

Napa Valley Transportation Authority

625 Burnell Street
Napa, CA 94559



Agenda - Final

Wednesday, September 27, 2023
1:30 PM

Rescheduled Regular Meeting

JoAnn Busenbark Board Room

NVTA Board of Directors

All materials relating to an agenda item for an open session of a regular meeting of the NVTA Board of Directors are posted on the NVTA website at: <https://nctpa.legistar.com/Calendar.aspx>

This meeting will be conducted as an in-person meeting at the location noted above. Remote teleconference access is provided for the public's convenience and in the event a Board Member requests remote participation due to just cause or emergency circumstances pursuant to Government Code section 54953(f). Please be advised that if a Board Member is not participating in the meeting remotely, remote participation for members of the public is provided for convenience only and in the event that the Zoom teleconference connection malfunctions for any reason, the Board of Directors reserves the right to conduct the meeting without remote access and take action on any agenda item. The public may participate telephonically or electronically via the methods below:

- 1) To join the meeting via Zoom video conference from your PC, Mac, iPad, iPhone or Android: go to <https://zoom.us/join> and enter meeting ID 864 1754 4351
- 2) To join the Zoom meeting by phone: dial 1-669-900-6833, enter meeting ID: 864 1754 4351 If asked for the participant ID or code, press #.
- 3) Watch live on YouTube: <https://www.youtube.com/channel/UCrplLcW9uRmA0EE6w-eKZyw?app=desktop>

The agenda will be posted 72 hours prior to the meeting and will be available for public inspection, on and after at the time of such distribution, in the office of the Secretary of the NVTA Board of Directors, 625 Burnell Street, Napa, California 94559, Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m., except for NVTA holidays. Should the office be closed or staff is working remotely due to a declared emergency, you may email info@nvta.ca.gov to request a copy of the agenda. Public records related to an agenda item that are distributed less than 72 hours before this meeting are available for public inspection during normal business hours at the NVTA office at 625 Burnell

Street, Napa, CA 94559 and will be made available to the public on the NVTa website at nvta.ca.gov. Availability of materials related to agenda items for public inspection does not include materials which are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

Members of the public may comment on matters within the subject matter of the Board's jurisdiction, that are not on the meeting agenda during the general Public Comment item at the beginning of the meeting. Comments related to a specific item on the agenda must be reserved until the time the agenda item is considered and the Chair invites public comment. While members of the public are welcome to address the Board, under the Brown Act, Board members may not deliberate or take action on items not on the agenda, and generally may only listen.

Members of the public may submit a public comment in writing by emailing info@nvta.ca.gov by 10:00 a.m. on the day of the meeting with PUBLIC COMMENT as the subject line (for comments related to an agenda item, please include the item number). All written comments should be 350 words or less, which corresponds to approximately 3 minutes or less of speaking time. Public comments emailed to info@nvta.ca.gov after 10 a.m. the day of the meeting will be entered into the record but not read out loud. If authors of the written correspondence would like to speak, they are free to do so and should raise their hand and the Chair will call upon them at the appropriate time.

1. To comment while attending via Zoom, click the "Raise Your Hand" button (click on the "Participants" tab) to request to speak when Public Comment is being taken on the Agenda item. You must unmute yourself when it is your turn to make your comment for up to 3 minutes. After the allotted time, you will then be re-muted. Instructions for how to "Raise Your Hand" are available at <https://support.zoom.us/hc/en-us/articles/205566129-Raise-Hand-In-Webinar>.

2. To comment by phone, press "*9" to request to speak when Public Comment is being taken on the Agenda item. You must unmute yourself by pressing "*6" when it is your turn to make your comment, for up to 3 minutes. After the allotted time, you will be re-muted.

The methods of observing, listening, or providing public comment to the meeting may be altered due to technical difficulties or the meeting may be cancelled, if needed.

Note: Where times are indicated for agenda items, they are approximate and intended as estimates only, and may be shorter or longer as needed.

Information on obtaining the agenda in an alternate format is noted below:

Americans with Disabilities Act (ADA): This Agenda shall be made available upon request in alternate formats to persons with a disability. Persons requesting a disability-related modification or accommodation should contact Laura Sanderlin, NVTa Board Secretary, at (707) 259-8633 during regular business hours, at least 48 hours prior to the time of the meeting.

Acceso y el Título VI: La NVTa puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Autoridad. Para solicitar asistencia, por favor llame al número (707) 259-8633. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

Ang Accessibility at Title VI: Ang NVTa ay nagkakaloob ng mga serbisyo/akomodasyon kung hilingin ang mga ito, ng mga taong may kapansanan at mga indibiduwal na may limitadong kaalaman sa wikang Ingles, na nais na matugunan ang mga bagay-bagay na may kinalaman sa NVTa-TA Board. Para sa mga tulong sa akomodasyon o pagsasalin-wika, mangyari lang tumawag sa (707) 259-8633. Kakailanganin namin ng paunang abiso na tatlong araw na may pasok sa trabaho para matugunan ang inyong kahilingan.

1. Call to Order
2. Consideration and Approval of Board Member Requests for Remote Participation
3. Roll Call
4. Adoption of the Agenda
5. Public Comment
6. Chairperson's, Board Members', Metropolitan Transportation Commissioner's, and Association of Bay Area Governments Update
7. Executive Director's Update
8. Caltrans' Update

Note: Where times are indicated for the agenda items, they are approximate and intended as estimates only and may be shorter or longer as needed.

9. CONSENT AGENDA ITEMS

9.1 Meeting Minutes of July 19, 2023 (Laura Sanderlin) (Pages 9-11)

Recommendation: Board action will approve the minutes of July 19 regular meeting.

Estimated Time: 2:30 p.m.

Attachments: [Draft Minutes](#)

9.2 Paratransit Coordinating Council (PCC) Member Appointment (Kathy Alexander) (Pages 12-17)

Recommendation: That the Napa Valley Transportation Authority (NVTA) Board approve the appointment of Devereaux Smith to the Paratransit Coordinating Council (PCC).

Estimated Time: 2:30 p.m.

Attachments: [Staff Report](#)

9.3 Resolution No. 20-15, Revised, certifying Napa Valley Transportation Authority's Public Transit Agency Safety Plan (PTASP) (Rebecca Schenck) (Pages 18-48)

Recommendation: That the Napa Valley Transportation Authority (NVTA) Board approve Resolution No. 20-15, Revised certifying the NVTA Public Transit Agency Safety Plan (PTASP).

Estimated Time: 2:30 p.m.

Attachments: [Staff Report](#)

9.4 Amendment to the Cultural Resources Monitoring and Treatment Agreement for the St. Helena to Calistoga Napa Valley Vine Trail Project (Grant Bailey) (Pages 49-54)

Recommendation: That the Napa Valley Transportation Authority (NVTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Amendment No. 2 of Agreement No. 22-C10 with Middletown Rancheria for Cultural Resources Monitoring and Treatment Services in the amount of \$71,500 which brings the total contract amount to \$175,500.

Estimated Time: 2:30 p.m.

Attachments: [Staff Report](#)

9.5 Citizen Advisory Committee (CAC) Member Appointments (Laura Sanderlin) (Pages 55-60)

Recommendation: That the Napa Valley Transportation Authority (NVTA) Board approve the appointment of Sarah Roman to the Citizen Advisory Committee as the designated hospitality representative and Alex Crown as representative for the County of Napa for a two (2) year term.

Estimated Time: 2:30 p.m.

Attachments: [Staff Report](#)

10. REGULAR AGENDA ITEMS

**10.1 Vine Trail St. Helena to Calistoga Construction Contract
Budget Increase (Grant Bailey) (Pages 61-66)**

Recommendation: That the Napa Valley Transportation Authority (NVRTA) Board 1) approve an additional \$700,000 in construction contingency for Construction Agreement No. 22-11 with Ghilotti Construction Company, Inc for construction of the Vine Trail St Helena to Calistoga Project in an amount not to exceed \$1,316,709 and 2) approve Resolution No. 22-11, Revised authorizing the Executive Director to issue change orders for Construction Agreement No. 22-11 in an amount not to exceed \$1,316,709.

Estimated Time: 2:35 p.m.

Attachments: [Staff Report](#)

**10.2 Purchase Order 23-P3018 to Purchase Electric Vehicle Charging
Stations from Contractor's Electrical Distributors (CED) for Future
Electric Vehicles (Rebecca Schenck) (Pages 67-97)**

Recommendation: That the Napa Valley Transportation Authority (NVRTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Purchase Order 23-P3018 Electric Vehicle Charging Stations, specifically four (4) ChargePoint Express Plus 1000 and one (1) ChargePoint Express 250, in an amount not to exceed \$820,000.

Estimated Time: 2:50 p.m.

Attachments: [Staff Report](#)

10.3 Vine Transit Update (Rebecca Schenck) (Pages 98-104)

Recommendation: That the NVRTA Board receive the fourth quarter Fiscal Year (FY) 2022-23 Vine Transit update.

Estimated Time: 3:00 p.m.

Attachments: [Staff Report](#)

10.4 Purchase Orders 23-P3017 and 23-P3019 to purchase Two (2) Vehicles from AZ Bus Sales and Two (2) Model 1 Commercial Vehicles for Vine Transit (Rebecca Schenck) (Pages 105-138)

Recommendation: That the Napa Valley Transportation Authority (NVTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Purchase Orders 23-P3017 and 23-P3019 to purchase public transit vehicles under NVTA's membership with the California Association for Coordinated Transportation (CalACT) and Morongo Basin Transit Authority's Cooperative RFP 20-01 in an amount not to exceed \$738,000.

Estimated Time: 3:10 p.m.

Attachments: [Staff Report](#)

10.5 Federal and State Legislative Update (Kate Miller) (Pages 139-157)

Recommendation: That the Napa Valley Transportation Authority (NVTA) Board receive the Federal and State Legislative update prepared by Platinum Advisors.

Estimated Time: 3:20 p.m.

Attachments: [Staff Report](#)

11. FUTURE AGENDA ITEMS

12. ADJOURNMENT

12.1 The next Regular Meeting is Wednesday, October 18th.

I hereby certify that the agenda for the above stated meeting was posted at a location freely accessible to members of the public at the NVTA Offices, 625 Burnell Street, Napa, CA by 5:00 p.m. by Friday, September 22nd.



Laura M. Sanderlin, NVTA Board Secretary

Glossary of Acronyms

AB 32	Global Warming Solutions Act	FAS	Federal Aid Secondary
ABAG	Association of Bay Area Governments	FAST	Fixing America's Surface Transportation Act
ACFR	Annual Comprehensive Financial Report	FHWA	Federal Highway Administration
ADA	American with Disabilities Act	FTA	Federal Transit Administration
APA	American Planning Association	FY	Fiscal Year
ATAC	Active Transportation Advisory Committee	GHG	Greenhouse Gas
ATP	Active Transportation Program	GGRF	Greenhouse Gas Reduction Fund
BAAQMD	Bay Area Air Quality Management District	GTFS	General Transit Feed Specification
BAB	Build America Bureau	HBP	Highway Bridge Program
BART	Bay Area Rapid Transit District	HBRR	Highway Bridge Replacement and Rehabilitation Program
BATA	Bay Area Toll Authority	HIP	Housing Incentive Program
BIL	Bipartisan Infrastructure Law (IIJA)	HOT	High Occupancy Toll
BRT	Bus Rapid Transit	HOV	High Occupancy Vehicle
CAC	Citizen Advisory Committee	HR3	High Risk Rural Roads
CAP	Climate Action Plan	HSIP	Highway Safety Improvement Program
CAPTI	Climate Action Plan for Transportation Infrastructure	HTF	Highway Trust Fund
Caltrans	California Department of Transportation	HUTA	Highway Users Tax Account
CASA	Committee to House the Bay Area	HVIP	Hybrid & Zero-Emission Truck and Bus Voucher Incentive Program
CBTP	Community Based Transportation Plan	IFB	Invitation for Bid
CEQA	California Environmental Quality Act	ITIP	State Interregional Transportation Improvement Program
CIP	Capital Investment Program	ITOC	Independent Taxpayer Oversight Committee
CMA	Congestion Management Agency	IS/MND	Initial Study/Mitigated Negative Declaration
CMAQ	Congestion Mitigation and Air Quality Improvement Program	JARC	Job Access and Reverse Commute
CMP	Congestion Management Program	LCTOP	Low Carbon Transit Operations Program
CalSTA	California State Transportation Agency	LIFT	Low-Income Flexible Transportation
CTA	California Transit Association	LOS	Level of Service
CTP	Countywide Transportation Plan	LS&R	Local Streets & Roads
CTC	California Transportation Commission	LTF	Local Transportation Fund
CY	Calendar Year	MaaS	Mobility as a Service
DAA	Design Alternative Analyst	MAP 21	Moving Ahead for Progress in the 21 st Century Act
DBB	Design-Bid-Build	MPO	Metropolitan Planning Organization
DBE	Disadvantaged Business Enterprise	MTC	Metropolitan Transportation Commission
DBF	Design-Build-Finance	MTS	Metropolitan Transportation System
DBFOM	Design-Build-Finance-Operate-Maintain	ND	Negative Declaration
DED	Draft Environmental Document	NEPA	National Environmental Policy Act
EIR	Environmental Impact Report	NOAH	Natural Occurring Affordable Housing
EJ	Environmental Justice	NOC	Notice of Completion
EPC	Equity Priority Communities	NOD	Notice of Determination
ETID	Electronic Transit Information Displays		

Glossary of Acronyms

NOP	Notice of Preparation	SHA	State Highway Account
NVTA	Napa Valley Transportation Authority	SHOPP	State Highway Operation and Protection Program
NVTA-TA	Napa Valley Transportation Authority-Tax Agency	SNTDM	Solano Napa Travel Demand Model
OBAG	One Bay Area Grant	SR	State Route
PA&ED	Project Approval Environmental Document	SRTS	Safe Routes to School
P3 or PPP	Public-Private Partnership	SOV	Single-Occupant Vehicle
PCC	Paratransit Coordination Council	STA	State Transit Assistance
PCI	Pavement Condition Index	STIC	Small Transit Intensive Cities
PCA	Priority Conservation Area	STIP	State Transportation Improvement Program
PDA	Priority Development Areas	STP	Surface Transportation Program
PID	Project Initiation Document	TAC	Technical Advisory Committee
PIR	Project Initiation Report	TCM	Transportation Control Measure
PMS	Pavement Management System	TCRP	Traffic Congestion Relief Program
Prop. 42	Statewide Initiative that requires a portion of gasoline sales tax revenues be designated to transportation purposes	TDA	Transportation Development Act
PSE	Plans, Specifications and Estimates	TDM	Transportation Demand Management Transportation Demand Model
PSR	Project Study Report	TE	Transportation Enhancement
PTA	Public Transportation Account	TEA	Transportation Enhancement Activities
RACC	Regional Agency Coordinating Committee	TEA 21	Transportation Equity Act for the 21 st Century
RAISE	Rebuilding American Infrastructure with Sustainability and Equity	TFCA	Transportation Fund for Clean Air
RFP	Request for Proposal	TIP	Transportation Improvement Program
RFQ	Request for Qualifications	TIFIA	Transportation Infrastructure Finance and Innovation Act
RHNA	Regional Housing Needs Allocation	TIRCP	Transit and Intercity Rail Capital Program
RM 2	Regional Measure 2 Bridge Toll	TLC	Transportation for Livable Communities
RM 3	Regional Measure 3 Bridge Toll	TLU	Transportation and Land Use
RMRP	Road Maintenance and Rehabilitation Program	TMP	Traffic Management Plan
ROW (R/W)	Right of Way	TMS	Transportation Management System
RTEP	Regional Transit Expansion Program	TNC	Transportation Network Companies
RTIP	Regional Transportation Improvement Program	TOAH	Transit Oriented Affordable Housing
RTP	Regional Transportation Plan	TOC	Transit Oriented Communities
SAFE	Service Authority for Freeways and Expressways	TOD	Transit-Oriented Development
SAFETEA-LU	Safe, Accountable, Flexible, and Efficient Transportation Equity Act-A Legacy for Users	TOS	Transportation Operations Systems
SB 375	Sustainable Communities and Climate Protection Act 2008	TPA	Transit Priority Area
SB 1	The Road Repair and Accountability Act of 2017	TPI	Transit Performance Initiative
SCS	Sustainable Community Strategy	TPP	Transit Priority Project Areas
		VHD	Vehicle Hours of Delay
		VMT	Vehicle Miles Traveled

Napa Valley Transportation Authority

625 Burnell Street
Napa, CA 94559

Meeting Minutes NVTB Board of Directors

Wednesday, July 19, 2023

1:30 PM

JoAnn Busenbark Board Room

1. Call to Order

Chair Alessio called the meeting to order at 1:31pm.

2. Consideration and Approval of Board Member Requests for Remote Participation

Director Beth Painter, attending as alternate for Director Scott Sedgley.

3. Roll Call

Leon Garcia
Alfredo Pedroza
Paul Dohring
Mark Joseph
Liz Alessio
Eric Knight
Margie Mohler
Beth Painter
Ryan Gregory
Anna Chouteau
Absent:
Donald Williams
Kevin Eisenberg

4. Adoption of the Agenda

Motion MOVED by JOSEPH, SECONDED by GARCIA to APPROVE Item 4 Adoption of the Agenda. Motion passed unanimously.

Aye: 22 - Garcia, Pedroza, Dohring, Joseph, Alessio, Knight, Mohler, Painter, Chouteau, and Gregory

Absent: 2 - Williams, and Eisenberg

5. Public Comment

Public comment made by Kara Vernor, Napa County Bicycle Coalition regarding grant programming for the Safe Routes to School program.

6. Chairperson's, Board Members', Metropolitan Transportation Commissioner's, and Association of Bay Area Governments Update

Director Pedroza reported recent MTC activities.

Director Garcia reported recent ABAG activities.

7. Executive Director's Update

Director Miller reported:

- Staffing update
- Agency completed its first FTA triennial review in over four years with minor findings
- V-Commute update

8. Caltrans' Update

None

Note: Where times are indicated for the agenda items, they are approximate and intended as estimates only and may be shorter or longer as needed.

9. PUBLIC HEARINGS

9.1 Public Hearing and Federal Transit Administration (FTA) Section 5310 Grant Application to the California Department of Transportation (Caltrans) (Antonio Onorato) (Pages 8-13)

Attachments: [Staff Report](#)

Public hearing opened by Chair Alessio at 1:49pm.

Meeting was paused and put in recess at 1:54pm.

Meeting returned from recess at 2:08pm.

Motion MOVED by GREGORY, SECONDED by MOHLER for APPROVAL of Item 9 adopting Resolution 23-21. Motion passed unanimously.

Public hearing closed by Chair Alessio at 2:11pm.

Aye: 17 - Garcia, Pedroza, Dohring, Joseph, Alessio, Knight, Mohler, Chouteau, and Gregory

Absent: 7 - Williams, Eisenberg, and Painter

10. PRESENTATIONS

10.1 Project Update (Grant Bailey)

Information Only/No Action Taken

10.2 Vision Zero Update (Diana Meehan)

Information Only/No Action Taken

11. CONSENT AGENDA ITEMS

Motion MOVED by JOSEPH, SECONDED by GARCIA to APPROVE Consent Items 11.1-11.4. Motion passed unanimously.

Aye: 17 - Garcia, Pedroza, Dohring, Joseph, Alessio, Knight, Mohler, Chouteau, and Gregory

Absent: 7 - Williams, Eisenberg, and Painter

11.1 Meeting Minutes of June 21, 2023 (Laura Sanderlin) (Pages 14-17)

Attachments: [Draft Minutes](#)

11.2 Revised Policies, Practices, and Procedures Manual: Personnel (Laura Sanderlin) (Pages 18-173)

Attachments: [Staff Report](#)

11.3 Purchase Order 23-P3012 to acquire Radios for Vine vehicles (Rebecca Schenck) (Pages 174-193)

Attachments: [Staff Report](#)

11.4 Resolution 23-20 and Disposing of Non-Performing Assets (Antonio Onorato) (Pages 194-199)

Attachments: [Staff Report](#)

12. REGULAR AGENDA ITEMS

12.1 Transportation Development Act Article 3 (TDA-3) Countywide Claim for Fiscal Year (FY) 2023-24 (Diana Meehan) (pages 200-206)

Attachments: [Staff Report](#)

Motion MOVED by DOHRING, SECONDED by JOSEPH to APPROVE Item 12.1 adopting Resolution 23-22. Motion passed unanimously.

Aye: 17 - Garcia, Pedroza, Dohring, Joseph, Alessio, Knight, Mohler, Chouteau, and Gregory

Absent: 7 - Williams, Eisenberg, and Painter

12.2 Federal and State Legislative Update (Kate Miller) (Pages 207-230)

Attachments: [Staff Report](#)

Information Only/No Action Taken

13. FUTURE AGENDA ITEMS

None

14. ADJOURNMENT

Chair Alessio adjourned meeting at 2:50pm.

14.1 The next Regular Meeting is September 20, 2023.

Laura M. Sanderlin, NVTB Board Secretary



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Paratransit Coordinating Council (PCC) Member Appointment

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board approve the appointment of Devereaux Smith to the Paratransit Coordinating Council (PCC).

EXECUTIVE SUMMARY

The PCC was formed by NVTA to advise the Board on transportation issues pertaining to persons with special needs, including elderly, disabled, and those of low income.

This action will appoint Devereaux Smith to the PCC representing the category of social services provider for seniors. There are three (3) additional vacancies on the committee and NVTA staff is actively recruiting to fill these positions. These include a representative for a consumer or person with disabilities, a member of the public residing in an urbanized area and a member of the public residing in a non-urbanized area.

FISCAL IMPACT

None



NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: NVTA Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Kathy Alexander, Administrative Technician
(707) 259-8627 / Email: kalexander@nvta.ca.gov
SUBJECT: Paratransit Coordinating Council (PCC) Member Appointment

RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board approve the appointment of Devereaux Smith to the Paratransit Coordinating Council (PCC).

COMMITTEE RECOMMENDATION

None

BACKGROUND

The PCC was formed by NVTA to advise the Board on transportation issues pertaining to persons with special needs, including elderly, disabled, and those of low income.

The PCC by-laws, last approved by the NVTA Board in March 2021 state that the PCC shall advise the Board of Directors and the Metropolitan Transportation Commission (MTC) regarding setting priorities for transportation services, review and make recommendations regarding the submission of claims for certain Transportation Development Act (TDA) and Federal Transit Administration (FTA) funds and allocations consistent with its priorities, and address coordination of paratransit services within Napa County.

The appointment of Devereaux Smith, who currently serves as the Executive Director of Molly's Angels, will fulfill the Social Services Provider for Seniors representative as shown in Table 1.

Table 1. PCC Member List

Member	Original appointment date	Most recent appointment	Term end date	Category Represented
Devereaux Smith	09/27/2023*	09/27/2023*	09/27/2027	Social services provider for seniors (1)
Tom Collette	10/17/2018	11/17/2021	11/30/2024	Consumer/user 60 years of age or older (1)
Lisa DeRose-Hernandez	1/20/2021	1/20/2021	1/20/2024	Social services provider for persons of limited means (1)
Betty Rhodes	11/17/2021	11/17/2021	11/30/2024	Member of the public residing within an urbanized area (1 of 2)
Jeannie Smith	7/20/2022	7/20/2022	7/31/2025	Social services providers for persons with disabilities (1 of 2)
Ellen Sweigert	7/20/2022	7/20/2022	7/31/2025	Social services provider for persons with disabilities (2 of 2)
Vacant				Consumer/user persons with disabilities (1)
Vacant				Member of the public residing within an urbanized area (2 of 2)
Vacant				Member of the public residing within a non-urbanized area (1)

*If appointed September 27, 2023

ALTERNATIVES

The Board could decide not to appoint this applicant to the PCC resulting in vacancies and lack of representation for various interests.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 1 – Serve the transportation needs of the entire community regardless of age, income, or ability.

The PCC is comprised of members from the community representing various interests in Napa Valley. The purpose of the PCC is to advise the board (via NVT staff) on transportation issues of persons with special needs.

ATTACHMENTS

(1) PCC Application: Devereaux Smith (Redacted)

Napa Valley Transportation Authority
625 Burnell St
Napa, CA 94559
Tel. (707) 259-8631 / Fax (707) 259-8638
www.nvta.ca.gov
www.ridethevine.com

PARATRANSIT COORDINATING COUNCIL APPOINTMENT APPLICATION

Complete applications should be submitted to the above address,
Attention: Secretary of the Board

This application may be subject to disclosure under the Public Records Act

I am applying as a representative of the following: (Check all that apply)		
<input type="checkbox"/> Public transit consumer/user 60 or older		
<input type="checkbox"/> Public transit consumer/user with disability		
<input type="checkbox"/> Member of the public residing in non-urbanized area		
<input type="checkbox"/> Member of the public residing in urbanized area		
<input type="checkbox"/> Social service provider for persons of limited means. List agency: _____		
<input type="checkbox"/> Social service provider for persons with disabilities. List agency: _____		
<input checked="" type="checkbox"/> Social service provider for seniors. List agency: <u>Molly's Angels of Napa Valley</u>		
Applicant Information		
Name:	Devereaux Smith	Date: July 13, 2023
	<i>Last First M.I.</i>	
Mailing Address:	[REDACTED]	
	<i>Street Address</i>	<i>Apartment/Unit #</i>
City	Napa	State CA Zip 94559
Phone	[REDACTED]	E-mail Address: [REDACTED]
Current Occupation (within the last twelve (12) months)		
Education/Experience		
(a resume may be attached containing this and any other information that would be helpful in evaluating your application)		
See attached.		
Community Participation		
(nature of activity and community location)		
Napa Sunrise Rotary Board of Directors 2020-2021, 2023-2024 Co-Chair City of Napa 4th of July Parade (sponsored by Napa Sunrise Rotary) Gray Haven Board of Directors 2023 L'Chaim Napa Valley, Co Chair 2022		

Other Boards/Commissions/Committees on which you serve/have served

Susan G. Komen Breast Cancer Foundation
Bentley School Board of Directors
To Celebrate Life Breast Cancer Foundation

Please share your experience or observations regarding public transit

My observation is that all of should do a better job of using public transportation. As the Executive Director of Molly's Angels, I am very aware of the challenges that Seniors, especially seniors who are not ambulatory, face in securing reliable, safe transportation. I believe I can do a better job of sharing information about transit options if I am in position to understand policy and NVTa decisions and updates.

Please share your experience working with special needs populations

We have special needs members in our family. In addition, earlier in my career, I worked as a fundraising consultant for the Center for Independent Living in Oakland, California.

Please explain your reasons for wishing to serve, and in your opinion, how you feel you could contribute.

I want to serve because I want to be as well versed as possible for the community we serve at Molly's Angels. I feel I can contribute with a positive attitude, commitment to listening and offering feedback from the seniors with disabilities in our community.

References

Please list three individuals familiar with your background

Full Name: **William Chadwick**

Relationship: [REDACTED]

Company: [REDACTED]

Phone: [REDACTED]

Address: [REDACTED]

Full Name: **Scott Owens**

Relationship: [REDACTED]

Company: [REDACTED]

Phone: [REDACTED]

Address: [REDACTED]

Full Name: **Bernie Narvaez**

Relationship: [REDACTED]

Company: [REDACTED]

Phone: [REDACTED]

Address: [REDACTED]

Name and Occupation of spouse within the last 12 months, if married (for Conflict of Interest purposes):

Larry Kamer, Kamer Group, Inc.

Disclaimer and Signature

PLEASE NOTE THAT APPOINTEES MAY BE REQUIRED BY STATE LAW AND NVTA CONFLICT OF INTEREST CODE TO FILE FINANCIAL DISCLOSURE STATEMENTS

Signature: Deveracy Smith

Date: July 13, 2023



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Resolution No. 20-15, Revised, certifying Napa Valley Transportation Authority's Public Transit Agency Safety Plan (PTASP)

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board approve Revised Resolution No. 20-15, certifying NVTA's Public Transit Agency Safety Plan (PTASP).

EXECUTIVE SUMMARY

On July 19, 2018, the Federal Transit Administration (FTA) published the PTASP Final Rule, which requires public transportation service providers that receive federal funds under FTA's Urbanized Area Formula grant program to develop safety plans that include processes and procedures to implement Safety Management Systems (SMS).

Pursuant to findings given in the FTA Triennial Review, NVTA added a section on Exposure to Infectious Disease Strategies, which includes documentation of how NVTA updated the plan in cooperation with frontline employee representatives to address the two deficiencies identified in the Triennial Review.

FISCAL IMPACT

None



NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: NVRTA Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Rebecca Schenck, Program Manager – Public Transit
(707) 259-8636 / Email: rschenck@nvta.ca.gov
SUBJECT: Resolution No. 20-15, Revised, Certifying Napa Valley Transportation Authority's Public Transit Agency Safety Plan (PTASP)

RECOMMENDATION

That the Napa Valley Transportation Authority (NVRTA) Board approve Revised Resolution No. 20-15, (Attachment 1) certifying the NVRTA Public Transit Agency Safety Plan (PTASP).

COMMITTEE RECOMMENDATION

None

BACKGROUND

The Public Transit Agency Safety Plan (PTASP) is a requirement for all public transit service providers that receive Federal Transit Administration (FTA) §5307 Urbanized Area Formula funds.

The plan follows Caltrans FTA approved template and is based on the four (4) principles or pillars of the Safety Management Systems (SMS). SMS is defined as the formal, top-down, organization-wide, data-driven approach to managing safety risks and assuring the effectiveness of safety mitigations. It includes systematic policies, procedures, and practices for the management of safety risk. The four principles or pillars of SMS are: (1) Safety Management Policy; (2) Safety Risk Management; (3) Safety Assurance, and (4) Safety Promotion.

The Safety Performance Targets for NVRTA for the year 2023 are expected to stay within 1% +/- of previous three years data pertaining to fatalities, injuries, safety events, and

system reliability. NVTa is required to communicate performance data to Caltrans and Metropolitan Transportation Commission (MTC) on an annual basis.

Table 1, NVTa Safety Goals

Mode of Transit	Fatalities	Injuries	Safety Events	System Reliability*
Fixed Route Integer Target	0	2	2	36,520.93
Fixed Route Target per Vehicle Revenue Mile	0	0	1.75/100,000 miles	11.68/100,000
Demand Response Integer Target	0	1	1	43,378.83
Demand Response Target per Vehicle Revenue Mile	0	0	2.6/100,000	3.47/100,000

*Miles between breakdowns, breakdowns per 100,000 miles (NTD mechanical failures reported)

NVTa Goals are based on NTD data reported in Fiscal Year 2022-2023.

The 2022 plan was reviewed as part of the Federal Transit Administration 2023 Triennial Review and there were two deficiencies as outlined below:

Deficiency #1: PTASP1-5: ASP not developed/updated in cooperation with frontline employee representatives.

The recipient is deficient if it is required to develop or update its ASP in cooperation with frontline employee representatives and its ASP has not been developed or updated in cooperation with frontline employee representatives on or before December 31, 2022. During the review, NVTa explained that it has involved frontline employees in its periodic Safety Committee meetings, but this process is not documented within the ASP.

