



**BOARD OF DIRECTORS REGULAR MEETING AGENDA  
FEBRUARY 11, 2011  
\*SANTA CRUZ CONFERENCE ROOM\*  
\*110 VERNON STREET\*  
SANTA CRUZ, CALIFORNIA  
9:30 a.m. – 11:00 a.m.**

**THE BOARD MEETING AGENDA PACKET CAN BE FOUND ONLINE AT [WWW.SCMTD.COM](http://WWW.SCMTD.COM)  
OR AT SANTA CRUZ METRO'S ADMINISTRATIVE  
OFFICES LOCATED AT 110 VERNON STREET, SANTA CRUZ, CA**

**NOTE: THE BOARD CHAIR MAY TAKE ITEMS OUT OF ORDER**

**SECTION I: OPEN SESSION - 9:30 a.m.**

1. ROLL CALL
2. ORAL AND WRITTEN COMMUNICATION TO THE BOARD OF DIRECTORS
3. LABOR ORGANIZATION COMMUNICATIONS
4. ADDITIONAL DOCUMENTATION TO SUPPORT EXISTING AGENDA ITEMS

**CONSENT AGENDA**

- 5-1. CONSIDERATION OF TORT CLAIMS: REJECT THE CLAIM OF STATE FARM INSURANCE (SUBROGATING FOR STEVE AND ELLEN LAGORE), #11-0002
- 5-2. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A ONE-YEAR CONTRACT EXTENSION WITH DEVCO OIL, INC. FOR FUELING OF PARACRUZ METRO VEHICLES IN AN AMOUNT NOT TO EXCEED \$185,000
- 5-3. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A ONE-YEAR CONTRACT EXTENSION WITH MASTER CAR WASH FOR PARACRUZ VEHICLE WASHING SERVICES FOR AN AMOUNT NOT TO EXCEED \$25,000
- 5-4. CONSIDERATION OF DECLARING 1 TOYOTA PRIUS, 1 NORTEL BCM200 SWITCH, 2 ANALOG PHONE SWITCHES, 16 NORTEL PHONE UNITS AS EXCESS FOR PURPOSES OF DISPOSAL OR AUCTION

## REGULAR AGENDA

6. CONSIDERATION OF THE RESOURCE ALLOCATION PRESENTATION AND DISCUSSION OF THE REVISED PROJECTED FY11 AND FY12 BUDGETS  
Presented by: Angela Aitken, Acting Assistant General Manager & Finance Manager
7. ACCEPT AND FILE REPORT ON STATUS OF METRO PARACRUZ RESERVATION PHONE SYSTEM REPAIRS  
Presented by: Ciro Aguirre, Operations Manager
8. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE AN AGREEMENT WITH THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA) TO USE MEASURE A FUNDS TO PURCHASE FIVE (5) 40-FOOT LOW FLOOR CNG POWERED SUBURBAN COACHES  
Presented by: Angela Aitken, Acting Assistant General Manager & Finance Manager
9. **ORAL ANNOUNCEMENT:** THE NEXT REGULARLY SCHEDULED BOARD MEETING WILL BE HELD FRIDAY, FEBRUARY 25, 2011 AT 9:00 A.M. AT THE WATSONVILLE CITY COUNCIL CHAMBERS LOCATED AT 275 MAIN STREET, IN WATSONVILLE  
Presented by: Chair Pirie
10. REVIEW OF ITEMS TO BE DISCUSSED IN CLOSED SESSION: District Counsel
11. ORAL AND WRITTEN COMMUNICATIONS REGARDING CLOSED SESSION

## SECTION II: CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
(Pursuant to Government Code Section 54956.8)
  - a. Property: 115 DuBois Street, Santa Cruz, CA  
Negotiating parties: Leslie R. White, General Manager, SCMTD  
Margaret Gallagher, District Counsel, SCMTD  
Nick Iuliano, General Manager, Iuliano LLC2  
Under Negotiation: Price and Terms of Payment
2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
(Pursuant to Government Code Section 54956.9)
  - a. Name of Case: Raudel Delgado v. Santa Cruz Metropolitan Transit District  
(Before the Workers' Compensation Appeals Board)
3. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION  
(Pursuant to Government Code Section 54957.5)
  - a. Name of Case: Potential Claim of Salvador Lopez Chipres

4. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Pursuant to Government Code Section 54957)

a. Title: District Counsel

**SECTION III: RECONVENE TO OPEN SESSION**

12. REPORT OF CLOSED SESSION

**ADJOURN**

**NOTICE TO PUBLIC**

Members of the public may address the Board of Directors on a topic not on the agenda but within the jurisdiction of the Board of Directors or on the consent agenda by approaching the Board during consideration of Agenda Item #3 "Oral and Written Communications", under Section I. Presentations will be limited in time in accordance with District Resolution 69-2-1.

When addressing the Board, the individual may, but is not required to, provide his/her name and address in an audible tone for the record.

Members of the public may address the Board of Directors on a topic on the agenda by approaching the Board immediately after presentation of the staff report but before the Board of Directors' deliberation on the topic to be addressed. Presentations will be limited in time in accordance with District Resolution 69-2-1.

The Santa Cruz Metropolitan Transit District does not discriminate on the basis of disability. The Santa Cruz Conference Room is located in an accessible facility. Any person who requires an accommodation or an auxiliary aid or service to participate in the meeting, please contact Tony Tapiz, Administrative Services Coordinator, at 831-426-6080 as soon as possible in advance of the Board of Directors meeting. Hearing impaired individuals should call 711 for assistance in contacting METRO regarding special requirements to participate in the Board meeting.

# GOVERNMENT TORT CLAIM

## RECOMMENDED ACTION

TO: Board of Directors

FROM: District Counsel

RE: Claim of: State Farm Insurance (Subro. LaGore, Steve & Ellen)  
Received: 1/25/2011 Claim #: 11-0002  
Date of Incident: 7/27/2010 Occurrence Report No.: SC 07-10-19

In regard to the above-referenced Claim, this is to recommend that the Board of Directors take the following action:

- 1. Reject the claim entirely.
- 2. Deny the application to file a late claim.
- 3. Grant the application to file a late claim.
- 4. Reject the claim as untimely filed.
- 5. Reject the claim as insufficient.
- 6. Allow the claim in full.
- 7. Allow the claim in part, in the amount of \$ \_\_\_\_\_ and reject the balance.

By Margaret Gallagher  
Margaret Gallagher  
DISTRICT COUNSEL

Date: 1-31-11

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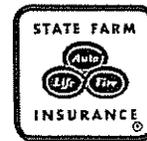
I, Tony Tapiz, do hereby attest that the above Claim was duly presented to and the recommendations were approved by the Santa Cruz Metropolitan Transit District's Board of Directors at the meeting of February 11, 2011.

