



Foothill Transit

Special Executive Board Meeting

West Covina, CA
Friday, September 29, 2023



Foothill Transit

Foothill Transit MISSION

To be the premier public transit
provider committed to:

SAFETY

COURTESY

QUALITY

RESPONSIVENESS

EFFICIENCY

INNOVATION



Foothill Transit **VALUES**

SAFETY

We educate, encourage, and endorse a strong culture of safety at all levels of the organization, valuing the responsibility entrusted in us by the communities that we serve.

RESULTS

We value the achievement of organizational goals and initiatives as defined in our business plan and involving all levels of the organization.

INTEGRITY

We are committed to high ethical standards based on accountability, honesty, respect, transparency, and a high level of fiscal responsibility.

GRATITUDE

We are a team united in thankfulness for each other; we express gratitude for our many opportunities by investing our time and energy in our community and industry, and through the open expression of appreciation.

DIVERSITY

We create an environment rich with talented people and differing viewpoints, valuing the unique perspectives that everyone brings.

TEAM MEMBERS

Our team members are the key to Foothill Transit's success and we are committed to supporting them through education, development, and recognition.

COMMUNICATION

We value and are committed to open honest respectful discussion which is responsive, informative, and constructive.

SUSTAINABILITY

We embrace sustainability because it benefits all aspects of our business while helping our communities by protecting the environment through measured and responsible stewardship of resources.



Foothill Transit

Executive Board Meeting **AGENDA**

SPECIAL EXECUTIVE BOARD MEETING

8:30 AM, SEPTEMBER 29, 2023

Foothill Transit Administrative Office

2nd Floor Board Room

100 South Vincent Avenue

West Covina, CA 91790

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL: MEMBERS BOYER, CALAYCAY, MOSS, SHEVLIN, STERNQUIST
4. CONFIRMATIONS OF AGENDA BY CHAIR AND CHIEF EXECUTIVE OFFICER
5. PRESENTATIONS
 - 5.1. Introduction of Foothill Transit Business Partners
 - 5.2. Contractors' Employee Recognition

CONSENT CALENDAR: Items 6 through 18 are consent items which may be received and filed and/or approved by the board in a single motion. If any member of the Executive Board wishes to discuss a consent item, please request that the item be pulled for further discussion and potential action.

6. APPROVAL OF MINUTES FOR THE REGULAR MEETING OF AUGUST 22, 2023

Public Comment: Members of the public shall have the right to address the Board on any item of interest which is within the jurisdiction of the Board before or during the Board's consideration of the item. Presentation shall not exceed one minute in length. Note: ACTION MAY BE TAKEN ON ANY ITEM IDENTIFIED ON THE AGENDA.

The public may view and obtain all written information supporting this agenda provided to the board both initially and supplementary prior to the meeting by calling (626) 931-7300 extension 7204, emailing board.secretary@foothilltransit.org, or at the agency's offices located at 100 S. Vincent Ave., Suite 200, West Covina, CA 91790. Documents, including PowerPoint handouts, distributed to Board Members by staff or Board Members at the meeting will simultaneously be made available to the public upon request.



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7. AUGUST 2023 FINANCIAL STATEMENTS AND INVESTMENT SUMMARY

Recommended Action: Receive and file the Financial Statements and Investment Summary year-to-date report through August 31, 2023. The attached Financial Statements and Investment Report summarize Foothill Transit's unaudited operations and financial condition as of August 31, 2023, for the fiscal year ending June 30, 2024.

In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please contact the Chief Executive Officer's office at (626) 931-7300 extension 7204, at least 48 hours prior to the meeting.

If you require translation services, please contact the Chief Executive Officer's office at (626) 931-7300 extension 7204, at least 48 hours prior to the meeting.

Si necesita servicios de traducción, comuníquese con la oficina del Director Ejecutivo llamando al (626) 931-7300, extensión 7204, al menos 48 horas antes de la reunión.

若需要翻譯服務，請在會議前至少48小時聯絡執行長辦公室 (626) 931-7300分機7204

Nếu quý vị yêu cầu dịch vụ dịch thuật, vui lòng liên hệ với văn phòng Giám Đốc Điều Hành theo số (626) 931-7300, số máy lẻ 7204, ít nhất 48 giờ trước cuộc họp

Kung kailangan mo ng serbisyong pagsasalin, mangyaring makipag-ugnayan sa tanggapan ng Punong Ehekutibong Opisyal sa numerong (626) 931-7300 ekstensyon 7204, hindi bababa ng 48 oras bago ang pagpupulong

번역 서비스가 필요한 경우, 회의가 시작되기 최소 48시간 전에 (626) 931-7300 내선 7204번으로 최고경영자실에 연락하십시오.

通訳／翻訳サービスが必要な際は、ミーティング48時間前までに、CEO/最高経営責任者事務所までに連絡してください。CEO事務所
連絡先：(626) 931-7300内線7204

اگر به خدمات ترجمه نیاز دارید، لطفاً دست کم 48 ساعت قبل از شروع جلسه با دفتر مدیر عامل به شماره تلفن (626) 931-7300 داخلی (626) 931-7300 تماس بگیرید

Եթե Ձեզ թարգմանչական ծառայություններ են հարկավոր, հանդիպումից առնվազն 48 ժամ առաջ զանգահարեք Գլխավոր գործադիր տնօրենի գրասենյակ՝ (626) 931-7300 լրացուցիչ 7204 հեռախոսահամարով:

ប្រសិនបើលោកអ្នកត្រូវការសេវាកម្មបកប្រែភាសា សូមទាក់ទងការិយាល័យនាយកភ្នាក់ងារប្រតិបត្តិកាតាមទូរស័ព្ទលេខ (626) 931-7300 លេខភ្ជាប់បន្ត 7204, ដែលមានរយៈពេលយ៉ាងតិច 48 ម៉ោងមុនកិច្ចប្រជុំ

في حالة الحاجة لخدمات الترجمة، يرجى الاتصال بمكتب الرئيس التنفيذي على رقم الهاتف (626) 931-7300 (الرقم الداخلي 7204) وذلك قبل 48 ساعة على الأقل من الاجتماع

หากคุณต้องการบริการล่าม โปรดติดต่อสำนักงานประธานเจ้าหน้าที่บริหารที่ (626) 931-7300 ต่อ 7204 อย่างน้อย 48 ชั่วโมงก่อนการประชุม



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8. SEPTEMBER 2023 PROCUREMENT MONTHLY REPORT

Recommended Action: Receive and file the Procurement Monthly Report for September 2023.

9. SEPTEMBER LEGISLATIVE REPORT

Recommended Action: Receive and file the September 2023 Legislative Report.

10. TITLE VI PROGRAM

Recommended Action: Receive and file the Title VI Program Overview.

11. TITLE VI ANALYSIS FOR PUENTE HILL MALL TRANSIT STORE

Recommended Action: Receive and file the Title VI analysis report for the closure of the Puente Hills Mall Transit Store (PHMTS).

12. PROPOSED PROCUREMENT POLICIES AND PROCEDURES MANUAL REVISIONS

Recommended Action: Adopt the proposed Procurement Policies and Procedures Manual revisions.

13. AUTHORIZATION TO ISSUE REQUEST FOR PROPOSALS FOR STATE ADVOCACY SERVICES

Recommended Action: Authorize the Chief Executive Officer to issue Request for Proposals (RFP) No. 24-027 for state advocacy services.

14. UPDATE ON THE FORMAL APPLICATION PROCESS WITH THE CALIFORNIA JOINT POWERS INSURANCE AUTHORITY (CJPIA)

Recommended Action: Receive and file an update on Foothill Transit's Formal Application with the CJPIA.

15. HYDROGEN FUEL INFLUENCER CAMPAIGN

Recommended Action: Receive and file the Hydrogen Fuel Influencer Campaign report.

16. PROTERRA CHAPTER 11 BANKRUPTCY

Recommended Action: Receive and file the report on Proterra's Chapter 11 Bankruptcy.



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17. REGIONAL PARTNERSHIPS CHALLENGE GRANTS APPLICATION REPORT

Recommended Action: Receive and file the Regional Partnerships Challenge Grants Application Report.

18. FALL 2023 SERVICE CHANGE

Recommended Action: Receive and file update on the Fall 2023 Service Change.

19. CHIEF EXECUTIVE OFFICER COMMENT

20. BOARD MEMBER COMMENT

21. GENERAL PUBLIC COMMENT

22. ADJOURNMENT



Foothill Transit

**STATEMENT OF PROCEEDINGS FOR THE
REGULAR MEETING OF THE
FOOTHILL TRANSIT EXECUTIVE BOARD**

**FOOTHILL TRANSIT ADMINISTRATIVE OFFICE
2ND FLOOR BOARD ROOM
100 S. VINCENT AVENUE
WEST COVINA, CALIFORNIA 91790**

**Tuesday, August 22, 2023
8:30 a.m.**

DRAFT

1. CALL TO ORDER

The meeting was called to order by Chair Moss at 8:36 a.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair.

3. ROLL CALL

Roll call was taken by Christina Lopez, Board Secretary.

Present: Member Gary Boyer, Member Becky Shevlin, Member Cynthia Sternquist, Vice Chair Cory Moss, Chair Corey Calaycay

4. CONFIRMATION OF AGENDA BY CHAIR AND CHIEF EXECUTIVE OFFICER

Doran Barnes, Chief Executive Officer, asked that the Chair consider moving agenda Item 18, Closed Session and Item 19, Closed Session Report prior to the Consent Calendar.

After discussion, by Common Consent, the Chair and Chief Executive Officer confirmed the agenda as revised.

5. PRESENTATIONS

5.1. Introduction of Foothill Transit Business Partners

The following business partners addressed the Executive Board.

Doug Gies, Regional Vice President, Transdev

Marc Perla, Region Vice President, Keolis
Hector Flores, Vice President and General Manager, ElDorado
Dan Trujillo, Director of Transit, ElDorado

5.2. Contractors' Employee Recognition

Doug Brockwell, General Manager, will introduce the Pomona location
Keolis employees of the month.

Eugene Calloway - Employee of the Month
Raymond Lopez - Operator of the Month

Shawn Chavira, General Manager, will introduce the Arcadia location
Transdev employees of the month.

Jose Frazier - Employee of the Month
Thomas Rodriguez - Operator of the Month

Valentin Mendoza - Employee of the Month (*tentative*)
Magdy Soliman - Operator of the Month (*tentative*)

Araceli Lopez, Transit Store General Manager, will introduce the
Transit Stores Transdev employee of the quarter.

Viviana Blanco - Employee of the Quarter

After discussion, by Common Consent, and there being no objection,
the Board recognized the operators and employees of the month.

5.3. Introduction of Director of Customer Service and Operations Ali
Showkatian

LaShawn King Gillespie, Deputy Chief Executive Officer,
introduced Mr. Showkatian, and shared with the Executive Board his
prior transit experience and welcomed him to Foothill Transit.

CONSENT CALENDAR

Lorrence Bradford, ATU 1746 provided public comment on Item 15. Jaime
Villanueva, Local 572 provided public comment on Item 15.

Vice Chair Shevlin asked the Item 15 be pulled for discussion and Member
Sternquist asked that Item 17 be pulled for discussion.

The Executive Board took action on a single motion on items 6 – 14, and 16.

6. **APPROVAL OF MINUTES FOR THE REGULAR MEETING OF JUNE 27, 2023**

Motion by Member Calaycay, second by Member Boyer, to approve. Motion carried 5-0.

7. **JUNE 2023 FINANCIAL STATEMENTS AND INVESTMENT SUMMARY**

Recommendation: Receive and file the Financial Statements and Investment Summary year-to-date report through June 30, 2023. The attached Financial Statements and Investment Report summarize Foothill Transit's unaudited operations and financial condition as of June 30, 2023, for the fiscal year ending June 30, 2023.

Motion by Member Calaycay, second by Member Boyer, to receive and file. Motion carried 5-0.

8. **FISCAL YEAR 2023 FOURTH QUARTER BUDGET UPDATE**

Recommendation: Receive and file the Fiscal Year 2023 Fourth Quarter Budget Update.

Motion by Member Calaycay, second by Member Boyer, to receive and file. Motion carried 5-0.

9. **AUGUST 2023 PROCUREMENT MONTHLY REPORT**

Recommendation: Receive and file the Procurement Monthly Report for August 2023.

Motion by Member Calaycay, second by Member Boyer, to receive and file. Motion carried 5-0.

10. **AUGUST 2023 LEGISLATIVE SUMMARY**

Recommendation: Adopt a SUPPORT position on SB 410; and receive and file the August 2023 Legislative Report.

Motion by Member Calaycay, second by Member Boyer, to adopt, and receive and file. Motion carried 5-0.

11. **RESOLUTION FOR THE CALIFORNIA STATE OF GOOD REPAIR PROGRAM**

Recommendation: Adopt the following resolution: Resolution No. 2023-01: Authorization for the Execution of the Certifications and Assurances for the California State of Good Repair Program (Attachment A).

Motion by Member Calaycay, second by Member Boyer, to adopt.
Motion carried 5-0.

12. **AUTHORIZATION TO ISSUE INVITATION FOR BIDS FOR POMONA OPERATIONS AND MAINTENANCE FACILITY STEAM BAY LIFT REPLACEMENT**

Recommendation: Authorize the Chief Executive Officer to issue IFB No. 24-013 for construction services related to the replacement of the steam bay lift at the Pomona Operations & Maintenance Facility.

Motion by Member Calaycay, second by Member Boyer, to approve. Motion carried 5-0.

13. **AUTHORIZATION TO ISSUE INVITATION FOR BIDS FOR ADMINISTRATIVE OFFICE SECOND FLOOR RECEPTION AREA AND THIRD FLOOR CONFERENCE ROOM RENOVATIONS**

Recommendation: Authorize the Chief Executive Officer to issue IFB No. 23-097 for construction services related to renovation of the Administrative Office 2nd floor reception area and 3rd floor conference room.

Motion by Member Calaycay, second by Member Boyer, to approve. Motion carried 5-0.

14. **AUTHORIZATION TO ISSUE REQUEST FOR PROPOSALS FOR FUEL CELL CONSULTING SERVICES**

Recommendation: Authorize the Chief Executive Officer to issue a Request for Proposals (RFP) for Fuel Cell Consulting Services.

Motion by Member Calaycay, second by Member Boyer, to approve. Motion carried 5-0.

15. **AUTHORIZATION TO ISSUE REQUEST FOR PROPOSALS FOR TRANSIT SERVICES - ARCADIA FACILITY**

Recommendation: 1. Authorize the Chief Executive Officer to amend Agreement No 22-001 with Transdev Services Inc. to change the expiration date of the contract from June 30, 2026 to March 30, 2024. 2. Authorize the Chief Executive Officer to issue a request for proposals (RFP) No. 24-001 for transit operations and maintenance services at Foothill Transit's Arcadia facility.

LaShawn King Gillespie, Deputy Chief Executive Officer, presented this item.

Motion by Chair Moss, second by Member Sternquist, to approve. Motion carried 5-0.

16. **AUTHORIZATION TO AWARD CONTRACT FOR ON-CALL ARCHITECTURAL & ENGINEERING SERVICES**

Recommendation: Authorize the Chief Executive Officer to negotiate final terms and conditions and execute Contract No. 23-048 with Stantec Architecture Inc. for the provision of on-call services in the disciplines of architecture, civil engineering, structural engineering, electrical engineering, mechanical engineering, and surveying.

Motion by Member Calaycay, second by Member Boyer, to approve. Motion carried 5-0.

17. **FOOTHILL TRANSIT CODE OF CONDUCT POLICY**

Recommendation: Adopt the proposed Code of Conduct Policy.

John Curley, Chief of Safety and Security, presented this item.

Motion by Vice Chair Shevlin, second by Chair Moss, to adopt. Motion carried 5-0.

REGULAR AGENDA

18. **CLOSED SESSION: PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

(Gov't Code § 54957)

Title: Chief Executive Officer

Elena Garza provided one minute of Public Comment.

The Executive Board recessed into Closed Session at 9:03 a.m.

19. **CLOSED SESSION REPORT**

The Executive Board reconvened at 9:46 a.m.

Darold Pieper, General Counsel, reported that there were no reportable actions.

20. **CHIEF EXECUTIVE OFFICER COMMENT**

Comments by Mr. Doran J. Barnes, Chief Executive Officer, Foothill Transit.

Mr. Barnes reported the following:

- Thanked West Covina Acting Police Chief Cortina for attending the meeting, and Chief of Safety and Security John Curley for his efforts on safety and security issues.
- Announced that there were no incidents related to Tropical Storm Hilary. There were no major service interruptions.
- Schools and colleges are opening. Team members are busy visiting schools notifying students about Class Pass and GoPass.
- Reported that discussions continue with colleagues at the City of Pomona regarding possible capital improvements to the Pomona Transit Center.

21. **BOARD MEMBER COMMENT**

Comments by Members of the Foothill Transit Executive Board.

- Chair Moss announced that Doran Barnes, Chief Executive Officer, is the recipient of the APTA Outstanding Transit Manager of the Year Award.
- Member Sternquist thanked Foothill Transit's contractors for bringing their employees of the month and quarter to board meetings.

22. **GENERAL PUBLIC COMMENT**

Elena Garza provided one minute of General Public Comment.

23. **ADJOURNMENT**

Adjournment for the August 22, 2023 Foothill Transit Executive Board Meeting.

There being no further business, the Foothill Transit Executive Board meeting adjourned at 10:24 a.m.



September 29, 2023

To: Executive Board

Subject: **August 2023 Financial Statements and Investment Summary**

Recommendation

Receive and file the Financial Statements and Investment Summary year-to-date report through August 31, 2023.

The attached Financial Statements and Investment Report summarize Foothill Transit's unaudited operations and financial condition as of August 31, 2023, for the fiscal year ending June 30, 2024.

Balance Sheet Analysis (Attachment A):

Assets

The balance sheet, as of August 31, 2023, shows total assets at \$436.20 million. This total consists primarily of \$221.50 million in fixed assets, \$153 million in cash and investments and \$61.26 million in receivable and prepaid assets. Foothill Transit's cash position of \$153 million is \$7.99 million less than the previous month, and is \$31.51 million more than last year in August.

Liabilities

The accounts payable balance is \$15.42 million. Accounts Payables include operation and maintenance expenses for \$13.15 million and \$1.41 million for fuel.

The deferred revenue of \$155.52 million represents funds that are reserved for planned capital expenditures, such as, upcoming bus procurements and security enhancements construction activities at Arcadia Irwindale and Pomona yards.

Our current investments are held in financial instruments pursuant to Foothill Transit's investment policy. The cash and investments balance includes \$72.41 million in liquid accounts held with Bank of the West; \$11.42 million in interest bearing money market accounts with Bank of the West; \$68,118 with Chase; and \$65.92 million invested in the Local Agency Investment Fund (LAIF). On



June 1, 2023, Foothill Transit invested \$14.61 million in 6-month US Treasury Bills with par value of \$15 million. The bills will mature on November 30, 2023.

The current interest rates on all accounts are included on Attachment B. The LAIF investment, the CD investments, and the deposits with Chase earn interest and are held for future capital and operating funding requirements.

On February 1, 2023, Bank of Montreal (BMO) completed its acquisition of Bank of the West. As a result of this merger, Foothill Transit's bank accounts at Bank of the West including investment accounts were successfully transitioned to BMO on September 2, 2023. All transition activities were completed with minimal impact to Foothill Transit's daily finance activities.

Operating and Capital Revenues and Expense Analysis (Attachment C)

Fare revenue fiscal year to date were up 7.78% compared to budget due to the summer fare sale. EZ transit pass revenue significantly decreased due to Metro's fare change and fare cap implementation.

Revenues for FY24 reflect application of the American Rescue Plan Act (ARPA) federal funds. The budget anticipated spending approximately \$25 million of the emergency federal funds on operating expenses.

Operating costs through August 2023 were \$21.04 million, which is \$4.58 million less than the budget and \$2.10 million more than August 2022. The actual expenditures were less than the budget due to lower than planned service delivery resulting from bus operator shortages. This employment challenge is being experienced by Transit Operators nationwide. Of the \$21.04 million expenditures, \$16.16 million reflects operating costs for the Arcadia and Pomona operations contractors. Other operating expenses include fuel, which was \$1.76 million through August 2023.

Capital expenditures through June were \$1.93 million compared with \$18,000 last year at this time. The annual budget for capital expenditures includes the procurement and construction of 19 double decker buses and a hydrogen fueling station, security enhancements at the Arcadia-Irwindale and Pomona operations and maintenance facilities, and CNG equipment replacement at the Pomona operations and maintenance facility.



Total Disbursements (Attachment D)

Total disbursements reflect invoices paid for the month of August 2023; they do not reflect the total expense incurred for the month. If an expense has incurred but not yet invoiced or paid, Foothill Transit accrues the expense to track the expenses properly during the month in which they actually occurred. Total disbursements for August 2023 were \$8.07 million. Capital disbursements totaled \$1.39 million and other significant disbursements include \$3.22 million to Keolis and \$1.96 million to Transdev for bus operating services.

Sincerely,

Michelle Lopes Caldwell
Director of Finance and Treasurer

Doran J. Barnes
Chief Executive Officer

Attachments

**Foothill Transit
Balance Sheet
As of August 31, 2023**

Assets

Current Assets:

Cash	\$153,006,917
Due from government agencies	39,753,238
Other receivables	18,034,576
Other assets	3,470,446

Total Current Assets	\$214,265,176
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Non current Assets:

Notes receivable	\$435,481
Property & Equipment (net of depreciation)	221,496,106

Total Non Current Assets	\$221,931,587
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Total Assets	\$436,196,763
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Liabilities and Equity

Current Liabilities:

Accounts payable and accrued liabilities	\$15,420,755
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Deferred Revenue	155,515,375
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Total Liabilities	\$170,936,129
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Equity

Fund Balance:

Investment in Capital Assets	\$221,496,106
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Current Year Change	1,295,679
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Excise Tax Credit	0
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Reserve	42,468,848
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Total Equity	\$265,260,633
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Total Liabilities and Equity	\$436,196,763
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**Summary of Cash and
Investment Account
For August 31, 2023**

	Interest Rate	Term	Principal/ Book & Market Value
Cash:			
Bank of the West-Reg. Checking	N/A	Demand Deposit	\$44,887,108
Petty Cash	N/A	N/A	1,200
Revolving Fund - Transit Stores	N/A	N/A	400
Bank of the West-Excise Tax/LCFS #1106	N/A	Demand Deposit	16,099,481
Bank of the West-Money Market #1110	2.53%	Demand Deposit	5,092,880
Bank of the West-Money Market #1111	2.53%	Demand Deposit	5,052,156
Bank of the West-LCTOP #1108	2.53%	Demand Deposit	1,279,246
Chase Business Saving #1109	0.01%	Demand Deposit	68,118
LAIF Investment #1141	3.36%	Demand Deposit	65,915,477
Total Cash and Investments			<u>\$138,396,067</u>

Foothill Transit
Statement of Revenue and Expense
For Month Ended August 2023

	Actual YTD August 2023	Budget YTD August 2023	Variance	Actual YTD August 2022
Fare Revenue				
Farebox	\$644,464	\$ 599,603	7.48%	\$603,088
Pass Sales	333,104	289,327	15.13%	264,284
TAP Cash Purse	377,334	321,159	17.49%	357,460
MetroLink & Access Service	48,187	57,355	(15.98%)	44,032
EZ Transit Pass	31,259	63,418	(50.71%)	68,874
Total Operating Revenue	\$1,434,349	\$1,330,862	7.78%	\$1,337,737
Operating Subsidies and Other				
Transportation Development Act	\$3,006,498	\$6,143,934	(51.07%)	\$3,725,620
State Transit Assistance (STA)	0	883,652	(100.00%)	0
Senate Bill 1 - STA	0	676,863	(100.00%)	0
Senate Bill 1 - STA BSCP	0	76,487	(100.00%)	0
Prop A 40% Discretionary	0	0	--	0
Prop A 40% BSCP	0	0	--	0
Prop A Exchange	0	0	--	700,000
Prop C BSIP	174,077	174,077	0.00%	0
Prop C Base Restructuring	373,899	373,899	0.00%	0
Prop C Transit Service Expansion	62,307	62,307	0.00%	0
Transit Security	229,753	229,753	0.00%	0
Measure R	0	3,161,427	(100.00%)	0
Measure M	0	0	--	0
Federal ARPA 5307	15,757,373	12,500,000	26.06%	12,990,000
Miscellaneous Transit Revenues	0	0	--	187,359
Total Subsidies and Other	\$19,603,907	\$24,282,398	(19.27%)	\$17,602,980
Total Operating Revenue	\$21,038,256	\$25,613,260	(17.86%)	\$18,940,717
Other Revenues				
Gain on Sale of Fixed Assets	\$0	\$0	0.00%	\$19,480
Auxiliary Revenue	119,365	130,750	(8.71%)	110,139
Total Other Revenues	\$119,365	\$130,750	(8.71%)	\$129,619.02
Total Operating and Other Revenues	\$21,157,621	\$25,744,010	(17.82%)	\$19,070,336
Operating Expenses				
Customer Service & Operations	\$18,749,075	\$21,911,076	(14.43%)	\$16,528,060
Maintenance & Vehicle Technology	181,767	175,600	3.51%	184,289
Marketing & Communications	324,990	413,936	(21.49%)	223,820
Information Technology	271,258	741,848	(63.43%)	363,061
Administration	271,108	383,236	(29.26%)	414,353
Procurement	128,795	165,818	(22.33%)	97,003
Government Relations	66,539	131,278	(49.31%)	78,851
Finance	319,130	401,521	(20.52%)	303,659
Safety & Security	297,276	613,612	(51.55%)	163,852
Planning	161,765	263,078	(38.51%)	303,013
Facilities	266,553	412,257	(35.34%)	280,755
Total Operating Expenses	\$21,038,256	\$25,613,260	(17.86%)	\$18,940,717
Other Expenses				
Property Management	\$77,416	\$77,417	(0.00%)	\$77,417
Special Services	41,949	53,333	0.00%	22,559
Total Other Expenses	\$119,365	\$130,750	(8.71%)	\$99,976
Total Operating and Other Expenses	\$21,157,621	\$25,744,010	(17.82%)	\$19,040,693
Capital Revenues				
Capital Grants	\$1,932,384	\$11,246,482	(82.82%)	\$18,826
Capital Expenditures				
Capital Expenditures	\$1,932,384	\$11,246,482	(82.82%)	\$18,826

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Foothill Transit

ATTACHMENT D

This report also includes bank accounts that only have balances.

Bank Account: No.: B001, Date Filter: 08/01/23..08/31/23

Posting Date	Document Type	Document No.	Vendor	Amount	Entry No.
08/01/23	Payment	60235	Doran J. Barnes	4,160.02	860148
08/01/23	Payment	60236	International City Management Assoc. Retirement Co	16,916.45	860151
08/01/23	Payment	60237	Weatherite Corporation	236.00	860154
08/01/23	Payment	60238	Athens Services- 54957	1,057.88	860156
08/01/23	Payment	60239	Birdi Systems, Inc.	13,964.00	860158
08/01/23	Payment	60240	Gary Mandel Promotional Concepts	61,115.00	860160
08/01/23	Payment	60241	BroadLux Inc.	5,658.08	860162
08/01/23	Payment	60242	Qualified Mobile, Inc.	218.56	860165
08/01/23	Payment	60243	Thompson Coburn LLP	1,676.20	860167
08/01/23	Payment	E100819	Clean Energy	4,878.88	860385
08/01/23	Payment	E100819V	Clean Energy-rv	-4,878.88	862040
08/01/23	Payment	W000959	California Dept. of Tax and Fee Administration ZBA	10.00	864695
08/02/23	Payment	W000905	Walnut Valley Water District ZBA	107.17	864219
08/02/23	Payment	W000906	Southern California Edison Co. ZBA	112.84	864221
08/02/23	Payment	W000907	Walnut Valley Water District ZBA	200.52	864223
08/03/23	Payment	60244	Concentra Medical Centers - CA	68.00	860911
08/03/23	Payment	60245	Instant Signs Inc.	143.82	860913
08/03/23	Payment	60246	Green Thumb Indoor Plant	449.75	860915
08/03/23	Payment	60247	Apollo Electric	14,425.00	860917
08/03/23	Payment	60248	Qualified Mobile, Inc.	311.45	860919
08/03/23	Payment	60249	Commercial Building Management Services, Inc.	4,593.07	860921
08/03/23	Payment	60250	Center for Transportation and the Environment, Inc	14,220.68	860924
08/03/23	Payment	60251	American Air Liquide Holdings, Inc.	2,792.19	860926
08/03/23	Payment	60252	Tri - Signal Integration, Inc.	140.00	860928
08/03/23	Payment	W000908	Azusa Light & Water ZBA	51.10	864225
08/03/23	Payment	W000909	General Checking	85.14	864227
08/03/23	Payment	W000910	Azusa Light & Water ZBA	115.59	864229
08/03/23	Payment	W000911	Azusa Light & Water ZBA	491.34	864231
08/03/23	Payment	W000912	Azusa Light & Water ZBA	843.92	864233
08/03/23	Payment	W000913	Verizon Business-15043 ZBA	2,229.21	864235
08/04/23	Payment	60253	Thompson Coburn LLP	39,489.94	860933
08/04/23	Payment	60254	Thomas J. Koontz	6,560.00	860935
08/04/23	Payment	60255	Green Thumb Indoor Plant	213.00	860938
08/04/23	Payment	60256	BonfireLA Productions, LLC	11,250.00	860940
08/04/23	Payment	60257	ECAMSECURE	36,571.25	860942
08/04/23	Payment	60258	San Gabriel Valley Newspaper	5,464.21	860947
08/04/23	Payment	E100820	Keolis Transit America, Inc.	13,500.00	860949
08/04/23	Payment	E100821	Transdev Services, Inc.	1,577,497.45	860951
08/04/23	Payment	E100822	Keolis Transit America, Inc.	1,053,246.87	860953
08/07/23	Payment	60259	Sky Rider Equipment Co. Inc.	1,100.00	860955
08/07/23	Payment	60260	Instant Signs Inc.	252.26	860957
08/07/23	Payment	60261	Metrolink	6,448.75	860959
08/07/23	Payment	60262	Henry Lopez	231.00	860962
08/07/23	Payment	60263	Tilden-Coil Constructors, Inc.	6,232.00	860964
08/07/23	Payment	60264	Shepherd's Pantry	2,500.00	860966
08/07/23	Payment	60265	Cosco Fire Protection, Inc.	1,104.00	860968
08/07/23	Payment	60266	Greater La Puente Valley Meals on W	1,000.00	860970
08/07/23	Payment	60267	C.A.T. Specialties	1,253.77	860972

