



Bis-Man Transit Board Meeting

October 28, 2021, 11:30AM

<https://us02web.zoom.us/j/83951288874>

Call in: +1 312 626 6799; Meeting ID: 839 5128 8874

Welcome & Introductions

Approval of Agenda

Consent Agenda

1. Previous Month's Minutes
 - a. Attachment A – September Regular Meeting
 - b. Attachment B – October Finance Committee Meeting
 - c. Attachment C – October CTIC Meeting
2. Financial Report
 - a. Attachment D
3. Ride Stats
 - a. Attachment E
4. Board Member Attendance Tracker
 - a. Attachment F
5. Facility Lease Acceptance
 - a. Attachment G – West River Transit
 - b. Attachment H – Jefferson Lines
6. National Express Option 3 (Year 6) Acceptance
 - a. Attachment I
7. Facility Intercom Repair Purchase
 - a. Attachment J

Public Comment

Unfinished Business

1. Strategic Plan Topics and Meeting Date
 - a. Attachment K



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Bismarck, ND 58501



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2. Coordinated Public Transit – Human Services Transportation Plan Acceptance
 - a. Attachment L
3. City of Bismarck Public Transit Agreement – *Pending COB Contract Review process*
 - a. Attachment M

New Business

1. Financial Statement Preparation 2021
 - a. Attachment N
2. Fargo VMAC Expense Write-off
 - a. Attachment O
3. Community Charity Event

Executive Director Report

1. American Rescue Plan Grant Application
2. City of Lincoln Update

Operations Report

Other Business

Adjourn

- **The next Board Meeting will be held November 18, 2021 at 11:30am.**



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A

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Bis-Man Transit Regular Board Meeting Minutes

September 23, 2021, 11:30 A.M.

Via Zoom

Attending:	President/Shaina Laber	Sec. /Tres. DeNae Kautzmann
	Vice President/Lynn Wolf	Lacey Long
	Glenn Lauinger	Karel Sovak
	Steve Heydt	Helen Baumgartner
	Commissioner Guy	Commissioner Rohr

Not Attending:	Royce Schultze
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Staff:	Deidre Hughes	Taylor Kitzan
	Craig Thomas	Mike Mundahl
	Tom Reisenauer	

Guests	Rachel Drewlow
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Meeting was called to order at 11:30 A.M.

Approval of Agenda: Shauna recommended to amend the Agenda with the addition of the September Finance Committee Minutes. Helen moved to approve the amended agenda. Glenn seconded the motion. Motion carried unanimously.

Consent Agenda: Lacey moved to approve the consent agenda. Helen seconded the motion. Motion carried unanimously.

Public Comment: N/A

Unfinished Business:

1. **Strategic Plan Facilitator:** DeNae explained that the price quote came in at \$8,000 and is not budgeted for. The quote also contained duplicated parts of our current plan and don't need to be done again. Finance Committee recommends attending a roundtable this Fall instead of having a facilitator conduct the Strategic Plan document discussion. DeNae moved to accept the Finance Committee recommendation of having a Roundtable discussion with the Board on the Strategic Plan document. Glenn seconded the motion. Motion carried unanimously.
2. **City of Lincoln Contract Discussion:** DeNae explained that City of Lincoln's city attorney is in the same law firm, Vogel Law, as the attorney Bis-Man Transit has recently used. However, Bis-Man Transit does not have the Vogel Law Firm on retainer. The Finance Committee recommends to waive the conflict of interest form presented by the Vogel Law Firm, as well as approve the City of Lincoln contract as presented subject to any changes the City of Lincoln would like to make to the document. DeNae moved to approve the Finance Committee recommendation. Lacey seconded the motion. Motion carried unanimously. Glenn also commented that the amount received from City of Lincoln in the new contract is reduced to \$15,000 from \$20,000 due to ridership.
3. **Investment Sale Update:** Deidre discussed that the sale of 2,551 shares of Xenia stock took place on September 3, 2021 for \$43,959.45 less \$404 in fees. These funds are now in a high interest savings account until the Board decides where to invest the funds. Shauna suggested that investment options should be discussed by the Board at the Roundtable Strategic Plan discussion.





4. **Role of the Board/Role of the Committee Discussion:** Deidre discussed that the Role of the Board document is now completed. Few sections were changed or added. Staff recommends that the Board approve the Role of the Board document as presented. Lynn moved to approve the Role of the Board document as presented. Karel seconded the motion. Motion carried unanimously. Shauna asked if the Role of the Standing Committees document was separate. Deidre answered yes, and that the Board should ultimately make the decision on what roles and responsibilities are held with the Executive Committee. Deidre presented the example of if an emergency arises, does the Executive Committee have the authority to decide the matter and take the minutes to the Board for subsequent approval. Shauna recommended that the Board have another month to look at the document and bring back suggestions next month.
5. **Self-Evaluation Question:** Deidre discussed that the Executive Committee met to go over the Self-Evaluation Questions and removed some questions as well as added others. Staff recommends that the Board approve the Self-Evaluation document as presented. Karel recommended that the rating scale on five questions 3, 4, 5, 15, 17 is to be changed from Strongly Agree or Disagree to Strong Level of Engagement or Involvement. Karel moved to approve the Self-Evaluation Questions as presented with the amendment of the recommended changes. Lacey seconded the motion. Motion carried unanimously.

New Business:

1. **American Rescue Plan Additional Assistance Grant:** Deidre explained that on September 7th, an additional grant opportunity became available. There is \$2.2 billion to be used for operations, personnel, and cleaning expenses. This is a competitive grant and an application will have to be completed. Staff is looking for pre-approval to apply for the American Rescue Plan Additional Assistance Grant. Karel asked if Deidre had to receive approval for all grant applications. Steve made a comment that his understanding was financial match grants are to be approved by the Board. DeNae also added when approval was given it was for outside grants, not federal grants. Lynn moved to approve the pre-approval for staff to apply for the American Rescue Plan Additional Assistance Grant. Steve seconded the motion. Motion carried unanimously. DeNae moved that because of the short time frame that the Executive Committee be delegated authority to approve the ARP Additional Assistance Grant before it goes to the City Commission meeting on October 12th. Karel seconded the motion. Motion carried unanimously.





2. **Donation Policy/Application Discussion:** Deidre explained that due to our funding sources, we are not able to have a donation policy or application. However, if staff stumbles upon other grant opportunities for agencies we service, staff is able to forward those on to said agencies.

Executive Director Report: Written report attached.

Operations Report: Danae discussed updates about some concerns that were talked about at the previous meeting. It was asked why drivers do not pull into the parking spaces on 1st St NW, in front of Library Square. Operations has deemed that option as unsafe because it is angled parking and the drivers would have to back the bus up into traffic. It was then asked if dropping off in the back-parking lot would be an option. This was also deemed as unsafe. the drivers would have to back all the way out of the parking lot because the entrance point of the lot is also the exit point. A complaint was also talked about, in the previous meeting, where a rider from Mandan said they have had to reschedule medical appointments due to Transit being late picking them up. The rider said this has happened several times with one being very recent. Operations researched the complaint, and this is what was found. This rider has had 19 Transit rides from June 1st to Sep. 21st. Out of those 19 rides, Transit was late for 4 of them. 3 of these 4 late drop-offs were between the 12 o'clock and 2 o'clock hours and during those hours, we have, on average, 37 trips all together. With their rides being from Mandan to Bismarck, this extends the length of the trip, especially with how busy we are around those hours. Danae, personally, called this rider to discuss options for them to use to eliminate the chance of missing appointments. Danae suggested that they continue scheduling the rides as requested drop-offs but adding 30 minutes before they need to be to their appointments. Since it seemed we were about 20-30 minutes late for most of the late rides, Danae thought this would eliminate the missing of appointments. The rider took her suggestion and will keep her updated on how it works for them in the future. Operations employee of the month for September is Ricky Guenther, driver #53. Ricky has been with National Express since August 2019 and goes above and beyond for the customers and the company. In addition to his excellent customer service, he has been picking up shifts on both paratransit and fixed route to help with low staffing. Ricky received a swag bag of goodies from National Express and was thanked for his hard work and dedication. DeNae thanked Danae for looking into the drop off on 1st Street and asked if Operations looked into dropping off on 1st Avenue, going around the corner rather than stopping on 1st Street? DeNae also commented that she has seen riders park in front of Library Square if there are no cars parked there. Danae answered that 1st Avenue parking is angled the same as 1st Street and further the entry door is not visible to the driver on 1st Ave. Craig also added that picking up at Library Square would have to be on a case-by-case basis.

Other Business: N/A



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Karel moved to adjourn the meeting. Steve seconded the motion. Motion carried unanimously.

Meeting adjourned at 12:09 P.M.



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B

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Bis-Man Transit Finance Committee Meeting Minutes

October 25, 2021, 4:00 P.M.

Via Zoom

Attending:

Glenn Lauinger

Chair DeNae Kautzmann

Shauna Laber

Staff:

Deidre Hughes

Taylor Kitzan



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Meeting was called to order at 4:10 P.M. Deidre led discussion on Board agenda finance topics.

Facility leases are up for renewal. The Finance Committee recommends Board approval of West River lease for one year with a 3% increase total \$11,318.52. The Finance Committee subject to National Express contract option approval recommends Board approval of one-year lease totaling \$23,970.12. If option is not approved, a new lease for reduced months will be necessary so that Bis-Man Transit does not staff the bus depot.

National Express renewal option provides for a 2 1/2% increase which is reasonable. The Finance Committee recommends the contract extension which will run through October 31, 2023.

The intercom system in the building is not working. We are able to use security funding for the repair at 80/20 match. Our cost is \$1,391.53. The Finance Committee recommends approval of intercom system. It was noted during discussion that the CARES Act funding has been completely used and will be closed out.

Only one bid was received for completion of financial statements. The bid of \$2,400 is for financial statements for the four quarters and \$100 an hour for additional work. Glenn asked if this included the year-end financial statement. He pointed out that the year-end financial statement will generate many hours of work. Deidre will seek clarification. Last year we paid \$4,500 for the work. Next year Taylor may be able to do the financial statements.

The Fargo VMAC outstanding debt is \$3,550. We attempted to recoup for years 2014-2018 but the forms require information that we do not have and cannot obtain. It asks for social security numbers of riders and the purpose of the ride. The Finance Committee recommends that the Board write off this debt. There is sufficient funds in our budget reserve for bad debt. Glenn pointed out that we will need to replenish in the next budget and should look at \$5,000 in reserve. Deidre stated that past practice of letting charges go unpaid with continued service has stopped.

Deidre announced a new community charity event. Instead of "Stuff the Bus" a blood drive is being planned in conjunction with the Board's retreat in December.

Meeting adjourned at 4:50 P.M.





C

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Community Transportation Input Committee Meeting Minutes

October 25, 2021, 10:00 A.M.
Via Zoom Conference Call
3750 E Rosser Avenue, Bismarck

Attending:

Chair/Helen Baumgartner

Glenn Lauinger

Lynn Wolf

Randee Sailer

Jeannie Pedersen

Trevor Vannett

Staff:

Deidre Hughes

Mike Mundahl

Taylor Kitzan

Danae Thiery



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Meeting called to order at 10:00 A.M.

National Express Contract Extension Request: Deidre discussed that we have received notice from National Express to express the Year 6 option that will run from November 1, 2022 to October 31, 2023. Increase in cost is 2.5% from Year 5. It has been recommended by the Finance Committee to agree to this extension. Helen asked if there would be an RFP done. Deidre answered that we would have to start the RFP process towards the end of the National Express contract extension. Glenn stated that the purpose of this committee is to give feedback of the services provided and suggestions on how to improve service. Jeannie answered that she has not seen a significant difference in the service. Trevor answered that there are still issues, but has gotten better since the beginning of National Express's contract. Glenn explained that this is the final contract extension that is available and at this time next year, Deidre will start the process of a new RFP. Trevor moved to recommend the National Express contract for another year. Jeannie seconded the motion. Motion carried unanimously.

Coordinated Human Services Plan Discussion: Deidre discussed the process of creating the new Coordinated Human Services Plan. Deidre noted that this plan will be more comprehensive than the last plan; including a breakdown of how funding works with Transit and future Transit goals. Deidre stated that this plan is a requirement to be completed every 5 years to sustain Federal funding and that the Public Comment will be at 10 AM on Thursday October 28th, 2021. Glenn asked Deidre if Taxi 9000's hours on page 13 were correct. Randee commented that the hours have changed in the last month. Deidre verified that a note will be made on the changed hours. Trevor moved to approve the Coordinated Human Services Plan that was presented. Jeannie seconded the motion. Motion carried unanimously.

Deidre thanked the group for their efforts in sharing the survey and that Transit received the most responses of any survey it has given out before.

Meeting adjourned at 10:22 A.M.



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September 2021

MONTHLY REPORT

	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD
RIDERSHIP						
FIXED ROUTE	5,298	39,935	4,885	42,026	8.45%	-4.98%
PARATRANSIT	7,526	63,604	5,836	54,206	28.96%	17.34%
Total	12,824	103,539	10,721	96,232	19.62%	7.59%
FR AVG. DAILY BOARDINGS 211.92						
DR AVG. DAILY BOARDINGS 250.87						
Pass./Hour Pass./Hour Pass./Hour						
REVENUE HOURS						
	Month	YTD	Month	YTD	PY YTD	PY YTD
FIXED ROUTE	1,776.00	16,370.50	2.98	2.44	3.22	13,059.1
PARATRANSIT	2,580.78	21,167.02	2.92	3.00	2.47	21,916.3
Total	4,356.78	37,537.52	2.94	2.76	2.8	34,975.4
Pass./Mile Pass./Mile						
REVENUE MILES						
	Month	YTD	Month	YTD	PY YTD	PY YTD
FIXED ROUTE	28,406	265,540	0.19	0.15	217,231	22.24%
PARATRANSIT	34,828.60	289,069.36	0.22	0.22	287,677	0.48%
Total	63,234.70	554,609.56	0.40	0.37	504,908	9.84%
ON TIME PERFORMANCE						
	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD
FIXED ROUTE	83.00%		82.44%	84.16%	0.68%	
PARATRANSIT	95.00%	94.00%	97.00%	98.00%	-2.06%	-4.08%
RIDERSHIP PER ROUTE						
ROUTE	Month	YTD	PY Month			% INC/DEC OVR PYM
BLACK	1144	8286		844		35.5%
BLUE	688	6019		968		-28.9%
GREEN	963	6503		836		15.2%
RED	597	3946		760		-21.4%
ORANGE	851	5106				
PURPLE	1055	9398		816		29.3%
U-Mary	111	748		119		-6.7%
ACCIDENTS						
	Month	Month at Fault	YTD	YTD at Fault		
FIXED ROUTE	0	0	3	3		
PARATRANSIT	4	0	10	8		
SERVICE VEHICLE	0	0	0	0		
COMPLAINTS						
	Month	YTD				
FIXED ROUTE	1	17				
PARATRANSIT	2	30				
Office Staff	1	2				
COMPLIMENTS						
	Month	YTD				
FIXED ROUTE	0	0				
PARATRANSIT	2	7				
Office Staff	1	3				

Board Attendance Tracker

Member	January	February	March	April	May	June	July*	August	September	October	November	December
Shauna Laber	x	x		x	x	x	x	x	x			
Lynn Wolf	x	x	x	x	x	x	x	x	x			
DeNae Kautzmann	x	x		x	x		x	x	x			
Glenn Lauinger	x	x	x	x	x	x	x	x	x			
Steve Heydt	x	x	x	x		x		x	x			
Karel Sovak	x	x	x	x	x			x	x			
Lacey Long	x	x	x						x			
Royce Schultze	x	x		x		x		x				
Helen Baumgartner	x	x	x		x	x	x	x	x			

*Special
Meeting
Only



G

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

October 28, 2021

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: Building Lease Agreements

RECOMMENDATION: Staff recommends approval of the one-year lease extensions for West River Transit and Jefferson Lines.

BACKGROUND: Bis-Man Transit has been renting office space to West River Transit and Jefferson Lines for several years. In 2020, the standard 3% lease increase was waived due to the pandemic.

DISCUSSION: The only revision to the 2022 lease agreements is the 3% rate increase for both West River Transit and Jefferson Lines.

FINANCIAL IMPACT: The annual lease amount for West River for the contract year of 2022 is \$11,318.52. The lease amount for Jefferson Lines for the contract duration of January 1, 2022 to December 31, 2022 is \$23,970.12. In the event the Board of Directors does not agree to the National Express third contract extension, the Jefferson Lines lease would be revised to cover January 1, 2022 to October 31, 2022 for a total cost of \$19,975.10.



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LEASE AGREEMENT

This lease agreement is made and entered into effect the 1st day of January 2022.

By and between Bis-Man Transit Board, referred to in this document as "LANDLORD." And WEST RIVER TRANSIT, referred to in this document as "TENANT."

WITNESSETH

In consideration of the payment of rental as provided in this document and the covenants and agreement set forth in this document, the LANDLORD does demise and lease to the TENANT, and the TENANT does take and lease from the LANDLORD, a part of the premise situated within the City of Bismarck, County of Burleigh, State of North Dakota, more particularly described as follows:

A portion of the Bismarck-Mandan Intermodal Ground Transportation Facility consisting of 930sq. ft. of office space and 858 sq. ft of indoor parking space, located at:

3750 E. Rosser Ave.

Bismarck, ND. 58501

In Miriam Industrial Park 3RD, Block 001

Referred to in this document as demised premises, premises, or the leased premises, together with all rights, privileges, easements, appurtenances and immunities belonging to or in any way pertaining to the said building upon the demised premises, subject to the following terms and conditions:

ARTICLE 1

TERM

1.01 To have and to hold the same for a term commencing on January 1, 2022 and ending on December 31, 2022.

ARTICLE II

USE OF LEASED PREMISES

2.01 The TENANT shall use the leased premises solely for the purpose of office, maintenance, and storage space together with transit facilities and other transit operations generally associated therewith.

2.02 No change in the business use of the leased premises by the TENANT shall be made or permitted without the express written consent of the LANDLORD.

2.03 TENANT will not permit the demised to be used for any purpose which would render the insurance thereon void or the insurance risk more hazardous; it being understood and agreed that the use of the premises in the proper and ordinary conduct of the TENANTS business for the purposes set forth in this article shall not in any event be considered in violation of the paragraph.

ARTICLE III

RENT

3.01 TENANT agrees to pay LANDLORD a minimum rent for said leased premises, an annual sum of \$11,318.52 payable at the rate of \$943.21 per month.

