



## MEMORANDUM MARIN TRANSIT

To: Marin Transit Board of Directors  
From: Nancy Whelan, General Manager  
Subject: Supplemental Materials – September 13, 2021 Board Meeting  
Date: September 10, 2021

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### AGENDA ITEM #5

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).

**Attached is correspondence received (and the General Manager's written response to said correspondence) related to the above-captioned item.**



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September 10, 2021

Anne Grey, CFRE MBA  
Chief Executive Officer  
Vivalon  
15 Jordan Street  
San Rafael, CA 94901

**RE: Determination of Award Protest – Operations and Management of Marin Access Services Contract**

**board of directors**

kate colin  
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dennis rodoni  
director  
supervisor district 4

brian colbert  
alternate  
town of san anselmo

Dear Ms. Grey,

Below you will find Marin Transit’s response to all substantive issues included in the protest letter submitted on September 8, 2021. After careful consideration of the issues raised, my determination is that Marin Transit followed all relevant procurement policies and used the information submitted in the proposals and the scoring criteria established in the Request for Proposals (RFP) to complete the scoring of all proposals received. As Transdev Services, Inc. was the highest scoring proposer, we will recommend to our Board on September 13 that the award be made per the staff recommendation.

Responses to the items identified in your letter are provided below.

**Pricing:** *In response to the information included in the award protest letter regarding price –*

- Under Marin Transit’s Procurement Policy, and as a recipient of federal funds, Marin Transit is required to competitively procure goods and services as outlined in FTA Circular 4220.1F.
- This procurement was developed as a “Best Value” procurement, as indicated in the RFP. Best Value is defined in the RFP and allows Marin Transit to select the offer deemed most advantageous and of greatest value to the agency. “Best value” describes a competitive, negotiated procurement process in which the recipient reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or price such that a recipient may acquire technical superiority even if it must pay a premium price.<sup>1</sup>
- Vivalon received higher scores for pricing as this reflected Vivalon’s lower costs in the proposal.

<sup>1</sup> FTA Circular 4220.1F: Third Party Contracting Guidance

- The award selection was based upon consideration of technical and price factors based on the evaluation scoring criteria identified in Section 3.5 of the RFP with price being a maximum of 25 points out of the maximum total 125 points available.

**Review of Award:** *In response to the item stating that Vivalon had only four hours to review the rationale for the award of the contract –*

- The preparation of the Board packet involved the *creation* of an informational summary of the scoring process that was both (a) accurate; and (b) respected the confidentiality of certain bid specifics during the course of the pending procurement. Creating this informational summary for the Board took time and careful attention to detail. As such, the informational summary created for the Board simply did not exist at any point prior to publication of the Board packet. As the Public Records Act recognizes, “if a winning proposer has access to the specific details of other competing proposals, then the local agency is greatly impaired in its ability to secure the best possible deal on its constituents’ behalf.” Marin Transit staff had to assure that the Board Packet did not defeat its interest in securing the best possible deal, given the fact that the procurement was at that time – and remains – open.
- Staff recommended award to the highest scoring firm. The rationale for awarding a contract was established in the RFP released March 3, 2021 and was a function of the scoring criteria outlined in the RFP.
- Marin Transit’s Procurement Policies and Bid Protest Procedures conform to Federal Transit Administration (FTA) Circular 4220.1F. Per the Marin Transit Bid Protest Procedures, any protest which (i) claims that one or more offerors on the Contract should be disqualified or rejected or any reason; (ii) contests a Marin County Transit District staff recommendation to award the Contract to a particular Proposer; or (iii) contests a Marin County Transit District staff recommendation to disqualify or reject one or more offerors on the Contract must be filed with Marin Transit no later than 5:00 PM five (5) days after publication of the notice of award.
- Marin Transit sent both proposers a notice of intent to award on September 1<sup>st</sup>. Following the Notice of Intent to award, at the request of Vivalon on September 2<sup>nd</sup>, staff made available a summary of scoring and key strengths of the successful proposal to both proposers within 24 hours of receipt of the request, on September 3<sup>rd</sup>. Following an additional request from Vivalon, staff made available a complete scoring table to both proposers on September 3<sup>rd</sup>.
- On September 3<sup>rd</sup>, staff also responded to an inquiry from Vivalon regarding when the Transdev proposal would be made public and advised on Marin Transit’s guidelines for Public Records Act (PRA) requests.