Corrective Action and Schedule: By November 15, 2023, NVTa must submit to the FTA regional office a revised ASP approved by its board of directors that contains evidence that NVTa has updated its ASP in cooperation with frontline employee representatives.

Deficiency #2: PTASP3-1: Missing required element(s)

The recipient is deficient if any of the required elements is missing from the ASP. NVTa's ASP does not include procedures for handling infectious disease exposure. Corrective Action and Schedule: By November 15, 2023, NVTa must submit to the FTA regional office a revised ASP approved by its board of directors that contains the required element covering procedures for handling infectious disease exposure.

The 2023 ASP (Attachment 1), addresses these two deficiencies. This plan will be updated by NVTA's Chief Safety Officer (Manager of Public Transit) every July.

ALTERNATIVES

There are no alternatives. A compliant PTASP is a requirement to receive federal funds.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 2: Improve system safety in order to support all modes and serve all users. The adoption of the PTASP establishes safety metrics and targets to compare baseline data with ongoing performance. This will aid in correcting safety issues and improve overall safety performance.

ATTACHMENT

- (1) 2023 Agency Safety Plan
- (2) Revised Resolution No. 20-15

ATTACHMENT 1
AGENDA ITEM 9.3
SEPTEMBER 27, 2023



Napa Valley Transportation Authority (NVRTA)
625 Burnell Street
Napa, CA 94559

Agency Safety Plan

~~July 20, 2022~~ September 27, 2023

KATE MILLER, Executive Director

Date

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Definitions

Accident means an Event that involves any of the following: a loss of life; a report of a serious injury to a person; a collision of public transportation vehicles; an evacuation for life safety reasons.

Accountable Executive means the single, identifiable person who has ultimate responsibility for carrying out the Public Transportation Agency Safety Plan of the Agency; responsibility for carrying out the Agency's Transit Asset Management Plan; and control or direction over the human and capital resources needed to develop and maintain both the Agency's Public Transportation Agency Safety Plan, in accordance with 49 U.S.C. § 5329(d), and the Agency's Transit Asset Management Plan in accordance with 49 U.S.C. § 5326.

Agency or Transit Agency means Napa Valley Transportation Authority.

Board of Directors means governing body of the Napa Valley Transportation Authority.

Caltrans means the California Department of Transportation

Chief Safety Officer means the adequately trained individual who has responsibility for safety and reports directly to the Transit Agency's chief executive officer.

CFR means Code of Federal Regulations.

Event means any Accident, Incident, or Occurrence.

FTA means the Federal Transit Administration, an operating administration within the United States Department of Transportation.

Hazard means any real or potential condition that can cause injury, illness, or death, damage to or loss of the facilities, equipment, rolling stock, or infrastructure of the system, or damage to the environment.

Incident means an Event that involves any of the following: a personal injury that is not a serious injury, one or more injuries requiring medical transport, or damage to facilities, equipment, rolling stock, or infrastructure that disrupts the operations of the Transit Agency.

Investigation means the process of determining the causal and contributing factors of an accident, incident, or hazard, for the purpose of preventing recurrence and mitigating risk.

National Public Transportation Safety Plan means the plan to improve the safety of all public transportation systems that receive federal financial assistance under 49 U.S.C. Chapter 53.

Occurrence means an Event without any personal injury in which any damage to facilities, equipment, rolling stock, or infrastructure does not disrupt the operations of the Transit Agency.

Part 673 means 49 CFR (Code of Federal Regulations) Part 673.

Performance Measure means an expression based on a quantifiable indicator of performance or condition that is used to establish targets and to assess progress toward meeting the established targets.

Performance target means a quantifiable level of performance or condition, expressed as a value for the measure, to be achieved within a time period required by the Federal Transit Administration (FTA).

Risk means the composite of predicted severity and likelihood of the potential effect of a hazard.

Risk mitigation means a method or methods to eliminate or reduce the effects of hazards.

Safety Assurance means processes within the Transit Agency's Safety Management Systems that function to ensure the implementation and effectiveness of safety risk mitigation, and to ensure that the Transit Agency meets or exceeds its safety objectives through the collection, analysis, and assessment of information.

Safety Management Policy means the Transit Agency's documented commitment to safety, which defines the Transit Agency's safety objectives and the accountabilities and responsibilities of its employees in regard to safety.

Safety Management Systems (SMS) means the formal, top-down, organization-wide approach to managing safety risk and assuring the effectiveness of a Transit Agency's safety risk mitigation. SMS includes systematic procedures, practices, and policies for managing risks and hazards.

Safety Performance Target (SPT) means a Performance Target related to safety management activities.

Safety Promotion means a combination of training and communication of safety information to support SMS as applied to the Transit Agency's public transportation system.

Safety Risk Assessment (SRA) means the formal activity whereby the Transit Agency determines Safety Risk Management priorities by establishing the significance or value of its safety risks.

Safety Risk Management (SRM) means a process within the Transit Agency's Public Transportation Agency Safety Plan for identifying hazards and analyzing, assessing, and mitigating safety risk.

Serious injury means any injury which: (1) requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was received, (2) results in a fracture of any bone (except simple fractures of fingers, toes, or noses), (3) causes severe hemorrhages, nerve, muscle, or tendon damage; (4) involves any internal organ, or (5) involves second or third-degree burns, or any burns affecting more than five percent of the body surface.

State of Good Repair (SGR) means the condition in which a capital asset is able to operate at a full level of performance.

Transit Asset Management Plan means the strategic and systematic practice of procuring, operating, inspecting, maintaining, rehabilitating, and replacing transit capital assets to manage their performance, risks, and costs over their life cycles, for the purpose of providing safe, cost-effective, and reliable public transportation, as required by 49 U.S.C. 5326 and 49 CFR part 625.

U.S.C. means United States Code.

Section 1 Transit Agency Information

The Napa Valley Transportation Authority (“NVTA”) is a joint powers agency formed by the Joint Exercise Powers Act (Government Code section 6500 et seq.), which serves as the countywide transportation planning agency for the incorporated and unincorporated areas within the County of Napa and is responsible for programming State and Federal funding including highways, streets, and roads, public transit and paratransit, bicycle and pedestrian improvement projects. NVTA operates fixed route and demand response public transportation services in the County of Napa, California, to include fixed route regional services extending into its neighboring counties of Solano and Contra Costa County, California. NVTA does purchase transit operations services from Transdev, Inc.. NVTA is a subrecipient of Section 5307, 5310, 5311 and 5311f funds. NVTA does not provide transportation services on behalf of another entity.

Subsection 1.1 Accountable Executive

NVTA’s Accountable Executive is the Executive Director. The Executive Director is the single, identifiable person who has ultimate responsibility for carrying out this Agency Safety Plan and the NVTA’s Transit Asset Management (TAM) Plan, and control or direction over the human and capital resources needed to develop and maintain both this Plan and the TAM Plan.

The Executive Director is accountable for ensuring that the Agency’s Safety Management Systems (SMS) is effectively implemented throughout the Agency’s public transportation system. The Executive Director is accountable for ensuring action is taken, as necessary, to address substandard performance in the Agency’s SMS. The Executive Director may delegate specific responsibilities, but the ultimate accountability for the Transit Agency’s safety performance cannot be delegated and always rests with the Executive Director.

Subsection 1.2 Chief Safety Officer

The Executive Director designates the Program Manager for Public Transit as NVTA’s Chief Safety Officer who has the authority and responsibility for day-to-day implementation and operation of the Agency’s SMS. The Chief Safety Officer holds a direct line of reporting to the Accountable Executive, as shown in the organization chart in the Attachment A, and has a strong working relationship with the operations and asset management functions at NVTA.

Section 2 Plan Development, Approval, and Updates

Caltrans developed the contents of this NVTA plan to meet requirements specified in 49 CFR Part 673 and comply with Part 673.11(d) regarding Caltrans’ responsibility to develop an ASP for any small public transportation provider that is located in California. This Plan is based on the four (4) principles or pillars of the Safety Management Systems (SMS). SMS

is defined as the formal, top-down, organization-wide, data-driven approach to managing safety risk and assuring the effectiveness of safety mitigations. It includes systematic policies, procedures, and practices for the management of safety risk. The four principles or pillars of SMS are: (1) Safety Management Policy; (2) Safety Risk Management; (3) Safety Assurance; and (4) Safety Promotion.

Subsection 2.1 Drafting the Plan

Caltrans drafted this Plan, thus meeting the requirements of 49 CFR Part 673.11(d). FTA will oversee compliance with the requirements of Part 673 through the existing Triennial Review processes.

Should NVTa no longer meet the definition of a small public transportation provider or choose to opt-out of the Caltrans Agency Safety Plan, within one (1) year from the date of notifying the State of either development NVTa will draft and certify its own Agency Safety Plan. If the NVTa operates more than 100 vehicles NVTa must fulfil requirements of systems operating more than 100 vehicles.

Subsection 2.2 Signature by the Accountable Executive and Approval by the Board

Pursuant to 49 CFR Part 673.11 (a)(1), this Agency Safety Plan and subsequent updates must be signed by the Accountable Executive and approved by NVTa's Board. Documentation of Board approval is found in Attachment B.

Subsection 2.3 Certification of Compliance

Pursuant to 49 CFR Parts 673.13(a) and 673.13(b), Caltrans certifies that it has established this Agency Safety Plan, meeting the requirements of 49 CFR Part 673 by July 20, 2020 and will certify its compliance with 49 CFR Part 673.

After Caltrans initial certification, and on an annual basis NVTa must update this Agency Safety Plan annually in perpetuity. All Agency Safety Plan updates shall be signed by the Accountable Executive and approved by NVTa's Board.

FTA does not require this plan to be submitted to FTA. Instead, Caltrans will certify that it has established this Safety Plan, which fulfills the requirements under Part 673. FTA annually amends and issues the list of Certifications and Assurances. Caltrans will review such guidance for incorporation into the safety program as necessary.

Subsection 2.4 Plan Review and Updates

NVTa updates this Safety Plan when information, processes or activities change within the Agency and/or when Part 673 undergoes significant changes, or annually, whichever comes sooner. As NVTa collects data through its Safety Risk Management and Safety Assurance processes, shared with Caltrans and the local Metropolitan Planning Organization (MPO) as described in subsection 3.1 below, the MPO and Caltrans will

evaluate NVTAs's safety performance targets (SPTs) to determine whether they need to be changed, as well.

This Plan will be jointly reviewed and updated by the Chief Safety Officer and Program Manager for Public Transit, with the assistance of subject matter experts, each year. The Accountable Executive will approve any changes, then forward on to the Board of Directors for approval.

This Plan may need to be reviewed and updated more frequently based on the following:

- We determine our approach to mitigating safety deficiencies is ineffective;
- We make significant changes to service delivery;
- We introduce new processes or procedures that may impact safety;
- We change or re-prioritize resources available to support SMS;
- We significantly change our organizational structure.

Section 3 Safety Performance Targets (SPTs)

Subsection 3.1 Target Development

Caltrans includes SPTs in this Safety Plan. These targets are specific numerical targets set by Caltrans and based on the safety Performance Measures established by FTA in the National Public Transportation Safety Plan. In the most recent version, the 2017 NSP3, FTA adopted four initial safety Performance Measures: (1) Fatalities, (2) Injuries, (3) Safety Events, and (4) System Reliability.

Caltrans developed safety performance targets that it will review and update annually. The specific safety performance targets are based on the safety performance measures established under the National Public Transportation Safety Plan and the safety performance goals set by Caltrans based on the past three (3) Calendar years of data. The Safety Performance Targets for NVTAs for the year 2022 is expected to stay within 1% +/- of previous three years data pertaining to fatalities, injuries, safety events, and system reliability.

FTA requires Caltrans to coordinate with FTA Region 9 and the Metropolitan Transportation Commission ("MTC") to the maximum extent practicable. Pursuant to 49 CFR Part 673.15(a), Caltrans will make safety performance targets available to MTC to aid in the planning process upon certification of this plan. Additionally, NVTAs will transmit performance data against the safety performance targets to Caltrans and the MTC on an annual basis.

Caltrans will conduct coordination meetings with the MTC in the selection of State and MPO safety performance targets.

Mode of Transit Service	Fatalities	Injuries	Safety Events	System Reliability
Fixed Route Integer Target				

Fixed Route Target per Vehicle Revenue Mile				
Demand Response Integer Target				
Demand Response Target per Vehicle Revenue Mile				

Section 4 Overview of the Agency's Safety Management Systems (SMS)

SMS is a comprehensive, collaborative approach that brings management and labor together to build on the transit industry's existing safety foundation to control risk better, detect and correct safety problems earlier, share and analyze safety data more effectively, and measure safety performance more carefully. NVTA's SMS focuses on applying resources to risk and is based on ensuring that the NVTA has the organizational infrastructure to support decision-making at all levels regarding the assignment of resources. Some key parts of NVTA's SMS include:

- Defined roles and responsibilities;
- Strong executive safety leadership;
- Formal safety accountabilities and communication;
- Effective policies and procedures; and
- Active employee involvement

Furthermore, NVTA's SMS have four distinct components, which are discussed in subsequent sections to this Safety Plan:

- Safety Policy
- Safety Risk Management
- Safety Assurance
- Safety Promotion

Section 5 Safety Management Policy

The first component of the NVTA's SMS is the Safety Management Policy, which is the foundation of the NVTA's safety management system. It clearly states the organization's safety objectives and sets forth the policies, procedures, and organizational structures necessary to accomplish the safety objectives. The Safety Management Policy clearly defines management and employee responsibilities for safety throughout the organization. It also ensures that management is actively engaged in the oversight of the system's safety performance by requiring regular review of the Safety Management Policy, budget and program by the designated Accountable Executive.

Subsection 5.1 Safety Management Policy Statement

Safety is a core value at NVTA, and managing safety is a core business function. NVTA will develop, implement, maintain, and continuously improve processes to ensure the safety of our customers, employees, and the public. NVTA's overall safety objective is to proactively manage safety hazards and their associated safety risk, with the intent to eliminate unacceptable safety risk in our transit operations.

NVTA will:

- Clearly, and continuously explain to all staff that everyone working within NVTA must take part and be responsible and accountable for the development and operation of the Safety Management System (SMS).
- Work continuously to minimize safety risks. Work to comply with and, wherever possible, exceed legislative and regulatory requirements and standards for passengers and employees.
- Work to ensure that all employees are provided appropriate safety information and training, are competent in safety matters, and assigned tasks commensurate with duties and skills.
- Reaffirm that responsibility for making our operations safer for everyone lies with all employees – from executive management to frontline employees. Each manager is responsible for implementing the SMS in their area of responsibility and will be held accountable to ensure that all reasonable steps are taken to perform activities established through the SMS.

Caltrans established safety performance targets to help measure the overall effectiveness of our processes and ensure we meet our safety objectives. NVTA will keep employees informed about safety performance goals and objectives to ensure continuous safety improvement.

Subsection 5.2 Safety Management Policy Communication

The Safety Management Policy is communicated throughout the Agency, to all employees, managers, and executives, as well as contractors, and to the Board of Directors.

This is accomplished through various processes such as:

- Workshops/training sessions - Conducted for Senior Management, Directors, Managers, Supervisors. Once this Plan or any update to this Plan has been signed by the CEO/General Manager approved by the Board of Directors and certified by Caltrans it will become standard practice in perpetuity so that SMS becomes standard business practice. All Union representatives will be kept informed.
- Operations/Safety Meetings – Conducted by the Program Manager for Public Transit on an annual basis with TransDev Safety Committee to present the draft plan updates and incorporate feedback from the TransDev Safety Committee prior to adoption of the updated PTASP by the NVTA Board of Directors. The Safety committee is comprised of the Maintenance Manager, Safety Training Officer, Two Road Supervisors and two Drivers.

- New Hire Safety Orientation – All new employees regardless of their classifications will be trained about their roles and responsibilities pertaining to PTASP and the principles of SMS.
- Safety bulletins, email safety newsletter blasts to staff, toolbox/tailgate safety meetings and/or safety committee meetings

Subsection 5.3 Employee Safety Reporting Program

NVTA implemented a process that allows employees [and contracted employees] to report safety conditions to senior management, protections for employees who report safety conditions to senior management. The purpose, description and protections for employees to report unsafe conditions and hazards are described in the Employee Safety Reporting Program as below:

Purpose.

a) To establish a system for NVTA employees to identify unsafe conditions or hazards at work and report them to their department management without fear of reprisal. However, disciplinary action could result if the condition reported reveals the employee willfully participated in or conducted an illegal act, gross negligence or deliberate or willful disregard of regulations or procedures, including reporting to work under the influence of controlled substances, physical assault of a coworker or passenger, theft of agency property, unreported safety events, unreported collisions, and unreported passenger injuries or fatalities.

b) To provide guidelines for facilitating the timely correction of unsafe conditions or hazards by NVTA management.

Description.

a) This program provides a method for NVTA management to identify, evaluate, and correct or avoid unsafe conditions or hazards, procedural deficiencies, design inadequacies, equipment failures, or near misses that adversely affect the safety of employees.

Examples of voluntary safety reports include:

- Safety hazards in the operating environment (for example, county or city road conditions),
- Policies and procedures that are not working as intended (for example, insufficient time to complete pre-trip inspection),
- Events that senior managers might not otherwise know about (for example, near misses), and
- Information about why a safety event occurred (for example, radio communication challenges).

b) The program also involves recommending corrective actions and resolutions of identified unsafe conditions or hazards and/or near miss.

c) All employees have the obligation to report immediately any unsafe conditions or hazards and near miss to their immediate supervisor /department manager and may do so without fear of reprisal.

d) Unsafe conditions or hazards may also be identified as a result of occupational injury or illness investigations and/or by accident investigation.

e) Other means by which hazards may be identified are inspections/audits or observations made by the supervisors/management staff as referenced in agency's Safety Inspection Program.

f) Findings will be published immediately following mitigation actions. If employee identification is available, direct feedback regarding mitigation will be provided.

Subsection 5.4 SMS Authorities, Accountabilities, and Responsibilities

This Plan has assigned specific SMS authorities, accountabilities, and responsibilities to the designated Accountable Executive; Chief Safety Officer; Agency's Leadership/Executive Management; and Key Staff/Employees as described below:

Subsection 5.4.1 Accountable Executive

NVTA's Accountable Executive is the Executive Director. The Executive Director is accountable for ensuring that the Agency's SMS is effectively implemented throughout the Agency's public transportation system. The Executive Director is accountable for ensuring action is taken, as necessary, to address substandard performance in the Agency's SMS. The Executive Director may delegate specific responsibilities, but the ultimate accountability for the NVTA's safety performance cannot be delegated and always rests with the Executive Director. The Executive Director is accountable for ensuring that the Agency's SMS is effectively implemented, and that action is taken, as necessary, to address substandard performance in the Agency's SMS. The Accountable Executive may delegate specific responsibilities, but not accountability for NVTA's safety performance.

The Executive Director's roles include, but are not limited to:

- Decision-making about resources (e.g. people and funds) to support asset management, SMS activities, and capital investments;
- Signing SMS implementation planning documents;
- Endorsing SMS implementation team membership; and
- Ensuring safety concerns are considered and addressed in the agency's ongoing budget planning process.
- Ensuring transparency in safety priorities: for the Board of Directors and for the employees.

- Establishing guidance on the level of safety risk acceptable to the agency.
- Assuring safety policy is appropriately communicated throughout the agency.
- Other duties as assigned/necessary.

Subsection 5.4.2 Chief Safety Officer

The Chief Safety Officer has the authority and responsibility for day-to-day implementation and operation of the NVTAs SMS.

Chief Safety Officer's Roles include:

- Decision-making about resources (e.g., people and funds) to support asset management, SMS activities, and capital investments;
- Overseeing the safety risk management program by facilitating hazard identification, safety risk assessment, and the development and implementation of safety risk mitigations.
- Monitoring safety risk mitigation activities;
- Providing periodic reports on safety performance;
- Briefing the Accountable Executive and Board of Directors on SMS implementation progress;
- Planning safety management training; and
- Developing and organizing annual audits/reviews of SMS processes and the Agency Safety Plan to ensure compliance with 49 CFR Part 673 requirements.
- Maintaining safety documentation.
- Other duties as assigned/necessary.

Subsection 5.4.3 Agency Leadership and Executive Management

The Executive Director, Director of Capital Development and Planning, and Program Manager of Transit comprise of the Agency Leadership/Executive Management. Some of their responsibilities include:

- Day-to-day implementation of the Agency's SMS throughout their department and the organization.
- Communicating safety accountability and responsibility from the frontline employees to the top of the organization.
- Ensuring employees are following their working rules and procedures, safety rules and regulations in performing their jobs, and their specific roles and responsibilities in the implementation of this Agency Safety Plan and the Agency's SMS.
- Ensuring that employees comply with the safety reporting program and are reporting unsafe conditions and hazards to their department management; and making sure reported unsafe conditions and hazards are addressed in a timely manner.
- Ensuring that resources are sufficient to carry out employee training/certification and re-training as required by their job classifications.

Agency Leadership and Executive Management Organization Chart provided under Attachment C.

Subsection 5.4.4 Key Staff

The agency Key Staff/Employees may include managers, supervisors, specialists, analysts, database administrators, and other key employees who are performing highly technical work and overseeing employees performing critical tasks and providing support in the implementation of this Agency Safety Plan and SMS principles in various departments throughout the agency.

NVTA's Key Staff/Employees responsibilities include:

- Ensuring that employees are complying with the safety reporting program.
- Ensuring supervisors are conducting their toolbox safety meetings
- Promoting safety in employee's respective area of responsibilities – That means: zero accidents; absence of any safety concerns; perfect employee performance; and compliance with agency rules and procedures and regulatory requirements.
- Ensuring safety of passengers, employees, and the public.
- Responding to customer complaints and expectations for frequency, reliability, and convenience of service.
- Replacing and maintaining aging facilities, equipment, and infrastructure.
- Meeting increasing demands for fixed route, commuter service and paratransit service.
- Developing and maintaining programs to gather pertinent data elements to develop safety performance reports and conduct useful statistical analyses to identify trends and system performance targets.
- Establishing clear lines of safety communication and holding accountability for safety performance.
- Assisting as subject matter experts in safety risk assessment and safety risk mitigation processes.

Key Staff Organization Chart provided under Attachment C.

Section 6 Safety Risk Management (SRM)

The second component of the NVTA's SMS is Safety Risk Management, which includes processes and procedures to provide an understanding of the Agency's operations and vehicle maintenance to allow individuals to identify hazards associated with those activities.

NVTA has implemented a Safety Risk Management process for all elements of its transportation system. The Safety Risk Management process includes the following activities: safety hazard identification, safety risk assessment, and safety risk mitigation.

Subsection 6.1 Safety Hazard Identification

Hazard identification is the first step in the Safety Risk Management process and a key component. It involves these fundamental safety-related activities: Identifying safety hazards and their consequences; assessing the risks associated with the consequences of the hazards; and developing mitigations to reduce the potential consequences of the identified hazards.

The following is NVTa's methods and processes to identify hazards. The Agency considers, as a source for hazard identification, data and information provided by an oversight authority and the FTA. Hazards are identified through a variety of sources, including:

- Employee safety reporting,
- Review of vehicle camera footage,
- Review of monthly performance data and safety performance targets,
- Observations from supervisors,
- Maintenance reports,
- Comments from customers, passengers, and third parties,
- Safety committee, driver and all-staff meetings,
- Results of audits and inspections of vehicles and facilities,
- Results of training assessments
- Investigations into safety events, incidents and occurrences, and
- Information from FTA and oversight authorities
- Information from the Center for Disease Control (CDC) and local Napa County Public Health Department

When a hazard has been identified, whatever the source, it is reported to the NVTa Chief Safety Officer, who enters it into the Hazard Log. The Chief Safety Officer also may enter hazards into this log based on reviews of operations and maintenance activities and procedures.

The Chief Safety Officer will investigate hazards to collect information and determine if hazards need to be entered into the safety risk assessment process. In following up on identified hazards, the Chief Safety Officer may:

- Reach out to the reporting party, if available, to gather all known information about the reported hazard,
- Conduct a walkthrough of the affected area, assessing the possible hazardous condition, generating visual documentation (photographs and/or video), and taking any measurements deemed necessary,
- Conduct interviews with employees in the area to gather potentially relevant information on the reported hazard,

- Review any documentation associated with the hazard (records, reports, procedures, inspections, technical documents, etc.),
- Contact other departments that may have association with or technical knowledge relevant to the reported hazard,
- Review any past reported hazards of a similar nature, and
- Evaluate tasks and/or processes associated with the reported hazard.

Any identified hazard that poses an immediate risk to transit operations, the health and safety of employees or the public, or equipment must immediately be brought to the attention of the Accountable Executive and placed through the Safety Risk Management process for safety risk assessment and mitigation. Otherwise, hazards will be prioritized for further Safety Risk Management activity.

Subsection 6.2 Safety Risk Assessment

Safety risk assessment defines the level or degree of the safety risk by assessing the likelihood and severity of the consequences of hazards and prioritizes hazards based on the safety risk. The Chief Safety Officer, with assistance from key staff subject matter experts, is responsible for assessing identified hazards and ratings using the safety risk matrix below. Prioritizing safety risk provides the Accountable Executive with the information needed to make decisions about resource application.

The following matrix, adopted from the TSI Participation Guide – SMS Principles for Transit, facilitates the ranking of hazards based on their probability of occurrence and severity of their outcome.

Probability Levels			
Description	Level	Specific Individual Item	Fleet Inventory
Frequent	A	Likely to occur often in the life of an item.	Continuously experienced.
Probable	B	Will occur several times in the life of an item.	Will occur frequently.
Occasional	C	Likely to occur sometime in the life of an item.	Will occur several times.
Remote	D	Unlikely, but possible to occur in the life of an item.	Unlikely, but can reasonably be expected to occur.
Improbable	E	So unlikely, it can be assumed occurrence man not be experienced in the life of an item.	Unlikely to occur, but possible.
Eliminated	F	Incapable of occurrence. This level is used when potential hazards are identified and later eliminated.	Incapable of occurrence. This level is used when potential hazards are identified and later eliminated.

The measuring goes from A to F with A being frequent or likely to occur frequently and E being improbable or expected that this event will most likely never occur. The designation F is used when potential hazards are identified and later eliminated.

Severity Levels		
Description	Level	Mishap Result Criteria
Catastrophic	1	Could Result in one or more of the following: death, permanent total disability, irreversible significant environmental impact, or monetary loss equal to or exceeding \$10M
Critical	2	Could result in one or more of the following: permanent partial disability, injuries or occupational illness that may result in hospitalization of at least three personnel, reversible significant environmental impact, or monetary loss equal to or exceeding \$1M but less than \$10M
Marginal	3	Could result in one or more of the following: injuries or occupational illness resulting in one or more lost work day(s), reversible moderate environmental impact, or monetary loss equal to or exceeding \$100k but less than \$1M
Negligible	4	Could result in one or more of the following: injuries or occupational illness not resulting in lost work day, minimum environmental impact. Or monetary loss less than \$100k.

The Safety Risk Severity Table presents a typical safety risk. It includes four categories to denote the level of severity of the occurrence of a consequence, the meaning of each category, and the assignment of a value to each category using numbers. In this table, 1 is considered catastrophic meaning possible deaths and equipment destroyed and 4 is considered negligible or of little consequence with two levels in between.

Safety Risk Probability and Safety Risk Severity are combined into the Safety Risk Index Ranking to help prioritize safety risks according to the table below.

Safety Risk Assessment Matrix				
Severity → Probability ↓	Catastrophic 1	Critical 2	Marginal 3	Negligible 4
A-Frequent	1A	2A	3A	4A
B- Probable	1B	2B	3B	4B
C-Occasional	1C	2C	3C	4C
D- Remote	1D	2D	3D	4D
E- Improbable	1E	2E	3E	4E
F- Eliminated				
Safety Risk Index Ranking				
1A, 1B, 1C, 2A, 2B	High	Unacceptable		
1D, 2C, 3A, 3B	Serious	Undesirable - With management decision required		
1E, 2D, 2E, 3C, 3D, 3E, 4A, 4B,	Medium	Acceptable - with review by management		
4C, 4D, 4E	Low	Acceptable - without review		

The Chief Safety Officer documents recommendations regarding hazard rating and mitigation options and reports this information to the Accountable Executive.

Subsection 6.3 Safety Risk Mitigation

The Chief Safety Officer, assisted by Key Staff subject matter experts, reviews current safety risk mitigations and establish procedures to 1) eliminate; 2) mitigate; 3) accept specific risks. Prioritization of safety remediation measures is based on risk analysis and a course of action acceptable to NVTa management.

The safety risk must be mitigated if ranked as Unacceptable (High-Red). Those safety risks that have been mitigated, even those mitigated risks shown as Acceptable status (Low -Green) undergo regular and consistent monitoring to ensure the mitigation strategy is effective.

Key strategies to minimize the types of risks that potentially exist include:

- Development and deployment of policies and procedures that address known hazards and risks,
- Discussion of other actions, strategies and procedures that might help safeguard against unknown/unforeseen risks,
- Training of drivers and other agency staff on all safety policies and procedures, including infectious disease awareness on an annual basis
- Training of drivers and other agency staff on methodologies for handling emergencies, and
- Training of drivers and staff on proper and effective use of emergency equipment and communication technologies and protocol.

Safety risk mitigations are tracked and updated in the Hazard Log by the Chief Safety Officer.

Subsection 6.4 Exposure to Infectious Disease Strategies

NVTa is committed to implementing strategies to minimize exposure to infectious disease. NVTa's approach to monitor FTA, CDC, State, and local health official guidance on the prevalence of infectious disease in the community that may affect customers, employees or the public.

Currently identified infectious disease risks include the continued existence of COVID-19 and its variants. NVTa will utilize already identified mitigations strategies related to exposure to infectious diseases through the safety risk management process and those procedures previously used to combat COVID-19. —NVTa will maintain a supply of Personal Protective Equipment (PPE) including masks and hand sanitizer and implement any future prevention strategies recommended by the FTA, CDC and Napa County Public Health.

Section 7 Safety Assurance

The third component of the Agency's SMS is Safety Assurance, which ensures the performance and effectiveness of safety risk controls established under safety risk management. Safety assurance also helps ensure that the organization meets or exceeds

its safety objectives through the collection, analysis, and assessment of data regarding the organization's performance. Safety assurance includes inspection activities to support oversight and performance monitoring.

The NVTa monitors its operations and maintenance protocols and procedures, and any safety risk mitigations to ensure that it is implementing them as planned. Furthermore, the Agency investigates safety events (as defined in County of Napa) and any reports of non-compliance with applicable regulations, standards, and legal authority. Finally, the Agency continually monitors information reported to it through any internal safety reporting programs, including the employee safety reporting program.

