



Foothill Transit

Executive Board Meeting AGENDA

EXECUTIVE BOARD MEETING
9:00 AM, OCTOBER 25, 2019
Foothill Transit Administrative Office
2nd Floor Board Room
100 South Vincent Avenue
West Covina, CA 91790

1. CALL TO ORDER
2. ROLL CALL: MEMBERS BARAKAT, BOYER, CALAYCAY, HERRERA, STERNQUIST
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES FOR THE SPECIAL MEETING OF AUGUST 2, 2019, SPECIAL MEETING OF AUGUST 19, 2019, AND REGULAR MEETING OF AUGUST 23, 2019
5. PUBLIC COMMENT
 - 5.1. Executive Director Response to Public Comment

CONSENT CALENDAR: Items 6 through 11 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. 60-FOOT ARTICULATED COMPRESSED NATURAL GAS (CNG) BUS PROCUREMENT - VIRGINIA STATE COOPERATIVE CONTRACT

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 two minutes in length. Action may be taken on any item identified on the agenda. Persons wishing to comment should submit a "Request to Speak" form to the Secretary. 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 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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Recommended Action: Authorize the Executive Director to purchase 24 60-ft. articulated CNG buses from New Flyer in the amount of \$22,971,101.22, under the Virginia State Cooperative Procurement Contract No. E194-75548-MA-2275, California Sales Tax included.

7. 35-FOOT COMPRESSED NATURAL GAS (CNG) BUS PROCUREMENT – VIRGINIA STATE COOPERATIVE CONTRACT

Recommended Action: Authorize the Executive Director to purchase two 35-ft. CNG buses from El Dorado National in the amount of \$1,327,484.30 under the Virginia State Cooperative Procurement Contract No. E194-75548-MA-2278, California Sales Tax included.

8. CONTRACT AMENDMENT – 40-FOOT COMPRESSED NATURAL GAS (CNG) BUS PROCUREMENT

Recommended Action: Authorize the Executive Director to exercise an option and amend Contract No. 18-043 with Creative Bus Sales in the amount \$13,154,824.77 for the purchase of 19 40-ft. low-floor CNG buses, California Sales Tax included.

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 Executive Director’s office at (626) 931-7300 extension 7204, at least 48 hours prior to the meeting.

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

Si necesita servicios de traducción, por favor póngase en contacto con la oficina del Director Ejecutivo en el (626) 931-7300, extensión 7204, al menos 48 horas antes de la reunión.

如果需要翻译服务, 请至少于会议前48小时致电高级主任办公室: (626) 931-7300 分机 7204。

Nếu Quý vị có yêu cầu dịch vụ dịch thuật, xin vui lòng liên hệ với văn phòng Giám đốc Điều hành tại (626) 931-7300 số lẻ 7204, ít nhất 48 giờ trước khi cuộc họp.

Kung nangangailangan ka ng mga serbisyo sa pagsasalin, pakisuyong makipag-ugnayan sa opisina ng Executive Director sa (626) 931-7300 extension 7204, ng hindi bababa sa 48 oras bago ang pulong.

번역 서비스가 필요하시면 미팅 최소 48시간 이전에 임원 사무실로 (626-931-7300, 내선 번호 7204) 전화주시기 바랍니다.

翻訳サービスが必要な方は、会議の48時間前までに(626) 931-7300 内線 7204のエグゼクティブディレクター事務所にご連絡ください。

إن كنت بحاجة إلى خدمات ترجمة، برجاء الاتصال بالمدير التنفيذي للمكتب على رقم (626)931-7300 (الرقم الداخلي 7204) قبل الاجتماع بـ 48 ساعة على الأقل.

Եթե Ձեզ թարգմանչական ծառայությունների են հարկավոր, հանդիպումից առնվազն 48 ժամ առաջ խնդրում ենք զանգահարել Գործադիր տնօրենի գրասենյակ (626) 931-7300 լրացուցիչ՝ 7204 հեռախոսահամարով:

ប្រសិនបើលោកអ្នកស្នើសុំសេវាកម្មបកប្រែភាសា សូមទាក់ទងមកករិយាល័យនាយកប្រតិបត្តិ តាមលេខទូរស័ព្ទ៖ (626) 931-7300 លេខបញ្ជូនបន្ត 7204 ដែលមានរយៈពេលយ៉ាងតិច 48 ម៉ោង មុនពេលកិច្ចប្រជុំ។

در صورت نیاز به خدمات ترجمه، لطفاً حداقل 48 ساعت قبل از جلسه ملاقات با مدیر اجرایی دفتر به شماره (626)931-7300 داخلی 7204 تماس حاصل فرمایید.

หากคุณต้องการบริการการแปลภาษากรุณาติดต่อสำนักงานผู้อำนวยการบริหารที่ (626) 931-7300 ต่อ 7204, อย่างน้อย 48 ชั่วโมงก่อนที่จะมีการประชุม



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9. CONTRACT AWARD - ARCADIA AND POMONA OPERATIONS & MAINTENANCE FACILITY IN-GROUND LIFT DECOMMISSION AND SHOP FLOOR RESURFACING

Recommended Action: Authorize the Executive Director to negotiate final terms and conditions and enter into Agreement No. 19-062 with Air & Lube Systems, Inc. in the amount of \$998,407.44 for construction related to in-ground lift removal and maintenance shop floor resurfacing at the Arcadia and Pomona Operations & Maintenance facilities.

10. PROPOSED PROCUREMENT POLICIES AND PROCEDURES MANUAL REVISIONS

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

11. CLASS PASS PROGRAM - CAL POLY POMONA

Recommended Action: Authorize Foothill Transit staff to proceed in discussions focused on the possible launch of the Class Pass Program at California State Polytechnic University, Pomona.

REGULAR AGENDA:

12. RESOLUTION ADOPTING EXECUTIVE AND GOVERNING MEETING SCHEDULE FOR 2020

Recommended Action: Adopt Resolution No. 2019-03, the Executive and Governing Board Meeting Schedule for 2020.

13. CONTRACT AWARD - BUS BOOK PRINTING AND DESIGN

Recommended Action: Authorize the Executive Director to enter into Contract No. 20-015 with Transit Information Products for printing and design of Bus Books with an amount not-to-exceed \$537,825.64, over the potential life of the contract, which includes a base contract term of three years in the amount of \$315,281.20 and two one-year options in the amounts of \$110,024.73 and \$112,519.71.

14. MANAGEMENT COMPENSATION PROGRAM

Recommended Action: Authorize the Executive Director to add one full-time equivalent (FTE) employee to assist the Human Resources Manager with human resources, benefits administration, and bi-weekly payroll activities.



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15. EXECUTIVE DIRECTOR COMMENT
16. BOARD MEMBER COMMENT
17. ADJOURNMENT

**The next Regular Meeting of the Executive
Board is scheduled for
Friday, December 20, 2019 at 9:00 a.m.**



Foothill Transit

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

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

**Friday, August 2, 2019
8:00 a.m.**

1. CALL TO ORDER

The meeting was called to order by Chair Herrera at 8:00 a.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Herrera.

3. ROLL CALL

Roll call was taken by Christina Lopez, Board Secretary.

Present: Member Richard Barakat, Member Gary Boyer, Member Corey Calaycay, Vice Chair Cynthia Sternquist, Chair Carol Herrera

4. APPROVAL OF AGENDA

Doran Barnes, Executive Director, requested Items 6 and 8 be presented first, followed by Closed Session, and then Item 7.

After discussion, by Common Consent, and there being no objection, the Board approved the agenda as revised.

5. PUBLIC COMMENT

No members of the public addressed the Foothill Transit Executive Board.

6. FARE RESTRUCTURING IMPLEMENTATION - PHASE II

Recommendation: Provide direction to staff.

Doran J. Barnes, Executive Director, introduced the presentation and stated that John Xie, Revenue Manager, would provide an overview on the Fare Restructuring implementation. The key topic for the Executive Board's

consideration was the implementation of Phase II and potential impact on ridership. Should Phase II of the Fare Restructuring be implemented as planned or does the Executive Board consider postponing implementation.

John Xie, Revenue Manager, presented an overview of the Fare Structuring. He reviewed the project timeline and stated that Phase II of the Fare Restructuring was scheduled for implementation in September 2019.

Phase I of the Fare Restructuring was a success, there was an increase use in adult local 31-day passes and there was an increase in TAP card usage. Several new features were introduced such as reloading of TAP cards at the farebox, and the introduction of day passes. Phase I metrics show a decline in cash boardings and increase in TAP usage. Ridership declined during Phase 1 implementation and fare revenue remained stable. Other local transit agencies are looking at fare policy to stimulate ridership growth. Some agencies are offering subsidies for low-income riders and another is offering free rides during the summer for K-12 students.