By \_\_\_\_\_  
Tony Tapiz  
RECORDING SECRETARY

Date: \_\_\_\_\_

MG/lg  
Attachment(s)

# State Farm Insurance Companies



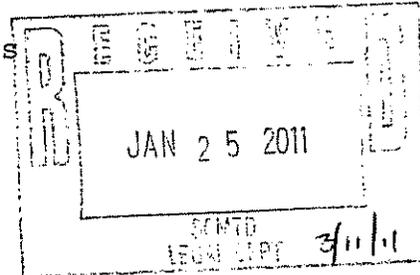
State Farm Insurance  
Subrogation Services  
PO Box 2371  
Bloomington, IL 61702-2371

January 24, 2011

~~XXXXXXXXXX~~ (L)  
11-0002

Certified Mail-Return Receipt Requested

Santa Cruz Metro  
Attn: Secretary to the Board of Directors  
110 Vernon St  
Santa Cruz, CA 95060



RE: Claim Number: ~~XXXXXXXXXX~~  
Our Insured: Steve Lagore  
Date of Loss: July 27, 2010  
Your Insured: Santa Cruz Metro Transit District  
Your Insured Driver: ~~XXXXXXXXXX~~  
Your Claim Number: Report #Sc07-10-19  
Your Policy Number:  
Loss Location: 11th Street Off Ramp Off 280  
San Jose, CA

Dear Sir / Madam:

It is our understanding that you are self insured. Our investigation indicates you are responsible for this claim. Therefore, we are seeking recovery from you. This letter is to notify you of our subrogation claim and request your cooperation in settling this matter.

To assist you in your review, here is a breakdown of the amounts State Farm paid by Cause of Loss:

041/045 - Uninsured Motorist BI	\$
042 - Uninsured Motorist PD	\$
300 series/400 - Comp/Collision	\$701.36
501 - Rental/Loss of Use	\$
600-050 - Med Pay/PIP	\$
Other	\$
Salvage Recovery	\$
Amount State Farm Paid	\$701.36
Insured Deductible	\$500.00
Total Claim Amount	\$1,201.36

Based on the assessment of liability between the parties, State Farm Mutual Automobile Insurance Company is seeking 100% of the Total Claim Amount listed above. The amount payable to State Farm Mutual Automobile Insurance Company for this loss is \$1,201.36.

Page 2  
January 24, 2011

Please remit payment of this claim and include our claim number on the payment. If you have any questions, please call (877) 457-8276 and any member of Team #60 may assist you. Thank you for your cooperation.

In order to assist you in evaluating and processing the subrogation claim we are asserting, we may provide nonpublic personal information about our customer. We are sharing this information to effect, administer, or enforce a transaction authorized by the consumer. However, you are neither authorized nor permitted to: (1) use the customer information we provided for any purpose other than to evaluate and process the subrogation claim, or (2) disclose or share the customer information we provide for any purpose other than to evaluate and process the subrogation claim.

Sincerely,

Ryan Perno x39150  
Claim Processor  
(877) 457-8276, Team 60

State Farm Mutual Automobile Insurance Company  
Enclosure(s)

**5-1.3**

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** February 11, 2011  
**TO:** Board of Directors  
**FROM:** April Warnock, Paratransit Superintendent  
**SUBJECT: CONSIDERATION OF CONTRACT RENEWAL FOR FUELING OF PARACRUZ METRO VEHICLES WITH DEVCO OIL, INC.**

## I. RECOMMENDED ACTION

**That the Board of Directors authorize the General Manager to execute a one-year contract extension with Devco Oil, Inc. for fueling of ParaCruz Metro Vehicles in an amount not to exceed \$185,000.**

## II. SUMMARY OF ISSUES

- A contract was established March 1, 2010, with Devco Oil, Inc. for off-site fueling of METRO ParaCruz' revenue and non-revenue vehicles for an amount not to exceed \$185,000.
- The contract allows for the option to extend for four (4) additional one (1) year terms.
- Staff is recommending that the Board of Directors authorize the General Manager to execute the first one year contact extension with Devco Oil, Inc. for fueling of ParaCruz Metro Vehicles in an amount not to exceed \$185,000.

## III. DISCUSSION

The Santa Cruz Metropolitan Transit District requires off-site fueling of METRO ParaCruz' revenue and non-revenue vehicles with gasoline fuel for use in its fleet.

Devco Oil currently provides METRO ParaCruz with two fueling sites, one site in north county and the other site in south county. These two fueling sites offers flexibility to ParaCruz, first by allowing Operators to refuel at the closest location before returning to base, and secondly, if one site runs out of fuel, the option for the ParaCruz Operator to refuel at the alternate site.

The term of the current contract is for a one year period, expiring on February 28, 2011 with the option to extend for four (4) additional one (1) year terms.

Staff is recommending that the Board of Directors authorize the General Manager to execute the first one year contact extension with Devco Oil, Inc. for fueling of ParaCruz Metro Vehicles in an amount not to exceed \$185,000.

Contractor will provide all equipment and materials meeting all District specifications and requirements as written in the existing contract.

#### **IV. FINANCIAL CONSIDERATIONS**

Funding for this contract are included in the ParaCruz FY11 operating budget.

#### **V. ATTACHMENTS**

**Attachment A:** Contract Amendment #1 with Devco Oil, Inc.

**Attachment B:** Agreement to extend contract from Devco.

Prepared By: Hina Patel, Purchasing Agent

Date Prepared: January 14, 2011

**Note: The IFB along with its Exhibits and any Addendum(s) are available for review at the Administration Office of METRO or online at [www.scmttd.com](http://www.scmttd.com)**

# ATTACHMENT A

## SANTA CRUZ METROPOLITAN TRANSIT DISTRICT FIRST AMENDMENT TO CONTRACT NO. 10-16 FOR PARACRUZ VEHICLE FUELING SERVICES

This First Amendment to Contract No. 10-16 for ParaCruz Vehicle Fueling Services is made effective March 1, 2011 between the Santa Cruz Metropolitan Transit District, a political subdivision of the State of California (“Santa Cruz METRO”) and Devco Oil, Inc. (“Contractor”).

### I. RECITALS

- 1.1 Santa Cruz METRO and Contractor entered into a Contract for ParaCruz Vehicle Fueling Services (“Contract”) on March 1, 2010.
- 1.2 The Contract allows for the extension upon mutual written consent

Therefore, Santa Cruz METRO and Contractor amend the Contract as follows:

### II. TERM

- 2.1 Article 4.01 is amended to include the following language:

This contract shall continue through February 28, 2012. This Contract may be mutually extended by agreement of both parties.

### III. COMPENSATION

- 3.1 Article 5.01 is amended to include the following language:

METRO shall compensate Contractor in an amount not to exceed \$185,000, under this amendment.

### III. REMAINING TERMS AND CONDITIONS

- 3.1 All other provisions of the Contract that are not affected by this amendment shall remain unchanged and in full force and effect.

### IV. AUTHORITY

- 4.1 Each party has full power to enter into and perform this First Amendment to the Contract and the person signing this First Amendment on behalf of each has been properly authorized and empowered to enter into it. Each party further acknowledges that it has read this First Amendment to the Contract, understands it, and agrees to be bound by it.

SIGNATURES ON NEXT PAGE

# ATTACHMENT A

Signed on \_\_\_\_\_

Santa Cruz METRO  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

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Leslie R. White  
General Manager

CONTRACTOR  
Devco Oil, Inc.