3.02 The monthly minimum rent shall be paid in advance of the first day of each month for in the lease term in lawful money of the United States to such other party or parties as LANDLORD may hereafter designate.

ARTICLE IV

UTILITIES

4.01 LANDLORD shall pay for utilities including electricity, water, and natural gas in the facility. Telephone services shall be paid by the individual TENANT.

ARTICLE V

REPAIRS AND COVENANT AGAINST WASTE

5.01 TENANT will, at its own expense, during the term of this lease or any extension thereof, keep the parts or portions of the demised premises furnished by the TENANT, in good order and repair, and keep them free from waste or nuisance of any kind. LANDLORD will, during the term of this lease or any extension thereof, keep the parking areas, hallways, parts, and portions furnished by the LANDLORD, and other common areas of the demised premises in good order and repair, and keep them free from waste or nuisance of any kind.

5.02 TENANT shall conserve heat, air conditioning, water, and electricity and shall use due care in the use of the leased premises, and of the public areas in the building, and without qualifying the foregoing, shall not neglect or misuse water fixtures, electric lights and heating and air conditioning.

ARTICLE VI

RIGHT TO ENTER

6.01 LANDLORD, its agents and representatives may at any time and all reasonable times during the day and night enter to view and inspect the leased premises, or to clean and maintain the same, or to make repairs, or to make such improvements or changes in the leased premises or the building as LANDLORD may deem proper, upon giving reasonable notice to TENANT. The right of entry reserved in the immediately preceding sentence shall not be deemed to impose any greater obligation on LANDLORD to clean, maintain, repair or change the leased premises than is specifically provided in this lease. The LANDLORD, its agents or representatives may at any time in case of emergency enter the leased premises and do such acts as LANDLORD may deem proper in order to protect the leased premises, the building or any occupants of the building.

ARTICLE VII

ALTERATIONS

7.01 TENANT will not make any improvements, alterations of or additions to the leased premises without the written approval of LANDLORD, and all improvements, alterations, additions or changes which may be made by either of the parties hereto upon the leased premises, except movable furnishings and equipment, shall be property of LANDLORD, and shall remain upon and be surrendered with the leased premises, as part thereof, at the termination of the lease or any extension thereof. In connection with any alterations, TENANT shall furnish LANDLORD with assurances, including such bonds as LANDLORD deems necessary, that the contemplated alterations, additions, improvements or changes will be completed according to plan and will be paid for. TENANT will not permit any mechanics, laborers, or materialmen's liens to attach to the leased premises or the building for any labor material furnished to, or for the account of TENANT, or claimed to have been so furnished in connection with any work performed or claimed to have performed in, on or about the leased premises.

LANDLORD, at its discretion, may assist financially in the cost of unnecessary improvements to the leased space requested by TENANT. Requests for financial assistance and to make said changes must have approval prior to the start of work.

ARTICLE VIII

SIGNS

8.01 TENANT shall permit no signs to be placed outside the leased premises without LANDLORD approval, but shall have the right to letter the entrance to the leased premises, providing the size, style, text and color are first approved in writing by LANDLORD.

ARTICLE IX

RULES AND REGULATIONS

9.01 TENANT shall use the leased premises and the public areas in the building in accordance with such rules and regulations as may from time to time be made by LANDLORD for the general safety, comfort and convenience of the owners, occupants and tenant of the building, and shall cause TENANT'S customers, employees and invitees to abide by such rules and regulations. If the need arises to reserve public spaces, arrangements must be made with the LANDLORD.

ARTICLE X

ASSIGNMENT OF LEASE

10.01 TENANT shall not assign or sublet the whole or any part of this lease or the leased premises without the consent of the LANDLORD, but if such consent to assignment is given in writing by the LANDLORD, the TENANT shall be released from all performances of this lease for all TENANT obligations arising from and after the date of such agreement. Neither this lease nor any interest therein, nor any estate thereby created, shall pass to any trustee in bankruptcy, or any assignee for the benefit of creditors, or operation of law.

ARTICLE XI

FIRE OR OTHER CASUALTY

11.01 LANDLORD in the event of a partial or total destruction of the premises during the term hereof from any cause, LANDLORD shall with reasonable diligence repair the same, provided, however that in the event LANDLORD in its sole and absolute discretion determines it to be impractical to repair the premises, it may terminate this lease. In the event LANDLORD shall elect to repair the premises, this lease shall not terminate, but TENANT shall be entitled to

a reduction to be calculated in the proportion that the tenantable portion of the leased premises bears to the entire leased premises. LANDLORD shall not be responsible to TENANT for damage to, or destruction of any furniture, equipment or improvements of TENANTS, or other changes made by TENANT in, on or about the leased premises.

ARTICLE XII

INDEMNITY

12.01 LANDLORD shall not be liable to TENANT or TENANT'S employees, agents, or visitors, or to any other person whomsoever, for any injury to person or damage to property on or about the demised premises, caused by the negligence or misconduct of TENANT, its agents, servants, or employees, or of any other person entering upon the premises under express or implied invitation of TENANT, or caused by the failure of TENANT is obligated to repair and maintain and the TENANT agrees to indemnify and defend LANDLORD and hold it harmless from any and all loss, expense, attorney's fees or claims accruing out of such damage or injury.

12.02 Any injury to person or damage to property caused by the negligence of LANDLORD or by the failure of LANDLORD to repair and maintain, shall be the liability of LANDLORD and not of TENANT, and the LANDLORD agrees to indemnify and defend TENANT and hold it harmless from any and all loss, expense, attorney's fees or claims arising out of such damage.

ARTICLE XIII

INSURANCE

13.01 Without limiting TENANT'S liability hereunder, TENANT agrees, at its own cost and expense, to carry public liability insurance protecting LANDLORD and TENANT in the amount of One Million Dollars (\$1,000,000.00) for personal injuries sustained in any one accident, and Five Hundred Thousand Dollars (\$500,000.00) for property damage. All policies of insurance shall name both LANDLORD and TENANT as insures thereunder and shall protect the interest of LANDLORD for incidents that are caused by or contributed by the TENANT. Certificates of said insurance providing for not less the fifteen (15) days' notice to LANDLORD prior to cancellation thereof shall be furnished to LANDLORD prior to TENANT taking possession of the demised premises.

ARTICLE XIV

WAIVER OF SUBROGATION

14.01 Notwithstanding anything in the Lease to the contrary, if the building is damaged or destroyed by fire, or an extended coverage risk, TENANT, its agents, employees, representatives and invitees are hereby released from any liability by reason thereof to the extent of insurance proceeds realized by LANDLORD as a result of such damage or destruction. In no event shall any such release be applicable if so to do would work in contravention of any requirement in an applicable policy of insurance to the effect that if the insured waives subrogation, coverage is or may be void.

ARTICLE XV

EMINENT DOMAIN

15.01 If the entire building is taken by eminent domain, this lease shall be automatically terminates as of the date of taking. If a portion of the building is taken by eminent domain, LANDLORD shall have the right to terminate this lease by giving written notice thereof to TENANT within ninety (90) days after the date of taking. If a portion of the leased premises is taken by eminent domain and this lease is not thereby terminated, LANDLORD shall, at its expense restore the leased premises by TENANT, to as near the condition which existed immediately prior to the date of taking as reasonably possible, and rent shall abate during such period of time as the portion of the leased premises bears to the entire lease premises. All damages awarded for a taking under the power of eminent domain, whether for the whole or a part of the leased premises, shall belong to, and be the property of, LANDLORD, whether such damages shall be awarded as compensation for diminution in value to the leaseholder estate hereby created or to the fee of the leased premises provided, however that LANDLORD shall not be entitled to any award made to TENANT for loss of business, fair value of, and cost of removal of stock fixtures. The term "eminent domain" shall include the exercises of any similar governmental power and any purchase or other acquisition in lieu of condemnation.

ARTICLE XVI

HOLD OVER

16.01 Should TENANT, or any of its successors in interest hold over the leased premises, or any part thereof, after the expiration of the term of this lease, unless otherwise agreed in writing, such holding over shall constitute and be construed as a tenancy from month to month

only. All obligations and duties imposed by this lease upon the LANDLORD and TENANT shall remain the same during any such period of occupancy.

ARTICLE XVII

DEFAULT OF TENANT

17.01 The following events shall be deemed to be events of default by TENANT under lease:

- (1) TENANT shall fail to pay any installment of the rent hereby reserved and such failure shall continue for a period of ten (10) days after written demand therefore shall have been made by LANDLORD.
- (2) TENANT shall fail to comply with any terms, provisions, or covenant of the lease, other than the payment of rent, and shall not cure such failure within three (3) days after written notice thereof to TENANT.
- (3) TENANT shall desert or vacate any substantial portion of the premises.
Assignment or subletting by TENANT shall not be considered as an act of default.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided, or any other remedies provided by law, nor shall pursuit of any remedy herein constitute a forfeiture or waiver of any rent due to LANDLORD hereunder, or any damage occurring to LANDLORD by reason of the violation of breach of any of the terms, provisions and covenants herein contained. The waiver by LANDLORD of any violation or breach of any of the terms, provisions, or covenants a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained which may occur subsequent thereto. Forbearance by LANDLORD to enforce one or more of the remedies herein provided upon an event of default shall not be deemed to constitute a waiver of such default.

ARTICLE XVIII

SUBORDINATION

18.01 TENANT accepts this lease subject and subordinate to my mortgage or mortgages now a lien upon the demised premises. This lease shall also be subject and subordinate to the lien of any other mortgage which may at any time hereafter be or become a lien on demised premises. TENANT shall at all times hereafter, on demand, execute any instruments, releases

or other documents that may be required by any mortgages for the purpose of subletting and subordinating this lease to the lien of any such mortgages.

ARTICLE XIX

WAIVER OF COVENANTS

19.01 Failure of LANDLORD to insist, in any one or more instances, upon strict performance of any term, covenant, or condition of this lease, or to exercise any option herein contained shall be construed as a waiver, or a relinquishment for the future, of such term, covenant, condition or option, but same shall continue and remain in full force and effect. The receipt by LANDLORD of rents with knowledge of breach in any of the terms, covenants or conditions of this lease to be kept of performed TENANT shall not be deemed a waiver of such breach, and LANDLORD shall not be deemed to have waived any provision of this lease unless expressed in writing and signed by LANDLORD.

ARTICLE XX

RENTAL PAYMENT AND NOTICE

20.01 Each provision of this instrument or any of the applicable governmental laws, ordinances, regulations and other requirements with reference to the sending, mailing or delivery or any notice or the making of any payment by LANDLORD to TENANT or with reference to the sending, mailing or delivery of any notice to the making of payment by TENANT to LANDLORD shall be deemed to be complied with when and if the following steps are taken:

A. All rent and other payments required to be made by TENANT to LANDLORD hereunder shall be payable to LANDLORD in Bismarck, North Dakota, at the address set forth in Article 3, or at such other address as LANDLORD may specify from time to time by written notice delivered in accordance herewith.

B. All payments required to be made by LANDLORD to TENANT hereunder shall be payable to TENANT at the address set forth below, or at such other address within the continental United States as TENANT may specify from time to time by written notice delivered in accordance herewith.

C. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered when deposited in the United States Mail, postage prepaid, Registered or Certified Mail, Return Receipt Requested, addressed to the parties hereto at the respective

address set out opposite their names below, or such other address as they have theretofore specified by written notice delivered in accordance herewith.

LANDLORD: Bis-Man Transit Board
3750 E. Rosser Ave.
Bismarck, ND 58501

TENANT: West River Transit.
3750 E. Rosser Ave.
Bismarck, ND 58501

ARTICLE XXI

TENANT TO SURRENDER PREMISES

21.01 Upon the expiration or the termination of the term of this lease, TENANT shall, at all expense:

- 1) Remove TENANT'S goods and effects and those of all persons claiming under TENANT;
- 2) Quit and deliver up the leased premises to LANDLORD, peaceably and quietly, in as good order and condition as the same were in on the date the term of this lease commenced or were thereafter placed in by LANDLORD and/or TENANT, reasonable wear and tear excepted.

ARTICLE XXII

HEATING AND AIR CONDITIONING

22.01 LANDLORD will furnish reasonable heat and air conditioning in main office areas during usual business hours and during usual and appropriate seasons.

ARTICLE XXIII

SHOWING PREMISES

23.01 LANDLORD shall have the right to show the leased premises for leasing at all reasonable times during the last six (6) months of this lease, or any extension thereof.

ARTICLE XXIV

MISCELLANEOUS

24.01 There are no understandings or agreements not incorporated in this lease except as may be provided in a written addendum signed and accepted by both parties. This is a North Dakota contract and shall be construed according to the laws of North Dakota. The captions in this lease are for convenience only and are not part of this lease. The covenants and agreement hereof shall as fully and completely bind the heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto as if they had been specifically mentioned in each of said covenants and agreements. If any provision in this lease should for any reason be adjudged invalid or illegal, that provision shall be deemed omitted therefrom and shall not invalidate any other provision of this lease and remainder hereof shall remain in full force and effect.

Date: _____

LANDLORD:

BIS-MAN TRANSIT BOARD

BY: _____

ITS _____

ATTEST: _____

TENANT:

WEST RIVER TRANSIT

BY: _____

ITS _____

LEASE AGREEMENT

This lease agreement is made and entered into effect the 1st day of January, 2022

By and between Bis-Man Transit Board, referred to in this document as “LANDLORD.” And Jefferson Lines, referred to in this document as “TENANT.”

WITNESSETH

In consideration of the payment of rental as provided in this document and the covenants and agreement set forth in this document, the LANDLORD does demise and lease to the TENANT, and the TENANT does take and lease from the LANDLORD, a part of the premise situated within the City of Bismarck, County of Burleigh, State of North Dakota, more particularly described as follows:

A portion of the Bismarck-Mandan Intermodal Ground Transportation Facility consisting of 1960sq. ft. of office space and 10 parking spaces on the furthest southwest portion of the south parking area located at:

3750 E. Rosser Ave.
Bismarck, ND. 58501
In Miriam Industrial Park 3RD, Block 001

Referred to in this document as demised premises, premises, or the leased premises, together with all rights, privileges, easements, appurtenances and immunities belonging to or in any way pertaining to the said building upon the demised premises, subject to the following terms and conditions:

ARTICLE 1

TERM

1.01 To have and to hold the same for a term commencing on January 1, 2022 and ending on December 31, 2022.

ARTICLE II

USE OF LEASED PREMISES

2.01 The TENANT shall use the leased premises solely for the purpose of office, and storage space together with transit facilities and other transit operations generally associated therewith.

2.02 No change in the business use of the leased premises by the TENANT shall be made or permitted without the express written consent of the LANDLORD.

2.03 TENANT will not permit the demised to be used for any purpose which would render the insurance thereon void or the insurance risk more hazardous; it being understood and agreed that the use of the premises in the proper and ordinary conduct of the TENANTS business for the purposes set forth in this article shall not in any event be considered in violation of the paragraph.

ARTICLE III

RENT

3.01 TENANT agrees to pay LANDLORD a minimum rent for said leased premises, a total sum of \$23,970.12 payable at the rate of \$1,997.51 per month.

3.02 The monthly minimum rent shall be paid in advance of the first day of each month for in the lease term in lawful money of the United States to such other party or parties as LANDLORD may hereafter designate.

ARTICLE IV

UTILITIES

4.01 LANDLORD shall pay for utilities including electricity, water, and natural gas in the facility. Telephone services shall be paid by the individual TENANT.

ARTICLE V

REPAIRS AND COVENANT AGAINST WASTE

5.01 TENANT will, at its own expense, during the term of this lease or any extension thereof, keep the parts or portions of the demised premises furnished by the TENANT, in good order and repair, and keep them free from waste or nuisance of any kind. LANDLORD will, during the term of this lease or any extension thereof, keep the parking areas, hallways, parts, and portions furnished by the LANDLORD, and other common areas of the demised premises in good order and repair, and keep them free from waste or nuisance of any kind.

5.02 TENANT shall conserve heat, air conditioning, water, and electricity and shall use due care in the use of the leased premises, and of the public areas in the building, and without

qualifying the foregoing, shall not neglect or misuse water fixtures, electric lights and heating and air conditioning.

ARTICLE VI

RIGHT TO ENTER

6.01 LANDLORD, its agents and representatives may at any time and all reasonable times during the day and night enter to view and inspect the leased premises, or to clean and maintain the same, or to make repairs, or to make such improvements or changes in the leased premises or the building as LANDLORD may deem proper, upon giving reasonable notice to TENANT. The right of entry reserved in the immediately preceding sentence shall not be deemed to impose any greater obligation on LANDLORD to clean, maintain, repair or change the leased premises than is specifically provided in this lease. The LANDLORD, its agents or representatives may at any time in case of emergency enter the leased premises and do such acts as LANDLORD may deem proper in order to protect the leased premises, the building or any occupants of the building.

ARTICLE VII

ALTERATIONS

7.01 TENANT will not make any improvements, alterations of or additions to the leased premises without the written approval of LANDLORD, and all improvements, alterations, additions or changes which may be made by either of the parties hereto upon the leased premises, except movable furnishings and equipment, shall be property of LANDLORD, and shall remain upon and be surrendered with the leased premises, as part thereof, at the termination of the lease or any extension thereof. In connection with any alterations, TENANT shall furnish LANDLORD with assurances, including such bonds as LANDLORD deems necessary, that the contemplated alterations, additions, improvements or changes will be completed according to plan and will be paid for. TENANT will not permit any mechanics, laborers, or materialmen's liens to attach to the leased premises or the building for any labor material furnished to, or for the account of TENANT, or claimed to have been so furnished in connection with any work performed or claimed to have performed in, on or about the leased premises.

ARTICLE VIII

SIGNS

8.01 TENANT shall permit no signs to be placed outside the leased premises without LANDLORD approval, but shall have the right to letter the entrance to the leased premises, providing the size, style, text and color are first approved in writing by LANDLORD.

ARTICLE IX

RULES AND REGULATIONS

9.01 TENANT shall use the leased premises and the public areas in the building in accordance with such rules and regulations as may from time to time be made by LANDLORD for the general safety, comfort and convenience of the owners, occupants and tenant of the building, and shall cause TENANT'S customers, employees and invitees to abide by such rules and regulations.

ARTICLE X

ASSIGNMENT OF LEASE

10.01 TENANT shall not assign or sublet the whole or any part of this lease or the leased premises without the consent of the LANDLORD, but if such consent to assignment is given in writing by the LANDLORD, the TENANT shall be released from all performances of this lease for all TENANT obligations arising from and after the date of such agreement. Neither this lease nor any interest therein, nor any estate thereby created, shall pass to any trustee in bankruptcy, or any assignee for the benefit of creditors, or operation of law.