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Foothill Transit

ATTACHMENT D

Posting Date	Document Type	Document No.	Vendor	Amount	Entry No.
08/07/23	Payment	W000914	Wright Express ZBA	205.22	864237
08/07/23	Payment	W000915	AT and T-5019 ZBA	844.59	864239
08/08/23	Payment	E100823	Life Insurance Company of North America	6,871.72	860974
08/08/23	Payment	E100824	California Hydrogen Business Council	3,000.00	860976
08/08/23	Payment	W000916	Charter Communications Inc. ZBA	185.97	864241
08/08/23	Payment	W000917	Southern California Edison Co. ZBA	205.08	864243
08/08/23	Payment	W000918	Frontier ZBA	239.07	864245
08/08/23	Payment	W000919	The Gas Co. ZBA	449.56	864247
08/08/23	Payment	W000920	Southern California Edison Co. ZBA	689.87	864249
08/08/23	Payment	W000921	Verizon Business - 15043 ZBA	1,433.66	864251
08/08/23	Payment	W000922	Universal Waste Systems ZBA	4,267.18	864253
08/08/23	Payment	W000923	Verizon Business-15043 ZBA	4,750.92	864255
08/09/23	Payment	E100825	Transdev Services, Inc.	9,289.86	860978
08/09/23	Payment	E100826	Powell Consulting DC, LLC	5,500.00	860980
08/09/23	Payment	W000924	International City Management Assoc. Retirementt C	56,606.37	864257
08/10/23	Payment	60268	Felicia Friesema	5,250.00	860982
08/10/23	Payment	60269	AlxTel, Inc.	19,142.62	860986
08/10/23	Payment	60270	Active San Gabriel Valley	5,000.00	860988
08/10/23	Payment	60271	Tri - Signal Integration, Inc.	35.00	860990
08/10/23	Payment	E100827	Superior Electrical Advertising, Inc.	1,415.51	861393
08/10/23	Payment	W000925	Frontier ZBA	432.15	864259
08/11/23	Payment	W000926	Wright Express ZBA	198.10	864261
08/14/23	Payment	60272	Azteca Landscape	4,614.96	861467
08/14/23	Payment	60273	Stantec Architecture	2,695.49	861469
08/14/23	Payment	60274	Day - Lite Maintenance Co. Inc.	363.91	861471
08/14/23	Payment	W000927	AT and T-5025 ZBA	723.14	864263
08/14/23	Payment	W000928	Frontier ZBA	1,709.00	864265
08/14/23	Payment	W000929	Verizon Wireless ZBA	3,519.15	864267
08/14/23	Payment	W000930	Verizon Wireless ZBA	15,315.98	864269
08/15/23	Payment	60275	American Air Liquide Holdings, Inc.	3,754.46	861799
08/15/23	Payment	60276	Stantec Architecture	2,355.00	861801
08/15/23	Payment	60277	Zonar Systems Inc.	6,086.00	861804
08/15/23	Payment	60278	ACE Pelizon Plumbing	790.00	861807
08/15/23	Payment	60279	Cintas Corporation 33	323.55	861809
08/15/23	Payment	60280	Qualified Mobile, Inc.	314.73	861811
08/15/23	Payment	60281	Krystal Bai	40.00	861813
08/15/23	Payment	W000931	Frontier ZBA	820.66	864271
08/15/23	Payment	W000932	Verizon	1,426.86	864273
08/15/23	Payment	W000933	Verizon Business-15043 ZBA	5,097.17	864275
08/16/23	Payment	60282	Digium Cloud Services, LLC	2,753.93	861815
08/16/23	Payment	60283	ODP Business Solutions, LLC	519.00	861818
08/16/23	Payment	60284	ACC Business	1,080.53	861820
08/16/23	Payment	60285	T-Mobile USA Inc.	1,394.89	861822
08/16/23	Payment	60286	FEDEX Corp.	11.10	861824
08/16/23	Payment	60287	Thomas J. Koontz	52.92	861826
08/16/23	Payment	60288	Dean Gazzo Roistacher LLP	1,899.00	861828
08/16/23	Payment	60289	Corodata Records Management, Inc.	88.00	861831
08/16/23	Payment	60290	Alta Planning + Design, Inc.	674.25	861833
08/16/23	Payment	60291	Home Depot Credit Services	654.47	861835
08/16/23	Payment	60292	R2BUILD	634.00	861837
08/16/23	Payment	60293	Crown Castle USA Inc.	952.50	861839

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Posting Date	Document Type	Document No.	Vendor	Amount	Entry No.
08/16/23	Payment	60294	Panera, LLC	515.92	861841
08/16/23	Payment	60295	HD Supply Facilities Maintenance	82.75	861843
08/16/23	Payment	60296	Tilden-Coil Constructors, Inc.	11,217.75	861846
08/16/23	Payment	60297	Qualified Mobile, Inc.	349.70	861848
08/16/23	Payment	W000934	Athens Services ZBA	244.42	864277
08/16/23	Payment	W000935	AT and T-5025 ZBA	1,124.23	864279
08/16/23	Payment	W000936	Athens Services ZBA	1,325.59	864281
08/17/23	Payment	60298	Tangled Web Solutions: Investigations & Consulting	355.00	861896
08/17/23	Payment	60299	AFLAC	1,869.46	861898
08/17/23	Payment	60300	Vision Service Plan - (CA)	1,548.23	861900
08/17/23	Payment	60301	Pre-Paid Legal Services, Inc	163.50	861902
08/17/23	Payment	60302	Concur Technologies, Inc.	2,589.05	861904
08/17/23	Payment	60303	Proterra Operating Company, Inc.	1,472.96	861906
08/17/23	Payment	60304	Automated Power Technologies, Inc.	5,493.01	861910
08/17/23	Payment	60305	J.J. Keller and Associates, Inc.	688.00	861913
08/17/23	Payment	E100858	MCG & Associates	2,520.00	864696
08/18/23	Payment	60306	Sing Tao Daily	2,460.00	864698
08/18/23	Payment	60307	Pulsar Advertising	38,977.75	864700
08/18/23	Payment	60308	Pasadena Weekly	495.00	864707
08/18/23	Payment	60309	Chamber of Commerce - La Verne	550.00	864709
08/18/23	Payment	60310	Lourdes L. Alvarez	20.00	864711
08/18/23	Payment	60311	Thomas J. Koontz	543.98	864713
08/21/23	Payment	E100829	Darold D. Pieper Attorney at Law	8,930.00	862041
08/21/23	Payment	E100830	Translating Services, Inc.	171.10	862043
08/21/23	Payment	E100831	Metrokinetics, Inc.	716.00	862045
08/21/23	Payment	W000937	Southern California Edison Co. ZBA	38,762.76	864283
08/21/23	Payment	60312	Houalla Enterprises, Ltd.	201,635.08	864715
08/21/23	Payment	60313	CaliforniaChoice Benefit Administration	68,092.23	864717
08/21/23	Payment	60314	Tilden-Coil Constructors, Inc.	45,084.25	864719
08/21/23	Payment	60315	Pacific Products and Services, LLC.	6,353.16	864721
08/21/23	Payment	60316	Birdi Systems, Inc.	1,376.00	864723
08/21/23	Payment	60317	Newage PHM, LLC	287.99	864725
08/21/23	Payment	60318	Day - Lite Maintenance Co. Inc.	3,162.77	864727
08/21/23	Payment	60319	Skyline Pest Control	115.00	864729
08/21/23	Payment	60320	Green's Lock and Safe	1,214.30	864731
08/22/23	Payment	E100832	Life Insurance Company of North America	6,709.01	862047
08/22/23	Payment	E100833	Keolis Transit America, Inc.	2,142,558.05	862049
08/22/23	Payment	W000938	Waste Management Collection & Recycling, Inc. ZBA	673.58	864285
08/22/23	Payment	W000939	Southern California Edison Co. ZBA	3,433.75	864287
08/23/23	Payment	60321	Henry Lopez	2,268.00	862051
08/23/23	Payment	60322	Pacific Products and Services, LLC.	4,051.69	862053
08/23/23	Payment	60323	Industry Public Utility Commission	1,648.70	862055
08/23/23	Payment	60324	HD Supply Facilities Maintenance	206.60	862057
08/23/23	Payment	W000940	Suburban Water Systems ZBA	175.75	864289
08/23/23	Payment	W000941	Suburban Water Systems ZBA	956.91	864291
08/23/23	Payment	W000942	Southern California Edison Co. ZBA	1,255.65	864293
08/23/23	Payment	W000943	State Compensation Insurance Fund ZBA	3,654.08	864295
08/23/23	Payment	W000944	Southern California Edison Co. ZBA	17,677.67	864297
08/23/23	Payment	W000945	International City Management Assoc. Retirementt C	59,972.04	864299
08/23/23	Payment	W000957	Bankcard Center-Bank of the West ZBA	20,378.92	864301
08/24/23	Payment	60325	Zonar Systems Inc.	420.00	862059

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Posting Date	Document Type	Document No.	Vendor	Amount	Entry No.
08/24/23	Payment	60326	Qualified Mobile, Inc.	301.61	862062
08/24/23	Payment	60327	Adt Security Services, Inc.	512.52	862064
08/24/23	Payment	E100834	Keolis Transit America, Inc.	8,606.00	862066
08/24/23	Payment	E100835	Keolis Transit America, Inc.	160,750.52	862068
08/24/23	Payment	E100836	Keolis Transit America, Inc.	107,362.65	862070
08/24/23	Payment	E100837	Keolis Transit America, Inc.	165,622.43	862072
08/24/23	Payment	E100838	Keolis Transit America, Inc.	110,288.25	862074
08/24/23	Payment	E100839	Keolis Transit America, Inc.	110,042.05	862076
08/24/23	Payment	E100840	Keolis Transit America, Inc.	103,406.84	862078
08/24/23	Payment	E100841	Keolis Transit America, Inc.	163,857.33	862080
08/24/23	Payment	W000946	Suburban Water Systems ZBA	435.50	864303
08/25/23	Payment	60328	Cal Poly Pomona Foundation	2,000.00	862082
08/25/23	Payment	60329	ODP Business Solutions, LLC	343.78	862084
08/25/23	Payment	60330	ATKINSON ANDELSON LOYA RUUD AND ROMO	793.50	862087
08/25/23	Payment	60331	Stantec Architecture	8,638.80	862089
08/25/23	Payment	60332	Newage PHM, LLC	7,719.29	862091
08/25/23	Payment	60333	Day - Lite Maintenance Co. Inc.	90.14	862093
08/25/23	Payment	60334	Instant Signs Inc.	662.72	862095
08/25/23	Payment	W000947	ReadyRefresh ZBA	79.91	864305
08/28/23	Payment	60335	Rodger's Food Service	584.60	862466
08/28/23	Payment	60336	Thomas J. Koontz	2,719.87	862468
08/28/23	Payment	60337	4imprint Inc.	9,101.62	862472
08/28/23	Payment	60338	Charter Oak Education Foundation	1,000.00	862474
08/28/23	Payment	60339	National CineMedia, LLC	7,500.00	862476
08/28/23	Payment	60340	Metrolink	5,727.75	862478
08/28/23	Payment	E100842	Transdev Services, Inc.	184,847.87	863892
08/28/23	Payment	E100843	Transdev Services, Inc.	184,086.14	863894
08/28/23	Payment	E100844	Clean Energy	58,082.56	863896
08/28/23	Payment	E100845	Clean Energy	97,048.04	863898
08/28/23	Payment	E100846	Clean Energy	312,050.09	863900
08/28/23	Payment	E100847	Clean Energy	167,107.59	863902
08/28/23	Payment	E100848	Clean Energy	51,571.11	863904
08/28/23	Payment	W000948	Frontier ZBA	62.10	864307
08/28/23	Payment	W000949	Azusa Light & Water ZBA	695.76	864309
08/28/23	Payment	W000950	Charter Communications Holdings, LLC ZBA	1,315.00	864311
08/28/23	Payment	W000958	Quadiant Finance USA, Inc. ZBA	560.00	864313
08/29/23	Payment	60341	Gotcha Media Holdings, LLC	6,980.00	863906
08/29/23	Payment	60342	Deanna Forrest	38.57	863908
08/29/23	Payment	60343	Panera, LLC	515.92	863910
08/29/23	Payment	60344	Rose Equipment Repair, Inc.	2,524.99	863912
08/29/23	Payment	E100849	Transdev Services, Inc.	5,343.51	863915
08/29/23	Payment	E100850	Transdev Services, Inc.	5,859.74	863917
08/29/23	Payment	W000951	Frontier ZBA	3,286.03	864315
08/29/23	Payment	W000952	AT and T -5025 ZBA	3,781.64	864317
08/30/23	Payment	60345	Houalla Enterprises, Ltd.	156,598.13	863919
08/30/23	Payment	60346	PlanetBids, Inc.	25,919.92	863921
08/30/23	Payment	60347	Tri - Signal Integration, Inc.	1,835.00	863923
08/30/23	Payment	60348	BroadLux Inc.	492.88	863929
08/30/23	Payment	60349	SmartRise Elevator Service Inc	383.00	863931
08/30/23	Payment	60350	Schindler Elevator Corporation	2,980.79	863933
08/30/23	Payment	E100851	Keolis Transit America, Inc.	566.83	863935

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Posting Date	Document Type	Document No.	Vendor	Amount	Entry No.
08/30/23	Payment	W000953	Walnut Valley Water District ZBA	107.17	864319
08/30/23	Payment	W000954	Southern California Edison Co. ZBA	111.26	864321
08/30/23	Payment	W000955	Walnut Valley Water District ZBA	263.74	864323
08/31/23	Payment	60351	Thompson Coburn LLP	253.50	863937
08/31/23	Payment	60352	Regional Chamber of Commerce - SGV	900.00	863939
08/31/23	Payment	W000956	Frontier ZBA	390.34	864325
General Checking				8,068,238.82	



September 29, 2023

To: Executive Board

Subject: **September 2023 Procurement Monthly Report**

Recommendation

Receive and file the Procurement Monthly Report for September 2023.

Awarded Procurements:

Since the previous month's Executive Board meeting on August 22, 2023, there has been one award of agreements over \$100,000.00 but below the Executive Board's approval threshold of \$250,000.00.

- Reliable Monitoring Services was awarded Amendment No. 1 to Contract No. 22-092 for the upgrade of gas detection and alarm systems at the Pomona Operations & Maintenance Facility. The Independent Cost Estimate for this work was \$170,000.00. The amendment is in the amount of \$145,792.59 for change orders covering major components unavailable due to supply chain issues and additional structural safety supports. The final amendment price was negotiated by the parties.

Upcoming Procurements:

Since the previous month's Executive Board meeting, the Procurement Department has not initiated any procurements over \$100,000.00 but below the Executive Board's approval threshold of \$250,000.00.

Sincerely,

Christopher Pieper
Director of Procurement

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **September 2023 Legislative Report**

Recommendation

Receive and file the September 2023 Legislative Report.

Analysis

Federal Budget Update:

Congress returned from its August recess, with the Senate and House reconvening on September 5, 2023 and September 12, 2023, respectively. Congress will have until the federal FY 2024 starts on October 1, 2023, to agree on an appropriations bill to send to the President. They will need to negotiate and pass a series of 12 funding bills for all federal agencies. Senate and House members will need to come to an agreement on the FY 2024 Transportation, Housing and Urban Development, and Related Agencies (THUD) Appropriations Bill, which appropriates a majority of the public transit and passenger rail funding authorized for FY 2024 by the Bipartisan Infrastructure Law (P.L. 117-58), also known as the Infrastructure Investment and Jobs Act (IIJA).

The current House THUD Appropriations Bill proposes significant cuts to transportation funding. House members will have 11 days to come to an agreement and restore transit funding promised under the IIJA. If Congress cannot come to an agreement on these funding bills, a continuing resolution can be expected to temporarily extend federal spending in order to avoid a federal government shutdown.

Federal Engagement:

Last month, Foothill Transit attended Congresswoman Norma Torres' workshop on the FY 2025 community funding projects application process. As a member of the House Appropriations Committee, the Congresswoman provided an overview of the appropriations process and how organizations can request federal funding through the earmark, or community project funding process. Earlier in September, Foothill Transit also attended Congresswoman Linda Sánchez's workshop on federal grants and the FY 2025 community project funding process. At this workshop, Foothill Transit was also asked to participate as a panelist to share its experience applying for, and successfully receiving a \$4 million FY 2023 community project funding request for the purchase of zero-emission buses. As a result of attending these workshops, we have continued further discussions on having



various aspects of upcoming projects prepared for future funding opportunities, including federal earmarks.

State Budget Update:

Over the last several months, the California Transit Association and public transportation agencies across California worked closely with the State Legislature to fill deficits in proposed budgets for FY23-24 transportation spending. Transit agencies sought flexibility in transit funds for operations, as many public transit agencies face fiscal uncertainty and future budget shortfalls.

In July, Governor Newsom signed a series of budget bills including SB 125 (Committee on Budget and Fiscal Review) the transportation trailer bill. California transit agencies were successful in restoring \$2 billion in General Funds to support the Transit and Intercity Rail Capital Program (TIRCP) for a total of \$4 billion for Fiscal Year FY 2023-24 and FY2024-25. The state budget agreement secured new flexibility to direct up to 100% of this funding to meet the operational needs of agencies. The budget will also commit \$1.1 billion for the newly created Zero-Emission Transit Capital Program. Totalling over \$5.1 billion for public transit agencies provided for investment in transit capital and operations.

SB 125 guides the distribution of those funds through the TIRCP program on a population-based formula to regional transportation planning agencies (RTPAs), with the flexibility to use the money to fund transit operations or capital improvements. This new funding under the TIRCP program is in addition to the planned Cycle 7 TIRCP competitive program, through which operators traditionally applied for capital improvement funding through their RTPA. The California State Transportation Agency released formal draft guidelines for the SB 125 funding bill on September 7, 2023, with the official 2023 SB 125 Guidelines expected to be released on September 30, 2023.

SB 125: Transit and Intercity Rail Capital Program

Legislative Intent

- Provide one-time multiyear bridge funding for transit operators to address operational costs until long term transit sustainability solutions are identified
- Assist transit operators in preventing service cuts and increasing ridership
- Prioritize the availability of transit for riders who are transit dependent
- Prioritize transit agencies representing a significant percentage of the region's ridership



Eligible Recipients and Funding

- Funds are directly deposited with our region's RTPA, LA METRO
- Operations funding may be distributed to transit operators in their jurisdiction that are eligible to receive STA funding through Section 99314 at the time of distribution by the RTPA
- FY23-24 funding must be applied for and disbursed to the RTPA by CalSTA no later than June 30, 2028. No time limit on when funds must be expended by.
- Capital Project funding for TIRCP can go to any recipient that is normally eligible for TIRCP funding under the competitive program. However, the new source of TIRCP funding under SB 125 is noncompetitive funding and allocated at the full discretion of the RTPA.
- Eligible projects must demonstrate a reduction in greenhouse gas emissions and an increase in ridership.
- Project eligibility similar to TIRCP Cycle 6 guidelines:
 - New Projects- All transitional TIRCP project types are eligible
 - Existing Projects- Projects that have previously received TIRCP awards may additional funding in order to obtain or maintain funds from federal, state or local sources
 - Major Project Development- Projects that are pursuing a Capital Investment Grant through FTA or to be part of a pursuit of FRA funding through the Corridor Identification Program
 - Transit Operations are also eligible

Requirements for Funding Allocations

- SB 125 requires agencies to provide spending plans to be approved by the California State Transportation Agency. Initial Allocation Packages from RTPAs are due to CalSTA by December 31, 2023. There are three main sections of this required funding plan which includes the following:
 - **Allocation Package Narrative Explanation-** fulfills many of the short term financial for immediate service retention requirements.
 - An explanation of funding and service actions taken with resources other than SB 125 funding
 - Description and justification of regional strategy to use SB 125 funding on capital projects and to fund operating expenses to improve outcomes
 - Detailed breakdown and justification of how funding will be distributed, consistent with legislative intent language described in SB 125



- **Allocation Package Detailed Project Description-** covers TIRCP Capital, ZETCP capital and Transit Operations Funding
 - Requirement provides data on projects necessary to determine project eligibility and eliminates information only needed for competitive evaluation.
 - RTPA's will also be required to report on how transit operations funding will be broken down by operator
 - Identifying ridership compared to total the region's ridership
- **Regionally Representative Transit Operator Data**
 - RTPA's are required to provide transit operator data, utilizing the existing data wherever possible
 - The data also includes existing operator specific fleet and asset management plans, revenue collection methods and annual costs, and confirmation of General Transit Feed Specification data being current and detail on expected timing of service changes
 - Summary of any activities related to service improvements

SB 125, the transportation trailer bill, establishes new accountability and reporting requirements, listed above, and creates a new statewide Transit Transformation Task Force within the California State Transportation Agency (CalSTA). This Transit Transformation Task Force established by SB 125 is to have representation from transit operators, local government, and regional planning agencies that seek to create policy recommendations to grow transit ridership and improve the transit ride experience. Under SB 125, LA Metro, as the RTPA for Los Angeles County, would be required to submit, and CalSTA approve by December 31, 2023, a regional short-term and long-term financial plan on immediate service retention.

Legislative Leadership

Last week, Senate President pro Tempore Toni G. Atkins (D-San Diego) announced that the Senate Democratic Caucus has chosen Senator Mike McGuire (D-Healdsburg) as the Pro Tem Designee, setting him up to be the next leader of the California Senate. Atkins served as Pro Tem since 2018 and was the first woman to hold the position. McGuire has served as Majority Leader since 2022 and played a pivotal role in legislative victories such as the 2022 climate package and this year's state budget.



Tracked State Bills

The following is an update on bills that Foothill Transit has taken positions on.

Bills Supported by Foothill Transit

- **AB 463** would direct the California Public Utilities Commission to consider prioritizing electrical service to public transit vehicles during electrical shortages or safety-related outages. This bill was also sponsored by the California Transit Association. However, AB 463 has been held under submission in the Assembly Appropriations Committee and failed the deadline to advance further on May 19, 2023.
- **AB 1377** would require tracking and documenting data of the State's Housing, Assistance, and Prevent program activities in providing services to people experiencing homelessness on transit facilities owned and operated by a transit agency. On September 11, 2023, 1377 passed out of the Senate and is back in Assembly pending concurrence with Senate amendments.
- **SB 410** would require the California Public Utilities Commission to establish by September 30, 2024, a reasonable average and maximum target energization time period in order to connect new customers and upgrade the service of existing customers to the electric grid. The bill passed out of Assembly Appropriations on September 1, 2023 and was ordered for a third reading on the Assembly floor.
- **SB 617** would authorize transit agencies to utilize the progressive design-build procurements for capital projects over \$5 million, for up to 15 projects through January 1, 2029. SB 617 passed out of the Assembly with amendments concurred and is currently awaiting signature by Governor Newsom.

Bills Opposed by Foothill Transit

- **AB 819** would reduce misdemeanors to infractions for a third of subsequent transit fare evasion violations. The bill was passed out of Senate floor on September 6 and is back in the Assembly ordered to engrossing and enrolling.

Sincerely,

Matthew H. Nakano
Government Relations Coordinator

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **Title VI Program**

Recommendation

Receive and file the Title VI Program Overview.

Analysis

Since 1972, the Federal Transit Administration (FTA) has required recipients of federal assistance to provide assessments of compliance with Title VI of the Civil Rights Act of 1964 as part of the grant approval process. Title VI regulations mandate that no person in the United States shall, on the grounds of race, color, and national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from the FTA.

In October 2012, updated Title VI guidelines were released by the FTA, which clarified the reporting responsibilities of transit agencies and added additional responsibilities. In accordance with FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," Foothill Transit's Title VI report covers all aspects of the agency's program and monitoring efforts, and contains the following elements:

1. Information about how Foothill Transit communicates the rights granted by Title VI to its customers, including information about how it collects and addresses Title VI-related complaints.
2. Information regarding Foothill Transit's public outreach program and strategy, including its plan to integrate Limited English Proficient people.
3. Foothill Transit's system-wide Standards and Policies, including vehicle load, vehicle headway, on-time performance, service availability, distribution of transit amenities, and vehicle assignment.
4. Demographic analysis of the population within Foothill Transit's service area.
5. Policies regarding major service changes, measuring service change impacts on minority and low-income neighborhoods, including a summary of service changes undertaken since Foothill Transit's last Title VI program review.



6. The results of the monitoring program to assess Foothill Transit's compliance with its policies and procedures.

Foothill Transit's service area is diverse, covering all economic and demographic scale spectrums. 57.12 percent of Foothill Transit's population identifies as Black, Indigenous, and People of Color (BIPOC). A high percentage of populations who identify as BIPOC are located in the following cities: El Monte, Pomona, Rowland Heights, Walnut, Industry, Temple City, and Baldwin Park. A high percentage of the population identifying as BIPOC within Foothill Transit's service area also identify as Hispanic/Latino or Asian. Spanish, Chinese, Korean, Tagalog, and Vietnamese are the most commonly used languages spoken by populations with Limited English Proficiency within the service area. 17.4 percent of Foothill Transit's service area is low-income. Foothill Transit's definition of "low-income" was adopted from the California Department of Housing and Community Development's definition of "extremely low income," a household earning 30 percent or less of the median household income. The average median household income in Foothill Transit's service area is \$81,154; therefore, the low-income threshold is \$24,346.20. Because the census reports household income in increments, Foothill Transit considers any household with a household income less than \$25,000 as "low-income." A high percentage of low-income households are located in Pomona and El Monte.

An updated plan must be submitted by grantees every three years; Foothill Transit will submit its next report by October 1, 2023. While the responsibility for implementation of the program falls among several departments, the Planning team takes the lead in ensuring that the proper policies and procedures are in place to meet the FTA guidelines.

Budget Impact

There is no financial impact associated with this update.

Sincerely,

Lourdes Álvarez
Transit Planner

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **Title VI Analysis for Puente Hills Mall Transit Store**

Recommendation

Receive and file the Title VI analysis report for the closure of the Puente Hills Mall Transit Store (PHMTS).

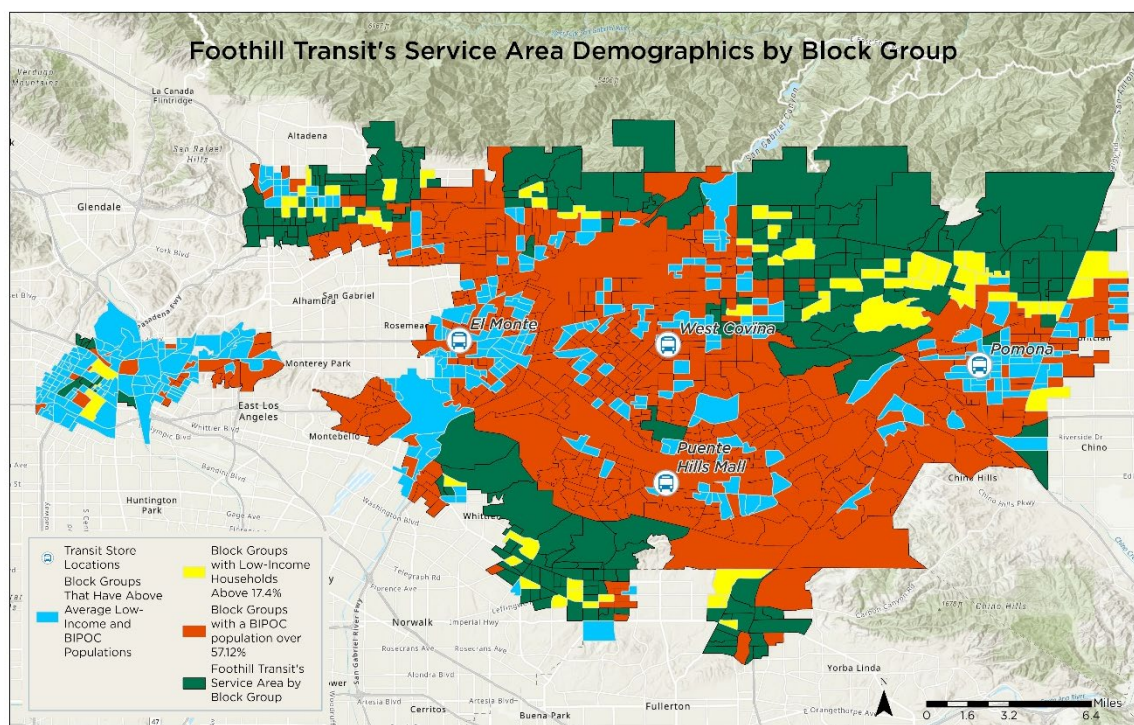
Analysis

This Title VI analysis report is a Federal Transit Administration (FTA) Title VI Circular 4702.1B requirement. FTA requires agencies to evaluate major service and fare changes to determine whether these changes have a disparate impact or disproportionate burden on populations who identify as Black, Indigenous, People of Color (BIPOC) and/or on populations with low-incomes.

Foothill Transit's Transit Stores and the 1-800 Hotline Number

Foothill Transit currently operates four Transit Stores within its service area (see Figure 1). Foothill Transit customers can visit any of the four Transit Stores to buy monthly passes, ask questions about Foothill Transit, plan a trip, get schedule information, or file complaints and compliments. Printed signage inside the Transit Stores provide customers information on upcoming public meetings, customer rights, and other essential Foothill Transit information.

Figure 1





Foothill Transit's Transit Stores

Foothill Transit also maintains a 1-800 hotline number, which customers can utilize to speak with a Transit Store Customer Service Representative (CSR) to ask questions, plan a trip, get schedule information, or file complaints and compliments. CSR's have access to a third-party interpretation service that allows them to communicate to Foothill Transit's customers in almost every language.

Store Location

PHMTS is one of the four Foothill Transit's Transit Stores located in the city of Industry. The store opened in October 1998 and currently customers who wish to travel to PHMTS can utilize the following Foothill Transit Lines: 178, 185, 280, 281, 282, 285, 289, 482, and 493.

In February 2022, Foothill Transit hosted its annual Strategic Planning Workshop in which the Foothill Transit Executive Board discussed its financial forecast and capital projects. The Board was presented a detailed report on all of Foothill Transit's Transit Stores, summarizing each stores' product sales, walk-in traffic, and call volume.

In January 2023, the Foothill Transit Executive Board was given another annual update on the Transit Stores at its annual Strategic Planning Workshop. Since the Puente Hills Mall contract was due to expire in August 2023, the Board discussed the feasibility of continuing its operations and the financial impact that would have on the agency. PHMTS's sales, walk-in traffic, and call volume were examined.

After taking into consideration the 160% increase of mobile app sales, seeing a significant transition of in-person sales to online sales, and analyzing the 59% decrease in walk-in traffic at PHMTS, Foothill Transit made the decision to close the store (please see Table 1 and Table 2).



Table 1

FY2019-FY2023 Sales

Sales by Store	FY2019	FY2020	FY2021	FY2022	FY2023
El Monte	\$972,100	\$662,356	\$103,911	\$255,172	\$367,003
Pomona	\$1,032,924	\$740,280	\$25,848	\$261,425	\$263,858
Puente Hills	\$1,108,244	\$816,499	\$179,994	\$333,717	\$382,899
West Covina	\$561,009	\$423,083	\$111,915	\$254,584	\$221,715
Online	\$443,922	\$337,208	\$76,878	\$137,271	\$226,835
Mobile App			\$22,511	\$118,315	\$307,541
Total Sales:	\$4,118,199	\$2,979,426	\$521,056	\$1,360,484	\$1,769,849

Table 2

FY2019-FY2023 Walk-In by Store

Walk-in by Store	FY2019	FY2020	FY2021	FY2022	FY2023	
El Monte	50,468	36,674	10,230	20,415	26,524	-47%
Pomona	41,860	29,824	828	15,982	21,979	-47%
Puente Hills Mall	57,770	40,867	13,426	23,008	23,876	-59%
West Covina	17,866	13,447	5,398	8,269	9,161	-49%
Total:	167,964	120,812	29,882	67,674	81,540	-51%

Foothill Transit's Transit Stores were created to be spaces where customers could purchase fare and seek any Foothill Transit information. With the rise of the internet, web-based services, and online activity, Foothill Transit has been able to increase their customer information online and in addition improve its fare technology. Foothill Transit customers currently have access to real time



information online, online trip planning, onboard payment options, and TAP TO GO apps to purchase fare product online and onboard the buses. Foothill Transit acknowledges that not all customers are familiar with online technologies, therefore; the closure of PHMTS will not decrease the number of CSRs available via telephone. Customers will still be able to call Foothill Transit's 1-800 Number to speak to someone regarding Foothill Transit. PHMTS customers may also visit any of the other three remaining Transit Stores for help in-person.