By \_\_\_\_\_  
Elizabeth Devins  
Owner

Approved as to Form:

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Margaret R. Gallagher  
District Counsel

## ATTACHMENT B

**From:** devcooil@aol.com [mailto:devcooil@aol.com]  
**Sent:** Friday, February 04, 2011 1:34 PM  
**To:** Hina Patel  
**Subject:** Re: Santa Cruz METRO Contract 10-16

Yes, we would like to do business with Santa Cruz METRO and extend contract for an additional year.

Thank You,

Liz Devins

-----Original Message-----

**From:** Hina Patel <HPatel@scmttd.com>  
**To:** 'devcooil@aol.com' <devcooil@aol.com>  
**Sent:** Fri, Feb 4, 2011 1:32 pm  
**Subject:** FW: re: Santa Cruz METRO Contract 10-16

[Please respond to this email.](#)

Hina

**From:** Hina Patel  
**Sent:** Monday, January 31, 2011 12:40 PM  
**To:** 'devcooil@aol.com'  
**Subject:** re: Santa Cruz METRO Contract 10-16

Hello Ms. Devins,

The contract is coming up for renewal on February 28, 2011. In order to extend the contract, I will need a letter or response to this email, agreeing to extend the contract for an additional year.

Please respond to the email and or you can send me a letter to inform me that you would like to continue doing business with METRO.

If you have any questions, please feel free to contact me.

Thank you,

Hina Patel  
Purchasing Agent  
Santa Cruz METRO  
P: 831-426-6080 ext 1310  
F: 831-426-2918

**5-2.b1**

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** February 11, 2011  
**TO:** Board of Directors  
**FROM:** April Warnock, Paratransit Superintendent  
**SUBJECT: CONSIDERATION OF CONTRACT RENEWAL FOR PARACRUZ VEHICLE WASHING SERVICES WITH MASTER CAR WASH FOR AN AMOUNT NOT TO EXCEED \$25,000**

## I. RECOMMENDED ACTION

**That the Board of Directors authorize the General Manager to execute a one-year contract extension with Master Car Wash for ParaCruz vehicle washing services for an amount not to exceed \$25,000**

## II. SUMMARY OF ISSUES

- A contract was established with Master Car Wash. for off-site washing of METRO's non-revenue vehicles for an amount not to exceed \$25,000
- The contract allows for the option to extend for four (4) additional one (1) year terms
- Staff is recommending that the Board of Directors authorize the General Manager to execute a one year contact extension with Master Car Wash for washing of ParaCruz Metro Vehicles in an amount not to exceed \$25,000

## III. DISCUSSION

A contract was established with Master Car Wash. for off-site washing of METRO's non-revenue vehicles for an amount not to exceed \$25,000

Master's Car Wash has provided vehicle washing services for all ParaCruz vehicles, from the mid-size buses to the minivans. Masters has also provided bio-hazard cleaning for the interior of the vehicles upon request.

The contract allows for the option to extend for four (4) additional one (1) year terms

Staff is recommending that the Board of Directors authorize the General Manager to execute a one year contact extension with Master Car Wash for washing of ParaCruz Metro Vehicles in an amount not to exceed \$25,000

#### **IV. FINANCIAL CONSIDERATIONS**

Funds to support these contracts are included in the ParaCruz FY11 operating budget.

#### **V. ATTACHMENTS**

**Attachment A:** Contract with Master Car Wash

**Attachment B:** Consent from vendor to extend contract

Prepared By: Hina Patel, Purchasing Agent  
Date Prepared: January 14, 2011

**Note: The RFP along with its Exhibits and any Addendum(s) are available for review at the Administration Office of Santa Cruz METRO or online at [www.scmtd.com](http://www.scmtd.com)**

# ATTACHMENT A

## SANTA CRUZ METROPOLITAN TRANSIT DISTRICT FIRST AMENDMENT TO CONTRACT NO. 10-16 FOR VEHICLE WASHING SERVICES

This First Amendment to Contract No. 10-16 for Vehicle Washing Services is made effective March 1, 2011 between the Santa Cruz Metropolitan Transit District, a political subdivision of the State of California (“Santa Cruz METRO”) and Master Car Wash (“Contractor”).

### I. RECITALS

- 1.1 Santa Cruz METRO and Contractor entered into a Contract for vehicle washing services (“Contract”) on March 1, 2010.
- 1.2 The Contract allows for the extension upon mutual written consent

Therefore, Santa Cruz METRO and Contractor amend the Contract as follows:

### II. TERM

- 2.1 Article 4.01 is amended to include the following language:

This contract shall continue through February 28, 2012. This Contract may be mutually extended by agreement of both parties.

### III. COMPENSATION

- 3.1 Article 5.01 is amended to include the following language:

METRO shall compensate Contractor in an amount not to exceed \$25,000, under this amendment.

### III. REMAINING TERMS AND CONDITIONS

- 3.1 All other provisions of the Contract that are not affected by this amendment shall remain unchanged and in full force and effect.

### IV. AUTHORITY

- 4.1 Each party has full power to enter into and perform this First Amendment to the Contract and the person signing this First Amendment on behalf of each has been properly authorized and empowered to enter into it. Each party further acknowledges that it has read this First Amendment to the Contract, understands it, and agrees to be bound by it.

SIGNATURES ON NEXT PAGE

# ATTACHMENT A

Signed on \_\_\_\_\_

Santa Cruz METRO  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

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Leslie R. White  
General Manager

CONTRACTOR  
Master Car Wash

By \_\_\_\_\_  
Jaime Martinez  
Manager

Approved as to Form:

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Margaret R. Gallagher  
District Counsel

## ATTACHMENT B

**From:** Master Car Wash [mailto:smastercarwash@aol.com]  
**Sent:** Thursday, February 03, 2011 9:10 AM  
**To:** Hina Patel  
**Subject:** Re: Santa Cruz Metro Contract 10-16

Hi Hina

Master car wash it's extend the contract whit metro para Cruz for an other year if you need a letter let me know or fax me the form

Sent from my iPhone

On Jan 31, 2011, at 12:38 PM, Hina Patel <[HPatel@scmtd.com](mailto:HPatel@scmtd.com)> wrote:

Hello Jaime,

The contract is coming up for renewal on February 28, 2011. In order to extend the contract, I will need a letter or response to this email, agreeing to extend the contract for an additional year.

Please respond to the email and or you can send me a letter to inform me that you would like to continue doing business with METRO.

If you have any questions, please feel free to contact me.