ARTICLE XI

FIRE OR OTHER CASUALTY

11.01 LANDLORD in the event of a partial or total destruction of the premises during the term hereof from any cause, LANDLORD shall with reasonable diligence repair the same, provided, however that in the event LANDLORD in its sole and absolute discretion determines it to be impractical to repair the premises, it may terminate this lease. In the event LANDLORD shall elect to repair the premises, this lease shall not terminate, but TENANT shall be entitled to a reduction to be calculated in the proportion that the tenantable portion of the leased premises bears to the entire leased premises. LANDLORD shall not be responsible to TENANT for damage to, or destruction of any furniture, equipment or improvements of TENANTS, or other changes made by TENANT in, on or about the leased premises.

ARTICLE XII

INDEMNITY

12.01 LANDLORD shall not be liable to TENANT or TENANT'S employees, agents, or visitors, or to any other person whomsoever, for any injury to person or damage to property on or about the demised premises, caused by the negligence or misconduct of TENANT, its agents, servants, or employees, or of any other person entering upon the premises under express or implied invitation of TENANT, or caused by the failure of TENANT'S obligation to keep clean, repair, and maintain the space and the TENANT agrees to indemnify and defend LANDLORD and hold it harmless from any and all loss, expense, attorney's fees or claims accruing out of such damage or injury.

12.02 Any injury to person or damage to property caused by the negligence of LANDLORD or by the failure of LANDLORD to repair and maintain, shall be the liability of LANDLORD and not of TENANT, and the LANDLORD agrees to indemnify and defend TENANT and hold it harmless from any and all loss, expense, attorney's fees or claims arising out of such damage.

ARTICLE XIII

INSURANCE

13.01 Without limiting TENANT'S liability hereunder, TENANT agrees, at its own cost and expense, to carry public liability insurance protecting LANDLORD and TENANT in the amount of One Million Dollars (\$1,000,000.00) for personal injuries sustained in any one accident, and Five Hundred Thousand Dollars (\$500,000.00) for property damage. All policies of insurance shall name both LANDLORD and TENANT as insures thereunder and shall protect the interest of LANDLORD for incidents that are caused by or contributed by the TENANT. Certificates of said insurance providing for not less the fifteen (15) days' notice to LANDLORD prior to cancellation thereof shall be furnished to LANDLORD prior to TENANT taking possession of the demised premises.

ARTICLE XIV

WAIVER OF SUBROGATION

14.01 Notwithstanding anything in the Lease to the contrary, if the building is damaged or destroyed by fire, or an extended coverage risk, TENANT, its agents, employees, representatives and invitees are hereby released from any liability by reason thereof to the extent of insurance proceeds realized by LANDLORD as a result of such damage or destruction. In no event shall any such release be applicable if so to do would work in contravention of any requirement in an applicable policy of insurance to the effect that if the insured waives subrogation, coverage is or may be void.

ARTICLE XV

EMINENT DOMAIN

15.01 If the entire building is taken by eminent domain, this lease shall be automatically terminates as of the date of taking. If a portion of the building is taken by eminent domain, LANDLORD shall have the right to terminate this lease by giving written notice thereof to TENANT within ninety (90) days after the date of taking. If a portion of the leased premises is taken by eminent domain and this lease is not thereby terminated, LANDLORD shall, at its expense restore the leased premises by TENANT, to as near the condition which existed immediately prior to the date of taking as reasonably possible, and rent shall abate during such period of time as the portion of the leased premises bears to the entire lease premises. All damages awarded for a taking under the power of eminent domain, whether for the whole or a part of the leased premises, shall belong to, and be the property of, LANDLORD, whether such damages shall be awarded as compensation for diminution in value to the leaseholder estate hereby created or to the fee of the leased premises provided, however that LANDLORD shall not be entitled to any award made to TENANT for loss of business, fair value of, and cost of removal of stock fixtures. The term "eminent domain" shall include the exercises of any similar governmental power and any purchase or other acquisition in lieu of condemnation.

ARTICLE XVI

HOLD OVER

16.01 Should TENANT, or any of its successors in interest hold over the leased premises, or any part thereof, after the expiration of the term of this lease, unless otherwise agreed in writing, such holding over shall constitute and be construed as a tenancy from month to month only. All obligations and duties imposed by this lease upon the LANDLORD and TENANT shall remain the same during any such period of occupancy.

ARTICLE XVII

DEFAULT OF TENANT

17.01 The following events shall be deemed to be events of default by TENANT under lease:

- (1) TENANT shall fail to pay any installment of the rent hereby reserved and such failure shall continue for a period of ten (10) days after written demand therefore shall have been made by LANDLORD.
- (2) TENANT shall fail to comply with any terms, provisions, or covenant of the lease, other than the payment of rent, and shall not cure such failure within three (3) days after written notice thereof to TENANT.
- (3) TENANT shall desert or vacate any substantial portion of the premises. Assignment or subletting by TENANT shall not be considered as an act of default.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided, or any other remedies provided by law, nor shall pursuit of any remedy herein constitute a forfeiture or waiver of any rent due to LANDLORD hereunder, or any damage occurring to LANDLORD by reason of the violation or breach of any of the terms, provisions and covenants herein contained. The waiver by LANDLORD of any violation or breach of any of the terms, provisions, or covenants a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained which may occur subsequent thereto. Forbearance by LANDLORD to enforce one or more of the remedies herein provided upon an event of default shall not be deemed to constitute a waiver of such default.

ARTICLE XVIII

SUBORDINATION

18.01 TENANT accepts this lease subject and subordinate to my mortgage or mortgages now a lien upon the demised premises. This lease shall also be subject and subordinate to the lien of any other mortgage which may at any time hereafter be or become a lien on demised premises. TENANT shall at all times hereafter, on demand, execute any instruments, releases or other documents that may be required by any mortgages for the purpose of subletting and subordinating this lease to the lien of any such mortgages.

ARTICLE XIX

WAIVER OF COVENANTS

19.01 Failure of LANDLORD to insist, in any one or more instances, upon strict performance of any term, covenant, or condition of this lease, or to exercise any option herein contained shall be construed as a waiver, or a relinquishment for the future, of such term, covenant, condition or option, but same shall continue and remain in full force and effect. The receipt by LANDLORD of rents with knowledge of breach in any of the terms, covenants or conditions of this lease to be kept of performed TENANT shall not be deemed a waiver of such breach, and LANDLORD shall not be deemed to have waived any provision of this lease unless expressed in writing and signed by LANDLORD.

ARTICLE XX

RENTAL PAYMENT AND NOTICE

20.01 Each provision of this instrument or any of the applicable governmental laws, ordinances, regulations and other requirements with reference to the sending, mailing or delivery or any notice or the making of any payment by LANDLORD to TENANT or with reference to the sending, mailing or delivery of any notice to the making of payment by TENANT to LANDLORD shall be deemed to be complied with when and if the following steps are taken:

A. All rent and other payments required to be made by TENANT to LANDLORD hereunder shall be payable to LANDLORD in Bismarck, North Dakota, at the address set forth in Article 3, or at such other address as LANDLORD may specify from time to time by written notice delivered in accordance herewith.

B. All payments required to be made by LANDLORD to TENANT hereunder shall be payable to TENANT at the address set forth below, or at such other address within the continental United States as TENANT may specify from time to time by written notice delivered in accordance herewith.

C. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered when deposited in the United States Mail, postage prepaid, Registered or Certified Mail, Return Receipt Requested, addressed to the parties hereto at the respective address set out opposite their names below, or such other address as they have theretofore specified by written notice delivered in accordance herewith.

LANDLORD: Bis-Man Transit Board

3750 E. Rosser Ave.

Bismarck, ND 58501

TENANT: Jefferson Partners L.P.

DBA Jefferson Lines

2100 East 26th St

Minneapolis, MN 58404

ARTICLE XXI

TENANT TO SURRENDER PREMISES

21.01 Upon the expiration or the termination of the term of this lease, TENANT shall, at all expense:

- 1) Remove TENANT'S goods and effects and those of all persons claiming under TENANT;
- 2) Quit and deliver up the leased premises to LANDLORD, peaceably and quietly, in as good order and condition as the same were in on the date the term of this lease commenced or were thereafter placed in by LANDLORD and/or TENANT, reasonable wear and tear excepted.

ARTICLE XXII

HEATING AND AIR CONDITIONING

22.01 LANDLORD will furnish reasonable heat and air conditioning in main office areas during usual business hours and during usual and appropriate seasons.

ARTICLE XXIII

SHOWING PREMISES

23.01 LANDLORD shall have the right to show the leased premises for leasing at all reasonable times during the last six (6) months of this lease, or any extension thereof.

ARTICLE XXIV

MISCELLANEOUS

24.01 There are no understandings or agreements not incorporated in this lease except as may be provided in a written addendum signed and accepted by both parties. This is a North Dakota contract and shall be construed according to the laws of North Dakota. The captions in this lease are for convenience only and are not part of this lease. The covenants and agreement hereof shall as fully and completely bind the heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto as if they had been specifically mentioned in each of said covenants and agreements. If any provision in this lease should for

any reason by adjudged invalid or illegal, that provision shall be deemed omitted therefrom and shall not invalidate any other provision of this lease and remainder hereof shall remain in full force and effect.

24.02 The agency contract extension is dependent on the acceptance of the lease agreement. If the TENANT chooses not to extend the agency contract, the TENANT can continue to execute a lease agreement with the LANDLORD; however, if the TENANT chooses to terminate the lease agreement, the TENANT will not be able to execute the agency contract extension.

Date: _____

LANDLORD:

BIS-MAN TRANSIT BOARD

BY: _____

ITS _____

ATTEST: _____

TENANT:

JEFFERSON LINES

BY: _____

ITS _____



Ms. Deidre Hughes
Executive Director
Bis-Man Transit
3750 East Rosser Avenue
Bismarck, ND 58501

Via Email

Dear Ms. Hughes,

National Express Transit looks forward to the opportunity to continue working with Bis-Man Transit. Our contract for transit services, which we signed in October of 2017, is due for its final year of renewal, beginning November 1, 2022.

The contracted rates will change to \$59.45 for paratransit and fixed service and \$18.92 for Jefferson Bus Lines Depot. I fully expect our staffing to remain consistent for the final year of our agreement and look forward to a successful renewal of the contract through the RFP process.

Thank you for your continued support. If you wish to discuss this with me, I will be giving you a call soon to keep you up with how National Express Transit is doing and how we continue to work to provide better service to Bis-Man Transit.

Sincerely,

Don Swain
Region Vice President

cc: Craig Thomas, General Manager





October 28, 2021

TO: Bis-Man Transit Board of Directors

FROM: Bis-Man Transit Staff

SUBJECT: Facility Intercom/PA System Repair Recommendation

BACKGROUND: The Bis-Man Transit Facility currently has a facility intercom and PA system used for paging and fire alarm alerts. Recently, the amplifier failed creating a safety concern.

DISCUSSION: Staff solicited quotes for the repair and upgrades to the system. A quote was received from AVI Systems to replace the amplifier. Staff researched upgrading the existing system to a digital option through New Vision Security System. A full system upgrade was estimated around \$50,000. At this time, a full system upgrade is not necessary given the large capital investment. Due to the nature of the system, AVI System is the only company available to perform repairs.

FINANCIAL IMPACT: The total project cost is \$6,957.67. Funding for this project will come from the FY21 5307 1% Security Fund at the 80/20 split. The federal portion of this project is \$5,566.14; the local portion is \$1,391.53.

RECOMMENDATION: Staff and the Finance Committee recommend moving forward with the facility intercom and PA system repairs through AVI Systems.



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bismantransit.com



701.258.6817



www.bismantransit.com

Retail Sales Agreement



AVI Systems Inc., 1930 E Century Ave Bismarck, ND, 58503-0640 | Phone: (701)258-6360, Fax: (701)258-2015

Proposal Number: 1078989
Prepared For: Bis-man Transit System
Attn:

Proposal Date: September 14, 2021

Paging Replacement System

Prepared By: Nick Eberle
Phone: (701)426-8172
Email: nick.eberle@avisystems.com

BILL TO

Attn:

Bis-man Transit System
3750 E. Rosser Avenue
Bismarck, ND, 58501
Phone: (701)223-9001
Email:
Customer Number: 720

SITE

Attn:

Bis-man Transit System
3750 E. Rosser Avenue
Bismarck, ND, 58501
Phone: (701)223-9001
Email:

COMMENTS

Please Review Scope of Work to make sure this is what you are expecting.

PRODUCTS AND SERVICES SUMMARY

Equipment	\$2,927.05
Integration	\$3,611.88
PRO Support	\$0.00
Shipping & Handling	\$200.75
Tax	\$217.99
Grand Total	\$6,957.67

Unless otherwise specified. The prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within the time stated for payment on each invoice. Discount only applies to new items included on the invoice, and only applies if the balance on the invoice is paid in full.

All returned equipment is subject to a restocking charge. The prices are valid for 15 days and may be locked in by signing this Retail Sales Agreement.

Overdue balances are subject to a finance charge of 1.5% per month, or interest at the highest rate permitted by applicable law. In the event AVI must pursue collection of unpaid invoices, Customer agrees to pay all of AVI's costs of collection, including its attorneys' fees.

INVOICING AND PAYMENT TERMS

Customer and AVI have agreed on the payment method of ON ACCOUNT. Payment must be remitted by stated method. To the extent Customer seeks to use of any payment methods other than stated, and that payment method results in an increased transaction cost to AVI, the new payment must be approved in writing, and the Customer shall be responsible for paying the increased transaction cost to AVI associated with the change in payment method. Payments shall be made 30 days from invoice date. So long as the invoice has been sent and the Customer's payment is made within the terms work will continue.

AVI uses progress billing, and invoices for equipment and services allocated to the contract on a monthly basis. Unless otherwise specified, all items quoted (goods and services) as well as applicable out of pocket expenses (permits, licenses, shipping, etc.) are invoiced in summary (including applicable sales taxes due for each category of invoiced items).

Customer is to make payments to the following "Remit to" address:

AVI Systems
NW8393 PO Box 1450
Minneapolis, MN 55485-8393

If Payment Method is ACH: Customer must make all payments in the form of bank wire transfers or electronic funds transfers through an automated clearinghouse with electronic remittance detail, in accordance with the payment instructions AVI Systems provides on its invoice to Customer.

A monthly summary of detailed equipment received is available upon request. Equipment received may be different than equipment billed based on agreed billing method.

TAXES AND DELIVERY

Unless stated otherwise in the "Products and Services Summary" above, AVI will add and include all applicable taxes, permit fees, license fees, and delivery charges to the amount of each invoice. Taxes will be calculated according to the state law(s) in which the product(s) and/or service(s) are provided. Unless Customer provides a valid tax exemption certificate for any tax exemption(s) claimed, AVI shall invoice for and collect all applicable taxes in accordance with state law(s), and Customer will be responsible for seeking a tax credit/refund from the applicable taxing authority.

AGREEMENT TO QUOTE AND DOCUMENTS CONSTITUTING YOUR CONTRACT WITH AVI

Customer hereby accepts the above quote for goods and/or services from AVI. When duly executed and returned to AVI, AVI's Credit Department will check Customer's credit and approve the terms. After approval by AVI's Credit Department and signature by AVI, this Retail Sales Agreement will, together with the [AVI General Terms & Conditions](http://www.avisystems.com/TermsOfSale) (which can be found at <http://www.avisystems.com/TermsOfSale>) form a binding agreement between Customer and AVI. (This Retail Sales Agreement and the AVI General Terms & Conditions of Sale (the "T&Cs") are referred to collectively as the "Agreement"). If not defined in this Agreement, all capitalized terms shall have the meaning given to them in the T&Cs. Should AVI's Credit Department determine at any point prior to AVI commencing work that Customer's credit is not adequate, or should it otherwise disapprove of the commercial terms, AVI reserves the right to terminate the Agreement without cause and without penalty to AVI.

AGREED AND ACCEPTED BY

Company

Signature

Printed Name

Date

AVI Systems, Inc.

Company

Signature

Printed Name

Date

CONFIDENTIAL INFORMATION

The company listed in the "Prepared For" line has requested this confidential price quotation, and shall be deemed "Confidential Information" as that term is defined in the T&Cs. This information and document is confidential and is intended solely for the private use of the customer identified above. Customer agrees it will not disseminate copies of this quote to any third party without the prior written consent of AVI. Sharing a copy of this quote, or any portion of the Agreement with any competitor of AVI is a violation of this confidentiality provision. If you are not the intended recipient of this quote (i.e., the customer), you are not properly in possession of this document and you should immediately destroy all copies of it.

SERVICES TO BE PROVIDED

Public Address SYSTEM INTEGRATION SERVICES

INTEGRATION SCOPE OF WORK

SUMMARY: the Bis-Man Transit Paging has been malfunctioning as of late and the Client wants new updated system. AVI is proposing a system that can accept analog phone line and a digital VoIP based system. The current system is connected to a Tone generator that is connected to the Fire Alarm System and Triggers a warble tone throughout the PA system (this is to stay function with the new system). The current system is set up to have 2 phone lines. 1 phone line is for the CAT transit garage and the other is for TAXI 9000 garage. AVI will provide a new amplifier to replace the existing 2 amplifiers. The Existing Audsco C-Line Chasis equipment will be taken out and replaced with Solid State type Digital Sound Processor. The existing Doorbell system will not be reconnected to the New System.

1.

1. PROJECT SPECIFIC SCOPE OF WORK DELINIATION: **(NOTE)**

OWNER:

- 1.1. Owner to Provide access to building for installation, Commissioning and Testing
- 1.2. Client has elected to reuse currently installed wiring for the project. Client acknowledges that the integrity of the existing cable is unknown and may cause intermittent issues and/or failures. Client agrees that all costs associated with the use of the existing wiring now or in the future will be their responsibility
- 1.3. There may need to be some Coordination with the Phone Provider (BEK)

1.1. AVI SYSTEMS:

- 1.2. Furnish Paging System equipment as shown on attached equipment list.
- 1.3. Install DSP, Amplifier, and Tone Generator
- 1.4. Program DSP .
- 1.5. Test Public Address System functionality.
- 1.6. Provide written report of Sound Reinforcement System Certification.