Title VI Analysis

Methodology

This Title VI analysis report is in accordance with the FTA's Title VI Circular 4702.1B, which states that agencies shall evaluate major service and fare changes at the planning stages to determine whether these changes have a discriminatory impact or disproportionate burden on BIPOC and/or low-income populations. This report provides a demographic analysis, comparing PHMTS' BIPOC and low-income populations before and after the closure of the store to the BIPOC and low-income populations of Foothill Transit's service area.

Foothill Transit staff utilized the 2020 Decennial Census Redistricting Data and the 2016-2020 American Community Survey 5-Year Estimates at the block group level to determine the impacts that the closure of PHMTS might have on populations who identify as BIPOC and/or on populations with low-incomes within the ¼-mile and 1-mile radius of the store.

It is important to note that Foothill Transit defines low-income to be a household that earns 30 percent or less of the median household income in its service area. The average median household income in Foothill Transit's service area is \$81, 154; therefore, the low-income threshold is \$24,346.20. Because the census reports household income in increments, Foothill Transit considers any household with an income less than \$25,000 as "low-income."



Special Executive Board Meeting - 09/29/2023
Title VI Analysis for Puente Hills Mall Transit Store
Page 5

Quarter-mile radius analysis

Black, Indigenous, People of Color (BIPOC) Populations by Block Group 0.25-Mile from Puente Hills Mall Transit Store

Legend:

- Puente Hills Mall Transit Store
- Foothill Transit's Service Area - BIPOC Population by Block Group (0.25 Mile PHMTS)
- Non White One Race Tot Pop / Tot Pop of one race
- 0%-39%
- 39%-55%
- 55%-69%
- 69%-80%
- 80%-100%

The map displays the Puente Hills Mall Transit Store location and surrounding areas, with BIPOC population density indicated by color shading. The legend in the bottom left corner provides the color key for population percentages. The map also shows major roads, landmarks, and the surrounding terrain.



Figure 3
Low-Income Populations (0.25 Mile from PHMTS)

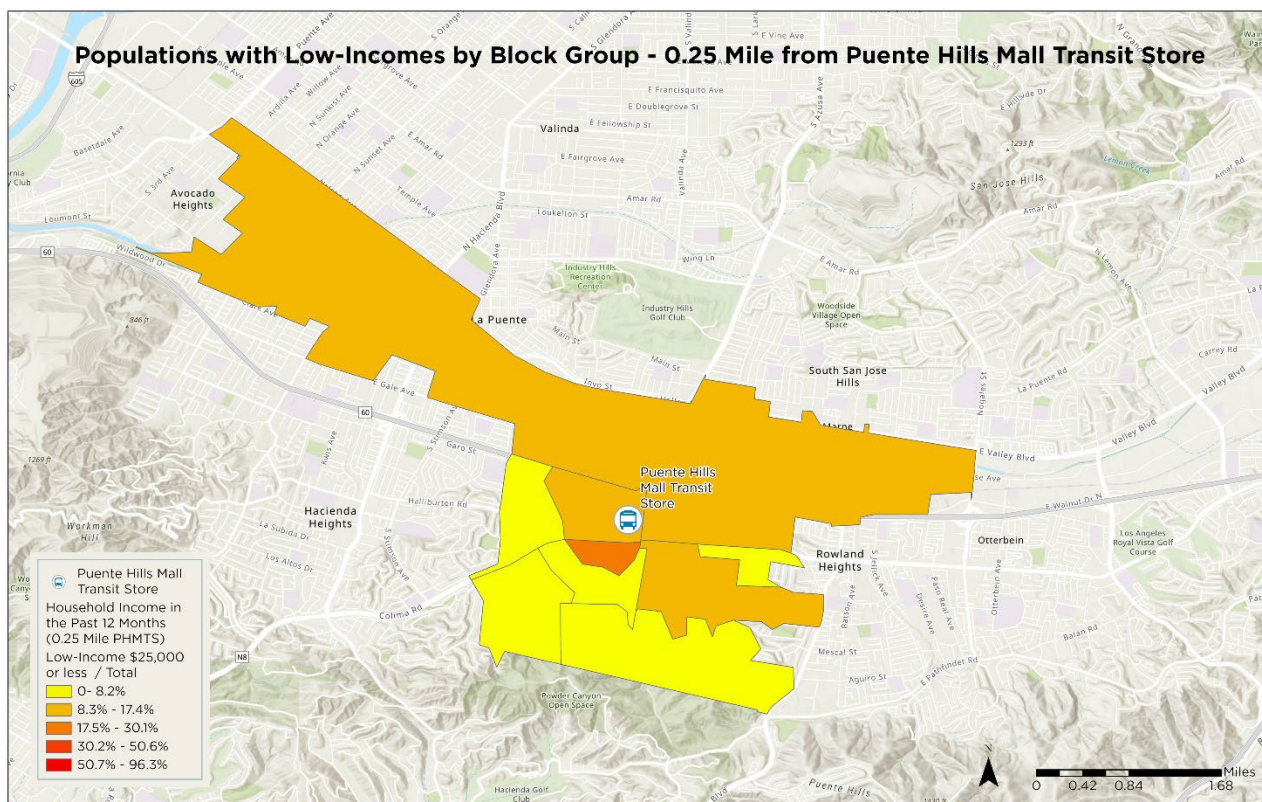


Table 1
Closure of PHMTS vs Overall Service Area: Quarter-mile-radius Buffer Analysis

	Population	BIPOC proportion of population	Difference from overall service area	Low-income proportion of population	Difference from overall service area
¼-mile radius of PHMTS	7,061	76.38%	19.26%	18.47%	1.04%
Overall Service Area	1,862,086	57.12%		17.43%	

When comparing the BIPOC and low-income proportion of populations between the 1/4-mile radius around PHMTS and the overall service area, the quarter-mile radius analysis results demonstrate impacts greater than 15



percent for BIPOC populations but less than 15 percent for low-income populations. The cancellation and elimination of PHMTS would have a disparate impact only on BIPOC populations.

One-mile-radius analysis

Figure 4

BIPOC Populations (1-Mile from PHMTS)

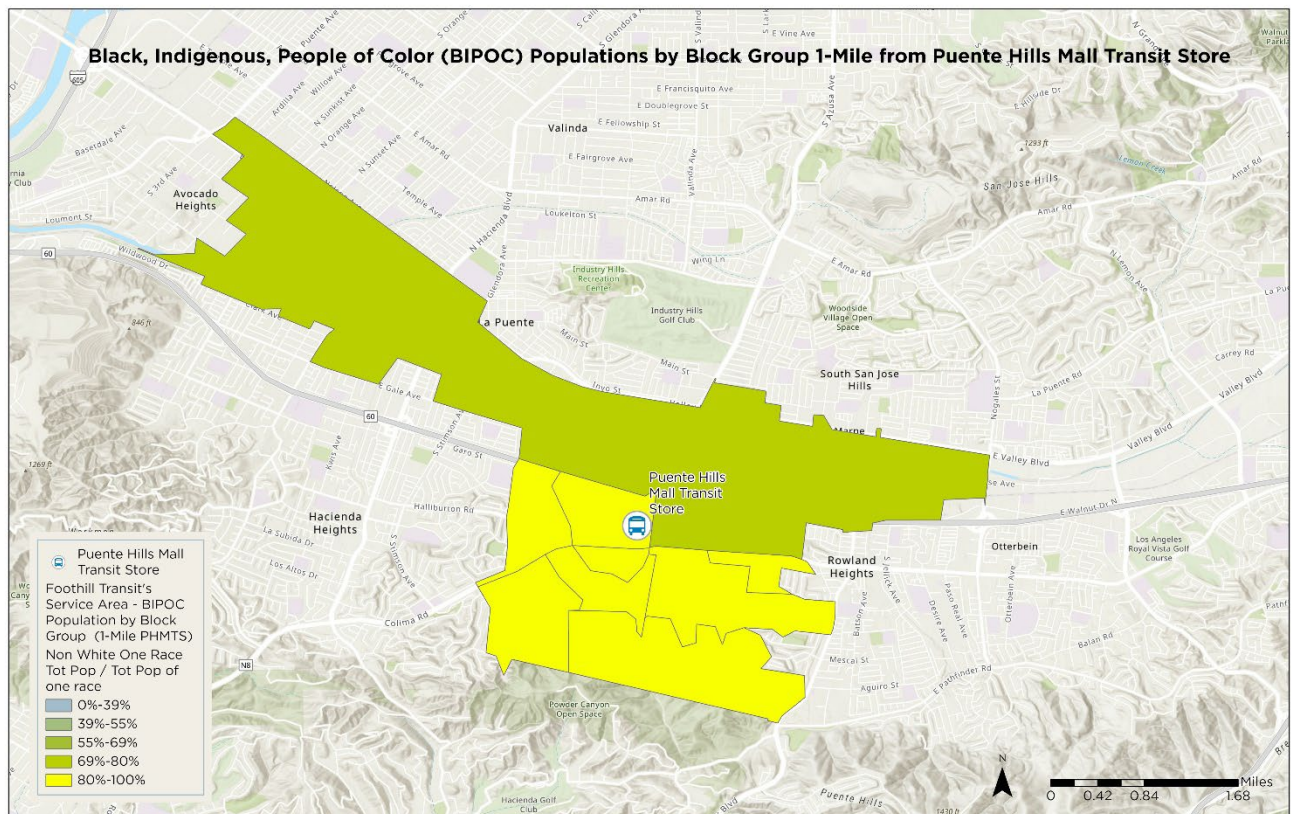




Figure 5
Low-Income Populations (1-Mile from PHMTS)

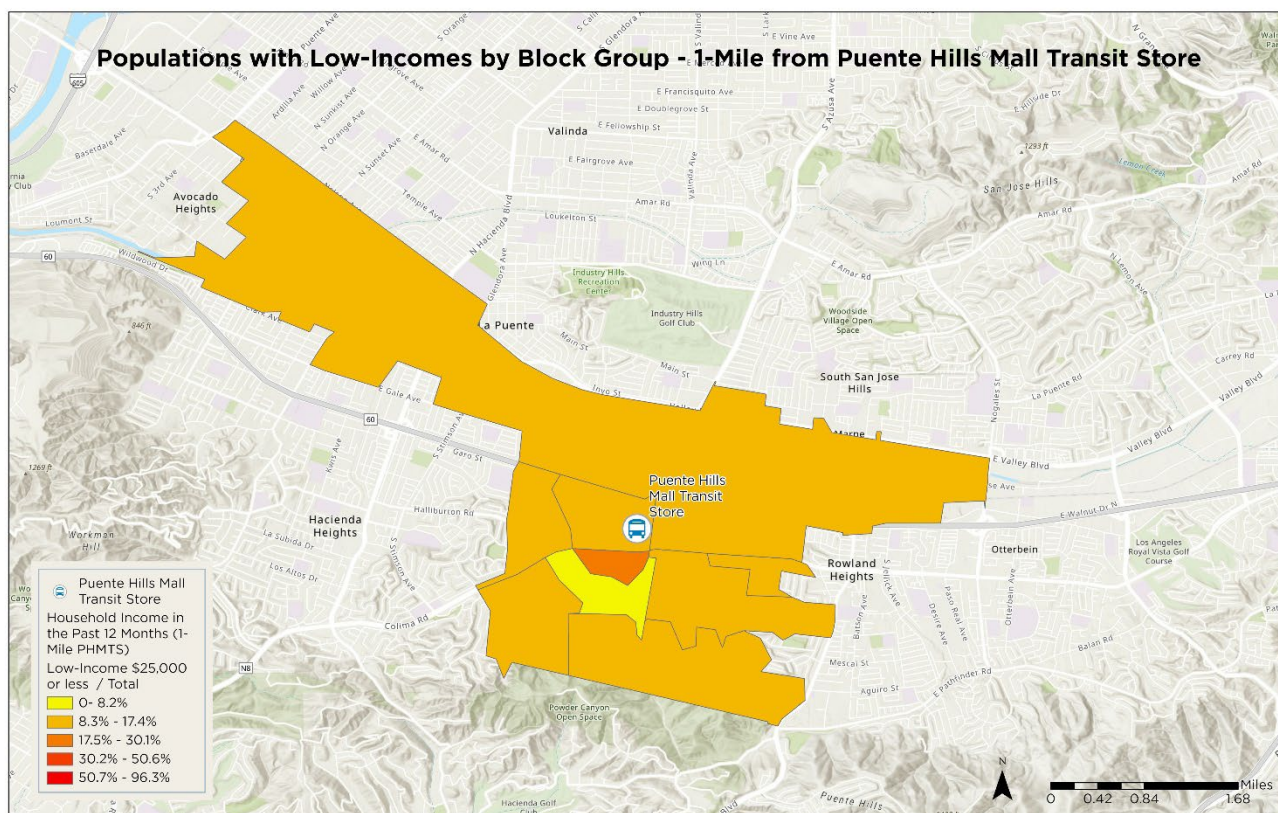


Table 2
Closure of PHMTS vs Overall Service Area: One-mile-radius Buffer Analysis

	Population	BIPOC proportion of population	Difference from overall service area	Low-income proportion of population	Difference from overall service area
1-mile radius of PHMTS	14,007	85.42%	28.03%	13.53%	-3.9%
Overall Service Area	1,862,086	57.12%		17.43%	

When comparing the BIPOC and low-income proportion of populations between the 1-mile radius around PHMTS and the overall service area, the one-mile radius analysis results demonstrate impacts greater than 15 percent for BIPOC populations but less than 15 percent for low-income populations.



The cancellation and elimination of Line 690 would have a disparate impact only on BIPOC populations.

Mitigating, Minimizing and/or Offset Disproportionate Impact Measures

This Title VI analysis report is a FTA Title VI Circular 4702.1B requirement. FTA requires agencies to evaluate major service and fare changes to determine whether these changes have a disparate impact or disproportionate burden on BIPOC and/or low-income populations.

The closure of PHMTS will have a “disparate impact” as defined by FTA on BIPOC populations based on the quarter-mile and one-mile analysis results.

In order to address the disparate impacts of the closure of PHMTS, Foothill Transit will add additional weekday hours of operation to both the West Covina and El Monte Transit Stores. In addition, the West Covina Transit Store will provide more weekend service on Saturdays and Sundays. PHMTS customers will still be able to call the 1-800 number to receive any Foothill Transit-related information they may need. CSRs will still have access to a third-party interpreting service to be able to communicate with customers in almost any language. These mitigations will allow Foothill Transit to continue serving its PHMTS customers and will fulfill a customer need communicated during Foothill Transit’s Public Participation Plan outreach.

Budget Impact

The projected annual cost savings associated with the closure of PHMTS would be \$122,632.

Sincerely,

Lourdes Álvarez
Transit Planner

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **Proposed Procurement Policies and Procedures Manual Revisions**

Recommendation

Adopt the proposed Procurement Policies and Procedures Manual revisions.

Analysis

Foothill Transit has adopted procurement policies and procedures that are consistent with federal regulations and the laws of the State of California. The purpose of these policies and procedures is to set forth the procurement methods and establish standards for obtaining Goods and Services, including Public Works Construction Projects, and Architectural/Engineering services necessary for the delivery of Foothill Transit's service. These procedures include guidelines for the solicitation, award, and administration of formally advertised contracts, as well as the selection, negotiation, award, and administration of competitively negotiated contracts.

The Executive Board adopted the current version of the Foothill Transit Procurement Manual in December 2021. The Procurement Manual documents Foothill Transit's procurement policies. As federal and state guidelines change, the Procurement Manual must sometimes be updated to reflect these changes.

The proposed changes to the Foothill Transit Procedures primarily reflect updates and clarifications resultant of changes to federal regulations and clarifications of existing language, and do not significantly impact existing Foothill Transit procedures. A redlined version of the policies and procedures manual is included as Exhibit A.

The following revisions to the Procurement Policies and Procedures Manual are proposed:

1. Update to Include Changes and Alignments with Federal, State and Local Requirements
Aligns language with current federal, state and local regulations pertaining to: domestic-preference policies; political contributions by vendors; public works; labor code; and vendor investments in Iran.



2. Clarifications to Methods of Approval for Amendments
Recommended procedures for both administrative amendments and set contractual changes to contracts impacted by actions approved by the Executive Board, when the cumulative value of all amendments meets the Executive Board threshold for approval.
3. Update to Reflect Changes in Staff Titles
Change all references to “Department Directors” to “Department Heads” in the manual to include non-director titled heads of departments.
4. General Clarifications
Provide general clarifications to unclear language in the manual as well as correct minor spelling and grammatical errors that currently exist in the manual.

Budget Impact

The proposed revisions to the Foothill Transit Procurement Policies and Procedures Manual will not impact the budget.

Sincerely,

Christopher Pieper
Director of Procurement

Doran J. Barnes
Chief Executive Officer

Attachment



Foothill Transit

Going Good Places

Procurement Policies and Procedures Manual

~~October 2021~~

~~(Approved December 2021)~~

September 2023

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INTRODUCTION

Foothill Transit has major responsibilities, which include the operation of a public transportation system and the planning, design, and programming of transportation projects. All contracts are awarded by Foothill Transit by its own procurement office, which is responsible for identifying the needs of Foothill Transit and originating the procurement package for supplying those needs.

Foothill Transit receives funding from both the Federal government and the state. Therefore, Foothill Transit adopts procurement policies and procedures that are consistent with Federal regulations and the laws of the State of California. These procedures apply to all procurements irrespective of the source of the funds. Specific requirements for procurements funded by the Federal Transit Administration (FTA) are so identified. These procedures also apply to any revenue contract, the primary purpose of which is to either generate revenues in connection with a transit-related activity or to create business opportunities utilizing an FTA-funded asset.

The purpose of these policies and procedures is to set forth the procurement methods and establish the applicable standards for obtaining goods and services, including construction, professional, and Architectural/Engineering services, necessary for the operation of Foothill Transit's transit service. These procedures include guidelines for the solicitation, negotiation, award or selection, and administration of all contracts.

The procurement procedures are designed to:

- Instill public confidence in the procurement process of Foothill Transit.
- Ensure fair and equitable treatment for all vendors who seek to deal with Foothill Transit.
- Ensure maximum open and free competition in the expenditure of public funds.
- Provide the safeguards to maintain a procurement system of quality and integrity.

The methods by which the foregoing are implemented are described in detail in the remainder of this document and the attachments hereto.

The procurement process is ongoing throughout the fiscal year. During budget preparation, each department head should identify, to the extent possible, all goods and services that will need to be procured during the upcoming fiscal year (July 1 - June 30).

CHAPTER I – LEVELS OF APPROVAL

Every procurement requires two determinations at the outset:

- (1) The **method of procurement** applicable to the procurement at issue; and
- (2) The **level of approval** required for (a) issuance of the solicitation document and (b) contract award.

The **method of procurement** is determined by the type and anticipated (and actual) cost of the goods or services being procured. There are three general categories of methods of procurement: (1) Informal (which includes Micro Purchases and Small Purchases); (2) Formal (which includes IFBs/Sealed Bids and RFPs/Competitive Proposals); and (3) Noncompetitive Procurements. Goods or services being procured through a cooperative purchasing agreement (such as the California Multiple Award Schedule (CMAS)) or on a pre-approved non-competitive basis (such as through the sole source process) do not require a “method of procurement” determination. The anticipated cost of the procurement is established by independent cost estimate and must take into account the cost of the base term and all options requested in the solicitation. A procurement must meet the requirements, by type and cost, of the chosen method of procurement at *both* the solicitation phase and the award phase.

The **level of approval** is also determined by the type and anticipated and actual cost of the goods or services being procured. For purposes of determining the applicable level of approval, the cost of the procurement takes into account only the cost of the base term requested in the solicitation and/or proposed for award.

The following approval levels apply to the foregoing determinations:

A. Goods and Services

Procurement of services, supplies, or other property, **except for** Architectural and Engineering services and public works/construction projects.

<i>Price Threshold</i>	<i>Method of Procurement</i>	<i>Required Approval Level</i>
Less than \$10,000*	Micro Purchase	Department Directors <u>Heads</u>
\$10,000-\$19,999	Small Purchase	Department Directors <u>Heads</u>
\$20,000-\$250,000*	Small Purchase	<u>Chief</u> Executive Director <u>Officer</u>
Greater than \$250,000	RFP or IFB	Executive Board
* Federal regulations permit recipients of Federal funds to use the stated		

thresholds.

Please note that Department ~~Directors~~Heads are not authorized to delegate their approval authority.

B. Architectural and Engineering Services

Procurement of professional consultants for engineering, architectural, land surveying, or other support services, such as program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services as it relates to research, planning, development, design, construction, alteration, or repair of real property.

<i>Price Threshold</i>	<i>Method of Procurement</i>	<i>Required Approval Level</i>
Less than \$20,000	RFQ	Department Directors <u>Heads</u>
\$20,000 - \$250,000	RFQ	Chief Executive Officer
Greater than \$250,000	RFQ	Executive Board

C. Public Works (Including Construction) Projects

Procurement of labor and/or materials for construction or other public works projects.

For the purposes of this section, public works are defined in Article 3.5 of the California Public Contract Code, which requires that any public works project over \$6,500 be done by contract after competitive bidding. Public work projects include construction of any building or facility and any painting or repairs to any building or facility. Cal. Pub. Cont. Code 20121, 20122. (Note that the California Labor Code broadly defines “public works” for purposes of prevailing wage laws. State prevailing wage requirements apply to public works in excess of \$1,000, regardless of whether such “public works” also fit the definition provided in Public Contract Code 20121.)

<i>Price Threshold</i>	<i>Method of Procurement</i>	<i>Required Approval Level</i>
Less than \$6,500	Small Purchase	Department Directors <u>Heads</u>
\$6,500 - \$250,000	IFB	Chief Executive Officer
Greater than \$250,000	IFB	Executive Board

D. Sole Source

Procurements accomplished through solicitation or acceptance of a proposal from only one available source or solicitation of a number of sources in which competition is determined inadequate.

<i>Price Threshold</i>	<i>Method of Procurement</i>	<i>Required Approval Level</i>
Less than \$20,000	Sole Source	Department Directors <u>Heads</u>
\$20,000-\$250,000	Sole Source	Chief Executive Officer
Greater than \$250,000	Sole Source	Executive Board

E. Change Orders and Amendments

Any amendments and/or individual change orders will be approved at the same price threshold as the underlying contract (e.g., a change order of between \$20,000 and \$250,000 must be approved by the Chief Executive Officer; a change order of over \$250,000 must be approved by the Executive Board), except in the following circumstances:

1. When the cumulative value of all amendments or change orders to a contract is at or exceeds \$20,000, the amendment or change order responsible for meeting or exceeding the \$20,000 threshold and all future individual amendments or change orders that increase the cost for that contract must be approved by the Chief Executive Officer.
2. When the cumulative value of all amendments or change orders to a contract exceeds \$250,000, the amendment or change order responsible for exceeding the \$250,000 threshold and all future individual amendments or change orders that increase the cost for that contract must be approved by the Executive Board (e.g., if there have been four change orders for a contract totaling \$240,000, and there is a fifth change order for ~~\$10,000~~ 11,000, the fifth change order and all future change orders must be approved by the Executive Board).
3. For contracts with an Executive Board -approved value of over \$5,000,000, the Chief Executive Officer is authorized to approve individual change orders with a value equal to five percent (5%) or less of the Board-approved contract value. When the cumulative value of all change orders for such contracts exceeds five percent (5%) of the Board-approved contract value, the change order responsible for exceeding the five percent (5%)

threshold and all future individual change orders for that contract must be approved by the Executive Board.

4. Amendments to an Executive Board-approved contract that implement changes that are specifically set forth in the contract or any prior amendment to the contract (i.e., escalator clause) or that are a result of a separate Board action (i.e., approval of Foothill Transit's Business Plan and Budget) may be approved by the Chief Executive Officer, and the value of such amendments do not count toward the cumulative value of amendments or change orders to the contract.

5. For on-call contracts (contracts requiring the issuance of task orders), the addition of each task order scope by amendment will be approved at the level of approval required for the value of the task order at issue (e.g., a task order for \$15,000 may be approved by a department ~~director~~head; a task order of \$50,000 must be approved by the Chief Executive Officer) where the value of the individual task order at issue is below \$250,000. For task orders with an individual value at or above \$250,000, approval of the Executive Board is required. The cumulative value rules set forth in (1)-(3) above do not apply to amendments of on-call contracts.

6. Administrative amendments to an Executive Board-approved contract may be approved by the Chief Executive Officer, provided that such amendments do not have any impact on the overall contract value. Examples include but are not limited to changes in contractor notification information, changes in key personnel and required updates to contract clause language.

F. Delegations

Except as otherwise provided in these procedures and specifically in this Chapter related to levels of approval, all rights, powers, duties, and authorities relating to the procurement of supplies, services, and construction vested in the Chief Executive Officer are hereby delegated to the Deputy Chief Executive Officer.

Except as provided in these procedures, all rights, powers, duties, and authorities delegated to the Deputy Chief Executive Officer are, in turn, delegated to the Director of Procurement.

The Director of Procurement may delegate approval to the Director of Procurement's staff as necessary. ~~However, approvals~~Approvals allowed only to the Chief Executive Officer, Deputy Chief Executive Officer, or the Director of Procurement may not be delegated, provided, however, that the Chief

Executive Officer may delegate signature authority to the Deputy Chief Executive Officer.

The Executive Board is specifically authorized to execute approval authorized at any level.

The Chief Executive ~~Director~~Officer and/or the Deputy Chief Executive Officer are specifically authorized to execute approvals delegated to the Director of Procurement.

CHAPTER II – POLICIES

Foothill Transit is governed by a five-member Executive Board. Among other duties, Foothill Transit's Executive Board is responsible for establishing policies to guide the operation of Foothill Transit. It is in that capacity that the Board adopted a set of procurement policies. These policies serve as a base upon which procurement procedures can be developed.

Foothill Transit's Board has adopted related policies which serve to guide procurement activities. Those policies are summarized in this Section.

A. Revision of Procurement Procedures

The Director of Procurement is responsible for updating and clarifying these procurement procedures on an as-needed basis. All substantive changes to procurement policies shall be reviewed and approved by the Executive Board.

B. Standards of Conduct and Conflict of Interest Policies

There will be uniform and equitable application of the Standards of Conduct of Foothill Transit involving all activities associated with the procurement of goods and services. This section defines responsibility to identify and prevent a real or apparent conflict of interest.

1. Conflict of Interest

No Governing Board Member or employee of Foothill Transit shall participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved.

Such a conflict is determined in accordance with the Conflict of Interest Code adopted by the Foothill Transit Executive Board. Such a conflict would arise when a Governing Board Member, Foothill Transit employee, an immediate family member or partner of a Governing Board Member or Foothill Transit employee, or an entity or organization that employs or is about to employ any person that has a relationship with any of the foregoing persons has a present or potential financial or other significant interest, such as a present or potential employment interest, in the selection, award, or administration of a contract or subcontract. In cases where there may be such an interest, either direct or indirect, there is a responsibility to report in writing such interest to the Executive Board. If anyone fails to report such interest, he or she will be subject to any disciplinary proceeding deemed appropriate by Foothill Transit, including possible dismissal.

Governing Board members and employees of Foothill Transit shall be subject to the conflict of interest laws of the State of California. Anyone who violates the standards of the law shall be subject to the penalties, sanctions, or other disciplinary actions provided for therein.

In addition, Foothill Transit will disclose in writing any potential conflict of interest to the Federal Transit Administration or other United States Department of Transportation component making a financial assistance award to Foothill Transit in accordance with applicable Federal awarding agency policy.

2. Gratuities, Kickbacks, and Contingent Fees

No Governing Board member or employee of Foothill Transit shall solicit, demand, or accept from any person, contractor, potential contractor, or potential subcontractor anything of a monetary value, including gifts, gratuities, and favors except as the receipt and reporting of gifts is permitted by The Political Reform Act (California Government Code Section 81000, *et seq.*). Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by Foothill Transit, including possible dismissal.

3. Confidential Information

No Governing Board member nor employee of Foothill Transit shall use confidential information for his or her actual or anticipated personal gain, or the actual or anticipated personal gain of any other person related to them by blood, marriage, or by common commercial or financial interest. Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by Foothill Transit, including possible dismissal.

4. Organizational Conflict of Interest

It is the policy of Foothill Transit to avoid taking an action that might result in or create the appearance of an organizational conflict of interest.

An organizational conflict of interest occurs (A) where a contractor is unable, or potentially unable, to render impartial assistance or advice to Foothill Transit due to activities, relationships, contracts, or circumstances (financial or otherwise) which may impair the contractor's objectivity; (B) a contractor has an unfair competitive advantage through receipt of or obtaining access to nonpublic information; or (C) during the performance of an earlier contract or the conduct of a procurement, the contractor has established the ground rules for the solicitation or selection of the services or goods to be acquired by developing or drafting specifications,

requirements, statements of work, evaluation factors, solicitations, or similar documents.

Based on this policy:

- a. Reference in Procurement Documents. Foothill Transit shall specify or otherwise reference the policy concerning organizational conflicts of interest found herein in all procurement documents, including but not limited to those for Federally-funded projects and activities, design-build projects, and procurements for design-build related activities (*i.e.*, engineering services, inspection, or technical support in the administration of the design-build projects).
- b. Pre-Award Disclosure. Foothill Transit shall require every vendor to certify the absence of, or disclose to Foothill Transit, any real or apparent organizational conflict of interest at the time of submission of the vendor's bid, proposal, or offer. If a disclosure is necessary, Foothill Transit shall require the vendor to describe in detail why it believes, in light of the interest(s) identified, that performance of the proposed contract can be accomplished in an impartial and objective manner or why the identified interest otherwise does not afford the vendor an unfair competitive advantage. Foothill Transit shall further require that the disclosure include all relevant facts concerning any past, present, or planned interests that may present an organizational conflict of interest. The refusal to provide the disclosure or certification, or any additional information required, may result in disqualification of the vendor for award.
- c. Review of Pre-Award Disclosure. Foothill Transit's contracting officer shall review the disclosure and may request additional information from the vendor. All information given by the vendor, and any other relevant information known to Foothill Transit, shall be used to determine whether an award to the vendor may create an organizational conflict of interest. If any organizational conflict of interest is found to exist, Foothill Transit may (1) disqualify the vendor or (2) determine that it is otherwise in the best interest of Foothill Transit to contract with the vendor and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.
- d. Post-Award Disclosure. After award, conflict of interest guidelines and policies shall continue to be monitored and enforced. Foothill Transit shall include contract provisions in every contract that require the contractor to make an immediate and full disclosure of any organizational conflicts of interest, real or apparent, that could not reasonably have been known or discovered prior to contract

award, which include those that may have arisen after contract award. The disclosure shall include a full description of the organizational conflict(s) and a description of the action(s) the contractor has taken, or proposes to take, to avoid or mitigate the organizational conflict. Foothill Transit may terminate the contract for cause if Foothill Transit determines that the conflict has not been adequately avoided or mitigated or for convenience if it is otherwise in Foothill Transit's best interest to terminate. If a non-disclosure or misrepresentation of or concerning an organizational conflict is discovered after award of a contract, Foothill Transit may terminate the contract for cause.