- Marin Transit followed our standard protocol for Board meetings and posted the agenda and board packet as soon as it was available on September 8<sup>th</sup>. The agenda posting and schedule comply with the State of California's Brown Act.

**Special Meeting:** *In response to the item stating that Marin Transit held a special meeting –*

- All Marin Transit Board Meetings are public and include the opportunity for members of the public to provide public comment on items not on the agenda, during the open time for public expression, and items on the agenda, following the staff report. Information about Board Meetings is posted on the Marin Transit website at [www.marintransit.org/meetings](http://www.marintransit.org/meetings). The agenda and board packet for the special meeting on August 23rd was publicly posted on August 18th and complied with the requirements of the Brown Act.

**Salaries/Benefits & Amendment 5:** *In response to the item stating that Marin Transit discouraged Vivalon from increasing salaries and wages –*

- Marin Transit has never discouraged Vivalon or any of its contractors from increasing driver wages.
- Amendment #5 to the contract between Marin Transit and Vivalon makes no reference to driver wages and salaries. However, Amendment # 6 did require Vivalon to honor the driver wage increases that were previously agreed to in Amendment #1 for the new contract option years. Vivalon did not increase starting wages on 7/1/20 that would have been consistent with the 2% annual increase agreed to in Amendment #1 for the base contract years. The District included this wage increase for the option years in Amendment #6 and required the increases to be effective with the first payroll after MCTD Board approval in January 2021.

**BAFO:** *In response to the item stating that Marin Transit's reference to the BAFO was misleading and disingenuous –*

- Under Marin Transit's Procurement Policy and in compliance with FTA Circular 4220.1F, 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. The BAFO is the final opportunity for firms to refine and improve their technical proposal and associated costs, or "sharpen their pencils." MCTD issued BAFO requests to both proposers on August 16, 2021 and requested a response by August 23, 2021. Vivalon submitted a letter in response to the BAFO request but did not include a revised proposal or cost proposal. Transdev submitted a letter in response to the BAFO request and included clarifications about their proposal and a revised cost proposal.

The responses below are in reference to the material areas Vivalon disputes that the Transdev proposal was advantageous.

- 1. *Vivalon Whistlestop Wheels disputes the advantage that Transdev would improve program legibility. Our staff is currently cross-trained and our proposal included fully-integrated cross training with Travel Navigators and an Integrated Call Center.***

We assume that Vivalon is referring to Slide 10 of the presentation included as Attachment A to the Staff Report regarding award of the contract at the September 13, 2021 Marin Transit Board meeting. Slide 10 details expected outcomes of the structure of a new contract. Staff highlighted “integrated call center with cross-trained staff expected to improve call responsiveness and program legibility” as a beneficial expected outcome of the contract based on the structure of the RFP – not of the selected contractor. This was not a factor that resulted in staff’s recommendation to award the contract to Transdev Services, Inc.

- 2. *Vivalon Whistlestop Wheels disputes the claim that Transdev would decrease time to resolve customer IT issues. Vivalon’s Whistlestop Wheels has not had delays in resolving customer IT issues.***

We assume that Vivalon is referring to Slide 10 of the presentation included as Attachment A to the Staff Report regarding award of the contract at the September 13, 2021 Marin Transit Board meeting. Slide 10 details expected outcomes of the structure of a new contract. Staff highlighted “enhanced 24-hour IT expected to reduce delays in resolving customer issues” as a beneficial expected outcome of the contract based on the structure of the RFP – not of the selected contractor. This was not a factor that the resulted in staff’s recommendation to award the contract to Transdev Services, Inc.