Some of the key elements of NVTa's Safety Performance Monitoring and Measurement are shown below in subsection 7.1:

Subsection 7.1 Safety Performance Monitoring and Measurement

As part of the Safety Assurance Process, NVTa:

- Monitors the system for compliance with, and sufficiency of, the Agency's procedures for operations and maintenance through:
 - Safety audits,
 - Informal inspections,
 - Regular review of on-board camera footage to assess drivers and specific incidents,
 - Safety surveys,
 - Employee safety reporting program,
 - Investigation of safety occurrences,
 - Safety review prior to the launch or modification of any facet of service,
 - Daily data gathering and monitoring of data relating to the delivery of service,
 - Regular vehicle inspections and preventative maintenance, and
 - Continuous feedback loop between leadership and all levels of the agency.
- Monitors its operations to identify any safety risk mitigations that may be ineffective, inappropriate, or were not implemented as intended through:
 - Reviewing results from accident, incident, and occurrence investigations,
 - Monitoring employee safety reporting,
 - Reviewing results of internal safety audits and inspections, and
 - Analyzing operational and safety data to identify emerging safety concerns.
- Conducts investigations of safety events to identify causal factors; and
- Monitors information reported through any internal safety reporting programs.
 - The Chief Safety Officer routinely reviews safety data captured in employee safety reports, safety meeting minutes, customer complaints, and other safety communication channels. When necessary, the Chief Safety Officer ensures that the issues and concerns are investigated or analyzed through the safety risk assessment process.

- The Chief Safety Officer also reviews the results of internal and external reviews, including audits and assessments, with findings affecting safety performance, compliance with operations and maintenance procedures, or the effectiveness of safety risk mitigations. The Chief Safety Officer discusses relevant safety issues and concerns with the Accountable Executive and executive management and documents the results of these reviews in the Hazard Log.

In the event of a fatality, the NVTa complies with all FTA drug and alcohol requirements.

In California, every driver involved in an accident that results in death, injury, or property damage over \$1000, effective January 1, 2017, must report the accident on a Report of Traffic Accident Occurring in California (SR 1) form to DMV. The report forms are available at www.dmv.ca.gov, by calling 1-800-777-0133, and at CHP and DMV offices. Also, under California Vehicle Code §16002(b) the driver of a vehicle that is owned or operated by a publicly owned or operated transit system, or that is operated under contract with a publicly owned or operated transit system, and that is used to provide regularly scheduled transportation to the general public or for other official business of the system shall, within 10 days of the occurrence of the accident, report to the transit system any accident of a type otherwise required to be reported pursuant to subdivision (a) of Section 16000. The NVTa requires driver notification to the NVTa immediately and maintains records of any report filed pursuant to this paragraph.

Section 8 Safety Promotion

The fourth component of the Agency's SMS is Safety Promotion, which includes a combination of training and communication of safety information to employees to enhance the Agency's safety performance. Safety Promotion sets the tone for the SMS and helps NVTa to establish and maintain a robust safety culture. Safety Promotion has two components: (1) Safety Communication; and (2) Competencies and Training.

Subsection 8.1 Safety Communication

NVTa communicates safety and safety performance information throughout the organization that, at a minimum, conveys information on hazards and safety risks relevant to employees' roles and responsibilities and informs employees of safety actions taken in response to reports submitted through an employee safety reporting program.

Ongoing safety communication is critical and NVTa ensures communication occurs up, down, and across all levels of the organization. Any lessons learned are communicated to all concerned. Management commitment to address safety concerns and hazards is communicated on a regular basis. Management encourages and motivates employees to communicate openly, authentically, and without concern for reprisal; ensures employees are aware of SMS principles and understand their safety-related roles and responsibilities; conveys safety critical information such as accident data, injuries, and

reported safety concerns and hazards and their resolutions to employees. NVTAs tools to support safety communication include:

- Safety bulletins
- Safety notices
- Posters
- CDs or Thumb drives or online safety video access
- Newsletters
- Briefings or Toolbox talks
- Seminars and workshops
- New employee training and refresher training
- Intranet or social media
- Safety Committee Meetings

Competencies and Training: Executive Management ensures that all employees attend the training provided to understand their specific roles and responsibilities for the implementation of SMS. NVTAs provides SMS training in the following areas:

All Employees:

- Understanding of Safety Performance Targets
- Understanding of fundamental principles of SMS
- Understanding of Safety Reporting Program – Reporting unsafe conditions and hazards/near misses
- Understanding of their individual roles and responsibilities under SMS

Managers and Supervisors

- Understanding of Safety Risk Management
- Understanding of Safety Assurance
- Understanding of Safety Promotion
- Understanding of their individual roles and responsibilities for SMS

Executive Management:

- Understanding of management commitment to and support of all SMS activities.

All employees are required to acquire the competencies and knowledge for the consistent application of their skills as they relate to safety performance objectives. NVTAs dedicates resources to conduct effective safety-related skill training. The scope of the safety training is appropriate to each employee's individual safety-related job responsibilities and their role in SMS. Components of NVTAs's skill-related training include:

- Conducting training needs analyses to ensure that the right information is being taught to the right employees using the most efficient training methods.
- Communicating purpose, objectives, and outcome.
- Ensuring relevant content by directly linking training to the trainee's job experiences so trainees are more motivated to learn.
- Using active hands-on demonstrations and practice to demonstrate skills that are being taught and provide opportunities for trainees to practice skills.
- Providing regular feedback during hands-on practice and exercises.

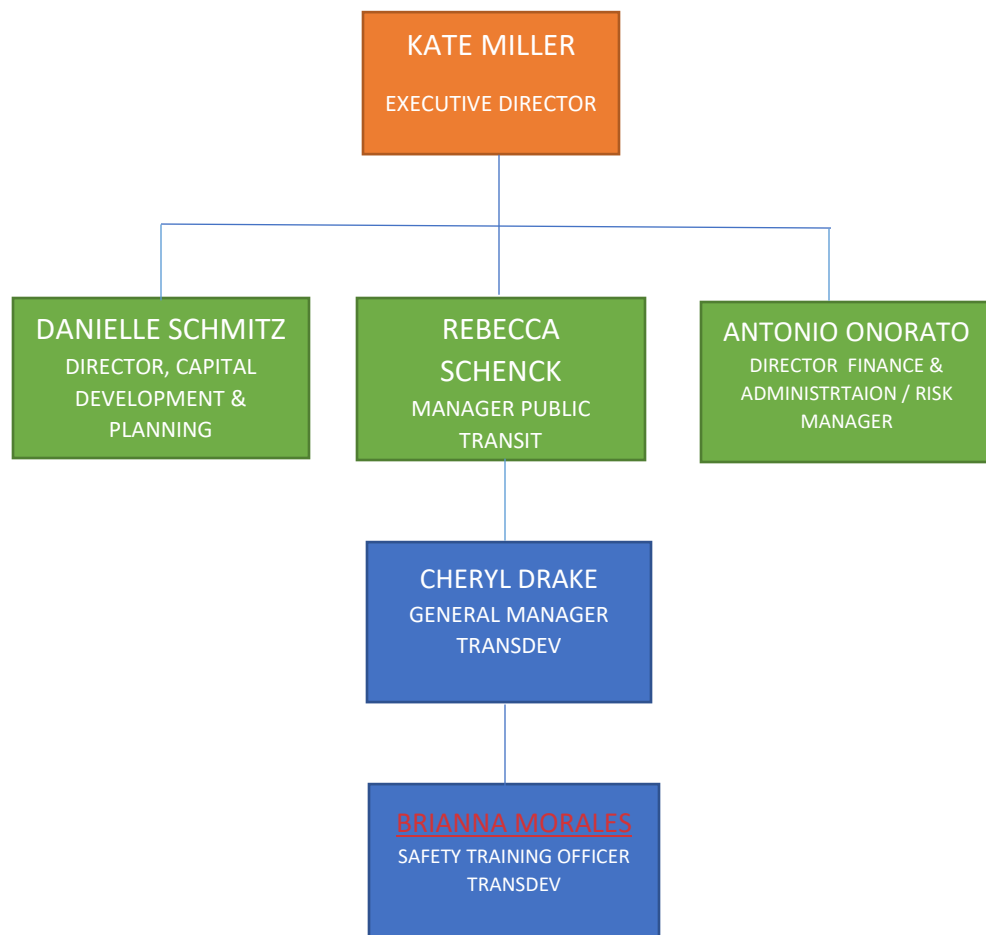
- Reinforcing training concepts in the post-training work environment by giving employees opportunities to perform what they've learned.

Transit agency conducts monthly safety and skill related refresher training. Monthly training schedule and dedicated classroom hours for the current fiscal year are provided under Attachment D.

Section 9 Documentation

Pursuant to 49 CFR Part 673.31, NVTa maintains records related to this Safety Plan and SMS implementation for a minimum of three years. These documents include but are not limited to the results from SMS processes and activities. NVTa will make these documents available to FTA Region 9, Caltrans, and other Federal and state agencies upon request.

ATTACHMENT A
ORGANIZATION CHART



Subsection 1.2 Chief Safety Officer – Organization Chart

ATTACHMENT B

Revised 9/20/23

Revised 7/20/22

Adopted 7/15/20

**REVISED
RESOLUTION No. 20-15**

**A RESOLUTION OF THE
NAPA VALLEY TRANSPORTATION AUTHORITY (NVTA)
CERTIFYING THE PUBLIC TRANSIT AGENCY SAFETY PLAN (PTASP)**

WHEREAS, the Napa Valley Transportation Authority (NVTA) is a public transit operator and recipient of the Urbanized Area Formula Program (49 U.S.C. 5307);

WHEREAS, The Federal Transit Administration (FTA) published a Final Rule on the Public Transportation Agency Safety Plan (PTASP) that requires operators receiving FTA §5307 Urbanized Area Formula funds develop a safety plan that includes process and procedures to implement Safety Management Systems;

WHEREAS, NVTA has opted to use the California Department of Transportation's (Caltrans) safety plan template; and

WHEREAS, Caltrans developed the contents of NVTA's plan to meet the requirements specific in 49 CFR Part 673 and comply with Part 673.11 (d) regarding Caltrans' responsibility to develop an PTASP for any public transportation provider receiving FTA Small Urbanized Area funds located in California.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby adopts Exhibit A to this Resolution as NVTA's Public Transit Agency Safety Plan to meet FTA requirements; and

BE IT FURTHER RESOLVED that the NVTA Chief Safety Officer will review and update the Plan's goals annually.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Directors of the Napa Valley Transportation Authority, at a regular meeting held on July 15, 2020; recertified at a regular meeting on July 20, 2022, and recertified at a regular meeting on September 20, 2023 by the following vote:

Liz Alessio, NVTA Chair

Ayes:

Nays:

Absent:

ATTEST:

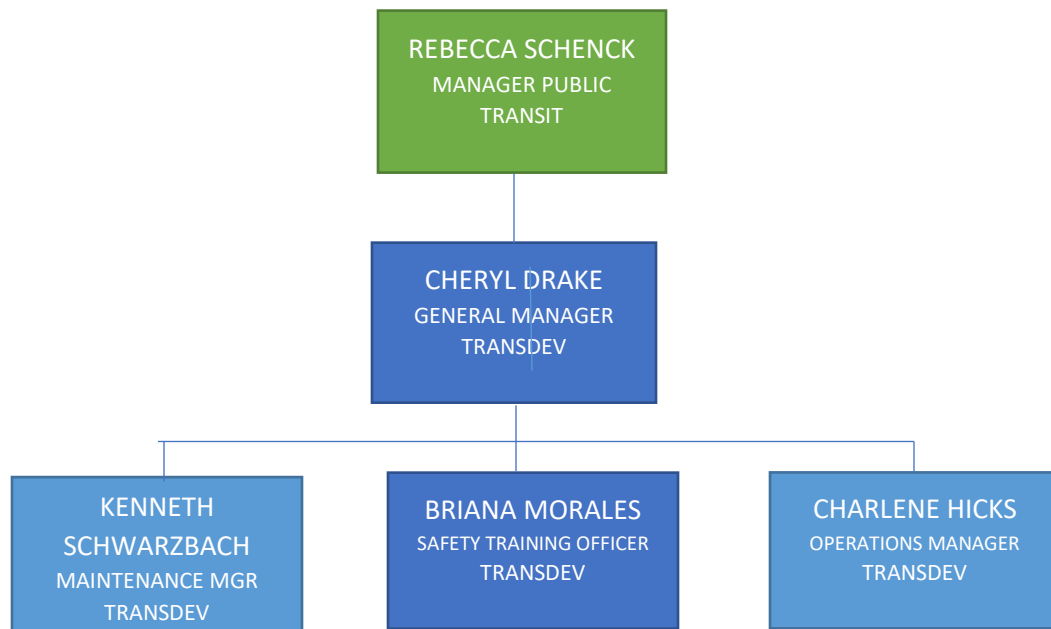
Laura Sanderlin, NVTA Board Secretary

APPROVED:

Osman Mufti, NVTA Legal Counsel

ATTACHMENT C

Subsection 5.4. Key Staff



[Revised 9/27/23](#)
Revised 7/20/22
Adopted 7/15/20

REVISED
RESOLUTION No. 20-15, [REVISED](#)

**A RESOLUTION OF THE
NAPA VALLEY TRANSPORTATION AUTHORITY (NVRTA)
CERTIFYING THE PUBLIC TRANSIT AGENCY SAFETY PLAN (PTASP)**

WHEREAS, the Napa Valley Transportation Authority (NVRTA) is a public transit operator and recipient of the Urbanized Area Formula Program (49 U.S.C. 5307);

WHEREAS, The Federal Transit Administration (FTA) published a Final Rule on the Public Transportation Agency Safety Plan (PTASP) that requires operators receiving FTA §5307 Urbanized Area Formula funds develop a safety plan that includes process and procedures to implement Safety Management Systems;

WHEREAS, NVRTA has opted to use the California Department of Transportation's (Caltrans) safety plan template; and

WHEREAS, Caltrans developed the contents of NVRTA's plan to meet the requirements specific in 49 CFR Part 673 and comply with Part 673.11 (d) regarding Caltrans' responsibility to develop an PTASP for any public transportation provider receiving FTA Small Urbanized Area funds located in California.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby adopts Exhibit A to this Resolution as NVRTA's Public Transit Agency Safety Plan to meet FTA requirements; and

BE IT FURTHER RESOLVED that the NVRTA Chief Safety Officer will review and update the Plan's goals annually.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Directors of the Napa Valley Transportation Authority, at a regular meeting held on July 15, 2020; ~~and~~ recertified at a regular meeting on July 20, 2022, [and recertified at a regular meeting on September 27~~0~~, 2023](#) by the following vote:

Liz Alessio, NVRTA Chair

Ayes:

Nays:

Absent:

ATTEST:

Laura Sanderlin, NVTA Board Secretary

APPROVED:

Osman Mufti, NVTA Legal Counsel



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Amendment to the Cultural Resources Monitoring and Treatment Agreement for the St. Helena to Calistoga Napa Valley Vine Trail Project

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Amendment No. 2 of Agreement No. 22-C10 with Middletown Rancheria for Cultural Resources Monitoring and Treatment Services (Attachment 1) in the amount of \$71,500 which brings the total contract amount to \$175,500.

EXECUTIVE SUMMARY

NVTA staff is managing and delivering the St. Helena to Calistoga Napa Valley Vine Trail Project, but additional oversight and expertise is required for cultural and resource monitoring and treatment. Middletown's work is focused on ground disturbing activities. On March 16, 2022, the NVTA Board approved a contract with Middletown Rancheria for \$44,614. Middletown Rancheria started performing monitoring and treatment services on July 5, 2022. In November 2022, the Board approved Amendment No. 1 to this contract, increasing the contract value by \$59,386, for a total of \$104,000. The project continues to encounter unknown Pacific Gas and Electric (PGE) facilities, requiring additional monitoring from Middletown Rancheria to maintain compliance with the project environmental document. Staff is requesting additional funds to cover monitoring for all remaining soil disturbing activities.

FISCAL IMPACT

Yes. The additional \$71,500 in monitoring costs will come out of the project's construction contingency budget. NVTA continues to track costs incurred because of PGE's gas main replacement project and will pursue recovering some of those costs by submitting reimbursement requests to PGE.



NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: NVTA Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Grant Bailey, Program Manager – Engineer
(707) 259-5951 / Email: gbailey@nvta.ca.gov
SUBJECT: Amendment to Cultural Resources Monitoring and Treatment
Agreement for the St Helena to Calistoga Napa Valley Vine Trail
Project

RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Amendment 2 with Middletown Rancheria Agreement No. 22-C10 for Cultural Resources Monitoring and Treatment Services (Attachment 1) in an amount not to exceed \$71,500 which brings the total contract amount to \$175,500.

COMMITTEE RECOMMENDATION

None

BACKGROUND

NVTA consulted with Middletown Rancheria throughout the development of the Vine Trail Project starting in November 2019 when NVTA formally notified the tribe of the project, consistent with Assembly Bill 52 (AB 52) and pursuant to Public Resources Code § 21080.3.1. Middletown Rancheria responded to the letter, initiating formal consultation and for the project's CEQA document and federal permitting. In order to receive the permit from the US Army Corps of Engineers, NVTA agreed to contract directly with Middletown Rancheria.

The original contract agreement to provide archeological monitoring services for the project was \$44,615. In November 2022, the Board authorized Amendment 1 to fund additional costs associated with 11 archaeological discoveries in the northern reaches of the project as well as monitoring associated with gas main potholing activities ordered by PGE. Amendment 1 authorized an additional \$59,385 in contract funding, for a total contract value of \$104,000.

Middletown Rancheria continues to observe archaeological discoveries in the southern reaches of the project from Bothe Napa Valley State Park to Pratt Ave in St. Helena. The findings consist mostly of pre-contact lithic scatters and flaked stone artifacts. In addition, supplementary monitoring has been necessary due to conflicts with PGE facilities. These facility conflicts include abandoned PGE shoring at the Deconninck Bridge abutment foundation as well as approximately 1,500 feet of abandoned gas main that conflicts with trail drainage and grading improvements. Prior to base contract work proceeding in the conflict areas, the abandoned facilities must be removed. Removal activities include native soil disturbance which triggers additional monitoring not contemplated by the original monitoring contract or Amendment 1.

To insure adequate monitoring of the affected areas, staff is recommending another contract amendment to Middleton Rancheria to increase the contract value by \$71,500. This amendment will bring the total contract amount to \$175,500. The amount includes a small contingency for additional work if necessary.

ALTERNATIVES

Not amending the Cultural Resources Monitoring and Treatment Agreement with Middletown Rancheria will end the Native American onsite monitoring for ground disturbances. This will result in non-compliance with the permit requirements and indefinitely stalling the project.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 5: Minimize the energy and other resources required to move people and goods.

The construction of the Napa Valley Vine Trail Calistoga to St. Helena segment will reduce greenhouse gas emissions by providing an alternative form of transportation.

Goal 3: Use taxpayer dollars efficiently.

Continuing to use Middletown Rancheria as a consultant is more economically viable than hiring full time employees with the qualifications needed to perform cultural resource monitoring.

ATTACHMENTS

- (1) Amendment No. 2 Cultural Resources Monitoring and Treatment Agreement No. 22-C10 Middletown Rancheria

**SECOND AMENDMENT TO
CULTURAL RESOURCES MONITORING AND TREATMENT AGREEMENT**

THIS SECOND AMENDMENT TO THE CULTURAL RESOURCES TREATMENT AND MONITORING AGREEMENT herein after referred to as “Agreement” is made and entered into as of the last date signed below between the Middletown Rancheria of Pomo Indians of California, a sovereign government and federally recognized Indian tribe (“Tribe”), and Napa Valley Transportation Authority, a joint powers agency under the laws of the State of California, hereinafter referred to as “NVTa” (each a “Party” and collectively the “Parties”);

RECITALS

WHEREAS, in June 2022 the NVTa entered into Agreement with the Tribe to protect its Cultural Resources by monitoring the grading and ground disturbance activities during the construction of the Napa Valley Vine Trail project, St Helena to Calistoga, hereinafter referred to as “Project”;

WHEREAS, in November 2022 NVTa issued the First Amendment approving additional monitoring performance services and hours to be performed by the Tribe due to unforeseen ground disturbance activities which resulted in bringing the total baseline amount of the Agreement to \$104,000;

WHEREAS, the Tribe requires to perform additional monitoring performance services and hours due to continued soil disturbing activities during the construction of the Project; and

WHEREAS, the NVTa agrees to the additional monitoring services and hours to be performed by the Tribe at a cost to NVTa in the amount of \$71,500 as summarized in Exhibit D-2 attached.

TERMS

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Item 5 Baseline Compensation Rates (Exhibit D) of the Agreement for the total amount of \$104,000 is amended to include the additional monitoring hours and performance cost in the amount of \$71,500 (Exhibit D-2), bringing the total baseline amount of the Agreement to \$175,500.
2. Except as set forth above, the terms and conditions of the Agreement, as amended in the Second Amendment, shall remain in full force and effect as previously approved.

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

NAPA VALLEY TRANSPORTATION
AUTHORITY

MIDDLETOWN RANCHERIA

By _____
Kate Miller, Executive Director

By _____
James Rivera, Vice-Chairperson

Exhibit D-2

Amendment 2 Cost Proposal										
	Labor								Other Indirect Costs	TOTAL FEE
	Project Manager	Native American Ethnographer/Archaeologist, or Cultural Advisor	Project Coordinator	Field Operations Coordinator	Lead Cultural Resources Monitor	Native American Monitor	GIS/Data Analyst	Administration/Accounting		
Hourly Rates	\$200.00	\$150.00	\$125.00	\$125.00	\$95.00	\$95.00	\$100.00	\$50.00		
1. Project Kickoff Meeting										\$0.00
2. Monitoring Ground Disturbance	10					600	40	20		\$64,000.00
3. Mileage (1)									\$1,000	\$1,000.00
4. Discovery of Human Remains and Cultural Resources (2)										
SUBTOTAL										\$65,000.00
10% CONTINGENCY										\$6,500.00
TOTAL										\$71,500.00

Footnotes

(1) 0.58.5 effective January 1, 2022, but subject to change

(2) An amendment will be made for the additional hours required for the discovery of Human Remains and and/or cultural resources



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Citizen Advisory Committee (CAC) Member Appointments

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board approve the appointment of Sarah Roman to the Citizen Advisory Committee as the designated hospitality representative and Alex Crown as representative for the County of Napa for a two (2) year term.

EXECUTIVE SUMMARY

Board action would appoint one member to serve on the CAC for a two-year term and renew a current member for a two-year term. The CAC was formed by NVTA to combine several ad hoc committees that were convened to advise the NVTA Board and NVTA staff on specific modes, projects, and programs. The CAC is intended to represent all aspects of the communities in Napa Valley and to retain members that foster expertise and institutional knowledge about projects and programs.

FISCAL IMPACT

None



NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: NVRTA Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Laura Sanderlin, Board Secretary (707) 259-8633 / Email: lsanderlin@nvta.ca.gov
SUBJECT: Citizen Advisory Committee (CAC) Member Appointments

RECOMMENDATION

That the Napa Valley Transportation Authority (NVRTA) Board approve the appointment of Sarah Roman to the Citizen Advisory Committee as the designated hospitality representative and Alex Crown as representative for the County of Napa for a two (2) year term.

COMMITTEE RECOMMENDATION

None

BACKGROUND

The CAC by-laws approved by the NVRTA Board states that the committee structure and representation should strive to represent a diverse cross-section of the community including members of underrepresented groups in Napa Valley.

The CAC has 19 members and 7 of those seats are currently vacant. NVRTA staff is actively recruiting to fill vacant positions. These include members representing the City of St. Helena, the City of Calistoga, Agriculture, Hospitality, Vintner, Paratransit and Active Transportation.

City/Town/County members will be appointed by their respective Councils or Board of Supervisors whichever is applicable before being approved by the NVRTA Board. If representation of a certain group or jurisdiction cannot be filled after solicitation for that position, the vacancy may be filled with a member at-large.

ALTERNATIVES

The Board could decide not to approve the appointments and the positions would remain vacant.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 1 – Serve the transportation needs of the entire community regardless of age, income, or ability.

The CAC is comprised of members from the community representing various interests in Napa Valley. The purpose of the CAC is to advise the NVTA Board on projects and programs.

ATTACHMENTS

(1) Sarah Roman CAC Application - Redacted



Napa Valley Transportation Authority
625 Burnell Street
Napa, CA 94559
Tel. (707) 259-863 / Fax (707) 259-8638
www.nvta.ca.gov

COMMITTEE APPOINTMENT APPLICATION

Complete applications can be submitted by: (1) faxing to the Human Resources Administrator at (707) 259-8638 or (2) delivered/mailed to the NVTA Attention: Human Resources Administrator, 625 Burnell Street, Napa, CA 94559 or (3) Email to: jobs@nvta.ca.gov.

This application may be subject to disclosure under the Public Records Act

Applicant Information			
Application for Appointment to: (Name of Committee) Citizens Advisory Committee (CAC)			
Representing Field of _____			
Name:	Roman	Sarah	Date: August 9, 2023
	<i>Last</i>	<i>First</i>	<i>M.I.</i>
Address:	_____		
	<i>Street Address</i>	<i>Apartment/Unit #</i>	
City	Napa	State CA	Zip 94559
Phone:	_____	E-mail Address:	_____
Current Occupation (within the last twelve (12) months)			
Sr Manager, Corporate Communications at Visit Napa Valley			
Current License (Professional or Occupational): Date of Issue and/or expiration including status:			
Education/Experience (a resume may be attached containing this and any other information that would be helpful in evaluating your application)			
Masters of Arts in Journalism Years of Broadcast News experience in SF and LA			

Community Participation
(nature of activity and community location)

Currently working at Visit Napa Valley

Other Board/Commission/Committee on which you serve/have served

References

Please list three individuals familiar with your background

Full Name: Linsey Gallagher Relationship: CEO of Visit Napa Valley

Company: Phone: [REDACTED]

Address:

Full Name: Please let me know if you require additional Relationship:

Company: Phone:

Address:

Full Name: Relationship:

Company: Phone:

Address:

Name and Occupation of spouse within the last 12 months, if married (for Conflict of Interest purposes):

Matt Roman, Business Development at Brink Communications

Please explain your reasons for wishing to serve, and in your opinion, how you feel you could contribute.

I'd love to support and have input into the future of transportation in Napa Valley. I want to ensure transportation serves residents and tourists alike.

Disclaimer and Signature

PLEASE NOTE THAT APPOINTEES MAY BE REQUIRED BY STATE LAW AND NVTACONFLICT OF INTEREST CODE TO FILE FINANCIAL DISCLOSURE STATEMENTS

Signature: *Sarah Roman*

Date: August 9, 2023



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Vine Trail St. Helena to Calistoga Construction Contract Budget Increase

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board 1) approve an additional \$700,000 in construction contingency for Construction Agreement No. 22-11 with Ghilotti Construction Company, Inc for construction of the Vine Trail St Helena to Calistoga Project in an amount not to exceed \$1,316,709 and 2) approve Resolution No. 22-11, Revised (Attachment 1) authorizing the Executive Director to issue change orders for Construction Agreement No. 22-11 in an amount not to exceed \$1,316,709.

EXECUTIVE SUMMARY

Vine Trail – St Helena to Calistoga project management staff from NVTA and Park Engineering (construction manager) have identified an approximate \$700,000 shortfall in available construction funding due to issues stemming from delays associated with Pacific Gas and Electric facilities and projects. NVTA staff informed the project stakeholders (County of Napa, Cities of St. Helena and Calistoga, and Vine Trail Coalition) of this potential shortfall, requested funding assistance, and proposed a cost breakdown. Each stakeholder has agreed to support completion of the construction contract by contributing the requested funds. The NVTA Board needs to take action on the requested budget increase and authorize the Executive Director or designee to issue change orders, as recommended by staff and supported by the member jurisdictions. The proposed budget increase is consistent with the presentation staff provided to the Board at its June 21, 2023 meeting.

FISCAL IMPACT

Yes. An estimated additional \$700,000 is needed to complete the Vine Trail – St Helena to Calistoga. County of Napa, Cities of St. Helena and Calistoga, and the Vine Trail Coalition have agreed to fund the shortfall based on the cost breakdown provided in the memo. Staff expects this to be the final funding request for the project, however, should PG&E not compensate NVTA for claimed project delays, another contract budget increase may be necessary.



NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: NVTA Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Grant Bailey, Program Manager – Engineer
(707) 259-5951 / Email: gbailey@nvta.ca.gov
SUBJECT: Vine Trail St. Helena to Calistoga Construction Contract Budget Increase

RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board 1) approve an additional \$700,000 in construction contingency for Construction Agreement No. 22-11 with Ghilotti Construction Company, Inc for construction of the Vine Trail St Helena to Calistoga Project for an amount not to exceed \$1,316,709 and 2) approve Resolution No. 22-11, Revised (Attachment 1) authorizing the Executive Director to issue change orders for Construction Agreement No. 22-11 in an amount not to exceed \$1,316,709.

COMMITTEE RECOMMENDATION

None

BACKGROUND

The Vine Trail – St Helena to Calistoga construction project (Project) constructs 8.5 miles of Class I path between the Cities of St Helena and Calistoga. The project broke ground in July 2022 and has experienced significant challenges due to unidentified underground utility conflicts, an ongoing utility replacement project within the Vine Trail project limits, and an unusually wet weather season.

Some specific issues encountered to date include positive location of Pacific Gas and Electric (PGE) facilities along approximately 7 miles of the project alignment, which was ordered by PGE, discrepancies in the existing topography when compared to project plan trail elevations, delays to the project due to PGE's gas replacement project between Big Tree Rd. and Pratt Ave., and conflicts between the project and an abandoned PGE gas line. The budget increases reflects additional costs associated with construction design support, construction management and inspection, ecological/archeological/cultural resource monitoring. Staff has forecasted a budget shortfall of approximately \$700,000. A breakdown of the original and new contract budget authorization is provided in Table 1 below:

Table 1: Project Budget	
Cost Item	Value
Original Contract Value (Base Bid)	\$12,585,896
Original Contract Contingency	\$616,709
Original Budget Authorization	\$13,202,605
Funding Shortfall (Requested Amount)	\$700,000
New Contract Contingency	\$1,316,709
New Project Budget	\$13,902,605

NVTA staff provided a project update to the County of Napa Board of Supervisors, NVTA Board of Directors, City of St Helena Council, City of Calistoga Council, and Vine Trail Coalition Board of Directors in June and July 2023. The main purpose of this update was to 1) inform each jurisdiction of the forecast project funding shortfall, 2) request the jurisdictions provide funding assistance to close the shortfall, and 3) propose a funding breakdown based on the initial funding agreements between NVTA and partnering organizations. Table 2 shows the proposed funding breakdown is as follows:

Table 2: Funding Breakdown		
Jurisdiction	Percent Share	Cost Share
County of Napa	37%	\$259,000
City of St Helena	19%	\$133,000
City of Calistoga	19%	\$133,000
Vine Trail Coalition	25%	\$175,000
Total	100%	\$700,000

All jurisdictions have approved the requested additional funding as provided above.