Phase II of the Fare Restructuring is scheduled for September 2019. Changes for the Phase II include a base fare increase, pass prices increase, but the senior/disabled local base fare will remain the same. In the recently adopted FY 2019-2020 budget fare revenue was projected at \$16.9 million and ridership was projected at 11.5 million. If it's decided to postpone Phase II implementation, the revised revenue expectation for Fiscal Year 2019-2020 is \$15.8 million and ridership is estimated at 11.8 million. New sources of revenue have been identified since the implementation of the Fare Restructuring, such as the Prop. A fund exchange, Measure M, and Senate Bill 1.

Doran Barnes, Executive Director, stated that the Governing Board's policy position is to move forward with the Fare Restructuring. If the Executive Board proposes to the Governing Board postponing Phase II, then over the next few months' staff would take a comprehensive look at various aspects of the fare structure and what it might do at increasing ridership. Member Barakat asked how the Phase 1 projections compare to the actuals. After a robust discussion on ridership between staff and Executive Board Members it was determined by the Executive Board that Phase II of the Fare Restructuring move forward as scheduled in September 2019.



7. Foothill Transit Arcadia Facility Transit Services Agreement

Recommendation: Provide direction to staff.

Kevin Parks McDonald, Deputy Executive Director, presented this item.

Mr. McDonald reported that at their April 26, 2019 meeting the Executive Board authorized exercise of the available four-year option with Transdev Services Inc., for transit services out of the Arcadia Operations & Maintenance Facility. Subsequent to that meeting, Transdev's corporate leadership requested that the Executive Board reconsider the option exercise due to financial considerations they are experiencing in California and Nevada.

Mr. McDonald set forth the available alternatives to the Executive Board, which include going month-to-month, continue the course, rescind the option exercise and initiate a procurement, or terminate for convenience. The Executive Board directed staff to prepare a recommendation and present it at the next Executive Board Meeting.

8. Low Income Fare is Easy (LIFE) Program

Recommendation: Provide direction to staff.

Linda Apodaca, Manager of Community Engagement, presented this item.

Linda Apodaca reported that at the May 2019 Governing Board Meeting, the Governing Board authorized the Executive Director to enter into a Memorandum of Understanding (MOU) with LA Metro to allow Foothill Transit to accept LIFE TAP media at a reimbursement rate of \$1.14 per boarding. Ms. Apodaca presented an overview of the LIFE program, which is a subsidy program that offers discounts to select customers based on income requirements.

Since May 2019, staff has learned that the LIFE Limited Rides portion of the program may be of some concern. Limited Rides are for individuals experiencing homelessness, people discharged from the hospital, formerly incarcerated individuals, or victims of domestic violence. Agencies authorized to distribute limited rides are pre-approved by Metro. Limited rides come in the form of a 4-Regional Ride paper pass, a taxi coupon, or a variable value voucher coupon. Distributing agencies are expected to validate their clients need and use discretion when distributing passes. User logs must be completely filled out by the distributing agency for reporting

purposes.

Doran Barnes, Executive Director, reported that he has asked staff to monitor the program closely. He stated that Foothill Transit has an obligation to provide transit services to anyone who wants ride, but there could be repercussions to feeling unsafe on the bus. Member Barakat stated that Foothill Transit needs to provide more driver safety. Foothill Transit will continue to participate in the program and staff will keep the Executive Board updated.

9. EXECUTIVE DIRECTOR COMMENT

Comments by Mr. Doran J. Barnes, Executive Director, Foothill Transit.

Mr. Barnes reported the following:

- A Study Session on Foothill Transit’s Safety and Security Program will be held on August 19, 2019.
- The Irwindale Planning Commission approved the Arcadia facility solar canopy project.
- Foothill Transit will be providing a shuttle route for the LA County Fair this year, staff will be making a presentation on Foothill Transit’s service to the fair at the August 23, 2019, Executive Board Meeting.

10. BOARD MEMBER COMMENT

Comments by Members of the Foothill Transit Executive Board.

- Chair Herrera reported that an Ad Hoc Committee consisting of herself and Vice Chair Sternquist has been created to review the CEO evaluation tool.
- Member Barakat stated that the study sessions that have been held have allowed him to keep up to speed on various topics.

The Executive Board recessed into Closed Session at 9:12 a.m.

11. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL—POTENTIAL LITIGATION pursuant to Government Code Section 54956.9 (d): Claim received from Rochelle & Jerry Bryant obo Julian Shelby-Bryant, a minor

12. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION Existing Litigation, Government Code § 54956.9(a)



Name of Case: Gabriela Cabrera v. Foothill Transit
Superior Court of California County of Los Angeles, Case Number BC723268

13. **CLOSED SESSION REPORT**

The Executive Board reconvened at 9:43 a.m. Chair Herrera reported that there was no reportable actions on Closed Session Items 11 and 12.

14. **ADJOURNMENT**

Adjournment for the August 2, 2019 Foothill Transit Executive Board Meeting.

There being no further business, the Foothill Transit Executive Board meeting adjourned at 10:20 a.m.



Foothill Transit

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

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

**Friday, August 19, 2019
8:00 a.m.**

1. CALL TO ORDER

The meeting was called to order by Chair Herrera at 8:06 a.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Herrera.

3. ROLL CALL

Roll call was taken by Christina Lopez, Board Secretary.

Present: Member Richard Barakat, Member Gary Boyer, Member Corey Calaycay, Vice Chair Cynthia Sternquist, Chair Carol Herrera

4. APPROVAL OF AGENDA

After discussion, by Common Consent, and there being no objection, the Board approved the agenda as presented.

5. FOOTHILL TRANSIT SAFETY AND SECURITY PROGRAM

Recommendation: Provide direction to staff.

Doran J. Barnes, Executive Director, thanked the Executive Board for attending the study session and stated that he hoped that they would walk away with an appreciation that safety is the cornerstone of everything that Foothill Transit does. He stated presentations on Foothill Transit's safety and security program would be made by Foothill Transit staff, and by staff from Foothill Transit's contractors Keolis and Transdev.

Roberto Estrella, Safety Compliance Coordinator, reported on the Federal Transit Administration's Public Transportation Agency Safety Plan; the compliance deadline is July 2020. He also presented a summary of the



American Public Transportation Association's Safety Audit that was conducted in August 2017. The audit was voluntary and used independent evaluators. The audit concluded that Foothill Transit had a strong safety culture, and an area for improvement was the need for the development of a Key Performance Indicator for third party injuries. He reviewed Foothill Transit's Safety Management System, which includes the Safety Management Policy, Safety Risk Management, Safety Assurance, and Safety Performance.

Stephanie Smith, Safety Manager of Keolis, and Jamie Ogilvie, Safety and Security Manager of Transdev, both presented overviews of their safety programs at the Pomona and Arcadia Operations and Maintenance Facilities. Roland Cordero, Director of Maintenance and Vehicle Technology, reported on the installation of driver barriers on Foothill Transit buses and he also presented an overview of the video surveillance system. LaShawn King Gillespie, Director of Customer Service and Operations, presented a summary of the items discussed and the next steps for each item presented.

Member Boyer requested a summary of each meeting so that he can share highlights at council meetings. Vice Chair Sternquist stated that Vector Control recently started to provide a summary of board meetings to board members.

On consensus, the Executive Board Members, accepted the verbal presentations by Staff.

6. **EXECUTIVE DIRECTOR COMMENT**

Comments by Mr. Doran J. Barnes, Executive Director, Foothill Transit.

Mr. Barnes reported the following:

- Thanked the Executive Board for participating in today's study session.
- A study session related to Foothill Transit's next bus purchase needs to be scheduled. September 17 or 20 have been identified as a potential date for the study session.
- The San Gabriel Valley Council of Governments will hold their October meeting at the Foothill Transit offices.
- Last night there was a thermal event on one of Foothill Transit's electric buses in Azusa. The bus was towed to the Proterra facility in Industry for further evaluation.
- Staff met with Cal Poly Pomona President Soraya Coley and her administrative staff to discuss the Class Pass Program and restoration of Silver Streak service to the campus as well as other service



connecting to the campus. Mr. Barnes also mentioned the development of a transit center on campus.

7. **BOARD MEMBER COMMENT**

Comments by Members of the Foothill Transit Executive Board.

There were no comments by members of the Executive Board.

8. **ADJOURNMENT**

Adjournment for the August 19, 2019 Foothill Transit Special Executive Board Meeting.

There being no further business, the Foothill Transit Executive Board meeting adjourned at 10:36 a.m.



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**

**Friday, August 23, 2019
9:00 a.m.**

1. CALL TO ORDER

The meeting was called to order by Chair Herrera at 9:56 a.m.

2. ROLL CALL

Roll call was taken by Christina Lopez, Board Secretary.

Present: Member Richard Barakat, Member Gary Boyer, Member Corey Calaycay, Vice Chair Cynthia Sternquist, Chair Carol Herrera

3. APPROVAL OF AGENDA

After discussion, by Common Consent, and there being no objection, the Board approved the agenda as presented.