2. PROJECT SPECIFIC INSTALLATION CONSIDERATIONS: (

2.1. AVI will provide onsite integration services for defined phases of the construction project:

- 2.1.1. The prerequisite tasks that are shown for each phase must be completed before AVI can proceed with the integration process.
- 2.1.2. All work will be performed in a consecutive M-F 8am-5pm execution block. Staged, phased or overtime work is available for additional cost via change order.
- 2.1.3. Return trips to the jobsite due to incomplete construction tasks that prevent AVI from completing scheduled work are not included in this bid response and will be assessed a Mobilization Fee and Travel Expenses as detailed below. (Section 7.5)

2.2. Public Address System Installation/Testing:

- 2.2.1. All items as listed in the "Electrical Contractor – Scope of Work Delineation" section above must be complete.
- 2.2.2. All Paging System devices, cable, and power must be installed and tested prior to AVI Integration beginning.
- 2.2.3. Any connections to phones, network, or other devices outside of the Paging System must be in place and tested prior to AVI Integration beginning.
- 2.2.4. The integration process is expected to take a minimum of 5 business days to complete and must be scheduled and planned for accordingly in the construction timeline.
- 2.2.5. These days would be scheduled after completion of all prerequisite tasks shown above.
- 2.2.6. Any time needed for correction of integration deficiencies by others or missing prerequisites will extend this time estimate and require change order pricing.

2.3. Testing/Commissioning:

- 2.3.1. All previous phases must have been completed.
- 2.3.2. Any additional connections or communications to the *Intercom* System must be in place and functioning prior to testing and certification.
 - 2.3.2.1. This would typically include, but not be limited to, Phone Lines & Monitoring Services
- 2.3.3. AVI will require access to all spaces that include Paging System components for final testing.
- 2.3.4. All required vendors, contractors, AHJ, owner, and certifying authorities must be present for the testing and certification.

- 2.3.5. If Substantial Completion Documentation has not been signed prior to this a representative with the authority to sign documentation must be present at the time of Testing and Certification.
- 2.3.6. The Testing/Commissioning process should take a single business day to complete and must be scheduled and planned for accordingly in the construction timeline.
- 2.3.7. This day would be after completion of all prerequisite tasks shown above.

G. KNOWLEDGE TRANSFER (TRAINING)

This is geared specifically towards the end-user / operator. The purpose of this knowledge transfer is to provide operators with the necessary knowledge to confidently and comfortably operate all aspects of the integrated system. Areas covered include the following:

- Equipment and system overview
- Equipment operation and function
- Equipment start up, stop, and shut down
- Equipment automatic and manual operation
- Discussion and documentation relating to control system operation
- Discussion and documentation relating to system processor and its control applications
- Powering up, powering down AV system via control system
- Manual operation of display systems, audio system and all other related components
- Use/operation of patch panels, when and where to be used
- Who to call when help is required

H. AVI SYSTEMS INTEGRATION SERVICES RESPONSIBILITIES

AVI Systems will provide services/work for the project as described above in the Scope of Work or per the attached separate Scope of Work document detailing the scope of work to be performed.

- Provide equipment, materials and service items per the contract products and services detail.
- Provide systems equipment integration and supervisory responsibility of the equipment integration.
- Provide systems configuration, checkout and testing.
- Provide project timeline schedules.
- Provide necessary information, as requested, to the owner or other parties involved with this project to ensure that proper AC electrical power and cableways and/or conduits are provided to properly integrate the equipment within the facilities.
- Provide manufacturer supplied equipment documentation.
- Provide final documentation and "as built" system drawings (CAD) - if purchased.
- Provide system training following integration to the designated project leader or team.

I. CUSTOMER INTEGRATION SERVICES RESPONSIBILITIES

- Provide for the construction or modification of the facilities for soundproofing, lighting, electrical, HVAC, structural support of equipment, and decorating as appropriate. Includes installation of ceiling mounted projection screen.
- Provide for the ordering, provisioning, installation, wiring and verification of any Data Network (LAN, WAN, T1, ISDN, etc.) and Telephone Line (Analog or Digital) equipment and services prior to on-site integration.
- Provide all necessary cableways and/or conduits required to facilitate AV systems wiring.
- Provide all necessary conduit, wiring and devices for technical power to the AV systems equipment.
- Provide reasonable accesses of AVI Systems personnel to the facilities during periods of integration, testing and training, including off hours and weekends.
- Provide a secure area to house all integration materials and equipment.

PRODUCTS AND SERVICES DETAIL

PRODUCTS:

<u>Model #</u>	<u>Mfg</u>	<u>Description</u>	<u>Qty</u>	<u>Price</u>	<u>Extended</u>
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Paging Replacement System

RDLTXLM2	RDL - RADIO DE	Line Level to Mic Level Transformer	3	\$44.50	\$133.50
TG4C	BOGEN	TONE SIGNAL GENERATOR	1	\$138.61	\$138.61
CORE 8 FLEX-NA	QSC	PROCESSOR,CORE 8 FLEX-NA,100-240V,	1	\$1,875.00	\$1,875.00
HPA602	ATLAS	AMP, HI PWR 2X300W@70V 2RU	1	\$779.94	\$779.94
		Engineering & Drawings			\$1,200.72
		Project Management			\$570.32
		Programming			\$510.28
		In Shop Fabrication			\$120.07
		On Site Integration			\$1,056.64
		Integration Cables & Connectors			\$153.85
Sub-Total: Paging Replacement System					\$6,538.93
<u>Total:</u>					<u>\$6,538.93</u>

PRO SUPPORT:

Model #	Mfg	Description	Qty	Price	Extended
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Refer to page 1 for the Grand Total that includes the Taxes, and Shipping & Handling

AVI Systems General Terms and Conditions of Sale

The following General Terms & Conditions of Sale (the "T&Cs") in combination with either (a) a signed Retail Sales Agreement or (b) Quote under which AVI Systems, Inc ("AVI") agrees to supply goods or services constitute a binding contract (the "Agreement") between AVI and the entity identified on page one of the Retail Sales Agreement or Quote (the "Customer"). In the absence of a separately negotiated "Master Services Agreement" between AVI and Customer signed in "wet ink" by the Chief Executive Officer or Chief Financial Officer of AVI, these T&C's shall apply. Any terms and conditions set forth in any correspondence, purchase order or Internet based form from Customer to AVI which purport to constitute terms and conditions which are in addition to those set forth in this Agreement or which attempt to establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by AVI unless the same has been manually countersigned in wet ink by an Officer of AVI.

1. Changes In The Scope of Work – Where a Scope of Work is included with this Agreement, costs resulting from changes in the scope of this project by the Customer, including any additional requirements or restrictions placed on AVI by the Customer or its representatives, will be added to the contract price. When AVI becomes aware of the nature and impact of the change, a contract Change Order will be submitted for review and approval by the Customer before work continues. AVI has the right to suspend the work on the project pending Customer's written approval of the Change Order.

2. Ownership and Use of Documents and Electronic Data – Where applicable, drawings, specifications, other documents, and electronic data furnished by AVI for the associated project under this Agreement are instruments of the services provided. These items are "Confidential Information" as defined in this Agreement and AVI shall retain all common law, statutory and other reserved rights, including any copyright in these instruments. These instruments of service are furnished for use solely with respect to the associated project under this Agreement. The Customer shall be permitted to retain copies of any drawings, specifications, other documents, and electronic data furnished by AVI for information and reference in connection with the associated project and for no other purpose.

3. Proprietary Protection of Programs – Where applicable this Agreement does not cause any transfer of title, or intellectual rights, in control systems programs, or any materials produced in connection therewith, including any source code. Any applications or programs supplied by AVI are provided, and are authorized for installation, execution, and use only in machine-readable object code form. This Agreement is expressly limited to the use of the programs by the Customer for the equipment in connection with the associated project. Customer agrees that it will not seek to reverse-engineer any program to obtain source codes, and that it will not disclose the programs source codes or configuration files to any third party, without the written consent of AVI. The programs, source codes and configuration files, together with AVI's know-how and integration and configuration techniques, furnished hereunder are proprietary to AVI, and were developed at its private expense. If Customer is a branch of the United States government, for purposes of this Agreement any software furnished by AVI hereunder shall be deemed "restricted computer software", and any data, including installation and systems configuration information, shall be deemed "limited rights data", as those terms are defined in FAR 52.227-14 of the Code of Federal Regulations.

4. Shipping and Handling and Taxes – The prices shown are F.O.B. manufacturer's plant or AVI's office depending on where items are located when direction is issued to ship to the point of integration. The Customer, in accordance with AVI's current shipping and billing practices, will pay all destination charges. In addition to the prices on this Agreement, the Customer agrees to pay amounts equal to any sales tax invoiced by AVI, or (where applicable) any use or personal property taxes resulting from this Agreement or any activities hereunder. Customer will defend, indemnify and hold harmless AVI against any claims by any tax authority for all unpaid taxes or for any sales tax exemption claimed by Customer.

5. Title – Where applicable, title to the Equipment passes to the Customer on the earlier of: (a) the date of shipment from AVI to Customer, or (b) the date on which AVI transmits its invoice to Customer.

6. Security Interest – In addition to any mechanics' lien rights, the Customer, for value received, hereby grants to AVI a security interest under the Minnesota commercial code together with the a security interest under the law(s) of the state(s) in which work is performed or equipment is delivered. This security interest shall extend to all Equipment, plus any additions and replacements of such Equipment, and all accessories, parts and connecting Equipment now or hereafter affixed thereto. This security interest will be satisfied by payment in full unless otherwise provided for in an installment payment agreement. The security interest shall be security for all sums owed by Customer under this Agreement. A copy of this Agreement may be filed as a financing statement with the appropriate authority at any time after signature of the Customer. Such filing does not constitute acceptance of this Agreement by AVI

7. Risk of Loss or Damage – Notwithstanding Customer's payment of the purchase price for Equipment, all risk of loss or damage shall transfer from AVI to Customer upon transfer of Title to Customer. Customer shall be responsible for securing insurance on Equipment from this point forward.

8. Receiving/Integration – Unless the Agreement expressly includes integration services by AVI, the Customer agrees to furnish all services required for receiving, unpacking and placing Equipment in the desired location along with integration. Packaging materials shall be the property of the Customer.

9. Equipment Warranties – To the extent AVI receives any warranties from a manufacturer on Equipment; it will pass them through to Customer to the full extent permitted by the terms of each warranty. Factory warranties vary by manufacturer, and no additional warranties are expressed or implied.

10. General Warranties – Each Party represents and warrants to the other that: (i) it has full right, power and authority to enter into and fully perform its obligations under this Agreement, including without limitation the right to bind any party it purports to bind to this Agreement; (ii) the execution, delivery and performance of this Agreement by that Party does not conflict with any other agreement to which it is a Party or by which it is bound, and (iii) it will comply with all applicable laws in its discharge of its obligations under this Agreement. AVI warrants, for a period of 90 days from Substantial Completion, the systems integration to be free from defects in workmanship. CUSTOMER WARRANTS THAT IT HAS NOT RELIED ON ANY

INFORMATION OR REPRESENTATION PROVIDED BY OR ON BEHALF OF AVI WHICH IS NOT EXPRESSLY INCLUDED IN THESE GENERAL TERMS AND CONDITIONS OR THE RETAIL SALES AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH HEREIN. AVI DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE EQUIPMENT, MATERIALS AND SERVICES PROVIDED BY AVI, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON INFRINGEMENT AND TITLE.

11. Indemnification – Customer shall defend, indemnify and hold harmless AVI against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), that arise in whole or in part from: (a) any negligent act or omission of Customer, its agents, or subcontractors, (b) Customer's failure to fully conform to all laws, ordinances, rules and regulations which affect the Agreement, or (c) Customer's breach of this Agreement. If Customer fails to promptly indemnify and defend such claims and/or pay AVI's expenses, as provided above, AVI shall have the right to defend itself, and in that case, Customer shall reimburse AVI for all of its reasonable attorneys' fees, costs and damages incurred in settling or defending such claims within thirty (30) days of each of AVI's written requests. AVI shall indemnify and hold harmless Customer against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), to the extent that the same is finally determined to be the result of (a) any grossly negligence or willful misconduct of AVI, its agents, or subcontractors, (b) AVI's failure to fully conform to any material law, ordinance, rule or regulation which affects the Agreement, or (c) AVI's uncured material breach of this Agreement.

12. Remedies – Upon default as provided herein, AVI shall have all the rights and remedies of a secured party under the Minnesota commercial code and under any other applicable laws. Any requirements of reasonable notice by AVI to Customer, or to any guarantors or sureties of Customer shall be met if such notice is mailed, postage prepaid, to the address of the party to be notified shown on the first page of this Agreement (or to such other mailing address as that party later furnishes in writing to AVI) at least ten calendar days before the time of the event or contemplated action by AVI set forth in said notice. The rights and remedies herein conferred upon AVI, shall be cumulative and not alternative and shall be in addition to and not in substitution of or in derogation of rights and remedies conferred by the Minnesota commercial code and other applicable laws.

13. Limitation of Remedies for Equipment – AVI's entire liability and the Customer's sole and exclusive remedy in all situations involving performance or nonperformance of Equipment furnished under this Agreement, shall be the adjustment or repair of the Equipment or replacement of its parts by AVI, or, at AVI option, replacement of the Equipment.

14. Limitation on Liability – EXCEPT IN CIRCUMSTANCES INVOLVING ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE TOTAL LIABILITY OF A AVI UNDER THIS AGREEMENT FOR ANY CAUSE SHALL NOT EXCEED (EITHER FOR ANY SINGLE LOSS OR ALL LOSSES IN THE AGGREGATE) THE NET AMOUNT ACTUALLY PAID BY CUSTOMER TO AVI UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE ON WHICH AVI'S LIABILITY FOR THE FIRST SUCH LOSS FIRST AROSE.

15. No Consequential Damages – AVI SHALL NOT HAVE ANY LIABILITY TO CUSTOMER OR TO ANY OTHER PERSON OR ORGANIZATION FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OF ANY DESCRIPTION (INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOSS OR INTERRUPTION OF BUSINESS), WHETHER BASED ON CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY, REGARDLESS OF WHETHER ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND IRRESPECTIVE OF THE NUMBER OR NATURE OF CLAIMS.

16. Acceleration of Obligations and Default – Payment in full for all "Equipment," which is defined as all goods identified in the section of the Agreement with the same title, as well for any and all other amounts due to AVI shall be due within the terms of the Agreement. Upon the occurrence of any event of default by Customer, AVI may, at its option, with or without notice, declare the whole unpaid balance of any obligation secured by this Agreement immediately due and payable and may declare Customer to be in default under this Agreement.

17. Choice of Law, Venue and Attorney's Fees – This Agreement shall be governed by the laws of the State of Minnesota in the United States of America without reference to or use of any conflicts of laws provisions therein. For the purpose of resolving conflicts related to or arising out of this Agreement, the Parties expressly agree that venue shall be in the State of Minnesota in the United States of America only, and, in addition, the Parties hereby consent to the exclusive jurisdiction of the federal and state courts located in Hennepin County, Minnesota in the United States of America and waive any right to assert in any such proceeding that Customer is not subject to the jurisdiction of such court or that the venue of such proceeding is improper or an inconvenient forum. The Parties specifically disclaim application (i) of the United Nations Convention on the International Sale of Goods, 1980, and (ii) of Article 2 of the Uniform Commercial Code as codified. In the event AVI must take action to enforce its rights under the Agreement, the court shall award AVI the attorney's fees it incurred to enforce its rights under this Agreement.

18. General – Headings are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. The Parties acknowledge and agree that the Agreement has been negotiated by the Parties and that each had the opportunity to consult with its respective counsel, and shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either Party based on draftsmanship of the Agreement. This Agreement is not assignable by Customer without the prior written consent of AVI. Any attempt by Customer to assign any of the rights, duties, or obligations of this Agreement without such consent is void. AVI reserves the right to assign this Agreement to other parties in order to fulfill all warranties and obligations expressed herein, or upon the sale of all or substantially all of AVI's assets or business. This Agreement can only be modified by a written agreement duly signed by persons authorized to sign agreements on behalf of the Customer and of AVI, and variance from the terms and conditions of the Agreement in any order or other written notification from the Customer will be of no effect. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. AVI is not responsible for any delay in, or failure to, fulfill its obligations under this Agreement due to causes such as natural disaster, war, emergency conditions, labor strike, acts of terrorism, the substantial inoperability of the Internet, the inability to obtain supplies, or any other reason or any other cause or condition beyond AVI's reasonable control. Except as otherwise stated in the Agreement, AVI is not obliged to provide any services hereunder for Equipment located outside the United States or Puerto Rico. Scheduled completion dates are subject to change based on material shortages caused by shortages in cable and materials that are industry wide.

19. Confidentiality. The term "Confidential Information" shall mean the inventions, trade secrets, computer software in both object and source code, algorithms, documentation, know how, technology, ideas, and all other business, customer, technical, and financial information owned by AVI or the Customer, which is designated as confidential, or communicated in such a manner or under such circumstances as would reasonably enable a person or organization to ascertain its confidential nature. All the Confidential Information of a party to this Agreement shall be maintained in confidence by the other party, and neither party shall, during the term of this Agreement or for a period of three (3) years subsequent to the termination of this Agreement, divulge to any person or organization, or use in any manner whatsoever, directly or indirectly, for any reason whatsoever, any of the Confidential Information of the other party without receiving the prior written consent of the other party. AVI and the Customer shall take such actions as may be reasonably necessary to ensure that its employees and agents are bound by the provisions of this Section, which actions shall, as may be reasonably requested by either party, include the execution of written confidentiality agreements with the employees and agents of the other party. The provisions of this Section shall not have application to any information that (i) becomes lawfully available to the public; (ii) is received without restriction from another person or organization lawfully in possession of such information; (iii) was rightfully in the possession of a party without restriction prior to its disclosure; or (iv) is independently developed by a party or its employees or agents without access to the other party's similar information.

20. Nonsolicitation - To the extent permitted by applicable law, during the term of this Agreement and for a period of one (1) year after the termination this Agreement, each Party agrees that it shall not knowingly solicit or attempt to solicit any of the other Party's executive employees or employees who are key to such Party's performance of its obligations under this Agreement ("Covered Employees"). Notwithstanding the foregoing, nothing herein shall prevent either Party from hiring as an employee any person who responds to an advertisement for employment placed in the ordinary course of business by that Party and/or who initiates contact with that party without any direct solicitation of that person by that Party or its agents.

