



Bis-Man Transit Board Meeting

September 28, 2023, 11:30 AM

<https://us02web.zoom.us/j/89951288428>

Call in: +1 312 626 6799; Meeting ID: 899 5128 8428

Welcome & Introductions

Approval of Agenda

Consent Agenda

1. Previous Month's Minutes
 - a. Attachment A – 2023/8/24 Regular Meeting
 - b. Attachment B – 2023/9/1 Executive Committee Meeting
 - c. Attachment C – 2023/9/26 Finance Committee Meeting
 - d. *Attachment D – 2023/9/25 CTIC Committee Meeting – Canceled*
2. Financial Report
 - a. Attachment E
3. Ride Stats
 - a. Attachment F

Public Comment

Unfinished Business

New Business

1. Printing Contract Recommendation
 - a. Attachment G
2. West River Lease
 - a. Attachment H
3. Bus Purchase Discussion
 - a. Attachment I
4. National Express Liquidated Damage Request
 - a. Attachment J

Executive Director Report

1. Funding Update
2. Transportation Training Grant

3. Transit Development Plan

4. Dakota Transit Association Conference Update

Operations Report

Other Business

Adjourn

- **The next Board Meeting will be held on October 26, 2023, at 11:30 am.** •



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Bismarck, ND 58501



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A

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

Bis-Man Transit Board Regular Board Meeting Minutes

August 24, 2023, 11:30 AM
Via Zoom and in In-Person at
3750 E Rosser Ave. Bismarck, ND 58501

Attending:	Lynn Wolf, President	DeNae Kautzmann, Secretary/Treasurer
	Glenn Lauinger	Helen Baumgartner
	Steve Heydt	Royce Schultze
	Karel Sovak	Commissioner Connelly
Not Attending:	Lacey Long, Vice President	Andrew Stromme
	Commissioner Rohr	
Staff:	Deidre Hughes	Taylor Kitzan
	Mike Mundahl	Craig Thomas
	Tom Reisenauer	
Guests:	Susan Dingle	Rachel Lukaszewski, MPO
	Trevor Vannett	Paulette Jacobsen

Meeting called to order at 11:30 A.M.

Approval of Agenda: Steve moved to approve the Agenda. Karel seconded the motion. Motion carried unanimously.

Consent Agenda: DeNae moved to approve the Consent Agenda. Karel seconded the motion. Motion carried unanimously.

Public Comment: N/A

Unfinished Business

1. **Jefferson Lines Service Agreement:** Deidre explained that Jefferson Lines Service Agreement presented will start November 1, 2023 and will be \$36,000 for the first year. This will increase 3% annually. Karel moved to approve the Jefferson Lines Service Agreement as presented. Glenn seconded the motion. Motion carried unanimously.
2. **Service Alternative -Transit Development Plan:** Deidre updated that the TDP is over a month away from being finalized. Transit should receive the final document mid-September for review and approval. DeNae proposed a service alternative if additional funding is not obtained. Bill, Rachel, and Deidre came up with the service alternative for this by using 14 vehicles as a “Dial a Ride” service. All public would be open to this and the service hours would be current fixed route hours. This would negatively impact riders on both modes of service. Karel asked if there was a lesser increase of change that would complement changes that are needed. Deidre answered that it’s possible that there would be money left over after getting down to “bare bones” of the service, but having those talks now would take away from how severe the issue actually is. Commissioner Connelly asked if Deidre would be able to print the information just presented and distribute to him. Deidre answered that it will be in the final TDP, but she can print just that information out.

New Business

3. **Paratransit Bus Recommendation:** Deidre explained that she did not receive clarification from NDDOT, but is proposing that FY22 5339 grant leftover funding be additional federal match for Bus 54 & 55 replacement paratransit buses. Bus prices have increased since the original grant application request. Deidre asked the Board for the approval of decommission and sale of Bus 54 & 55. Royce approved the decommission and sale of Bus 54 & 55. Karel seconded the motion. Motion carried unanimously. Karel asked Deidre if the delay in response from NDDOT will increase the price of the new buses more. Deidre answered no, the sale price of the buses is set in the state bid. DeNae asked if the Board could approve



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the purchase of the new buses pending a favorable response from NDDOT. Lynn answered that an Executive Committee meeting would have to take place in order to have the correct information to vote on.