4. REVIEW & APPROVAL OF THE MINUTES

Approval of the minutes for the Regular Meeting of June 28, 2019.

Motion by Member Calaycay, second by Member Barakat, the minutes for the Regular Meeting of June 28, 2019 were approved. Motion carried 5-0.

5. PUBLIC COMMENT

No members of the public addressed the Foothill Transit Executive Board.

CONSENT CALENDAR

**6. REQUEST TO ISSUE RFP - TRANSIT SERVICES - ARCADIA FACILITY
(RFP NO. 20-010)**

Recommendation: 1. Rescind the Executive Director's authorization to



exercise the four-year option on Agreement No. 16-021 with Transdev Services, Inc.; and 2. Authorize the Executive Director to issue a request for proposals (RFP) No. 20-010 for transit operations and maintenance services at Foothill Transit's Arcadia facility.

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

7. CONTRACT AWARD - ON CALL SCHEDULING SUPPORT

Recommendation: Receive and file this update on award of Contract No. 19-098 to MetroKinetics Inc. dba CSched USA for On Call Scheduling Support in the not-to-exceed amount of \$83,808.

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

REGULAR AGENDA

8. CNG FUEL FIXED PRICE PROPOSAL

Recommendation: Authorize the Executive Director to negotiate contract terms and amend the existing CNG fueling station operations and maintenance contracts into fixed-price agreements with Clean Energy to guarantee Foothill Transit's cost of natural gas for a period of four years. The pricing will be based on a price per gasoline gallon equivalent (GGE) and costs will not exceed the FY19-20 approved budget for fuel.

Roland Cordero, Director of Maintenance and Vehicle Technology, presented this item.

Mr. Cordero reported that last fiscal year Foothill Transit experienced a spike in the price of Compressed Natural Gas (CNG). The spike was due to continued outages on multiple pipeline segments from the Arizona border and the Aliso Canyon facility. The average cost Foothill Transit paid was \$0.57 per GGE.

Foothill Transit's fuel supplier Clean Energy offered a proposal last July with a fixed price of \$0.47 per GGE for 4 years. The price could change depending on what the current price is. The offer also includes "take or pay" agreement of usage at each facility. Foothill Transit would pay the fixed price on 80 percent of gas usage and 20 percent at the going rate at the beginning of each month. The ratio can be contracted at other rates.

Member Barakat asked what price staff is looking to pay. Doran Barnes, Executive Director, indicated that staff is looking at paying between \$0.45 to \$0.47 per GGE.

Member Barakat revised the recommendation to include that the price should not exceed the budgeted amount and \$0.47 per GGE.

Motion by Member Barakat, second by Member Calaycay, to approve the revised recommendation. Motion carried 5-0.

9. EXECUTIVE DIRECTOR COMMENT

Comments by Mr. Doran J. Barnes, Executive Director, Foothill Transit.

Mr. Barnes reported the following:

- Information will be provided to the Executive Board regarding the bus fumigation protocol at the Arcadia and Pomona facilities.
- Staff will reach out to officials in San Bernardino County to address the Line 497 and Chino Park and Ride.
- Thanked the Executive Board for their support.
- Foothill Transit's procurement department earned the 2019 Achievement of Excellence in Procurement Award from National Procurement Institute.
- Reminded the Executive Board of the Foothill Transit Team Picnic.
- A study session is schedule on September 17 regarding fleet strategy.

10. BOARD MEMBER COMMENT

Comments by Members of the Foothill Transit Executive Board.

- Chair Herrera stated that some important decisions need to be made regarding the type of buses the agency purchases. She also stated that the California Public Utilities Commission wants to mandate that all residences and restaurants be all electric.

11. ADJOURNMENT

Adjournment for the August 23, 2019 Foothill Transit Executive Board Meeting.

There being no further business, the Foothill Transit Executive Board Meeting adjourned at 10:28 a.m.



October 25, 2019

To: Executive Board

Subject: **60-Foot Articulated Compressed Natural Gas (CNG) Bus Procurement - Virginia State Cooperative Contract**

Recommendation

Authorize the Executive Director to purchase 24 60-ft. articulated CNG buses from New Flyer in the amount of \$22,971,101.22, under the Virginia State Cooperative Procurement Contract No. E194-75548-MA-2275, California Sales Tax included.

Analysis

Foothill Transit has 30 60-ft. articulated CNG buses (1600 series) with CNG tanks that will expire in January 2021. These buses went through a major rehabilitation in 2016 which involved installing several new systems including, a new and more powerful engine, suspension upgrades, a rebuilt articulating joint, a cooling fan system upgrade, new flooring, body work, and new paint. The articulated buses are operated on our Silver Streak route with each bus accumulating over 60,000 miles a year. By 2021, the new engines will have driven over 300,000 transit miles. By the end of the current year the buses will have accumulated over 700,000 miles of transit service and will be over 12 years old, making them eligible for retirement under the FTA threshold for bus retirement. Because the CNG tanks will be expiring in January 2021, these buses need to be replaced no later than the end of 2020 in order to provide service on our Silver Streak route.

State purchasing schedules were previously only available to recipients within the state completing the procurement. The Fixing America's Surface Transportation (FAST) Act changed purchasing procedures to offer more purchasing options for public transit systems. Under the FAST Act, a grantee may purchase rolling stock or related equipment from any State's cooperative procurement, as long as the State's procurement complies with applicable federal requirements.



Budget Impact

The adopted Foothill Transit Business Plan and Budget for Fiscal Year 2019-2020 includes funds in the Capital project 0123 Bus Replacements, for procuring replacement buses as older CNG buses in our fleet are retired.

Sincerely,

Roland M. Cordero
Director of Maintenance and
Vehicle Technology

Doran J. Barnes
Executive Director

Michelle Lopes Caldwell
Director of Finance and Treasurer

Chris Pieper
Director of Procurement



October 25, 2019

To: Executive Board

Subject: **35-Foot Compressed Natural Gas (CNG) Bus Procurement -
Virginia State Cooperative Contract**

Recommendation

Authorize the Executive Director to purchase two 35-ft. CNG buses from El Dorado National in the amount of \$1,327,484.30 under the Virginia State Cooperative Procurement Contract No. E194-75548-MA-2278, California Sales Tax included.

Analysis

On April 1, 2019, Foothill Transit took over operations of Duarte Transit utilizing three new 35-ft. Proterra battery-electric buses. Foothill Transit operates Line 860, a circulator route that covers 150 miles daily and Line 861, another circulator that covers 180 miles each day around the City of Duarte. Two buses are deployed into service at 6 a.m. daily. Since the buses' limited range cannot complete the longer 180-mile route, the third bus is used to relieve a bus that is sent back to the Arcadia operations and maintenance facility to recharge. When at least one bus is non-operational, a 40-ft. CNG bus is used in service under a contingency plan. The contingency plan is a modified version of the actual route because a 40-ft. CNG bus cannot maneuver on the routes' tight residential streets with the many dips and sharp turns.

Incorporating two 35-ft. CNG buses into the fleet will allow us to provide continuous bus service to the Duarte program when one or more of the 35-ft. battery-electric buses are out of service. The 35-ft. CNG buses can also be deployed on most other Foothill Transit routes. Additionally, Foothill Transit has two 40-ft buses (1400 series) that are greater than twelve years old and are eligible for retirement under the FTA threshold.

State purchasing schedules were previously only available to recipients within the state completing the procurement. The Fixing America's Surface Transportation (FAST) Act changed purchasing procedures to offer more purchasing options for public transit systems. Under the FAST Act, a grantee may purchase rolling stock or related equipment from any State's cooperative procurement, as long as the State's procurement complies with applicable federal requirements.



Budget Impact

The adopted Foothill Transit Business Plan and Budget for Fiscal Year 2019-2020 includes funds in the Capital project 0123 Bus Replacements, for procuring replacement buses as older CNG buses in our fleet are retired.

Sincerely,

Roland M. Cordero
Director of Maintenance and
Vehicle Technology

Doran J. Barnes
Executive Director

Michelle Lopes Caldwell
Director of Finance and Treasurer

Chris Pieper
Director of Procurement



October 25, 2019

To: Executive Board

Subject: **Contract Amendment - 40-Foot Compressed Natural Gas (CNG) Bus Procurement**

Recommendation

Authorize the Executive Director to exercise an option and amend Contract No. 18-043 with Creative Bus Sales in the amount \$13,154,824.77 for the purchase of 19 40-ft. low-floor CNG buses, California Sales Tax included.

Analysis

At the April 2018 Executive Board meeting, the Board authorized the Executive Director to enter into Agreement No. 18-034 with Creative Bus Sales for the purchase of purchase 34 40-ft. low-floor CNG buses. The agreement includes an option to purchase 57 additional buses in the event that there was a delay in the construction of in-depot chargers at our operations and maintenance facilities.