- e. Procurements Involving Environmental Documents. In any procurement based or relying on environmental documents prepared by, or in concert with, contractor or consultant support, the procurement documents shall contain a notice identifying which companies and consultants contributed to the documents.

5. Mandatory Disclosures – Federal Awards

Foothill Transit shall timely disclose in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting a Federal award to the Federal Transit Administration or other applicable Federal awarding agency.

C. Purchasing Policies

1. Equal Employment Opportunity/Affirmative Action

All procurement documents issued by Foothill Transit shall require all interested vendors to certify:

- a. That the vendor does not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, age, creed, disability, or national origin;
- b. That the vendor is in compliance with all Executive Orders and Federal, State, and local laws regarding fair employment practices and non-discrimination in employment; and
- c. That the vendor agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

2. Disadvantaged Business Enterprise

- a. General Policy

The Executive Board of Foothill Transit has determined as a matter of policy that whenever Federal funds are used to support a procurement, disadvantaged business enterprises (DBEs), as defined in 49 C.F.R. Part 26, shall have the opportunity to compete fairly for contracts financed in whole or in part with Federal funds. Accordingly, and as required by 49 C.F.R. Section 26.13, each such prime contract entered into by Foothill Transit (and each subcontract a prime contractor enters into with a subcontractor) must include the following assurance:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Foothill Transit deems appropriate.

b. Contract Goals

Foothill Transit's DBE Liaison Officer shall be responsible for determining whether to establish a DBE goal for each Federally-assisted contract. The setting of DBE contract goals shall be consistent with the provisions of 49 C.F.R. §§ 26.51(c) through (f).

c. Contractor Compliance

Proposers and bidders must take necessary and reasonable steps to ensure that DBEs have a fair opportunity to participate in the proposed contract and/or subcontracts. If a proposer or bidder qualifies as a certified DBE or is joint venturing with a certified DBE, a copy of the DBE certification(s) and a description of the dollar value of the proposed work that it intends to perform with its own forces, together with a statement of the percentage interest in the contract held by a joint venturer DBE must be submitted with its proposal or bid. If a proposer or bidder intends to utilize DBE subcontractors, it must identify the subcontractors in its proposal or bid and set forth the percentage value of the work to be performed by the subcontractors utilizing the "Designation of Subcontractors" and "Designation of DBE Subcontractors" forms that are included with each invitation for bids or request for proposals, as appropriate.

In the event that Foothill Transit has established a DBE goal for a contract, each proposer or bidder must, prior to contract award, document that it has obtained sufficient DBE participation to meet the contract's goal or document that it has made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. In instances in which DBE subcontractors are utilized to meet a contract goal, a successful proposer will be required to submit documentation with its initial proposal as a matter of responsibility and a bidder will be required to submit documentation with its sealed bid as a matter of responsiveness. In addition to the information on the "Designation of DBE Subcontractors" form, this documentation must include (1) written documentation of the proposer's or bidder's commitment to use identified DBEs; and (2) written confirmation from the DBE that it is participating in the contract.

d. Good Faith Efforts

When a proposer or bidder indicates that it cannot meet a contract goal, its submitted documentation must also include evidence of good faith efforts undertaken by the proposer or bidder to achieve DBE participation sufficient to meet the goal. For purposes of determining the adequacy of those efforts Foothill Transit shall be guided by Appendix A to 49 C.F.R. Part 26.

e. Tracking Participation

Foothill Transit shall require contractors to submit monthly reports identifying payments made to DBE firms.

f. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Areas

Foothill Transit shall take all necessary affirmative steps to assure that minority businesses, women's businesses, and labor surplus area firms are used when possible. If contractors award subcontracts, Foothill Transit shall require that they take all necessary affirmative steps to assure such firms are used when possible.

g. Prompt Payment to Subcontractors

Foothill Transit shall include in all contracts a requirement that the prime contractor pay its subcontractors on a timely basis. Foothill Transit shall include an obligation in contracts requiring the contractor to comply with laws and regulations, including but not limited to 49 C.F.R. § 26.29, which requires the contractor to pay subcontractors for satisfactory performance not later than 30 days

from the contractor's receipt of payment from Foothill Transit and, if applicable, CA Bus & Prof Code § 7108.5 and CA PCC § 10262.5, which require the contractor to pay subcontractors for satisfactory performance not later than 7 days from the contractor's receipt of payment from Foothill Transit.

3. Veterans Employment

Foothill Transit shall require contractors working on a capital project funded using Federal assistance to give a hiring preference, to the extent practicable, to veterans (as defined in 5 U.S.C. § 2108) who have the requisite skills and abilities to perform the construction work required under the contract. This requirement shall not be understood, construed, or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

4. Cooperative Procurement

When circumstances warrant, Foothill Transit may attempt to fill requirements through a cooperative purchasing agreement with the State of California, the County of Los Angeles, or other appropriate public or private cooperative procurement agency.

5. Open Competition Required

All procurement transactions will be conducted in a manner providing full and open competition. Some situations considered to be restrictive of competition include, but are not limited to:

- a. Unreasonable requirements placed on firms in order for them to qualify to do business.
- b. Unnecessary experience and excessive bonding requirements.
- c. Noncompetitive pricing practices between firms or between affiliated companies.
- d. Noncompetitive award to any person or firm on retainer contracts.
- e. The specification of only a brand name product without listing its salient characteristics and not allowing an equal product to be offered.
- f. Exclusionary or discriminatory specifications.

- g. Any arbitrary action in the procurement process.

The Director of Procurement will monitor each procurement and document all of the steps taken during the procurement to ensure that there are no arbitrary actions taken during the procurement process, and that each procurement document includes all requirements expected of bidders or offerors.

If Foothill Transit establishes any list(s) of prequalified persons, firms, or products to use in acquiring goods and services, Foothill Transit shall ensure that such lists are current and include enough qualified sources to ensure maximum open competition.

6. Efficient and Economic Purchases

The Director of Procurement will review all proposed procurements to ensure that there are no purchases of unnecessary or duplicative items; and to determine whether it is necessary and/or appropriate to consider consolidating or breaking out procurements to obtain more economical purchases. The Director of Procurement will, in consultation with the Director of Finance, examine major procurements to determine if it is in Foothill Transit's best interest to enter into a capital lease rather than to make a purchase.

7. Public Records Act and Brown Act

Ownership of Records – All Proposals, Bids, or Offers received in response to a procurement become the exclusive property of Foothill Transit, except questionnaires and/ or financial statements submitted as part of a proposal, bid, or offer, in accordance with California Public Utilities Code § 99154. Such questionnaires and financial statements shall be returned to vendors not selected for contract award by Foothill Transit within thirty (30) days after the earlier of approval of award to the successful vendor by Foothill Transit's Executive Board or contract award, if Executive Board approval is not required.

Marking of Documents – Vendors shall clearly designate and mark information deemed confidential, proprietary, or trade secret consistent with California Government Code § 6254.7(d). Proposals, Bids, or Offers that indiscriminately identify all or most of the proposal, bid, or offer as exempt from disclosure without justification (a) will not be sufficient and shall not bind Foothill Transit in any way whatsoever and (b) may be eliminated from competition for the procurement.

Public Records –

- a. All Proposals, Bids, or Offers submitted in response to the procurement shall become a matter of public record and shall be regarded

as public records, with the exception of those elements of each proposal, bid, or offer which are: (i) trade secrets as that term is defined in California Government Code § 6254.7(d) and which are so marked as trade secret, confidential, or proprietary; and (ii) any questionnaires and/or financial statements required and deemed to not be public records and not open to public inspection pursuant to California Public Utilities Code § 99154, at the earlier of the time a recommendation for contract award is made to the Executive Board or a contract is awarded by Foothill Transit.

b. Foothill Transit will not disclose information in a Proposal, Bid, or Offer marked proprietary, confidential, or trade secret unless required to do so by law or legal process; provided, however, Foothill Transit may disclose such information to its legal and financial advisors as it deems necessary or appropriate. Foothill Transit shall not in any way be liable or responsible for the disclosure of any such records or portions thereof, including, without limitation, those so marked as confidential, proprietary, or trade secret, if disclosure is deemed required by law or by an order of a court.

c. If a contract award requires Executive Board approval, all Proposals, Bids, or Offers submitted in response to the procurement shall be held on file and be made available to the Executive Board for in-person review in the manner described in section 7.a. above. If the Chief Executive Officer determines that information marked as trade secret, confidential, or proprietary should be considered by the Executive Board, the Chief Executive Officer shall recommend that the Executive Board hold a closed session to consider and discuss the information. If any of the Executive Board Members deem it necessary to consider confidential, proprietary, or trade secret information not included in the public version of the documents, the Executive Board Member shall seek a closed session for all members to consider the information.

8. Term Limitations

Rolling Stock and Replacement Parts Procurements

The Director of Procurement will ensure that the term of rolling stock and replacement-part procurements, including the exercise of options, funded with Federal funds will not exceed five (5) years. If Foothill Transit procures rolling stock through a cooperative agreement, Foothill Transit shall obtain a copy of the original agreement and verify that the term of that agreement was for a total period of not more than five years and also that the initial term was not more than two years and had no more than three one-year extensions/options.

Other Procurements

The duration of other contracts must be based on sound business judgment and should contain contract terms no longer than necessary to accomplish the purpose of the contract. For Federally funded contracts that have a term that exceeds five years, Foothill Transit's Director of Procurement shall ensure that the procurement file includes a justification for the period of performance.

9. Revenue Contracts

With the exception of real property lease agreements, Foothill Transit does not enter into any revenue-producing contracts. Contracts with local municipalities wherein Foothill Transit is reimbursed for goods and/or services provided are not considered revenue contracts.

10. Escrow/Surety Deposits

When it becomes necessary for Foothill Transit to place funds in excess of \$500,000 into an escrow account or other form of performance security for the purchase of land, buildings, and other major assets, Foothill Transit will require the agency holding and or requesting these funds to guarantee interest earning at a minimum rate equal to 80% of the current LAIF rate. In the event this rate cannot be guaranteed, Foothill Transit will:

(1) Guarantee payment within four working days from the day the funds are requested, with the obligation to compensate all related parties to the transaction for actual costs incurred if payment is received after the four working days;

(2) Secure a certificate of deposit (CD) in Foothill Transit's name in the amount of the required escrow/security deposit and surrender the CD to the agency requiring the deposit; or

(3) Select an escrow agent that will guarantee Foothill Transit an interest earning rate that is acceptable based on the terms and conditions at the time of the purchase.

It will be at Foothill Transit's option to select option 1, 2, or 3.

11. Demonstration Projects for Innovative Products, Approaches, or Technologies

It is in Foothill Transit's best interest to consider proposals for demonstration (pilot) projects. A demonstration project is a short-term, carefully planned, pilot exercise designed to test and evaluate the feasibility and application of an innovative product, approach, or technology not currently used by Foothill Transit. Demonstration projects will allow Foothill Transit to observe and analyze effectiveness and efficiency of the innovative product, approach, or technology without a

large commitment of resources. Demonstration projects may ~~by~~^{be} initiated by an unsolicited proposal or by Foothill Transit on its own initiative. A demonstration project may result in a procurement if Foothill Transit determines that the piloted product, approach, or technology should be fully implemented at Foothill Transit.

Demonstration projects may be considered for goods or services. Demonstration projects shall not be considered for public works/construction (as defined in Article 3.5 of the California Public Contract Code) projects or for projects involving Architectural and/or Engineering services. Demonstration projects shall not be considered in connection with Federal funding unless such funding is specifically authorized for use on such demonstration project.

12. Media Buying Policy

It is in Foothill Transit's best interest to facilitate the timely purchase of communications media to meet Foothill Transit's advertising and related media needs by exempting such purchases from the standard procurement process. Media procurements require geographically and demographically targeted exposure to reach Foothill Transit's ridership, potential ridership, and interested parties. Potential media outlets typically only touch upon one geographic region, i.e., local newspapers, or one demographic, i.e., language-based advertising, and as such, are uniquely capable of reaching Foothill Transit's desired audience.

- a. Foothill Transit may facilitate media procurements by authorizing a designated Media Buyer to conduct competitive solicitations for such procurements in a manner consistent with media industry practices. The Media Buyer shall be an outside professional services consultant obtained through the standard procurement process. The Media Buyer shall be responsible for obtaining and analyzing bids from media outlets, negotiating rates and "bonus" space or time, recommending the most efficient and cost-effective media choices to Foothill Transit Communications personnel, and placing media orders on behalf of Foothill Transit with the written approval of the Director of Marketing and Communications.
- b. Media procurements shall be initiated by the Director of Marketing and Communications or his or her designee.
- c. Media procurements conducted without the services of a designated Media Buyer shall be treated as sole source procurements not requiring a justification form.
- d. The purchase of classified advertising of procurement and recruitment notices is excepted and is not affected by this policy.

13. Recovered Materials – Federal Funds

Foothill Transit and its contractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

14. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

In accordance with 2 C.F.R. 200.216, Foothill Transit shall not use Federal loan or grant funds to extend or renew a contract to procure or obtain, or enter into a new contract to procure or obtain, covered telecommunications equipment. Such covered telecommunications equipment includes (i) any equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of the company or corporation); (ii) equipment that will serve public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, and is video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of the corporation or companies); and (iii) any equipment produced by other entities specified by Federal agencies in accordance with 2 C.F.R. 200.216. Further, Foothill Transit shall not use Federal loan or grant funds to extend or renew a contract to procure or obtain, or enter into a new contract to procure or obtain, systems that use covered telecommunications equipment as a substantial or essential component of any system or as critical technology of any system or covered services. Such covered services are telecommunications or video surveillance services provided by the above-named entities or services provided by others and that use covered telecommunications equipment.

15. Preference for U.S. Products and Services

a. **Buy America Requirements.** When acquiring rolling stock, steel, iron, or manufactured products using FTA funds or for an FTA-funded project, Foothill Transit will comply with all applicable statutes and regulations implementing the FTA's Buy America requirements. Those statutes and regulations include provisions found at 49 U.S.C. 5323 and 49 C.F.R. Parts 661 and 663. Foothill Transit will also include applicable Buy America requirements in all contracts and other subawards under such projects.

b. **Build America, Buy America Act Requirements. When Federal financial assistance is used for infrastructure projects, construction materials used in the project are subject the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA.**

c. **Cargo Preference.** Foothill Transit shall comply with all applicable statutes and regulations implementing the shipping requirements of 46 U.S.C. 55305 and U.S. Maritime Administration Regulations "Cargo Preference – U.S.-Flag Vessels" at 46 C.F.R. Part 381. Foothill Transit will also include applicable Cargo Preference requirements in all contracts and other subawards.

ed. Fly America. Foothill Transit shall comply with the air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended 49 U.S.C. 40118 and U.S. General Services Administration regulations, "Use of United States Flag Air Carriers" at 41 C.F.R. 301.10-131 through 301-10.143. Foothill Transit will also include applicable Fly America requirements in all contracts and other subawards.

de. Limitation on Certain Rolling Stock Procurements. Foothill Transit will comply with the limitation on certain rolling stock procurements at 49 U.S.C. 5323(u).

16. Restrictions on Lobbying and Contacts

a. Restrictions on Lobbying and Contacts with Foothill Transit Board. Upon the issuance of a solicitation and until the date of the award of the contract, Foothill Transit shall prohibit persons and entities (including bidders/offerors, prospective bidders/offerors, prospective subcontractor, prospective subconsultant, or subcontractor, subconsultant or team member of the bidder/offeror, or officer, employee, representative, agent of any of the forgoing persons or entities) from contacting any member of the Foothill Transit Governing Board or his or her personal staff through any means whatsoever, or engaging in any discussion with such Foothill Transit Board member or his or her personal staff, regarding the solicitation, the evaluation or selection process, or the contract award. Any such contact shall be grounds for the disqualification of the bidder/offeror.

b. Restrictions on Lobbying and Contacts with Foothill Transit Staff. Upon the issuance of a solicitation and until the date of the award of the contract, Foothill Transit shall also require the persons and entities described in (a) above to limit their communication with Foothill Transit employees to a written clarification and amendment process. During that time period, any such person or entity is precluded from having any communications regarding the solicitation, the evaluation or selection process, or the award of the contract with Foothill Transit employees other than Foothill Transit's procurement staff. Any such unauthorized communication shall be grounds for the disqualification of the bidder/offeror.

D. Procurement History

An accurate written account of each procurement will be maintained by the Procurement Department, and the Director of Procurement will ensure that it is included in the official procurement file. The Project Manager will complete a Procurement Initiation Form for each procurement action, including new procurements and all contract amendments, to initiate the procurement process. A record of procurement actions, i.e., Procurement History, will be initiated for all Invitation for Bids, Request for Proposals, Request for Qualifications, and Sole

Source procurements. Procurement history documentation will be updated as a procurement progresses and will be retained as a historical record of the procurement. Procurement history includes, but is not limited to:

1. Rationale for the Method of Procurement

The type of procurement to be used for a given project will be determined at the outset of the project through consultation between the Project Manager and the Director of Procurement. A written justification for the procurement type selected will be developed including a completed Procurement Decision Matrix.

2. Contract Type

The rationale for selecting the contract type (such as fixed price, cost reimbursement, or time and materials) will be developed by the Project Manager, Director of Procurement and Counsel, and will be recorded by the Director of Procurement. Foothill Transit shall select the contract type in accordance with the requirements and prohibitions stated in Chapter VI, Section L.

3. Contractor Selection

Reasons for contractor selection or rejection will be fully documented, including, but not limited to, evaluation criteria, responsiveness to the requirements of the solicitation, responsibility, or cost. The Director of Procurement will fully document the selection process.

4. Cost or Price Evaluation

The cost of potential contracts will be evaluated and documented by the Project Manager and compared to the Independent Cost Estimate required under Chapter III, Subchapter N. The Director of Procurement will ensure that a cost or price analysis is completed as required under Chapter III, Subchapter O. The Director of Procurement will ensure that documentation of the cost or price analysis is included in the procurement file.

E. Internal Controls – Federal Awards

Foothill Transit shall establish, maintain, and evaluate its internal procurement and contract management controls to provide reasonable assurance that Foothill Transit is managing its Federal awards in compliance with Federal law and the terms and conditions of the award. Foothill Transit's controls shall also safeguard personally identifiable and sensitive information.

F. Federal Awarding Agency Review

Foothill Transit shall comply with the requirements of 2 C.F.R. ~~200.324~~[200.325](#) regarding Federal awarding agency review of technical specifications on proposed procurements and pre-procurement review of procurement documents on all Federally-funded procurements, unless exempt under Federal regulation.

G. Record Collection, Transmission, Storage, Retention and Access

Whenever practicable, Foothill Transit shall collect, transmit, and store Federal award-related information in open and machine-readable formats (*i.e.*, searchable .pdf files) rather than in closed formats or on paper.

Foothill Transit shall maintain financial records, supporting documents, statistical records, and all other records pertinent to a Federal award for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient.

Foothill Transit shall provide FTA, Inspectors General, the Comptroller General of the United States, and any pass-through entity (if applicable), or any of their authorized representatives, the right of access to any documents, papers, or other records of Foothill Transit which are pertinent to a Federal award, in order to make audits, examinations, excerpts, and transcripts, in accordance with applicable Federal regulations.

H. Responsible Contractor

Before awarding a contract, Foothill Transit shall determine that a prospective contractor is responsible. Bidders, offerors, or proposers may be asked to provide any information required to determine the responsibility of the prospective contractor.

1. A responsible contractor is one who meets the standards set forth below:
 - a. Has adequate financial resources, or the ability to obtain such resources as required during performance of the contract.
 - b. Has a satisfactory record of integrity and business ethics.
 - c. Is neither debarred nor suspended from State or Federal programs.
 - d. Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
 - e. Is in compliance with applicable licensing and tax laws and regulations.

- f. Has a satisfactory record of performance. The contractor must have sufficient key personnel with adequate experience, a parent firm (if appropriate) with adequate resources and experience, and key subcontractors with adequate experience and past performance. The contractor must have sufficient past experience in carrying out similar work with particular attention to management approach, staffing, timeliness, technical success, budgetary controls, and other specialized considerations as described in Foothill Transit's solicitation. Contractors who are, or have been seriously deficient in current or recent contract performance, when the number of contracts and the extent of deficiency of each are considered, is presumed to be non-responsible. Documented past unsatisfactory performance will ordinarily be sufficient to justify a finding of non-responsibility.
 - g. Is otherwise qualified and eligible to receive an award under applicable laws and regulations. In addition, the contractor's integrity and compliance with public policy will be examined.
 - h. Has the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them.
 - i. Has the necessary production, construction, and technical resources, equipment, and facilities, or the ability to obtain them.
 - j. Is registered with appropriate entities so that contractor is eligible to receive public funds. This includes, but is not limited to, public works contractor registration with the California Department of Industrial Relations.
- 2. Evaluation of the responsibility of prospective contractors may be made based upon the following sources:
 - a. A list of debarred, suspended, or ineligible firms or individuals. The Federal System for Award Management, Foothill Transit's debarment list, or other system(s) as determined by Federal, state or local governments, will be examined to determine if a prospective contractor has been debarred or suspended.
 - b. From the prospective contractor's bids and proposals, replies to questionnaires, financial data such as balance sheets, profits and loss statements, cash forecasts, and financial histories of the contractor and affiliated concerns; current and past production records, list of tools, equipment, and facilities, written statements or commitments concerning financial assistance and subcontracting arrangements.

- c. Publications, including credit ratings, trade and financial journals, and business directories and registers may also be used.
 - d. References such as suppliers, subcontractors, customers of the prospective contractor, banks and financial institutions, commercial credit agencies, other government agencies, purchasing and trade associations, and better business bureaus and chambers of commerce.
 - e. Documented past performance on contracts with Foothill Transit.
 - f. Appropriate websites containing information concerning the responsibility of prospective contractors.
 - g. If appropriate, it will be determined, through utilization of the California State Licensing Board website, whether a prospective contractor possesses required licenses.
 - h. If appropriate, prospective contractors will be required to provide financial information to determine if the contractor has financial resources adequate to perform the contract, or the ability to obtain them.
 - i. The past performance of prospective contractors will be checked by contacting references using a list of standard questions, and responses will be documented.
 - j. In certain cases, such as bus procurements, site visits may be conducted to validate the manufacturing capabilities of the prospective contractor.
- 3. The Director of Procurement in consultation with the Project Manager will be responsible for preparing the responsibility findings and will ensure that documentation of the findings is included in the procurement file.
 - 4. The Director of Procurement will ensure that no contract is recommended for award nor signed until the contractor has been determined to be responsible.
 - 5. The Director of Procurement will ensure that a pre-approved form is utilized and completed by the Procurement Department for each procurement action undertaken by Foothill Transit. The Director of Procurement will also ensure that the completed form is included in the procurement file.

CHAPTER III – PROCUREMENT PROCEDURES

Subchapter A – Procurement by Micro Purchases

A micro purchase is an informal procurement method used for acquiring goods or services (excluding public works projects) that total \$10,000 or less. Foothill Transit has deemed this micro-purchase threshold to be appropriate based on Federal requirements, state requirements, potential risks to Foothill Transit, these procurement procedures, and typical Foothill Transit purchases. Purchases that total \$10,000 or less may be made without obtaining competitive quotations if it is determined by the Department ~~Director~~Head that the price to be paid is fair and reasonable. The Department ~~Director~~Head will document the basis for this determination.

Micro purchases should be distributed equitably among qualified suppliers, and the splitting of purchases to avoid the requirements of competition above the micro purchase threshold is prohibited. The Director of Procurement has the authority to review micro purchases to ensure that such purchases are being distributed among qualified suppliers and are not being split to avoid competition requirements.

Micro purchases made with purchase cards must conform to these policies and procedures as well as any other procedures that Foothill Transit establishes for such purchases.

Subchapter B – Small Purchases

A small-purchase procurement is an informal procurement method used for acquiring (i) public works (including construction) projects valued at \$6,500 or less; or (ii) goods or services that exceed \$10,000 but do not exceed ~~\$100,250,000~~ \$250,000. Foothill Transit has deemed these small-purchase thresholds to be appropriate based on Federal requirements, state requirements, potential risks to Foothill Transit, these procurement procedures, and typical Foothill Transit purchases.

Foothill Transit shall obtain written quotations from an appropriate number of vendors to provide adequate competition. Based on Foothill Transit's long history of procurements, it has determined that obtaining quotations from three (3) vendors will generally provide adequate competition. If the Department ~~Director~~ Head determines that more or fewer quotes is necessary for adequate competition, the Department ~~Director~~ Head shall provide information on the basis for that determination in the procurement file. The responsibility for soliciting quotations rests with the Procurement Department. Appropriate documentation, including a list of the vendors contacted, the quotes received, and a determination by the Procurement Department that the price is fair and reasonable (supported by a cost or price analysis) will be included in the Procurement File. If the lowest priced vendor is not chosen, the documentation will include a technical justification for the selection of other than the lowest-priced vendor. Foothill Transit may not divide or reduce the size of a procurement to avoid additional procurement requirements applicable to larger acquisitions.

Foothill Transit's use of small-purchase procedures does not affect its obligation to include certain provisions in the subject contract. Foothill Transit will review each contract proposed for award under these procedures to confirm it includes clauses required by state and Federal law and regulation.

Subchapter C – Invitation for Bids (IFB)

A. General

An Invitation for Bids (IFB), also called a sealed-bid procurement, is a formal procurement method used for acquiring public works (including construction) projects valued at \$6,500 or more, and, if appropriate, purchases of goods and services whose cumulative value will exceed \$250,000. The IFB process is coordinated by the Director of Procurement.

B. Use

The IFB method of procurement is employed when all of the following apply:

1. A clear and accurate description of the technical requirements for the material, product, or service to be procured is available in a manner that provides for full and open competition.
2. Two or more responsible and otherwise qualified suppliers/sources are willing and able to compete effectively for the contract.
3. The procurement lends itself to a firm, fixed-price contract. 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 be appropriate. When specified in the procurement 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.
4. Selection of the successful bidder can be made 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.
5. Discussions with one or more bidders after bids have been submitted are expected to be unnecessary because award of the contract will be made based on price and price-related factors alone.

C. Scope of Work and Specifications

The Project Manager shall provide the Director of Procurement with the scope of work and/or specifications for each solicitation. The following general rules apply to scopes of work and specifications:

1. A common basis for bidding must be provided. Specifications and scopes of work should set out the minimum essential characteristics and standards of the items or services to be procured. Whenever possible, the expected quality of services to be provided or the performance characteristics of the item should be specified.
2. Specifications and scopes of work should not call for features or quality levels which are not necessary to meet the bid requirements.
3. All optional items should be identified by the Project Manager, and the procurement documents should set forth the expected needs and the manner in which the related bid prices will be considered.
4. In order to foster free and open competition, specifications may not require a "brand name" product without allowing an "or equal" product to be offered. When it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the goods or services required, a "brand name or equal" description may be used to define the performance or other salient characteristics of the goods or services sought. The specific features or salient characteristics of the named brand which must be met by offerors of "an equal" bid must be clearly stated.
5. Because standard specifications and requirements allow for more efficient operations and result in lower prices, they should be used wherever suitable. Maximum use should be made of industry, Federal, State, and local government specifications and requirements.

D. Issuance of IFB

The Executive Board must approve the issuance of an Invitation for Bids (IFB) when the estimated cost of the project or base term for goods or services exceeds \$250,000. The Project Manager shall prepare the Board Report seeking authorization to issue the IFB. The Board Report may include a draft of the IFB existing at the time of the preparation of the Board Report. All IFBs will be prepared by the Procurement Department and will be advertised on Foothill Transit's website in sufficient time prior to the date set for bid closing. The Director of Procurement will ensure that the IFB is made available to an adequate number of qualified sources to ensure fair and open competition. Notice of IFBs for public works/construction projects also must be published in a newspaper of general circulation, including, but not limited to trade publications, in sufficient time prior to the date set for bid closing. The notice must include the following minimum information:

1. A general description of the services or goods to be purchased.
2. Where to obtain a copy of the IFB.

3. The location, day, and time of the Pre-Bid Conference (if one is scheduled).
4. The location, last day, and hour bids will be accepted (deadline).
5. The Bid Acceptance Period.
6. Whether Federal funds are being used for the procurement.

E. IFB Packet

The Director of Procurement or designee will coordinate the release of the IFB packet. The IFB packet will include the following:

1. Instructions To Bidders – General instructions concerning the bid format, pre-contractual expenses, contract conditions, pre-bid conferences, and other information including language stating that because bids can at times be ambiguous, Foothill Transit reserves the right to request additional information before making an award and also reserves the right to seek clarification from any bidder about any statement in its bid that Foothill Transit finds ambiguous.
2. Submittal Documents (Bid Forms) – Required forms to be completed by the bidder and submitted with the bid.
3. Exhibits – These can be documents that display key facts, specifications, maps, report formats, and other important information to clearly define the goods or services needed in order for the bidders to properly respond to the IFB.
4. Contract Terms – These are the general terms and conditions and other provisions (e.g., contract time, special terms of the resulting contract; any modifications to general terms and conditions; milestones; and special payments procedures) that will form the basis of the contract between Foothill Transit and the successful bidder.
5. Specifications and/or Scope of Work – Each IFB will contain specifications and/or a scope of work prepared by the Project Manager that provides a clear and accurate description of the technical requirements for the materials, products, or services being procured. The specifications and/or scope of work should only state the actual minimum needs of Foothill Transit and be developed in a manner designed to promote full and open competition. At a minimum, the specifications and/or scope of work should address the following areas:
 - a. The specific goods or objectives of the contemplated work.

- b. A detailed description of the necessary characteristics of the goods or the work to be performed outlining various tasks or phases of work, and defining the limits of the proposed project.
- c. A proposed delivery schedule.

F. Control Record

- 1. A control record will be maintained by the Procurement Department as IFB packets are distributed to prospective bidders. The control record profiles the following information:
 - a. Date and time IFB packets are distributed.
 - b. Names and addresses of bidders receiving bid invitations and attending pre-bid conferences.
- 2. The control record has two primary purposes:
 - a. Serves as a mailing list for the issuance of addenda.
 - b. Provides a record for verification in cases of vendor protests and other issues.

G. Pre-Bid Conference

A pre-bid conference may be used as a means of briefing prospective bidders and explaining specifications and requirements to them as early as possible after the IFB has been issued and before the bids are opened. The pre-bid conference will not be used as a substitute for amending a defective or ambiguous IFB. Unless otherwise specified in the IFB documents, attendance by potential bidders is not mandatory. The list of attendees will be issued to prospective bidders.