21. Price Quotations and Time to Install – AVI often installs systems at the end of a construction project. The price quoted contemplates that AVI shall have access to the location for the time shown for AVI to complete its work after the work of all other contractors is substantially complete which means, generally, all other trades are no longer generating dust in the location, and final carpeting/flooring is installed (the "Prepared Area") Failure to give AVI access to the Prepared Area for the amount of time shown for the installation may result in increased installation costs, typically in a manner proportionate to the reduction of time given to AVI to complete its work compared to the original schedule.

22. Price Quotations – Unless otherwise specified, all prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within the terms of each invoice. Payment in other forms, including credit card, p-card, or other non-cash payments shall be subject to a convenience above the cash price. Please speak to your AVI representative if you have any questions in this regard.



December 11th Roundtable Meeting Topics

Bis-Man Transit Board members are scheduled to meet December 11th at 8:00am for a roundtable discussion on high level planning items. Three hours have been scheduled for the event. The meeting can be attended virtually or in-person at the Bis-Man Transit Facility.

Possible Topics for Discussion:

1. Review 2021 plan
2. Possible service revisions if additional funding not obtained
3. Additional funding options (mill levy request, etc.)
4. Executive director grant application process/purchasing limits
5. Transit Development Plan (2022-2023)
6. Triennial Review Progress
7. 2022 Goals





October 28, 2021

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: 2022 Coordinated Public Transit – Human Services Transportation Plan Approval

BACKGROUND: In 2017, the Bis-Man Transit Board approved the Coordinated Public Transit – Human Services Transportation Plan. In order to continue receiving federal funding, this plan must be updated every five years.

Federal transit law requires that projects selected for funding under the Enhanced Mobility for Individuals and Individuals with Disabilities (Section 5310) Program be "included in a locally developed, coordinated public transit-human services transportation plan," and that the plan be "developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and other members of the public" utilizing transportation services. These coordinated plans identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation.

DISCUSSION: A series of public comment meetings were held to gather input for the 2022 Plan. The final public hearing was held October 28, 2021. Surveys were distributed to human service agencies and the general public. Feedback received has been included in the plan update. Funding sources and additional statistic have been included in the proposed plan.

FINANCIAL IMPACT: None.

RECOMMENDATION: Staff recommends approval of the 2022 Coordinated Public Transit – Human Services Transportation Plan.



3750 E Rosser Avenue,
Bismarck, ND 58501



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701.258.6817



www.bismantransit.com

Bis-Man Transit

Coordinated Public Transit – Human Services

Transportation Plan
2022



Prepared by

Bis-Man Transit October 2021

Approved by Bis-Man Transit

Board of Directors:



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Introduction

Presidential Executive Order 13330 on the Coordination of Human Service Programs issued by the president on February 24, 2004, created an interdepartmental Federal Council on Access and Mobility to undertake collective and individual departmental actions to reduce duplication among federally funded human service transportation services, increase the efficient delivery of such services, and expand transportation access for older individuals, people with disabilities, people with low income, children, and other disadvantaged populations within their own communities.

In 2006, the Safe, Affordable, Flexible, Efficient, Transportation Equity Act-A Legacy for Users (SAFETEA-LU) established an executive order stating that agencies involved in the coordination or delivery of transportation services are required to produce a coordinated public transit human service plan. That executive order was carried over to the Moving Ahead for Progress in the 21st Century Act (MAP-21) in 2012, and subsequently the Fixing America's Surface Transportation (FAST) Act in 2015. Additionally, federal transit law requires that projects selected to receive funding under the Enhanced Mobility for Individuals and Individuals with Disabilities (Section 5310) Program are "included in a locally developed, coordinated public transit-human services transportation plan," and that the plan be "developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of the public, private, and nonprofit transportation and human service providers and other members of the public" utilizing transportation services.

Required Elements of the Plan

To comply with FTA Circular 9070.1G, the Plan identifies specific transportation needs that are eligible for funding through the Federal Transit Administration (FTA) Section 5310 program for the enhanced mobility of seniors and individuals with a disability. The plan identifies the transportation needs of individuals with disabilities, seniors, and people with low incomes and provides strategies to meet those needs and prioritize transportation services and projects for funding and implementation.

Required elements of the plan include:

1. An assessment of available services that identifies current transportation providers (public, private, and nonprofit);
2. An assessment of transportation needs for individuals with disabilities and seniors. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service;
3. Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and
4. Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

Executive Summary

Bis-Man Transit 2022-2025 Coordinated Public Transit and Human Services Transportation Plan (herein referred to as the “Coordinated Plan” or the “Plan”) addresses the mobility needs and services gaps in Bismarck, Mandan and Lincoln; specifically, for seniors (over the age of 65), persons with disabilities, low-income individuals, and veterans (herein referred to as “target populations”). This is done by providing a framework of strategies and projects to improve service levels through an open stakeholder’s engagement process.

Per the Federal Transit Administration, Bis-Man Transit is required to update the Coordinated Public Transit Human Services Transportation Plan every five years, as Bis-Man Transit receives Section 5310 funding for capital and operating projects.

Federal transit law requires that projects selected for funding under the Enhanced Mobility for Individuals and Individuals with Disabilities (Section 5310) Program be "included in a locally developed, coordinated public transit-human services transportation plan," and that the plan be "developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and other members of the public" utilizing transportation services. These coordinated plans identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation.

The Plan does the following:

- > Assesses transportation services provided for target population groups.
- > Considers and evaluates current and future target population transportation needs.
- > Develops goals and strategies to address gaps in existing transportation services.
- > Prioritizes projects and programs that will improve mobility for target population groups.
- > Addresses funding gaps for Bis-Man Transit.
- > Allows Bis-Man Transit to fulfill its responsibilities as a Section 5310 funding subrecipient.

Mobility Needs and Service Gaps

To engage stakeholders and assess mobility needs and service gaps for Bis-Man Transit, a comprehensive outreach process targeted participation by geographic and specific populations. The outreach process included interacting with stakeholders and gathering data and information on transportation needs and preferences from service agencies. Outreach efforts included four public comment meetings, distribution of a public transit specific survey to 90 human service agencies, and a 30-day public review and comment period of the Plan. Following the 30-day public review period, a

public listening session was held at the Bis-Man Transit Facility. All meetings were available for in-person and virtual participation.

For the release of the Plan, outreach efforts included a variety of traditional and digital notification methods to research target populations through the Bis-Man Transit service area. Notification materials were distributed to a variety of public entities throughout the service area including, public libraries, city halls, and human service agencies. Digital and social media campaigns promoting community involvement were utilized, as well as on-bus flyers to promote survey responses and public comment participation. Stakeholders submitted comments via the bisantransit.com website form, e-mail, phone, on-site, and through the public comment meetings that were held in September of 2021. The general public provided comments via the survey, email, and public comment meetings.

Human Service Agency Survey

A survey was distributed to individuals associated with service agencies throughout Bismarck, Mandan, and Lincoln. The agency survey identified the anticipated transportation service gaps over the next four years throughout the service area. Agency respondents identified the following key mobility issues:

- > Difficult trip types
- > Barriers for access/mobility
- > Barrier for agencies
- > Safety
- > Barriers using technology

Community Meetings

On-site and virtual meetings were held in September of 2021 to present an overview of the draft Plan and provide an additional opportunity to receive comments from the public. The draft Plan was available for public review and comment from September 13, 2021 to October 13, 2021. The meetings were recorded and are available upon request. Information on how to submit comments on the draft Plan was also provided to encourage additional participation. An Americans with Disabilities Act (ADA) accessible version of the draft Plan was made available on the website.

Goals

Building on the 2017-2021 Coordinated Plan, the Transit Development Plan, and input received throughout the outreach effort, the following goals and strategies have been identified to address the mobility needs and service gaps of Bis-Man Transit's target populations:

- > **Goal 1:** Fund Mobility Options – Sustain, fund and continue to provide transportation services throughout Bismarck, Mandan, and Lincoln.
- > **Goal 2:** Address Mobility Gaps – Improve coordination between Bis-Man Transit and human service agencies to address mobility gaps.
- > **Goal 3:** Provide Support Services – Provide support services to enable access for the target populations.
- > **Goal 4:** Promote Information Portals – Promote and expand information portals on mobility options
- > **Goal 5:** Enhance Accountable Performance Monitoring - Improve customer feedback follow up and accountable performance monitoring to ensure that high quality services are maintained.
- > **Goal 6:** Increase ridership on the CAT Bus – Increase marketing efforts throughout Bismarck and Mandan to expand fixed route knowledge. Continue promotions of training days and travel training options for target populations.
- > **Goal 7:** Investigate afterhours premium service options - Create after hours premium demand response options for CAT bus riders.
- > **Goal 8:** Increase local school partnerships – Increase student knowledge and comfort with public transportation in an effort to improve ridership.



Bis-Man Transit Funding

Funding continues to be an obstacle for Bis-Man Transit. With federal and state assistance on the decline and operations cost on the rise, Bis-Man Transit must explore alternative funding sources or investigate the impacts of possible service reductions. The majority of federal funding received by Bis-Man Transit comes from Section 5307, 5310, and 5339 Grants.

Due to the COVID-19 pandemic, Bis-Man Transit received additional Coronavirus Aid, Relief, and Economic Security (CARES) Act funding and American Rescue Plan funding.

FTA Formula Funds

Section 5307 Urbanized Area Formula Program

The largest FTA funding program is the Section 5307 Urbanized Area Formula Program. Section 5307 authorizes federal, capital and, in some cases, operating assistance for transit in UZAs. The FTA apportions Section 5307 funds based on legislative formulas. Different formulas apply to UZAs with a population of less than 200,000 (small UZA or small urban area) and to UZAs with a population of 200,000 or more (large UZA or large urban area). The FTA allocates to UZAs with a population 1 million or more (very large UZA or very large urban area) based on the same formula as large UZAs.

For the small UZAs with a population less than 200,000, the FTA bases the formula solely on population and population density. The FTA sets aside 1% of Section 5307 funds for Small Transit Intensive Cities. The FTA apportions these funds to UZAs with a population less than 200,000 that operate at a level of service equal to or above the industry average level of service for all UZAs with a population of at least 200,000 but not more than 999,999. The FTA allocates the funds based on level of service and performance in one or more of six categories: passenger miles per vehicle revenue mile, passenger miles per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles per capita, and passenger trips per capita.

For UZAs with a population less than 200,000, the FTA apportions Section 5307 funds to the governor of each state for distribution. The governor or designee may determine the sub allocation of funds among the small UZAs or elect to obligate the funds in the amounts based on the legislative formula.

Eligible purposes for use of Section 5307 funds include planning, engineering design, and evaluation of transit projects and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement of buses, overhaul of buses, rebuilding of buses, crime prevention and security equipment, and construction of maintenance and passenger facilities; and capital investments in new and existing fixed guideway systems including rolling stock, overhaul and rebuilding of vehicles, track, signals, communications, and computer hardware and software. All preventive maintenance and some Americans with Disabilities Act (ADA) complementary paratransit service costs qualify as capital costs. For most projects, up to 80% of project cost may use federal funds. The federal contribution may be 90% for some projects that support the ADA or the Clean Air Act.

Small UZAs with a population of less than 200,000 may also use Section 5307 funds for operating assistance up to 50% of the operating deficit (operating expenses less fare revenue). For UZAs with populations of 200,000 or more, operating assistance is not an eligible expense. The FTA provides UZAs

that reach or exceed the 200,000-population threshold for the first time after the most recent decennial census a transition period of several years to eliminate the use of Section 5307 funds for operating assistance.

In urban areas with a population 200,000 or more, at least 1% of the funding apportioned to each area must be used for transit enhancement activities such as historic preservation, landscaping, public art, pedestrian access, bicycle access, and enhanced access for people with disabilities.

FTA Competitive Funds

Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program

Section 5310 provides formula funding to states for the purpose of meeting the transportation needs of seniors and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs. The FTA apportions \$125,000 to each state and then apportions the balance based on each state's share of population for these groups of people.

Capital projects are eligible for funding. Most funds are used to purchase vehicles or to provide preventive maintenance for transit fleets; but acquisition of transportation services under contract, lease, or other arrangements, and state program administration are also eligible expenses. The maximum federal share is 80%. State or local funding sources may provide the local share.

Section 5339 Program

Section 5339 makes federal resources available to states and direct recipients to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emission vehicles or facilities. Funding is provided through formula allocations and competitive grants. A sub-program, the Low- or No-Emission Vehicle Program, provides competitive grants for bus and bus facility projects that support low and zero-emission vehicles.



Local Funding

Local funding for Bis-Man Transit is derived from mill levies for both Bismarck and Mandan. Mill levies are property taxes that are based on the assessed value of a property. The rate of this tax is expressed in mills. One mill is equal to \$1 for every \$1,000 of assessed value. The mill levy rate is determined every year by dividing the total assessed value of all of the taxable property in a city or town by the overall amount of tax that is necessary to cover city, county and state budget requirements. Presently, Bis-Man Transit receives 3 mills from the City of Bismarck and 2 mills from the City of Mandan annually.

Local Funding Source				
	2017	2018	2019	2020
City of Bismarck Mill Levy (3 Mills)	\$ 1,043,301	\$ 1,106,942	\$ 1,257,503	\$ 1,260,705
City of Mandan Mill Levy (2 Mill)	\$ 160,204	\$ 170,392	\$ 186,540	\$ 193,592

State Funding

State funding for Bis-Man Transit is made up of 1.5% of the Highway Tax Distribution Fund for the State of North Dakota.

State Funding				
	2017	2018	2019	2020
ND Department of Transportation	\$ 353,919	\$ 403,443	\$ 405,943	\$ 316,528

Reported based on State Fiscal year (July to June)



Coordination Planning Process

The 2022 coordination planning process began in Summer of 2021. A total of 90 agencies and providers were invited to participate in a provider survey pertaining to transportation in the community. The general public was also invited to complete a transit survey and provide comments on the draft Plan document. General public surveys were promoted on the Bis-Man Transit website, social media, and on-board bus advertisements. Agencies were asked to encourage current and potential riders to also participate in the general public survey. Promotional posters were posted at grocery stores, colleges, and libraries. Local media also promoted the general public survey on August 30, 2021.

Community Transportation Input Committee

The Community Transportation Input Committee, or CTIC, met on August 24, 2021. During this meeting, Bis-Man Transit staff encourage committee members to participate in the survey, as well as encourage others throughout the community to do the same. The 2017 Plan was distributed to all committee members and feedback on what should be done differently with the 2022 plan was discussed. This committee is comprised of Bis-Man Transit Board Members, riders, and stakeholders throughout the Bismarck and Mandan communities.

Public Meetings

Public Comment Meetings were conducted September 13, 2021, at the Bis-Man Transit Center and the Bismarck Veterans Library; and September 14, 2021, at Mandan City Hall and at the Bismarck Veterans Memorial Public Library. Virtual attendance was available for each of the public comment meetings. Meetings were advertised in the local newspaper, on the Bis-Man Transit website, social media, and on-board all buses.

Following the public comment meetings, the proposed plan was posted on the Bis-Man Transit Website for 30 days prior to the public hearing meeting. Legal notice of the public comment period and the subsequent public hearing meeting was displayed in the Bismarck Tribune.

The Public Hearing Meeting was held at the Bis-Man Transit facility on October 28, 2021 at 10:00AM.

Background & Demographics

Bis-Man Transit's paratransit service provides service within the city limits of Bismarck, Mandan, Lincoln, and the University of Mary or within three-quarters of a mile of a fixed route. Bis-Man Transit's fixed route service, Capital Area Transit (CAT), provides service throughout Bismarck and Mandan, as well as to the University of Mary. Counties serviced include Burleigh and Morton.

The Bis-Man Transit service area is approximately 56 square miles with a total estimated population of 98,781 based on the 2019 American Community Survey 5- Year Estimates.

Table 1 – Total Population based on the 2019 American Community Survey 5- Year Estimates

CITY	ESTIMATED POPULATION*	MARGIN OF ERROR
Bismarck	72,777	± 32
Mandan	22,301	± 30
Lincoln	3,703	± 21
TOTALS	98,781	± 83

*Based on 2019: American Community Survey 5-Year Estimates

An important component of the planning process is the analysis of Bismarck and Mandan's demographic surveyed data. Table 2 (Bismarck) and Table 3 (Mandan) illustrate the region's "means of transportation to work" based on the 2019 American Community Survey 5-Year Estimates. The combined number of working public who use the bus system was 0.3% (Bismarck) and 0.00% (Mandan) of the total combined surveyed working population of the cities. As the information demonstrates, only a small percentage of Bismarck and Mandan citizens use Bis-Man Transit's modes of service for traveling to and from work.

Table 2 – Bismarck's "means of transportation to work" 2019: ACS 5-Year Estimates Subject Table

	Estimate	Margin of Error
Total	38,571	± 557
Car, Truck or Van—drove alone	87.4 %	± 1.3%
Car Truck, or Van — carpooled	7.1%	± 0.9%
Public Transportation (excluding Taxicab)	0.3%	± 0.3%
Walked	1.5%	± 0.4%
Other means	1.0%	± 0.4%
Worked at home	2.7%	± 0.6%

Source: U.S. Census Bureau, 2019: American Community Survey 5-Year Estimates

Table 3 – Mandan’s “means of transportation to work” 2019: ACS 5-Year Estimates Subject Table

	Estimate	Margin of Error
Total	13,327	± 458
Car, Truck or Van—drove alone	86.2%	± 2.9%
Car Truck, or Van — carpooled	8.0%	± 2.0%
Public Transportation (excluding Taxicab)	0.0%	± 0.1%
Walked	0.7%	± 0.6%
Other means	1.0%	± 0.9%
Worked at home	4.1%	± 1.5%

Source: U.S. Census Bureau, 2019: American Community Survey 5-Year Estimates

Based on the 2019 American Community Survey 5-year estimates, the percentage of Bismarck and Mandan residents below the poverty level was 9.2% and 8.2% respectively, including the city’s total population, not just the working public population.

Given the above stated data, it is safe to assume that Bis-Man Transit’s fixed-route busing system (CAT) is a much-underutilized resource in the area it serves. This observation makes CAT a potentially high-impact resource for the future. It is clear that driving a vehicle is the primary means of transportation within Bismarck and Mandan.

The combined population of Bismarck and Mandan based on the 2019 data was 95,018. Table 4 details the Bismarck-Mandan 2019 disabled population. The combined 2019 population for individuals with disabilities in Bismarck and Mandan was 9,790 people. This is about 11.3% of the 2019 Bismarck population and 8.2% of the 2019 Mandan population. Based on the tables pictured below, it becomes quite clear that the elderly, disabled, veteran, and low-income populations of Bismarck and Mandan are substantial. This data points to the importance of both modes of service for the community.