Since there has been a delay in the installation and construction of in-depot charging stations at both Pomona and Arcadia facilities, at last March's Executive Board meeting, the Board authorized the exercise an option for 10 additional 40-ft. CNG buses to replace buses that were 12 years old or older and eligible for retirement.

Currently, Foothill Transit has 18 CNG buses with CNG tanks that will expire in January 2021. These buses have over 600,000 miles of transit service and are over 12 years old, making them eligible for retirement under the FTA threshold for bus retirement. The buses need to be replaced no later than the end of November 2020 to ensure the provision of continuous bus service and that both Keolis and Transdev are assigned the 15 percent spare ratio of buses stipulated in both transit operations agreements.

In addition, Foothill Transit needs to replace Bus 2213 that was involved in a thermal event in 2018. This bus was operated out of the Pomona Operations and Maintenance Facility under contract with Keolis, and Keolis will reimburse Foothill Transit for the cost of the replacement including the cost of on-board equipment such as CAD/AVL hardware, surveillance equipment, and farebox.



Budget Impact

The adopted Foothill Transit Business Plan and Budget for Fiscal Year 2019-2020 includes funds in the Capital Project 0123 Bus Replacements, for procuring replacement buses as older CNG buses in our fleet are retired.

Keolis will reimburse Foothill Transit for the cost of replacing Bus 2213 including all CAD/AVL hardware, surveillance equipment, and farebox that were lost in the thermal event.

Sincerely,

Roland M. Cordero
Director of Maintenance and
Vehicle Technology

Doran J. Barnes
Executive Director

Michelle Lopes Caldwell
Director of Finance and Treasurer

Chris Pieper
Director of Procurement



October 25, 2019

To: Executive Board

Subject: **Contract Award – Arcadia and Pomona Operations & Maintenance Facility In-Ground Lift Decommission and Shop Floor Resurfacing**

Recommendation

Authorize the Executive Director to negotiate final terms and conditions and enter into Agreement No. 19-062 with Air & Lube Systems, Inc. in the amount of \$998,407.44 for construction related to in-ground lift removal and maintenance shop floor resurfacing at the Arcadia and Pomona Operations & Maintenance facilities.

Analysis

On January 25, 2019, the Executive Board authorized the issuance of IFB No: 19-062 for Arcadia and Pomona Operations & Maintenance Facility In-Ground Lift Decommission and Shop Floor Resurfacing. Over the last several months, staff has worked with our design consultants to finalize plans and specifications for the project. The scope of work includes complete removal of six in-ground lifts at each facility, infill of the equipment pits, and paving over with concrete. Once completed, a combined 50,000 square feet of maintenance shop floors at both facilities will be resurfaced with a new floor coating system for slip-resistance in maintenance areas with exposure to liquids and spills while protecting the subsurface concrete from stains and absorption. Both facility maintenance shop floors were originally treated with a floor coating system when built.

On September 5, 2019, the solicitation was issued to vendors using the agency's E-Procurement platform, PlanetBids. Over 130 vendors were contacted using the Bid Broadcast feature, which notifies a set maximum amount of vendors registered with other local agencies based on the commodity codes selected. The solicitation notice was also published locally in the San Gabriel Valley Tribune and Inland Valley Daily Bulletin newspapers. On September 19, 2019, a Job Walk and Pre-Bid conference were conducted with potential bidders in attendance.

A total of four bids were received on October 10, 2019, which are listed in Attachment A. Of the bids received, the lowest responsive and responsible bidder was Air & Lube Systems, Inc. With over 20 years of experience in



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Contract Award - Arcadia and Pomona Operations & Maintenance Facility In-Ground Lift Decommission and Shop Floor Resurfacing

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vehicle lift installation and replacement, Air & Lube Systems, Inc. is an expert in their field and brings a wealth of experience. Past projects include vehicle lift installation and replacement for clients such as LA Metro, City and County of San Francisco and Monterrey-Salinas Transit.

Budget Impact

The adopted FY2019-2020 Business Plan and Budget includes funding for construction activities related to Arcadia and Pomona Operations & Maintenance Facility In-Ground Lift Decommission and Shop Floor Resurfacing project.

Sincerely,

Handwritten signature of Vincent Saucedo in blue ink.

Vincent Saucedo
Construction Project Manager

Handwritten signature of Doran J. Barnes in blue ink.

Doran J. Barnes
Executive Director

Handwritten signature of Christopher Pieper in blue ink.

Christopher Pieper
Director of Procurement

Handwritten signature of Michelle Lopes Caldwell in blue ink.

Michelle Lopes Caldwell
Director of Finance and
Treasurer

ATTACHMENT A

Vendor	Bid Price
Air & Lube Systems	\$ 998,407.44
R2 Buildg	\$ 1,116,000.00
Dorado Design & Construction	\$ 1,122,200.00
Leonida Builders	\$ 1,225,000.00



October 25, 2019

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 consultant selection, negotiation, award, and administration of competitively negotiated contracts.

The Executive Board adopted the current version of the Foothill Transit Procurement Manual in August 2018. 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.

Many of the proposed changes to the Foothill Transit Procedures reflect updates and clarifications resultant of changes to federal regulations, changes to allow for the acceptance of non-wet ink signatures, or are spelling/grammar corrections and are not substantive nor do they affect existing Foothill Transit procedures. A redlined version of the policies and procedures manual is included as Exhibit A.

The following revisions to the Procurement Manual are proposed:

1. **Update to Include Changes in Federal Requirements**

Aligns the Procurement Manual with current federal regulations including; prompt payment to subcontractors, responsibility determination, project control files, and acknowledgement of new thresholds for informal purchases.



2. Update to Payment Terms

Requires vendors and Foothill Transit to enter into a contract amendment for any changes in vendor payment information due to an increase in the number and sophistication of fraudulent phishing scams targeting government agencies.

3. Update Intergovernmental and Joint Procurement Agreements

Update to include changes in the names of cooperative purchasing entities that the agency may utilize and clarifications to the use of purchasing schedules.

4. Updates to Procurement Procedures

Updates to the Procurement Procedures to comply with changes in procurement procedures resultant from updates to the public records policy and contract awards to solicitations above the Executive Director authority threshold.

5. Update to Acceptance of Signatures

Updates that allow the agency to accept both electronic .pdf signatures and scans of original wet ink signatures when original signatures are not required by law or regulation.

6. General Clarifications to Procurement Policies and Procedures

Align administrative procedures in the manual with current practice and utilization of Foothill Transit's electronic procurement and vendor management systems. Provide general clarifications to unclear language in the manual, align previously adopted authority thresholds, remove references to outdated forms of communication, as well as correct minor spelling and grammatical errors that currently exist in the manual.



Budget Impact

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

Sincerely,

A handwritten signature in blue ink that reads "Chris Pieper".

Christopher Pieper
Director of Procurement

A handwritten signature in blue ink that reads "Doran J. Barnes".

Doran J. Barnes
Executive Director



Foothill Transit

Going Good Places

**Procurement
Policies and Procedures
Manual**

~~August 2018~~

October 2019

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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. 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 \$7,500*	Micro Purchase	Department Directors
\$7,500-\$20,000**	Small Purchase	Department Directors
\$20,000-\$75,000	Small Purchase	Executive Director
\$75,000-\$100,000	RFP or IFB	Executive Director
Greater than \$100,000	RFP or IFB	Executive Board
<p>*Less than \$3,500 when Federal Funds are used. **\$3,500 OMB Memo M- \$20,000 when Federal Funds are used. <u>18-18 permits recipients of Federal funds to have higher limits than the stated</u></p>		

[thresholds, but Foothill Transit shall use the stated thresholds, regardless of the source of funds.](#)

Please note that Department Directors 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	Director of <u>Facilities Department Directors</u>
\$20,000 - \$100,000	RFQ	Executive Director
Greater than \$100,000	RFQ	Executive Board

C. Public Works/Construction Projects

Procurement of labor and/or materials for construction or 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	Director of <u>Facilities Department Directors</u>
\$6,500 - \$100,000	IFB	Executive Director

Greater than \$100,000 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
\$20,000-\$100,000	Sole Source	Executive Director
Greater than \$100,000	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 \$100,000 must be approved by the Executive Director; a change order of over \$100,000 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 exceeds \$20,000, the amendment or change order responsible for 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 Executive Director.
2. When the cumulative value of all amendments or change orders to a contract exceeds \$100,000, the amendment or change order responsible for exceeding the \$100,000 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 \$90,000, and there is a fifth change order for \$10,000, 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 Executive Director 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. 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; a task order of \$50,000 must be approved by the Executive Director) where the value of the individual task order at issue is below \$75,000. For task orders with an individual value at or above \$75,000, 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.

