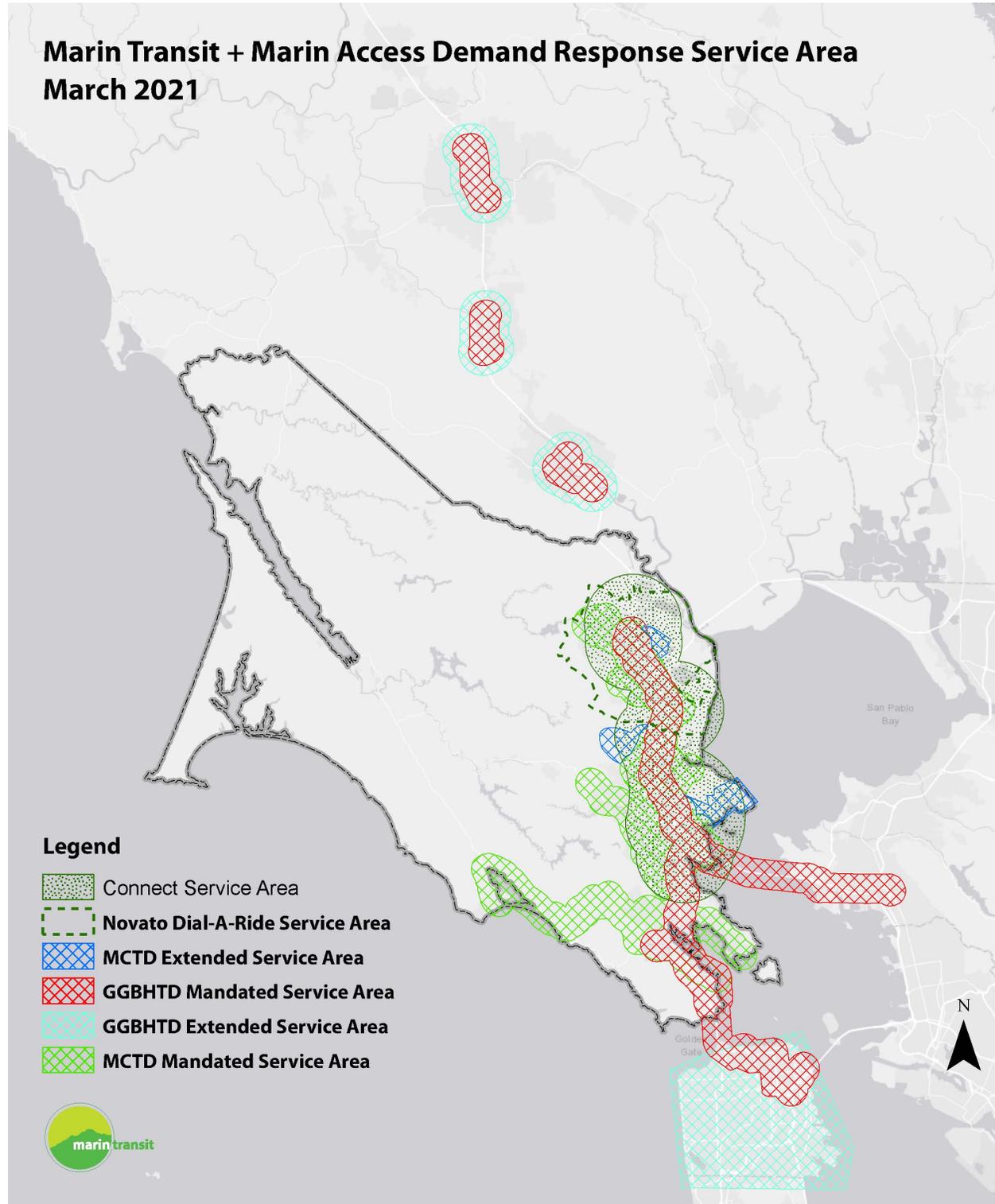
Secretary of the District

Approved as to form:

By: \_\_\_\_\_  
TBD  
Attorney for the GGBHTD

DRAFT

ATTACHMENT A ADA PARATRANSIT SERVICE AREA



DRAFT

**ATTACHMENT B      CONTRACTOR COMPENSATION**

The Transdev Services, Inc. summary pricing proposal for the first year of the contract is shown below. This pricing is subject to final negotiations.

	<b>Base</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>	<b>Tier 4</b>
<b>Monthly Revenue Hour Range</b>	<b>&lt; 2,500</b>	<b>2,501-3,500</b>	<b>3,501-4,500</b>	<b>4,501-5,500</b>	<b>&gt; 5,501</b>
<b>Total Estimated Revenue + Scheduled Hours</b>	<b>2,000</b>	<b>3,000</b>	<b>4,000</b>	<b>5,000</b>	<b>6,000</b>
<b>FY 2021/22 Monthly Fixed Fee</b>	<b>\$ 220,914</b>	<b>\$ 241,053</b>	<b>\$ 261,969</b>	<b>\$ 291,527</b>	<b>\$ 333,220</b>
<b>FY 2021/22 Hourly Rate</b>	<b>\$ 46.47</b>	<b>\$ 44.20</b>	<b>\$ 42.79</b>	<b>\$ 41.83</b>	<b>\$ 41.45</b>

Costs escalate annually as shown below.

<b>Year</b>	<b>Annual Cost Escalation Rate</b>
<b>FY 2022/23 (year 2)</b>	<b>3.90%</b>
<b>FY 2023/24 (year 3)</b>	<b>3.69%</b>
<b>FY 2024/25 (year 4)</b>	<b>3.33%</b>
<b>FY 2025/26 (option year 1)</b>	<b>3.00%</b>
<b>FY 2026/27 (option year 2)</b>	<b>3.79%</b>
<b>FY 2027/28 (option year 3)</b>	<b>3.83%</b>

**ATTACHMENT C LIST OF EXCLUDED ROUTES/TRIPS FOR FY21/22**

List in development. To be added prior to contract execution.

**ATTACHMENT D SAMPLE CALCULATION OF GGBHTD'S SHARE OF FY 2021 LOCAL PARATRANSIT COSTS**

Calculation in development. To be added prior to contract execution.

**ATTACHMENT E SUMMARY OF REVENUE HOURS, TOTAL MILES, AND TRIPS BOOKED BY PROGRAM**

**Summary of Revenue Hours, Total Miles, and Trips Booked by Program  
July 2021**

	<b>Trips Booked</b>	<b>Revenue Hours</b>	<b>Total Miles</b>
Local Paratransit	5,172.0	2,430.8	48,503.6
Regional Paratransit	412.0	362.2	10,608.7
Connect	174.0	514.5	7,239.0
Rural DAR	31.0	48.3	1,167.7
Novato DAR	247.0	115.5	1,898.1