Thank you,

Hina Patel

Purchasing Agent  
Santa Cruz METRO  
P: 831-426-6080 ext 1310  
F: 831-426-2918

**5-3.b1**

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** February 11, 2011

**TO:** Board of Directors

**FROM:** Angela Aitken, Finance Manager & Acting Assistant General Manager

**SUBJECT: CONSIDERATION OF DECLARING 1 TOYOTA PRIUS, 1 NORTEL BCM200 SWITCH, 2 ANALOG PHONE SWITCHES, 16 NORTEL PHONE UNITS AS EXCESS FOR PURPOSES OF DISPOSAL OR AUCTION**

## I. RECOMMENDED ACTION

**That the Board of Directors declare 1 Toyota Prius, 1 Nortel BCM200 switch, 2 analog phone switches, and 16 Nortel phone units as excess for purposes of disposal or auction and direct staff to use appropriate action for disposal.**

## II. SUMMARY OF ISSUES

- In accordance with Santa Cruz METRO's policy on disposal of fixed assets and inventoriable items, at least once per year the Finance Manager shall recommend to the Board of Directors a list of items to be declared excess with appropriate action for disposal.
- One (1) Toyota Prius is no longer required by Santa Cruz METRO due to extensive wire damage
- In addition, the following analog telephone equipment is no longer required by Santa Cruz METRO due to moving to a digital VOIP system:
  - One (1) Nortel BCM200 Base System
  - Two (2) analog phone switches
  - Sixteen (16) Nortel phone units
- Staff recommends that the Board of Directors declare the above items as excess and direct staff to use appropriate action for disposal.

## III. DISCUSSION

In accordance with Santa Cruz METRO's policy on disposal of fixed assets and inventoriable items, at least once per year the Finance Manager shall recommend to the Board of Directors a list of items to be declared excess with appropriate action for disposal.

One (1) Toyota Prius is no longer required by Santa Cruz METRO due to extensive wire damage.

In addition, the following analog telephone equipment is no longer required by Santa Cruz METRO due to moving to a digital VOIP system:

- One (1) Nortel BCM200 Base System
- Two (2) analog phone switches
- Sixteen (16) Nortel phone units

Staff recommends that the Board of Directors declare the items on **Attachment A** as excess and direct staff to use appropriate action for disposal.

The current market value of these items range from \$100 to \$1,000 and are in poor or good but obsolete condition.

#### **IV. FINANCIAL CONSIDERATIONS**

None of these items have any remaining book value. Any revenue generated from the sale of these items will be recorded as income in the current operating budget.

#### **V. ATTACHMENTS**

**Attachment A:** Excess Vehicle Listing – Disposal or Auction as of February 11, 2011.



# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** February 11, 2011

**TO:** Board of Directors

**FROM:** Angela Aitken, Finance Manager and Acting Assistant General Manager

**SUBJECT: CONSIDERATION OF THE RESOURCE ALLOCATION  
PRESENTATION AND DISCUSSION OF THE REVISED PROJECTED  
FY11 AND FY12 BUDGETS**

## I. RECOMMENDED ACTION

**That the Board of Directors accept the Resource Allocation presentation and have follow-up discussions of the revised projected FY11 and FY12 budgets.**

## II. SUMMARY OF ISSUES

- The Board of Directors will be given a Resource Allocation presentation every month over the course of the next 6-9 months
- Management feels it is imperative that the Board be informed in a timely manner as we move through these financially difficult times
- A monthly meeting with SEIU, UTU-FR and UTU-Paracruz is held the second Wednesday of every month where similar if not the same information is shared

## III. DISCUSSION

The Board of Directors will be given a Resource Allocation presentation every month over the course of the next 6-9 months. Santa Cruz METRO management feels it is imperative that the Board be informed in a timely manner as we move through these financially difficult times.

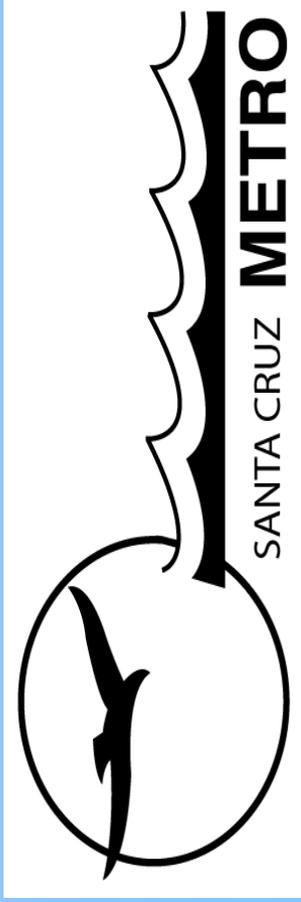
A monthly meeting with SEIU, UTU-FR and UTU-Paracruz is held the second Wednesday of every month where similar if not the same information is shared.

## IV. FINANCIAL CONSIDERATIONS

None at this time. Information only.

## V. ATTACHMENTS

**Attachment A:** Resource Allocation Presentation – February 11, 2011



# RESOURCE ALLOCATION PRESENTATION

February 11, 2011

# FY 11 REVENUE SOURCES

FY11 Published Budget                      FY11 Revised Budget

\$ 37.279M                      —————>                      \$ 38.526M

Revenue Variance\*:

- ▶ \$(8K): Reduced Rent Income and Vacancies
- ▶ \$(14K): FTA Sec 5311 – Rural Op Assistance
- ▶ \$919K: Carryover from previous year
- ▶ \$(150K): Transfers from Legal Settlements (Incorporated into Risk Department Budget)
- ▶ \$500K: Alternative Fuel Tax Credit

**6.22**  
**\$ 1.247M**

\* Negative numbers indicate unfavorable variances

# FY11 EXPENSES

FY11 Published Budget

FY11 Revised Budget

\$ 37.279M

— \$ 38.238M

Expenses Variance\*:

- \$583K: 17% increase in Medical Ins (HMOs), effective January 2011
- \$191K: Updated Employee Pay and Benefits Information
- \$149K: Additional Holiday Pay and Fringe benefits for Bus Operators and Operations
- \$25K: Open Enrollment Changes: re - enrolling dependents (Medical Ins)-Active Employees, effective January 2011
- \$30K: Open Enrollment Changes: re – enrolling dependents (Medical Ins)-Retirees, effective January 2011
- \$(37K): No rate increases for the life of the contracts for Dental, Vision, and Life Insurance per information from HR (Pat and Ellyn), as of January 26, 2011.
- \$18K: Increased Employer Contribution rates for SDI and SUI, from 1.1% to 1.2% and from 3.00 % to 3.9%, respectively, effective January 2011, as per email from the County from January 27, 2011.

**6.23**

**\$ 959K**

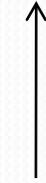
\* Positive numbers indicate unfavorable variances

# FY 12 REVENUE SOURCES

FY12 Published Budget

FY12 Revised Budget

\$ 38.628M



\$ 40.455M

Revenue Variance\*:

- \$(8K): Reduced Rent Income and Vacancies
- \$(150K): Transfers from Legal Settlements (Incorporated into Risk Department Budget)
- \$500K: Alternative Fuel Tax Credit
- \$(188K): Reduced STA 2011-2012 Allocation (per letter from State Controller from January 19, 2011)
- \$208K: Carryover from previous year (due to decrease in FY11 expenses)
- \$1.465M: Unrealized Revenue (Revenue needed to achieve balanced budget)

**6.24**

\$ 1.827M

\* Negative numbers indicate unfavorable variances

## FY12 EXPENSES

FY12 Published Budget

FY12 Revised Budget

\$ 38.628M

—————> \$ 40.455M

Expenses Variance\*:

- \$1.231M: 17% increase in Medical Ins (HMOs), effective January 2011; 12% (estimate), effective January 2012
- \$188K: Updated Employee Pay and Benefits Information
- \$318K: Increase in Retirement Factor in FY12 from 15.43% to 17.21%
- \$75K: Open Enrollment Changes: re – enrolling dependents (Medical Ins)-Active Employees
- \$64K: Open Enrollment Changes: re –enrolling dependents (Medical Ins)-Retirees
- \$(76K): No rate increases for the life of the contracts for Dental, Vision, and Life Insurance per information from HR (Pat and Ellyn), as of January 26, 2011.
- \$27K: Increased Employer Contribution rates for SDI and SUI, from 1.1% to 1.2% and from 3.0% to 3.9%, respectively, effective January 2011, as per email from the County from January 27, 2011.