The pre-bid conference shall be chaired by the Director of Procurement or designee and shall follow the format below:

- 1. Discussion on basic requirements such as instructions to the bidders, funding, contract type, and specific points that should be addressed in each bid response.
- 2. Discussion on the participation requirements for disadvantaged business enterprises (DBE), if applicable.
- 3. Discussion on the specifications and/or scope of work. The Project Manager should be available to answer technical questions.

4. Provide project schedule.

H. Addenda to Invitation for Bids

If after issuance of an IFB, but before the time set for opening of bids, it becomes necessary to make changes in quantities, specifications, opening dates, etc., or to correct or clarify a defective or ambiguous IFB, such changes shall be accomplished by the issuance, in writing, of an addendum to the IFB. Before issuing an addendum to an IFB, the period of time remaining until the time set for bid submittal and the need for extending this time must be considered. If a material change, addition, or deletion to the IFB is being made, and less than 72 hours are remaining until bid opening, the scheduled bid opening time must be extended by at least 72 hours. Such notification should be confirmed in the addendum. The addendum shall be sent to each prospective bidder to whom the IFB was furnished or to any prospective bidder who attended any site visit and/or pre-bid conference and shall provide:

1. Addendum number and date.
2. Number, date, and the title of the IFB concerned.
3. Clearly stated changes made in the IFB and the extension of the opening date, if applicable.
4. Instructions to bidders for acknowledging receipt of the addendum and information concerning the effect of failure to acknowledge and return the addendum.

I. Cancellation of IFB

IFBs shall not be canceled unless cancellation is clearly in Foothill Transit's interest (i.e., where there is no longer a requirement for the material or service, or where amendments to the IFB would be of such magnitude that a new invitation is desirable). When an IFB is canceled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom IFBs were issued.

The notice of cancellation shall identify the IFBs; briefly explain the reason the IFB is being canceled; and, where appropriate, assure prospective bidders that they will be given an opportunity to bid on any re-solicitation of bids or any further requirements for the type of material or service involved.

If the IFB is canceled before the time for bid openings, this fact shall be recorded in the control file, with a statement of the number of entities invited to bid and the number of bids received.

J. Receipt of Bids

Bids shall be submitted so as to be received at the location designated in the IFB not later than the exact time set for the receipt of bids. The only acceptable evidence to establish the time of receipt at Foothill Transit's offices is the time/date stamp of Foothill Transit, which shall be placed on the bid wrapper immediately upon receipt. The Foothill Transit staff person receiving the bid shall sign the exterior of the bid package to verify the date and time received and person receiving the bid. The timeliness of bids is the sole responsibility of the bidder. Bids received after the date and time specified in the IFB shall be considered late and shall not be considered for evaluation. Late Bids shall be returned to the sender unopened.

K. Withdrawal of Bids

Any bidder may withdraw its bid, either personally or by written request received by Foothill Transit, at any time prior to the time fixed for the receipt of the bids. Negligence on the part of a bidder in preparing its bid confers no right of withdrawal of the bid after such bid has been opened. Following bid opening, no bid may be withdrawn for the time period specifically set forth in each IFB.

L. Bid Opening

Upon receiving the bids, it is the Director of Procurement or designee's responsibility to record their receipt and keep them unopened and secure, except as stated below.

Prior to bid opening, information concerning the identity and number of bids received shall be made available only to Foothill Transit representatives who have a proper need for such information, as determined by the Director of Procurement.

Unidentified bids may be opened solely for the purpose of identification and then only by the Director of Procurement. If a sealed bid is opened by mistake or for purposes of identification, the Director of Procurement shall immediately write on the envelope an explanation of the opening, the date and time opened, and the IFB number. The Director shall sign the envelope. Bids opened by mistake or for identification purposes shall be resealed in the envelope and no information contained therein shall be disclosed prior to the public bid opening.

The Director of Procurement or designee shall decide when the time set for bid opening has arrived and shall so declare to those present.

All bids received prior to the time set for receipt shall then be publicly opened and when practical, read aloud by the Director of Procurement or designee to the persons present. The bids received shall be recorded. If it is impractical to read the entire bid, as where many items are involved, the total amount of the bid shall be read.

A second Foothill Transit representative shall be present to witness the opening and reading of the bids and, along with the Director of Procurement or designee, shall sign the recording document to verify its accuracy.

The original of each bid shall be carefully safeguarded, particularly until the abstract of bids has been made and its accuracy verified.

The original bid form shall not be allowed to pass out of the hands of the Procurement Department. The original bids may not be removed from the Procurement Department office except for official review and evaluation by Foothill Transit Counsel. A copy of each bid must be maintained in Foothill Transit's procurement files in lieu of such originals for the interim period.

All bids will be open to public review in accordance with the provisions of Paragraph C.7 of Chapter II. The results of the bid opening will be posted on the Foothill Transit website at the same time that all bidders are notified of Foothill Transit's proposed award of a contract to the lowest responsive and responsible bidder. All bids, including attachments and photographic images or reproductions of time-stamped packages, shall be retained for the official files.

M. Recording of Bids

The IFB number, bid opening date and time, general description of the procurement item, names of bidders, prices bid, and any other information required for bid evaluation shall be entered on the official Foothill Transit record and shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the IFB number, opening date and time, general description of the procurement items, and the total price bid where definite quantities are involved.

The official record shall be completed as soon as practical after bids have been opened and read aloud. The Director of Procurement shall be responsible for maintaining files of these records and abstracts and will post the tabulation of bids on the Foothill Transit website within a reasonable time period after bid opening.

The IFB file shall show the distribution that was made and the date thereof. The names and addresses of prospective bidders requesting the IFB who were not included on the original solicitation list shall be added and made a part of the record.

N. Tabulation of Bids

Bids shall be evaluated on the basis of responsiveness and responsibility indicated in the IFB. Award shall be made to the bidder submitting the lowest bid, unless Foothill Transit determines that the bid is not responsive and/or the bidder is found to be not responsible.

O. Mistakes in Bids

1. General. Technicalities or minor irregularities in bids are waived if the Director of Procurement determines that waiver is in Foothill Transit's best interest. The Director of Procurement shall either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in its bid or waive the deficiency if it is to Foothill Transit's advantage to do so.
2. Mathematical Errors. Errors in extension of unit prices or in mathematical calculations shall be corrected by Foothill Transit prior to award. In all cases of errors in mathematical computation, the unit prices shall not be changed.
3. Mistakes Discovered Before Opening. A bidder can correct mistakes discovered before the time and date set for bid opening by withdrawing the original bid and submitting a new bid prior to the time and date set for bid opening.
4. Confirmation of Bid. If the Director of Procurement knows or has reason to conclude that a mistake has been made, the bidder shall be requested to confirm the bid. Situations in which confirmation will be requested include obvious, apparent errors on the face of the bid, or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid will be corrected or withdrawn if any of the following conditions are met:
 - a. If the mistake and the intended correction are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and must not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
 - b. A bidder will be permitted to withdraw a low bid if:
 - i. A mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - ii. The bidder submits proof of evidential value, which clearly and convincingly demonstrates that a mistake was made.
 - c. Determination Required. When a bid is corrected or withdrawn, or correction or withdrawal is denied, the Director of Procurement shall prepare a determination showing that the relief was granted or denied.

P. Minor Irregularities in Bids

1. A minor irregularity is one which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation in a bid from the exact requirement of the solicitation. If such a situation exists, the correction of the irregularity or waiver of the requirement will be made if it would not be prejudicial to other bidders.
2. A defect or variation in a bid is considered immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial.
3. The Director of Procurement shall either give the bidder an opportunity to cure any deficiency resulting from minor informality or irregularity in a bid, or waive the deficiency, whichever is to the advantage of Foothill Transit.

Q. Multiple or Alternate Bids

Unless requested in the solicitation, multiple or alternate bids will not be accepted. However, if a bidder clearly indicates a base bid, it shall be considered for award as though it were the only bid submitted by the bidder. These provisions shall be set forth in the solicitation and, if multiple or alternate bids are allowed, it shall specify their treatments.

R. Analysis of Limited Bid Response

If less than three bids have been received, the Director of Procurement may examine the reasons for the small number of bids received. The purpose of this examination is to ascertain whether the small number of responses is attributable to an absence of any of the prerequisites of formal advertising. A price or cost analysis may be performed to establish the reasonableness of the bid price before an award is made.

~~S. Determination of Responsiveness~~

- ~~1. Any bid which fails to conform to the essential requirements of the IFB, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.~~
- ~~2. A bid shall be rejected when the bidder imposes conditions that modify requirements of the IFB. Bids may be rejected in cases, including but not limited to those in which the bidder:~~

- ~~a. Attempts to protect itself against future changes in conditions such as increased costs, if a total price to Foothill Transit cannot be determined for bid evaluation.~~
 - ~~b. Fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery."~~
 - ~~c. States a price but qualifies such price as being subject to "price in effect at time of delivery."~~
 - ~~d. Where not authorized by the IFB, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement.~~
 - ~~e. Limits rights of Foothill Transit under any contract clause.~~
 - ~~f. Fails to comply with all of the requirements of the IFB.~~
 - ~~g. Fails to furnish a bid bond in accordance with the requirement of the IFB.~~
- ~~3. The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.~~
- ~~4. After submitting a bid, if a bidder transfers all of his assets or the part of his assets related to the bid during the period between the bid opening and the award, Foothill Transit may accept or reject the bid at its sole discretion.~~

T. Rejection of All Bids

1. Any time prior to the bid opening date and time, Foothill Transit may cancel or postpone the bid opening, or cancel the IFB in its entirety.
2. Preservation of the integrity of the competitive bid system dictates that after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is compelling reason to reject all bids and cancel the IFB.
3. Every effort shall be made to anticipate changes in a requirement prior to the date of bid opening and to notify all prospective bidders of any resulting modification or cancellation, thereby permitting bidders to change their bids and preventing unnecessary disclosure of bid prices.
4. As a general rule, after opening, an IFB should not be canceled and

re-advertised due solely to increased requirements for the items being procured. Award should be made on the IFB and the additional quantity should be treated as a new procurement.

5. IFBs may be canceled after opening but prior to award, and all bids rejected, where such action is consistent with Federal and State procurement regulations. A written determination must be included in the IFB file stating that cancellation is in the best interest of Foothill Transit for reasons such as the following:
 - a. Inadequate, ambiguous, or otherwise deficient specifications were cited in the IFB.
 - b. The supplies or services are no longer required.
 - c. The IFB did not provide for consideration of all factors of cost to Foothill Transit.
 - d. Bids received indicate that the needs of Foothill Transit can be satisfied by a less expensive item differing from that on which bids were received.
 - e. All otherwise acceptable bids received are at unreasonable prices.
 - f. The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith. Such situation must be substantiated and may be reported to Foothill Transit's Counsel.
 - g. The bids received did not provide competition that was adequate to ensure reasonable prices. A price or cost analysis may be used to establish the reasonableness of prices.
6. When it is determined to reject all bids, Foothill Transit shall notify each bidder that all bids have been rejected and state the reason for such action.



Rejection of Individual Bids

1. Any bid which fails to conform to the essential requirements of the IFB, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.
2. A bid shall be rejected where the bidder imposes conditions that modify requirements of the IFB. For example, bids may be rejected in which the bidder:
 - a. Attempts to protect himself against future changes in conditions such as increased costs, if a total price to Foothill Transit cannot be determined for bid evaluation.
 - b. Fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery."
 - c. States a price but qualifies such price as being subject to "price in effect at time of delivery."
 - d. Where not authorized by the IFB, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement.
 - e. Limits rights of Foothill Transit under any contract clause.
 - f. Fails to comply with all of the requirements of the IFB.
3. Bids received from any person or firm debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired.
4. Low bids received from firms determined to be not responsible pursuant to Federal or State procurement regulations shall be rejected in accordance with the procedures set forth in this Chapter.
5. A bid may be rejected if a bid guarantee is required and a bidder fails to furnish it in accordance with the requirement of the invitation for bids.
6. The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.
7. After submitting a bid, if a bidder transfers all of his assets or that part of his assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid, thus Foothill Transit may reject the bid.



Award of the Contract

Unless all bids are rejected, award shall be by written notice, within the time for acceptance specified in the bid or extension thereof, to the responsible and responsive bidder whose bid, conforming to all the material terms and conditions of the IFB, is the lowest in price.

When award is made to other than the lowest bidder, the lowest bidder will be notified in writing by Foothill Transit of any evidence reflecting upon the responsibility of the bidder and affording the bidder the opportunity to rebut such evidence and present evidence of qualifications to perform the contract.

If Executive Board approval is not required, Foothill Transit will notify all unsuccessful bidders of its intent to award a contract to the successful bidder at the same time it notifies the successful bidder. If Executive Board approval is required, Foothill Transit will notify the recommended successful bidder and the unsuccessful bidders of the recommendation at the same time as the publication of the Board agenda.

Notification to successful and unsuccessful bidders will be made by over-night delivery or email. Bid security of an unsuccessful bidder will be returned or otherwise made available for return in a reasonable period of time, but in no event shall that security be held by Foothill Transit beyond 60 days from the time the award is made, except with the consent of the affected bidder.

WV. Final Award

If Executive Board approval is required for award, the Project Manager shall prepare the Board Report, in consultation with the Director of Procurement. The report shall describe the procurement and bid evaluation process and include a bid tabulation chart of all bidders and prices received and describe the services or goods being procured.

Executive Board approval of the award, if required, shall authorize the Chief Executive ~~Director~~ Officer to negotiate final terms and conditions and enter into an agreement with the successful bidder. The contract will be reviewed by Counsel who will ensure that the contract will not include any terms or conditions to be negotiated in the future. The Director of Procurement will ensure that any contract addressing such terms and/or conditions will not be signed. The Director of Procurement will ensure that the contract is signed at the approval level required in these procedures.

Each contract will be signed by Foothill Transit and the contractor. As used in this Policy and Procedures Manual, the word “signed” shall be deemed to include original “wet” ink signatures and portable document format (.pdf) or electronic signatures.

If wet ink originals are obtained, the Procurement Department will maintain an original of the contract for the procurement file and if requested by the contractor, will distribute one original to the contractor. Copies will be distributed

to Counsel, the procurement file, and the Project Manager and, if necessary, to the contractor.

Prior to signing a contract containing only a .pdf or electronic signature of the contractor, Foothill Transit shall ensure that the contract includes language confirming that .pdf or electronic signatures are permissible and have the same force and effect as originals for all purposes. If the contract does not contain this language, Foothill Transit shall ensure that the contract and each amendment or modification thereto is signed with a wet-ink signature.

XW. Project Completion

All original documentation related to each procurement such as the IFB, Bid, control record, board report, background data, bid tabulation chart of all bidders and prices received, meeting reports/notes, as well as the logs documenting bid opening dates and bid receipt dates will be submitted to the Director of Procurement for storage when the file becomes inactive. For audit purposes, complete files will be maintained for a minimum of four years after the project is closed out and completed unless a different time period is mandated by a funding entity.

Subchapter D – Request for Proposals (RFP)

A. General

A Request for Proposals (RFP) is a formal procurement method used for acquiring services (see Subchapter E for the procurement of Architectural and Engineering services) or when conditions are not appropriate for the use of an IFB. The latter is generally the case when the goods or services to be acquired are described in a performance or functional specification; or if described in detailed technical specifications, other circumstances such as the need for discussions or the importance of basing contract award on factors other than price alone are present. RFPs are generally used for the purchase of services such as lease agreements, maintenance and service contracts, rental contracts and professional service contracts. The RFP process is coordinated by the Director of Procurement.

B. RFP Contents

The RFP process is a competitive negotiated procurement process that requires evaluation of offerors' proposed costs and understanding of the contract performance requirements in accordance with established evaluation criteria. The competitive negotiated procurement process does not require award to the lowest-priced offeror. An RFP generally includes:

1. Project background.
2. Purpose of the engagement.
3. General firm qualifications desired.
4. Specifications and/or scope of work.
5. Project schedule.
6. Proposal requirements.
7. Criteria for selection.
8. Payment terms.

C. Issuance of RFP

The Executive Board must approve the issuance of a Request for Proposals (RFP) when the estimated cost of the project or base term for goods or services exceeds \$250,000. The Project Manager shall prepare the Board Report seeking approval of the issuance of the RFP. The Board Report may include a draft of

the RFP existing at the time of the preparation of the Board Report. All RFPs will be prepared by the Procurement Department and will be advertised on Foothill Transit's website in sufficient time prior to the date set for proposal receipt. The Director of Procurement will ensure that the RFP is made available to an adequate number of qualified sources to ensure fair and open competition. The notice must include the following minimum information:

1. A general description of the services or goods to be purchased.
2. Where to obtain a copy of the RFP.
3. The location, day, and time of the Pre-Proposal Conference (if one is held).
4. The location, last day, and hour proposals will be accepted (deadline).
5. Whether Federal funds are being used for the procurement.

D. RFP Packet

The Director of Procurement or designee will coordinate the release of the RFP packet. The RFP packet will include the following:

1. Instructions To Proposers – General instructions concerning the proposal format, pre-contractual expenses, contract conditions, pre-proposal conferences, and other information, including, but not limited to language stating that because offers can at times be ambiguous, Foothill Transit reserves the right to request additional information before making an award and also reserves the right to seek clarification from any proposer about any statement in its offer that Foothill Transit finds ambiguous. Foothill Transit may require proposers to raise exceptions to the contract terms on penalty of waiver of such exceptions during contract negotiation.
2. Attachments – Required forms to be completed by the proposer and submitted with the proposal.
3. Exhibits – These can be documents ~~which~~that display key facts, specifications, maps, report formats, and other important information to clearly define the goods or services needed in order for the proposers to properly respond to the RFP.
4. Contract Terms – These are the general terms and conditions and other provisions (e.g., contract time, special terms of the resulting contract; any modifications to general terms and conditions; milestones; and special payments procedures) that will form the basis of the contract between Foothill Transit and the successful Proposer.

5. Specifications and/or Scope of Work – Each RFP will contain specifications and/or a scope of work prepared by the Project Manager that provides a clear and accurate description of the technical requirements for the materials, products, or services being procured. The specifications and/or scope of work should only state the actual minimum needs of Foothill Transit and be developed in a manner designed to promote full and open competition. At a minimum, the specifications and/or scope of work should address the following areas:
 - a. The specific goods or objectives of the contemplated work.
 - b. A detailed description of the necessary characteristics of the goods or the work to be performed outlining various tasks or phases of work, and defining the limits of the proposed project.
 - c. A requirement for periodic reporting or progress on the project if the procurement involves consultant or professional services.
 - d. A proposed delivery schedule.

E. Control Record

1. A control record will be maintained by the Procurement Department as RFP packets are distributed to prospective proposers. The control record profiles the following information:
 - a. Date and time RFP packets are distributed.
 - b. Names and addresses of vendors receiving the RFP and attending the pre-proposal conference.
2. The control record has two primary purposes:
 - a. Serves as a mailing list for the issuance of addenda.
 - b. Provides a record for verification in cases of vendor protests and other issues.

F. Pre-Proposal Conference

1. A pre-proposal conference may be used as a means of briefing prospective proposers and explaining complicated specifications and requirements to them as early as possible after the RFP has been issued and before the proposals are received. The pre-proposal conference will not be used as a substitute for amending a defective or ambiguous RFP. Unless otherwise stated in the RFP documents, attendance by

prospective proposers is not mandatory. The list of attendees will be issued to all prospective proposers.

2. The pre-proposal conference shall be chaired by the Director of Procurement or his or her designee and shall follow the format below:
 - a. Discuss basic requirements such as instructions to the proposers, funding, contract type, evaluation criteria, and specific points that should be addressed in each proposal.
 - b. Discuss the participation requirements for disadvantaged business enterprises (DBE), if applicable.
 - c. Discuss the specifications and/or scope of work. The Project Manager should be available to answer technical questions.
 - d. Conclude by announcing when and where the proposals are due and by restating any specific limits on proposals (page length, etc.).

G. Addenda to the RFP

1. If after issuance of the RFP, but before the time set for receipt of proposals, it becomes necessary to make changes in quantities, specifications, delivery schedules, opening dates, etc. or to correct or clarify a defective or ambiguous RFP, such changes shall be accomplished by issuance, in writing, of an addendum to the RFP. Before issuing an amendment to an RFP, the period of time remaining until the time set for proposal submittal and the need for extending this time must be considered. Where only a short time remains, consideration should be given to notifying prospective proposers of an extension of time by email or telephone. Such notification should be confirmed in the addendum. The addendum shall be sent to each prospective proposer to whom the RFP was furnished or who attended any site visit and/or pre-proposal conference.
2. Any information given to a prospective proposer concerning an RFP shall be furnished promptly to all other prospective proposers as an addendum to the RFP if such information is necessary to proposers in submitting proposals or if the lack of such information would be prejudicial to uninformed proposers. No award shall be made on the RFP unless such addendum has been issued in sufficient time to permit all prospective proposers to consider such information in submitting or modifying their proposals.
3. The RFP will indicate that Foothill Transit is not bound by any oral representations, clarifications, or changes made in the written specification by Foothill Transit's employees, unless such clarification or

change is provided to potential proposers in written addendum form from Foothill Transit.

4. Each addendum issued to an RFP shall:
 - a. Be serially numbered and dated.
 - b. Include the number, date, and a description of the RFP at issue.
 - c. Clearly state the changes made in the RFP and the extension of the due date, if any.
 - d. Include instructions to proposers for acknowledging receipt of the addendum and information concerning the effect of failure to acknowledge or return the addendum.

H. Cancellation of the RFP

RFPs shall not be canceled unless cancellation is clearly in Foothill Transit's interest (i.e., where there is no longer a requirement for the service, or where addenda to the RFP would be of such magnitude that a new RFP is desirable). When an RFP is canceled, proposals which have been received shall be returned unopened to the proposers and a notice of cancellation shall be sent to all prospective proposers to whom RFPs were issued.

The notice of cancellation shall identify the RFP number; briefly explain the reason the RFP is being canceled; and, where appropriate, assure prospective proposers that they will be given an opportunity to propose on any re-solicitation or any further requirements for the type of service involved.

I. Receipt of Proposals

Proposals shall be submitted so as to be received at the location designated in the RFP not later than the exact time set for the receipt of proposals. The only acceptable evidence to establish the time of receipt at Foothill Transit's offices is the time/date stamp of Foothill Transit which shall be placed on the proposal wrapper immediately upon receipt. The Foothill Transit staff person receiving the proposal shall sign the exterior of the proposal package to verify the date and time received and person receiving the proposal. The timeliness of proposals is the sole responsibility of the proposer.

J. Withdrawal of Proposals

Any proposer may withdraw its proposal, either personally or by written request received by Foothill Transit, at any time prior to the time fixed for the receipt of the proposals. Negligence on the part of a proposer in preparing its proposal confers no right of withdrawal of the proposal after such proposal has been opened. The RFP shall set forth the time period within which proposals must

remain open following the date set for receipt of proposals. Unless justified by the circumstances of a particular procurement, the RFP shall provide that proposals remain open for a period of 120 days following the date set for receipt of proposals.

K. Format of Proposal

The response to each RFP must be made in accordance with the requirements set forth in the RFP, both for mandatory content and for sequence. Noncompliance on the inclusion of conditions, limitations, or misrepresentations may be cause for rejection of a proposal.

L. Evaluation of Proposals

1. Each RFP will contain the Evaluation Criteria that will be used by Foothill Transit in evaluating proposals. These criteria shall be set forth in the RFP in order of their relative importance, with the most important being listed first. To reflect this, each criterion will either be scored using an equal score range (equal weighing) or each criterion will be assigned a weight. If a weight is assigned, each score will be multiplied by the weight to produce a final criterion score. Price is always included as an evaluation criterion. (If conducting a qualifications-based procurement, i.e., an RFQ, price is excluded as an evaluation factor.). The RFP will set forth the particular method by which price will be evaluated. Only criteria set forth in the RFP may be used to evaluate the proposal.
2. If the RFP sets forth "Minimum Requirements Criteria", a "pass/fail" evaluation will be made of the proposal to determine compliance with the "Minimum Requirements Criteria." Failure in any one of the "pass/fail" criteria may be cause for disqualifying the entire proposal from further review. However, Foothill Transit's evaluation may, in the Director of Procurement's discretion, be corrected by verbal or written requests to proposers for clarification, or additional information as necessary to determine if the "Minimum Requirements Criteria" have been met. The determination to disqualify a proposal shall be solely at the discretion of the Director of Procurement.
3. Proposals that "pass" the "pass/fail" test are evaluated using the procedures set forth in this section.
4. An evaluation committee for each RFP will be recommended by the Director of Procurement in consultation with the Project Manager and appointed by the Chief Executive Officer. In appointing individuals to the Evaluation Committee, the Chief Executive Officer will consider the nature of the procurement and the appropriate expertise of the individuals recommended for appointment.

5. A date and time for an evaluation meeting will be set.
6. Members of the Evaluation Committee shall be familiar with the content of the RFP. Any questions on the RFP or documentation furnished by a proposer shall be addressed to the Director of Procurement prior to initiation of evaluations.
7. The Evaluation Committee shall first perform a technical evaluation of each proposer's proposal using the evaluation score sheets provided by the Director of Procurement.
8. Upon compilation of the Evaluation Committee's initial scores, the Director of Procurement shall review the scores, determine whether discussions are necessary or if award may be made based on initial proposals, and if discussions are to be conducted, define the competitive range and determine which proposers fall within the competitive range for purposes of conducting discussions.
9. The competitive range shall be defined based on the evaluation factors and criteria set forth in the RFP and shall include all proposals that have a reasonable chance of being selected for award. The competitive range shall not be used to unfairly eliminate proposers. If discussions are conducted with one proposer, discussions must be conducted with all proposers within the competitive range.
10. Discussions after receipt of initial proposals is not required in the following cases:
 - a. The Director of Procurement determines that evaluation and award may be made based on initial proposals alone;
 - b. Procurement is for supplies for which prices or rates are fixed by law or regulation;
 - c. Time for delivery will not permit discussions; or
 - d. The procurement is for a product and, due to the existence of adequate competition or accurate prior cost experience, it can be clearly demonstrated that acceptance of an initial proposal would result in a fair and reasonable price.

M. Discussions

1. The Evaluation Committee may conduct oral discussions with all proposers who submit proposals within the competitive range, as determined in subsection L. During the discussion phase of the source

selection process, all communication is coordinated through the Director of Procurement.

2. The discussion process is governed by the following general guidelines.
 - a. Notify all proposers regarding their status and arrange a meeting with those proposers who have been determined to be within the competitive range.
 - b. Verbally at the meeting and in written form advise proposers of deficiencies in their proposals so that the proposers are given an opportunity to satisfy Foothill Transit's requirements.
 - c. Attempt to resolve any uncertainties concerning the proposer's technical proposal and other terms and conditions of the proposal.
 - d. Resolve any suspected mistakes by calling such mistakes to the proposer's attention as specifically as possible without disclosing information contained in other proposals or regarding the evaluation process.
 - e. Provide the proposer a reasonable opportunity to submit any cost or price, technical, or other revisions to its proposal that may result from the discussion.
3. During the discussion, the Evaluation Committee should not engage in:
 - a. Technical leveling, defined as helping a proposer bring its proposal up to the level of other proposals through successive rounds of discussion, such as pointing out weaknesses resulting from the proposer's lack of diligence, competence, or inventiveness in preparing the proposal.
 - b. Technical transfusion, defined as disclosure of technical information pertaining to a proposal that results in improvement of a competing proposal.
 - c. Auction techniques, such as:
 - i. Indicating to a proposer the cost or price that it must meet to obtain further consideration.
 - ii. Advising a proposer of its price standing relative to another proposer; however, it is permissible to inform proposer that its cost or price is considered by the Evaluation Committee to be too high or unrealistic.

- iii. Otherwise furnishing information about other proposer's prices.

N. Request for Best and Final Offer (BAFO)

1. Upon completion of discussions, Foothill Transit may make a selection for contract award without requesting BAFOs or may issue to all proposers within the competitive range a request for a final supplement denominated the "Best and Final Offer"(BAFO). Oral requests for BAFOs shall be confirmed in writing.
2. BAFOs must be submitted in accordance with written procedures received from Foothill Transit advising proposers that:
 - a. Negotiations are being concluded.
 - b. Proposers are being asked for their "best and final" offer, not merely to confirm or reconfirm prior offers.
 - c. Any revision or modification of proposals must be submitted by the date specified.

O. Recommendation for Contract Award

1. Following the review of the initial proposals, results of discussions, and/or BAFOs by the Evaluation Committee, the Director of Procurement shall consolidate the cost and technical evaluations and all score sheets along with the Committee's comments and recommendations.
2. After reviewing the evaluations and recommendation made by the Evaluation Committee, the Chief Executive Officer shall make a determination of the recommendation for contract award.

P. Award of the Contract

1. After evaluation of proposals in accordance with the criteria set forth in the RFP, the contract shall be awarded to the proposer whose proposal is most advantageous to Foothill Transit, price and other factors considered.
2. If Executive Board approval is not required, Foothill Transit will notify all unsuccessful proposers of its intent to award a contract to the successful proposer at the same time it notifies the successful proposer. If Executive Board approval is required, Foothill Transit will notify the recommended successful proposer and the unsuccessful proposers of the recommendation at the same time as the publication of the Board agenda.

3. Notification to unsuccessful and successful proposers will be made by over-night delivery or email.

Q. Final Award

1. If Executive Board approval is required for contract award, the Project Manager, in consultation with the Director of Procurement, shall prepare the Board Report. The Board Report shall describe the procurement and evaluation process, set forth the evaluation scores for each proposer, describe the services or goods being procured, include a tabulation chart of all proposers and prices received, and contain the Chief Executive Officer's determination of the recommendation for contract award.
2. The Executive Board shall vote to accept or reject the Chief Executive Officer's determination of the recommendation for contract award. If the Executive Board rejects the Chief Executive ~~Director~~Officer's recommendation for contract award, the Executive Board shall state the reason(s) for rejecting the recommendation and take one of the following actions: (1) choose another proposer using the same evaluation criteria set forth in the RFP; or (2) direct re-solicitation of proposals.
3. If the Executive Board elects to choose another proposer, each Executive Board member shall become familiar with the content of the final RFP. Any questions regarding the RFP, the Proposals, or any documentation furnished by a proposer shall be addressed to the Director of Procurement prior to the Executive Board's initiation of evaluations. Each Executive Board Member shall perform a technical evaluation of each proposer's Proposal using evaluation score sheets substantially similar to those used by the Evaluation Committee, which will be provided by the Executive Board Chair, who may be assisted by the Director of Procurement. All Executive Board Members' evaluations shall be performed in accordance with these policies and procedures, the RFP, and applicable regulations and laws. The Executive Board Chair, with the assistance of the Director of Procurement, shall then review the scores and determine the successful proposer for contract award.
4. Executive Board approval of contract award shall authorize the Chief Executive Officer to negotiate final terms and conditions and enter into an agreement with the successful proposer. The contract will be reviewed by Counsel who will ensure that the contract will not include any terms or conditions to be negotiated in the future. The Director of Procurement will ensure that any contract addressing such terms and/or conditions will not be signed. The Director of Procurement will ensure that the contract is signed at the approval level required in these procedures.
5. Each contract will be signed by Foothill Transit and the contractor. As used in this Policy and Procedures Manual, the word "signed" shall be

deemed to include original “wet” ink signatures and portable document format (.pdf) or electronic signatures. If wet ink originals are obtained, the Procurement Department will maintain an original of the contract for the procurement file and if requested by the contractor, will distribute one original to the contractor. Copies will be distributed to Counsel, the procurement file, and the Project Manager and, if necessary, to the contractor.