Staff is tracking all additional costs and liabilities that could be attributed to PGE projects and facilities that may have impacted the Vine Trail project and will submit a reimbursement request to PGE.

ALTERNATIVES

The Board could choose to not authorize the requested construction contingency increase. This action would require staff to find funding elsewhere, likely through the PGE claims process, but would result in significant project delays.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 2 – Improve system safety in order to support all modes and serve all users.

Completion of this project furthers this goal by providing a class I facility (separate bike and pedestrian path) as an alternative to the existing class II facility (bike lane on shoulder) which exists in Hwy 29.

Goal 3 – Use taxpayer dollars efficiently.

Authorization of additional construction contingency ensure the project can be complete on the shortest timeline currently available.

ATTACHMENT(S)

(1) Revised Resolution No 22-11

**REVISED
RESOLUTION No. 22-11**

**A RESOLUTION OF THE
NAPA VALLEY TRANSPORTATION AUTHORITY (NVTa)
(1) AWARdING A CONSTRUCTION CONTRACT
IN THE AMOUNT OF \$12,585,896.20 TO GHILOTTI CONSTRUCTION COMPANY,
INC., (2) AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE THE SUBJECT
CONTRACT, (3) AUTHORIZING THE EXECUTIVE DIRECTOR TO ISSUE CHANGE
ORDERS IN AN AMOUNT NOT TO EXCEED \$1,316,708.91**

WHEREAS, since 2019, the Napa Valley Transportation Authority ("NVTa") has been under contract for the Environmental and Design of the Napa Valley Vine Trail – St Helena to Calistoga ("Project"); and

WHEREAS, the Project was evaluated pursuant the California Environmental Quality Act (CEQA) and on August 19, 2020, the NVTa Board of Directors certified the Final Initial Study/Mitigated Negative Declaration (SCH #2020060572) ("ISMND") for the Napa Valley Vine Trail – St Helena to Calistoga Project and approved the related findings and mitigation measures for the Project; and

WHEREAS, NVTa published an Invitation for Bid (IFB) inviting interested bidders to submit their sealed bids for the Project on December 23, 2021, and;

WHEREAS, seven bids for Project No. 21-04 Napa Valley Vine Trail – St Helena to Calistoga, were received on February 2, 2022 by 2pm and examined, and;

WHEREAS, the proposal from Ghilotti Construction Company, Inc. of Santa Rosa, California was determined to be the lowest responsive, responsible bidder at \$12,585,896.20, and

WHEREAS, the difference between the bid amount and the budget will be used for construction support services, and unallocated contingency related to the construction of the Project, and;

WHEREAS, the NVTa received grant and local funds of approximately \$14,462,739; and

WHEREAS, execution of Construction Agreement No. 22-11 will occur upon the successful completion of the funding package; and

WHEREAS, staff recommends that the Board of Directors award the contract for the Project in the amount of \$12,585,896.20; and

WHEREAS, the County of Napa and the Cities of St Helena and Calistoga have committed an additional \$700,000 of construction funding to the project to address unforeseen construction issues; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Napa Valley Transportation Authority that:

1. That the NVTA Board award the construction contract to Ghilotti Construction Company, Inc., Agreement No. 22-11 in the amount of \$12,585,896.20 for the Napa Valley Vine Trail – St Helena to Calistoga project;

2. That the Executive Director is authorized to approve change orders for the Project not-to exceed \$1,316,708.91; and

3. The Executive Director or designee is authorized to finalize and make minor changes to the Agreement No 22-11 with Ghilotti Construction Company, Inc as substantially set forth in Exhibit A attached hereto, and directs staff to take all further actions necessary to deliver the Napa Valley Vine Trail – St Helena to Calistoga project (Project).

Passed and adopted this 27th day of September, 2023.

Liz Alessio, NVTA Chair

Ayes:

Nays:

Absent:

ATTEST:

Laura M. Sanderlin, NVTA Board Secretary

APPROVED:

Osman Mufti, NVTA Legal Counsel



NAPA VALLEY TRANSPORTATION AUTHORITY

COVER MEMO

SUBJECT

Purchase Order 23-P3018 to Purchase Electric Vehicle Charging Stations from Contractor's Electrical Distributors (CED) for Future Electric Vehicles

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Purchase Order 23-P3018 (Attachment 1) Electric Vehicle Charging Stations, specifically four (4) ChargePoint Express Plus 1000 and one (1) ChargePoint Express 250, in an amount not to exceed \$820,000.

EXECUTIVE SUMMARY

NVTA received a Bus and Bus Facilities grant award of \$8,455,856 from the Federal Transit Administration for the purchase of eight (8) 40 ft electric vehicles and corresponding charging stations. Due to the recent bankruptcy of an electric vehicle manufacturer, NVTA is not ready to move forward with the purchase of the electric vehicles at this time, but needs to proceed to procure charging infrastructure so that it can be installed as part of the new Vine Transit Maintenance Facility construction to charge the Vine's existing electric vehicles when the new facility opens in early 2024. Staff is requesting that the Board authorize the Executive Director or designee to execute a Purchase Agreement 23-P3018 with Contractor's Electrical Distributors (CED) for four (4) ChargePoint Express Plus 1000 and one (1) ChargePoint Express 250 in order to meet the bus charging demand.

FISCAL IMPACT

Is there a Fiscal Impact? Yes up to \$820,000. \$379,706.02 in Federal Bus and Bus Facilities funds and \$440,293.98 in Transportation Development Act (TDA) funds as a match. NVTA should receive \$125,000 in a rebate from Pacific Gas and Electric (PG&E) once the chargers are installed to offset the TDA funds. This rebate is the result of NVTA's participation in the PG&E Fleet Ready Program. This is a small contingency of just over \$8,900 to cover potential changes in pricing or taxation.



NAPA VALLEY TRANSPORTATION AUTHORITY Board Agenda Memo

TO: Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Rebecca Schenck, Program Manager – Public Transit
(707) 259-8636 / Email: rschenck@nvta.ca.gov
SUBJECT: Purchase Order 23-P3018 to Purchase Electric Vehicle Charging Stations from Contractor's Electrical Distributors (CED) for Future Electric Vehicles

RECOMMENDATION

That the Napa Valley Transportation Authority (NVRTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Purchase Order 23-P3018 (Attachment 1) Electric Vehicle Charging Stations, specifically four (4) ChargePoint Express Plus 1000 and one (1) ChargePoint Express 250, in an amount not to exceed \$820,000.

COMMITTEE RECOMMENDATION

None

BACKGROUND

In 2022, NVRTA was awarded \$8,455,856 in federal funds to assist in the procurement of eight (8) 40 ft electric vehicles and corresponding charging stations. The grant agreement was issued by the Federal Transit Administration to NVRTA in 2023. NVRTA's original plan was to move forward with a Purchase Order for both buses and chargers as one action.

The selected electric bus manufacturer filed for bankruptcy in August necessitating that NVRTA identify seek bids from other electric bus manufacturers to purchase the new buses. NVRTA can still move forward with the electric charger element of the grant as the chargers are available through other providers. NVRTA currently charges its BYD and Proterra vehicles successfully on the SAE J1772 chargers available through ChargePoint, and electric vehicle manufacturers such as Gillig and New Flyer use this same standard.

It is advantageous to purchase the chargers now because the installation of the chargers are part of the Vine Bus Maintenance Facility construction contract with Alten Construction. By having Alten's subcontractor do the installation, NVTA will benefit from reduced costs included in the larger contract. Alten Construction's subcontractor is a ChargePoint-certified electrical contractor. The work will be overseen and by NVTA's Construction Manager firm Kleinfelder and will be included in the commissioning of the facility, which will significantly reduce staff time oversee an independent contract.

ALTERNATIVES

The Board could decide not to approve Purchase Order 23-P3018 and wait to purchase the chargers with the 40 ft electric vehicles, but then NVTA would need to do a separate procurement for the installation of the chargers and would need to identify a new funding source to pay for installation.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 3: Use taxpayer dollars efficiently.

Acquiring the chargers now will reduce overall cost of installation.

ATTACHMENT(S)

(1) Purchase Order 23-P3018



Napa Valley Transportation
Authority
625 Burnell Street
Napa, CA 94559

Tel: 707.259.8631
Fax: 707.259.8638
www.nvta.ca.gov

DRAFT

**ATTACHMENT 1
AGENDA ITEM 10.2
SEPTEMBER 27, 2023**

Purchase Order

VENDOR

CONTRACTOR'S ELECTRICAL DISTRIBUTORS (CED)
1103 MONTAGUE EXPRESSWAY
MILPITAS, CA 95035
P KEVIN DONOHOE
T 408.970.0199 | F 408.459.4850

Purchase Order #: 23-P3018

Date: 08/25/23

Vendor ID:

Bill To:

NVTA

Accounts Payable | ap@nvta.ca.gov
625 Burnell Street
Napa, CA 94559-2912

Ship To:

NVTA

- DROP LOCATION TO BE DETERMINED -
P Rebecca Schenck, Manager - Public Transit
E rschenck@nvta.ca.gov | T 707.259.8636

Requested By	Ship Date	Ship Via	FOB	Buyer	Terms	Tax ID
SCHENCK	4 - 8 WKS ARO	-	DEST	KULICK	Net 30	68-0471080

QTY	Item #	Unit	Description		Unit Price	Total
			JOB NAME: MB-FLEET-NVTA NVTA PROJ: EV CHARGERS - BUS - BUS MAINTENANCE FACILITY			
1		EA	ChargePoint EXPRESS 250, E-Charging Station			
4		EA	ChargePoint EXPRESS PLUS 1000, E-Charging Station			
1		EA	SOFTWARE SUBSCRIPTION AND ASSURE MAINTENANCE SUPPORT SERVICES - see details attached - as per Quote #1155581 Rev #22 dtd 08/24/23			
			CONTINUED ON PAGE 2 OF 28			

NOTICE OF INCLUDED TERMS AND CONDITIONS

This purchase order may be a federally funded contract and as such, certain mandatory terms and conditions may apply to this purchase order. These provisions include, **but are not limited to** the provisions of Buy America 49 U.S.C. §5323(j), 49 C.F.R. Part 661; Cargo Preference 46 U.S.C. § 55305, 46 C.F.R. Part 381; Fly America 49 U.S.C. § 40118, 41 C.F.R. §§ 301-10.131 through 301-10.143; U.S. DOT Third Party Procurement Regulations 49 C.F.R. §18.36 or 40 C.F.R. §§19.40 through 19.48, FTA Circular 4220.1F (including all mandated terms and conditions contained in Appendix D-4) and FTA Master Agreement FTA MA (30).

THIS ORDER WILL BECOME VALID UPON RECEIPT OF VENDOR ACCEPTANCE.

VENDOR ACCEPTANCE

Vendor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration herein

ORDER AWARDED AND ISSUED BY

Individual listed below is hereby authorized to award ordered material/services as specified, or incorporated by reference herein, on behalf of the Napa Valley Transportation Authority.

NAME AND TITLE
(Signature of person authorized to sign)

DATE

KATE MILLER, Executive Director DATE

FOR INTERNAL USE ONLY

FUND APPROPRIATION: Multiple Funding Sources - CIP # _____

CONTINUATION SHEET

PAGE 2 OF 28

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
<u>CHARGEPOINT EXPRESS 250 (CPE 250)</u>					
01	01	EA	CPE250C-625-CCS1-200A-FTA BUY AMERICA CP Express 250 , 62.5 kW, Power Modules, 1x 200A CCS1 cable, North America Modem/SIM, cUL and UL listed, FTA Buy America compliant.	\$ 55,045.00	\$ 55,045.00
02	01	EA	CPE250-TOOL KIT F ChargePoint Express Tool Kit , Hardware	\$ 0.00	\$ 0.00
03	01	EA	CHAPS CPE250-ASSURE-2 2-Year Assurance Plan for CPE 250 , includes parts and labor warranty, remote technical support services, on-site repairs as needed, unlimited configuration changes, and reporting.	\$ 6,500.00	\$ 6,500.00
04	01	EA	CHAPS CPE250-COMMISSIONING Commissioning of CPE 250 , includes on-site validation of electrical capacity, customer side transformers, panels, breakers, wiring, cellular coverage for station to meet all ChargePoint (CP) and local code requirements. Verifying and testing of installation, ensure station is connected to CP network, completing software updates and pairing configuration. Configure station and apply policies according to NVTA's specifications. A final Commissioning Report will be provided to NVTA. <i><u>Note: If commissioning cannot be performed due to site or installation deficiencies for which CP is not responsible, NVTA will incur a rescheduling fee to cover redeployment costs.</u></i>	\$ 1,100.00	\$ 1,100.00
05	01	EA	SOFTWARE FOR CPE 250	\$ 0.00	\$ 0.00
<u>CHARGEPOINT EXPRESS PLUS 1000</u>					
06	04	EA	EXPP-PL1021B-2A151-2A1S1-FTA BUY Express Plus Power Link PL1000 , North America, 2x CCS1 200A 4.5m cable, includes 2 Holsters, 2.4m Cable Management Kit, Pedestal, 200mm (8") Touch Display, RFID Reader, Cellular/WiFi, UL listed, single input, 1-Year Warranty, FTA Buy America compliant.	\$ 27,270.00	\$109,080.00
07	04	EA	DC-UNIVERSALCMT-METRIC Bracket for Power Link	\$ 0.00	\$ 0.00

CONTINUATION SHEET

PAGE 3 OF 28

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
08	04	EA	EXPP-PB1000-200A-PD-FTA BUY AMERICA Power Block (PB) - physical enclosure for Power Modules (PMs), can hold up to five (5) PMs (sold separately), rated for 200A, FTA Buy America compliant.	\$ 50,620.00	\$202,480.00
09	20	EA	EXPP-PM-40KWFTA Power Module , 40 kW, for use in PB FTA Buy America compliant.	\$ 13,200.00	\$264,000.00
10	04	EA	EXPP-PB1000-CMT Bracket , metal, for Power Block	\$ 0.00	\$ 0.00
11	04	EA	EXPP-PL1000- DUAL-ASSURE-2 2-Year Assurance Plan for Express Plus Power Link 1000 Dual Cable Dispenser , includes parts and labor warranty, remote technical support services, on-site repairs as needed, unlimited configuration changes, and reporting.	\$ 3,500.00	\$ 14,000.00
12	04	EA	EXPP-PL1000- COMMISSIONING Commissioning of Express Plus Power Link 1000 , includes on-site validation of electrical capacity, customer side transformers, panels, breakers, wiring, cellular coverage to meet all ChargePoint (CP) and local code requirements. Verifying and testing of installation, ensure station is connected to CP network, completing software updates and pairing configuration. Configure station and apply policies according to NVTAs specifications. A final Commissioning Report will be provided to NVTAs. <i>Note: If commissioning cannot be performed due to site or installation deficiencies for which CP is not responsible, NVTAs will incur a rescheduling fee to cover redeployment costs.</i>	\$ 800.00	\$ 3,200.00
13	04	EA	EXPP-BLOCKCOMMISSIONING Commissioning of Express Plus Block , service includes on-site validation of electrical capacity, customer side transformers, panels, breakers, wiring, cellular coverage to meet all CP and local code requirements. A final Commissioning	\$ 1,500.00	\$ 6,000.00

CONTINUATION SHEET

PAGE 4 OF 28

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
			Report will be provided to NVTa. <i>Note: If commissioning cannot be performed due to site or installation deficiencies for which CP is not responsible, NVTa will incur a rescheduling fee to cover redeployment costs.</i>		
14	04	EA	EXPP-BLOCKASSURE-2 2-Year Assurance Plane for Express Plus Power Block , includes parts and labor warranty, remote technical support services, on-site repairs as needed, unlimited configuration changes, and reporting.	\$ 13,500.00	\$ 54,000.00
15	09	EA	CPCLD-FLEETENTDC-2 Fleet Enterprise Cloud Plan Subscription , includes Advanced Station Management features such as: Automatic Software Updates, Fleet Management features including: Access Control and Pricing & Automatic Payment Collection, as well as advanced energy and power management features which include: Time of Use Power Sharing and Energy Management APIs. Real-time dashboards and reports provided for applicable features including 15 min meter data readings and associated advanced energy reports.	\$ 1,950.00	\$ 17,550.00
16	09	EA	CPSUPPORTACTIVE Initial Station Activation & Configuration , includes activation of cloud services and configuration of radio groups, custom groups, connections, access control, visibility control, pricing, reports and alerts. One time initial service per station.	\$ 297.00	\$ 2,673.00
17	01	EA	FLT - Onsite ChargePoint Training	\$ 1,999.00	\$ 1,999.00
18	01	EA	CPS - Engineering Design Review Review of drawing sets prepared by professional engineer contracted by customer to ensure compliance with ChargePoint stations for optimal make ready.	\$ 3,000.00	\$ 3,000.00

CONTINUATION SHEET**PAGE 5 OF 28**

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
19	01	EA	CPS - Construction Project Management Management of electrification project, including schedule, budget and stakeholders for equipment procurement, permitting, installation, inspection and site energization of charging station project. Does <u>not</u> include commissioning.	\$ 8,600.00	\$ 8,600.00
20	01	EA	FRT – Shipping and Handling	\$ 3,520.00	\$ 3,520.00
SUBTOTAL					\$752,747.00
TAX – Napa 7.75%					\$ 58,337.89
TOTAL					\$811,084.89

INSTALLATION LOCATION: Vine Bus Maintenance Facility
Sheehy Court, Napa CA

WARRANTY: 1-Year; see items 03, 11, and 14 for additional warranty terms

NVTA Point of Contact: Rebecca Schenck, Manager – Public Transit
rschenck@nvta.ca.gov | 707.259.8636

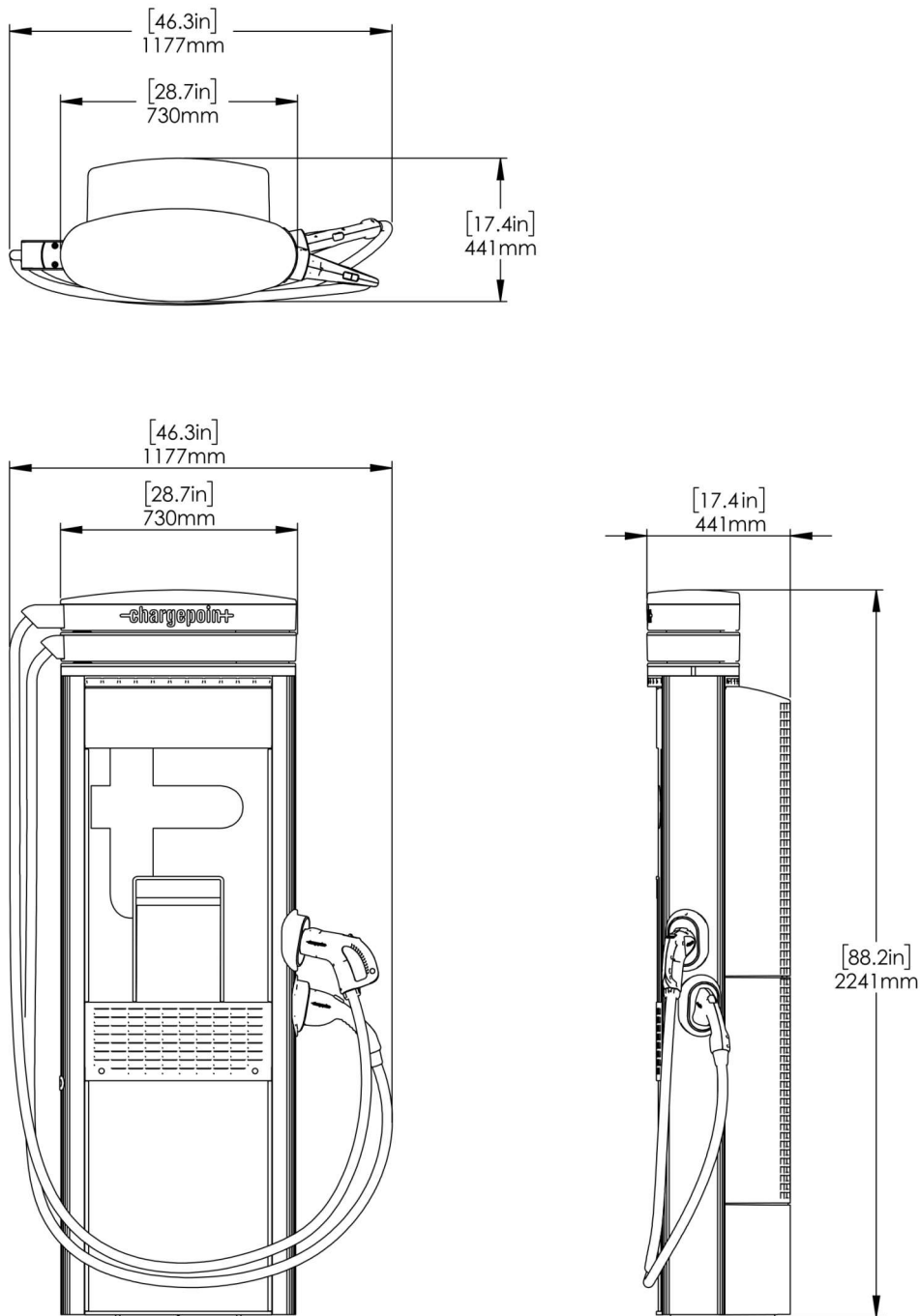
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Express 250

Specifications and Ordering Information



Architectural Drawings (Dimensions)



General Specifications

Station Electrical Input

Input Rating	400V AC, 3-phase, 96A, 50 Hz 480Y/277V AC, 3-phase, 80A, 60 Hz
Wiring	L1, L2, L3, Neutral & Earth

Station Electrical Output

Max Output Power	62.5 kW
Output Voltage, Charging	200–1,000V DC
Max Output Current	156A
Max Modules per Station	2

Paired Station Electrical Output

Paired Max Output Power	125 kW
Paired Max Output Current	CCS1: 174A or 200A CCS2: 200A CHAdeMO; US: 140A, EU: 125A

Power Module

Max Output Power	31.25 kW
Max Output Current	78 A
Power Conversion Efficiency	> 95%
Power Factor	0.99 at full load
Harmonics	iTHD < 5% (Complies with IEEE 519 Requirements)
Power Module Cooling	Liquid Cooling Technology

Functional Interfaces

Max Connector Types per Station	Up to two different connector types per station
Supported Connector Types	CHAdeMO, CCS1 (SAE J1772™ Combo), CCS2 (IEC 61851-23)
Cable Length with Swing Arm*	Full Horizontal Reach: 4.27m (14')
LCD Display	Full-color 254 mm (10 in) display for driver interaction
Top Display	Full-color 508 mm (20 in) LED display for notifications
Authentication	RFID: ISO 15693, ISO 14443, NEMA EVSE 1.2-2015 (UR) Tap to Charge (NFC on Apple & Android): 15118-2 (EIM) Remote: Mobile and in vehicle (if supported by vehicle)

*Horizontal reach to typical vehicle charging port: 3.76 (12'4")

Connectivity Features

Vehicle Safety Communication	CHAdeMO – JEVS G104 over CAN, CCS1 – SAE J1772 over PLC and CCS2 — IEC 61851-23
Plug-Out Detection	Power terminated per JEVS G104 (CHAdeMO), SAE J2931 (CCS1) and IEC 61851-23 (CCS2)
Local Area Network	2.4 GHz and 5 GHz WiFi (802.11 b/g/n)
Wide Area Network	4G LTE (fall back to 3G GSM)
Supported Communication Protocols	OCPP
Service and Maintenance	Remote system monitoring, diagnostic, and proactive maintenance

Safety and Operational Ratings

Station Enclosure Rating	Type 3R, IP54
Station Impact Rating	IK10
Safety and Compliance	UL and cUL listed: complies with UL 2202, UL 2231-1, UL 2231-2, CSA 107.1 CE marking: complies with IEC 62196, IEC 61851

ChargePoint Express 250 Datasheet

Station Surge Protection	Tested to IEC 6100-4-5, Level 5 (6 kV @ 3,000A). In geographic areas subject to frequent thunder storms, supplemental surge protection at the service panel is recommended.
EMC Compliance	U.S.: FCC part 15 Class A; EU: EN55011, EN55022 and IEC61000-4
Storage Temperature	-40°C to 50°C (-40°F to 122°F)
Operating Temperature	-40°C to 50°C (-40°F to 122°F)
Operational Altitude	<3,000 m (<9,800 ft)
Operating Humidity	Up to 95% @ 50°C (122°F) non-condensing

Generic Specifications

Station Enclosure Dimensions	2,241 mm H x 730 mm W x 441 mm D (7'4" x 2'5" x 1'5")
Power Module Dimensions	760 mm H x 430 mm W x 130 mm D (2'6" x 1'5" x 5")
Station Weight (without Power Modules)	250 kg (551 lb)
Power Module Weight	45 kg (98.5 lb)

Energy Management Features

Dynamic Power Management	Allows a fixed maximum power output per station or lets the system dynamically manage the power distribution per station
Remote Energy Management	Manage output power via the ChargePoint Admin Portal, API, and Open ADR 2.0b VEN

ChargePoint® Express Plus

A flexible DC fast charging platform that grows with you.



Express Plus Specifications

Express Plus Power Module

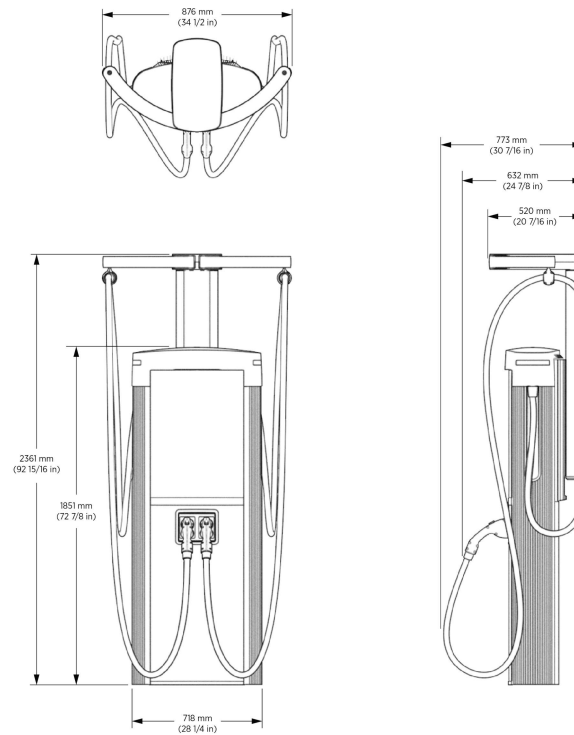
Express Plus Power Module Output

Max Output Power	40 kW
Max Output Current	100 A
Power Conversion Efficiency	Up to 96%

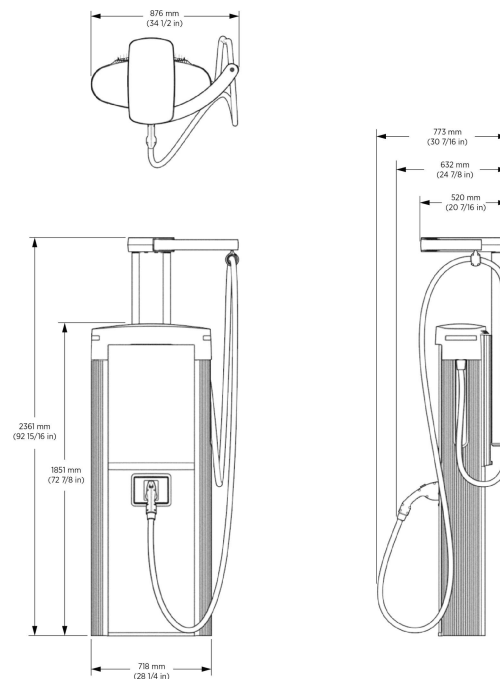
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Architectural Drawings

Express Plus Power Link, No Display, Dual Connectors (Fleet Option Only)

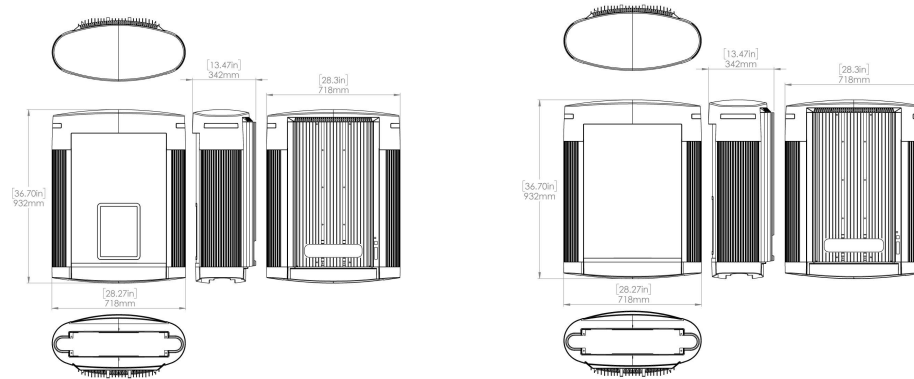


Express Plus Power Link, No Display, Single Connector (Fleet Option Only)

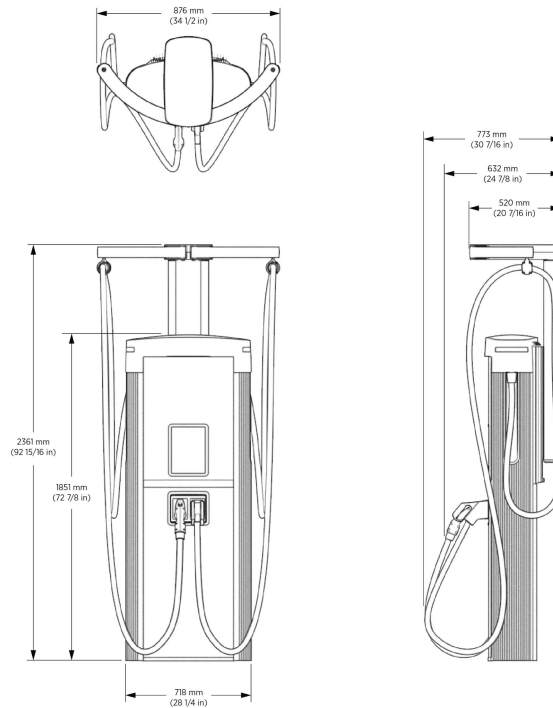


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Express Plus Overhead Mounting Option with or without screen (Fleet Only)