**6.25**

**\$ 1.827M**

\* Positive numbers indicate unfavorable variances

# FY11 PUBLISHED & REVISED OPERATING BUDGET

	FY11 Published Budget	FY11 Revised Budget
Operating Revenue	\$ 31,655,105	\$ 31,632,845
Operating Expenses	\$ 37,279,317	\$ 38,237,538
<b>Operating Loss</b>	<b>\$ (5,624,212)</b>	<b>\$ (6,604,693)</b>
Non-Operating Revenue:		
ARRA	\$ 270,000	\$ 270,000
STIC	\$ 1,202,159	\$ 1,202,159
STA	\$ 2,800,000	\$ 2,800,000
Alternative Fuel Tax Credit	\$ -	\$ 500,000
Carryover from Previous Year	\$ 1,071,106	\$ 1,989,862
Transfer from Legal Settlements	\$ 150,000	\$ -
Transfer from Capital Reserves	\$ 130,947	\$ 130,947
<b>(Deficit)/Surplus</b>	<b>\$ -</b>	<b>\$ 288,275</b>

# FY12 PUBLISHED & REVISED OPERATING BUDGET

	FY12 Published Budget	FY12 Revised Budget
Operating Revenue	\$ 32,198,489	\$ 32,190,503
Operating Expenses	\$ 38,627,918	\$ 40,455,220
<b>Operating Loss</b>	<b>\$ (6,429,429)</b>	<b>\$ (8,264,717)</b>
Non-Operating Revenue:		
ARRA	\$ -	\$ -
STIC	\$ 1,202,159	\$ 1,202,159
STA	\$ 2,500,000	\$ 2,311,643
Alternative Fuel Tax Credit	\$ -	\$ 500,000
Carryover from Previous Year	\$ 80,480	\$ 288,275
Transfer from Legal Settlements	\$ 150,000	\$ -
Transfer from Capital Reserves	\$ 136,617	\$ 136,617
<b>(Deficit)/Surplus</b>	<b>\$ (2,360,173)</b>	<b>\$ (3,826,023)</b>

# FY07 & FY10 YEAR OVER YEAR COMPARISON

## Attachment A

	FY07 Actual	FY10 Actual	Variance
Operating Revenue	\$ 36,874,873	\$ 32,139,769	\$ (4,735,104)
Operating Expenses	\$ 32,557,611	\$ 35,058,564	\$ 2,500,953
<b>Operating (Loss)/Gain:</b>	<b>\$ 4,317,262</b>	<b>\$ (2,918,795)</b>	<b>\$ (7,236,057)</b>
Non-Operating Revenue:			
ARRA	\$ -	\$ 205,000	\$ 205,000
Carryover from Previous Year	\$ -	\$ 165,875	\$ 165,875
Transfer from Operating Reserves	\$ -	\$ 2,547,920	\$ 2,547,920
<b>Operating (Deficit)/Surplus</b>	<b>\$ 4,317,262</b>	<b>\$ -</b>	<b>\$ (4,317,262)</b>

# FY07 & FY10 YEAR OVER YEAR COMPARISON

FY07  
Actual

FY10  
Actual

## Attachment A

### Operating Revenue Detail:

Sales Tax Revenue	\$ 17,652,773	\$ 14,320,289
Transp Dev Act (TDA)	\$ 6,165,834	\$ 5,001,737
FTA Sec 5307	\$ 3,130,226	\$ 3,645,442
Passenger Revenue	\$ 7,730,499	\$ 8,427,944

# OPERATING BUDGETS FY11 – FY15

## Attachment A

	Revised FY11	Revised FY12	%	FY13	%	FY14	%	FY15
<b>Operating Revenue</b>	\$31,632,845	\$32,190,503	1.5%	\$32,673,361	1.5%	\$33,163,461	1.5%	\$33,660,913
<b>Operating Expenses</b>	\$38,237,538	\$40,455,220	2.6%*	\$41,162,954	2.6%*	\$41,891,921	2.6%*	\$42,642,757
<b>Operating Loss</b>	<b>\$(6,604,693)</b>	<b>\$(8,264,717)</b>		<b>\$(8,489,593)</b>		<b>\$(8,728,460)</b>		<b>\$(8,981,844)</b>
<b>Non-Operating Revenue:</b>								
ARRA	\$270,000	\$0		\$0		\$0		\$0
STIC	\$1,202,159	\$1,202,159		\$1,202,159**		\$1,202,159**		\$1,202,159**
STA	\$2,800,000	\$2,311,643		\$***		\$0		\$0
Fuel Tax Credit	\$500,000	\$500,000		\$125,000****		\$0		\$0
Carryover from Previous Year	\$1,989,862	\$288,275		\$0		\$0		\$0
Transfer from Capital Reserves	\$130,947	\$136,617	3%	\$140,716	3%	\$144,937	3%	\$149,285
<b>(Deficit)/Surplus</b>	<b>\$288,275</b>	<b>\$(3,826,023)</b>		<b>\$(7,021,719)</b>		<b>\$(7,381,364)</b>		<b>\$(7,630,400)</b>

\* 0 % increase in Labor; 3 % increase in Fringe Benefits and Non-Personnel Expenses

\*\* Legislation being discussed

\*\*\* Asking for authorization to have Capital converted to Operating

\*\*\*\* Authorization thru 09/30/2012

**QUESTIONS**

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** February 25, 2011  
**TO:** Board of Directors  
**FROM:** Ciro F. Aguirre, Manager of Operations  
**SUBJECT: STATUS UPDATE: METRO PARACRUZ RESERVATION PHONE SYSTEM REPAIRS**

## I. RECOMMENDED ACTION

**No action required. This report is for information purposes only.**

## II. SUMMARY OF ISSUES

- On December 07, 2011 ParaCruz experienced telephone malfunctions precluding some clients to access the Reservation Department
- METRO Information Technology (IT) Department, American Telephone and Telegraph (AT&T), SJB Global were apprised and review of the ParaCruz telephone system commenced
- ParaCruz initiates contingency procedures allowing for customers to continue making reservations
- AT&T reported that an underground cable sustained water damage due to the severe storms, repairs were effected resolving phone issue at ParaCruz
- On December 10, 2011 some customers attempting to book reservations on ParaCruz were receiving busy signals and were unable to connect to ParaCruz Reservations
- Intermittent malfunctions experienced throughout January 2011, diagnosis testing and results reported to AT&T
- Review of the ParaCruz telephone system was conducted by IT, AT&T and SJB Global, routing issues from AT&T were identified.
- Primary Rate Interface (PRI) unit ordered and installed January 28, 2011.
- February 05, 2011 PRI programming and testing continues with improvements to ParaCruz telephone communication quality being noticed.