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 Executive Director are hereby delegated to the Deputy Executive Director.

Except as provided in these procedures, all rights, powers, duties, and authorities delegated to the Deputy Executive Director 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 allowed only to the Executive Director, Deputy Executive Director, or the Director of Procurement may not be delegated.

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

The Executive Director and/or the Deputy Executive Director 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 ~~the Executive Board~~ 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 specifications, evaluation factors, 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 ~~signed~~entered into by Foothill Transit (and each subcontract ~~the~~a prime contractor ~~signs~~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. ~~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.

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 ~~will be provided~~ shall be held on file and be made available to the Executive Board ~~as part of the meeting agenda packet~~ for in-person review in the manner described in section 7.a. above. If the Executive Director determines that information marked as trade secret, confidential, or proprietary should be considered by the Executive Board, the Executive Director 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 Procurements

The Director of Procurement will ensure that the term of rolling stock procurements, including the exercise of options, funded with Federal funds will not exceed five (5) years.

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 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~~Architectural and/or ~~engineering~~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.

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 ~~“Method of Procurement~~ Decision Matrix” ~~set forth below.~~

2. Contract Type

The rationale for selecting the ~~type of contract,~~ type (such as fixed price ~~or,~~ 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 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 Retention and Access

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 a procurement for goods or services (excluding public works projects) that total \$7,500 ~~or less (\$3,500 or less when Federal Funds are used)~~. Purchases below \$7,500 ~~(\$3,500 or less when Federal Funds are used)~~ may be made without obtaining competitive quotations if it is determined by the Department Director that the price to be paid is fair and reasonable. The Department Director will document how this determination was derived.

Micro purchases must 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.

Subchapter B - Small Purchases

For procurements between \$7,500 and \$75,000 ~~(\$3,500 to \$75,000 when Federal Funds are used)~~ (public works construction projects valued at \$6,500 or less can be procured through the small purchase process), written quotations from three (3) vendors are required. 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.

Subchapter C - Invitation for Bids (IFB)

A. General

The Invitation for Bids (IFB) competitive procurement process is used for public works/construction projects valued at \$6,500 or more, and, if appropriate, purchases of goods and services whose cumulative value will exceed \$75,000. 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 suppliers 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 \$100,000. 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. 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 (and Scope of Work) - 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. ~~General Terms and Conditions~~^{5. Special Terms and Conditions} – Provisions unique to each IFB, if applicable, will be included (e.g. 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. ~~Addendum~~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 ~~envelopes~~[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. ~~Responsible Bidder Evaluation.~~

~~Before awarding the contract, Foothill Transit shall determine that a prospective contractor is **responsible** and that prices are **reasonable**. Bidders may be asked to provide any information required to determine the responsibility of the bidder.~~

- ~~1. A responsible bidder 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.~~
 - ~~e. 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 chamber 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 will 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 executed until the contractor has been determined to be responsible.~~
 - ~~5. The Director of Procurement will ensure that the form set forth in Appendix C 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.~~ **U. 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 ~~exposure~~ 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.

WU. 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.

WV. 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, ~~or facsimile.~~ Bid 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.

XW. Final Award

If Executive Board approval is required for award, the Project Manager shall prepare the ~~board report~~ **Board Report**, in consultation with the Director of Procurement. The report shall ~~include links to or copies of all bids received,~~ 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 Executive Director 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 ~~executed~~ **signed**. The Director of Procurement

will ensure that the contract is ~~executed~~signed at the approval level required in these procedures.

~~A minimum of one original signed copy of each~~Each contract will be ~~executed~~signed by Foothill Transit and the contractor. ~~The~~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.

~~Y~~X. Project Completion

All original documentation related to each procurement such as the IFB, Bid, control record, board report, background data, ~~evaluation criteria and scores~~ 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

The Request for Proposals (RFP) process is used in the procurement of services (see Subchapter E for the procurement of ~~architectural~~Architectural and ~~engineering~~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 offeror. An RFP generally includes:

1. Project background.
2. Purpose of the engagement.
3. General firm qualifications desired.
4. ~~Scope~~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 \$100,000. 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 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 ~~a statement~~ ~~or 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. ~~A statement~~ 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 ~~statement~~ specifications and/or scope of work should address the following areas:
 - a. The specific goods or objectives of the ~~proposed~~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 ~~amendment~~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, ~~facsimile,~~ or telephone. Such notification should be confirmed in the ~~amendment~~addendum. The ~~amendment~~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 ~~amendment~~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 **amendment**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 **amendment**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 **amendments**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 ~~by the Evaluation Committee~~

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 ~~augmented~~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 Executive Director. In appointing individuals to the Evaluation Committee, the Executive Director 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 ~~factors and criteria known to all proposers (i.e.,~~ 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 **responsible** 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 ~~an~~ 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 Executive Director 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, ~~or facsimile~~.

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~~Report. The Board ~~report shall include links to or copies of all proposals received.~~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 Executive Director's determination of the recommendation for contract award.
2. The Executive Board shall vote to accept or reject the Executive Director's determination of the recommendation for contract award. If the Executive Board rejects the Executive Director'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 Executive Director 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 ~~executed~~signed. The Director of Procurement will ensure that the contract is ~~executed~~signed at the approval level required in these procedures.
5. ~~A minimum of one original signed copy of each~~Each contract will be ~~executed~~signed by Foothill Transit and the contractor. ~~The~~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~~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 ~~proposers shall be debriefed upon their written request submitted~~ proposer submits to the Director of Procurement a written request for a debriefing within a reasonable time. ~~Debriefings shall be provided.~~ Foothill Transit shall provide a debriefing. Foothill Transit shall provide the debriefing at the earliest time after a final determination is made regarding ~~the award of the contract is made~~ 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~~ 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 procedures will be used for competitive negotiation procedures for the qualifications-based procurement of ~~architectural~~Architectural and ~~engineering~~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 Executive Director 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 Executive Director 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 Executive Director to review the basis upon which the recommendations were made. The Executive Director shall not add firms to the selection report. If recommended firms are deemed to be unqualified or the report is inadequate, the Executive Director 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 Executive Director from a list of the most highly qualified firms prepared by the Evaluation Committee. The Executive Director 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. 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 \$7,500 ~~(\$3,500 when Federal funds are used)~~ 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 Executive Director or Executive Board for approval as appropriate. The Director of Procurement will also ensure that 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 ~~a~~ 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 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 ~~executed~~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 ~~the template set forth in Subchapter O of this Chapter~~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 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 Executive Director and/or the Deputy Executive Director 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 Executive Director 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 Executive Director 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. 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.

- 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), ~~Western States Contracting Alliance (WSCA), NJPA (National Joint Powers Alliance)~~ 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 ~~California State and Local Government~~ 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 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 in excess of the micro purchase threshold, including contract modifications. 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 ~~executed~~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 ~~the~~a pre-approved form ~~set forth in Appendix C~~ 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.

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~~**Architectural** and/or ~~engineering~~**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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director makes such a determination, the Executive Director 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 ~~therefor~~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 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 ~~executed~~existing contract. The Contract Purchase Order number is the same as the ~~executed~~existing contract number preceded with "KPO" and the amount ~~will 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 ~~executed~~ 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 ~~executed~~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, 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 ~~signed and dated and~~ processed for payment.
2. The Department Director, 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 ~~signed and dated and~~ 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 Executive Director'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 Executive Director. 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 ~~for~~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 Executive Director 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 Executive Director shall be in writing and shall be the final binding agency action. Except in exceptional circumstances, the decision of the Foothill Transit Executive Director 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. Federal Transit Administration Appeals (Only if Federal funds are used in the procurement)

1. A protestor adversely affected by a bid protest decision of the Foothill Transit Executive Director may submit a protest to the Federal Transit Administration (FTA) in accordance with the provisions of 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. Under the provision of the FTA Circular, FTA will only review protests regarding the alleged failure of Foothill Transit to have written protest procedures, the alleged failure of Foothill Transit to have complied with its protest procedures; or Foothill Transit's alleged failure to review a protest when presented the opportunity to do so. FTA will not consider every appeal filed by a protestor merely because a Federal law or regulation may be involved. Instead, FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA's overall public transportation program. FTA will refer ~~violation~~[violations](#) of Federal law for which it does not have primary jurisdiction to the Federal authority having proper jurisdiction.
3. 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 protestor 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 ~~a~~ 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) ~~is signed~~, 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.
7. The Executive Director will sign all contracts unless unavailable, in which case contracts will be signed in accordance with ~~the adopted~~ 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 public works/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.

- 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 public works/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 ~~if~~ 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/construction contract 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 public works/construction projects in excess of \$6,500. Payment bonds are required by the State of California for all public works/construction 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>*These bond amounts are mandatory</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.
 - 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 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. 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 following completion of all 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. ~~3.~~ List of all vendors responding to the procurement.
5. ~~4.~~ 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. ~~5.~~ Notice to proceed (if applicable).
7. Basis for contract price.
8. ~~6.~~ Final contract.
9. ~~7.~~ Executive Board report, if required.
10. ~~8.~~ All correspondence.