- 3. *Vivalon Whistlestop Wheels disputes the claim that an advantage to recommending Transdev is that they offer 24-Hour Trapeze technical support. Vivalon has 24-Hour Trapeze technical support as well.***

Marin Transit did not indicate that Transdev provided an advantage because they offered 24 -hour Trapeze technical support. As part of Marin Transit’s contract with TripSpark (Trapeze), we offer the contractor 24-hour support through the TripSpark (Trapeze) Support Desk. All proposers will have access to this 24-hour support resource. No proposer received an advantage in the scoring due to this factor.

- 4. Vivalon Whistlestop Wheels disputes the recommendation that Transdev will improve ADA compliance. Vivalon has had zero denials or issues so this is not a quantifiable strength for Transdev.***

Trip denials is not the metric for understanding the ADA or compliance with ADA regulations. The evaluation committee used the information submitted in the technical proposals including the information submitted in the project understanding, qualifications and experience, and approach and workplan along with the level of experience of key staff members to evaluate each firm's proposal. The evaluation committee unanimously agreed that Transdev Services, Inc. proposed a team with demonstrated ADA knowledge and expertise and is well positioned to ensure compliance with the regulations of the ADA. Further, Transdev demonstrated to the evaluation committee the ability to anticipate and respond to changes in ADA-related regulations.

- 5. Vivalon Whistlestop Wheels disputes the recommendation that Transdev has better experience. Vivalon Whistlestop Wheels started paratransit in Marin County 67 years ago.***

The evaluation committee recognized that Vivalon has many years of providing transportation services to older adults and a long record of contracting with Marin Transit to offer demand response services. Vivalon's only experience operating FTA funded complementary paratransit services for a public transit agency is through the contract with Marin Transit. Transdev has a large presence in California and has operated paratransit services for more than 100 combined years. In the Bay Area, Transdev has over thirty years of experience operating FTA funded transit services with eight peer agencies, in all counties adjacent to Marin, including the counties of Contra Costa, San Francisco, Napa, Sonoma, Solano, Yolo, Alameda, and Santa Clara. Transdev operates the largest paratransit contracts in the country and has delivered innovative approaches to meet the needs of public transit agencies and their riders. Transdev is well positioned to support Marin Transit in rebuilding its ridership after the COVID pandemic and growing its services to meet future demands.

- 6. Vivalon Whistlestop Wheels disputes the claim that Transdev's is stronger in starting-up at new facilities. Vivalon has its own facility and equipment and proposed a solid transition plan to relocate to the Kerner Facility that included a fully-integrated call center and utilization of the square footage that would not necessitate the need for any off-site offices.***

While both proposals included transition plans, the Transdev proposal included a more detailed start-up plan and indicated support from a specialized team that is dedicated for start-ups at the new facilities. Transdev contracts with agencies across the country and

each contract start-up involves acquiring a new facility or taking over an existing operations facility. Within the last few years, Transdev has led the start-up of operations in the Bay Area for several peer agencies including leading recent transitions with Soltrans, Lodi, County Connection, and LAVTA.

Transdev's proposal identified a dedicated transition manager with extensive experience with start-up at numerous facilities. The Transdev proposal also identified corporate and regional support for the transition. The evaluation committee unanimously agreed that the Transdev Services, Inc. proposal would better support Marin Transit as we start-up operations at the new facilities.

**7. *Vivalon Whistlestop Wheels disputes that strong references from peer transit agencies is more significant than over 40 letters of support from riders and community leaders in Marin County.***

Marin Transit contacted references provided by both proposers and asked a series of questions about how the firms performed on similar contracts for those agencies. Staff received responses from references for each proposer. The response from references was considered as part of the evaluation of qualifications and experience.

In section 3.4.3.1c of the RFP (page 27), Marin Transit further requested that firms provide any additional relevant reference information to demonstrate experience with public agencies. Vivalon included letters of support from individuals and organizations in Marin. The evaluation committee recognized the high level of community support detailed in these letters and Vivalon's long history of supporting older adults in Marin. The evaluation committee considered these letters as part of their scores for qualifications and experience.