## III. DISCUSSION

As of December, 2010 the ParaCruz reservation phone system has experienced a number of intermittent malfunctions that have caused some clients wishing to schedule their reservations not to be able to access the ParaCruz Reservationists. The malfunctions have not been consistent and have occurred randomly affecting some, but

not all, of the calls being received and made the diagnosis of the problems difficult to isolate.

On December 07, 2010 ParaCruz was apprised that several clients attempting to make reservations were unable to access ParaCruz. ParaCruz staff reported the situation to METRO's Information Technology (IT) department and review of the system by IT, American Telephone and Telegraph (AT&T), and SJB Global was immediately conducted to determine the cause of the malfunctions. ParaCruz staff initiated a series of contingency procedures in order to continue processing reservations for ParaCruz customers.

ParaCruz contacted METRO's Customer Service Department and requested that all calls made to Customer Service be forwarded to ParaCruz Reservationists, Lift Line staff were also contacted and apprised of the situation so that any calls being received by them could be forwarded to ParaCruz using the Dispatch number (464-5401). Each ParaCruz customer, representative or office staff who ordinarily scheduled rides for ParaCruz Customers were contacted and provided the alternative Dispatch number that they could use. ParaCruz also extended after hour calls for ride reservations up to closing at 10:30pm.

AT&T determined that due to the heavy rains experienced, a crack in the street allowed water to compromise the telephone cabling leading to the ParaCruz building. Repairs were made that resolved the problem.

On December 13, 2010 some ParaCruz customers reported that were experiencing busy signals when they attempted to call. ParaCruz reported the issue to METRO IT initiating response from AT&T and SJB Global. ParaCruz staff again initiated its contingency procedures. This telephone issue persisted into January 2011 and on January 7, 2011 a press release was issued to inform ParaCruz clientele of the persistent problem being experienced with the phones, and to provide the alternate Dispatch number that was available.

After extensive testing of the ParaCruz phone system, METRO's IT department reported to AT&T that they could be experiencing routing issues at its Call Center. This was established because only select telephone numbers were being inconsistently affected from specific areas, (some callers would be affected from one day to the next).

After review of the phone status at ParaCruz IT and SJB Global, recommended that a stand-alone Primary Rate Interface (PRI) unit installed at ParaCruz would provide a greater level of communication interface between ParaCruz and AT&T. The PRI unit was ordered and received on January 26, 2011. Installation of the unit was completed January 28, 2011 and was in operation for one hour undergoing testing when AT&T erroneously disconnected the main telephone. This was due to a misunderstanding by AT&T as to which numbers were being ported over to the new digital service, which

was actually scheduled for another date. This disruption in telephone service again prompted ParaCruz to initiate its contingency procedure for clients attempting to contact ParaCruz; phone service was restored by AT&T later that evening

As of February 07, 2011 programming and testing of the PRI continues with definitive improvement to the ParaCruz telephone system and its automated features.

- IV. **FINANCIAL CONSIDERATIONS** None
- V. **ATTACHMENTS** None

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** February 11, 2011

**TO:** Board of Directors

**FROM:** Angela Aitken, Finance Manager and Acting Assistant General Manager

**SUBJECT:** AUTHORIZATION TO EXECUTE AN AGREEMENT WITH THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA) TO USE MEASURE A FUNDS TO PURCHASE FIVE (5) 40-FOOT LOW FLOOR CNG POWERED SUBURBAN COACHES

## I. RECOMMENDED ACTION

**That the Board of Directors authorize the General Manager to execute an agreement with the Santa Clara Valley Transportation Authority (VTA) to use Measure A funds to purchase five (5) 40-foot low floor CNG powered suburban coaches.**

## II. SUMMARY OF ISSUES

- On February 26, 2010, the Board of Directors authorized the General Manager to execute four (4) options from the Orange County Transit Authority (OCTA) to “piggyback” onto the OCTA/New Flyer of American contract for the purchase of four (4) 40-foot, low floor, compressed natural gas (CNG) powered suburban coaches for the Highway 17 Express Service.
- On May 28, 2010, the Board of Directors authorized the General Manager to execute an additional option from OCTA for one (1) additional coach
- Santa Cruz METRO and VTA operate a commuter transit bus service between Santa Cruz County and Santa Clara County via Highway 17 under a Joint Powers Authority Agreement executed on November 11, 1999.
- On April 26, 2004, the Highway 17 Express Bus Service was consolidated with Amtrak Thruway Service.
- On November 7, 2000, the voters of Santa Clara County enacted Measure A which authorized VTA to collect a ½ cent sales tax beginning April 1, 2006, for specific transit improvements such as buses for the Highway 17 Express Bus Service

### **III. DISCUSSION**

On February 26, 2010, the Board of Directors authorized the General Manager to execute four (4) options from the Orange County Transit Authority (OCTA) to “piggyback” onto the OCTA/New Flyer of American contract for the purchase of four (4) 40-foot, low floor, compressed natural gas (CNG) powered suburban coaches for the Highway 17 Express Service. On May 28, 2010, the Board of Directors authorized the General Manager to execute an additional option from OCTA for one (1) additional coach.

Santa Cruz METRO and VTA operate a commuter transit bus service between Santa Cruz County and Santa Clara County via Highway 17 under a Joint Powers Authority Agreement executed on November 11, 1999. On April 26, 2004, the Highway 17 Express Bus Service was consolidated with Amtrak Thruway Service, which was at the time, operated by the California Department of Transportation and the Capitol Corridor Joint Powers Authority, through its contractor, Amtrak.

On November 7, 2000, the voters of Santa Clara County enacted Measure A which authorized VTA to collect a ½ cent sales tax beginning April 1, 2006, for specific transit improvements such as buses for the Highway 17 Express Bus Service. Measure A specifically provides that taxes collected through its implementation shall be used to, among other things, improve the Highway 17 Express Bus Service by providing VTA’s share of funds for the partnership with Santa Cruz METRO for additional buses and service upgrades for that service.

Staff recommends that the Board of Directors authorize the General Manager to execute an agreement with the Santa Clara Valley Transportation Authority (VTA) to use Measure A funds to purchase five (5) 40-foot low floor CNG powered suburban coaches.

### **IV. FINANCIAL CONSIDERATIONS**

This funding agreement is included in the FY11 Capital Budget under Revenue Vehicle Replacement for \$2,500,000.

### **V. ATTACHMENTS**

**Attachment A:** Funding agreement between Santa Cruz Metro and VTA

# Attachment A

## FUNDING AGREEMENT BETWEEN SANTA CRUZ METROPOLITAN TRANSIT DISTRICT AND THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

This Agreement, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011 by and between the **Santa Cruz Metropolitan Transit District**, a transit district created pursuant to Public Utilities Code Section, 98000 et seq., hereinafter called "METRO," and the **Santa Clara Valley Transportation Authority**, a transportation agency organized as a special district under Public Utilities Code section 100000, et seq., hereinafter called "VTA".