Prior to signing a contract containing only a .pdf or electronic signature of the contractor, Foothill Transit shall ensure that the contract includes language confirming that .pdf or electronic signatures are permissible and have the same force and effect as originals for all purposes. If the contract does not contain this language, Foothill Transit shall ensure that the contract and each amendment or modification thereto is signed with a wet-ink signature.

R. Debriefing of Unsuccessful Proposers

1. When a contract is to be awarded on some basis other than price alone and an unsuccessful proposer submits to the Director of Procurement a written request for a debriefing within a reasonable time, Foothill Transit shall provide a debriefing. Foothill Transit shall provide the debriefing at the earliest time after a final determination is made regarding contract award. The debriefing shall be conducted by the Director of Procurement and may be either oral or written as the Director of Procurement determines appropriate.
2. The debriefing shall:
 - a. Be limited to discussion of the unsuccessful proposer’s proposal and must not include specific discussion of a competing proposer’s proposal.
 - b. Be factual and consistent with the evaluation of the unsuccessful proposer’s proposal; and
 - c. Provide information on areas in which the unsuccessful proposer’s technical proposal was deemed weak or deficient.

S. Project Completion

All original documentation related to each procurement such as the RFP, successful proposal, BAFO, control record, Board Report, background data, evaluation criteria and scores, and meeting reports/notes will be submitted to the Director of Procurement for storage when the file becomes inactive. For audit purposes, complete files will be maintained for a minimum of four years after the

project is closed out and completed unless a different time period is mandated by a funding entity.

Negotiated procurement records or files should provide at least the following pertinent information: justification for the use of negotiation in lieu of competitive bidding; contractor selection; justification for contract type; determination and findings; record of negotiations; and cost or price analysis.

**Subchapter E – Special Procedures for Request for Qualifications (RFQ) –
Architectural/Engineering Services**

- A. Special, formal procedures will be used for competitive negotiation procedures for the qualifications-based procurement of Architectural and Engineering (“A/E”) services and related services such as program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, or related services. An RFQ is used in the solicitation of A/E and related services.
- B. Following this method, each proposer’s qualifications are evaluated and the most qualified proposer is selected subject to negotiation of fair and reasonable compensation. Foothill Transit may not consider price as an evaluation factor in determining the most qualified proposer. Negotiation is conducted with only the most qualified proposer. This method can only be used in procurement of the above services. It cannot be used to obtain other types of services even though firms that provide the above types of services are also potential sources to perform other services.
- C. Refer to the RFP procedures above for all pre-evaluation activities, as well as debriefing, final award, and project completion. The steps to be used for submittal evaluation and contract negotiation for A/E and related services solicitations are as follows:
 - 1. An evaluation committee will be recommended by the Director of Procurement in consultation with the Project Manager and appointed by the Chief Executive Officer to review eligible firms and all responses to the RFQ.
 - 2. The Evaluation Committee will evaluate eligible firms based on factors and criteria set forth in the RFQ, which may include the following:
 - a. Professional qualifications for performance of the required services;
 - b. Specialized experience and technical competence in the type of work required;
 - c. Experience and professional qualifications of the firm’s staff to be assigned to the project;
 - d. Location of the main office of the proposing firm and its consultants (provided such consideration does not unduly limit competition);
 - e. Analysis of the firm’s current workload and capacity to accomplish the work in the required time; and
 - f. Overall performance record of the firm.
 - 3. The Evaluation Committee will hold discussions with the most highly qualified firms (“short list”).

4. The Evaluation Committee will prepare a selection report for the Chief Executive Officer recommending, in order of preference, those firms that are considered to be the most highly qualified to perform the required services. The report should include a description of the discussions and evaluations by the team to allow the Chief Executive Officer to review the basis upon which the recommendations were made. The Chief Executive Officer shall not add firms to the selection report. If recommended firms are deemed to be unqualified or the report is inadequate, the Chief Executive Officer shall document the reasons therefore and return the report to the evaluation team for appropriate revision.
5. The final selection shall be made by the Chief Executive Officer from a list of the most highly qualified firms prepared by the Evaluation Committee. The Chief Executive Officer will list those firms in order of preference for negotiating a contract.
6. After the final selection has taken place, Foothill Transit may release information identifying only the A/E firm with which an attempt will be made to negotiate a contract price. If negotiations are terminated without awarding a contract to the highest rated firm, Foothill Transit may release information that negotiations will take place with the next highest rated firm.
7. The final selection authorizes negotiations to begin with the most qualified firm, which will be requested to submit a proposal that includes fees and cost estimates.
8. The negotiation of compensation to the contractor should represent a fair and equitable payment for the services performed. At this stage, negotiations must take place not only on the amount of compensation, but also the method of payment.
9. In determining the amount of compensation and the method of payment, consideration shall be given to:
 - a. Scope and complexity of designs, surveys, and other work and the skills necessary for these services.
 - b. Quality and quantity of data provided to the A/E by Foothill Transit.
 - c. Location of, and conditions under which, the services will be performed.
 - d. Date services are to begin and time allowed for performance.
10. Costs should be negotiated taking into consideration:
 - a. Direct Labor.
 - b. Overhead.

- c. General and administrative expenses.
 - d. Materials.
 - e. Other direct costs.
 - f. Profit, which is further influenced by:
 - i. Degree of A/E's risk.
 - ii. Level of effort.
 - iii. Level of talent or expertise the A/E must furnish.
 - iv. Amount of subcontracting.
 - v. Amount of top level A/E management involved.
 - vi. Subcontracts.
 - vii. Contractor's investment.
11. When the contract is negotiated and signed, the negotiations shall be documented and placed in the file.
12. The contract shall be monitored to ensure that expenditures and payments are commensurate with performance and meet all the terms of the contract.
13. The contractor is responsible for the professional quality, technical accuracy, and coordination of all services under the contract. The contractor may be liable to Foothill Transit for costs resulting from errors or deficiencies in design furnished under the terms of the A/E contract.

Subchapter F – Sole Source Procurements

- A. A sole source procurement is a noncompetitive procurement method. Sole source procurement is a purchase accomplished through solicitation or acceptance of a proposal from only one source; or, if after solicitation of a number of sources, competition is determined inadequate. A sole source procurement above the micro purchase threshold must be documented as to the reasons why only one supplier is acceptable. Purchases under \$10,000 are considered micro purchases and are exempt from the requirement to obtain competitive quotes or process a sole source justification. The Director of Procurement will ensure that the Project Manager utilizes the Procurement Department's sole source form in evaluating a potential sole source procurement and in making a recommendation that a sole source procurement be utilized by Foothill Transit. The Project Manager must fully document the grounds for the sole source procurement, and the Director of Procurement will ensure that the justification is provided to the Chief Executive Officer or Executive Board for approval as appropriate. The Director of Procurement will also ensure that the completed form is included in the procurement file.
- B. The following areas must be considered in sole source determinations:
1. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement.
 2. A sole source procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
 - a. Single Source

The item or services sought is available only from a single source and one of the following condition described below is present:
 - i. Unique Capability or Availability. The offeror demonstrates 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 Foothill Transit only from one source and has not in the past been available to Foothill Transit from another source.
 - ii. Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.

- iii. 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.
 - iv. Unacceptable Delay. 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 unacceptable delays in fulfilling Foothill Transit's needs.
 - b. Unusual and Compelling Urgency. Foothill Transit may limit the number of sources from which it solicits bids or proposals when it has such an unusual and urgent need for the property or services that it would be seriously injured unless it were permitted to limit the solicitation. Foothill Transit may limit the solicitation when the public exigency or emergency will not permit a delay resulting from publicizing a competitive solicitation for the property or services.
 - c. FTA Approval. The Federal Transit Administration authorizes noncompetitive negotiations.
 - d. Inadequate Competition. After solicitation of a number of sources, competition is determined inadequate. If upon completion of a competitive procurement only one proposal is received, the Director of Procurement will review the specifications and determine if they were unduly restrictive or contact sources that chose not to submit a bid or proposal to inquire the reasons for not submitting a bid or proposal. If it is determined that the competition was inadequate, the procurement can proceed as a sole source.
- C. A cost analysis must be performed for each sole source procurement if price reasonableness cannot be determined via a price analysis. The purpose of the analysis is to provide sufficient information to support the conclusion that the price is fair and reasonable. The analysis will be prepared by the Project Manager in consultation with the Director of Procurement. The Director of Procurement will ensure that no contracts will be signed until a fully detailed and documented analysis is completed and made a part of the appropriate procurement file. The Director of Procurement will ensure that a pre-approved form relating to cost analysis is utilized and completed by the Project Manager for each sole source procurement action undertaken by Foothill Transit. The Director of Procurement will also ensure that the completed template is included in the procurement file.

Subchapter G – Single Bid or Proposal

A single bid situation exists when only one bid has been received at the time and date set for bid opening; or only one responsive bid is received at the time and date set for bid opening (as a result of having only one responsive bidder and all other bidders being determined to be non-responsive). A single proposal situation exists when only one proposal has been received at the time and date set for submission of proposals; or it is determined after review of proposals received that only one proposal meets the criteria set forth in the request for proposals.

When only one bid or proposal is received in response to a solicitation that was issued to multiple sources, it must first be determined if there was adequate competition. The receipt of only one bid or proposal does not, in itself, mean that competition was inadequate. At a minimum, to determine if there was adequate competition, bidders/proposers who received solicitations, but did not bid/propose, will be contacted by the Director of Procurement and questioned to determine why they did not respond to the solicitation. Potential bidders/proposers will be specifically queried as to whether there were any elements in the procurement ~~which~~that may have restricted competition. The Director of Procurement will ensure that documentation reflecting the above process is included in the procurement file. Upon completion of the above process, the Director of Procurement will determine whether there were any elements in the procurement that may have restricted competition and will determine whether the procurement documents should be modified and the solicitation re-advertised or whether the procurement can go forward as originally advertised. If this is the case then the procurement is treated as a sole source, and it must be processed in accordance with the requirements for a sole source procurement set out in these Procedures.

Alternatively, the original solicitation can be cancelled, the requirements in the original solicitation can be changed to allow for more bids or proposals, and a new invitation for bids or request for proposals issued.

If the reasons given by the non-responders are unrelated to the specification and/or solicitation terms, it will be presumed that competition was adequate and the award of the contract can be carried out as the result of a competitive procurement.

If the competition is deemed to be adequate, a price analysis must be performed to determine the reasonableness of the bid or proposal price. The Project Manager, in consultation with the Director of Procurement will prepare the price analysis. If, on the basis of a price analysis, it can be documented that the price is fair and reasonable, and if the bid is responsive and, as appropriate, the bidder or proposer is responsible, the contract may be awarded. If it cannot be determined that the bid or proposal price is reasonable on the basis of a price analysis, the bidder or proposer will be requested to provide a detailed breakdown of costs and profit, and Foothill Transit will perform a cost analysis.

If competition is deemed to be inadequate, and it is determined appropriate to process the award as a sole source, a cost analysis must be performed unless the reasonableness of the price can be established based on a bidder or proposer's catalogue or market price.

Subchapter H – Emergency Procurements

Emergency procurements (defined as purchases immediately necessary for the preservation of life or property, or to prevent an immediate termination of a critical Foothill Transit function or activity) will be handled immediately and expedited as required. The Director of Procurement has the authority to approve the purchase of all goods and services in emergency conditions. If the Director of Procurement is unavailable to authorize an emergency procurement, the Chief Executive Officer and/or the Deputy Chief Executive Officer may provide the necessary authorization. Upon completion of the emergency procurement, the Director of Procurement will document the actions taken and execute a proper requisition.

Subchapter I – Unsolicited Proposals

- A. An Unsolicited Proposal is a proposal that is:
1. Innovative and unique;
 2. Independently originated and developed by the offeror;
 3. Prepared without Foothill Transit's supervision, endorsement, direction, or direct involvement;
 4. Sufficiently detailed such that its benefits in support of Foothill Transit's mission and responsibilities are apparent;
 5. Not an advance proposal for property or services that Foothill Transit could acquire through competitive methods; and
 6. Not an offer responding to a published expression of need or request for proposals previously published by Foothill Transit.

- B. Receipt of an unsolicited proposal does not, by itself, justify contract award without providing for full and open competition. Unless the unsolicited proposal offers a proprietary concept that is essential to contract performance, competition is required.

To satisfy the requirement for full and open competition, the following actions must be taken before Foothill Transit enters into a contract resulting from an unsolicited proposal:

1. Publicize receipt of the unsolicited proposal.
2. Publicize an adequate description of the property or services offered without improperly disclosing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought.
3. Publicize Foothill Transit's interest in acquiring the property or services described in the proposal.
4. Provide an adequate opportunity for interested parties to comment or submit competing proposals.
5. Publicize Foothill Transit's intention to award a contract based on the unsolicited proposal or another proposal submitted in response to the publication.

- C. If it is impossible to describe the property or services offered without revealing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought, Foothill Transit may make a sole source award to the offeror. A sole source award may not be based solely on the unique capability of the offeror to provide the specific property or services proposed.

Subchapter J – Bilateral Changes and Unilateral Change Orders

- A. A change to a contract alters the terms and conditions of the original contract or provides for a change in the scope or requirements of the original contract beyond what is specifically allowed by the original contract. A contract may not be changed to include a larger scope, greater quantities, or options beyond Foothill Transit's reasonably anticipated needs.
- B. Foothill Transit shall have the right, based on a clause contained in each contract, to agree to a bilateral change to the contract to correct errors, omissions, or discrepancies; to cover acceptable overruns; to expand or reduce the scope of the contract; or to direct other changes in contract execution to meet unforeseen field, regulatory, or market conditions. All changes must be within the scope of the original contract and agreed to by Foothill Transit in advance of work being conducted by the contractor. In addition, Foothill Transit shall have the unilateral right, based on a clause contained in each contract, to issue an immediate, unilateral change order and negotiate cost and price for time and materials after the issuance of the change order.
- C. A change is not permitted if the change 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. Such a change would be considered a "cardinal change" to the contract.
- D. All proposed bilateral changes shall be submitted to the Director of Procurement complete with explanations and back up information and, when applicable, a detailed breakdown of charges for review and/or recommendation of approval.
- E. Verification of Bilateral Changes

The Director of Procurement will verify all bilateral changes under the following procedures:

- 1. The Project Manager and the Director of Procurement will review the proposed contract amendment that will incorporate the change and determine whether it is within the scope of work for the project of the original contract. If the work under the amendment is within the scope of work of the original contract, the Project Manager in consultation with the Director of Procurement will perform a price or cost analysis to determine if the price is fair and reasonable before recommending approval of the amendment.

2. If the amendment includes work that is not within the scope of work of the original contract, the amendment will be treated as a sole source procurement and evaluated accordingly. Supporting documentation will be added to the procurement files.
3. The Director of Procurement and the Project Manager will ensure that the methods of calculating the amount of the amendment are in conformance with the terms of the contract.
4. The issuance of bilateral changes for each individual contract shall be monitored by the Director of Procurement.

E. Issuance of Unilateral Change Orders

The Chief Executive Officer will issue unilateral change orders under the following procedures:

1. The Project Manager will draft the proposed change order.
2. The Director of Procurement will review the proposed change order and determine whether it is within the scope of work for the project of the original contract.
3. If the proposed change order includes work that is not within the scope of work of the original contract, the amendment will be treated as a sole source procurement and evaluated accordingly. Supporting documentation will be added to the procurement files.
4. The Chief Executive Officer shall review and issue the change order if he or she approves of the proposed change order.
5. After issuance of the proposed change order, the Project Manager shall commence negotiation of cost and price of the change order.

Subchapter K – Use of an Existing Contract

- A. An “existing contract” means a contract that, when formed, was intended to be limited to the original parties thereto. An existing contract is not a State or local government purchasing schedule or purchasing contract. The use of “tag-ons” (the addition of work, supplies, equipment, or services) by Foothill Transit that are beyond the scope of the original contract is prohibited.
- B. Within the conditions set forth below, Foothill Transit is permitted to use existing contract rights held by another.
 - 1. Foothill Transit may use contract options held by another with the following limitations:
 - a. Foothill Transit must ensure that the terms and conditions of the option it seeks to exercise are substantially similar to the terms and conditions of the option as stated in the original contract at the time it was awarded.
 - b. The underlying contract complies with applicable requirements and includes an assignability clause with a clear right to assign and that the quantities that will be purchased are allowable under the original contract terms.
 - c. The domestic content requirements in the original contract meet the current requirements.
 - d. Foothill Transit may not exercise an option unless it has determined that the option price is better than prices available in the market, or that when it intends to exercise the option, the option is more advantageous.
 - 2. Prior to using the contract options held by another, Foothill Transit shall obtain a complete procurement file for the underlying procurement from the assigning entity.
- C. Assignment of Contract Rights
 - 1. Foothill Transit is required to limit its procurements to the amount of property and services required to meet its reasonably expected needs without adding excess capacity simply for the purpose of assigning contract rights to others at a later date. Foothill Transit must be able to justify the quantities it procures.
 - 2. Foothill Transit may assign its contract rights to others if the original contract contains an assignability provision that permits the assignment of

all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions.

Subchapter L – Options

In awarding a contract that will include options, Foothill Transit will 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. When an option is exercised, the Director of Procurement will ensure that the exercise of the option is in accordance with the terms of the original contract, and that a cost or price analysis is conducted as appropriate to determine if the option price is better than prices available in the market at the time that the option is to be exercised, or that the option price is more advantageous to Foothill Transit at the time that the option is exercised. The Director of Procurement will also ensure that responsibility checks are carried out on any option exercise.

Option quantities, periods, and terms identified in a bid or proposal will be evaluated by the Project Manager or the Foothill Transit evaluation team at the time that the bid or proposal is evaluated and prior to the award of the base contract.

A record of the above actions will be documented in the procurement records.

Subchapter M – Intergovernmental and Joint Procurement Agreements

Foothill Transit is authorized to use cooperative purchasing agreements such as California Multiple Award Schedules (CMAS), National Association of State Procurement Officials (NASPO) ValuePoint, Sourcewell cooperative contracts, and other cooperative purchasing methods, including purchasing schedules, both federal and from other states. These offer goods and services to various state and local government agencies at prices which are fair, reasonable, and competitive. Under these methods, Foothill Transit is responsible for its own contracting program and purchasing decisions.

Under CMAS, the contractor offers to provide products or services at a price equal to or lower than the Federal GSA multiple award schedule. For CMAS, the State of California adds standard contract terms and conditions which result in a CMAS contract. It is the option of the contractor whether or not to allow a local government such as Foothill Transit to use their CMAS contract. This is not a competitive bid process, and Foothill Transit may use any criteria to assess the offers and select the awarded contractor.

Federal funds may be used for certain types of cooperative purchases. Foothill Transit shall consult with Counsel prior to initiating a cooperative purchase using Federal funds. Federal law requires that any cooperative purchase contract using Federal funds be limited as follows: (1) the initial contract term may not be for more than two (2) years; (2) the contract may not include more than three (3) optional extensions for terms of not more than one (1) year each; and (3) the contract may not be in effect for a total period of more than five (5) years, including each extension.

Cooperative agreements that utilize a catalog approach where multiple vendors/resellers offer the same product at a maximum price point will require that three or more quotes are obtained prior to award. Cooperative agreements that have publicly and openly competed procurements where one vendor has been selected as the sole awardee will not require multiple quotes. A cost or price analysis is still required for cooperative procurements.

Foothill Transit may jointly procure goods and services with other entities. When obtaining goods or services in this manner using Federal funds, the Director of Procurement shall ensure that Federal requirements, required clauses, and certifications are properly followed and included in the resulting joint solicitation and contract documents.

Subchapter N – Independent Cost Estimates

An Independent Cost Estimate is required for any procurement action (including sole-source awards, contract modifications, and change orders) over the micro purchase threshold.

A. Construction Projects

Construction cost estimates will be developed either directly by the A/E firm responsible for design development of the project or by a subcontractor of the firm. The estimates received will be dated and made part of the procurement documentation. The Director of Procurement will ensure that the estimates are prepared prior to the issuance of an invitation for bids.

The estimates will be made part of the procurement documentation and will be utilized and compared to the actual bids received to determine the reasonableness of the bids.

B. Non-Construction Projects, Goods, or Services

Cost estimates for non-construction projects, goods, or services will be developed by the Project Manager as part of the development of procurement documents. The estimates will be made part of the procurement documentation and will be utilized and compared to the actual bids or price proposals received to determine the reasonableness of the bids or price proposals. At a minimum, the documentation will identify the source of information used to develop the estimate, the date that the estimate was made, and the individual preparing the estimate. The Director of Procurement will ensure that the estimates are prepared prior to the issuance of procurement documents.

C. Use of Form

The Director of Procurement will ensure that the Project Manager for each procurement action undertaken by Foothill Transit uses and completes a standard form approved by the Director of Finance. The Director of Procurement will also ensure that the completed form is included in the procurement file.

Subchapter O – Price or Cost Analysis

- A. Foothill Transit shall conduct a price or cost analysis in connection with every procurement action, including contract modifications. In most cases, the analysis may be limited for micro purchases and abbreviated for small purchases. If a valid price analysis cannot be completed, a cost analysis of the bid price may be conducted.

1. **Price Analysis** is the process of examining and evaluating a prospective price without evaluation of the separate cost elements or proposed profit of the prospective supplier.

Price analysis may be accomplished through one or more of the following activities:

1. Adequate price competition (exists when two or more responsible offerors compete independently and submit proposals deemed responsive to a solicitation, and there is no evidence that competition was restricted or that the lowest price is unreasonable).
2. Comparison to prices set by law or regulation, established catalog prices, or established market prices.

Prices Set by Law or Regulation should be established by a copy of the applicable rate schedules.

Established Catalog Price is a price included in a catalog, price list, schedule, or other form that (1) is regularly maintained by a manufacturer or vendor, (2) is published or made available for inspection by customers, and (3) states prices at which sales are currently or were last made to a significant number of buyers from the general public.

Established Market Price is a current price established in the usual and ordinary course of business between buyers and sellers free to bargain. A market price must be verified by buyers and sellers who are independent of the offeror.

3. Comparison to previous purchases (need to account for changes in quantity, quality, delivery schedules, and the economy, and analyze each differing situation through trend analysis; need to ensure that previous price was fair and reasonable).
4. Comparison to a valid independent cost estimate.

5. Value analysis.

2. **Cost Analysis** is the review and analysis of a contractor's cost or pricing data and of the factors applied in projection from the data to the estimated costs in order to form an opinion on the degree to which the contractor's proposed costs represent what performance of the contract should cost, assuming reasonable economy and efficiency. As compared to price analysis, cost analysis involves a more detailed review of the offeror's proposal and can be used where Foothill Transit has less assurance of a fair and reasonable price.

Cost analysis may be accomplished through the following:

1. Verify contractor's cost data.
2. Evaluate specific elements of costs and project these data to determine the effect on prices of such factors as:
 - a. The necessity for certain costs;
 - b. The reasonableness of amounts estimated for the necessary costs;
 - c. Allowances for contingencies; and
 - d. The basis used for allocations of particular overhead costs to the proposed contract.
3. When the necessary data is available, compare the contractor's estimated cost with:
 - a. Actual costs previously incurred by the contractor;
 - b. The contractor's last prior cost estimate for the same or similar estimates;
 - c. Current cost estimates from other possible sources; and
 - d. Prior estimates or historical costs of other contractors manufacturing the same or similar items.
4. Forecasting future trends in costs from historical experience:
 - a. In periods of either rising or declining costs, an adequate cost analysis must include some evaluation of the trends.
 - b. In cases involving recently developed, complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken.

In performing a cost analysis, there are three questions that should be asked in the examination of costs, particularly those in the overhead area:

1. Is the cost allowable in accordance with Federal guidelines?
2. Is the cost allocable to the particular project?; and
3. Is the cost reasonable?

A cost analysis conducted in support of a Federally-funded procurement action must comply with the cost principles set forth in 2 C.F.R. Part 200, Subpart E.

- B. The purpose of the price or cost analysis is to provide sufficient information to support the conclusion that the price is fair and reasonable. The appropriate analysis will be prepared by the Project Manager, in consultation with the Director of Procurement. The Director of Procurement will ensure that no contracts will be signed until a fully detailed and documented analysis is completed and made a part of the appropriate procurement file.
- C. If only one bid or proposal is received, the sole bidder or proposer must cooperate with Foothill Transit as necessary in order for its bid or proposal to be considered for award. A new solicitation may be issued if the single bid or proposal price appears unreasonable or if no determination is made as to the reasonableness of the single bid or proposal price.
- D. The Director of Procurement will ensure that a pre-approved form is utilized and completed by the Project Manager for each cost or price analysis. The Director of Procurement will also ensure that the completed form is included in the procurement file.
- E. Foothill Transit shall negotiate profit as a separate element of the price for each Federally funded contract where there is no price competition and in all cases where a cost analysis is performed. Establishment of a fair and reasonable profit must take into consideration the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- F. For each Federally funded contract which includes price or cost elements based on incurred or estimated costs, Foothill Transit shall ensure that the contract provides that payment of incurred or estimated costs is only permitted if such costs would be allowable for Foothill Transit under the Federal award.

Subchapter P – Design-Build Contracts

Public Contract Code §§ 22160, *et seq.*¹ provides state law authority for design-build procurements. Subject to changes in applicable law, the design-build method of project delivery may be used for transit capital projects with a projected contract award of \$1,000,000 or more. These are complex procedures requiring careful analysis and reviews as to their applicability and the specific procedures to be followed.

¹ California Pub. Con. Code § 22169 is effective only until January 1, 2025, and remains subject to further legislative amendments.

Subchapter Q – Demonstration (Pilot) Projects for Innovative Products, Approaches, or Technologies

A demonstration project is a short-term, carefully planned, pilot exercise designed to test and evaluate the feasibility and application of an innovative product, approach, or technology not currently used by Foothill Transit. Demonstration projects will allow Foothill Transit to observe and analyze effectiveness and efficiency of the innovative product, approach, or technology without a large commitment of resources. Demonstration projects may be initiated by an unsolicited proposal or by Foothill Transit on its own initiative. A demonstration project may result in a procurement if Foothill Transit determines that the piloted product, approach, or technology should be fully implemented at Foothill Transit.

Demonstration projects shall not be considered for public works/construction (as defined in Article 3.5 of the California Public Contract Code) projects or for projects involving Architectural and/or Engineering services. Demonstration projects shall not be considered in connection with Federal funding unless such funding is specifically authorized for use on such demonstration project.

A. Preliminary Discussions

Foothill Transit may engage in preliminary discussions with a vendor to explore the feasibility of a proposed demonstration (pilot) project. Discussions are not negotiations for the award of a contract. A summary of these discussions shall be documented and retained in the contract file.

B. Determination

Prior to entering into negotiations for the award of a contract for a demonstration project, the Chief Executive Officer shall make a determination stating that:

1. Testing or experimentation is advisable to evaluate the service or reliability of an innovative product, approach, or technology;
2. The product, approach, or technology cannot be reasonably acquired for evaluation through a competitive solicitation;
3. The product, approach, or technology is not currently in use by Foothill Transit;
4. The results of the demonstration project shall be documented and made publicly available on Foothill Transit's website upon its conclusion;

5. There is an intent to competitively acquire the product, approach, or technology if, after testing and evaluation, a decision is reached to continue its use within Foothill Transit; and
6. Any outside funding relied upon to justify the award of the contract pursuant to this subchapter has been documented.

C. Notice of Intent

1. Notice of intent to enter negotiations for a demonstration project shall be published on Foothill Transit's website for at least seven days before entering into negotiations with the vendor. The notice shall remain on Foothill Transit's website until expressions of interest are due.
2. Such notice shall include: (i) title and/or brief description of the goods or services to be procured; (ii) name of the proposed vendor; (iii) a summary of the determination made pursuant to subsection B above; (iv) how vendors may express their interest in providing such goods or services; and (v) the due date for expressions of interest, which shall be no sooner than five days after the posting of the notice.

D. Evaluation of Interest

Upon evaluation of expressions of interest received, if any, the Chief Executive Officer shall make a determination of how to proceed, which shall include the basis for such determination. Where it appears that the product, approach, or technology is already competitively available in the marketplace, the Chief Executive Officer may determine that a competitive solicitation may be issued; or, if it appears that the product, approach, or technology can be reasonably evaluated using short-term contracts with more than one vendor, the Chief Executive Officer may determine that negotiations to establish such demonstration projects may be conducted with more than one vendor; or negotiations may proceed with the single vendor originally identified.

E. Negotiations

After completing negotiations, the Chief Executive Officer shall award the contract if it is determined that the award will be in Foothill Transit's best interest and that the price is fair and reasonable.

F. Award

The Chief Executive Officer has the authority to award a demonstration project contract under \$100,000. A demonstration project contract of \$100,000 or more must be awarded by the Executive Board.

G. Contract Term

Contracts for demonstration projects should be for a term that is reasonable both to conduct the demonstration and to determine its effectiveness. The term of the demonstration project shall not exceed one (1) year, unless the Chief Executive Officer determines that the effectiveness of the product, approach, or technology cannot be evaluated in one (1) year.

In order to enter into a multi-year contract, the Chief Executive Officer shall make a determination setting forth with specificity:

1. Why the effectiveness of the product, approach, or technology cannot be evaluated in one (1) year; and
2. How the proposed term of the contract was determined. In making such determination, the Chief Executive Officer may consider whether it would be in Foothill Transit's best interest to ensure that no break in the provision of services occurs at the end of the demonstration project, if successful. If the Chief Executive Officer makes such a determination, the Chief Executive Officer should establish an initial term that is long enough to allow for the subsequent solicitation of those services at the conclusion of the project's evaluation.

H. Notice of Award

1. Award of contracts pursuant to this Subchapter shall be published on Foothill Transit's website in a location that is accessible by the public following award of the contract.
2. Such notice shall include: (i) title and/or brief description of the goods or services procured; (ii) name of the vendor; (iii) dollar value of the contract; (iv) the date of the published notice of intent to enter into negotiations for the award of a contract from a demonstration project; (v) a summary determination of the basis for the demonstration project; and (vi) the term of the contract and the date before which Foothill Transit will determine whether to competitively acquire or discontinue use of the product, technology, or approach.

I. Conclusion of Demonstration Project

At the conclusion of the demonstration term, based upon documented results of the project, Foothill Transit shall make a determination, including the reasons therefore, whether to competitively acquire or to discontinue the use of the product, approach, or technology.