**8. *Vivalon Whistlestop Wheels disputes that Transdev provides superior employee support. Vivalon has been recognized for 6 years as a Best Place to Work in the North Bay. Additionally, Vivalon (Whistlestop) receives an average Employer Review rating on Glassdoor of 4.3 while Transdev receives an average rating of 3.4.***

The evaluation committee reviewed and evaluated proposals based on the information provided in the proposal. The committee did not review ratings for any proposer from Glassdoor or other outside rating systems. The Transdev proposal included higher starting wages, lower out-of-pocket employee benefit costs, robust opportunities for employee development and career advancement, performance incentives for frontline staff at all levels, tools for employees to manage work-life balance, and health and

wellness programs. The Vivalon proposal included lower starting wages, higher out-of-pocket benefit costs, and performance incentives for operators and mechanics.

**9. Vivalon Whistlestop Wheels disputes that Transdev will improve optimization. Vivalon utilizes the same software and has an addition full-time optimizer on staff.**


The evaluation committee reviewed and evaluated proposals based on the information provided in the proposal. Optimization was not a criterion used to evaluate the proposals.

**10. Vivalon Whistlestop Wheels disputes that Transdev is the Best Value Procurement based on their poor safety record compared to Vivalon. San Francisco paratransit, operated by Transdev, had nearly 4x our accident rate based on the publicly available data from 2016-2018 and four times better than Transdev according to MTC archives.**

The evaluation committee reviewed and evaluated proposals based on the information provided in the proposal. Based on information included in the proposals, including the safety plan and the experience of key safety and training staff members, both proposers were able to demonstrate a strong approach to safety and a commitment to keeping riders safe. Best Value is defined in the RFP and allows Marin Transit to select the offer deemed most advantageous and of greatest value to the agency. The evaluation committee reviewed proposals against all evaluation criteria in the RFP, not one criterion, to recommend award to the proposer that provides the greatest value to Marin Transit.

Thank you again to you and your team for submitting a proposal in response to the RFP. While we are recommending a change in service providers for this contract, we expect to maintain our great relationship with the Vivalon team and are eager to explore new ways we can collaborate in the future.

Sincerely



**Nancy Whelan**  
General Manager

Attachments:

- (1) September 8, 2021 Vivalon Bid Protest Letter
- (2) September 13, 2021 Marin Transit Board of Directors, Item #5: Award of Contract for Marin Access Services and Programs





September 8, 2021

Nancy Whelan  
General Manager  
Marin Transit  
711 Grand Street, Suite 110  
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*Submitted via email to [jhuitt@marintransit.org](mailto:jhuitt@marintransit.org) [nwhelan@marintransit.org](mailto:nwhelan@marintransit.org)*

***RE: Award Protest – Operation and Management of Marin Access Services and Programs***

Dear Ms. Whelan,

This letter is to officially protest the recommendation to the Marin Transit Board that Transdev replace Vivalon as the provider of Marin Access paratransit services and programs.

While Vivalon had the lowest price, we were significantly outscored on more subjective matters for Best Value Procurement. In looking at Transdev's pricing, at Tier 4 the Transdev proposal is over \$1,400,000 annually higher than ours. Their total costs are 26% higher than ours at Tier 4. At Tiers 2 and 3 they are still over \$1,000,000 higher than Vivalon in contract costs. Transdev exceeds our bid by a \$1.0 to \$1.5m increase in total costs.

In addition, we received the agenda that included the rationale for the award of this contract to Transdev only 4 hours before this protest filing was due. In that agenda, there are minutes from a special meeting (that Vivalon did not receive notification of) and that state that you, as General Manager of Marin Transit, assured the board that all vendors were encouraged to increase salaries and benefits. This is, in fact, the opposite of what you asked of Vivalon in our Cost Amendment #5 earlier this year. We dispute the outcome of this RFP adamantly on the basis that we were recently discouraged from increasing salaries and

wages. In further support of this protest, we were told on the call regarding presenting our BAFO that it was an opportunity to “sharpen our pencils” which was misleading and disingenuous of Marin Transit.