Table 4 – Individuals with Disabilities in Service Area 2019: ACS 5-Year Estimates Subject Table

	Bismarck	Mandan
Total Disabilities	7,992	1,798
Total Disabilities for Ages Under 18	496	54
Total Disabilities for Ages 18-64	3,468	977
Total Disabilities for Ages 65+	4,028	767

Source: U.S. Census Bureau, 2019: American Community Survey 5-Year Estimates

Table 5 – Veterans in Service Area 2019: ACS 5-Year Estimates Subject Table

	Bismarck	Mandan
Total Veterans	4,428	1,226
Total Veteran %	7.8%	7.0%

Source: U.S. Census Bureau, 2019: American Community Survey 5-Year Estimates

Table 6 – Elderly population in Service Area 2019: ACS 5-Year Subject Table

	Bismarck	Mandan
Total 65+	12,362	3,284
Total 60+ %	16.9%	14.7%

Source: U.S. Census Bureau, 2019: American Community Survey 5-Year Estimates

Table 7 – Population below poverty level in Service Area 2019: ACS 5-Year Subject Table

	Bismarck	Mandan
Total Population below poverty level	5,276	1,782
Total Population below poverty level %	8.2%	7.3%

Source: U.S. Census Bureau, 2019: American Community Survey 5-Year Estimates

Assessment of Available Services

Some human services providers in the Bismarck and Mandan areas have their own transportation for clients, but services may be limited to specific hours and/or purposes. Many providers rely on other transportation, including transit organizations or taxi services, to help their clients.

Nursing homes in the area have vans or small buses for their residents, but rides are usually restricted to medical appointments, activities, or outings that are coordinated by the activities departments or personnel. Nursing homes in the Bismarck-Mandan area include St. Vincent's, Missouri Slope Lutheran Care Center, Baptist Home, Benedictine Living Community, and Sanford Continuing Care.

Assisted living facilities have a wider range of uses for their vans and buses including facility-sponsored activities, personal shopping and outings, and appointments (medical and non-medical). Hours are sometimes limited for the busing services provided by the facilities. Assisted living facilities in the area include Lakewood Landing, Primrose, Touchmark, Good Samaritan Society, The Waterford and three Edgewood Vista communities.

Providers of services for developmentally disabled clients have buses or vans that are for the use of group home resident activities. These providers include Pride Inc., HIT, Enable, Dakota Center for Independent Living and Community Options.

United Tribes Technical College is situated on the southern edge of Bismarck, and students and family members staying on the campus may need a way to access services in the Bismarck and Mandan communities. A bus service through the campus transportation services is available, but during weekdays, trips are only given for social services and medical appointments. In the late afternoon, during the week and on weekends busing is provided for people wanting to shop or take part in social activities and events in the Bismarck and Mandan communities.

BISMARCK – 2 Taxi services registered with the city	
<i>Taxi 9000</i> – Licensed in Bismarck, operates in Mandan also Hours: 5 a.m. – 6:30 p.m.* 1 accessible vehicle * Hours may vary depending on the day.	<i>Dakota Taxi</i> – Licensed in Bismarck, operates in Mandan also Hours: 6 a.m. – 10 p.m. 1 accessible vehicle

MANDAN – 1 Taxi service registered with the city
Metro Express – Licensed in Mandan, operates in Bismarck also Hours: 24-Hours, Monday – Saturday No accessible vehicles

Ride share services in the community include Lyft and Uber.

Standing Rock Transit and West River Transit provide rural services for Burleigh and Morton Counties.

Bis-Man Transit Services Offered

Bis-Man Transit’s paratransit service provides services to the people residing within the city limits of Bismarck, Mandan, Lincoln, and the University of Mary. Paratransit service is available to seniors aged 70 and older, and individuals with disabilities. It operates Monday through Saturday from 5:30 a.m. to midnight, and Sunday from 7:30 a.m. to 2:30 p.m. at a cost of \$3 per one-way ride. Ride reservations must be made at least a day in advance and an application must be filled out by interested individuals and approved by Bis-Man Transit staff. The current paratransit fleet consists of 20 accessible buses.

Capital Area Transit (CAT), is the fixed-route public bus system operating 6:30 a.m. to 7 p.m. on Monday through Friday, and Saturday from 8:00 a.m. to 7 p.m. The cost for a one-way, full fare ride is \$1.50, with reduced rate of 75 cents for Medicare card holders, K-12 students, college students and veterans. A free rate is available for seniors aged 65 and older and/or paratransit members. A 30-day regular fare is \$36, with a discounted fare of \$24. The fixed-route fleet currently has 9 heavy-duty, accessible buses.

Bis-Man Transit Assessment

The organization’s primary objective is to move capable individuals utilizing the paratransit to the fixed route. 1,770 people are registered in the organization’s paratransit/demand response database. If capable individuals were transferred to the fixed route, funding could be allocated to expand the fixed route service hours and routes. A Marketing and Mobility Specialist is employed by the organization to assist with this effort. Since the last Plan in 2017, travel training, community event participation, and web presence has increased significantly.

Bis-Man Transit and Human Service Provider Communications

The Bis-Man Transit staff maintains open lines of communication with service providers in the area. Frequent travel training opportunities are communicated to various agencies in an attempt to increase public transit awareness. Rider guides and paratransit applications are provided to service providers to distribute.

Identification and Analysis of Service Gaps and Service Needs – 2019 Transit Development Plan

The 2019 Transit Development Plan highlighted needs and gaps in the current modes of service provided by Bis-Man Transit paratransit and fixed route services. Since the finalization of the 2019 Transit Development Plan, Bis-Man Transit has worked to evaluate the CAT bus routes and underwent a major route change in February 2021. Safety and security onboard the paratransit buses were also improved with the installation of fareboxes.

Needs:

- Shift trips from the demand response paratransit to the fixed route CAT bus service to make the overall transportation system more cost effective. *Ongoing*
- Educate service providers on the transportation options their clients have. *Ongoing*
- Remove 21st Street segment, stay on 40th Avenue SE to McKenzie Drive, Mandan. *Addressed*
- Travel through the ND 1806-19th Street SE-8th Avenue SE loop once per run. *Addressed*
- Close current funding gap for cost of operations. *Ongoing*

Gaps:

- Evening and weekend service, especially for shift workers.
- Current connections with area employers aren't as strong as they could be.
- Parents don't use the bus, so it makes it difficult to get their children to ride.
- General Public confused about the relationship between CAT and Bis-Man Transit Paratransit Service. *Addressed*

Goals and Objectives:

- Marketing
 - Evaluate use of technology. *Addressed*
 - Explore additional advertisement revenue streams. *Addressed*
 - Evaluate and recommend changes to brand identity. *Addressed*
 - Provide marketing activities to reach transit dependent communities, including non-technology users.
- Design and implement a plan to improve operation efficiency of Paratransit
 - Develop an action plan with timelines to achieve a balanced operating budget relative to revenue
- Demonstrate effective and efficient use of staffing resources.
 - Evaluate staffing needs. *Addressed*
 - Develop organization structure based on needs. *Addressed*
 - Develop policies and procedures. *Addressed*
 - Develop a succession plan.
- Bis-Man Transit shall operate safe, ethical and compliant transportation system, foster a culture of transparency and accountability, while adhering to federal/state/local regulations.
 - Update policies and procedures. *Addressed*
 - Adhere to federal/state/local regulations. *Addressed*
 - Develop training for staff.
 - Enhance safety training. *Addressed*
- Position Bis-Man Transit to be financially sound, to grow the system and provide a valuable service to the community.
 - Develop and operate within a budget.
 - Long-term Bus Replacement Plan *Addressed*
 - Maximize advertising
 - Contract Management policy
 - Leverage industry and professional associate memberships

- Review and recommend fixed route system changes to achieve simplicity and efficiency.
 - Create a task force to establish a hub.
 - Design and implement a plan to increase fixed route ridership.

Funding Concerns:

Presently, a \$500,000 operating deficit has caused Bis-Man Transit to utilize cash reserves to sustain operations. Until funding sustainability through either local, state, or federal sources is achieved, service expansion is not feasible. In order to address the ongoing deficit, Bis-Man Transit will need to implement service reductions. Possible reductions are listed below.

- Elimination of low performing fixed route(s) - \$252,000
- Elimination of paratransit service from 7:00PM to midnight on weekdays & Saturdays - \$145,000
- Elimination of Sunday paratransit service - \$90,000
- Elimination of >70 years age qualifier for Paratransit - \$100,000

The Transit Development Plan that is conducted every five years provides the organization with an understanding of how it provides quality transportation services for the Bismarck and Mandan communities. The next study will begin mid-2022 with an anticipated completion late 2023.

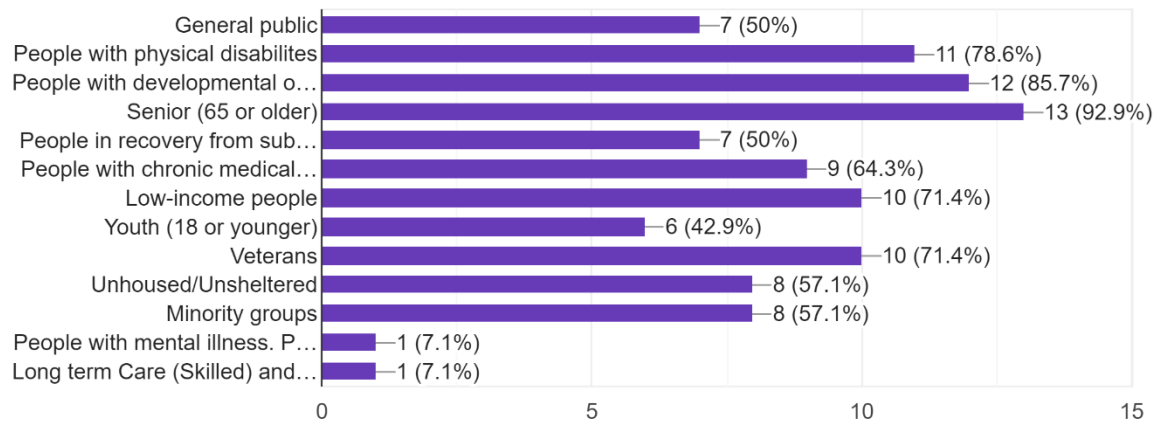
Survey Results

Full survey questions available upon request.

Provider Results

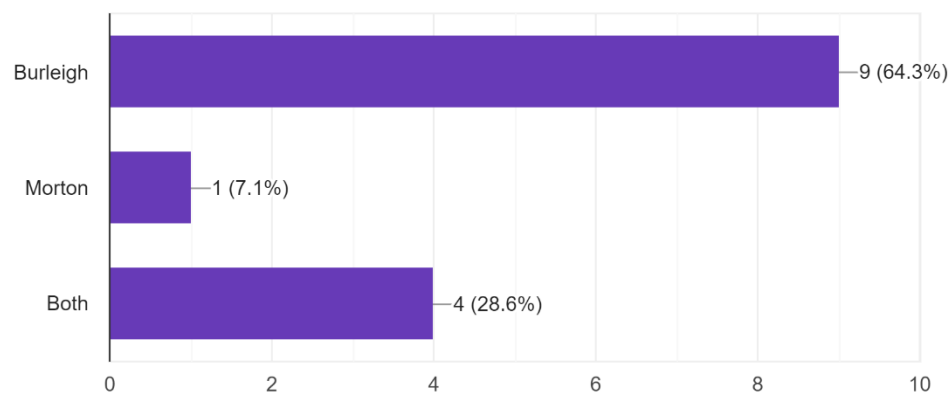
3. Which of the following items does your organization serve? [Please select all that apply.]

14 responses



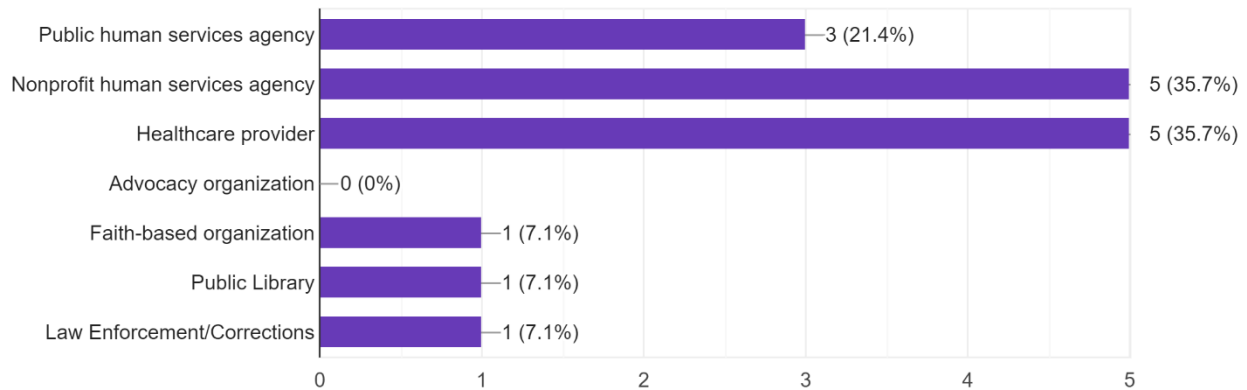
4. In which county(s) are your services located?

14 responses



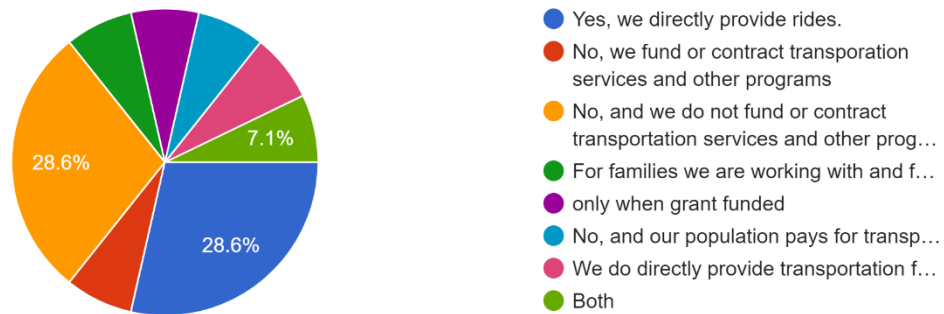
5. Please select the option that best describes your organization. [Select all that apply.]

14 responses



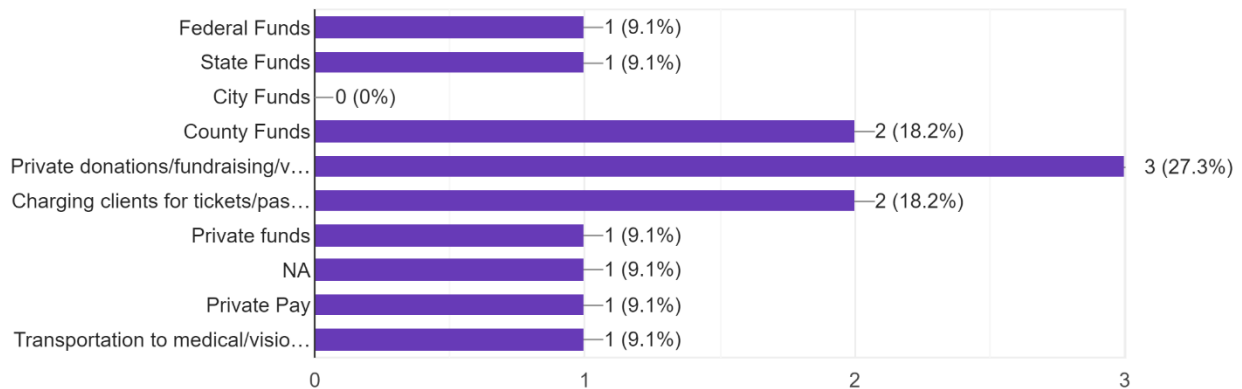
6. Does your organization directly provide transportation services?

14 responses



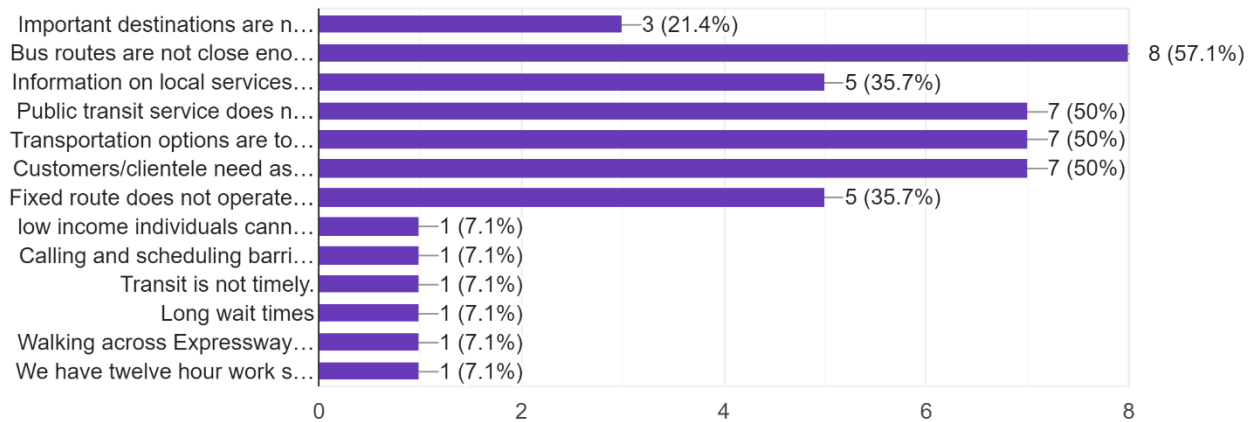
8. How are transportation services funded?

11 responses



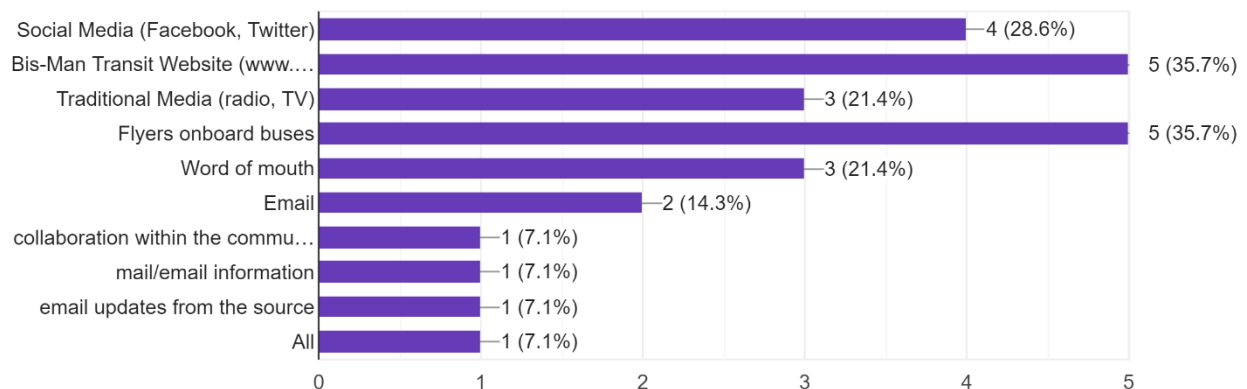
9. Top challenges faced by Customers/Clientele

14 responses



10. What is the best way for your agency to stay aware of transportation service changes or availability within the Bismarck/Mandan/Lincoln communities?