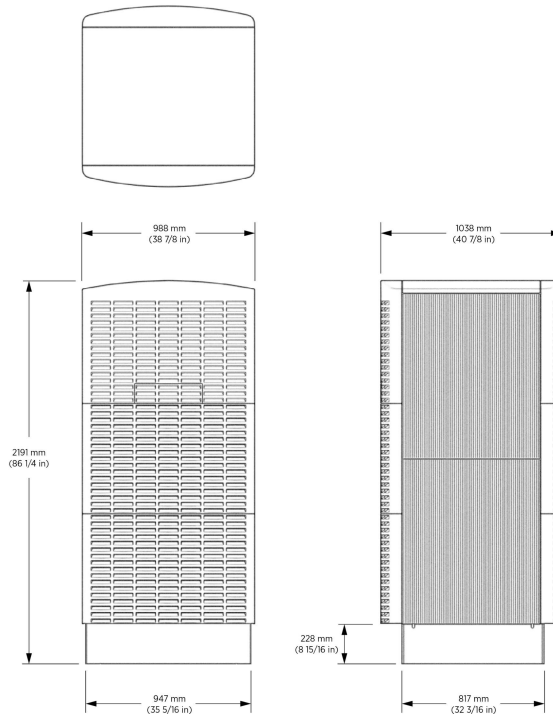


Express Plus Power Link, Commercial Option with Screen

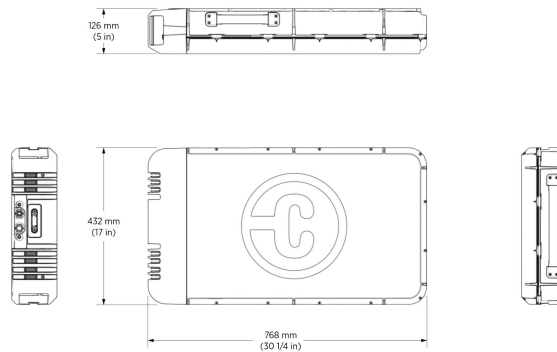


Express Plus Power Block

ChargePoint, Inc. reserves the right to alter product offerings and specifications at any time without notice, and is not responsible for typographical or graphical errors that may appear in this document



Express Plus Power Module



Power Factor	0.99 at full load
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Express Plus Power Module Specifications

Power Module Dimensions	430 mm (H) x 130 mm (W) x 760 mm (L) (1'5" x 5" x 2'6")
Power Module Weight	45 kg (98.5 lb.)
Power Module Cooling	Liquid Cooled Technology
Harmonics	iTHD < 5% (Complies with IEEE 519)

Express Plus Power Block

Express Plus Power Block Input

Input Rating	3-phase, 400-480Y VAC, 310-260 A 50/60 Hz (200 kW) Optional: 3-phase, 400-480Y VAC, 255-210 A 50/60 Hz (160 kW), 3-phase, 400-480Y VAC, 220-188 A 50/60 Hz (120 kW)
Wiring	L1, L2, L3, Earth
Short Circuit Current Rating	65 kA

Express Plus Power Block Output

Max Output Power	200 kW Optional: 160 kW, 120 kW
Output Voltage, Charging	200 V – 1000 V
Max Current per Output	200 A, 250 A, 300 A, 350 A, 500 A*
Number of Stations Served	One Power Block can serve up to 2 Power Link stations. Additional Power Blocks can be added to serve more stations or increase power output.
Max Power Modules per Power Block	5

* Subject to site configuration and installed stations

Express Plus Power Block Specifications

Power Block Dimensions	2191 mm (H) x 988 mm (W) x 1039 mm (L) (7'3" x 3'3" x 3'5")
Power Block Weight	455 kg (1000 lbs.) without Power Modules
Power Block Enclosure Rating	Type 3R, IP56

Express Plus Power Link

Express Plus Power Link Output

Max Output Power	120 kW, 160 kW, 200 kW, 250 kW, 300 kW, 350 kW with Power Blocks
------------------	--

ChargePoint, Inc. reserves the right to alter product offerings and specifications at any time without notice, and is not responsible for typographical or graphical errors that may appear in this document

Output Voltage, Charging	200 V – 1000 V
CCS1 Max Output Current**	Option 1: 200 A continuous with Power Blocks Option 2: 375 A peak, 350 A continuous with Power Blocks
CCS2 Max Output Current**	Option 1: 250 A continuous with Power Blocks Option 2: 375 A peak, 300 A continuous with Power Blocks
CHAdeMO Max Output Current**	Option 1: NA & EU: 200 A continuous with Power Blocks Option 2: NA: 140 A, EU: 125 A continuous with Power Blocks

**Availability may vary

Express Plus Power Link Specifications

Station Dimensions	2400mm (H) x 720mm (W) x 280mm (D) (7'11" x 2'5" x 11")
Station Footprint	965mm (W) x 635mm (D) (3'2" x 2'1") with Cable Management Kit
Station Weight	250 kg (550 lbs)
Number of Connectors	Up to 2 connectors per station
Supported Connector Types	CHAdeMO, CCS1 (SAE J1772™ Combo), CCS2 (IEC 61851-23)
Cable Length	Standard 4.5 m (15') with Cable Management Kit (CMK). [*] Optional lengths of 7.6 m (25') and 10 m (33') also available.
Station Enclosure Rating	Type 3R, IP56
Locking Holster	Optional
Mounting Type	Ground, Wall, Overhead

^{*}Horizontal reach to typical vehicle charging port is 3.6 m (12 ft)

Functional Interfaces

LCD Display	Full-color 200 mm (8") LCD display (optional)
Authentication	RFID: ISO 15693, ISO 14443, NEMA EVSE 1.2-2015 (UR) Tap to Charge (NFC on Apple & Android) 15118-2 (EIM) Remote: Mobile and in vehicle (if supported by vehicle)

Connectivity Features

Local Area Network	2.4 GHz and 5 GHz WiFi (802.11 b/g/n)
Wide Area Network	4G LTE
Supported Communication Protocols	OCPP 2.0
Service and Maintenance	Remote system monitoring, diagnostic, and proactive maintenance

ChargePoint, Inc. reserves the right to alter product offerings and specifications at any time without notice, and is not responsible for typographical or graphical errors that may appear in this document

Safety and Operational Ratings

Vehicle Safety Communication	CHAdMO – JEVS G104 over CAN, CCS1 – SAE J1772 over PLC and CCS2 — IEC 61851-23
Plug-In Detection	Power terminated per JEVS G104 (CHAdMO), SAE J2931 (CCS1) and IEC 61851-23 (CCS2)
Safety Compliance	Complies with UL 2202, UL 2231-1, UL 2231-2, CSA 107.1 Shipped product will be UL and cUL listed. Complies with IEC 61851-1 and IEC 61851-23. Shipped product will be CE marked.
Surge Protection	Tested to IEC 61000-4-5, Level 5 (6 kV @ 3,000A). In geographic areas subject to frequent thunderstorms, supplemental surge protection at the service panel is recommended.
EMC Compliance	U.S and Canada: FCC 15 subpart A Class A; EU: EN55011, EN55022 and IEC61000-6-3 Class B

Generic Specifications

Operational Altitude	<3,000 m (<9,800 ft)
Operating Temperature	-40°C to 50°C (-40°F to 122°F)
Storage Temperature	-40°C to 70°C (-40°F to 158°F)
Operating Humidity	Up to 95% @ 50°C (122°F) non-condensing

Energy Management Features

Dynamic Power Management	Allows a fixed maximum power output per station or lets the system dynamically manage the power distribution per station.
Remote Energy Management	Manage output power via the ChargePoint Admin Portal, API, and Open ADR 2.0b VEN.

Hardware Ordering Information

The order codes below represent common product configurations. Other product options are available upon request. Please contact ChargePoint Sales for information and order codes. All SKU's displayed include standard cable management and mounting kit. Note, Power Link and Power Block current ratings must match. Eg. 250 A with 250A, 200 A with 200 A.

Description		Order Code
Commercial Models	Express Plus Power Block, 350 A or 300 A rated output	EXPP-PB1000-350A-PD or EXPP-PB1000-300A-PD
	Express Plus Power Link, North America version, 1x CCS1 350 A cable, 1x CHAdMO 200 A cable, Pedestal, with display	EXPP-PL1021B-5A1S1-2A3S1

ChargePoint, Inc. reserves the right to alter product offerings and specifications at any time without notice, and is not responsible for typographical or graphical errors that may appear in this document

	Express Plus Power Link, Europe/UK version, 1x CCS2 300 A cable, 1x CHAdeMO 200 A cable, Pedestal, with display	EXPP-PL1121B-4A2S1-2A3S1
Fleet Models	Express Plus Power Block, 250 A or 200 A rated output	EXPP-PB1000-250A-PD or EXPP-PB1000-200A-PD
	Express Plus Power Link NA Version. 1x CCS1 200A 4.5m cable, Pedestal, No display.	EXPP-PL1011X-2A1S1
	Express Plus Power Link NA Version. Same as above but with 2x CCS1 Connectors	EXPP-PL1021X-2A1S1-2A1S1
	Express Plus Power Link Europe/UK Version. 1x CCS2 250A 4.5m cable, Pedestal, No display.	EXPP-PL1111X-3A2S1
	Express Plus Power Link Europe/UK Version. Same as above but with 2x CCS2	EXPP-PL1121X-3A2S1-3A2S1

Hardware Ordering Information, Cont.

Description		Order Code
Other Connector Options	Cable connectors available include CCS1, CCS2, and/or CHAdeMO. Cables can be ordered with a single or a combination, as well as lengths and amperage depending on application.	Please contact ChargePoint Sales for assistance in ordering
Power Module	EXPP Power Module	EXPP-PM-40kW
Mounting & Template Options	Mounting kits and templates for various mounting are available	Please contact ChargePoint Sales for assistance in ordering
Buy America	Buy America (FTA & FHWA) options available upon request	Add -FTA or -FHWA to part numbers above

Software & Services Ordering Information

Description		Order Code
ChargePoint Enterprise Cloud Plan (Commercial) <i>Note: One token per vehicle. Station activation is included in this plan.</i>		CPCLD-ENTERPRISE-EXPP-n*
ChargePoint Enterprise Cloud Plan (Fleet) <i>Note: One token per vehicle. Station activation is included in this plan.</i>		CPCLD-FLEETENT-EXPP-n*
ChargePoint Assure® — Prepaid Assure Plan for an Express Plus Single Cable station.		EXPP-PL1000-SC-ASSURE-n*
ChargePoint Assure® — Prepaid Assure Plan for an Express Plus Dual Cable station.		EXPP-PL1000-DC-ASSURE-n*
ChargePoint Assure® — Prepaid Assure Plan for Express Plus Power Block.		EXPP-BLOCK-ASSURE-n*

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Commissioning Service (Required per Power Block): includes on-site validation and inspection of electrical, mechanical, installation, wiring and civil parameters for the Express Plus Power Block.	EXPP-BLOCK-COMMISSIONING
Commissioning Service (Required per Power Link): includes on-site validation and inspection of electrical, mechanical, installation, wiring and civil parameters for the Express Plus Power Link.	EXPP-PL1000-COMMISSIONING

Note: All Express Plus Power Link stations require a cloud plan.

*Substitute *n* for desired years of service (1, 2, 3, 4 or 5 years). Includes parts and labor warranty, remote technical support, on-site repairs when needed, unlimited configuration changes, and reporting.

REQUIRED FEDERAL CONTRACT CLAUSES

1. AMENDMENTS

Any changes in the activities to be performed under this Agreement shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the NVT A Executive Director or a designated representative and CONTRACTOR. No claim for additional compensation or extension of time shall be recognized unless contained in a duly executed amendment.

2. TERMINATION

Contractor's failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to, war, strikes, fires, floods, acts of God, governmental restrictions, power failures, or damage or destruction of any network facilities or servers, shall not be deemed a breach of this Agreement, and may be cause for termination of the Agreement. (49 USC 5323 Sec 11)

3. RETENTION OF RECORDS

Contractor agrees to keep, in accordance with generally accepted accounting principles, all records pertaining to the project for audit purposes for a minimum of three (3) years following final payment to Contractor or four (4) years following the fiscal year of the last expenditure under this Agreement, whichever is longer, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until NVT A, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. (49 USC 5323)

4. AUDITS

Contractor agrees to grant NVT A or any agency that provides NVT A with funds for the Project, including but not limited to, the U.S. Department of Transportation, FTA, the Comptroller General of the United States, the State, and their authorized representatives access to Contractor's books and records for the purpose of verifying that funds are properly accounted for and proceeds are expended in accordance with the terms of the Agreement. All documents shall be available for inspection during normal business hours at any time while the Project is underway, and for the retention period specified herein. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (49 USC 5323 (g))

Contractor further agrees to include in all its third-party contracts hereunder a provision to the effect that the contractor agrees that NVT A, the U.S. Department of Transportation, FTA, the Comptroller General of the United States, the State, or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, during normal business hours, for the term specified above. The term "contract" as used in this clause excludes agreements not exceeding \$25,000.

5. LICENSE TO WORK PRODUCTS (reserved)

6. EQUAL EMPLOYMENT OPPORTUNITY/ CIVIL RIGHTS

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132; and 49

U.S.C. § 5332 for federally funded projects, Contractor agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability, or sex, discriminate or permit discrimination against any employee or applicant for employment.

Further Contractor agrees to follow regulations as set forth under 41 CFR Part 60-1.4 (b) that

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in

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Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

7. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Napa Valley Transportation Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offers, including those who qualify as a DBE. A DBE project goal of 0 percent has been established for this project. NVTA has an overall established DBE goal of 2.6 percent. The bidder/offers shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offers will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offers's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

The contractor, subrecipient, 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 CFR Part 26 in the award and administration of 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 the recipient deems appropriate.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contract receives from NVTA. The prime contractor agrees further to return retainage payments to each subcontractor within thirty days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the NVTA. This clause applies to both DBE and non-DBE subcontracts.

Failure to comply with the terms of this provision may result in any or all of the following actions including but not limited to:

1. A finding of material breach of contract

2. Suspension of payment of invoices

3. Bringing to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties result) provided in 26.109.

The obligation of the bidder/offers is to make good faith efforts. The bidder/offers can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26. Forms 1 and 2 should be provided as part of the solicitation documents.

8. VETERANS PREFERENCE

As required under 49 U.S.C. § 5325(k) Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection 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.

9. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

In the event that this project is funded by FTA in whole or in part, all contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NVTA requests which would cause NVTA to be in violation of the FTA terms and conditions.

10. AMERICANS WITH DISABILITIES ACT REQUIREMENTS
Contractor will comply with 49 CFR Parts 27, 37, and 38, implementing and Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, 29 USC 794, as amended.

11. ENERGY CONSERVATION PLAN

Contractor shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6321) and Federal requirements under 49 CFR 662 Subpart C.

12. DEBARMENT

Contractor certifies that neither it nor any of its participants, principals, or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department. Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by NVTA. If it is later determined that the bidder or proposer

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knowingly rendered an erroneous certification, in addition to remedies available to NVTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

13. CLEAN AIR AND WATER POLLUTION ACTS

Contractor agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). The Contractor agrees to report each violation to NVTA and understands and agrees that NVTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

14. LOBBYING

Contractor agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 U.S.C. § 1352 and 49 CFR Part 20. In addition, in the event the Agreement exceeds \$100,000, Contractor agrees to comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 and shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each proposal or offer exceeding \$100,000).

15. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify NVTA and the officers, agents, employees and volunteers of NVTA from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, from claims that to the extent they arise out of, pertain to, or relate to the negligent acts or omissions of Contractor or its officers, agents, employees, volunteers, contractors and subcontractors in rendering professional services under this Agreement which constitute negligence, recklessness, or willful misconduct, excluding, however, such liability, claims, losses, damages or expenses arising from the negligence or willful acts of NVTA or its officers, agents, employees or volunteers or any third parties. Notwithstanding the foregoing, the parties agree that Contractor's obligation to defend the NVTA is solely limited to reimbursing NVTA for its reasonable costs for defending a claim including reasonable attorney's fee, incurred by NVTA which are

ultimately determined to be due to Contractor's negligence, recklessness or willful misconduct. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement.

16. COMPLIANCE WITH LAWS

Contractor shall comply with any and all laws, statutes, ordinances, rules, regulations, and requirements of the federal, state or local government, and any agency thereof, including, but not limited to NVTA, the U.S. DOT and FTA, which relate to or in any manner affect the performance of this Agreement. Those law, statutes, ordinances, rules, regulations, and procedural requirements that are imposed on NVTA as a Recipient of federal or state funds are hereby in turn imposed on Contractor (including, but not limited to, 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"), and are herein incorporated by this reference and made a part hereof.

17. BUY AMERICA REGULATIONS

Contractor agrees to comply with 49 U.S.C. 5323(j) and 49CFR Part 661 which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. An Offeror must submit to the FTA recipient the appropriate Buy America certification with all proposals on FTA-funded contracts, except those subject to a general waiver. The Buy America Certification may be found on file in the offices of NVTA. Proposals or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

18. COMPLIANCE WITH FTA REGULATIONS

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NVTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

19. DAVIS-BACON ACT

(a) Minimum wages

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are

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deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-Day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit

which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1)(iv) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(b) Withholding

The NVTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to

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pay laborers and mechanics, including apprentices, Trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the NVTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(c) Payrolls and basic records

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or Trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and Trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the NVTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government printing office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part

3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices and Trainees

(i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractors or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the

REQUIRED FEDERAL CONTRACT CLAUSES

U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of Trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every Trainee must be paid at not less than the rate specified in the approved program for the Trainee level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the Trainee program. If the Trainee program does not mention fringe benefits, Trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a Trainee rate who is not registered and participating in a Training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any Trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a Training program, the contractor will no longer be permitted to utilize Trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, Trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(e) Compliance with Copeland Act requirements: The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(f) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(g) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(h) Compliance with Davis-Bacon and Related Act requirements: All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(i) Disputes concerning labor standards: Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(j) Certification of eligibility:

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(a) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages : In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(c) Withholding for unpaid wages and liquidated damages : The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(d) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the

REQUIRED FEDERAL CONTRACT CLAUSES

subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section. (40 USC 3701-3708)

21. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(a) Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to NVTA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(b) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

22. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACT

(a) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under

the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate. (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject

23. CARGO PREFERENCE-U.S.FLAG

(a) Agreement Clauses. "Use of United States-flag vessels:

(1) Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(2) Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside

the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a)(1) of this section shall be furnished to the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading).

(b) Contractor and Subcontractor Clauses. "Use of United States-flag vessels: The contractor agrees-

(1) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

(2) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading).

(3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

24. SAFE OPERATION OF MOTOR VEHICLES

Contractor agrees to comply with the Seat Belt Use and Distracted Driving clauses under 23 U.S.C Section 402 as outlined in Executive Orders No. 13043 and 13513.

25. BUS TESTING

Each third party contract to acquire a new bus model or a bus with significant alterations to an existing model must include provisions to assure compliance with applicable requirements of 49 U.S.C. Section 5318, as amended by MAP-21, and FTA regulations, "Bus Testing," 49 CFR Part 665.

26. PREAWARD REVIEW AND POST DELIVERY REVIEW

Each third party contract to acquire rolling stock must include provisions for compliance with applicable requirements of 49 U.S.C. Section 5323(m) and those provisions of FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663, that do not conflict with 49 U.S.C. Section 5323(m).

27. SEISMIC SAFETY

The Contractor agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 et seq., in accordance with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, and comply with implementing U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117).

28. FEDERAL CHANGES

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NVTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to comply shall constitute a material breach of this contract in compliance with 49 CFR Part 18.

29. BONDING REQUIREMENTS

For those construction or facility improvement contracts or

REQUIRED FEDERAL CONTRACT CLAUSES

subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts. Bid Bond Requirements (Construction)

a) Bid Security: A Bid Bond must be issued by a fully qualified surety company acceptable to NVTA and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

b) Rights Reserved: In submitting this Bid, it is understood and agreed by bidder that the right is reserved by NVTA to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of NVTA. It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of NVTA, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of NVTA's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor. It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by NVTA as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense NVTA for the damages occasioned by default, then the undersigned bidder agrees to indemnify NVTA and pay over to NVTA the difference between the bid security and NVTA's total damages, so as to make NVTA whole. The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction) - The Contractor shall be required to obtain performance and payment bonds as follows:

a) Performance bonds

i) The penal amount of performance bonds shall be 100 percent of the original contract price, unless NVTA determines that a lesser amount would be adequate for the protection of NVTA.

ii) NVTA may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. NVTA may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

b) Payment bonds

i) The penal amount of the payment bonds shall equal:

(1) Fifty percent of the contract price if the contract price is not more than \$1 million; or

(2) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(3) Two and one half million if the contract price is more than \$5 million

ii) If the original contract price is \$5 million or less, NVTA may require additional protection as required by subparagraph 1 if the contract price is increased.

Advance Payment Bonding Requirements - The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. NVTA shall determine the amount of the advance

payment bond necessary to protect NVTA.

Patent Infringement Bonding Requirements (Patent Indemnity) - The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. NVTA shall determine the amount of the patent indemnity to protect NVTA.

Warranty of the Work and Maintenance Bonds

a) The Contractor warrants to NVTA, the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by NVTA, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the NVTA, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

b) The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship. General Conditions a minimum period of one (1) year after Final Payment by NVTA and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to NVTA. As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to NVTA written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

30. RECYCLED PRODUCTS PREFERENCE

To the extent applicable, the Contractor agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

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31. PRIVACY ACT

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

32. BREACHES AND DISPUTE RESOLUTION

In compliance with 49 CFR Part 18/FTA Circular 4220.1F: *Disputes* - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NVTA. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the NVTA. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the NVTA shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by NVTA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts

he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the NVTA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the NVTA is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the NVTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

33. ADA ACCESS REQUIREMENTS

Contractor must comply with the requirements that are applicable to

A. Title I of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. Section 12101 et seq.;

B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794;

C. Section 16 of the Federal Transit Act, as amended, 49 U.S.C. Section 5301 (d);

D. U.S. DOT regulations, "Transportation for Individuals with Disabilities," 49 C.F.R. Parts 27, 37 and 38 and 36 C.F.R. Part 1192;

E. U.S. Architectural and Transportation Barriers Compliance Board, "ADA Accessibility Guidelines for Buildings and Facilities," (ADAAG);

F. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

G. U.S. DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

H. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

I. U.S. Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630.

J. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F.



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Vine Transit Update

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board receive the fourth quarter Fiscal Year (FY) 2022-23 Vine Transit update.

EXECUTIVE SUMMARY

This report summarizes the Vine's operational performance during the fourth quarter for Fiscal Year (FY) 2022-23, covering the period April 1 to June 30, 2023. The board memo compares the fourth quarter of FY 2022-23 to the fourth quarter of FY 2018-19 to provide context on how ridership compares to pre-COVID ridership levels, and compares the prior quarter of the current fiscal year to provide insight to more recent ridership trends.

FISCAL IMPACT

Is there a Fiscal Impact? No



NAPA VALLEY TRANSPORTATION AUTHORITY BOARD MEMO

TO: NVTA Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Rebecca Schenck, Program Planner – Public Transit
(707) 259-8636 / Email: rschenck@nvta.ca.gov
SUBJECT: Vine Transit Update

RECOMMENDATION

That the NVTA Board receive the fourth quarter Fiscal Year (FY) 2022-23 Vine Transit update.

BACKGROUND

August 13 Service Changes

The most recent schedule changes commenced on Sunday, August 13th to correspond with the start of the school year. As previously presented, the service changes included:

- City of Napa – Renamed all the local routes and added two new ones while reducing the on-demand service area
- Route 10 – Adding four additional weekday round trips, bringing the headways down to 30 minutes during peak times, and stopping on the Yountville Veteran's Home property on select trips
- Route 11 – Minor changes to the timetable
- Route 29 – Minor changes to the timetable
- Reinstating the St Helena and American Canyon School Trippers

The performance data that is reported in this memo does not include any data since the new service structure was put in place. Two months of the new service data will be reported as part of next quarter's Vine Transit Update.

Vine Transit Performance

The first four tables compare ridership across different services in the fourth quarter of Fiscal Year 2022-2023 (April – June) to the fourth quarter of Fiscal Year 2018-2019, which was the last fourth quarter of a fiscal year that was unaffected by the COVID-19 pandemic. This allows us to present how ridership today compared to pre-COVID levels.

Table 1 shows that the eight fixed routes in the City of Napa in the fourth quarter of FY 2018-19 carried 103,325 riders compared to the 23,379 riders on the four fixed routes available in FY 2022-23, a decrease of -77.37%. The on-demand service operating in the City of Napa served 3,979 riders during the fourth quarter of FY 2022-23 so the overall decrease in ridership in the City of Napa was -73.52%. The changes implemented on August 13, 2023 increase the number of fixed routes in Napa in an effort to increase the City of Napa ridership.

Table 1: City of Napa - Comparing Q4 of FY19 & Q4 of FY23

	FY 18/19	FY 22/23	% Difference	Numerical Difference
Napa Local On-Demand	0	3,979	N/A	3,979
Fixed Route	103,325	23,379	-77.37%	-79,946
Total	103,325	27,358	-73.52%	-75,967

Overall, Table 2 shows that the regional routes have recovered faster than the local City of Napa routes. There was a -44.03% drop in ridership on the regional routes from FY 19 to FY 23. The Route 10 is performing the best at -36.02% below pre-pandemic ridership levels. The August 13th changes bring the Route 10 service hours in line with pre-pandemic levels and aim to accelerate Route 10 ridership levels. Since revenue hours and service structure have remained relatively constant on the regional routes over the three-year period these routes have recovered more quickly.

Table 2: Routes 10, 11, 11X, 21 and 29 Ridership – Comparing Q4 of FY19 & Q4 of FY23

	FY 18/19	FY 22/23	% Difference	Numerical Difference
Route 10	56,427	36,103	-36.02%	-20,324
Route 11	60,810	29,405	-51.64%	-31,405
Route 11X	1,935	673	-65.22%	-1,262
Route 21	6,034	3,482	-42.29%	-2,552
Route 29	15,750	9,226	-41.42%	-6,524
Total	140,956	78,889	-44.03%	-62,067

Table 3 on the next page indicates that ridership recovery on the community shuttle varies greatly by community. The City of American Canyon is performing the best at -9.02% below pre-pandemic ridership.

Table 3: Community Shuttles– Comparing Q4 of FY19 & Q4 of FY23

	FY 18/19	FY 22/23	% Difference	Numerical Difference
Calistoga Shuttle	6,441	3,545	-44.96%	-2,896
St. Helena Shuttle	4,232	1,588	-62.48%	-2,644
Yountville Bee	4,544	1,087	-76.08%	-3,457
American Canyon Transit	5,410	4,922	-9.02%	-488
Total	20,627	11,142	-45.98%	-9,485

VineGo Ridership, as shown in Table 4, also remains low at nearly half (-41.48%) of pre-pandemic levels. It makes sense that VineGo ridership has been slow to return given those eligible for VineGo tend to be the most vulnerable to COVID-19.

Table 4: VineGo Ridership – Comparing Q4 of FY19 & Q4 FY23

	FY 18/19	FY 22/23	% Difference	Numerical Difference
VineGo	6,722	3,934	-41.48%	-2,788

While Vine ridership has not rebounded to pre-pandemic levels, there is still a reason to be optimistic as the system is showing year-over-year system ridership gains since the 4th quarter of FY 2019-20. Ridership gains, however, have not been consistent among all routes, and still lag behind regional ridership trends.

Tables 5- 7, compare the third quarter of FY 2022-23 (January 2023 – March 2023) to the fourth quarter of FY 2022-23 (April 2023 – June 2023) to provide additional recent context on ridership. City of Napa Ridership remains stagnant.

Table 5: City of Napa Ridership – Comparing Q3 of FY23 & Q4 of FY23

	Q3 FY 23	Q4 FY 23	% Difference	Numerical Difference
Napa Local On-Demand	3,971	3,979	0.20%	8
Route N	13,972	13,217	-5.40%	-755
Route S	3,549	3,405	-4.06%	-144
Route W	5,540	6,113	10.34%	573
Route E	620	644	3.87%	24
Total	27,652	27,358	-1.06%	-294

Ridership increased overall compared to the prior quarter on almost all regional and express routes totaling 12.84% as seen in Table 6. As previously mentioned, these trends aren't surprising given the winter seasonal variation ridership experiences throughout the year.

Table 6: Routes 10, 11, 11x, 21 & 29 Ridership – Comparing Q3 of FY23 & Q4 of FY23

	Q3 FY 23	Q4 FY 23	% Difference	Numerical Difference
Route 10	30,495	36,103	18.39%	5,608
Route 11	27,375	29,405	7.42%	2,030
Route 11X	1,198	673	-43.82%	-525
Route 21	3,173	3,482	9.74%	309
Route 29	7,672	9,226	20.26%	1,554
Total	69,913	78,889	12.84%	8,976

For the community shuttles, ridership increased overall by 4.84% compared to the third quarter of the current fiscal year as seen in Table 7. Only the St Helena Shuttle experienced a small ridership decrease with school out for most of June.

Table 7: Community Shuttles– Comparing Q3 of FY23 & Q4 of FY23

	Q3 FY 23	Q4 FY 23	% Difference	Numerical Difference
Calistoga Shuttle	3,080	3,545	15.10%	465
St. Helena Shuttle	1,740	1,588	-8.74%	-152
Yountville Bee	980	1,087	10.92%	107
American Canyon Transit	4,828	4,922	1.95%	94
Total	10,628	11,142	4.84%	514

VineGo ridership rose as riders ventured out in the warmer weather. It increased 18.85% compared to the previous quarter of the current fiscal year as seen in Table 8. NVTA has been experiencing an uptick in VineGo applications and renewals since April 2022 when several senior programs and activities around the valley resumed.

Table 8: VineGo Ridership – Comparing Q2 of FY23 & Q3 of FY23

	Q2 FY 23	Q3 FY 23	% Difference	Numerical Difference
VineGo	3,310	3,934	18.85%	624

Table 9 shows Q4 ridership over the past five fiscal years to provide an even broader context on the fluctuations of ridership pre- and post-COVID.

Table 9: Ridership – Comparing Q4 of FY 19, FY20, FY 21, FY 22 and FY 23

	FY19	FY20	FY21	FY22	FY23
Fixed Route	957,403	736,341	236,775	369,444	413,166
Demand Response	103,701	88,485	78,711	71,821	74,829
Total	1,061,104	824,826	315,486	441,265	487,995

Table 10 shows full fiscal year ridership over the past five years to add further context on the annual fluctuations of ridership pre- and post-COVID. The data shows a significant decline in ridership in FY 21 followed by a slow, but consistent recovery.

Table 10: Overall Ridership – Comparing FY 19, FY20, FY 21, FY 22 and FY 23

	Q4 FY19	Q4 FY20	Q4 FY21	Q4 FY22	Q4 FY23
Fixed Route	246,021	66,104	70,179	106,796	102,268
Demand Response	27,349	11,778	21,856	18,087	19,055
Total	273,370	77,882	92,035	124,883	121,323

Table 11 shows the on-time performance for Vine fixed route services. NVTA's acceptable threshold for on-time performance is 90% (using the following thresholds: 1 minute early and 5 minutes late). Given the number of new drivers, mechanical issues and associated system challenges, most routes are showing low on-time performance and with the August schedule change. NVTA will work on minimizing the percentage of early departures by tightening up the schedule.