11.9.~~9.~~ Proof of insurance.

12.10.~~10.~~ Bond documents.

13.11.~~11.~~ Notice of Solicitation.

14.12.~~12.~~ Legal advertisement (if applicable).

15.13.~~13.~~ Original procurement document and all addenda.

16.14.~~14.~~ Original responses to the procurement.

17.15.~~15.~~ DBE information.

~~16.~~

K. 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.

L. 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 ~~can~~may be used only:
 - a. ~~After~~after a determination by the Director of Procurement that no other type of contract is suitable; and
 - b. ~~If~~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. Advance payments utilizing Federal Transit Administration funds are prohibited unless prior written concurrence is obtained from the Federal Transit Administration.
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, letters of credit or equivalent means to protect Foothill Transit's interests.
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 Executive Director 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 Executive Director. 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 Executive Director 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 Executive Director.
2. After review of the Debarment Recommendation, the Executive Director will promptly issue the Debarment Determination, which may adopt, modify, or reject the Debarment Recommendation of the Debarment Panel. In the event the Executive Director modifies or rejects the Debarment Recommendation of the Debarment Panel, the Executive Director shall provide a written explanation for that modification or rejection. The Executive Director's Debarment Determination shall constitute the final agency action.
3. The Executive Director 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 Executive Director 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 Executive Director 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	Public Works and Prevailing Wage Cont.
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

State Laws	Sections(s)	Subject
Government Code	53079	Local public entity; construction project, security deposit; interest
Government Code	6250 – 6270	California Public Records Act
Government Code	81000 et seq.	California Political Reform Act of 1974
Labor Code	1720, 1720.2, 1720.3, and 1771	Public Works and Prevailing Wage
Public Contract Code	7100 - 7200	Public Work 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 Public Work Contracts
Public Contract Code	1104	Architectural & Engineering Plans and Specifications
Public Contract Code	3300	Contractor's License in Specifications for Bids
Public Contract Code	3400	Trade Name or Specific Names in 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

State Laws	Sections(s)	Subject
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 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	Goods	Prof'l Services
Buy America	(49 C.F.R. Part 661)	>\$150,000		>\$150,000				
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	X	X
Fly America	(49 U.S.C. 40118) <i>Required for international air transportation</i>	X	X	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	>\$100,000	>\$100,000
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

[Foothill Transit Procurement Policies and Procedures](#)

Federal Requirement	Notes	When Required						
		Rolling Stock	Operating	Construction	Consultant Services	Research	Goods	Prof'l Services
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	<u>49 U.S.C. 5325(g) and 2 CFR § 200.336</u>	X	X	X	X	X	X	X
Federal Changes		X	X	X	X	X	X	X
Substance Abuse Requirements	<i>Where contractor is performing safety-sensitive function</i>	X	X	X	X	X	X	X
Incorporation of Federal Transit Administration Terms		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
Intelligent Transportation Systems-National Architecture	<i>ITS property and services</i>	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

Appendix C – Forms

Document comparison by Workshare Compare on Thursday, October 3, 2019
1:38:20 AM

Input:	
Document 1 ID	interwovenSite://SS-DMS/DMS/7449121/1
Description	#7449121v1<DMS> - Procurement Policies and Procedures Manual - 2019 Updates
Document 2 ID	interwovenSite://SS-DMS/DMS/7449121/13
Description	#7449121v13<DMS> - Procurement Policies and Procedures Manual - 2019 Updates
Rendering set	MS Word Proof

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	276
Deletions	260
Moved from	39
Moved to	39
Style change	0
Format changed	0
Total changes	614



October 10, 2019

To: Executive Board

Subject: **Class Pass Program - Cal Poly Pomona**

Recommendation

Authorize Foothill Transit staff to proceed in discussions focused on the possible launch of the Class Pass Program at California State Polytechnic University, Pomona.

Analysis

Foothill Transit's Class Pass programs at Mt. San Antonio College, University of La Verne, Citrus College, and The Claremont Colleges have been successful programs that have attracted new riders. These partnerships have provided local college students with discounted passes to increase their mobility options and increase ridership. In addition, the program could lead to future riders as the students are able to experience the benefits of riding public transportation as a means to not only get to and from school, but also for work and for leisure activities.

The San Gabriel and Pomona valleys are known locally as the education capital of Southern California with three community colleges, a California State University, and numerous private colleges. Foothill Transit hopes to partner with as many colleges as possible to continue to show students the benefits of riding public transit.

Foothill Transit will discuss the logistics of the partnership with Cal Poly Pomona to launch a Class Pass pilot program in the 2020-2021 academic year. The pilot phase of the Class Pass program allows Cal Poly Pomona and Foothill Transit to estimate ridership on the campus by offering the program at no cost to the college for one school year. Foothill Transit would agree to provide marketing for the program, transit passes for the students, and would assist with the administrative setup for the program. The pilot program would take place over the school year in Fiscal Year 2020-2021, with the understanding that the school would vote on adopting the program beyond the 2020-2021 academic year at some point during the pilot period.

Cal Poly Pomona has over 26,000 students enrolled and is currently served by seven Foothill Transit Lines - Lines 190, 194, 195, 289, 480, 482, and 486.

Sincerely,

Hendy Satya
Marketing and Communications Manager

Doran J. Barnes
Executive Director



October 25, 2019

To: Executive Board

Subject: **Resolution Adopting Executive and Governing Board Meeting Schedule for 2020**

Recommendation

Adopt Resolution No. 2019-03, the Executive and Governing Board Meeting Schedule for 2020.

Analysis

The schedule of Executive and Governing Board meetings and the annual meeting of the Governing Board are shown on the attached meeting schedule (Attachment A). Foothill Transit's Joint Powers Agreement (JPA) requires that meetings be fixed by resolution (Attachment B). Upon adoption, the resolution and meeting schedule will be filed with the JPA member cities and Los Angeles County.

At times, it may be necessary to modify the meeting schedule due to business issues that arise. Notification will be provided in a timely manner of any possible date or time changes and proper notifications will be posted.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christina Lopez".

Christina Lopez
Board Secretary

A handwritten signature in black ink, appearing to read "Doran J. Barnes".

Doran J. Barnes
Executive Director

Attachments



Foothill Transit

2020 Executive & Governing Board Meeting Calendar

January 2020	Friday, January 31 @ 7:45 a.m. - Governing Board Meeting Friday, January 31 @ 9:15 a.m. - Executive Board Meeting
February 2020	Friday, February 28 @ 8:00 a.m. - 3:00 p.m. - Strategic Planning Workshop, Location TBD
March 2020	Friday, March 27 @ 7:45 a.m. - Governing Board Meeting Friday, March 27 @ 9:15 a.m. - Executive Board Meeting
April 2020	Friday, April 24 @ 7:45 a.m. - Governing Board Meeting Friday, April 24 @ 9:15 a.m. - Executive Board Meeting
May 2020	Friday, May 29 @ 7:45 a.m. - Joint Meeting -Annual Governing Board & Executive Board Meeting
June 2020	Friday, June 26 @ 7:45 a.m. - Governing Board Meeting Friday, June 26 @ 9:15 a.m. - Executive Board Meeting
July 2020	No Meetings scheduled in July
August 2020	Friday, August 28 @ 7:45 a.m. - Governing Board Meeting Friday, August 28 @ 9:15 a.m. - Executive Board Meeting
September 2020	Friday, September 25 @ 7:45 a.m. - Governing Board Meeting Friday, September 25 @ 9:15 a.m. - Executive Board Meeting
October 2020	Friday, October 30 @ 7:45 a.m. - Governing Board Meeting Friday, October 30 @ 9:15 a.m. - Executive Board Meeting
November 2020	No meetings scheduled in November

2020 Executive & Governing Board Meeting Calendar

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December 2020	Friday, December 18 @ 7:45 a.m. - Governing Board Meeting Friday, December 18 @ 9:15 a.m. - Executive Board Meeting
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RESOLUTION NO. 2019-03

**A RESOLUTION OF THE EXECUTIVE BOARD OF Foothill TRANSIT
ADOPTING THE 2020 MEETING SCHEDULE**

The Executive Board of Foothill Transit does resolve as follows:

1. Findings. The Executive Board hereby finds and declares the following:

A. The Joint Exercise of Powers Agreement governing Foothill Transit requires that the dates of the regular meetings of the Governing Board and Executive Board fixed by resolution.

B. It is most convenient and useful to the agency and its members to fix the dates of the regular meetings and of other significant meetings through the adoption of an annual schedule.