14 responses



13. Please provide any additional comments relating to public transportation within Bismarck, Mandan, and Lincoln. 3 responses

It would be nice to have Transit available to 60 and over again.

Having a bus stop site close to the Detention Center.

A lot of my clientele struggle with being picked up late or not on time and this makes them behind getting to their jobs or specific destinations when riding Transit.

ADDED VIA IN-PERSON MEETING:

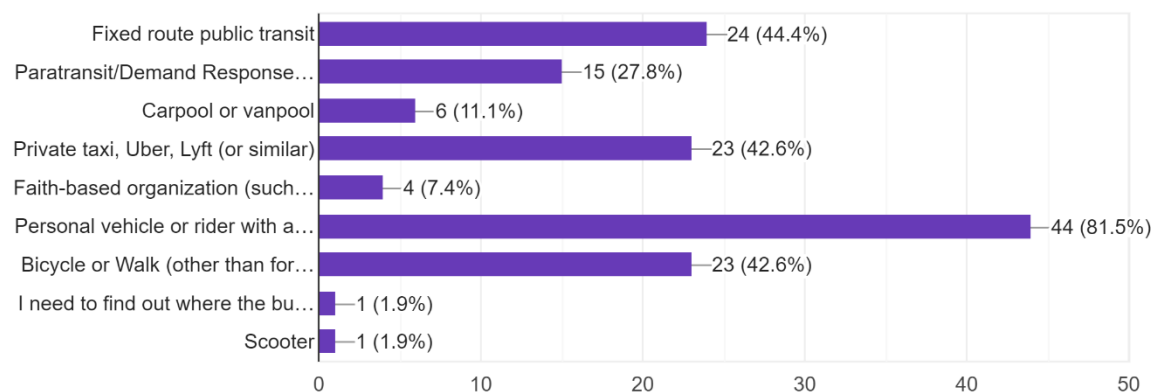
Top challenges faced by customers/clientele:

Important destinations are not accessible on public transit, bus routes are not close enough to residences and/or destinations, public transit service does not operate late enough into the evening, customers need assistance when traveling, fixed route does not operate on Sundays.

General Public Responses

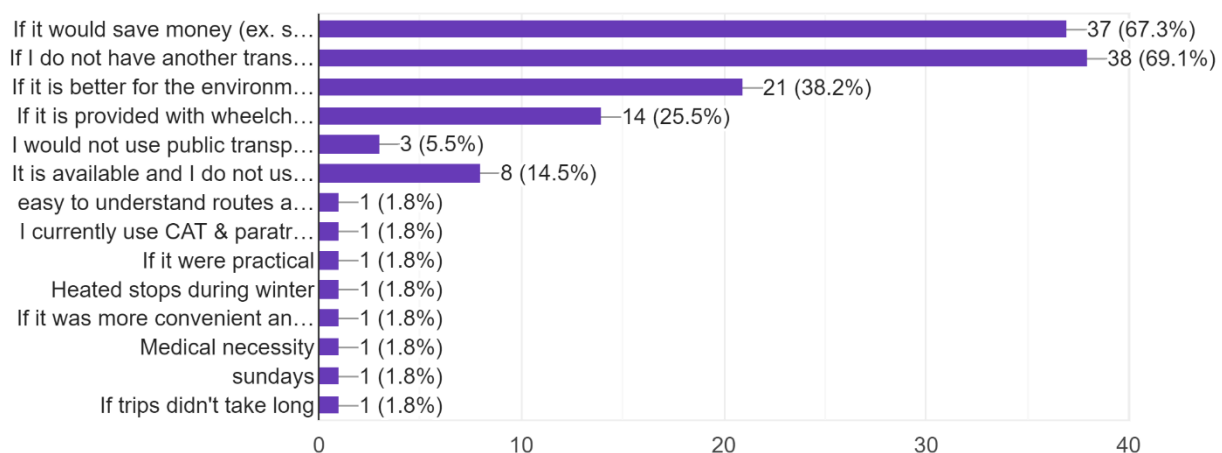
1. Mark ALL of the transportation you or your family have used during the past 12 months to travel to work/appointments/shopping/social activities/etc.: (select all that apply)

54 responses



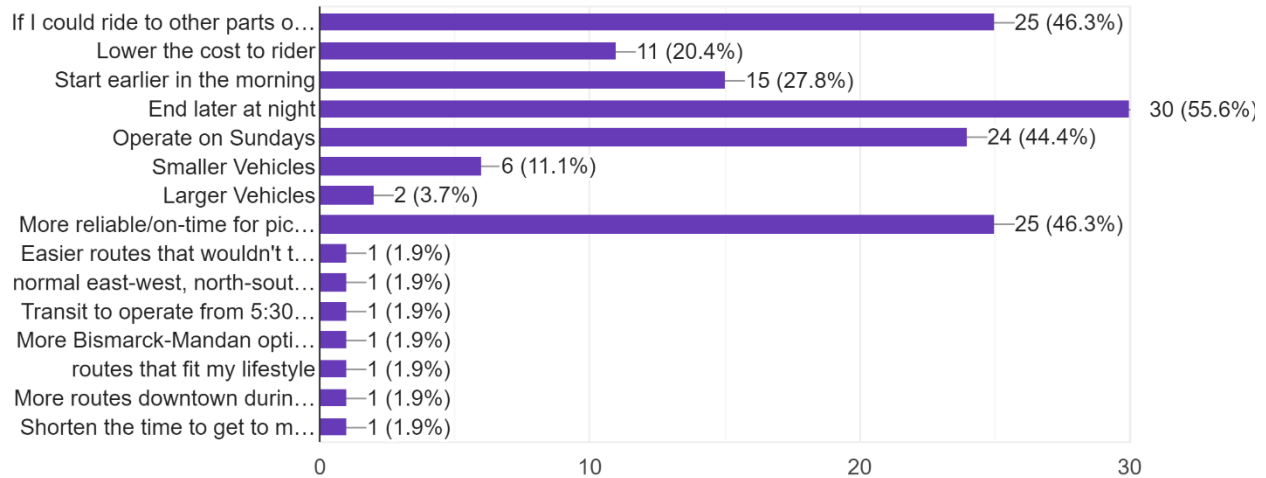
2. If transportation was easy to use and available to you and/or your family, which of the following would cause you to use the service? (select all that apply)

55 responses



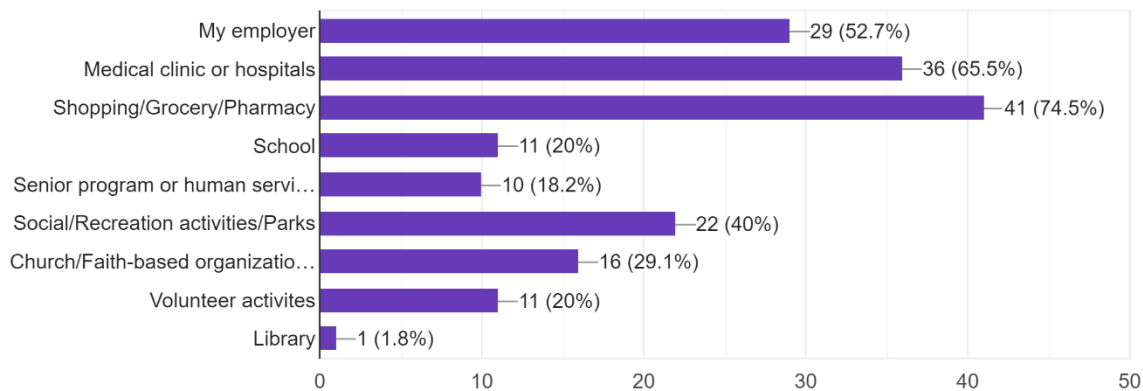
3. What changes could be made to your local transportation options to make using them more appealing to you? (select all that apply)

54 responses

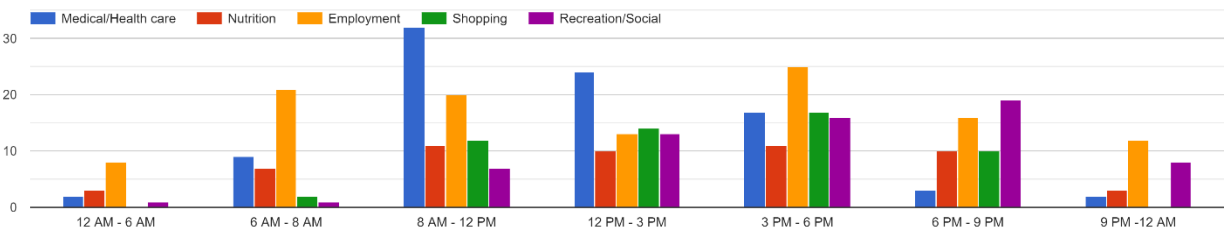


4. Which of the following are your most commonly visited destinations or places you most often need to visit when transportation is available to you? (select all that apply)

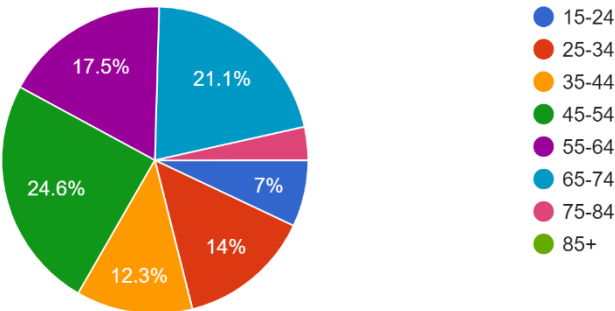
55 responses



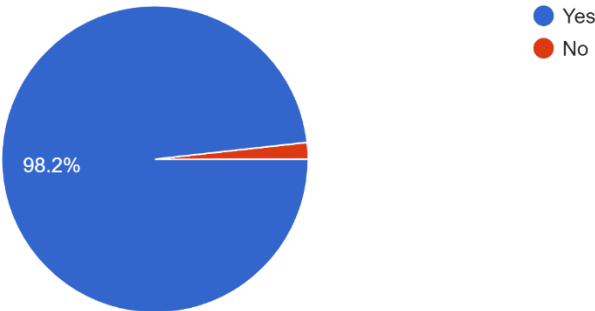
5. When do you need transportation most often for each of the following general purposes? (select all that apply)



6. How old are you?
57 responses

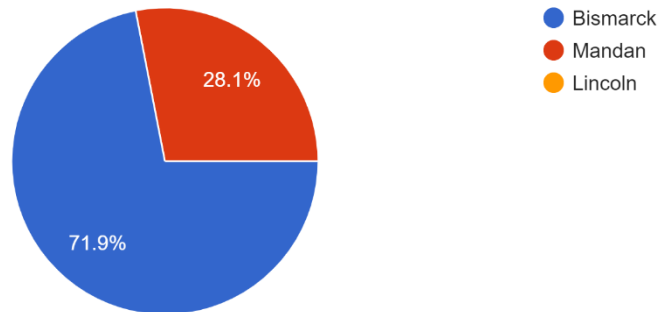


7. Is English your first language?
57 responses



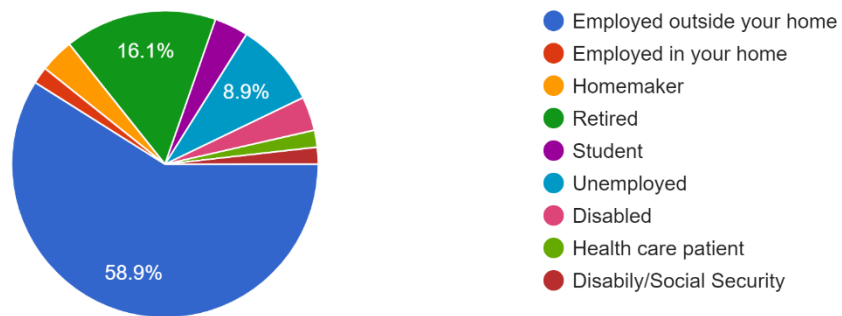
8. What city do you live in?

57 responses



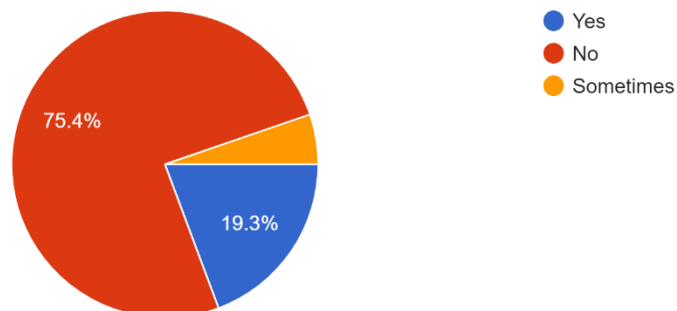
9. Which of the following BEST applies to you? Are you presently:

56 responses



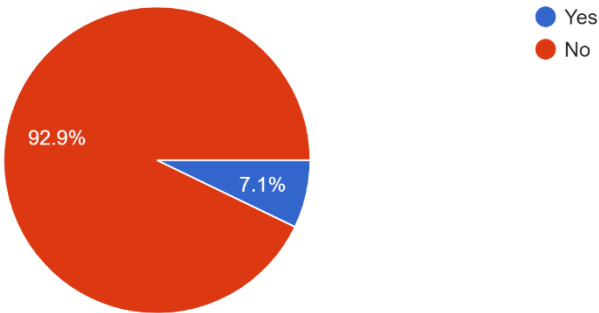
10. Do you have a disability which requires you to use a cane, walker, wheelchair, and/or another device to help you get around?

57 responses



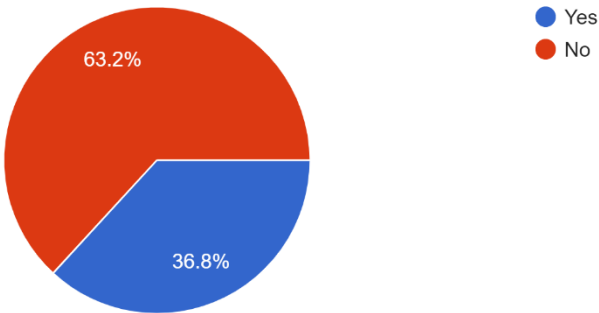
11. Are you or a family member currently using any transportation services that are available to you through the Medicaid program?

56 responses



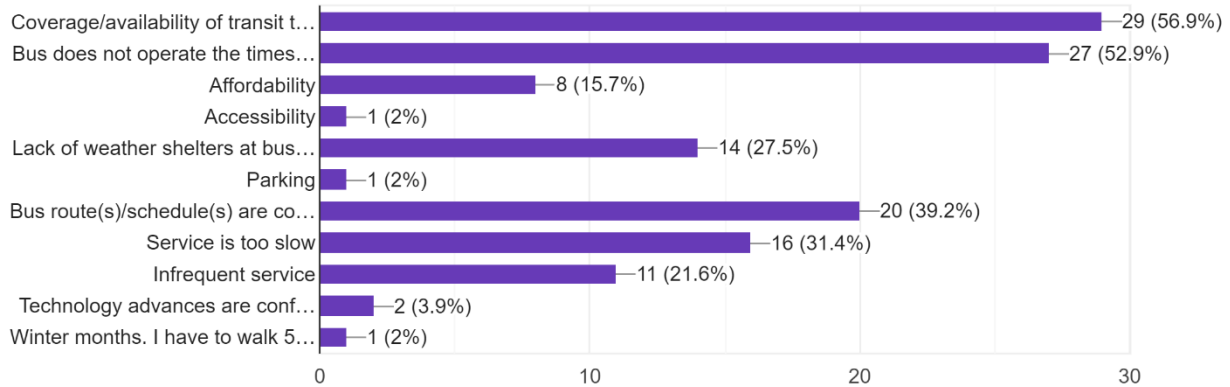
12. Are you concerned about the safety of public transit following the COVID-19 Pandemic?

57 responses



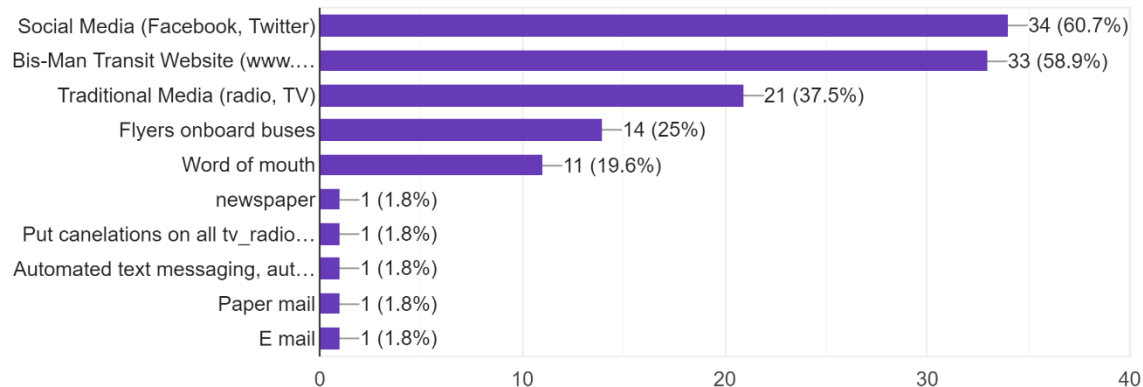
13. What factors make it difficult or impossible to access the destinations you'd like to go or the services you need?

51 responses



What is the best way for you to stay aware of transportation service changes or availability within the Bismarck/Mandan/Lincoln communities?

56 responses



Please provide any additional comments relating to public transportation within Bismarck, Mandan, and Lincoln. 19 responses

Need to have extended hours for bothparatransit and fixed route.

from what I can discern, the routes don't have frequent stops and the routes take forever to get anywhere

The easier it is to travel longer distances, the better. I mostly walk within the city but sometimes would like to go further, as I cannot drive due to vision issues.