In the brief time allowed to review the recommendation, we determined material areas demonstrated as an advantage to selecting Transdev that we dispute.

1. Vivalon Whistlestop Wheels disputes the advantage that Transdev would improve program legibility. Our staff is currently cross-trained and our proposal included fully-integrated cross training with Travel Navigators and an Integrated Call Center.
2. Vivalon Whistlestop Wheels disputes the claim that Transdev would decrease time to resolve customer IT issues. Vivalon’s Whistlestop Wheels has not had delays in resolving customer IT issues.
3. Vivalon Whistlestop Wheels disputes the claim that an advantage to recommending Transdev is that they offer 24-Hour Trapeze technical support. Vivalon has 24-Hour Trapeze technical support as well.
4. Vivalon Whistlestop Wheels disputes the recommendation that Transdev will improve ADA compliance. Vivalon has had zero denials or issues so this is not a quantifiable strength for Transdev.
5. Vivalon Whistlestop Wheels disputes the recommendation that Transdev has better experience. Vivalon Whistlestop Wheels started paratransit in Marin County 67 years ago.
6. Vivalon Whistlestop Wheels disputes the claim that Transdev’s is stronger in starting-up at new facilities. Vivalon has its own facility and equipment and proposed a solid transition plan to relocate to the Kerner Facility that included a fully-integrated call center and utilization of the square footage that would not necessitate the need for any off-site offices.
7. Vivalon Whistlestop Wheels disputes that strong references from peer transit agencies is more significant than over 40 letters of support from riders and community leaders in Marin County.
8. Vivalon Whistlestop Wheels disputes that Transdev provides superior employee support. Vivalon has been recognized for 6 years as a Best Place to Work in the North Bay. Additionally, Vivalon (Whistlestop) receives an average Employer Review rating on Glassdoor of 4.3 while Transdev receives an average rating of 3.4.
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based on the publicly available data from 2016-2018 and four times better than Transdev according to MTC archives.

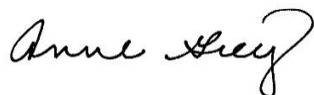
**What we do know definitively is that Vivalon clearly has a stronger safety record than Transdev.** Vivalon's accident rate per 100K miles for FY16-FY18 was .027, while the SFMTA Triennial Performance Audit reports that Transdev's safety record during that time frame averaged .107. **Transdev is four-times worse than Vivalon when it comes to safety.**

Our caring drivers know our riders by name and vice-versa. These relationships are vital in the paratransit community for feelings of support and stability at all times, but especially during the uncertain times caused by the pandemic. Our drivers are passionate about Vivalon's mission and many are unlikely to join a multibillion-dollar, international, for-profit company.

Since 2015, Vivalon has successfully collaborated with Marin Transit and Golden Gate Bridge Highway and Transportation District on multiple software and technological enhancement projects to improve operational efficiencies and customer service. Vivalon's IT Specialist and management team have assisted with TripSpark (Trapeze) upgrades from V15 to V19, installation of DriverMate software and tablets, and adjusted polygons, speed, and system settings. The Vivalon team supports the daily operation without fail, including zero service interruptions during the PSPS power outages in 2019 and 2020. Vivalon has a dedicated IT Specialist who troubleshoots and supports the account M-F, with off-hours support provided by TripSpark's 24/7 trouble desk.

Providing safe, reliable and caring transportation has been a key pillar of Vivalon's mission and is core to our services connecting older adults and people with disabilities in Marin County to numerous social determinants of health including nutrition, education, support and social engagement **for more than 50 years**. During this time, the Marin community has developed trust and confidence in Vivalon as a local organization that is extremely capable and dedicated to our community, which counts on Vivalon for jobs, services, springing to action nimbly in a crisis, and so much more that cannot be expected from a multi-national provider. What's more, with Vivalon the revenue stays in Marin County and supports the local economy.

Kind regards,



Anne Grey, CFRE MBA  
Chief Executive Officer  
[agrey@vivalon.org](mailto:agrey@vivalon.org)