Table 11: On-Time Performance for Q4 of FY23

	On-Time	Early	Late
Route N	63.8%	13.2%	22.9%
Route S	47.7%	2.5%	49.8%
Route W (Loop 1)	69.0%	14.1%	16.8%
Route W (Loop 2)	66.6%	15.7%	17.7%
Route E	62.8%	9.8%	27.5%
Route 10	50.3%	21.5%	28.2%
Route 11	60.8%	10.2%	28.9%
Route 11X	41.9%	16.4%	41.7%
Route 21	48.2%	31.7%	20.1%

Route 29	47.9%	19.7%	32.4%
-----------------	-------	-------	-------

Finally, the Vine missed trips significantly declined from the fourth quarter of FY 22 to the fourth quarter of FY 2023 as NVTA was able to hire more drivers and the number of COVID 19 infections and exposures decreased among current drivers. Mechanical issues now represent a greater percentage of missed trips as the Vine fleet ages, and new fuel technology vehicles are being commissioned.

Table 12: Missed Trips During Q4 of FY 2023

	Regular Missed Trips	On-Demand Missed Trips
April	14	12
May	14	12
June	9	14
Total	37	38

Table 13: Missed Trips During Q4 of FY 2022

	Regular Missed Trips	On-Demand Missed Trips
April	16	109
May	15	35
June	54	22
Total	85	166

ATTACHMENTS

None



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Purchase Orders 23-P3017 and 23-P3019 to purchase Two (2) Vehicles from AZ Bus Sales and Two (2) Model 1 Commercial Vehicles for Vine Transit

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Purchase Orders 23-P3017 and 23-P3019 (Attachment 1 and Attachment 2) to purchase public transit vehicles under NVTA's membership with the California Association for Coordinated Transportation (CalACT) and Morongo Basin Transit Authority's Cooperative RFP 20-01 in an amount not to exceed \$738,000.

EXECUTIVE SUMMARY

NVTA was awarded \$288,000 in Federal Transit Administration (FTA) Section 5310 grant funds which will be supplemented with up to \$450,000 of Transportation Development Act (TDA) funds to replace four (4) vehicles that have reached the end of their useful life. Staff is requesting that the Board authorize the Executive Director or designee to execute Purchase Orders with AZ Bus Sales and Model 1 Commercial Vehicles.

FISCAL IMPACT

Is there a Fiscal Impact? Yes, up to \$738,000. The Table below illustrates the funding plan

Fund Source	Funding Amount
FTA Section 5310	\$288,000
TDA Funds	\$450,000
Total	\$738,000



NAPA VALLEY TRANSPORTATION AUTHORITY Board Agenda Memo

TO: Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Rebecca Schenck, Program Manager – Public Transit
(707) 259-8636 / Email: rschenck@nvta.ca.gov
SUBJECT: Purchase Orders 23-P3017 and 23-P3019 to purchase Two (2) Vehicles from AZ Bus Sales and Two (2) Model 1 Commercial Vehicles for Vine Transit

RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board authorize the Executive Director, or designee, to execute and make minor modifications to Purchase Orders 23-P3017 and 23-P3019 (Attachment 1 and Attachment 2) to purchase public transit vehicles under NVTA's membership with the California Association for Coordinated Transportation (CalACT) and Morongo Basin Transit Authority's Cooperative RFP 20-01 in an amount not to exceed \$738,000.

COMMITTEE RECOMMENDATION

None

BACKGROUND

In 2022, NVTA was awarded \$288,000 in federal funds to procure four (4) medium-size vehicles. Caltrans issued a Funding Agreement in July 2023. Two of these vehicles will replace the Calistoga Shuttle and two vehicles will become part of the Vine fleet and be used for paratransit and local routes as needed. These vehicles will replace BY 2007 and BY 2011 vehicles. These are gasoline cutaway vehicles, and they are included in NVTA's California Air Resources Board approved Zero-Emission Bus Rollout Plan as 2023 purchases. No medium-size zero emission vehicles have yet been approved for federal funding at this time. The following is the project budget.

Table 1: Expenditure Plan

Description	Quantity	Unit Price	Total
Class B, Starcraft Allstar	2	\$143,125.71	\$286,251.42
Class C, Glaval	2	\$194,043.60	\$388,087.20
add: Tax, Fees, After Delivery Opts.			\$62,546.30
Project Total	4		\$736,884.92

ALTERNATIVES

The Board could decide not to approve Purchase Order 23-P3017 and 23-3019 and existing buses from BY 2007 and BY 2011 would need to be maintained in the fleet, negatively impacting maintenance costs and system performance.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 2 – Improve system safety to support all modes and serve all users.

The new buses will result in higher quality service and reduced maintenance costs for the Vine system.

ATTACHMENT

- (1) Purchase Order 23-P3017
- (2) Purchase Order 23-P3019



Napa Valley
Transportation
Authority
625 Burnell Street
Napa, CA 94559

Phone: 707-259-8631
Fax: 707-259-8638
www.nvta.ca.gov

DRAFT

ATTACHMENT 1
ITEM 10.4
SEPTEMBER 27, 2023

Purchase Order

VENDOR

AZ BUS SALES INC.
3418 52ND AVENUE
SACRAMENTO, CA 95823
C Clay Hartman, Transit Sales Manager
T 916.399.2904 | 916.217.3469
E chartman@a-zbus.com

Purchase Order #: 23-P3017
Date: 08/31/2023
Vendor ID: 35566

Bill To:

Napa Valley Transportation Authority
(NVTA) - Accounts Payable
ap@nvta.ca.gov
625 Burnell Street
Napa, CA 94559-2912

Ship To:

NVTA -Vine Transit Yard
- EXACT DROP LOCATION TO BE DETERMINED -
Napa, CA 94559
POC: Rebecca Schenck, Manager-Public Transit
T 707.259.8636 E rschenck@nvta.ca.gov

Requested By	Ship Date	Ship Via	FOB	Buyer	Terms	Tax ID
SCHENCK	365 DAYS ARO	GROUND	DEST	KULICK	NET 30	68-0471080

QTY	Item #	Units	Description	Discount %	Taxa-	Unit Price	Total
ALL TERMS AND CONDITIONS OF THE CALACT/MBTA AGREEMENT No. 20-01 ARE INCLUDED HERE- IN AS IF FULLY SET FORTH AND THE PARTIES HERETO AGREE THAT NVTA IS AN ASSIGNEE/THIRD PARTY BENEFICIARY OF THAT AGREEMENT AND MAY ENFORCE ANY AND ALL RIGHTS CONTAINED IN THAT AGREEMENT WITHOUT LIMITATION.							
2	N/A	EA	BUS, 2024 GLAVAL, TYPE C, FORD			\$135,024.25	\$270,048.50
			E-450, CUT-AWAY, GASOLINE	est 6% CPI Increase effective 9/2023		\$ 8,101.46	\$ 16,202.92
			16 Passenger +2 Wheelchair			\$143,125.71	\$286,251.42
			SEE ATTACHED SPECIFICATIONS				

NOTICE OF INCLUDED TERMS AND CONDITIONS

This purchase order is a federally funded contract and as such, certain mandatory terms and conditions apply to this purchase order. These provisions include, **but are not limited to** the provisions of Buy America 49 U.S.C. §5323(j), 49 C.F.R. Part 661; Cargo Preference 46 U.S.C. § 55305, 46 C.F.R. Part 381; Fly America 49 U.S.C. § 40118, 41 C.F.R. §§ 301-10.131 through 301-10.143; Bus Testing 49 C.F.R. Part 665; U.S. DOT Third Party Procurement Regulations 49 C.F.R. §18.36 or 40 C.F.R. §§19.40 through 19.48, FTA Circular 4220.1F (including all mandated terms and conditions contained in Appendix D-4) and FTA Master Agreement FTA MA(30).

Subtotal	\$286,251.42
Tax 7.75% Napa	\$ 22,184.48
Other Fees	\$ 4,293.76
Shipping	incl.
TOTAL	\$ 312,729.66

THIS ORDER WILL BECOME VALID UPON RECEIPT OF VENDOR ACCEPTANCE.

VENDOR ACCEPTANCE

Vendor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) contract/purchase order, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

ORDER AWARDED AND ISSUED BY

Individual listed below is hereby authorized to award ordered material/services as specified, or incorporated by reference herein, on behalf of the Napa Valley Transportation Authority.

NAME AND TITLE

DATE

KATE MILLER, Executive Director

DATE

FOR INTERNAL USE ONLY

FUND APPROPRIATION:

VEHICLE DESCRIPTION**2024 GLAVAL BUS TYPE C FORD GASOLINE***GAS CUT-AWAY CHASSIS, E-450, 190", 6.8L V-8*

PASSENGER CAPACITY 16 +2, SEAT FABRIC DOCKET 90 VINYL, AC SYSTEM TA733, EXTERIOR COLOR/GRAPHICS - TBD, WHEELBASE 186/190", ENGINE 7.3L V-8 GASOLINE, GWR 14,500, BODY LENGTH 25', WHEELCHAIR LIFT - REAR LOCATION, NUMBER OF TIE DOWNS 2 EA - Q'STRAIT DLX, ALTERNATOR 225 AMP OEM

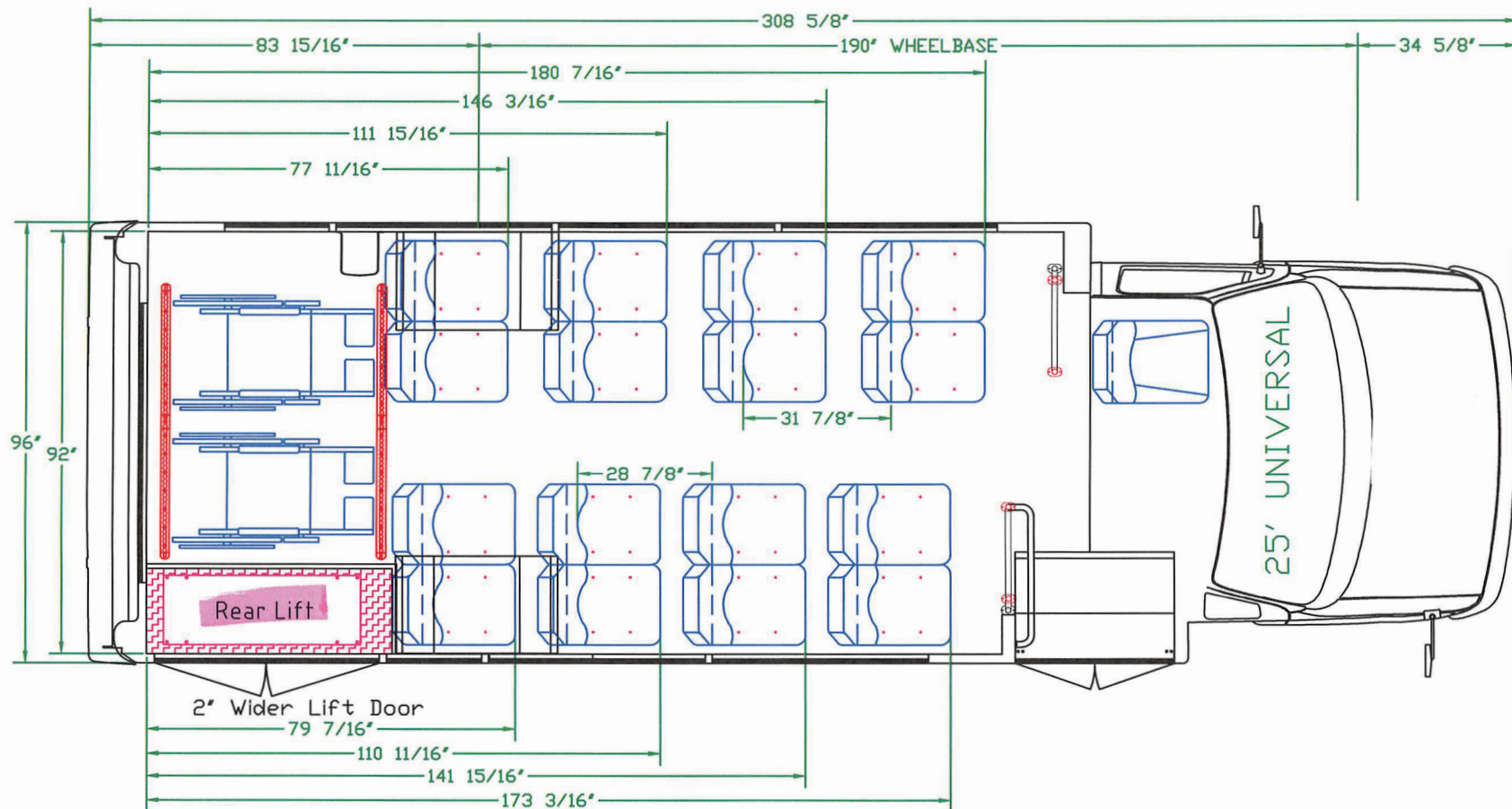
SUMMARY FEATURES & EQUIPMENT: Aluminized Steel Cage Costruction - Galvanized Exterior Skins - Laminated Body Construction - One Piece FRP Roof Assembly - 36" Electric Entry Door - Ergonomic Driver Control Panel with Quick Disconnect - Driver Side Running Board - Remote control & heated Exterior Mirrors - Standard 2-Step Entry with 12" First Step Height -Dual Entry Grab Rails - 5/8" Marine Plywood Subfloor, with Aluminized Steel Sub-structure - Integrated Track Seating -SystemTrans/Air TA733 with 13 CID compressor, 3 Fan Skirt Condensor - Daytime Running Lights - Hanover Front and Side Destination Signs -Roof Hatch, Pull cord Chime system, PA system - 5 YEAR / 100,000 Mile Limited Body Warranty - Fully Insulated Body Assembly Process - ALL LED Exterior Lighting - Filon FRP Interior Sidewalls, Roof, Rear Walls - Number, function, and color coded wiring - Braun Century W/C Lift, 1000 lb rating - Side Mounted Battery on Slide Out Tray w/High Amp Circuit Breakers - Mor Ryde Suspension - 96" Body Width - Seating: Doc 90 upholstery, Grab Handles, USR's, aisle arm rests - ISO 9001:2008 Quality Manufacturing Process - Ford QVM Certified Manufacturer - Back Up Alarm, Anti-ride Rear Bumper - Front Mud Flaps - Altoona 7 Year/200,000 Mile Tested - Stanchion and Modesty Panel Behind Driver, with Plexiglass - Meets All Applicable FMVSS Requirements in Effect at time of Manufacture


QTY		UNIT COST	VEHICLE QTY	TOTAL
1	VEHICLE BASE PRICE	\$ 110,894.00	2	\$ 221,788.00
	<u>EACH VEHICLE WILL HAVE THE FOLLOWING STANDARD-OPTIONS</u>			
	<u>INSTALLED:</u>			
1	ROOF VENTS	\$ 649.00	2	\$ 1,298.00
1	HELP - FRONT BUMPER	\$ 1,295.00	2	\$ 2,590.00
1	LOCKING REAR DOOR WITH ALARM	\$ 562.00	2	\$ 1,124.00
1	REMOVABLE DIAMOND FLOOR ACCESS PLATE	\$ 73.00	2	\$ 146.00
2	8100 W/C TIE DOWN IN LIEU OF QRT 360	\$ (224.00)	2	\$ (448.00)
1	USSC G2 E DRIVERS SEAT	\$ 2,235.00	2	\$ 4,470.00
1	Credit for Freedman Sport Drivers Seat	\$ (1,033.00)	2	\$ (2,066.00)
1	MOR-RYD SUSPENSIONS	\$ 1,234.00	2	\$ 2,468.00
1	STOP REQUEST SYSTEM (W/SIGN)	\$ 1,062.00	2	\$ 2,124.00
1	FAREBOX RAIL/PREWIRE	\$ 202.00	2	\$ 404.00
1	AD RAILS (INTERIOR, BOTH SIDES)	\$ 305.00	2	\$ 610.00
8	USB CHARGING PORTS (PER SEAT, MOUNTED UNDER SEAT)	\$ 736.00	2	\$ 1,472.00
1	BRAUN NCL 1000 LIFT (1K LBS CAPACITY)	\$ 1,121.00	2	\$ 2,242.00
1	2-WAY RADIO PREP	\$ 177.00	2	\$ 354.00
1	HANOVER FRONT AND SIDE DESTINATION SIGNS	\$ 6,754.00	2	\$ 13,508.00
1	DOCUMENTATION CHARGE	\$ 80.00	2	\$ 160.00
1	DELIVERY ZONE 4	\$ 354.00	2	\$ 708.00
1	DMV/STATE FEES	\$ 12.25	2	\$ 24.50
	<u>EACH VEHICLE WILL HAVE THE FOLLOWING NON-STANDARD OPTIONS</u>			
	<u>INSTALLED:</u>			
1	PAINT SCHEME AND LETTERING PER DRAWING SUPPLIED	\$ 7,511.00	2	\$ 15,022.00
1	PA SYSTEM (WITH EXTERIOR ADA SPEAKER)	\$ 385.00	2	\$ 770.00
16	LEVEL 6 UPHOLSTERY IN LIEU OF LEVEL 4	\$ 640.00	2	\$ 1,280.00
1	BUS TO <u>NOT</u> HAVE AN AM/FM RADIO	\$ -	2	\$ -

QTY		UNIT	COST	VEHICLE QTY	TOTAL
	(Continued)				
1	BASE UNIT AS SPECIFIED		\$110,894.00	2	\$221,788.00
1	STANDARD OPTIONS		\$ 15,594.25	2	\$ 31,188.50
1	NON-STANDARD OPTIONS		\$ 8,536.00	2	\$ 17,072.00
	TOTAL		\$135,024.25	2	\$270,048.50
	Estimated 6% PPI Increase Effective 9/2023		\$8,101.46	2	\$ 16,202.92
	SUBTOTAL		\$143,125.71		\$286,251.42
	Mobility Aid Rebate (shown for tax purposes)		\$ 1,000.00	2	\$ 2,000.00
	ADA PORTION - NON-TAXABLE		\$ 19,084.51	2	\$ 36,169.02
	TAXABLE AMOUNT (SUBTOTAL LESS NON-TAXABLE)		\$125,121.46	2	\$250,142.92
	SALES TAX - NAPA - 7.75%		\$ 11,092.24	2	\$ 22,184.48
	CALACT MBTA FEE OF 1.5% OF SUBTOTAL		\$ 2,146.88	2	\$ 4,293.76
	Less Ford Mobility Aid Rebate		\$ (1,000.00)	2	\$ (2,000.00)
	GRAND TOTAL		\$156,364.83	2	\$312,729.66

CONTINUED ON PAGE 4 OF

Class C Ford Rear w/c



Drawn By:	Options:					Seating: Freedman				
Date:						Style: Mid High Back				
Scale:	W/C Lift Rear	W/C Pos 2	Ent Door 30"	Foldaway 0	Handi-Flip 0	5-Place 0	DBL 8	Single 0	Ambulatory 16	
 Division of Forest River Inc.			25' UNIVERSAL						Wheel Base 190"	
			DIN # J & N							

THE DRAWING AND INFORMATION DEPICTED THEREON ARE THE PROPERTY OF GLAVAL BUS. THE USE, DUPLICATION OR TRANSMISSION WITHOUT PRIOR WRITTEN CONSENT OF GLAVAL BUS IS PROHIBITED. ALL DIMENSIONS CONTAINED ON THIS DOCUMENT ARE SUBJECT TO ENGINEERING/ MANUFACTURING TOLERANCES

Dealer Approval:

GLAVAL BUS
Division of Forest River Inc.

WEIGHT ANALYSIS

12/15

INPUT AREAS=				12A		15		FUEL LOAD ADJ. DATA (F.L.A.)			
VEHICLE DESCRIPTION:		CHASSIS	UNIT #	MODEL:	FUEL TYPE:	FUEL CAP.	FUEL WGT PER GAL.				
		E-450	Prelim	25' Universal	Gas	55	6				
WHEELBASE		PER IN. VALUE CALC.	AXLE WEIGHTS		FUEL AMT.		WGT OF FUEL	FUEL ADJ. AMT.			
190		0.53	LEFT FRONT	RIGHT FRONT	0.13		330	-41.25			
AXLE CAPACITIES				2014	1796	FUEL TANK CENTER		DEALER			
FRONT	REAR	TOTAL	LEFT REAR	RIGHT REAR	219		A-Z Bus				
5000	9600	14500	2500	3226							
LEFT (ROADSIDE)					RIGHT (CURBSIDE)						
	DISTANCE (IN.)	WEIGHT (LBS.)	% REAR AXLE	FRONT	REAR	DISTANCE (IN.)	WEIGHT (LBS.)	% REAR AXLE	FRONT	REAR	
DRIVER	44	150	23.16%	115.26	34.74			0.00%	0.00	0.00	
2 Pass	100 1/3	-63	52.80%	-29.74	-33.26	100 1/3	-63	52.80%	-29.74	-33.26	2 Pass
2 Pass	131 2/3	-63	69.31%	-19.34	-43.66	131 2/3	-63	69.31%	-19.34	-43.66	2 Pass
2 Pass	163	-63	85.82%	-8.93	-54.07	163	-63	85.82%	-8.93	-54.07	2 Pass
2 Pass	194 4/9	-63	102.34%	1.47	-64.47	194 7/16	-63	102.34%	1.47	-64.47	2 Pass
2 Pass-BV	239 11/16	-85	126.15%	22.23	-107.23	234 7/8	0	123.62%	0.00	0.00	W/C
			0.00%	0.00	0.00			0.00%	0.00	0.00	
2 Pass	93 9/16	363	49.24%	184.25	178.75	100 13/16	363	53.06%	170.40	192.60	2 Pass
2 Pass	127 13/16	363	67.27%	118.81	244.19	132 1/16	363	69.51%	110.69	252.31	2 Pass
2 Pass	162 1/16	363	85.30%	53.38	309.62	163 5/16	363	85.95%	50.99	312.01	2 Pass
2 Pass	196 5/16	363	103.32%	-12.06	375.06	194 9/16	363	102.40%	-8.72	371.72	2 Pass
W/C	234 3/4	250	123.55%	-58.88	308.88	234 3/4	250	123.55%	-58.88	308.88	W/C
			0.00%	0.00	0.00			0.00%	0.00	0.00	
Sub Filon	161	-19.23	84.74%	-2.94	-16.29	168 9/16	-19.23	88.72%	-2.17	-17.06	Sub Filon
			0.00%	0.00	0.00			0.00%	0.00	0.00	
Add EM1 Evap	245 1/4	1.5	129.08%	-0.44	1.94	245 1/4	1.5	129.08%	-0.44	1.94	Add EM1 Evap
			0.00%	0.00	0.00			0.00%	0.00	0.00	
Add CM3 Cond	124 1/2	22	65.53%	7.58	14.42			0.00%	0.00	0.00	
			0.00%	0.00	0.00			0.00%	0.00	0.00	
			0.00%	0.00	0.00			0.00%	0.00	0.00	
TOTAL PASSENGER LOAD				370.66	1148.61				205.33	1226.94	2951.54
AXLE WEIGHTS				2014.00	2500.00				1796.00	3226.00	9536.00
				FRONT	REAR	LEFT/RIGHT TOTALS	LEFT/RIGHT %'S				
			LEFT	2362.63	3815.02	6177.65	0.484				
			RIGHT	1979.30	4619.35	6598.65	0.516				
			FRT / REAR TOTALS	4341.92	8434.37	12776.29					
			AXLE CAPACITIES	5000	9600	14500					
			AVAILABLE CAPACITIES	658.08	1165.63	1723.71					

17061 - A-Z Bus

Front Curbside
Maximum Capacity 2500
1979.30

Combined Front
4341.92
5000 Maximum Capacity

2362.63
Maximum Capacity 2500
Front Roadside

Rear Curbside
Maximum Capacity 4800
4619.35

Combined Rear
8434.37
9600 Maximum Capacity

3815.02
Maximum Capacity 4800
Rear Roadside

ENF006.02



1. AMENDMENTS

Any changes in the activities to be performed under this Agreement shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the NVT A Executive Director or a designated representative and CONTRACTOR. No claim for additional compensation or extension of time shall be recognized unless contained in a duly executed amendment.

2. TERMINATION

Contractor's failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to, war, strikes, fires, floods, acts of God, governmental restrictions, power failures, or damage or destruction of any network facilities or servers, shall not be deemed a breach of this Agreement, and may be cause for termination of the Agreement. (49 USC 5323 Sec 11)

3. RETENTION OF RECORDS

Contractor agrees to keep, in accordance with generally accepted accounting principles, all records pertaining to the project for audit purposes for a minimum of three (3) years following final payment to Contractor or four (4) years following the fiscal year of the last expenditure under this Agreement, whichever is longer, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until NVT A, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. (49 USC 5323)

4. AUDITS

Contractor agrees to grant NVT A or any agency that provides NVT A with funds for the Project, including but not limited to, the U.S. Department of Transportation, FTA, the Comptroller General of the United States, the State, and their authorized representatives access to Contractor's books and records for the purpose of verifying that funds are properly accounted for and proceeds are expended in accordance with the terms of the Agreement. All documents shall be available for inspection during normal business hours at any time while the Project is underway, and for the retention period specified herein. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (49 USC 5323 (g))

Contractor further agrees to include in all its third-party contracts hereunder a provision to the effect that the contractor agrees that NVT A, the U.S. Department of Transportation, FTA, the Comptroller General of the United States, the State, or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, during normal business hours, for the term specified above. The term "contract" as used in this clause excludes agreements not exceeding \$25,000.

5. LICENSE TO WORK PRODUCTS (reserved)

6. EQUAL EMPLOYMENT OPPORTUNITY/ CIVIL RIGHTS

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132; and 49

U.S.C. § 5332 for federally funded projects, Contractor agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability, or sex, discriminate or permit discrimination against any employee or applicant for employment.

Further Contractor agrees to follow regulations as set forth under 41 CFR Part 60-1.4 (b) that

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in

Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

7. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Napa Valley Transportation Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offers, including those who qualify as a DBE. A DBE project goal of 0 percent has been established for this project. NVTA has an overall established DBE goal of 2.6 percent. The bidder/offers shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offers will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offers's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

The contractor, subrecipient, 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 CFR Part 26 in the award and administration of 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 the recipient deems appropriate.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contract receives from NVTA. The prime contractor agrees further to return retainage payments to each subcontractor within thirty days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the NVTA. This clause applies to both DBE and non-DBE subcontracts.

Failure to comply with the terms of this provision may result in any or all of the following actions including but not limited to:

1. A finding of material breach of contract

2. Suspension of payment of invoices

3. Bringing to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties result) provided in 26.109.

The obligation of the bidder/offers is to make good faith efforts. The bidder/offers can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26. Forms 1 and 2 should be provided as part of the solicitation documents.

8. VETERANS PREFERENCE

As required under 49 U.S.C. § 5325(k) Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection 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.

9. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

In the event that this project is funded by FTA in whole or in part, all contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NVTA requests which would cause NVTA to be in violation of the FTA terms and conditions.

10. AMERICANS WITH DISABILITIES ACT REQUIREMENTS
Contractor will comply with 49 CFR Parts 27, 37, and 38, implementing and Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, 29 USC 794, as amended.

11. ENERGY CONSERVATION PLAN

Contractor shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6321) and Federal requirements under 49 CFR 662 Subpart C.

12. DEBARMENT

Contractor certifies that neither it nor any of its participants, principals, or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department. Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by NVTA. If it is later determined that the bidder or proposer

knowingly rendered an erroneous certification, in addition to remedies available to NVTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

13. CLEAN AIR AND WATER POLLUTION ACTS

Contractor agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). The Contractor agrees to report each violation to NVTA and understands and agrees that NVTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

14. LOBBYING

Contractor agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 U.S.C. § 1352 and 49 CFR Part 20. In addition, in the event the Agreement exceeds \$100,000, Contractor agrees to comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 and shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each proposal or offer exceeding \$100,000).

15. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify NVTA and the officers, agents, employees and volunteers of NVTA from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, from claims that to the extent they arise out of, pertain to, or relate to the negligent acts or omissions of Contractor or its officers, agents, employees, volunteers, contractors and subcontractors in rendering professional services under this Agreement which constitute negligence, recklessness, or willful misconduct, excluding, however, such liability, claims, losses, damages or expenses arising from the negligence or willful acts of NVTA or its officers, agents, employees or volunteers or any third parties. Notwithstanding the foregoing, the parties agree that Contractor's obligation to defend the NVTA is solely limited to reimbursing NVTA for its reasonable costs for defending a claim including reasonable attorney's fee, incurred by NVTA which are

ultimately determined to be due to Contractor's negligence, recklessness or willful misconduct. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement.

16. COMPLIANCE WITH LAWS

Contractor shall comply with any and all laws, statutes, ordinances, rules, regulations, and requirements of the federal, state or local government, and any agency thereof, including, but not limited to NVTA, the U.S. DOT and FTA, which relate to or in any manner affect the performance of this Agreement. Those law, statutes, ordinances, rules, regulations, and procedural requirements that are imposed on NVTA as a Recipient of federal or state funds are hereby in turn imposed on Contractor (including, but not limited to, 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"), and are herein incorporated by this reference and made a part hereof.

17. BUY AMERICA REGULATIONS

Contractor agrees to comply with 49 U.S.C. 5323(j) and 49CFR Part 661 which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. An Offeror must submit to the FTA recipient the appropriate Buy America certification with all proposals on FTA-funded contracts, except those subject to a general waiver. The Buy America Certification may be found on file in the offices of NVTA. Proposals or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

18. COMPLIANCE WITH FTA REGULATIONS

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NVTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

19. DAVIS-BACON ACT

(a) Minimum wages

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are

deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit

which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1)(iv) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(b) Withholding

The NVTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to

pay laborers and mechanics, including apprentices, Trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the NVTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(c) Payrolls and basic records

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or Trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and Trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the NVTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government printing office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part

3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices and Trainees

(i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractors or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the

U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of Trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every Trainee must be paid at not less than the rate specified in the approved program for the Trainee level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the Trainee program. If the Trainee program does not mention fringe benefits, Trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a Trainee rate who is not registered and participating in a Training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any Trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a Training program, the contractor will no longer be permitted to utilize Trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, Trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(e) Compliance with Copeland Act requirements: The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(f) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(g) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(h) Compliance with Davis-Bacon and Related Act requirements: All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(i) Disputes concerning labor standards: Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(j) Certification of eligibility:

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(a) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages : In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(c) Withholding for unpaid wages and liquidated damages : The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(d) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the

subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section. (40 USC 3701-3708)

21. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(a) Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to NVTA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(b) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

22. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACT

(a) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under

the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate. (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject

23. CARGO PREFERENCE-U.S.FLAG

(a) Agreement Clauses. "Use of United States-flag vessels:

(1) Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(2) Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside

the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a)(1) of this section shall be furnished to the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading).

(b) Contractor and Subcontractor Clauses. "Use of United States-flag vessels: The contractor agrees-

(1) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

(2) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading).