CHAPTER IV – PURCHASE ORDERS

A. Purchase Order Process / Requirements

1. Purchase Orders can be issued for the purchase of good or services. The issuance of a purchase order requires the approval of the Department ~~Director~~Head and/or Project Manager responsible for the particular budget. The Finance system will not allow the issuance of a Purchase Order when sufficient budget funding is not available. Three types of Purchase Orders are available: 1) Contract Purchase Orders (KPO); 2) Purchase Orders (PO); and 3) Purchase Invoices (PI).
2. A KPO, PO, or PI is required for all purchases. A properly completed Purchase Order includes: a description of the item to be procured, the quantity, unit cost, total costs and when applicable attachments including: invoice, contract, vendor quotations, and when and where service will be performed; and when and where the items will be delivered.
3. The account name(s) and number(s) must be provided to determine which account will be expensed when the Purchase Order is processed for payment.
4. Purchase Orders are handled by orally notifying the vendor of the approved Purchase Order number. Written confirmation shall be sent to the vendor, if appropriate.
5. Vendors shall be instructed to include their Purchase Order number on all correspondence, including packaging, invoices, credit memos, etc.

B. Types of Purchase Orders:

1. Contract Purchase Orders (KPO)

This type of purchase order is used when the purchase of goods and/or services is directly tied to an existing contract. The Contract Purchase Order number is the same as the existing contract number preceded with “KPO” and the amount of the total contract value which will be encumbered and no longer available for future expenditures. This will be the maximum potential liability for all payments under the contract. Progress payments can be accomplished using the KPO number; however payments cannot exceed the total value of the KPO. In the event a contract amendment is signed which either increases or decreases the initial contract amount, the KPO can be modified to reflect the amendment. The modification would be similar to the preparation of the original KPO using the contract number preceded by KPO, entering an account number and amount of the amendment, a positive amount for a contract increase and negative amount for a contract reduction.

2. Purchase Orders (PO)

A Purchase Order is used when the good and/or services have not been received and the vendor requires an authorization to sell and invoice Foothill Transit for goods and/or services. The PO number will be assigned by the finance system and the amount should be sufficient to encumber funds to complete the purchase. Normally the goods and/or services are delivered and one payment is executed for full payment. However, POs may be issued for items that are to be delivered over a period of time with payments executed as the goods and/or services are delivered. Using the PO for staggered deliveries and payments is akin to a "Blanket Purchase Order". The total amount of the PO will be encumbered, removing the funding from future expenditures.

3. Purchase Invoice (PI)

Purchase Invoices are to be used when an invoice for goods and/or services has been received from the vendor. The PI number will be assigned by the finance system. The issuance of the PI will initiate payment for the goods and/or services. The PI amount cannot exceed available funding.

C. Receipt of Goods/Service and Authorization to Pay

1. The Department ~~Director~~Head, his or her designee, or the designated Project Manager is responsible for the receipt of the physical merchandise order when goods are being purchased. Upon receipt, the packing slip shall be compared to the goods received. If correct, the packing slip shall be processed for payment.
2. The Department ~~Director~~Head, his or her designee, or the designated Project Manager is responsible for the supervision of services to be performed for Foothill Transit. Upon completion of the services, invoice(s) shall be compared to the services received. If correct, invoice shall be processed for payment.

CHAPTER V – VENDOR PROTEST PROCEDURES

A. Purpose

The purpose of this Chapter is to set forth the procedures to be utilized by Foothill Transit in considering and determining all bid protests or objections regarding solicitations, proposed award of a contract, or award of a contract whether before or after award.

B. General

In order for a bid protest to be considered by Foothill Transit, it must be submitted by an interested party (as defined below) in accordance with the procedures set forth herein. A protest submitted by a party that is not an interested party or which is not in accordance with the procedures shall not be considered by Foothill Transit, and will be returned to the submitting party without any further action by Foothill Transit.

In all instances where Foothill Transit receives a protest involving a potential contract that will be funded with Federal Transit Administration funds, Foothill Transit will notify the Federal Transit Administration of the protest, provide information concerning the nature of the protest, and keep the Federal Transit Administration informed about the status of the protest.

C. Definitions

For purposes of these Bid Protest Procedures:

1. The term “Bid” includes any bid or offer submitted by a bidder in response to an Invitation for Bid (IFB), a proposal submitted by a proposer in response to a Request for Proposals (RFP), or a submittal submitted by an offeror in response to a Request for Qualifications (RFQ).
2. The term “contract” means that document to be entered into between Foothill Transit and the successful bidder and offeror.
3. The term “days” refers to normal business days of Foothill Transit staff offices.
4. The term “interested party” means any person: who is an actual or prospective proposer, bidder, or offeror in the procurement involved; and whose direct economic interest would be affected by the award of a contract or by failure to award a contract. A subcontractor does not qualify as an “interested party” because it does not have a direct economic interest in the results of the procurement.

5. The term “solicitation” means an Invitation for Bids (IFB), Request for Proposals (RFP), or other form of document used to procure equipment or services.

D. Grounds for Protest

Any interested party may file a bid protest with Foothill Transit on the grounds that:

1. Foothill Transit has failed to comply with applicable Federal or State Law;
2. Foothill Transit has failed to comply with its procurement procedures;
3. Foothill Transit has failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable;
4. Foothill Transit has issued restrictive or discriminatory specifications; or
5. Award is made to other than the lowest responsive and responsible bidder on formally advertised (IFB) procurements.

E. Contents of Protest

1. A bid protest must be filed in writing and must include:
 - a. The name and address of the protestor.
 - b. The name and number of the procurement solicitation.
 - c. A detailed statement of the grounds for the protest, including all relevant facts and a citation to the Federal or State law, the provision of Foothill Transit procurement procedures, or specific term of the solicitation alleged to have been violated.
 - d. Any relevant supporting documentation the protesting party desires Foothill Transit to consider in making its decision.
 - e. The desired relief, action, or ruling sought by the protestor.

2. Protests must be filed with:

Director of Procurement
Foothill Transit
100 South Vincent Avenue, Suite 200
West Covina, California 91790

3. All protests must be received at the Foothill Transit address listed above during normal office hours of 8:30 a.m. to 5:00 p.m., Pacific Standard or Daylight Time.
4. If any of the information required by this section is omitted or incomplete, Foothill Transit will notify the protestor, in writing, within one day of the receipt of the protest, and the protestor will be given one day to provide the omitted or incomplete information in order for the protest to be further considered. Note that this provision only applies in the case of a failure to state any grounds for a protest and does not apply to stating inadequate grounds for a protest or the failure to submit documentation.

F. Timing Requirements and Categories of Protests

Foothill Transit will consider the following categories of bid protests within the time period set forth in each category:

1. Any bid protest alleging improprieties in a solicitation process or in procurement documents must be filed no later than five calendar days prior to the scheduled bid opening or deadline for submittal or proposals, as appropriate, in order to be considered by Foothill Transit. Any protest based on such grounds not filed within this period will not be considered by Foothill Transit. This category of protests includes, but is not limited to, allegation of restrictive or exclusionary specifications or conditions.
2. Any bid protests regarding the evaluation of bids or proposals by Foothill Transit, or improprieties involving the approval or award or proposed approval or award of a contract must be filed with Foothill Transit no later than the earlier of five calendar days after: (a) Foothill Transit's issuance of notice of intent to award the contract, if Board approval of the contract is not required; (b) Foothill Transit's publication of the Board agenda containing the Chief Executive Officer's recommendation for contract award, if Board approval of the contract is required; or (c) Board award of the contract, if the Board awards to a proposer other than the proposer recommended for award by the Chief Executive Officer. Any protest filed after such date which raises issues regarding the evaluation of bids or proposals, or the contract approval or award will not be considered by Foothill Transit.

G. Review of Protest by Foothill Transit

1. Foothill Transit will notify the protestor within 3 days of timely receipt of a bid protest that the protest is being considered.
2. In the notification, Foothill Transit will inform the protestor of any additional information required for evaluation of the protest by Foothill Transit, and set a time deadline for submittal of such information. If Foothill Transit requests additional information, and it is not submitted by

the stated deadline, Foothill Transit may either review the protest on the information before it, or decline to take further action on the protest.

3. In its sole discretion, Foothill Transit may give notice of any bid protest to other bidders or proposers for the procurement involved in the protest, as appropriate, and permit such bidders or offerors to submit comments to Foothill Transit relative to the merits of the bid protest. Foothill Transit will set a time deadline for the submittal of such comments, which will be no less than 5 days after Foothill Transit provides notification of the protest.
4. In its sole discretion, Foothill Transit may schedule an informal conference on the merits of a bid protest. All interested parties will be invited to participate in the conference. Any information provided at the conference will only be considered by Foothill Transit in deciding the bid protest if it is submitted to Foothill Transit in writing within 3 days after the conference.

H. Effect of Protest on Procurement Actions

1. Upon receipt of a timely protest regarding either the solicitation process of the procurement documents in the case of sealed bids, Foothill Transit will postpone the opening of bids until resolution of the protest. The filing of the protest will not, however, change the date on which bids are due, unless Foothill Transit determines, and so notifies all bidders, that such a date change is necessary and appropriate to carry out the goals of the procurement and assure fair treatment for all bidders.
2. Upon receipt of a timely protest regarding evaluation of bid or proposals, or the approval or award of a contract, Foothill Transit will suspend contract approval or other pending action, or issue a stop work order if appropriate, until the resolution of the protest. In this event, the successful bidder or proposer may not recover costs as a change order.
3. Notwithstanding the pendency of a bid protest, Foothill Transit reserves the right to proceed with any appropriate step or action in the procurement process or in the implementation of the contract in the following cases:
 - a. Where the item to be procured is urgently required;
 - b. Where Foothill Transit determines, in writing, that the protest is vexatious or frivolous;
 - c. Where delivery or performance will be unduly delayed, or other undue harm to Foothill Transit will occur, by failure to make the award promptly; or
 - d. Where Foothill Transit determines that proceeding with the procurement is otherwise in the public interest.

I. Summary Dismissal of Protests

Foothill Transit reserves the right to summarily dismiss all or any portion of a bid protest that raises legal or factual arguments or allegations that have been considered and adjudicated by Foothill Transit in a previous bid protest by any interested party in the same solicitation or procurement action.

J. Protest Decisions

1. After review of a bid protest by appropriate Foothill Transit staff and/or Counsel, a recommendation shall be made to the Foothill Transit Chief Executive Officer concerning the appropriate disposition of such protest.
2. The recommendation shall be made on the basis of the information provided by the protestor and other parties, the results of any conferences, and Foothill Transit's own investigation and analysis.
3. The decision of the Foothill Transit Chief Executive Officer shall be in writing and shall be the final binding agency action. Except in exceptional circumstances, the decision of the Foothill Transit Chief Executive Officer will be issued within 30 days after the date all relevant information is submitted according to the dealings set forth in these procedures.
4. If the protest is upheld, Foothill Transit will take appropriate action to correct the procurement process and protect the rights of the protestor, including resolicitation, revised evaluation of bids or proposals or Foothill Transit's determination, or termination of the contract.
5. If the protest is denied, Foothill Transit will lift any suspension imposed and proceed with the appropriate state of the procurement process or the contract.

K. Judicial Appeals

A protestor adversely affected by a bid protest decision may appeal such decision to an appropriate court of the State of California.

L. Limited Appeals to Federal Transit Administration (Only if Federal funds are used in the procurement)

1. Foothill Transit protest decisions may be appealed to FTA only as permitted by Federal standards, including the U.S. Department of Transportation's adoption of 2 C.F.R. 200.318(k) and FTA Circular 4220.1F, as currently in effect as of the date of Foothill Transit's decision on the bid protest. A protestor must exhaust its administrative remedies by pursuing Foothill Transit's protest procedures to completion before appealing Foothill Transit's decision to FTA.

2. In accordance with the FTA Circular, such protest must be filed with FTA's Regional Office no later than five (5) working days after the date when the protestor has received actual or constructive notice of Foothill Transit's final decision or within five (5) working days of the date when the protester has identified other grounds for appeal to FTA (i.e., Foothill Transit's failure to have or failure to comply with its protest procedures or failure to review the protest).

CHAPTER VI – CONTRACT ADMINISTRATION

A. Contract Administration Guidelines

1. A Notice to Proceed will be issued as necessary as determined by the Director of Procurement in consultation with ~~Counsel~~ and the Project Manager.
2. A letter of agreement shall be sufficient for projects with specific specifications and/or scope of work and with a value of \$20,000 or less.
3. A full contract agreement (with terms and conditions) will be entered into for all projects with a value in excess of \$20,000.
4. All agreements will be assigned a contract number, which must be referred to on the Purchase Order and the contractor's invoices.
5. Once the Notice to Proceed is issued or the contract is signed (if a Notice to Proceed is not required), the Project Manager will originate the Purchase Order.
6. The Project Manager will review and approve all invoices in a timely manner so that timely payment may be issued to the contractor in accordance with the contract provisions. The Project Manager's review shall include examining the invoices to confirm that all costs invoiced to Foothill Transit are allowable under the applicable funding agreement and regulations, including 2 ~~CFR~~C.F.R. 200, as appropriate.
7. The Chief Executive Officer will sign all contracts unless unavailable, in which case contracts will be signed in accordance with Chapter I of this Procurement Policies and Procedures Manual.
8. A copy of the procurement document must be included with the contract files, including an explanation of the process used in procuring the goods or services.
9. The Project Manager is responsible for ensuring that each contractor provides the goods and services specified in the contract in accordance with the terms and conditions of the contract including, but not limited to, product and/or construction specifications.
10. Foothill Transit is solely responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.

B. State and Local Procurement Requirements.

State and local requirements are applicable to all procurements regardless of the source of funding. These requirements are listed in Appendix A.

C. Federal Procurement Requirements

1. Since Foothill Transit receives FTA capital assistance, Federal procurement requirements apply to all Federally-funded procurements. Some of these requirements are unique and pertain only to Federally-funded procurements. The specific contract terms and/or regulatory or administrative requirements that only apply when Federal funds are being utilized for the procurement are listed in Appendix B.
2. The requirements of the Americans with Disabilities Act, the equal opportunity provisions of the Civil Rights Act of 1964, as amended, and the FTA's Drug and Alcohol Testing Requirements (49 CFR Parts 655) (if applicable) apply to all procurements, *even if Federal funds are not utilized*.
3. State or local geographic preferences, except those expressly mandated or encouraged by Federal statute, are prohibited. (A/E procurements may use geographic location as selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.)

D. Bonding Requirements

1. Purpose

To ensure uniform and equitable application of bonding requirements in compliance with State and Federal regulations and protect the interests of Foothill Transit.

2. Responsibility

It shall be the responsibility of the Director of Procurement to ensure that these guidelines are followed and applied impartially.

3. Types of Bonds

- a. Bid Guarantee: This shall consist of a firm commitment, such as a bid bond, certified or cashier's check, or other negotiable instrument accompanying a bid as assurance the bidder will, upon acceptance of the bid by Foothill Transit, execute such contractual documents as may be required within the time specified. Foothill Transit will require bid bonds for all construction projects in excess of \$6,500, for any equipment or services contract of a critical nature to the operations of Foothill Transit, or for any equipment contract in which the equipment is specifically manufactured for Foothill Transit. The bid bond amounts are set forth in the chart below. Foothill Transit will require proposal bonds for any equipment or services contract of a critical nature to the operations of Foothill Transit. Failure of bidders to comply with these requirements will result in a determination by the Director of Procurement that the bid is non-responsive. Original "wet" ink signatures are required on all bid bonds.
- b. Performance: This is a bond executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract. Performance bonds shall be written by a corporate surety that is an admitted surety in the State of California. Foothill Transit will require performance bonds for all construction projects in excess of \$6,500, for any equipment or services contract of a critical nature to the operations of Foothill Transit, or for any equipment contract in which the equipment is specifically manufactured for Foothill Transit. Bond amounts are set forth in the chart below. Original "wet" ink signatures are required on all performance bonds.
- c. Payment: This is a bond 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. Payment bonds shall be written by a corporate surety that is an admitted surety in the State of California. Foothill Transit will require a bond for public works (that are "works of improvement") contracts over \$25,000. Bond amounts are set forth in the chart below. Original "wet" ink signatures are required on all payment bonds.

4. Procedures

Public Works/Construction – Bid guarantees and performance bonds are required by the State of California for all construction projects in excess of \$6,500. Payment bonds are required by the State of California for all public works that are "works of improvement" projects in excess of \$25,000.

Other projects – Bid guarantees and/or performance bonds are not required unless the procurement involves equipment or services of a critical nature to the operations of the agency and/or is specifically manufactured for the agency thereby making procurement from another source difficult or time consuming. Payment bonds are not required under these circumstances.

Required bonding levels are:

Type of Project	Type of Bond		
	Bid	Performance	Payment
Public Works/Construction <i>*Bonds mandatory (in percent stated) to the extent the above-referenced requirements are met</i>	10%	100%	100%
Materials and Equipment <i>*Bonds mandatory if procurement is for equipment of a critical nature to the operations of Foothill Transit or if equipment is specifically manufactured for Foothill Transit</i>	up to 5%	up to 20%	N/A
Services (except for personal or professional) <i>*Bonds mandatory if procurement is for services of a critical nature to the operations of Foothill Transit</i>	up to 5%	up to 100%	N/A

5. Forfeiting of Bonds

All contracts that contain bonding requirements shall contain a clause allowing termination on default of the contractor and providing that in such cases the surety company shall bear the responsibility for the completion of the contract, or if no surety company has provided a performance bond, Foothill Transit will claim the alternate to the performance and payment bond and use such funds for the completion of the contract.

E. **Insurance Requirements**

1. Insurance requirements vary depending on the project type. They may include provisions for personal injury, environmental liability and other areas. The insurance requirements for each project are established by Foothill Transit.
2. In assessing risk, Foothill Transit will consider the following project information:

- a. Scope of work.
 - b. Contract amount.
 - c. Whether the project requires the contractor to operate on Foothill Transit property.
 - d. The ultimate use of the good or service provided by the contractor.
 - e. Previous experience associated with similar or related projects.
3. Once the insurance requirements are defined, they must be included in the procurement document.
 4. The Director of Procurement will request that insurance certificates be provided within ten (10) business days after contract execution. A copy of the insurance certificate is to be kept in the project file.
 5. The Director of Procurement shall not allow any contract to continue without proper insurance in effect after notification of the lapse of requisite insurance.

F. Liquidated Damages

1. The Project Manager will determine whether the use of a liquidated damages provision is appropriate for each specific procurement. The amount of liquidated damages must be reasonable, shall be set at a specific rate for each day of overrun in contract time for a public works/construction contract or for delivery of goods, or for each instance of an incident giving rise to imposition of liquidated damages in a service contract, and the rate must be specified in the contract. If liquidated damages are assessed in a Federally-funded contract, the Project Manager in consultation with the Finance Manager will ensure that, as appropriate, the liquidated damages recovered are credited to the project unless the Federal Transit Administration permits otherwise.
2. A liquidated damages clause may be used if it is determined that:
 - a. The time of delivery of goods or services to Foothill Transit is critical, and Foothill Transit can expect to suffer damage if the delivery is delinquent; and
 - b. The extent or amount of such damage would be difficult or impossible to determine.

G. Indemnification

All contracts shall provide that the contractor indemnify and save harmless Foothill Transit, its members, Executive Board Members, officers, agents, employees, and other consultants or contractors as appropriate from any injuries and or damages received by any person during any operations connected with the Contract, by use of any improper materials, or by any act or omission of the Contractor or his subcontractor, agents, servants or employees.

H. Termination for Cause, Mutual Agreement, and for Convenience

All contracts shall contain a provision allowing for the termination of the contract for convenience by Foothill Transit and prescribe methods in which the contractor may calculate cost of work already performed, and termination settlement costs. All contracts shall also contain a clause allowing for termination by mutual agreement of the parties. All federally-funded contracts ~~supported by Federal grants~~ that exceed \$10,000 are to include provisions that allow Foothill Transit to terminate the contract for cause or convenience, and that stipulate the manner by which termination will be made and the basis for settlement.

I. Dispute Resolution

All contracts shall contain provisions providing that any dispute between the contractor and Foothill Transit relating to the implementation or administration of the contract in question be resolved in accordance with a dispute resolution process set out in the contract.

J. Reporting Changed Circumstances

If current or prospective legal matters with potentially serious circumstances (or any matter or situation) arise and may adversely affect the Federal Government's interest in a project or related activity, Foothill Transit shall report the circumstance(s) to FTA. In such instances, Foothill Transit shall expeditiously keep FTA informed of the status of circumstances.

K. Project Control File

The project control file shall be maintained during the procurement process, throughout the term of the contract and for a minimum of three (3) years from the later of the date on which: (i) vendor has completed all work, or (ii) Foothill Transit has received final payment from FTA for the work.

The control file consists of the following sections:

1. Vendor list.

2. Rationale for type of procurement used.
3. Rationale for selecting the contract type.
4. List of all vendors responding to the procurement.
5. All documentation relating to the selection process, including, but not limited to: evaluation score sheets, bids, rationale for selection and/or rejection of respondents, and the source selection plan.
6. Notice to proceed (if applicable).
7. Basis for contract price.
8. Final contract.
9. Executive Board report, if required.
10. All correspondence.
11. Proof of insurance.
12. Bond documents.
13. Notice of Solicitation.
14. Legal advertisement (if applicable).
15. Original procurement document and all addenda.
16. Original responses to the procurement.
17. DBE information.



Vendor Database

1. The Vendor Database is housed in the electronic procurement portal and consists of a listing of businesses, organizations, and enterprises that could provide quality goods and services specific to Foothill Transit.
2. A vendor will be removed from the Vendor Database if Foothill Transit determines that the vendor should be prohibited from participating in Foothill Transit procurement actions. Foothill Transit shall make such determination in accordance with the Debarment and Suspension Procedures set forth in Chapter VII.

LM. Types of Contracts and Payment Terms

1. Except as provided in this section, any type of contract which will promote the best interest of Foothill Transit may be used. A type of contract other than firm, fixed-price may be used only when a determination is made by the Director of Procurement that such contract is likely to be less costly than the firm, fixed-price contract or that it is impractical to obtain the supplies, services or construction required by the firm, fixed-price contracting method.
2. A firm, fixed-price contract establishes a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.
3. A cost-reimbursement contract is one in which the contractor is paid its reasonable, allocable and allowable costs of performance regardless of whether the work is completed.
4. A time and material contract may be used only:
 - a. after a determination by the Director of Procurement that no other type of contract is suitable; and
 - b. if the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.
5. Cost plus percentage of cost and percentage of construction cost methods of contracting are prohibited.
6. Except in limited circumstances, advance payments utilizing Federal Transit Administration funds are prohibited unless prior written concurrence is obtained from the Federal Transit Administration and adequate security is obtained from the contractor.
7. Progress payments will only be made on the basis of costs incurred or, in the case of construction contracts or certain major acquisition contracts, on the basis of percent of completion or major milestones completed or major components procured. In such cases, Counsel will ensure that the contract provides that Foothill Transit obtain adequate security including taking title to major components, performance or payment bonds, letters of credit or equivalent means to protect Foothill Transit's interests. In Federally funded contracts, if milestones are used as the basis for progress payments, the contractor shall be required to substantiate the actual costs incurred in connection with each milestone.

8. Contractors shall designate an account on an approved Foothill Transit form, to which payments shall be made. Any change in payment account information shall require an amendment to the contract.
9. Each “contractor,” as defined in CA Bus & Prof Code § 7026, shall be required to pay subcontractors within 7 days of its receipt of Foothill Transit’s payments.
10. All other contractors shall be required to pay subcontractors within timeframes provided in applicable laws and regulations, and if no such timeframe is established or the timeframe exceeds 30 days from receipt of payment, contractors shall be required to pay subcontractors for work satisfactorily performed, within 30 days of Foothill Transit’s payments, in accordance with 49 CFR §26.29, unless such payment is excused by Foothill Transit for good cause. Contractor may only delay or postpone any payment obligation to any of its subcontractors where, in Foothill Transit’s sole estimation, good cause exists for such a delay or postponement. All such determinations on Foothill Transit’s part that good cause exists for the delay or postponement of contractor’s payment obligation to its subcontractor must be made in writing prior to the time when payment to the subcontractor would have been otherwise due by the contractor.

CHAPTER VII – DEBARMENT AND SUSPENSION PROCEDURES

A. Purpose

The purpose of this Chapter is to set forth the Debarment and Suspension Procedures to be used by Foothill Transit in making a determination as to whether a contractor should be prohibited from participating in Foothill Transit Procurement Actions. These Procedures are intended to protect the public interest by assuring that Foothill Transit awards Contracts to responsible Contractors only, and by barring from participation those Contractors that have engaged in criminal acts, fraudulent or deceptive practices, a pattern of deficient performance, or other improper actions as described in this Chapter. As set forth below, the Procedures establish the specific grounds for Debarment and/or Suspension and the process to be followed by Foothill Transit to assure that an affected Contractor is afforded due process in the Debarment Determination. The Procedures establishes a process for local debarment decisions and are separate and apart from any State or Federal debarment process.

B. Definitions

For purposes of these Debarment and Suspension Procedures:

1. The term “Affiliate” means a person or firm that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a Contractor. For purposes of determining status as an Affiliate, “control” may be evidenced by interlocking ownership or management, financial control, actual day-to-day control, or shared facilities, equipment, or employees.
2. The term “Bid” includes any bid or offer submitted by a bidder in response to an Invitation for Bid (IFB), a proposal submitted by a proposer in response to a Request for Proposals (RFP), or a response submitted by an offeror in response to a Request for Qualifications (RFQ).
3. The term “Civil Judgment” means a judgment or finding of a civil offense by a court of competent jurisdiction.
4. The term “Contract” means the document entered into, or to be entered into, between Foothill Transit and a successful bidder.
5. The term “Contractor” means a person or firm that has submitted a Bid in a Foothill Transit Procurement Action, or reasonably may be expected to submit such a Bid, or has provided equipment, vehicles, construction work, professional services, or other materials or services for Foothill Transit under a Contract.

6. The term “Conviction” means a conviction of a criminal offense by a court of competent jurisdiction, whether entered upon a verdict or a plea.
7. The term “Days” refers to normal business days of Foothill Transit staff offices.
8. The term “Debarment” means the action taken by Foothill Transit which results in a Contractor, and identified Affiliates of the Contractor, being prohibited from bidding on, being awarded, and/or performing work on a Contract for a specified Debarment Period.
9. The term “Debarment Determination” means the written determination made by Foothill Transit’s Chief Executive Officer regarding the Debarment of a Contractor pursuant to Section E hereof.
10. The term “Debarment Panel” means the three person panel established by Foothill Transit to make recommendations regarding Debarment actions to the Foothill Transit Chief Executive Officer. The Debarment Panel shall consist of three individuals from Foothill Transit. Individuals from the Procurement Department are not permitted to sit on the Debarment Panel.
11. The term “Debarment Period” means the period of Debarment described in Section F hereof and set forth in the Debarment Determination.
12. The term “Debarment Recommendation” means the written recommendation made by the Debarment Panel to Foothill Transit’s Chief Executive Officer regarding a proposed Debarment action.
13. The term “Disposition Agreement” means a written agreement between Foothill Transit and a Contractor that disposes, to the satisfaction of Foothill Transit, of the grounds for a possible Debarment.
14. The term “Government Entity” means any Federal, State, or local department, agency, or authority.
15. The term “Procurement Action” means a procurement carried out by Invitation for Bids (IFB), Request for Proposals (RFP), Request for Qualifications (RFQ), or other form of solicitation used by Foothill Transit to procure equipment, vehicles, construction work, professional services, or other materials or services.
16. The term “Suspension” means the action taken by Foothill Transit which results in a Contractor, and identified Affiliates of the Contractor, being temporarily disqualified from participating in Foothill Transit Procurement Actions pending the issuance of a Debarment Determination.

C. Grounds for Debarment

1. Foothill Transit may debar a Contractor for any of the following:
 - a. Conviction of or a Civil Judgment for (i) the commission of a criminal offense under Federal or State law in obtaining, attempting to obtain, or performing a contract with a Government Entity; or (ii) the commission of fraud, embezzlement, theft, bribery, extortion, forgery, falsification or destruction of records, or receiving stolen property.
 - b. Conviction of or a Civil Judgment for the commission of any other offense indicating a lack of business integrity or business honesty that directly affects the Contractor's responsibility.
 - c. Violation of the terms of a contract with a Government Entity so serious as to justify Debarment, such as a pattern of unsatisfactory or deficient performance of the contract, including material or repeated failure to meet contractual deadlines or to provide contract deliverables.
 - d. Disqualification, suspension, or debarment by another Government Entity.
 - e. Fraudulent, deceptive, or otherwise improper conduct, statements, or actions in connection with obtaining, attempting to obtain, or performing a contract with Foothill Transit or another Government Entity, including bribery, billing irregularities, destruction of records, or misrepresentations or fraud relating to disadvantaged or minority business enterprises.
 - f. A pattern of unsafe practices in the performance of work under contracts with Foothill Transit or other Government Entities, as evidenced by factors such as multiple and serious violations of Federal or State OSHA statutes or regulations, materially deficient worker safety programs or practices, or a workers' compensation experience modification history consistently in excess of industry averages.
 - g. Acts or omissions that indicate the Contractor's lack of quality, fitness, or capacity to perform, or that indicate a lack of business integrity or business honesty.
 - h. A pattern of false, frivolous, or vexatious claims against Government Entities in connection with the performance of contracts.

- i. The presence of officers, directors, shareholders, or partners in the Contractor's business who were in those positions with another Contractor that was debarred by Foothill Transit or another Government Entity in the last five (5) years.
 - j. Any other cause of so serious or compelling a nature that it affects the present responsibility of the Contractor.
2. Foothill Transit may, in its discretion and based on the specific facts of the case: (a) institute Debarment proceedings under this Chapter against a Contractor on the basis of the actions of an Affiliate that would constitute a grounds for Debarment under this Section; and (b) in issuing a Debarment Determination, impose appropriate sanctions on an Affiliate as well as on the Contractor that is the subject of the Debarment process.
3. The fraudulent, criminal, or other improper conduct of any officer, director, shareholder, partner, or employee of a Contractor may be imputed to the Contractor and may be the basis for Debarment or Suspension hereunder when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, or occurred with the Contractor's knowledge, approval, or acquiescence.

D. Debarment Process

1. The Debarment process under this Chapter will be initiated by Foothill Transit's Director of Procurement providing written notice to a Contractor of an intent to debar, which shall set forth (a) the specific grounds for the proposed Debarment and relevant facts relied upon by Foothill Transit; (b) a notice of the Contractor's right to submit written information and argument in opposition to the proposed Debarment; and (c) a notice of the Contractor's right to a hearing, subject to paragraph 4 below.
2. The Contractor's information and argument in opposition to the intent to debar shall be submitted to Foothill Transit within ten (10) Days after the date of the written notice of the intent to debar.
3. Foothill Transit will, within fifteen (15) Days after the receipt of the Contractor's submittal under paragraph 2, conduct a hearing before the Debarment Panel (unless the hearing is waived pursuant to paragraph 4). At the hearing, the Director of Procurement will present information and evidence in support of the intent to debar, and the Contractor will have the opportunity to appear with counsel, submit evidence, and present witnesses. Unless Foothill Transit and the Contractor otherwise agree, there will be a transcribed record of the hearing, which shall be made available to the Contractor at cost.
4. If the notice of intent to debar is based upon a Conviction or Civil Judgment, the Debarment Panel may waive the requirement for a hearing

and make its determination on the basis of the written record, specifically including the grounds for Debarment cited by the Director of Procurement, the relevant facts relied upon, and the written information and argument submitted by the Contractor. In addition, in any other case, Foothill Transit and the Contractor may, by mutual agreement, waive the requirement for a hearing.