### **I. Recitals**

- 1.01 METRO is a public entity whose primary objective is providing public transportation and has its principal administrative office at 110 Vernon Street, Santa Cruz, CA 95060.
- 1.02 VTA is a public transportation agency in the County of Santa Clara and has its principal administrative office 3331 North First Street, San Jose, CA 95134.
- 1.03 METRO and VTA operate a commuter transit bus service between Santa Cruz County and Santa Clara County via Highway 17 (the Highway 17 Express Bus Service) under a Joint Powers Authority Agreement executed on November 11, 1999;
- 1.04 On April 26, 2004, under the Memorandum of Understanding for Highway 17 Consolidated Transit Service, the Highway 17 Express Bus Service was consolidated with Amtrak Thruway Service, which was at the time operated by the California Department of Transportation and the Capitol Corridor Joint Powers Authority, through its contractor, Amtrak.
- 1.05 On November 7, 2000, the voters of the County of Santa Clara enacted Measure A which authorized VTA to collect a ½ cents sales tax beginning April 1, 2006, for specific transit improvements set forth within the Measure;
- 1.06 Measure A specifically provides that taxes collected through its implementation shall be used to, among other things, improve the Highway 17 Express Bus Service by providing VTA's share of funds for the partnership with the METRO for additional buses and service upgrades for that service.
- 1.07 METRO and VTA desire to use the Measure A funding for the purchase of five (5) 40-foot low floor CNG powered suburban coaches from New Flyer of America ("New Flyer") for the Highway 17 Express Bus Service and for the necessary third party inspections of these buses during procurement and for the

# Attachment A

spare parts for the five coaches that are purchased as a part of the same procurement (hereinafter referred to as "related costs"). This Agreement is intended to set forth the terms and conditions upon which VTA will transfer Measure A funds to METRO for the purchase of these buses and the related costs.

Therefore, for good and valuable consideration, receipt of which is hereby acknowledged by the parties, it is agreed as follows:

## II. Scope of Services

- 2.01 VTA shall transfer to METRO Measure A funds in an aggregate amount not-to-exceed \$2.5 million dollars for the sole purpose of purchasing five (5) 40-foot low floor designed CNG powered suburban coaches for the Highway 17 Express Bus Service and the related costs thereto. The not-to-exceed \$2.5 million dollars shall be transferred to METRO in installments in accordance with the progress payment schedule set forth as follows:
  - 2.01.1 METRO shall invoice VTA for the 1st one-fifth (1/5) of the total contract price for the 5 buses, upon delivery by New Flyer and acceptance of all deliverables by METRO of the first bus;
  - 2.01.2 METRO shall invoice VTA for the 2nd one-fifth (1/5) of the total contract price for the 5 buses, upon delivery by New Flyer and acceptance of all deliverables by METRO of the second bus;
  - 2.01.3 METRO shall invoice VTA for the 3rd one-fifth (1/5) of the total contract price for the 5 buses, upon delivery by New Flyer and acceptance of all deliverables by METRO of the third bus;
  - 2.01.4 METRO shall invoice VTA for the 4th one-fifth (1/5) of the total contract price for the 5 buses, upon delivery by New Flyer and acceptance of all deliverables by METRO of the fourth bus;
  - 2.01.5 METRO shall invoice VTA for the final payment of the total contract price for the 5 buses, calculated as follows: the total contract price for all 5 buses, capped at \$2.5 million, less any payments received from VTA. METRO shall invoice VTA for this final payment upon delivery by New Flyer of the fifth bus following (a) delivery by New Flyer and acceptance of all deliverables by METRO, including manuals and other documentation required by the contract between New Flyer and METRO, excluding training; (b) recitation of any deficiencies found during the acceptance of the buses; (c) New Flyer provision of any certifications as required by law and/or regulations; (d) delivery of capital spares; (e) completion of post-delivery audits, accompanied by a certification, or affidavit, signed by the Contractor's officer certifying that the work covered by the progress payment requested has been completed.

# Attachment A

VTA shall remit payment to METRO within 30 days of VTA's receipt of a proper invoice from METRO, which shall include a copy of the invoice from New Flyer and verification of delivery of the bus or buses.

- 2.02 METRO shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of the federal, state or local government, and any agency thereof, which relate to or in any manner affect the performance of this Agreement. Circular 4220.1F of the Federal Transit Administration (FTA) and the Federal Transit Administration Master Agreement (Form "FTA MA(15)," October 1, 2008) as may be amended, are each incorporated herein by reference as though set forth in full, and shall govern this Agreement except as otherwise provided herein. Those requirements imposed upon VTA as recipient of Measure A Funds are hereby imposed upon METRO to the extent applicable.
- 2.03 METRO shall accomplish the purchase of the five 40-foot New Flyer suburban coaches within 6 months from the date this Agreement is fully executed, and shall keep VTA updated on its progress.
- 2.04 Upon final acceptance of the five (5) 40-foot New Flyer suburban coaches, METRO shall place title of the coaches in METRO's name alone. METRO shall be solely responsible for the administration, operation, maintenance, and repair of the new coaches. The buses shall have a useful service life of 12 years from the date of the buses first being placed into revenue service. Upon expiration of the useful life of each bus, METRO shall have no further obligation to VTA in regard to the operation, maintenance, and repair of the buses. If the Highway 17 Express Bus Service is terminated prior to the 5 buses reaching the end of their useful service life, or if any of the 5 buses is pulled from service for any reason prior to reaching the end of its useful service life, then METRO shall reimburse VTA the difference between the purchase price of the bus less the depreciation (based on straight-line).
- 2.05 METRO shall utilize each of the five (5) 40-foot New Flyer suburban coaches only on the Highway 17 Express Bus Route during their useful service life. These coaches shall replace existing buses that are 20 years old with an average of 950,000 miles each. The service provided by these new coaches shall be an open-door service to the general public who shall be charged a fare as set forth in METRO's fare ordinance for the Highway 17 Express Bus Service.

### **III. Accounting and Audit**

VTA may audit the expenses incurred in the performance of this Agreement. METRO shall retain all records related to the purchase of the 5 New Flyer buses funded under this Agreement for three (3) years after the end of the buses' useful service life. During this period, METRO shall make these records available within 7 days' notice for inspection by VTA.

# Attachment A

## IV. Term and Termination

- 4.01 This Agreement shall commence upon full execution of this Agreement and shall terminate on January 1, 2025.
- 4.02 Notwithstanding the provisions of Section 4.01, the parties may agree in writing to extend this Agreement, for additional periods of time.
- 4.03 This Agreement may be suspended upon the written notification of one party to the other when causes beyond the control and without the fault or negligence of the party giving the notice irrevocably disrupt or render impossible that party's performance in this Agreement.
- 4.04 In the event of termination/suspension, the rights and obligations of the parties, which by their nature survive termination of the provisions covered by this Agreement, shall remain in full force and effect after termination. Compensation and revenues due from one party to the other under this Agreement shall be paid; indemnification provisions shall remain in effect.

## V. Professional Standards

- 5.01 METRO shall at all times during the term of this Agreement, and any extensions thereof, comply with all applicable laws, rules, and regulations of any and all governmental authorities with regard to the operation of fixed route service.