(3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

24. SAFE OPERATION OF MOTOR VEHICLES

Contractor agrees to comply with the Seat Belt Use and Distracted Driving clauses under 23 U.S.C Section 402 as outlined in Executive Orders No. 13043 and 13513.

25. BUS TESTING

Each third party contract to acquire a new bus model or a bus with significant alterations to an existing model must include provisions to assure compliance with applicable requirements of 49 U.S.C. Section 5318, as amended by MAP-21, and FTA regulations, "Bus Testing," 49 CFR Part 665.

26. PREAWARD REVIEW AND POST DELIVERY REVIEW

Each third party contract to acquire rolling stock must include provisions for compliance with applicable requirements of 49 U.S.C. Section 5323(m) and those provisions of FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663, that do not conflict with 49 U.S.C. Section 5323(m).

27. SEISMIC SAFETY

The Contractor agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 et seq., in accordance with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, and comply with implementing U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117).

28. FEDERAL CHANGES

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NVTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to comply shall constitute a material breach of this contract in compliance with 49 CFR Part 18.

29. BONDING REQUIREMENTS

For those construction or facility improvement contracts or

subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts. Bid Bond Requirements (Construction)

a) Bid Security: A Bid Bond must be issued by a fully qualified surety company acceptable to NVTA and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

b) Rights Reserved: In submitting this Bid, it is understood and agreed by bidder that the right is reserved by NVTA to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of NVTA. It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of NVTA, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of NVTA's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor. It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by NVTA as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense NVTA for the damages occasioned by default, then the undersigned bidder agrees to indemnify NVTA and pay over to NVTA the difference between the bid security and NVTA's total damages, so as to make NVTA whole. The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction) - The Contractor shall be required to obtain performance and payment bonds as follows:

a) Performance bonds

i) The penal amount of performance bonds shall be 100 percent of the original contract price, unless NVTA determines that a lesser amount would be adequate for the protection of NVTA.

ii) NVTA may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. NVTA may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

b) Payment bonds

i) The penal amount of the payment bonds shall equal:

(1) Fifty percent of the contract price if the contract price is not more than \$1 million; or

(2) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(3) Two and one half million if the contract price is more than \$5 million

ii) If the original contract price is \$5 million or less, NVTA may require additional protection as required by subparagraph 1 if the contract price is increased.

Advance Payment Bonding Requirements - The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. NVTA shall determine the amount of the advance

payment bond necessary to protect NVTA.

Patent Infringement Bonding Requirements (Patent Indemnity) - The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. NVTA shall determine the amount of the patent indemnity to protect NVTA.

Warranty of the Work and Maintenance Bonds

a) The Contractor warrants to NVTA, the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by NVTA, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the NVTA, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

b) The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship. General Conditions a minimum period of one (1) year after Final Payment by NVTA and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to NVTA. As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to NVTA written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

30. RECYCLED PRODUCTS PREFERENCE

To the extent applicable, the Contractor agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

31. PRIVACY ACT

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

32. BREACHES AND DISPUTE RESOLUTION

In compliance with 49 CFR Part 18/FTA Circular 4220.1F: *Disputes* - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NVTA. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the NVTA. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the NVTA shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by NVTA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts

he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the NVTA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the NVTA is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the NVTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

33. ADA ACCESS REQUIREMENTS

Contractor must comply with the requirements that are applicable to

A. Title I of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. Section 12101 et seq.;

B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794;

C. Section 16 of the Federal Transit Act, as amended, 49 U.S.C. Section 5301 (d);

D. U.S. DOT regulations, "Transportation for Individuals with Disabilities," 49 C.F.R. Parts 27, 37 and 38 and 36 C.F.R. Part 1192;

E. U.S. Architectural and Transportation Barriers Compliance Board, "ADA Accessibility Guidelines for Buildings and Facilities," (ADAAG);

F. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

G. U.S. DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

H. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

I. U.S. Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630.

J. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F.



DRAFT

ATTACHMENT 2
ITEM 10.4
SEPTEMBER 27, 2023

Purchase

VENDOR

MODEL 1 COMMERCIAL VEHICLES

(fka Creative Bus Sales)
13501 Benson Street
Chino, CA 91710
POC: Dan Williams, Public Sector Sales West
danw@model1.com | 650.222.2618

Purchase Order #: 23-P3019

Date: 08/31/2023

Vendor ID: 35349

Napa Valley
Transportation
Authority
625 Burnell Street
Napa, CA 94559

Phone: 707-259-8631
Fax: 707-259-8636
Web: nvta.ca.gov

Bill To:

NVTA
Accounts Payable
625 Burnell Street
Napa, CA 94559
ap@nvta.ca.gov

Ship To:

NVTA - VINE Transit Yard
720 Jackson Street
Napa, CA 94559
POC: Rebecca Schenck | 707.259.8636
rschenck@nvta.ca.gov

Requested By	Ship Date	Ship Via	FOB	Buyer	Terms	Tax ID
Schenck	TBD	Ground	DEST	Kulick	NET 30	68-471080

QTY	Item #	Units	Description	Discount	Taxable	Unit Price	Total
ALL TERMS AND CONDITIONS OF THE CALACT/MBTA AGREEMENT No. 20-01 ARE INCLUDED HERE- IN AS IF FULLY SET FORTH AND THE PARTIES HERETO AGREE THAT NVTA IS AN ASSIGNEE/THIRD PARTY BENEFICIARY OF THAT AGREEMENT AND MAY ENFORCE ANY AND ALL RIGHTS CONTAINED IN THAT AGREEMENT WITHOUT LIMITATION.							
2	N/A	EA	BUS, 2024 STARCRAFT ALLSTAR CLASS B, FORD E-450, MEDIUM, 12 Passenger +2 Wheelchair	est. 6% PPI Increase effective 9/2023		\$183,060.00 \$ 10,983.60	\$366,120.00 \$ 21,967.20
			SEE ATTACHED SPECIFICATIONS				

NOTICE OF INCLUDED TERMS AND CONDITIONS

This purchase order is a federally funded contract and as such, certain mandatory terms and conditions apply to this purchase order. These provisions include, but are not limited to the provisions of Buy America 49 U.S.C. §5323(j), 49 C.F.R. Part 661; Cargo Preference 46 U.S.C. § 55305, 46 C.F.R. Part 381; Fly America 49 U.S.C. § 40118, 41 C.F.R. §§ 301-10.131 through 301-10.143; Bus Testing 49 C.F.R. Part 665; U.S. DOT Third Party Procurement Regulations 49 C.F.R. §18.36 or 40 C.F.R. §§19.40 through 19.48, FTA Circular 4220.1F (including all mandated terms and conditions contained in Appendix D-4) and FTA Master Agreement FTA MA(30).

THIS ORDER WILL BECOME VALID UPON RECEIPT OF VENDOR ACCEPTANCE.

VENDOR ACCEPTANCE

Vendor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) contract/purchase order, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

ORDER AWARDED AND ISSUED BY

Individual listed below is hereby authorized to award ordered material/services as specified, or incorporated by reference herein, on behalf of the Napa Valley Transportation Authority.

NAME AND TITLE
(Signature of person authorized to sign)

DATE

KATE MILLER, Executive Director DATE

FOR INTERNAL USE ONLY

FUND APPROPRIATION: _____

VEHICLE DESCRIPTION**2024 STARCRAFT ALLSTAR CLASS B FORD E-450****MEDIUM, WB 158", 7.3L V-8, GASOLINE**

PASSENGER CAPACITY 12 +2 WHEELCHAIR, SEAT FABRIC D-90 VINYL, AC SYSTEM THERMO-KING, EXTERIOR COLOR GREY & GRAPHICS -, WHEELBASE 158", ENGINE 7.3L V-8 GASOLINE, GWR 14,500, BODY LENGTH 25', BRAUN WHEELCHAIR LIFT - REAR LOCATION, Q'STRAIT SEATBELT/SAFETY RESTRAINT SYSTEM, ALTERNATOR 240 AMPS OEM

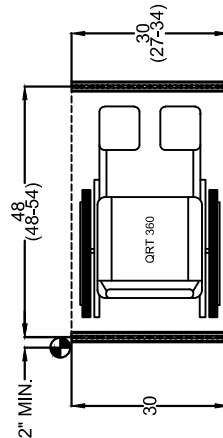
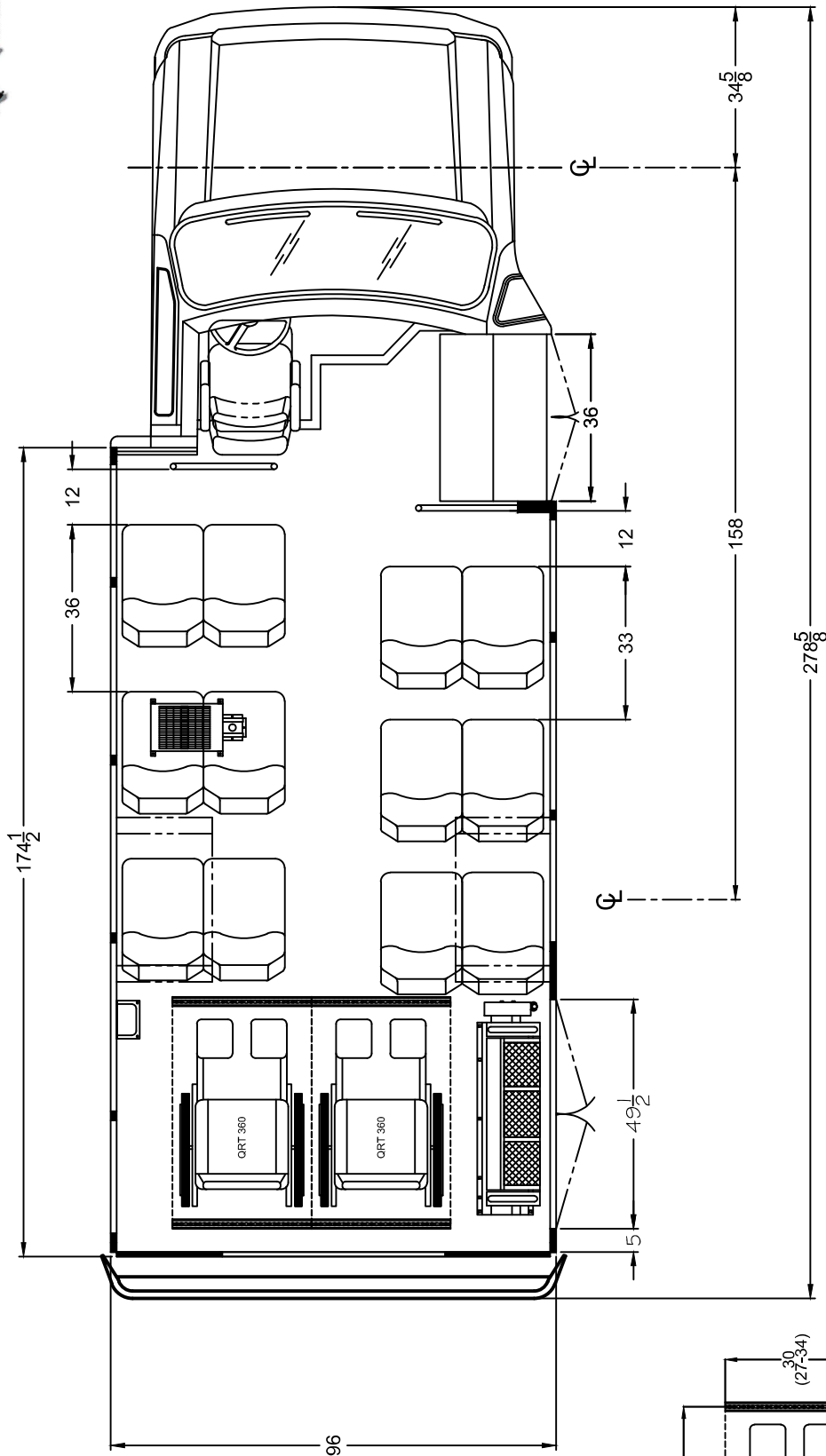
SUMMARY FEATURES & EQUIPMENT: Full JIG welded steel frame construction; FRP laminated interior panels with expanded polystyrene insulation; double foldup lightweight Freedman seats (12 passengers) and two (2) wheelchair bases (rear); rear entry with Braun wheelchair lift; Freedman Sport 2.0 driver's seat; 6-speed automatic transmission; Intermotive Flextech electrical system; independent front suspension system; OEM RWD drivetrain; anti-lock brakes; AC system; LT225/75R16E tires; safety restraints; Optronics LED interior lighting; A&M entry door; ROSCO power mirrors; **no** AM/FM radio; WARRANTY - 3-years/36,000 miles bumper to bumper; 5-years/60,000 miles drivetrain; 7-years / 200,000 miles Altoona Test Life

QTY		UNIT COST	VEHICLE QTY	TOTAL
1	VEHICLE BASE PRICE	\$ 103,175.00	2	\$206,350.00
	<u>EACH VEHICLE WILL HAVE THE FOLLOWING STANDARD-OPTIONS INSTALLED:</u>			
1	MOR/RIDE SUSPENSION SYSTEM	\$ 1,300.00	2	\$ 2,600.00
1	ROMEO RIM REAR BUMPER W/ HAWKEYE	\$ 0	2	\$ 0
1	USSC G2 E DRIVER'S SEAT (BLACK)	\$ 1,185.00	2	\$ 2,370.00
1	<CREDIT> STANDARD DRIVER SEAT	\$ 0	2	\$ 0
1	RETRACTOR – Q'STRAIT QRT DELUXE (Q-8300-MAX-L)	\$ 0	2	\$ 0
1	ROSCO POWER MIRRORS	\$ 250.00	2	\$ 500.00
1	"WEST COAST" RAISED FLOORS	\$ 530.00	2	\$ 1,060.00
5	FREEDMAN FOLD SEAT 34"-36" DOUBLE FOLDAWAY	\$ 2,070.00	2	\$ 20,700.00
1	LIFT – RICON – 1000LBS LIFT (34"x51")	\$ 1,500.00	2	\$ 2,124.00
3	ADDITIONAL MOBILITY AID POSITION	\$ 900.00	2	\$ 5,400.00
12	CLOTH SEAT – D-90 LEVEL 4 (EACH)	\$ 75.00	2	\$ 1,800.00
1	ROOF HATCH	\$ 550.00	2	\$ 1,020.00
1	REMOVABLE DIAMOND PLATE – FLOOR ACCESS PLATE	\$ 160.00	2	\$ 320.00
1	TELMA DRIVELINE BREAK RETARDER	\$ 9,355.00	2	\$ 18,710.00
1	ADNIK POWER DRIVER'S SEAT BASE	\$ 1,185.00	2	\$ 2,370.00
1	THERMO – KING – SA-800 82,000 BTU	\$ 7,470.00	2	\$ 14,940.00
	<u>EACH VEHICLE WILL HAVE THE FOLLOWING NON-STANDARD OPTIONS INSTALLED:</u>			
1	INSTALL CUSTOMER SUPPLIED FAREBOX	\$ 250.00	2	\$ 500.00
1	2-WAY RADIO SUPPLIED AND INSTALL BY CONTRACTOR	\$ 2,500.00	2	\$ 5,000.00
1	FULL BODY PAINT – GREY	\$ 7,600.00	2	\$ 15,200.00
1	BUS WRAP	\$ 5,000.00	2	\$ 5,000.00
1	GMV/CAD AND VOICE ANNUNCIATION	\$ 25,200.00	2	\$ 50,400.00
1	CABLING	\$ 1,500.00	2	\$ 1,500.00

QTY		UNIT	COST	VEHICLE QTY	TOTAL
(Continued)					
<u>SUMMARY</u>					
1	BASE UNIT AS SPECIFIED		\$103,175.00	2	\$206,350.00
1	STANDARD OPTIONS		\$ 37,435.00	2	\$ 74,870.00
1	NON-STANDARD OPTIONS		\$ 42,450.00	2	\$ 84,900.00
	TOTAL		\$183,060.00	2	\$366,120.00
	Estimated 6% PPI Increase Effective 9/2023		\$ 10,983.60	2	\$ 21,967.20
	SUBTOTAL		\$194,043.60	2	\$388,087.20
	Doc Preparation Fee		\$ 85.00	2	\$ 170.00
	ADA PORTION - NON-TAXABLE		\$ 23,500.00	2	\$ 47,000.00
	TAXABLE AMOUNT (SUBTOTAL LESS NON-TAXABLE)		\$170,543.60	2	\$341,087.20
	SALES TAX - NAPA - 7.75%		\$ 15,038.38	2	\$ 30,076.76
	CALACT MBTA FEE OF 1.5% OF SUBTOTAL		\$ 2,910.65	2	\$ 5,821.30
	 GRAND TOTAL		 \$212,077.63	2	 \$424,155.26

CONTINUED ON PAGE 4 OF 16

CLASS B REAR LIFT FORD CHASSIS GAS OR CNG 12+2 W.C.



DEALER APPROVAL

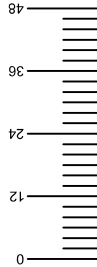
☐ APPROVED

CUSTOMER SIGNATURE

NOTE: SHOWN WITH MID HI FREEDMAN SEATS
ALLSTAR E-450 14,500 GVWR
THIS FLOOR PLAN IS FOR ILLUSTRATION PURPOSES ONLY.
A WEIGHT ANALYSIS HAS NOT YET BEEN PERFORMED.
FINAL APPROVAL WITH A WEIGHT ANALYSIS IS REQUIRED UPON RECEIPT OF A
COMPLETED ORDER WITH ALL OPTIONS SHOWN.
OPTIONAL EQUIPMENT MAY BE SHOWN.
THE SALES ORDER PLACED DICTATES ACTUAL OPTION CONTENT.
STORAGE POUCH.

THIS DRAWING AND THE INFORMATION THEREON ARE THE EXCLUSIVE PROPERTY OF STARCRAFT BUS, A DIVISION OF FOREST RIVER. IT SHALL NOT BE COPIED OR DUPLICATED IN ANY MANNER, NOR SHALL IT BE SUBMITTED TO OUTSIDE PARTIES FOR EXAMINATION WITHOUT OUR WRITTEN CONSENT. IT IS LOANED FOR USE WITH REFERENCE TO WORK UNDER CONTRACT WITH, OR PROPOSALS SUBMITTED TO STARCRAFT BUS, A DIVISION OF FOREST RIVER.

SCALE
IN INCHES



TOLERANCE UNLESS OTHERWISE SPECIFIED	
WOOD	± 1/8"
OTHER	± 1/16"
	± 1°

DATE: 12/15/20	TITLE: 12/2 WC 158" WB 163 BDY
NAME: MK	22' ALLSTAR

STARCRRAFT BUS
a division of Forest River, Inc.

DWG. No. 12 2 WC 158 163-73 USA QRT 360 CALACT

WEIGHT ANALYSIS

101600B	MORRYDE ROMEO REAR BUMPER
---------	---------------------------

Maximum Capacity	4800
Rear Curbside	

Combined Rear	8368.61	Maximum Capacity
	9600	

Maximum Capacity 4800
Rear Roadside

12/15/2020 12 2 WC158163-73USA QRT360 CALACT 50GGECNG

Front Curbside	Rear Curbside	Combined	Maximum Capacity
1846.61	4772.20	8995.19	5000
2037.82	4223.00		9600
Front Roadside	Rear Roadside		Maximum Capacity
2500	4800		

Solid tube steel roof bows are designed on 32" spacing to create a quiet and safe ride.

New front and rear cap designs give recessed LED clearance light protection and better fit with the cab.

Available with a true raised floor rather than a raised body; providing a flat floor with no wheel wells to interrupt floor space, without increasing overall vehicle height.

Suspension upgrades available from MORryde & LiquidSpring

At Eldorado, we constantly improve our product and reserve the right to change specifications without notice. Some features shown are non-standard upgrades.

2012, comes with several new and one-piece snap-lock rub rail look while maintaining the all st. Light, quiet, and strong, the steel case body constructed

SPECIFICATIONS

MODEL	200	220	240	250	270
Maximum Passenger Capacity	19	21	25	25	29

POPULAR FLOOR PLANS



1. AMENDMENTS

Any changes in the activities to be performed under this Agreement shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the NVTa Executive Director or a designated representative and CONTRACTOR. No claim for additional compensation or extension of time shall be recognized unless contained in a duly executed amendment.

2. TERMINATION

Contractor's failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to, war, strikes, fires, floods, acts of God, governmental restrictions, power failures, or damage or destruction of any network facilities or servers, shall not be deemed a breach of this Agreement, and may be cause for termination of the Agreement. (49 USC 5323 Sec 11)

3. RETENTION OF RECORDS

Contractor agrees to keep, in accordance with generally accepted accounting principles, all records pertaining to the project for audit purposes for a minimum of three (3) years following final payment to Contractor or four (4) years following the fiscal year of the last expenditure under this Agreement, whichever is longer, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until NVTa, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. (49 USC 5323)

4. AUDITS

Contractor agrees to grant NVTa or any agency that provides NVTa with funds for the Project, including but not limited to, the U.S. Department of Transportation, FTA, the Comptroller General of the United States, the State, and their authorized representatives access to Contractor's books and records for the purpose of verifying that funds are properly accounted for and proceeds are expended in accordance with the terms of the Agreement. All documents shall be available for inspection during normal business hours at any time while the Project is underway, and for the retention period specified herein. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (49 USC 5323 (g))

Contractor further agrees to include in all its third-party contracts hereunder a provision to the effect that the contractor agrees that NVTa, the U.S. Department of Transportation, FTA, the Comptroller General of the United States, the State, or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, during normal business hours, for the term specified above. The term "contract" as used in this clause excludes agreements not exceeding \$25,000.

5. LICENSE TO WORK PRODUCTS (reserved)

6. EQUAL EMPLOYMENT OPPORTUNITY/ CIVIL RIGHTS

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132; and 49

U.S.C. § 5332 for federally funded projects, Contractor agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability, or sex, discriminate or permit discrimination against any employee or applicant for employment.

Further Contractor agrees to follow regulations as set forth under 41 CFR Part 60-1.4 (b) that

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in

Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

7. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Napa Valley Transportation Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offers, including those who qualify as a DBE. A DBE project goal of 0 percent has been established for this project. NVTA has an overall established DBE goal of 2.6 percent. The bidder/offers shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offers will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offers's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

The contractor, subrecipient, 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 CFR Part 26 in the award and administration of 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 the recipient deems appropriate.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contract receives from NVTA. The prime contractor agrees further to return retainage payments to each subcontractor within thirty days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the NVTA. This clause applies to both DBE and non-DBE subcontracts.

Failure to comply with the terms of this provision may result in any or all of the following actions including but not limited to:

1. A finding of material breach of contract

2. Suspension of payment of invoices

3. Bringing to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties result) provided in 26.109.

The obligation of the bidder/offers is to make good faith efforts. The bidder/offers can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26. Forms 1 and 2 should be provided as part of the solicitation documents.

8. VETERANS PREFERENCE

As required under 49 U.S.C. § 5325(k) Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection 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.

9. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

In the event that this project is funded by FTA in whole or in part, all contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NVTA requests which would cause NVTA to be in violation of the FTA terms and conditions.

10. AMERICANS WITH DISABILITIES ACT REQUIREMENTS
Contractor will comply with 49 CFR Parts 27, 37, and 38, implementing and Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, 29 USC 794, as amended.

11. ENERGY CONSERVATION PLAN

Contractor shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6321) and Federal requirements under 49 CFR 662 Subpart C.

12. DEBARMENT

Contractor certifies that neither it nor any of its participants, principals, or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department. Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by NVTA. If it is later determined that the bidder or proposer

knowingly rendered an erroneous certification, in addition to remedies available to NVTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

13. CLEAN AIR AND WATER POLLUTION ACTS

Contractor agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). The Contractor agrees to report each violation to NVTA and understands and agrees that NVTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

14. LOBBYING

Contractor agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 U.S.C. § 1352 and 49 CFR Part 20. In addition, in the event the Agreement exceeds \$100,000, Contractor agrees to comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 and shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each proposal or offer exceeding \$100,000).

15. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify NVTA and the officers, agents, employees and volunteers of NVTA from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, from claims that to the extent they arise out of, pertain to, or relate to the negligent acts or omissions of Contractor or its officers, agents, employees, volunteers, contractors and subcontractors in rendering professional services under this Agreement which constitute negligence, recklessness, or willful misconduct, excluding, however, such liability, claims, losses, damages or expenses arising from the negligence or willful acts of NVTA or its officers, agents, employees or volunteers or any third parties. Notwithstanding the foregoing, the parties agree that Contractor's obligation to defend the NVTA is solely limited to reimbursing NVTA for its reasonable costs for defending a claim including reasonable attorney's fee, incurred by NVTA which are

ultimately determined to be due to Contractor's negligence, recklessness or willful misconduct. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement.

16. COMPLIANCE WITH LAWS

Contractor shall comply with any and all laws, statutes, ordinances, rules, regulations, and requirements of the federal, state or local government, and any agency thereof, including, but not limited to NVTA, the U.S. DOT and FTA, which relate to or in any manner affect the performance of this Agreement. Those law, statutes, ordinances, rules, regulations, and procedural requirements that are imposed on NVTA as a Recipient of federal or state funds are hereby in turn imposed on Contractor (including, but not limited to, 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"), and are herein incorporated by this reference and made a part hereof.

17. BUY AMERICA REGULATIONS

Contractor agrees to comply with 49 U.S.C. 5323(j) and 49CFR Part 661 which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. An Offeror must submit to the FTA recipient the appropriate Buy America certification with all proposals on FTA-funded contracts, except those subject to a general waiver. The Buy America Certification may be found on file in the offices of NVTA. Proposals or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

18. COMPLIANCE WITH FTA REGULATIONS

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NVTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

19. DAVIS-BACON ACT

(a) Minimum wages

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are

deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-Day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit

which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1)(iv) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(b) Withholding

The NVTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to

pay laborers and mechanics, including apprentices, Trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the NVTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(c) Payrolls and basic records

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or Trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and Trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the NVTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government printing office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part

3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices and Trainees

(i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractors or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the

U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of Trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every Trainee must be paid at not less than the rate specified in the approved program for the Trainee level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the Trainee program. If the Trainee program does not mention fringe benefits, Trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a Trainee rate who is not registered and participating in a Training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any Trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a Training program, the contractor will no longer be permitted to utilize Trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, Trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(e) Compliance with Copeland Act requirements: The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(f) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(g) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(h) Compliance with Davis-Bacon and Related Act requirements: All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(i) Disputes concerning labor standards: Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(j) Certification of eligibility:

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(a) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages : In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(c) Withholding for unpaid wages and liquidated damages : The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(d) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the

subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section. (40 USC 3701-3708)

21. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(a) Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to NVTA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(b) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

22. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACT

(a) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under

the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate. (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject

23. CARGO PREFERENCE-U.S.FLAG

(a) Agreement Clauses. "Use of United States-flag vessels:

(1) Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(2) Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside

the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a)(1) of this section shall be furnished to the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading).

(b) Contractor and Subcontractor Clauses. "Use of United States-flag vessels: The contractor agrees-

(1) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

(2) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading).

(3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

24. SAFE OPERATION OF MOTOR VEHICLES

Contractor agrees to comply with the Seat Belt Use and Distracted Driving clauses under 23 U.S.C Section 402 as outlined in Executive Orders No. 13043 and 13513.

25. BUS TESTING

Each third party contract to acquire a new bus model or a bus with significant alterations to an existing model must include provisions to assure compliance with applicable requirements of 49 U.S.C. Section 5318, as amended by MAP-21, and FTA regulations, "Bus Testing," 49 CFR Part 665.

26. PREAWARD REVIEW AND POST DELIVERY REVIEW

Each third party contract to acquire rolling stock must include provisions for compliance with applicable requirements of 49 U.S.C. Section 5323(m) and those provisions of FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663, that do not conflict with 49 U.S.C. Section 5323(m).

27. SEISMIC SAFETY

The Contractor agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 et seq., in accordance with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, and comply with implementing U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117).

28. FEDERAL CHANGES

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NVTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to comply shall constitute a material breach of this contract in compliance with 49 CFR Part 18.

29. BONDING REQUIREMENTS

For those construction or facility improvement contracts or

subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts. Bid Bond Requirements (Construction)

a) Bid Security: A Bid Bond must be issued by a fully qualified surety company acceptable to NVTA and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

b) Rights Reserved: In submitting this Bid, it is understood and agreed by bidder that the right is reserved by NVTA to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of NVTA. It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of NVTA, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of NVTA's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor. It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by NVTA as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense NVTA for the damages occasioned by default, then the undersigned bidder agrees to indemnify NVTA and pay over to NVTA the difference between the bid security and NVTA's total damages, so as to make NVTA whole. The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction) - The Contractor shall be required to obtain performance and payment bonds as follows:

a) Performance bonds

i) The penal amount of performance bonds shall be 100 percent of the original contract price, unless NVTA determines that a lesser amount would be adequate for the protection of NVTA.

ii) NVTA may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. NVTA may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

b) Payment bonds

i) The penal amount of the payment bonds shall equal:

(1) Fifty percent of the contract price if the contract price is not more than \$1 million; or

(2) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(3) Two and one half million if the contract price is more than \$5 million

ii) If the original contract price is \$5 million or less, NVTA may require additional protection as required by subparagraph 1 if the contract price is increased.

Advance Payment Bonding Requirements - The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. NVTA shall determine the amount of the advance

payment bond necessary to protect NVTA.

Patent Infringement Bonding Requirements (Patent Indemnity) - The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. NVTA shall determine the amount of the patent indemnity to protect NVTA.

Warranty of the Work and Maintenance Bonds

a) The Contractor warrants to NVTA, the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by NVTA, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the NVTA, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

b) The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship. General Conditions a minimum period of one (1) year after Final Payment by NVTA and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to NVTA. As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to NVTA written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

30. RECYCLED PRODUCTS PREFERENCE

To the extent applicable, the Contractor agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

31. PRIVACY ACT

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

32. BREACHES AND DISPUTE RESOLUTION

In compliance with 49 CFR Part 18/FTA Circular 4220.1F: *Disputes* - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NVTA. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the NVTA. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the NVTA shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by NVTA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts

he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the NVTA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the NVTA is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the NVTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

33. ADA ACCESS REQUIREMENTS

Contractor must comply with the requirements that are applicable to

A. Title I of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. Section 12101 et seq.;

B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794;

C. Section 16 of the Federal Transit Act, as amended, 49 U.S.C. Section 5301 (d);

D. U.S. DOT regulations, "Transportation for Individuals with Disabilities," 49 C.F.R. Parts 27, 37 and 38 and 36 C.F.R. Part 1192;

E. U.S. Architectural and Transportation Barriers Compliance Board, "ADA Accessibility Guidelines for Buildings and Facilities," (ADAAG);

F. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

G. U.S. DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

H. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

I. U.S. Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630.

J. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F.