2. Action.

A. The Executive Board adopts the 2020 Executive and Governing Board Meeting Schedule attached as Attachment A.

3. Adoption. PASSED AND ADOPTED at a meeting of the Executive Board held on October 25, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

CAROL HERRERA, CHAIR

APPROVED AS TO FORM:
DAROLD PIEPER, GENERAL COUNSEL

ATTEST:
CHRISTINA LOPEZ, BOARD SECRETARY

By:_____

By:_____



October 25, 2019

To: Executive Board

Subject: **Contract Award – Bus Book Printing and Design**

Recommendation

Authorize the Executive Director to enter into Contract No. 20-015 with Transit Information Products for printing and design of Bus Books with an amount not-to-exceed \$537,825.64, over the potential life of the contract, which includes a base contract term of three years in the amount of \$315,281.20 and two one-year options in the amounts of \$110,024.73 and \$112,519.71.

Analysis

On May 31, 2019, the Executive Board authorized the issuance of request for proposals for Bus Book Printing and Design (“RFP”). Foothill Transit’s Bus Book is a schedule and information guide that includes bus schedules, fare tables, route maps, and other information useful to our customers. This information is presented in English, Spanish, and Chinese. The contractor will be tasked with ensuring that all items involved in the design and production of the Bus Book are performed thoroughly, accurately, and in a timely manner.

No proposals were received in response to a request for proposals issued previously in July 2019. RFP No. 20-015 was issued on August 21, 2019 to vendors using the agency’s e-procurement platform PlanetBids. One proposal, by Transit Information Products, was received in response to the RFP. Vendor interest checks were conducted with non-responding prospective proposers to determine that competition was adequate and unrestricted.

Transit Information Products’ Pre-qualification Submittal was evaluated by Foothill Transit’s Procurement staff and Legal Counsel. The submittal consisted of a proposal letter, certifications, evidence of good standing, and exceptions taken to the draft contract. The pre-qualification review also examined the Technical and Price Proposal to determine compliance with the requirements of the RFP. Subsequently, an evaluation committee, consisting of five members of Foothill Transit’s administrative team, reviewed Transit Information Product’s Technical Proposal. The following technical factors comprised 90 percent of the total score:



- Project Understanding (10 percent)
- Statement of Qualifications, Experience, and Past Performance (25 points)
- Work Plan and Technical Approach (30 percent)
- Sample (25 percent)

Price was weighted at 10 percent of the total score and was scored as follows:

$$\text{Price Score} = \frac{\text{Lowest Price}}{\text{Proposer's Price}} * 10 \text{ Points}$$

Overall price was determined by the total price for each printing of the Bus Book in the base and option years.

The evaluation committee determined that Transit Information Products' proposal meets the requirements of the RFP. A summary of the scores and pricing is provided in Attachment A. A price analysis was also performed to determine the reasonableness of Transit Information Products' proposed price.

Based in Concord, California, Transit Information Products, focuses exclusively on the design and production of transit related printed materials. Some of the vendor's clients include Long Beach Transit, Monterey-Salinas Transit, and Fresno Area Express, all of which the vendor has provided service for over twenty years. Transit Information Products has been designing and printing Foothill Transit's Bus Book since 2001.

The services in Contract No. 20-015 will be performed for an initial term of three years with two one-year options to be executed at the sole discretion of Foothill Transit.



Budget Impact

Funding for this project is included in Foothill Transit's proposed FY19-20 Business Plan and Budget. Planning for future year expenses is included in the Foothill Transit agency-wide ten-year forecast.

Sincerely,

Joseph Raquel
Director of Planning

Christópher Pieper
Director of Procurement

Doran J. Barnes
Executive Director

Michelle Lopes Caldwell
Director of Finance and
Treasurer

ATTACHMENT A

RFP No. 20-015 Printing and Design of Bus Book

Evaluation Score Summary

Evaluation Factors	Maximum Score	Transit Information Products
1. Project Understanding	10	9.10
2. Statement of Qualifications, Experience, and Past Performance	25	23.65
3. Work Plan and Technical Approach	30	25.86
4. Sample	25	22.40
<i>Technical Score</i>	<i>90</i>	<i>81.01</i>
Price - Three Base Yrs		\$ 315,281.20
Price - Two Option Yrs		\$ 222,544.44
Price Total		\$ 537,825.64
<i>Price Score</i>	<i>10</i>	<i>10.00</i>
<i>Overall Score</i>	<i>100</i>	<i>91.01</i>



October 25, 2019

To: Executive Board

Subject: **Management Compensation Program**

Recommendation

Authorize the Executive Director to add one full-time equivalent (FTE) employee to assist the Human Resources Manager with human resources, benefits administration, and bi-weekly payroll activities.

Analysis

Human Resource compliance issues are continuing to increase requiring additional support for the Foothill Transit staff. For the past year, Foothill Transit has contracted with an independent contractor to provide assistance to update employee files as required by law. Completed tasks include the following:

- Personnel files have been updated to include all employee documentation including new hire information, employee handbook acknowledgement, training records and performance conversations. All 1-9 files have been completed, as required by law.
- Workers' compensation files have been prepared and safety procedures developed for employees working special events.
- The Employee Handbook has been revised to include all Foothill Transit policy and procedure changes and updated for recent legal changes.
- Twelve recruitments were completed to replace staff members who left or were promoted to other positions.
- Foothill Transit completed legally required Affordable Care Act reporting for the first time in 2019.

Tasks that are currently urgent include the benefit insurances review and updates with carriers, open enrollment process including individual employee planning sheets for all employees, employee recruitments for the Data Security Analyst, Transit Planner, and Fare Revenue Manager, and federally required training programs for supervisors.

Additionally, succession planning continues to be a leadership goal. An area we have specifically targeted for development is the payroll function in the Finance department. We currently have only one person who is qualified to prepare the bi-weekly payroll, the annual income tax filings, payroll and



benefits budgeting, ACA reporting, annual reporting to the State Controller's office for payroll, and public records requests related to payroll. These activities currently consume approximately 50 percent of one FTE. The employee who currently performs these tasks is planning to retire in January 2020.

Due to the confidential nature of all payroll activities, it is a good fit and is considered to be a best practice to co-locate the payroll tasks into the Human Resources function.

Budget Impact

The proposed FTE will be included in the Foothill Transit pay schedule as a Human Resources Assistant - Pay Range 4. The estimated cost per fiscal year is forecast to be \$100,000 including all Foothill Transit benefits. The cost for the current fiscal year is forecast to be approximately \$50,000 as the new employee will not be on board until at least January 2020. The current fiscal year budget will not be impacted as we have experienced salary savings this year due to employee vacancies.

Sincerely,

Michelle Lopes Caldwell
Director of Finance & Treasurer

Doran J. Barnes
Executive Director

Attachment



Foothill Transit

Going Good Places

Foothill Transit Employee Compensation Program

Adopted **October 25, 2019**

Foothill Transit's employee compensation program is described below. The Foothill Transit Board reserves the right to modify or change this plan at its sole discretion at any time. The Executive Director is charged with administering this program.

Pay Grades

Foothill Transit shall utilize the following pay grades and ranges. Employees may be hired at any point within these pay ranges at the discretion of the Executive Director and subject to overall budget limitations:

	Annual Minimum	Annual Maximum	Position Type
Foothill Transit Grade 8	\$106,925	\$184,444	Department Director
Foothill Transit Grade 7	\$82,400	\$139,467	Department Manager
Foothill Transit Grade 6	\$63,682	\$102,528	Technical Staff
Foothill Transit Grade 5	\$50,470	\$82,379	Technical Support
Foothill Transit Grade 4	\$42,230	\$70,040	Administrative Support
Foothill Transit Grade 3	\$38,687	\$62,455	Clerical Support

Compensation for the Executive Director shall be set at the sole discretion of the Board. Compensation for the Deputy Executive Director shall not be less than 65 percent of the compensation of the Executive Director and not more than 80 percent of the compensation of the Executive Director.