## VI. General Provisions

### 6.01 Independent Contractor

No relationship of employer and employee is created by this Agreement. In the performance of its work and duties, METRO and VTA are at all times acting and performing as independent contractors, providing transportation services. The sole interest of VTA is to ensure that the five (5) New Flyer coaches are purchased and utilized on the Highway 17 Express Service in accordance with Measure A.

### 6.03 Indemnification

METRO shall indemnify, defend and hold harmless VTA, its officers and/or employees, from and against any and all claims for injuries or damages to persons and/or property which arise out of the terms and conditions of METRO's operation and use of the five (5) New Flyer coaches which result from the negligent act or omission of the METRO, its officers, and/or employees. VTA shall indemnify, defend and hold harmless the METRO, its officers and/or employees, from any and all claims for injuries or damages to persons and/or property which might arise from the provision of funds under Measure A.

# Attachment A

## 6.04 Insurance

Without limiting METRO's indemnification of VTA, METRO shall procure and maintain for the duration of this Agreement, the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by METRO, its agents, representatives, or employees, or subcontractors.

### A. Liability and Worker's Compensation Insurance.

#### 1. Minimum Scope of Coverage.

Coverage shall be at least as broad as:

- a. Commercial General Liability coverage; Insurance Services Office "occurrence" form CG 0001. Liability insurance written on a "claims made" basis is not acceptable.
- b. Inland Marine (commercial property coverage) coverage on the buses
- c. Workers' Compensation insurance, as required by the Labor Code of the State of California, and Employers Liability insurance.

#### 2. Minimum Limits of Insurance.

METRO shall maintain limits no less than:

- a. General Liability (including umbrella/excess liability): \$10,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage.
- b. Workers' Compensation and Employers Liability: Statutory Workers' Compensation limits and Employers Liability limits of \$1,000,000 per accident.
- c. Inland Marine (commercial property coverage) in the amount of the stated value of the fleet.

#### 3. Self-Insured Retention

Any self-insured retention in excess of \$250,000 must be declared to and approved by VTA. To apply for approval for a level of retention in excess of \$250,000 METRO must provide a current financial statement documenting the ability to pay claims falling within the self-insured retention.

# Attachment A

## B. Other Provisions.

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability
  - a. VTA, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of METRO. The coverage shall contain no special limitations on the scope of protection afforded to VTA, its officers, officials, employees, or volunteers.
  - b. METRO's insurance coverage shall be primary insurance as respects VTA, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by VTA, its officers, officials, employees, or volunteers shall be excess of METRO insurance and shall not contribute with it.
  - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to VTA, its officers, officials, employees, or volunteers.

## C. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A+, with the exception of Workers Compensation which shall have a minimum rating of B+:VIII, unless specific prior written approval has been granted by VTA.

## D. Certificates of Insurance

Prior to commencement of this agreement METRO shall furnish VTA with a Certificate of Insurance, and an Additional Insured Endorsements. The certificates for each insurance policy are to be signed by an authorized representative of that insurer. The certificates will be issued on a standard ACORD Form or something substantially similar thereto, with the endorsement attached.

The certificates will (1) identify the underwriters, the types of insurance, the insurance limits and the policy term, (2) specifically list the provisions enumerated for such insurance in Section C above, and (3) in the "Certificate Holder" box include:

Santa Clara Valley Transportation Authority  
3331 North First Street  
San Jose, CA 95134-1906

# Attachment A

The endorsement will state that VTA is an additional insured, and specifically list the provisions enumerated for such insurance in Section C above.

All certificates and endorsements are to be received and approved by VTA before work commences. VTA reserves the rights to require complete, certified copies of all required insurance policies, at any time.

Each insurance policy required by this Exhibit shall provide that if the policy is canceled or coverage reduced, such cancellation or reduction shall not be effective for 30 days, except for non-payment of premium which shall be 10 days, after receipt by VTA of written notice of such cancellation or reduction.

## 6.05 No Conflict of Interest

VTA and METRO represent that neither currently has any interest, and shall not have any interest, direct or indirect, that would conflict in any manner with the terms and conditions of this Agreement.

## 6.06 Time of the Essence

Time is of the essence in this Agreement.

## 6.07 No Discrimination

METRO and VTA shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment, advertising, layoff or termination, rates of pay or other forms of upgrading, demotion, or transfer. METRO agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

## 6.08 Publicity

- a) VTA agrees to submit to METRO any and all advertising, sales promotion, and other publicity matter relating to any service wherein METRO's name is mentioned or language used from which the connection of METRO's name therewith may, within reason, be inferred or implied. VTA further agrees not to publish or use any such advertising, sales promotion, or publicity matter without the prior written consent of METRO.
- b) METRO agrees to submit to VTA any and all advertising, sales promotion, and other publicity matter relating to any service furnished by METRO wherein the VTA's name is mentioned or language used from

# Attachment A

which the connection of VTA's name therewith may, within reason, be inferred or implied. METRO further agrees not to publish or use any such advertising, sales promotion, or publicity matter without the prior written consent of the VTA.

## 6.9 Consent to Breach Not Waiver

No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

## 6.10 Non-Assignment

METRO shall not encumber, assign or otherwise transfer this Agreement or any right or any interest in this agreement without prior express written consent of VTA. Consent by VTA to one assignment shall not be deemed to be consent to any subsequent assignment by another person or entity. Any encumbrance, assignment or transfer or assignment of interest in this Agreement without prior written permission or consent of VTA, whether it be voluntary or involuntary by operation of law or otherwise, is void and shall be just cause at the option of VTA to terminate this Agreement.

## 6.11 Notice

All notices under this Agreement shall be deemed duly given upon delivery, if delivered by hand; or three days after posting, if sent by registered mail, return receipt requested; to a party hereto at the address set forth herein or to such other address as a party may designate by notice pursuant hereto:

### **METRO:**

General Manager  
Santa Cruz Metropolitan Transit District  
110 Vernon Street  
Santa Cruz, CA 95060  
(831) 426-6080

### **VTA:**

Michael T. Burns, General Manager  
Santa Clara Valley Transportation Authority  
3331 North First Street  
San Jose, CA 95134

# Attachment A

6.12 Amendment

This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated, signed by duly authorized representatives of METRO and VTA and attached hereto.

6.13 Entire Agreement

This Agreement, together with all subordinate and other documents incorporated by reference herein, constitutes the entire Agreement between the parties with respect to the subject matter contained herein and may only be modified by an amendment executed in writing by both parties hereto.

6.14 Authority

Each party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each has been properly authorized and empowered to enter into this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

**IN WITNESS THEREOF**, this Agreement is executed by METRO and County has affixed its signature the day and year first hereinabove written.

**SIGNATURES:**

**Santa Clara Valley Transportation Authority:** Approved as to Form

BY:   
MICHAEL T. BURNS  
General Manager

BY:   
VTA Counsel

**Santa Cruz Metropolitan Transit District:** Approved as to Form

BY: \_\_\_\_\_  
LESLIE R. WHITE  
General Manager

BY: \_\_\_\_\_  
MARGARET GALLAGHER  
District Counsel