5. In the Debarment process, the Contractor may submit evidence of mitigating factors, such as (a) the Contractor brought the activity cited as grounds for Debarment to the attention of Foothill Transit or another Government Entity; (b) the Contractor has established standards of conduct, internal control systems, and/or ethics training programs to prevent future actions that would constitute grounds for Debarment; (c) the Contractor has investigated the circumstances surrounding the grounds for Debarment and has made the results of that investigation available to Foothill Transit or other Government Entities; or (d) the Contractor has taken appropriate disciplinary action against the individuals responsible for the actions constituting the grounds for Debarment.

E. Debarment Recommendation and Debarment Determination

1. Within twenty (20) Days after the completion of the hearing under Section D 3, or within twenty (20) Days after the Contractor's submittal under Section D 2 if no hearing is held, the Debarment Panel shall prepare its Debarment Recommendation. The Debarment Recommendation shall state the specific reasons for the proposed decision, including any findings of fact from the hearing. If the decision is to recommend Debarment, the Debarment Recommendation shall state the specific grounds for the Debarment, the relevant facts relied upon, whether the Debarment extends to any Affiliates, and the proposed Debarment Period. The Debarment Recommendation shall be submitted to Foothill Transit's Chief Executive Officer.
2. After review of the Debarment Recommendation, the Chief Executive Officer will promptly issue the Debarment Determination, which may adopt, modify, or reject the Debarment Recommendation of the Debarment Panel. In the event the Chief Executive Officer modifies or rejects the Debarment Recommendation of the Debarment Panel, the Chief Executive Officer shall provide a written explanation for that modification or rejection. The Chief Executive Officer's Debarment Determination shall constitute the final agency action.
3. The Chief Executive Officer shall notify the Contractor, and any affected Affiliates, of the Debarment Determination by certified mail, return receipt requested. If the Debarment Determination is to debar the Contractor, the

notice shall include the specific grounds for Debarment, whether the Debarment extends to any Affiliates, and the Debarment Period.

4. At any time before the Chief Executive Officer issues the Debarment Determination under Section E 2, Foothill Transit and the Contractor may enter into a Disposition Agreement relating to the proposed Debarment of the Contractor. Any such Disposition Agreement shall be based on a determination by Foothill Transit that, based on the particular facts presented (including any mitigating factors presented by the Contractor), it is in the public interest to enter into such agreement in lieu of a formal Debarment or Suspension action. A Disposition Agreement may set forth specific actions, internal control procedures, and standards of conduct the Contractor will be required to implement, and may also include a specific period of time during which the Contractor will be prohibited from participating in Foothill Transit Procurement Actions.

F. Period of Debarment

1. The Debarment Period shall be five (5) years, three (3) years, or one (1) year, commensurate with the seriousness of the grounds for Debarment. In setting the Debarment Period, Foothill Transit will take into account, in addition to the specific grounds for Debarment presented: (a) whether the Contractor has a pattern or history of actions that could be grounds for Debarment; and (b) any mitigating factors described in Section D 5.
2. The Debarment Period shall commence on the date the Debarment Determination is received by the Contractor. The Debarment Determination shall be deemed received by the Contractor on: (a) the day of delivery, if delivered by hand (including overnight courier service) during the Contractor's regular business hours; or (b) on the fifth business day following deposit in the United States mail, first class, postage prepaid, to the last known address of the Contractor.
3. Foothill Transit may reduce the Debarment Period, upon request of the Contractor, for reasons such as (a) reversal of the Conviction or Civil Judgment that was the grounds for Debarment; (b) change in ownership or management of the Contractor; or (c) newly discovered material evidence that directly relates to the grounds for Debarment.

G. Suspension

1. Foothill Transit may suspend a Contractor that has received a written notice of intent to debar from participating in Foothill Transit Procurement Actions during the pendency of the Debarment process under this Chapter. Such a Suspension shall be based on a determination by the Director of Procurement that, on the basis of the seriousness of the grounds for Debarment involved and the available evidence, immediate

action is necessary to protect the public interest. The Director of Procurement will include notice of such Suspension in the written notice of intent to debar.

2. A Contractor suspended pursuant to paragraph 1 above shall be allowed to submit written information and argument in opposition to the Suspension.
3. A Suspension under paragraph 1 shall remain in effect until the Chief Executive Officer issues the Debarment Determination regarding the Contractor under Section E, unless in the interim the Director of Procurement determines, on the basis of the Contractor's written submittal or other available information, that the Suspension is no longer necessary to protect the public interest.
4. The Debarment Determination under Section E shall supersede any Suspension under this Section.

H. Effect of Debarment or Suspension

1. A Contractor that is debarred or suspended under this Chapter (including any debarred or suspended Affiliates) shall be prohibited, for the period of such Debarment or Suspension, from (a) submitting a bid or proposal in response to any Foothill Transit Procurement Action; (b) being awarded a Contract with Foothill Transit; or (c) serving as a subcontractor, at any tier, on any work or project undertaken pursuant to a Foothill Transit Procurement Action.
2. If a Contractor that is debarred under this Chapter is performing work or providing services for Foothill Transit as a contractor or subcontractor under a Contract in effect on the date of such Debarment, Foothill Transit may, in its discretion: (a) if the Contractor is the prime contractor under such a Contract, terminate that Contract for default; (b) if the Contractor is a subcontractor under such a Contract, direct the prime contractor to terminate the subcontractor from all future work under that Contract; or (3) if Foothill Transit determines it is in the public interest or otherwise necessary and appropriate for continuity of the work or services being provided, continue the Contract as is or with such modifications as Foothill Transit determines appropriate.

I. Judicial Appeals

A Contractor adversely affected by a Debarment Determination under this Chapter may seek relief in an appropriate court of the State of California.

Appendix A – State and Local Requirements

State Laws	Sections(s)	Subject
Civil Code	3320 - 3321	Prompt Payment and Retention to Design Professionals
Civil Code	9000 - 9566	Provisions Applicable to Public Works of Improvement; Payment Bond Requirement for Construction Projects
Code of Civil Procedure	995.311	Verification of Admitted Surety Insurers on Bonds
Code of Regulations	8 C.C.R. 16000	<u>Payment of Prevailing Wages</u> (Public Works and Prevailing Wage Cont. <u>Contracts</u>)
Government Code	4525 et seq.	Contracts with Private Architects, Engineering, Land Surveying, and Construction Project Management Firms
Government Code	4529.10 - 4529.20	Architect & Engineering Services
Government Code	4420 - 4422	Surety Requirements on Public Building or Construction Contracts
Government Code	4215	Removal, Relocation or Protection of Existing Utilities
Government Code	4550 - 4554	Antitrust Claims; Assignment
Government Code	53064	Identical highest and lowest bids; selection by lot
Government Code	53068	Notice inviting bids
Government Code	53069.85	Contracts for public works; liquidated damages; bonus for completion prior to time specified
Government Code	53079	Local public entity; construction

State Laws	Sections(s)	Subject
		project, security deposit; interest
Government Code	6250 – 6270	California Public Records Act
Government Code	81000 et seq.	California Political Reform Act of 1974
<u>Government Code</u>	<u>84308</u>	<u>Levine Act; Other than Competitively Bid, Labor or Personal Employment Contract</u>
<u>Labor Code</u>	<u>1072</u>	<u>Service Contracts; Retention of Employees</u>
Labor Code	1720, 1720.2, 1720.3, and 1771	Public Works and Prevailing Wage
<u>Labor Code</u>	<u>1777</u>	<u>Public Works; Eligibility to Contract</u>
Public Contract Code	7100 - 7200	Public Work <u>Works</u> Contract Clauses
Public Contract Code	4100 - 4114	Subcontracting
Public Contract Code	22160 - 22169	Design-Build
Public Contract Code	9201 - 9204	Claims and Disputes
Public Contract Code	20216 - 20217	Competitive Negotiation Process
Public Contract Code	1103	Responsible Bidder in <u>(Public Work Contracts)</u>
Public Contract Code	1104	Architectural & Engineering Plans and Specifications
<u>Public Contract Code</u>	<u>2202</u>	<u>Investment Activities in Iran; Contracts of \$1,000,000 or more</u>
Public Contract Code	3300	Contractor's License in Specifications for Bids
Public Contract Code	3400	Trade Name or Specific Names in

State Laws	Sections(s)	Subject
		Specifications for Bids
Public Contract Code	6109	Ineligible and Debarred Contractors and Subcontractors
Public Contract Code	6610	Contents of Notice Inviting Bids
Public Contract Code	5100 - 5107, 5110	Relief of Bidders
Public Contract Code	20100 - 20103.7	Local Agency Public Construction Act; Title
Public Contract Code	20104 - 20104.8	Resolution of Construction Claims
Public Contract Code	20103.8	Additive and deductive items
Public Contract Code	20104.5	Timely Progress Payments
Public Contract Code	20104.7	Damages Relating to Competitive Bidding
Public Contract Code	20120 - 20146	As applicable, Local Public Agency Construction Contract provisions specific to counties
Public Contract Code	20122	Work <u>Public works projects</u> over \$6,500
Public Contract Code	20125	Advertisement for bids
Public Contract Code	20129	Bidder's security; performance bond

Appendix B – Federal Requirements

Federal Requirement	Notes	When Required				
		Rolling Stock	Operating	Construction	Consultant Services	Research
Buy America	(49 C.F.R. Part 661)	>\$150,000		>\$150,000		
Build America, Buy America	(2 C.F.R. Part 184) See applicability and effective date rules at 2 C.F.R. 184.2	Infrastructure projects				
Cargo Preference	(49 C.F.R. Part 381) <i>Where procurement involves equipment, materials, or commodities suitable for transport by ocean vessel</i>	X	X	X	X	X
Fly America	(49 U.S.C. 40118) <i>Required for international air transportation</i>	X	X	X	X	X
Pre-Award and Post-Delivery Audits	(49 C.F.R. Part 663)	X				
Bus Testing	(49 C.F.R. Part 665) <i>Bus procurements only</i>	X				
Seismic Safety	(49 C.F.R. Part 41) <i>New buildings or additions to existing buildings</i>			X		
Davis-Bacon Act	(40 U.S.C. 3141-48)			>\$2,000		
Copeland Anti-Kickback Act	(40 U.S.C. 3145)			>\$2,000		
Contract Work Hours and Safety Standards Act	(40 U.S.C. 3702 and 3704) <i>Applies to employment of laborers or mechanics; not applicable to the purchase of supplies, materials, or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence</i>	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000

Foothill Transit Procurement Policies and Procedures

Federal Requirement	Notes	When Required						
		Rolling Stock	Operating	Construction	Consultant Services	Research	Goods	Prof'l Services
Lobbying	(31 U.S.C. 1352) <i>Require certification forms and, if appropriate, lobbying disclosure forms</i>	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Energy Conservation	(42 U.S.C. 6321)	X	X	X	X	X	X	X
Clean Water	(33 U.S.C. 1251)	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Clean Air	(42 U.S.C. 7401)	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Civil Rights	<i>Federally-funded construction contracts must include the full clause found at 41 C.F.R. 60-1.4(b)</i>	X	X	X	X	X	X	X
Disadvantage Business Enterprises	(49 C.F.R. Part 26)	X	X	X	X	X	X	X
Trafficking in Persons	(22 U.S.C. 7102)	X	X	X	X	X	X	X
Government-Wide Suspension and Debarment		>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
No Government Obligations to Third Parties		X	X	X	X	X	X	X
Patents and Rights in Data	(35 U.S.C. 200 and 37 C.F.R. Part 401)					X		
Program Fraud and False or Fraudulent Statements and Related Acts		X	X	X	X	X	X	X
Recycled Products	(42 U.S.C. 6962) <i>Applies where the value of an EPA designated item exceeds \$10,000</i>	X	X	X	X	X	X	X
Safe Operation of Motor Vehicles	(E.O. 13043, E.O. 13513, and U.S. DOT Order 3902.10)	X	X	X	X	X	X	X
Access to Records and Reports	(49 U.S.C. 5325(g) and 2 CFR- 200.336 <u>C.F.R. 200.337</u> and FTA Master Agreement (see Section <u>Sections 8 and 9</u> of	X	X	X	X	X	X	X

Foothill Transit Procurement Policies and Procedures

Federal Requirement	Notes	When Required						
		Rolling Stock	Operating	Construction	Consultant Services	Research	Goods	Prof'l Services
	20242022 Master Agreement))							
Federal Changes		X	X	X	X	X	X	X
Substance Abuse Requirements	Where contractor is performing safety-sensitive function	X	X	X	X	X	X	X
Incorporation of Federal Transit Administration Terms		X	X	X	X	X	X	X
Intelligent Transportation Systems-National Architecture	ITS property and services	X	X	X	X	X	X	X
Charter Bus	(49 U.S.C. 5323(d), (r) and 49 C.F.R. Part 604)		X					
Public Transportation Employee Protective Arrangements	(49 U.S.C. 5333(b) and 29 C.F.R. Part 215)		X					
School Bus Operations	(49 U.S.C. 5323(f) and 49 C.F.R. Part 605)		X					
Veteran's Preference	(49 U.S.C. 5325(k))			X				
Americans with Disabilities Act		X	X	X	X	X	X	X
Notification of Legal Matters and Waste, Fraud, or Abuse	FTA Master Agreement (see Section 39 of 20202022 Master Agreement)	X	X	X	X	X	X	X
Clause and Certification on Federal Tax Liability and Recent Felony Conviction	FTA Master Agreement (see Section 4 of 20242022 Master Agreement) Must obtain prior to entering into contract with any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association	X	X	X	X	X	X	X
Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	(Public Law 115-232, Section 889 and 2 C.F.R. 200.216)	X	X	X	X	X	X	X

Document comparison by Workshare Compare on Thursday, September 21, 2023 9:49:53 PM

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Padding cell	

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Total changes	323



September 29, 2023

To: Executive Board

Subject: **Authorization to Issue Request for Proposals for State Advocacy Services**

Recommendation

Authorize the Chief Executive Officer to issue Request for Proposals (RFP) No. 24-027 for state advocacy services.

Analysis

Foothill Transit does not currently use the services of an advocacy firm in Sacramento to represent its interests on funding, regulatory, and legislative issues at the state level. Through various avenues of involvement at state legislative hearings, state professional associations, and direct engagement with legislators and state commissions, the Chief Executive Officer and government relations staff have been successful in elevating Foothill Transit's interests and handling California legislative issues since 2013 without the utilization of state advocacy services.

However, the transit funding and regulatory landscape in the California has changed since the last decade and continues to evolve rapidly as the industry further addresses drastic changes following the COVID-19 pandemic. The need for advocacy with respect to challenges associated with impending transit operating shortfalls, support needed in implementing state-mandated zero-emissions technology deployment, and for securing state funding sources, such as the newly established formula-based Transit and Intercity Rail Capital Program (TIRCP) and Zero Emission Transit Capital Program (ZETCP) has become urgent. The use of a state advocacy firm located in Sacramento and that is on the scene and accessible to key legislative players full time will be critical to Foothill Transit's success on these issues in light of rapidly evolving politics related to transit funding. The provider of these services will also be expected to ensure that state legislators and administrators are aware of Foothill Transit's services and the needs of the organization to provide these services.

The procurement of a firm or individual to provide state advocacy services will be conducted according to a schedule that will provide continuity of Foothill Transit's advocacy efforts. The successful firm will be responsible for



providing Foothill Transit with technical consulting assistance, primarily in the areas of passing legislation and influencing regulatory considerations administratively related to the issues mentioned previously. The firm will also be responsible for ensuring that state delegates remain aware of Foothill Transit and its efforts to deliver high-quality service to the San Gabriel and Pomona Valleys.

Budget Impact

Funding for these services is included in the approved FY 2024 Budget and Business Plan.

Sincerely,

Yoko J. Igawa
Director of Government Relations

Doran J. Barnes
Chief Executive Officer

Michelle Lopes Caldwell
Director of Finance and Treasurer

Christopher Pieper
Director of Procurement



September 29, 2023

To: Executive Board

Subject: **Update on the Formal Application Process with the California Joint Powers Insurance Authority (CJPIA)**

Recommendation

Receive and file an update on Foothill Transit's Formal Application with the CJPIA.

Analysis

At the October 29, 2021 Executive Board Meeting, staff provided an update on how Foothill Transit purchases business-related insurance coverages such as general liability, property, earthquake, workers' compensation for all Foothill Transit employees, and automobile insurance for the non-revenue fleet, etc. Additionally, staff communicated a substantial increase in premiums to the agency's General Liability & Excess Liability policies. This increase is primarily because the official name includes the word "transit," typically a red flag for insurers that we have been able to work past in prior years, but which gained more attention due to current litigation.

On July 8, 2022, at a Special Meeting, the Executive Board authorized the Chief Executive Officer to bind Foothill Transit's FY23 insurance coverages. At the same meeting, staff communicated to the Board that it would explore future coverage options, specifically with the California Transit Systems Indemnity Pool (CalTIP) and the California Joint Powers Insurance Authority (CJPIA). An internal Foothill Transit risk mitigation/insurance team was assembled and met with CalTIP in the fall of 2022. Similarly, at the start of 2023, staff met with the team at CJPIA and discovered it offered both training and risk management services in addition to insurance.

After meetings with both CalTIP and CJPIA, staff presented its findings to the Executive Board at its March 28, 2023 meeting. Due to the complexities in exploring governmental insurance pools like CalTIP and CJPIA coupled with the fact it would be a government-to-government arrangement, staff and its General Counsel agreed an open procurement process would not be required and at this same meeting, the Executive Board authorized staff to proceed with the formal application process with the CJPIA.

Almost immediately, the risk management team engaged with the CJPIA team and initiated the application process. The Foothill Transit team spent a significant amount of time gathering years of data, including payroll



information as well as specific IRS documentation, all submitted with the application. Additionally, the team its General and Outside Counsel prepared a summary of Foothill Transit's business model with a detailed outline on risk management strategies to include in the application package, which was formally submitted on June 28, 2023.

In August 2023, Chief of Safety and Security, John Curley, attended CJPIA's annual training conference in Carlsbad, California where he attended classes and met with the senior Executive Team, including its newly appointed Chief Executive Officer, Alex Smith. The CJPIA staff indicated Foothill Transit is in queue with two other organizations and they anticipated a detailed examination of Foothill Transit's application package by mid-December 2023. The detailed review includes an on-site Risk Management Evaluation as well as an Underwriting Committee Review and Executive Committee Determination.

The next update and/or action for the Executive Board will be provided once the above CJPIA "review" and "determination" have been completed along with a fiscal impact determination by Foothill Transit staff. The target date for potentially joining the CJPIA continues to be set for July 1, 2024.

Sincerely,

John Curley
Chief of Safety and Security

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **Hydrogen Fuel Influencer Campaign**

Recommendation

Receive and file the Hydrogen Fuel Influencer Campaign report.

Background

Reaching out to new markets requires the use of marketing tools that have evolved exponentially over the past decade. The effectiveness of a marketing campaign is no longer purely a product of an organization's online following, but on more amorphous metrics governed by multiple algorithms, histories, and how users share information with their followers. Over time, Foothill Transit has gathered a robust following on all its social media platforms, but leveraging that into marketing impressions and elevating customer sentiment and awareness requires new tactics to attract and maintain attention.

Campaign

By recruiting and hiring social media influencers who bring clout and considerably large audiences into a campaign, Foothill Transit has been able to extend the reach and elevate the visible profile of its hydrogen fuel cell bus fleet.

@DTLAWanderer, @BeEcoNow, @chemteacherphil, @discoveringeli, and @chemicalkim are a diverse, well established, and multiplatform set of social media influencers with a combined audience of over eight million people. Their social influence focus ranges from science and the environment to fashion and lifestyle, each bringing their unique perspective to what it means to have hydrogen fuel cell buses on the road in your neighborhoods.

One of the primary goals of the campaign was to demystify the technology behind fuel cell buses and to emphasize the safety features and environmental benefits of having these buses on the road. Each influencer took a different path to the same story – this technology is important, impactful, and safe.

The campaign launched on August 28 and continued throughout that week, garnering thousands of impressions and shares across multiple platforms, and



generating significant positive customer sentiment and interest in both the hydrogen fuel cell fleet and in Foothill Transit in general. This kind of engagement not only boosts the visibility of this specific campaign, but it also manipulates the algorithm to show more of our original content to more people, including future posts and campaigns.

All of the videos can be viewed and shared from Foothill Transit's Facebook, Instagram, and TikTok pages.

Budget Impact

This campaign was included in the FY 2024 budget.

Sincerely,

Felicia Friesema
Director of Marketing and Communications

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **Proterra Chapter 11 Bankruptcy**

Recommendation

Receive and file the report on Proterra's Chapter 11 Bankruptcy.

Analysis

On August 7, 2023, Proterra filed for Chapter 11 Bankruptcy. On August 10, the Bankruptcy Court granted their First Day Motions, which is one of the first steps of a Chapter 11 bankruptcy proceeding wherein debtor appears before the Court and files a request to continue operating. This has allowed Proterra to continue operating.

As Proterra's bankruptcy filing is ongoing, Foothill Transit is running a fleet of 17 Proterra battery electric buses from the Arcadia Irwindale Operating and Maintenance Facility on a daily basis. This is a small component of our 360 bus fleet. Proterra's parts and service departments are open for business. They have recently activated their shipper account, which was temporarily suspended and are now able to ship parts. The Transdev maintenance team continues to receive service support from Proterra's technical team.

We are monitoring the situation and will provide updates as more information is received or any impacts to the fleet are identified.

Budget Impact

This report has no impact on the Fiscal Year 2024 budget.

Sincerely,

Roland M. Cordero
Director of Maintenance
and Vehicle Technology

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **Regional Partnerships Challenge Grants Application Report**

Recommendation

Receive and file the Regional Partnerships Challenge Grants Application Report.

Analysis

In 2028, Los Angeles is hosting the Summer Olympics. The games are anticipated to be one of the largest peacetime gatherings in US history, with venues located throughout Los Angeles County. Within the Foothill Transit service area, Frank G. Bonelli Park in San Dimas, will host the mountain biking event.

Mobility within the county and between venues is a big priority for Olympic Organizers. Some of the mobility goals of organizers include:

- Games Route Network: Dedicated lanes for Games vehicles between venues.
- Car-Free Games: No parking at the venues. All spectators will need to arrive to the venue using public transportation.
- Supplemental Bus System: Temporary bus system to meet spectator demand during the games.

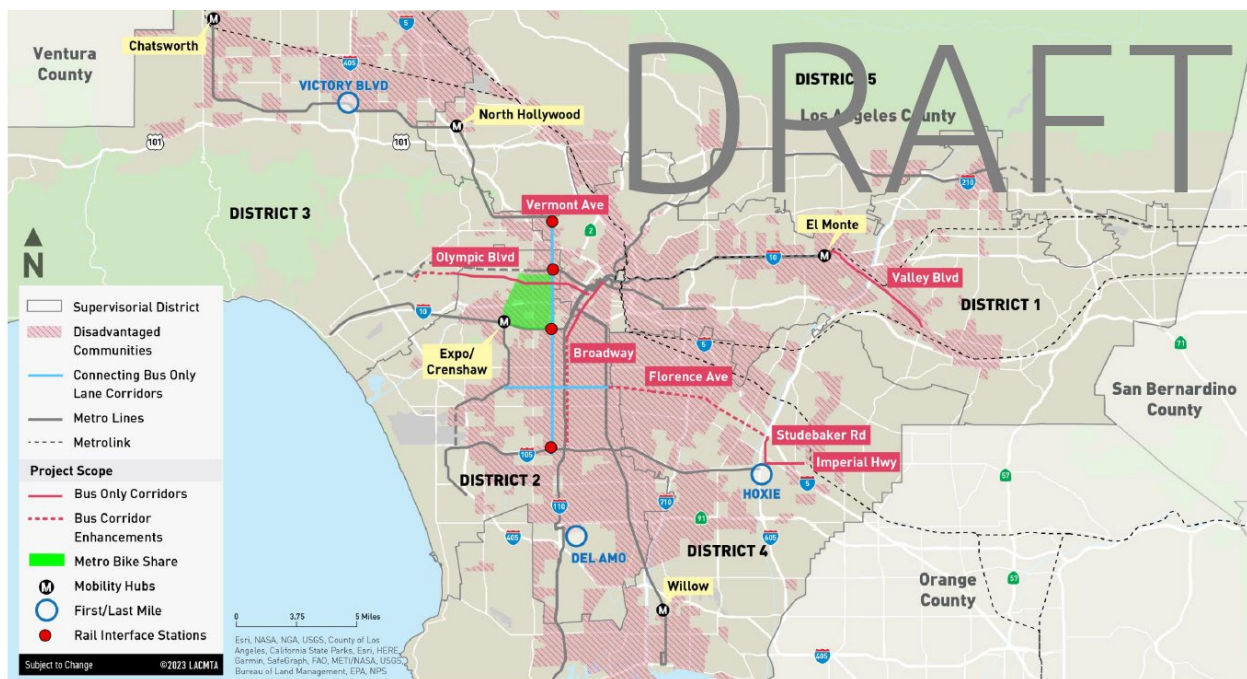
To help with these goals, LA Metro created the Metro 2028 Mobility Concept Plan (MCP). The plan's goals are to leave a permanent legacy after the games, ensure mobility for all, and enable all spectators and workforce to get to the games without the use of a car. The MCP Task Force and Games Mobility Executives have identified 15 priority projects for the 2028 games, two projects are within the Foothill Transit Service Area. The projects are a Mobility Hub in El Monte and the construction of 6.5 miles of Bus Only Lanes along Valley Boulevard going through the communities of El Monte, Industry, and the Avocado Heights area of unincorporated Los Angeles County. The cost for each project is \$5 million and \$15.3 million respectively, for a total of \$20.3 million.

Metro will take the lead, in partnership with Foothill Transit, applying for the Regional Partnerships Challenge Grants offered through the US Department



of Transportation's Neighborhood Access and Equity Grant Program. The grant looks to solve a persistent regional challenge related to equitable access and mobility. The proposed El Monte Mobility Hub will make transfers between various modes of transportation easier for customers. The 6.5 miles of proposed bus priority lanes on Valley Blvd will provide new high-quality bus service and infrastructure, helping fill service gaps and implement project opportunities identified in the San Gabriel Valley Council of Governments Transit Feasibility Study. The bus only lanes will improve bus speeds by 15% or more for the 18 bus lines that currently operate within the corridor. These Project investments will serve residents of disadvantaged communities in El Monte and Industry as well as unincorporated LA County.

Foothill Transit will be providing a letter of support with the grant application.



Map showing the proposed projects that will be included in the Regional Partnerships Challenge Grant application.

Sincerely,

Joseph Raquel
Director of Planning

Doran J. Barnes
Chief Executive Officer



September 29, 2023

To: Executive Board

Subject: **Fall 2023 Service Change**

Recommendation

Receive and file update on the Fall 2023 Service Change.

Analysis

Foothill Transit routinely conducts service changes as opportunities to adjust routing, add or remove bus stops, or adjust the scheduled timetables in response to customer demand or changing traffic patterns. We will typically have two service changes each calendar year, but this can be adjusted. The next service change will be on Sunday October 29, 2023, which is considered a major service change due to the various changes that impact more than 25 percent of the current revenue miles or hours. These changes will be summarized throughout this report and were all approved by the Governing Board at the May 23, 2023 Meeting. The routing changes are based on recommendations from the Foothill Transit Forward study that analyzed all of Foothill Transit service.

The approved recommended changes will add approximately 812 daily revenue miles and 71 revenue hours compared to the current revenue miles and hours that are being operating. The routes with the biggest impact to this increase in revenue miles and hours are the extension of Line 486 to Pomona Transit Center as well as the extension of short trips for Lines 190 and 194.

Customer Outreach

Customer outreach and notification is essential for a major service change such as this one. Individual signs will be posted at the affected bus stops approximately one month in advance of the service change to give customers adequate notice about the changes. Additionally, Foothill Transit Marketing Department will be posting information on the Foothill Transit website, Footnotes, as well as the various social media channels. All schedules will be available online for customers the week of the service change.



Approved Route Implementations for October 29, 2023

Line 190

The approved recommendation for Line 190 is to extend all short trips that currently end at Eastland Center to end at Cal Poly Pomona.

Line 194

Similar to Line 190, there are several trips throughout the day on Line 194 that start and end at Valley Blvd. and Lemon Blvd. The approved recommendation is to have all short trips on Line 194 be extended throughout the day.

Line 195

The approved recommendation for Line 195 is to eliminate the Corporate Center Drive loop and continue along South Campus Drive due to low ridership. Additionally, there will be another routing adjustment for Line 195 to serve South Garvey Avenue, East County Road, and South Towne Avenue to provide coverage for almost all stops currently served by Line 291.

Line 272

The approved recommendation for Line 272 is to extend the routing to serve Mountain Vista Plaza in the city of Duarte.

Line 274

The approved recommendation for Line 274 is to change the northern terminus from the Baldwin Park Metrolink Station to Plaza West Covina. This routing change will allow for improved transfer connections in West Covina to multiple other Foothill Transit routes.

Line 281

The approved recommendation for Line 281 is to keep the line on Citrus Avenue instead of going into the Covina Transit Center. This change will save 5 minutes on the southbound trip and 2 minutes on the northbound trip.

Line 291

The approved recommendation for Line 291 is to change the southern terminus from an industrial area to Rancho Camino Drive, which is close to retail stores such as Target, Walmart, and WinCo.



Line 292

The approved recommendation for Line 292 is to reroute the line to provide a direct connection between Pomona and Claremont.

Line 482

The approved recommendation for Line 482 is to eliminate the segment connecting to the Industry Park and Ride as well as the elimination of the Corporate Center Drive loop.

Line 486

The approved recommendation for Line 486 is to extend the line to the Pomona Transit Center along Holt Avenue.

Line 498

The approved recommendation for Line 498 is to eliminate the Industry City Hall Park and Ride stop as well as discontinue the current stop located at Vincent Boulevard and Lakes Avenue. Line 498 will now start and end at West Covina City Hall Park and Ride.

Line 860/861

The approved recommendation for Line 860 is to combine the routing with Line 861 into one consolidated route.

Revenue Miles Comparison

Day Type	Current Schedule	October 29, 2023	Variance
Weekday	36,625.22	37,437.43	812.21
Saturday	20,451.59	21,029.02	577.43
Sunday	19,890.12	20,282.65	392.53

Revenue Hours Comparison

Day Type	Current Schedule	October 29, 2023	Variance
Weekday	2,648.37	2,718.83	70.46
Saturday	1,411.05	1,447.92	36.87
Sunday	1,370.18	1,395.94	25.76

*Additional cost per day based on current rates



Budget Impact

The projected budget impact of changes is an approximate annual increase of \$1,269,700, which has already been budgeted in the FY 23-24 Purchased Transportation Budget

Sincerely,

Josh Landis
Planning Manager

Doran J. Barnes
Chief Executive Officer