Stop assuming that only people who can't drive or who are in certain socio-economic strata take the bus. Start thinking about young people wanting to take the bus to go to college or go out at night. Think of professionals not wanting to drive. Also realize that Lincoln, Mandan and Bismarck are one community and people may want/need to move between these more often than every two hours. Last but not least, find people who currently do not ride the bus but would be willing to if it was better and have them test the system. Sometimes I even wonder if the people who design these routes and manage system ever use the system as a user and take the bus to work or the store?

The thing that would make me more confident in using BisMan Public Transit is bus stop signs. I never feel confident that where I am standing is where a driver is comfortable stopping. I have had dispatch and different drivers tell me different places to wait and it gets confusing. Please consider assigned stops and signs so everyone is on the same page and knows exactly where to be. Also, you need to have a route that gets people from Front Street to the north area by Costco and Walmart without transferring.

We need bus stops that are heated

30 min routes would help speed things up.

Would be nice to have some sort of guaranteed ride home program

Wifi onboard the buses would be nice. Real time tracking of the buses would be so convenient.

Transportation between cities is important. Fargo remains a premier destination for medical specialty visits and having just ONE bus option makes a visit very costly (need to stay overnight in Fargo etc). Why bring even more business to Fargo from our most disenfranchised citizens?

How about approaching the State of ND to use Legacy Funds to build a light-rail system in Bismarck-Mandan? It would be great to have a system in Bismarck that goes from the far North to the University of Mary. Buses could run east and west to bring people to and from the light rail. I know it would cost a lot of money but it would be a wise investment in the future.

Medical issues prevent me from sitting too long, so excessive waiting for a pickup/return can cause further issues.

NA

GREAT service and much appreciated!

Public transportation is too slow, takes too long to get where I need to go. The hours it is in operation is restrictive to me.

Partransit gets me where I need to be which is work and church.

There is a half hour wait between the purple and the blue meeting at BSC. This is very inconvenient especially in winter when I have to wait outside because there is nothing to do in that area of town.

The opinion of the dispatcher spoken, and driver, should and lack of empathy should not be spoken over the C B where everyone on the bus could hear, a few of the drivers are rude

more routes and closer stops to businesses

ADDED VIA EMAIL:

would like to share a need in the Mandan community. I work for West River Head Start located at 1004 7th St. SW in Mandan. We serve low income families with children ages 3-5. In any given year at any given time we have several families with transportation needs. The bus currently does not come close to our building which makes it difficult to recommend and/or utilize the bus for these clients. Walking several blocks for adults is not always a huge deterrent for bus use however our parents have to walk with their children ages 3, 4 and 5 for several blocks. In the spring and fall this isn't as big of a deal but in the winter it is very difficult for our families to use transit due to this. It would be really neat if we could work together to even make a bus stop by our school that families could utilize to shelter from the weather. Just a thought I wanted to share. With the expanding neighborhoods to the south I am hopeful that some day bus service can come closer to West River Head Start and better serve our families in need.

"I use it for work. The buses are very close from my home and also from my job." Favorite part of current CAT bus system is "It is affordable, comfortable, drivers are nice."
Least favorite part of the current CAT bus system is "Only available specific times, and have to wait hourly for a bus."

ADDED VIA IN-PERSON MEETING:

The lack of sufficient parking for paratransit buses in front of the Patterson Place was brought up.

Strategies and Actions

The following five-year action plan was developed based on input received at the various transportation coordination meetings and through public transportation surveys. It is important to point out that roadblocks for implementation have been identified. For the strategies to be successful, Bis-Man Transit must be aware of all possible roadblocks.

Table 8 – Strategies, Action Items, Timelines, and Roadblocks

Strategies	Action Items	Party Responsible	Timeline by When	Roadblocks to Implementation
Create positive relationships with service providers.	Improve communication and training opportunities so providers learn how to help their clients effectively use Bis-Man Transit's modes of service. Open lines of communication.	Bis-Man Transit Board & Staff	Currently done with some providers. Hope to build a relationship with all providers within next 2 years.	1. Service providers already have busy schedules and tasks. 2. Some providers feel they already know all there is to know about paratransit and fixed route services and don't think additional information would be helpful
Continue to pursue funding for transportation services, operating and capital expenses	1. Seek sustainable funding source of operating expenses. 2. Continue to apply for grant funding currently received.	Bis-Man Transit Board & Staff	Ongoing effort	1. Little/No Support for increasing property taxes. 2. Competitive grants cannot be relied on for budgeting.
Increase ridership on the CAT bus service. Ongoing review of fixed routes.	1. Expand travel training opportunities. 2. Promote technological addition's to Bis-Man Transit.	Bis-Man Transit Staff	Ongoing effort	1. Person car use causes lack of interest in riding the CAT bus. 2. Marketing and advertising can put strain on budget.
Investigate premium demand response service option for afterhours and Sunday service.	Determine federal process for pilot program and fiscal impact of providing demand response service for CAT riders from 7:00pm to 12:00am (Monday-Saturday) and 7:30am to 2:30pm (Sunday).	Bis-Man Transit Staff	Summer 2022	1. Increase in revenue hours means increase in operating expense.
Reach out to employers in the community to	1. Develop events to train employers on public transit.	Bis-Man Transit Staff	Ongoing effort	1. Lack of employee interest as they may

increase employee ridership	2. Leverage CAT Bus as a way to get employees to work.			already have a vehicle.
Create a student specific training program for local schools to increase student ridership	On-site training with schools, facilitation of CAT buses for field trips.	Bis-Man Transit Staff	Ongoing effort	1. Parents are not comfortable with public transportation. 2. Extracurricular activities often end later than fixed route service.
Increase CAT Bus signage in the Bismarck and Mandan Communities	1. Meet with appropriate city staff to remove and install CAT Bus route signs in correct locations.	Bis-Man Transit Staff & City Staff	Spring 2022	1. Cost of removal and installation.

Long-Term Goals and Strategies

As the Bismarck, Mandan, Lincoln communities continue to grow, so do the transportation needs. Recent expansion in the downtown Bismarck area has decreased parking for many residents, employees, and patrons, increasing the need for public transportation options within the area.

The organization's overall goal is to provide the best transportation service to the most people. This is done through continual monitoring of ridership and financial reports, as well as feedback obtained from riders, non-riders and service providers in the area about unmet needs and suggestions for improvement.

The organization is continually building relationships with service providers and the citizens of Bismarck and Mandan to promote the use of public transportation in the area.

Conclusion

Bis-Man Transit has provided transportation for people in the Bismarck and Mandan community since 1990 when it started a coordinated ride service for individuals with disabilities and seniors. The system has continued to grow and more transportation options became available in 2004 with the implementation of the CAT fixed-route public bus system. The organization has identified areas for improvement and continues to solicit feedback from riders, human service providers, community stakeholders, and community members to evaluate the services we provide.

Approved by the Bis-Man Transit Board of Directors

Title: _____

Signature: _____

Date: _____

BIS-MAN TRANSIT BOARD

Shauna Laber, President
Bis-Man Transit Board

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

On this ____ day of October, 2021, before me personally appeared Shauna Laber, President of the Bis-Man Transit Board, known to me to be the person who is described in, and who executed the within and foregoing instrument and who acknowledged to me that he executed the same.

(SEAL)

Notary Public, Burleigh County,
North Dakota

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ACCESS TO RECORDS AND REPORTS

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BOND REQUIREMENTS

Bid Guarantee. Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the Agency. The amount of such guaranty shall be equal to the value or a percentage of the total bid price.

In submitting this bid, it is understood and agreed by bidder that the Agency reserves the right 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 [90] days subsequent to the opening of bids, without the written consent of Agency.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the undersigned bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit

for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

BUS TESTING

The operator of the bus testing facility is required to provide the resulting test report to the entity that submits the bus for testing. The manufacturer or dealer of a new bus model or a bus produced with a major change in component or configuration is required to provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to the Agency during the point in the procurement process specified by the Agency, but in all cases before final acceptance of the first bus by the Agency. The complete bus testing reporting requirements are provided in 49 C.F.R. § 665.11.

BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be

obligated unless all 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. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency.”

CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

- a. to use 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 the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working 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 the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that Recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
3. Any other appropriate remedy that may apply.

The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

- 1 **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
 - a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
- 2 **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal

Financial Assistance,” 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

- 3 **Nondiscrimination on the Basis of Age.** The “Age Discrimination Act of 1975,” as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
- 4 **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are

employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et

seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must

include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.

- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) 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.
- (2) 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 therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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.
- (3) Withholding for unpaid wages and liquidated damages. The agency 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.

- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (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.”

DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

a. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

b. The Non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FTA 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 of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

DEBARMENT AND SUSPENSION

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000
- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- (2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, 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 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, 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.”

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of 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 Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency’s written consent; and that, unless the Agency’s consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation (“DOT”) that Disadvantaged Business Enterprises (“DBE’s”), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

DHS SEAL, LOGO, AND FLAGS

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FTA pre-approval.

ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

- (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 by the contracting officer 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 it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, 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 the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting 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 non-compliance with the nondiscrimination clauses of this contract or with any of such 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 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 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 may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

FEDERAL CHANGES

49 CFR Part 18 Federal Changes - 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 Purchaser 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.

FLY AMERICA

a) Definitions. As used in this clause—

- 1) “International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
- 2) “United States” means the 50 States, the District of Columbia, and outlying areas.
- 3) “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Agency and Contractor acknowledge and agree 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 the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this

Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

PATENT RIGHTS AND RIGHTS IN DATA

Intellectual Property Rights

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and

b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.

2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

PROCUREMENT OF RECOVERED MATERIALS

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- (2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

PROMPT PAYMENT

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

1. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SCHOOL BUS OPERATIONS

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, “School Bus Operations,” 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

SPECIAL DOL EEO CLAUSE

Applies to construction contracts > \$10,000; This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60- 741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their

race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

- a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 - (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

SUBSTANCE ABUSE REQUIREMENTS

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

TERMINATION

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to

the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.
3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the

manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

VETERANS HIRING PREFERENCE

Veterans Employment - Recipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance 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.

VIOLATION AND BREACH OF CONTRACT

Rights and Remedies of the Agency

The Agency shall have the following rights in the event that the Agency deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include.

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Agency, the Contractor expressly agrees that no default, act or omission of the Agency shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Agency directs Contractor to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the Agency will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the Agency takes action contemplated herein, the Agency will provide the Contractor with sixty (60) days written notice that the Agency considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of Agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Agency's authorized representative. 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 Agency's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Agency's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by Agency, 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 its employees, agents or others for whose acts it is legally liable, a claim for damages therefor 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 Agency and the Contractor arising out of or relating to this Contract 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 Agency 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 Agency 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.

Additional Third-Party Contract Clauses Required by the FTA for Grantee Award (prepared 10.19.2021)

2 CFR § 200.215 - Never [contract](#) with the enemy.

Federal awarding agencies and [recipients](#) are subject to the regulations implementing Never [Contract](#) with the Enemy in [2 CFR part 183](#). The regulations in [2 CFR part 183](#) affect covered contracts, grants and [cooperative agreements](#) that are expected to exceed \$50,000 within the [period of performance](#), are performed outside the United [States](#) and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

2 CFR § 200.216 - Prohibition on certain telecommunications and video surveillance services or equipment.

(a) [Recipients](#) and sub [recipients](#) are prohibited from obligating or expending [loan](#) or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a [contract](#) to procure or obtain; or

(3) Enter into a [contract](#) (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any [subsidiary](#) or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any [subsidiary](#) or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering [loan](#), grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See [Public Law 115-232](#), section 889 for additional information.

(d) See also [§ 200.471](#).



October 28, 2021

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: Financial Statement Preparation for 2021

BACKGROUND: Prior to the 2020 audit, the Bis-Man Transit Board has historically has been cited during the single audit due to the amount of adjustments that need to be made for the financial statements. Schmitz-Holstrom was able to perform financial statement preparation for 2020 resulting in no audit findings. The contract with Schmitz-Holstrom has expired.

DISCUSSION: Bis-Man Transit staff requested quotes to have a CPA firm prepare year-end and quarterly financial statements for 2021. Taylor Kitzen, accountant, will be completing several training courses to be able to perform the financial statement preparation for 2022, but will not be able to for 2021.

Staff contacted Point CPA, Krumm & Associates CPA's & Consultants, Haga Komer, and Schmitz-Holstrom. Schmitz-Holstrom declined submitting a quote. Point CPA and Krumm & Associates CPA's & Consultants were non-responsive.

FINANCIAL IMPACT: Haga Komer quoted quarterly and year end financial statement preparation at \$3,400 for 2021. This is in-line with the previously incurred charges from Schmitz-Holstrom for 2019 and 2020 preparation. The chart below indicates expenses paid to Schmitz-Holstrom for financial statement preparation for 2019 and 2020.

2019	\$3,900
2020	\$4,550

Haga Komer Fee Schedule

- Quarterly financial statements will be billed at \$600.00 per quarter for a total of \$2,400 for a four-quarter calendar year.
- Additional time will be billed at \$100.00 per hour, if additional time is necessary, we will discuss it with you before we incur the additional costs.

RECOMMENDATION: Staff recommends approval of the quote from Haga Komer for the preparation of financial statement for 2021.





October 28, 2021

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: Bad Debt Write-Off – FARGO VMAC

RECOMMENDATION: Staff recommends approval to write off Fargo VMAC debit in the amount of \$3,500.

BACKGROUND: Staff has attempted to collect on open invoices charged to Fargo VMAC for paratransit trips from 2014 to 2018. Charging privileges were revoked for Fargo VMAC January of 2019.

DISCUSSION: Due to a change in the payment process Fargo VMAC uses, we do not have the required information (rider social security numbers) to recoup these expenses. Additional forms are also required to be submitted for each trip, resulting in a significant impact to staff time. Staff contacted the agency multiple times in 2020 and 2021 to work through this process but calls were not returned.

FINANCIAL IMPACT: The total amount recommended to be written off is \$3,550.



3750 E Rosser Avenue,
Bismarck, ND 58501



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701.258.6817



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8:41 AM

12/10/20

Accrual Basis

BisMan Transit Board
Balance Details for FARGO VMAC
All Transactions

Type	Num	Date	Due Date	Aging	Amount	Open Balance
Invoice	10320	01/04/2019	01/04/2019	706	51.00	51.00
Invoice	10161	11/30/2018	11/30/2018	741	27.00	27.00
Invoice	10005	11/13/2018	11/13/2018	758	39.00	39.00
Invoice	9833	09/30/2018	09/30/2018	802	39.00	39.00
Invoice	9671	08/31/2018	08/31/2018	832	75.00	75.00
Invoice	9498	07/31/2018	07/31/2018	863	87.00	87.00
Invoice	9216	06/30/2018	06/30/2018	894	114.00	114.00
Invoice	9175	05/31/2018	05/31/2018	924	108.00	108.00
Invoice	9017	04/30/2018	04/30/2018	955	111.00	111.00
Invoice	8856	03/31/2018	03/31/2018	985	108.00	108.00
Invoice	8704	02/28/2018	02/28/2018	1016	90.00	90.00
Invoice	8541	01/31/2018	01/31/2018	1044	96.00	96.00
Invoice	8388	01/05/2018	01/05/2018	1070	111.00	111.00
Invoice	8223	11/30/2017	11/30/2017	1106	99.00	99.00
Invoice	8061	10/31/2017	10/31/2017	1136	81.00	81.00
Invoice	7911	09/30/2017	09/30/2017	1167	1,031.50	1,031.50
Invoice	5966	09/30/2016	09/30/2016	1532	35.00	35.00
Invoice	4838	02/29/2016	02/29/2016	1746	50.00	50.00
Invoice	4650	01/31/2016	01/31/2016	1775	65.00	65.00
Invoice	4486	01/06/2016	01/06/2016	1800	62.50	62.50
Invoice	4311	12/07/2015	12/07/2015	1830	35.00	35.00
Invoice	3313	06/02/2015	06/02/2015	2018	82.50	82.50
Invoice	3161	05/07/2015	05/07/2015	2044	90.00	90.00
Invoice	3005	04/14/2015	04/14/2015	2067	90.00	90.00
Invoice	2840	03/12/2015	03/12/2015	2100	80.00	80.00
Invoice	2657	02/09/2015	02/09/2015	2131	65.00	65.00
Invoice	2483	01/13/2015	01/13/2015	2158	65.00	65.00
Invoice	2305	12/05/2014	12/05/2014	2197	52.50	52.50
Invoice	2127	11/06/2014	10/15/2014	2248	62.50	62.50
Invoice	1973	10/06/2014	10/06/2014	2257	62.50	62.50
Invoice	1815	09/08/2014	09/08/2014	2285	65.00	65.00
Invoice	1652	08/07/2014	08/07/2014	2317	62.50	62.50
Invoice	1410	07/07/2014	07/07/2014	2348	65.00	65.00
Credit Me...	1379	06/18/2014	06/18/2014		-130.00	
Invoice	1245	06/10/2014	06/10/2014	2375	65.00	65.00
Invoice	1087	05/12/2014	05/12/2014	2404	65.00	65.00
Invoice	962	04/10/2014	04/10/2014	2436	62.50	62.50
Payment		03/12/2014			-45.00	
Invoice	822	03/05/2014	03/05/2014		52.50	
Payment		02/27/2014			-60.00	
Invoice	671	02/11/2014	02/11/2014		60.00	
Invoice	206	01/09/2014	01/09/2014		45.00	
Invoice	681	11/08/2012	11/08/2012		60.00	
Payment		11/08/2012			-60.00	
Payment		11/07/2012			-57.50	
Invoice	0079	10/31/2012	10/31/2012		57.50	
Payment		10/18/2012			-70.00	
Invoice	0079	09/30/2012	09/30/2012		60.00	
Payment		09/17/2012			-62.50	
Invoice	0079	08/31/2012	08/31/2012		70.00	
Payment		08/20/2012			-122.50	
Invoice	0079	07/30/2012	07/31/2012		62.50	
Invoice	0079	06/30/2012	06/30/2012		55.00	
Payment		06/21/2012			-122.50	
Invoice	0079	05/31/2012	05/31/2012		67.50	
Invoice	0079	04/30/2012	04/30/2012		57.50	
Invoice	0079	03/31/2012	03/31/2012		65.00	
Invoice	0079	02/29/2012	02/29/2012		10.00	
Invoice	0079	12/31/2011	12/31/2011		7.50	
Total					3,550.00	3,550.00