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Federal and State Legislative Update

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board receive the Federal Legislative and State Legislative update prepared by Platinum Advisors.

EXECUTIVE SUMMARY

The attached memo from Platinum Advisors summarizes recent federal and state legislative activities respectively. The bill matrix includes bills of interest to NVTA.

FISCAL IMPACT

None



September 27, 2023
NVTA Board Item 10.5

Continued From: New
Action Requested: INFORMATION

NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Kate Miller, Executive Director
(707) 259-8634 / Email: kmiller@nvta.ca.gov
SUBJECT: Federal and State Legislative Update

RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board receive the Federal Legislative update (Attachment 1) and the State Legislative update (Attachment 2) and State Matrix (Attachment 3) prepared by Platinum Advisors.

BACKGROUND

Federal Update

The House and Senate leaders are in negotiation on a short-term spending measure to prevent a government shutdown with funding of the federal government set to expire on October 1st. Opposition from the conservative House Freedom Caucus (HFC) is likely to undermine any agreement reached by legislative leadership. HFC members are seeking increased funding for border enforcement and Justice Department cuts.

Pending legislation of key interest to NVTA includes:

S. 63 (Manchin – D - WV) that would allow the use of federal funding for BYD vehicles - a Chinese-owned corporation domiciled in California.

S. 352 (Kelly, Mark – D – AZ – would require the Department of Transportation Secretary to do a study on highway formula fund distribution.

H.R. 1500 (T&I Committee) – would develop a program to allow third party entities to use anonymized cell phone data and other data sources used for planning decisions.

State Update

The legislature adjourned on September 14th acting on some 900 bills, including several budget clean-up bills. The Governor has until October 14th to act on bills passed by the legislature.

ACA 1 (Aguiar-Curry-D) - on a Senate vote of 29 Yes votes and 10 No votes clears the way for ACA 1 to be placed on the November 2024 ballot. ACA 1 will reduce the voter threshold to 55% on transportation related local measures. ACA-1 does not reduce the voter threshold for transit operations.

Brown Act bills that continue to move through the process and are set to be sent to the Governor for consideration.

- AB 557 (Hart) passed both the Assembly and Senate and has been sent to the Governor. This bill would extend indefinitely the existing authorization for local legislative bodies with a majority vote to hold remote meetings if a proclaimed state of emergency exists.
- SB 537 (Becker) as of this writing, the bill is pending on the Assembly Floor. SB 537 allows multi-jurisdictional, cross-county local agencies with appointed members to use teleconferencing without posting agendas at each teleconference location, identifying each teleconference location in the notice and agenda, making each teleconference location accessible to the public, and requiring at least a quorum of the eligible legislative body to participate from within the local agency's jurisdiction if the legislative body complies with specified conditions.

Senator Mike McGuire, whose district runs from Marin County along the cost to the Oregon border, will succeed Senator Toni Atkins as President pro Tempore of the Senate.

ATTACHMENTS

- (1) August 30, 2023 Federal Update (Platinum Advisors)
- (2) September 1, 2023 State Update (Platinum Advisors)
- (3) September 1, 2023 State Matrix (Platinum Advisors)

PLATINUM | ADVISORS

ATTACHMENT 1
NVTA Board Item 10.5
September 27, 2023

TO: Kate Miller, Executive Director
Napa Valley Transportation Authority (NVTA)

FROM: Jessica Aune, Platinum Advisors

DATE: Wednesday, August 30, 2023

RE: August Monthly Report

State of Play and Congressional Update

In the weeks leading up to Congress' return to Capitol Hill from their August recess, both Senate Majority Leader Chuck Schumer (D-NY) and Speaker of the House Kevin McCarthy (R-CA) have expressed the need for a short-term spending measure to prevent a government shutdown. With funding for the federal government set to expire on October 1st, lawmakers will only have 12 days to complete negotiations on 12 separate spending bills unless both parties agree to a 'continuing resolution' to fund the government through the fall. However, voiced opposition to such an agreement by the conservative House Freedom Caucus (HFC) could undermine any deal reached between leadership.

Members of the HFC have requested increased funding levels for border enforcement and cuts to the Department of Justice in exchange for their support. However, Speaker McCarthy may also turn to House Democrats for the necessary 218 votes to pass a continuing resolution and avert a shutdown. Such a bipartisan move threatens Speaker McCarthy's leadership position as HFC members have previously threatened to call for a 'motion to vacate' over the bipartisan debt limit agreement.

Pending Legislation of Interest

[H.R.125](#) — To prohibit the imposition of mask mandates on public transportation.

Sponsor: Biggs, Andy [Rep.-R-AZ-5]

Introduced: 1/9/2023

[H.R.327](#) — To reduce the tax credit for new qualified plug-in electric drive motor vehicles by State subsidies for these vehicles.

Sponsor: Estes, Ron [Rep.-R-KS-4]

Introduced: 1/12/2023

[H.R.490](#) — **To establish the Federal Infrastructure Bank to facilitate investment in, and the long-term financing of, economically viable U.S. infrastructure projects that provide a public benefit.**

Sponsor: Webster, Daniel [Rep.-R-FL-11]

Introduced: 1/24/2023

[S.63](#) — **A bill to adjust the effective date for application of certain amendments made with respect to the credit for new clean vehicles.**

Sponsor: Manchin, Joe, III [Sen.-D-WV]

Introduced: 1/25/2023

[H.R.495](#) — **To amend the National Environmental Policy Act of 1969 to authorize assignment to States of Federal agency environmental review responsibilities.**

Sponsor: Calvert, Ken [Rep.-R-CA-41]

Introduced: 1/25/2023

[H.R.852](#) — **To direct the Attorney General to establish a grant program for civilian traffic violation enforcement.**

Sponsor: Rep. Torres, Ritchie [D-NY-15]

Introduced: 2/06/2023

[H.R.873](#) — **To authorize the Administrator of the Environmental Protection Agency to award grants and contracts for projects that use emerging technologies to address threats to water quality, and for other purposes.**

Sponsor: Rep. Donalds, Byron [R-FL-19]

Introduced: 2/08/2023

[S.352](#) — **Highway Formula Modernization Act of 2023**

Sponsor: Kelly, Mark [Sen.-D-AZ]

Introduced: 2/09/2023

[H.R. 1500](#) – **To establish a program to use anonymized data from third party entities to inform infrastructure planning decisions and improve transportation management capabilities.**

Introduced: 3/09/2023

Status: Advanced from T&I committee

[H.R.1665](#) — **To direct the Secretary of Transportation to establish a program to provide grants to local governments to install publicly accessible safety charging stations for electric bicycles and scooters, and for other purposes.**

Sponsor: Velazquez, Nydia M. [Rep.-D-NY-7]

Introduced: 03/17/2023

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[S.876](#) — **A bill to establish a 90-day limit to file a petition for judicial review of a permit, license, or approval for a highway or public transportation project, and for other purposes.**

Sponsor: Cruz, Ted [Sen.-R-TX]

Introduced: 03/21/2023

[H.R.1668](#) — **To amend Title 23, United States Code, with respect to the highway safety improvement program, and for other purposes.**

Sponsor: Blumenauer, Earl [Rep.-D-OR-3]

Introduced: 03/21/2023

[H.R.2664](#) — **Transportation Innovation Coordination Act**

Sponsor: DelBene, Suzan K. [Rep.-D-WA-1]

Introduced: 04/18/2023

[H.R.3082](#) - **MOBILE Act**

Sponsor: Cohen, Steve [D-TN-9]

Introduced: 05/05/2023

[S.1535](#) — **A bill to require the Administrator of the Federal Aviation Administration to promulgate regulations to allow the transport of firefighters on board a covered aircraft operated on a mission to suppress a wildfire, and for other purposes.**

Sponsor: Kelly, Mark [Sen.-D-AZ]

Introduced: 05/10/2023

[H.R.3411](#) - **To increase access to higher education by providing public transit grants.**

Sponsor: Fitzpatrick, Brian K. [R-PA-1]

Introduced: 05/17/2023

[H.R.3468](#) — **To direct the Secretary of Energy to establish a grant program to facilitate electric vehicle sharing services operated at public housing projects, and for other purposes.**

Sponsor: Barragan, Nanette Diaz [D-CA-44]

Introduced: 05/18/2023

[H.R.3785](#) — **To amend title 23, United States Code, to require that public employees perform construction inspection work for federally funded highway projects, and for other purposes.**

Sponsor: Rep. Garamendi, John [D-CA-8]

Introduced: 06/01/2023

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[H.R.3845](#) — **To amend title 23, United States Code, to increase accessible transportation for individuals with disabilities.**

Sponsor: Titus, Dina [Rep.-D-NV-1]

Introduced: 06/06/2023

[H.R.3896](#) — **To establish an airport infrastructure resilience pilot program.**

Sponsor: Cohen, Steve [Rep.-D-TN-9]

Introduced: 06/07/2023

[S.1929](#) — **A bill to direct the Administrator of the Federal Aviation Administration to provide progress reports on the development and implementation of the national transition plan related to a fluorine-free firefighting foam, and for other purposes.**

Sponsor: Peters, Gary C. [Sen.-D-MI]

Introduced: 06/12/2023

[S.1946](#) — **A bill to amend title 49, United States Code, to allow the owner or operator of a small hub airport that is reclassified as a medium hub airport to elect to be treated as a small hub airport, and for other purposes.**

Sponsor: Sen. Blackburn, Marsha [R-TN]

Introduced: 06/13/2023

[S.2075](#) — **A bill to amend the Infrastructure Investment and Jobs Act to modify the Safe Streets and Roads for All program.**

Sponsor: Fetterman, John [Sen.-D-PA]

Introduced: 06/21/2023

[S.Res.274](#) — **A resolution expressing the sense of the Senate to reduce traffic fatalities to zero by 2050.**

Sponsor: Blumenthal, Richard [Sen.-D-CT]

Introduced: 06/22/2023

[H.R.4598](#) — **To provide for disadvantaged business enterprise supportive services programs at modal administrations of the Department of Transportation, and for other purposes.**

Sponsor: Aguilar, Pete [Rep.-D-CA-33]

Introduced: 07/13/2023

[H.R.4621](#) — **To improve the environmental review process for highway projects through the use of interactive, digital, cloud-based platforms, and for other purposes.**

Sponsor: Johnson, Dusty [R-SD-At Large]

Introduced: 07/13/2023

[H.R.4636](#) — **To direct the Secretary of Transportation to establish a Wireless Electric Vehicle Charging Grant Program, and for other purposes.**

Sponsor: Stevens, Haley M. [Rep.-D-MI-11]

Introduced: 07/14/2023

[H.R.4728](#) — **To amend title 49, United States Code, to provide for free public transportation for individuals who are recently released from incarceration.**

Sponsor: Cleaver, Emanuel [Rep.-D-MO-5]

Introduced: 07/20/2023

[S.2480](#) — **CHARGE Act of 2023**

Sponsor: Markey, Edward J. [Sen.-D-MA]

Introduced 07/25/2023

[H.R.4908](#) — **Expedited Federal Permitting for California Act**

Sponsor: Garamendi, John [Rep.-D-CA-8]

Introduced: 07/26/2023

[H.R.4982](#) — **Tolling Transparency Act of 2023**

Sponsor: Chavez-DeRemer, Lori [Rep.-R-OR-5]

Introduced: 07/27/2023

[H.R.5154](#) — **CHARGE Act of 2023**

Sponsor: Ocasio-Cortez, Alexandria [Rep.-D-NY-14]

Introduced: 08/04/2023

Executive Branch

Department of Transportation (DOT)

The DOT [announced](#) the availability of approximately \$13.4 million in competitive grant funds through the Federal Transit Administration's Pilot Program for Transit-Oriented Development Planning. The funding will support comprehensive or site-specific planning and investment efforts near transit hubs to promote sustainable, livable, and equitable communities. The DOT will give special consideration to applications that improve air quality, advance environmental justice, support unhoused populations, and promote housing affordability.

The DOT [issued](#) a Notice of Funding Opportunity for its Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program. As part of the Biden administration's Investing in America agenda, the SMART Grants Program will fund up to \$500 million in grants over five years to conduct demonstration projects focused on advanced smart community technologies and systems that improve transportation efficiency and safety (i.e. coordinated automation, smart grid, traffic signals, connected vehicles, systems integration).

The DOT [announced](#) the appointment of 24 members to the Advisory Committee on Transportation Equity, which includes experts in community engagement, transportation planning, design, research, policy, advocacy, and diversity, equity, inclusion, and accessibility. The main objectives of the Committee are to provide advice and recommendations to inform the DOT about efforts to strengthen and develop partnerships with underserved communities and provide a forum for coordination on equity concerns raised in local and regional transportation decisions. The group will hold its first meeting in the fall.

The DOT's Office of Inspector General [announced](#) a self-initiated audit to assess the Federal Highway Administration's (FHWA) processes and procedures for ensuring that recipients of funding for surface transportation projects made available through the Bipartisan Infrastructure Law are compliant with federal Buy America requirements.

Joint Office of Transportation and Energy (Joint Office)

The Joint Office [announced](#) the members of the Electric Vehicle Working Group (EVWG), a collection of electric vehicle industry experts and leaders who will help guide the widespread adoption of EVs across the country and solidify America's position as a global leader of clean energy jobs and manufacturing. Areas of focus for the group will include facilitating the adoption of electric vehicles among low- and moderate-income individuals and underserved communities; assessing the costs of vehicle and EV battery manufacturing and shortages of raw materials for batteries; identifying charging infrastructure, grid capacity, and EV cybersecurity needs; addressing grid capacity and integration; and identifying charging infrastructure regulatory issues.

The Joint Office [released](#) sample cybersecurity procurement language clauses that can be modified for use in requests for proposals and electric vehicle service provider (EVSP) contracts. To qualify for National Electric Vehicle Infrastructure (NEVI) Formula Program funding made available in the Bipartisan Infrastructure Law, sites must meet a set of minimum cybersecurity regulations.

Federal Transit Administration (FTA)

Amidst increasing incidents of violence towards transit workers, the FTA [announced](#) a \$500,000 research grant award to the University of South Florida to identify safety risks for transit workers and riders and determine the most effective strategies to minimize them. The grant is the first phase of FTA's Transit Worker and Rider Safety Best Practices initiative. After identifying best practices, a second phase of research will provide technical and financial support to the transit industry and supportive organizations to pursue innovative approaches to reduce safety hazards.

Federal Aviation Administration (FAA)

The FAA [announced](#) a new round of funding for projects at airports across the country aimed to reduce the risk of runway incursions by reconfiguring taxiways, installing new lighting systems, and providing more flexibility on airfields.

Environmental Protection Agency (EPA)

The EPA [announced](#) its National Enforcement and Compliance Initiatives for 2024-2027, including initiatives to mitigate climate change, address exposure to PFAS (perfluoroalkyl and polyfluoroalkyl substances, formerly known as PFCs) contamination, protect communities from cancer-causing coal ash, reduce air pollution in overburdened communities, and improve drinking water quality. To advance the Biden-administration's commitment to protect disadvantaged communities, the EPA will integrate environmental justice considerations into each of its initiatives.

The EPA [announced](#) the availability of \$115 million in grant funding for projects that cut harmful pollution from the nation's existing fleet of older diesel engines, particularly those operating at goods movements facilities in communities overburdened by air pollution. Under the Diesel Emissions Reduction Act grant funding competition, EPA anticipates making 4-10 awards in each of EPA's ten regions to eligible applicants.

The EPA and the Army Corps of Engineers jointly [announced](#) a final rule amending the January 2023 definition of "waters of the United States" to conform with the Supreme Court decision in *Sackett v. EPA*. The rule removes the significant nexus test from consideration when identifying tributaries and other waters as federally protected. It also clarifies that interstate wetlands do not fall within the interstate waters category and clarifies the types of features that can be considered under the "additional waters" category.

National Highway Traffic Safety Administration (NHTSA)

The NHTSA [issued](#) a proposed rule which would require automobile manufacturers to equip vehicles with seat belt use warning systems for the right front passenger and rear seats to increase seat belt use. The new requirements would apply to passenger cars, trucks, most buses, and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less.

Made in America Office

The Office of Management and Budget (OMB) [finalized](#) the Biden administration's "Buy America" guidance directed by Congress under the 2021 Bipartisan Infrastructure Law's statutory requirements that manufactured products, construction materials, and iron and steel used in federally funded infrastructure projects are produced domestically.

PLATINUM | ADVISORS

September 1, 2023

TO: Kate Miller, Executive Director
Napa Valley Transportation Authority

FR: Steve Wallauch
Platinum Advisors

RE: Legislative Update

End of Session: The legislature returned from Summer Recess on August 14th, for the final month of the 2023 session. With the policy committee deadline having passed, the work during the final month focuses on hundreds of bills pending in fiscal committees and bills on the floor.

The Senate and Assembly Appropriations Committees have until September 1st to act on the bills in their possession, which included over 900 bills on their respective Suspense Files. Following the Suspense File hearings in both houses, the final two weeks of session will consist of a marathon floor session until they adjourn on September 14th.

Another key activity during the final weeks of session included hearings on several budget clean-up bills, and the passage of the behavior health housing bond that will be placed on the March primary ballot. Negotiations on the other bond proposals, including the "resources/climate" bond will be paused until next session.

New Senate Leader: While Senate Pro Tem, Toni Atkins is termed out in 2024, the expectation was a new Senate leader would not be selected until sometime next session. However, Senator Atkins announced yesterday that Senator Mike McGuire will succeed her as the next President Pro Tempore of the Senate. Senator McGuire's district runs from Marin County along the coast to the Oregon border. Prior to being elected to the Senate, Senator McGuire served as a Sonoma County Supervisor. Senator McGuire announced yesterday that he has secured the votes to become Pro Tempore. Following yesterday's caucus meeting, the formal announcement was made. The date for the transition has not been specified and is currently being negotiated between Senator Atkins and Senator McGuire, but it will likely not occur until sometime next year.

Budget Actions:

- Both the Senate and Assembly Budget Committees have scheduled hearings for August 30th to hear and act on various clean up measures to the budget and the numerous trailer bills approved in June. After reviewing SB 125, the transit funding trailer bill, several items were identified by California Transit Association

(CTA) members that needed greater clarity. While a clean-up bill to SB 125 remains possible, there has been little support expressed by the legislature and the Administration for making any changes. The Senate and Assembly Budget Committees agendas for Wednesday do not list a transportation clean-up bill.

The Budget Committees will review a “budget bill junior” that makes technical and clarifying changes to the 2022 and 2023 budget act primarily related to district projects. In addition, they will hear measures to enact state employee MOUs, as well as measures related to education, health, and human services.

- While June revenue numbers were higher than expected, which was mainly due to higher-than-expected Pass Through Entity (PTE) elective tax payments. PTE are payments made by an entity taxed as a partnership or S Corporation on behalf of its partners. The partners receive a credit for state income taxes, and the entity then gets to deduct that payment from its federal tax liability.

The July revenues were back to the grim reality of lower than expected. Based on the forecast made the prior month, July revenues were \$1.3 billion below projections. Revenues were down across the board with income tax, sales tax, and corporation tax revenue failing to meet projections.

SB 125 Implementation: SB 125 was the budget trailer bill that enacted the statutory provisions on how the general fund portion of the Transit & Intercity Rail Capital Funds (TIRCP) and the funds for the new Zero Emission Transit Capital Program (ZETCP) would be allocated. SB 125 directed CalSTA to develop guidelines providing greater detail for the allocation of these funds.

CalSTA released “[draft guidelines](#)” outlining how regional transportation agencies can request the TIRCP and ZETCP revenue. Based on the conditions enacted in SB 125 the application process to draw down funds will be complicated and will require the regions to work closely with transit operators.

The SB 125 guidelines will establish the process for how \$3.995 billion in TIRCP funds will be allocated over the next two fiscal years, and how \$1.1 billion in ZETCP funds over the next four fiscal years will flow. The Metropolitan Transportation Commission is expected to receive \$1.17 billion from these funding streams that will then be reallocated to public transit operators. These funds can be used for either transit capital or operations.

CalSTA held a workshop to discuss the informal guidelines on August 25th, and release the formal draft guidelines on September 1st. Another workshop to discuss the guidelines is set for September 7th. The deadline to submit comments is September 14th. The final guidelines will be posted by September 30th. Regions will then have until December 31st to submit an application to draw down its share of funds.

Legislation:

While several Brown Act bills either failed or were held in committee, there are three measures that continue to move through the process and are set to be sent to the Governor for consideration.

- AB 557 (Hart) is currently pending on the Senate Floor. This bill would extend indefinitely the existing authorization for local legislative bodies with a majority vote to hold remote meetings if a proclaimed state of emergency exists.
- SB 411 (Portantino) is pending on the Assembly Floor. This bill allows a neighborhood council in the City of Los Angeles (LA) to teleconference without meeting all of the teleconferencing requirements of the Ralph M. Brown Act (Brown Act). This authority would sunset on January 1, 2026.
- SB 537 (Becker) is also pending on the Assembly Floor. SB 537 allows multi-jurisdictional, cross-county local agencies with appointed members to use teleconferencing without posting agendas at each teleconference location, identifying each teleconference location in the notice and agenda, making each teleconference location accessible to the public, and requiring at least a quorum of the eligible legislative body to participate from within the local agency's jurisdiction if the legislative body complies with specified conditions.

PLATINUM | ADVISORS

September 1, 2023

ATTACHMENT 3
NVTB Board Item 10.5
September 27, 2023

TABLE 1: BOARD ADOPTED POSITIONS

	Subject	Status	Board Position
<u>AB 16</u> <u>(Dixon R)</u> Motor Vehicle Fuel Tax Law: adjustment suspension	<p>Existing law requires the state to annually adjust the tax rate on fuel based on the Consumer Price Index. This adjustment is determined in January, and the adjustment takes effect on July 1st of each year. This annual adjustment was a key change made by SB 1.</p> <p>AB 16 would, starting on July 1, 2024, authorize the Governor to suspend this adjustment based on a determination that the adjustment would impose an undue burden on low-income and middle-class families. AB 16 would impose the following requirements:</p> <p>AB 16 was not heard by the Assembly Transportation Committee before the April 27th deadline for policy committee to act on bills with a fiscal impact.</p>	Assembly Transportation Two-Year Bill	Watch
<u>AB 463</u> <u>(Hart D)</u> Electricity: prioritization of service: public transit vehicles	<p>The goal of AB 463 is to ensure utilities take into consideration the electricity needs to charge electric buses when planning for power shutoffs.</p> <p>This measure would require the California Public Utilities Commission (CPUC) to consider the economic, social equity, and mobility impacts of a temporary power discontinuance to customers that rely on electrical service to operate public transit vehicles. In addition, AB 463 would require electric utilities to include in their public safety power shutoff plans protocols related to mitigating those public safety impacts on public transit vehicle charging infrastructure.</p>	Assembly Appropriations Held on Suspense File Two Year Bill	Support

	Subject	Status	Board Position
<u>AB 463 (Cont.)</u>	Due to the costs this bill would impose on the CPUC, AB 463 was placed on the Suspense File. The CPUC estimated it would cost \$210,000 annually, and a one-time cost of \$500,000 to hire a consultant to determine how to rank public transit charging stations.		
<u>AB 540 (Wicks D)</u> Social Service Transportation Improvement Act: coordinated transportation services agencies	<p>Assemblywoman Wicks has decided to make AB 540 a two-year bill, meaning it will not move forward this year. The author's office will continue to work with interested parties in an effort to build consensus on addressing paratransit service needs.</p> <p>This bill would amend the Social Services Transportation Improvement Act and impose a \$10 vehicle registration fee.</p> <p>Specifically, the bill would require the <i>coordination</i>, rather than the <i>consolidation</i>, of social service transportation services under the act and would recharacterize consolidated transportation service agencies in the act as coordinated transportation service agencies. The \$10 vehicle fee proposed in the bill would be allocated to each county based on population.</p>	<p>Assembly Transportation</p> <p>Two-Year Bill</p>	Oppose Unless Amended
<u>AB 557 (Hart D)</u> Open meetings: local agencies: teleconferences	This bill would extend indefinitely the existing authorization for local legislative bodies with a majority vote to hold remote meetings if a proclaimed state of emergency exists. AB 557 would also change the requirement to reauthorize the use of remote meetings from every 30 days to every 45 days.	Senate Floor	SUPPORT
<u>AB 610 (Holden D)</u> Youth Transit Pass Pilot Program: free youth transit passes	<p>AB 610 would create a pilot program that would only take effect if funds are appropriated in the budget. No funding was appropriated in the 2023-24 budget for this program.</p> <p>AB 610 would create a Youth Transit Pass Pilot Program, administered by the Department of Transportation (Caltrans) and upon appropriation of funds, to provide grants to</p>	Senate Floor	Support If Amended

	Subject	Status	Board Position
AB 610 (Cont.)	transit agencies for specified costs, including to create, maintain, subsidize, or expand free youth transit pass programs for students attending college or K-12 schools. The bill would require Caltrans to submit a specified report to the Legislature on the outcomes of the program and the status of transit pass programs statewide by January 1, 2027.		
<u>AB 817</u> (<u>Pacheco D</u>) Open meetings: teleconferencing: subsidiary body	<p>The Assembly Local Government Committee hearing on AB 817 was postponed. The bill must be heard before the May 5th hearing deadline for policy committees to remain active.</p> <p>AB 817 would authorize a “subsidiary body” to remotely hold a public meeting if specified conditions are met.</p> <p>The bill defines a subsidiary body to include:</p> <ul style="list-style-type: none"> • certain types of commissions, committees, or other body as defined in paragraph (b) of Government Code Section 54952, • a body that serves exclusively as an advisory body, • a body that is not authorized to take final action on any contract, legislation, regulation, or permit. <p>AB 817 would also require the members of the body to participate through both audio and visual technology. The public must be able to participate in the body’s proceedings either by phone line or through an internet-based platform.</p>	Assembly Local Government 2-Year Bill	SUPPORT
<u>AB 1377</u> (<u>Friedman D</u>) Interagency Council on Homelessness	<p>Under the Homeless Housing, Assistance and Prevention Program, applicants for funds are required to provide data and other information on progress toward meeting the goals of the program.</p> <p>As amended, AB 1377 would add to these reporting requirements data and a narrative of specific and quantifiable steps that the applicant has taken to improve the delivery of</p>	Senate Floor	Support

	Subject	Status	Board Position
<u>AB 1377</u> (Cont.)	housing and services to people experiencing homelessness or at risk of homelessness, on transit properties that operate in their jurisdiction.		
<u>AB 1379</u> (Papan D) Open meetings: local agencies: teleconferences	<p>The Assembly Local Government Committee hearing on AB 1379 was cancelled. Since this bill is “keyed” fiscal it becomes a two-year bill and will not move until January 2024. The reason for this action was likely due to concerns expressed by the committee staff and chair.</p> <p>AB 1379 would amend the Brown Act to allow a legislative body to hold meetings in any combination of in person or remote participation.</p> <p>The bill specifies a quorum can be established by any of the following:</p> <ul style="list-style-type: none"> • Consisting of members participating remotely. • Consisting of members participating at a designated location. • Consisting of members participating remotely and at a designated location. <p>AB 1379 specifies that the “singular designated physical meeting location” must be open to the public and located within the legislative body’s jurisdiction.</p>	<p>Assembly Local Government</p> <p>2-Year Bill</p>	WATCH
<u>ACA 1</u> (Aguiar-Curry D) Local government financing: affordable housing and public infrastructure: voter approval	<p>ACA 1 is moving! This measure was approved by the Assembly Appropriations Committee and is now on the Assembly Floor. It is likely that ACA 1 will be sent to the Senate before the end of session.</p> <p>Identical to last session’s proposal, ACA 1 would lower the voter threshold for property tax increases, parcel taxes and sales taxes to 55% if the funds are used for affordable housing and infrastructure projects. Infrastructure project is defined to include capital improvements to transit and streets and highways.</p> <p>ACA 1 was amended to expand the definition of a special district to include a regional</p>	<p>Assembly Floor</p> <p>Amendments made by Assembly Appropriations Pending</p>	Support

	Subject	Status	Board Position
<u>ACA 1</u> (Cont.)	<p>transportation commission and an association of governments.</p> <p>ACA 1 does not allow for the 55% local measure to use the tax revenue for transit operations.</p>		
<u>SB 5</u> (Nguyen R) Motor Vehicle Fuel Tax Law: limitation on adjustment	<p>Existing law requires the state to annually adjust the tax rate on fuel based on the Consumer Price Index. This adjustment is determined in January, and the adjustment takes effect on July 1st of each year. This annual adjustment was a key change made by SB 1.</p> <p>Under SB 5 any adjustment shall not exceed 2 percent. Limiting the adjustment will impact the ability for transportation programs to keep pace with inflation.</p>	<p>Senate Governance & Finance</p> <p>2-Year Bill</p>	Oppose
<u>SB 411</u> (Portantino D) Open meetings: teleconferences: bodies with appointed membership	<p>SB 411 authorizes a neighborhood council within the City of Los Angeles, to use alternate teleconferencing provisions related to notice, agenda, and public participation, subject to certain requirements and restrictions, if the city council has adopted an authorizing resolution and two-thirds of an eligible legislative body votes to use the alternate teleconferencing provisions.</p> <p>The provisions of SB 411 sunset on January 1, 2026, and require that, at least once per year, at least a quorum of the members of the eligible legislative body must participate in person from a singular physical location.</p>	Senate Floor – Concurrence Vote	WATCH
<u>SB 537</u> (Becker D) Open meetings: local agencies: teleconferences	SB 537 allows multi-jurisdictional, cross-county local agencies with appointed members to use teleconferencing without posting agendas at each teleconference location, identifying each teleconference location in the notice and agenda, making each teleconference location accessible to the public, and requiring at least a quorum of the eligible legislative body to participate from	Assembly Floor	WATCH

	Subject	Status	Board Position
<u>SB 537 (Cont.)</u>	within the local agency's jurisdiction if the legislative body complies with specified conditions.		
<u>SB 670 (Allen D)</u> Transportation: vehicle miles traveled; maps	As amended, SB 670 directs the California Air Resources Board (CARB), in consultation with Caltrans and Office of Planning and Research (OPR), to develop maps of average vehicle miles traveled (VMT) at the local, regional, and statewide levels, and provides direction to how those maps should be reconciled with existing ones.	Senate Appropriations Held on Suspense File 2-Year bill	Watch
<u>SB 769 (Gonzalez D)</u> Local government: fiscal and financial training	<p>SB 769 would require, if a local agency provides any type of compensation, or expense reimbursement to members of its legislative body, to provide the members of the legislative body at least two hours of fiscal and financial training at least once every two years.</p> <p>Fiscal and financial training is defined to include the following:</p> <ul style="list-style-type: none"> • Laws and principles relating to financial administration and short-and long-term fiscal management, • Laws and principles relating to capital financing and debt management, pensions and other postemployment benefits, and cash management and investments. • General fiscal and financial planning principles and any pertinent laws relevant to the local agency official's public service and role in overseeing the local agency's operations. 	Assembly Appropriations	Watch