Positions by Pay Grade

Foothill Transit positions are assigned to the following pay grades:

	Department	Pay Grade
Receptionist	Administration	Grade 3
Marketing Assistant	Marketing	Grade 3
Operations and Customer Services Assistant	Operations	Grade 3
Board Support Services Coordinator	Administration	Grade 4
Accounting Clerk	Finance	Grade 4
Human Resources Assistant	Finance	Grade 4
Assistant Administrative Analyst	Procurement	Grade 4
Facilities Analyst	Facilities	Grade 5
Accountant	Finance	Grade 5
Finance Analyst	Finance	Grade 5
Fleet Maintenance Coordinator	Maintenance	Grade 5
Mechanical Service Quality Inspector	Maintenance	Grade 5
Quality Assurance Inspector (4)	Operations	Grade 5
Procurement Specialist	Procurement	Grade 5
Facilities Manager	Facilities	Grade 6
Senior Accountant	Finance	Grade 6
Accounting Supervisor	Finance	Grade 6
IT Help Desk	I.T.	Grade 6
IT Specialist	I.T.	Grade 6
Fleet Technology Coordinator	Maintenance	Grade 6
Creative Content Designer	Marketing	Grade 6
Digital Media and Customer Relations Coordinator	Marketing	Grade 6
Quality Assurance Analyst	Operations	Grade 6
Safety Compliance Coordinator	Operations	Grade 6
Transit Planner (2)	Planning	Grade 6
Board Support Manager/Executive Assistant	Administration	Grade 7
Policy and Programs Manager	Administration	Grade 7
Manager of Public Affairs	Administration	Grade 7
Construction Project Manager	Facilities	Grade 7
Controller	Finance	Grade 7
Revenue Manager	Finance	Grade 7
Human Resources Manager	Finance	Grade 7
Information Technology Manager	I.T.	Grade 7
Manager of Community Engagement	Marketing	Grade 7
Marketing & Communications Manager	Marketing	Grade 7
Procurement Manager	Procurement	Grade 7
Operations Contract Manager	Operations	Grade 7
Transit Planning Manager	Planning	Grade 7

Foothill Transit Employee Compensation Program
Page 3

Director of Government Relations	Administration	Grade 8
Director of Facilities	Facilities	Grade 8
Director of Finance and Treasurer	Finance	Grade 8
Director of Information Technology	I.T.	Grade 8
Director of Maintenance and Vehicle Technology	Maintenance	Grade 8
Director of Marketing and Communications	Marketing	Grade 8
Director of Planning	Planning	Grade 8
Director of Procurement	Procurement	Grade 8
Director of Customer Service and Operations	Operations	Grade 8

Internship Program

As part of Foothill Transit’s commitment to workforce development, Foothill Transit has created an internship program. The internships allow students to gain valuable skills and knowledge. In addition, the interns support Foothill Transit in achieving its mission. Interns work schedule will be agreed to in advance with the hiring supervisor, however, the intern’s work hours will not exceed the hours per week and days per year as required by state and federal laws for students and for part-time employment.

Paid Time Off

Paid time off (PTO) combines vacation and sick time into a single bank of days for employees to use to take paid time off from work. PTO allows employees to take time off work at their discretion (with approval from their supervisor) which supports work-life balance and flexibility. The PTO accruals are based on years of service as shown in the table below:

Years of Service	Bi-Weekly Accrual (expressed in decimals)	Annual Accrual	Maximum Allowable Accrual (three times annual rate)
0-5 Years of Service	6.77 hours	176 hours	528 hours
5-10 Years of Service	8.30 hours	216 hours	648 hours
10-15 Years of Service	9.84 hours	256 hours	768 hours
15+ Years of Service	11.38 hours	296 hours	888 hours

Years of service shall include time worked as a Foothill Transit employee and time worked for a Foothill Transit operating and/or management contract for the period in which the employee was assigned full-time to serving Foothill Transit. Service does not

need to be consecutive. In accordance with California paid sick-leave laws, part-time employees will accrue one hour of PTO for every 30 hours worked.

Employees may request to cash out their PTO hours once every calendar year, provided they 1) have used at least 80 hours of **scheduled** PTO hours during the 12 month period prior to requesting the cash out, and 2) they retain at least 160 hours in their PTO bank. Any deviation from this policy must be approved by the Executive Director.

Employees who separate from Foothill Transit after the age of 55 years will receive their final PTO check as a lump sum payment into the 401a retirement plan.

Holidays

Holiday Hours

Foothill Transit shall observe the following seven paid holidays:

- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving
- Day after Thanksgiving

If an employee works on one of those seven holidays or if a holiday falls on a regularly scheduled flex day, the holiday hours are automatically added to the employee's PTO account.

Foothill Transit also observes a holiday period beginning on December 24th of each year and ending on January 1st. The administrative offices are closed during this time. The specific number of days and total hours of holiday time will vary from year to year. These holiday hours are not added to the PTO accrual bank.

Foothill Transit will grant paid holiday time off to all eligible employees immediately upon assignment to full-time status. Holiday pay will be calculated based on the employee's straight-time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day. Part-time employees are not eligible for holiday pay.

Paid Family Leave (PFL)

Occasionally an employee may be required to take a prolonged leave of absence due to a serious illness or injury for either themselves or a family member or to bond with a

new child (approved Family Medical Leave). Foothill Transit will pay PFL payments to eligible employees approximately 60 to 70% of weekly pay, up to **\$1,252 per week** for the equivalent of six weeks. PFL will be coordinated with the employee's PTO bank to provide full pay until the PTO bank is depleted. PFL may be taken intermittently.

Work Hours and Schedules

Management and administrative employees will work a 9/80 flex schedule with every other Monday off.

Employees will start each workday at the same time between the hours of 7:00 and 8:00 AM. Departments which operate 7 days a week, 24 hours a day, may assign employees specific work hours and days. A detailed discussion of the work hours and schedules is included the Employee Handbook.

Health Benefits

Foothill Transit shall pay 90% of the cost of medical, dental, vision and chiropractic insurance for the employee and their eligible dependents. Employees who can demonstrate verification of health coverage may opt out of the Foothill Transit health benefits program. Employees who opt out will receive \$250 per month for medical insurance and \$60 per month for dental, vision, and chiropractic insurance.

In the event of a serious illness or injury, an employee may submit their Explanation of Benefits from their health care provider, or other appropriate documentation, identifying the out-of-pocket expenses or declined payments in excess of \$5,000. Foothill Transit will reimburse the employee for those expenses, not to exceed \$20,000, net of taxes.

In order to encourage good health, the cost of flu shots for employees and their dependents covered by the Foothill Transit group medical health plans are eligible to receive reimbursement annually for the administration of the flu shot.

Life Insurance

Foothill Transit shall provide life insurance at one time the employee's annual salary. Per United States Internal Revenue requirements, the premium for insurance in excess of \$50,000 per year is considered taxable income. Employees will be responsible for this tax liability. A payroll deduction will be made each pay period related to this tax liability.

Retirement Benefits

Foothill Transit shall contribute an amount equal to eight percent of the employee's bi-weekly compensation to a defined contribution retirement plan. In addition, Foothill

Transit will match 100 percent of employee contributions up to four percent of bi-weekly compensation to this retirement plan.

Tuition Reimbursement

Employees shall be eligible for tuition reimbursement for classes related to professional positions at Foothill Transit. A grade of “C” or better must be achieved to obtain reimbursement. The maximum annual reimbursement shall be \$5,250.

Transit Bus Passes for Employees and Dependents

Foothill Transit bus passes shall be provided to employees for their professional and personal use. Foothill Transit bus passes also shall be provided to all employees’ dependents.

Employees commuting via other transit providers at least eight times per month shall be provided transit passes for these other transit providers.

Length of Service Recognition

Employees shall receive a one-time length of service payment as follows:

5 years of service	\$500
10 years of service	\$750
15 years of service	\$1,000
Each subsequent five years of service	\$1,000

Length of service shall include time worked as a Foothill Transit employee and time worked for a Foothill Transit operating and/or management contract for the period in which the employee was assigned full-time to serving Foothill Transit.

Amounts noted are gross pay and shall be treated as ordinary income, which is subject to appropriate taxes.

Compensation Adjustments

Under the adopted management compensation plan, annual evaluations will take place in June of each year with any compensation adjustments effective July 1 of that year. Compensation adjustments consisting of raises or promotions will then be applied to employees by the first full payroll in July. The salary ranges will be adjusted by 3% each year.

- **Individual Performance Goals** – Achievement of individual performance goals are under the direct control of employees and superior performance should be recognized. In this category, an increase of up to three percent of salary will be

granted based on the achievement of individual annual goals. These performance goals are determined between the employee and their supervisor prior to the beginning of the fiscal year and approved by the Executive Director every June.

- ***Developmental Program*** – It is anticipated that some employees will be hired at the lower end of their pay range. As they perform their jobs and enhance their skill set, they will become more valuable to the organization and their compensation should reflect this added value. Accordingly, developmental compensation increases will be granted as follows: An employee in the lowest quarter of the salary range will receive a three percent increase; an employee in the second lowest quarter of the salary range will receive a two percent increase; an employee in the second highest quarter of the salary range will receive a one percent increase; and an employee in the highest quarter of the salary range will receive no increase. To qualify for a developmental increase an employee must receive a satisfactory rating overall on their annual evaluation.
- ***Educational Advancement*** – Foothill Transit places great emphasis on the achievement of advanced education. This commitment is reflected in the education reimbursement program. Employees who earn advanced degrees bring additional skills to the organization. In recognition of these additional skills, a one-time increase in base compensation of five percent shall be granted upon achievement of a bachelor's degree, master's degree or doctoral degree in a field of study that is relevant to the mission of Foothill Transit.