Executive Director Report

1. **Funding Update:** Deidre updated the Board that Transit received approval for a contribution amount from the Bismarck City Commission from the General Fund for 2022/2023 Non-ADA service. Deidre thanked Trevor and Susan for the great public comment that was provided at that City Commission Meeting on August 22nd. Deidre commented that the last conversation that was had with the City of Mandan for additional funding was on August 7th from Jim Neubauer, Mandan City Administrator, as he was waiting to hear back from the Director of HIT Inc. DeNae asked if Commissioner Rohr was part of the conversation and that funding from HIT is a side issue. Transit needs to be in front of the Mandan City Commission and explain what the needs are for continued service. DeNae requested to have Commissioner Rohr place the additional funding request on the City Commission agenda. Commissioner Connelly commented he would help with the leg work to speak to Commissioner Rohr about the topic as well.
2. **Transportation Training Grant:** Deidre explained that the DD Council opened an RFP to provide grant funding to provide structured training to individuals with disabilities in the community on public transportation. The grant is in the amount of \$5,600. Karel proposed that the trainings be recorded to share with other Transit agencies.
3. **Outreach Update:** Outreach Update: Deidre stated that she has had many meetings with agencies and community leaders to spark the conversation about additional funding and the importance of the system. A few individuals included Josh Askvig AND Nancy Guy from ASRP, Brenda Nagle from Bismarck-Mandan Chamber EDC, and Todd Steinwald from Bank of North Dakota and The Leach Foundation Chair. The Leach Foundation does provide grant opportunities and Todd will research further into Whether Transit is able to apply.

Operations Report: Craig explained the challenges that have come with recruiting. He is receiving applicants, completing interviews, but there has been failure in the background checks and DOT physicals. Craig also commented that CDL positions in ND are competitive and he has had CAT drivers leave shortly after completing the paid CDL training. Steve suggested a paid sign-on bonus that an employee would have to pay back if they leave the company after a certain amount of time. Craig thanked Steve for the suggestion and explained that he has been researching a payback provision with corporate and THAT legal would have to be involved. Karel commented that the



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University has a similar payback policy for scholarship funds. DeNae suggested that Craig call the Department of Labor for more information.

Other Business: N/A

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

Meeting adjourned at 12:10 P.M.



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B

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

Bis-Man Transit Board Executive Committee Meeting

September 1, 2023, 8:30 AM
Via Zoom Conference Call

Attending:

Lynn Wolf, President

DeNae Kautzmann, Secretary/Treasurer

Lacey Long, Vice President

Not Attending:

Karel Sovak

Staff:

Deidre Hughes

Taylor Kitzan

Meeting called to order at 8:30 A.M.

Deidre outlined the need to replace bus 54 and 55 which were decommissioned by the Board. She outlined the fiscal impact. The purchase price is estimated to be \$153,500. The federal share is \$104,014 and local match is \$49,486 per bus. We were able to excess grant money for the purchase per DOT which lowered our local match.

DeNae moved to approve the purchase of cut away buses to replace buses 54 and 55. Lacey seconded the motion. Motion carried.

There was no further business to discuss. Lacey moved to adjourn. DeNae seconded.

Meeting adjourned at 8:35 A.M.



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C

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

Bis-Man Transit Finance Committee Meeting Minutes

September 26, 2023, 10:30 AM
Via Zoom

Attending:

DeNae Kautzmann, Chair

Lynn Wolf

Glenn Lauinger

Staff:

Deidre Hughes

Taylor Kitzan



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Meeting called to order at 10:30 A.M.

1. **Printing Contract Recommendation:** Printing contract bids from United Printing and Image Printing were discussed. United is significantly lower in cost. Finance recommends that the Board award the contract to United Printing.
2. **West River Lease:** The West River lease renewal was discussed. West River wanted a longer term. The lease is for 3 years with 3% rent increase the second and third years. The lease was sent to the City Attorney for review. An issue was raised about subletting but it has been the practice for years and was envisioned when the federal building grant was first applied for by the City. DeNae will discuss further with Jannelle Combs. The lease was edited to include tenant responsible for internet service, and section 22 was deleted as it was duplicative of landlord responsible for utilities. Finance recommends the Board approve the lease as edited.
3. **Bus Purchase Discussion:** The grant for bus purchases we applied for was awarded, but the cost of buses has drastically increased from the time we applied for the grant to the time it was awarded. Deidre has spoken to Becky Hanson at the DOT regarding options on how to pay for the four buses which are needed. Becky did provide a gap funding solution. Davey Coach has chassis' available which will speed up the build time and told Deidre to get buses ordered as soon as possible. Finance recommends that the Board proceed with the purchase.
4. **National Express Liquidated Damage Request:** National Express is still experiencing staff shortages. Rather than have trip denials, Deidre worked out with Craig, filling the bus to capacity to avoid denials but it has resulted in longer trip duration, decreased on time performance and missed trips. Due to this, National Express has requested waiving liquidated damages in those areas for September and October. Finance recommends that the Board waive the liquidated damages in light of the circumstances.

Deidre reported on advertising revenue.

Glenn thanked Taylor for her efforts in getting the 2020 fuel tax refund. He thanked the staff for their work in keeping us profitable. We had thought we would be operating in a deficit by September, and we are up \$254,581.59. DeNae requested that Glenn repeat this information at the Board meeting.

Meeting adjourned at 11:05 A.M.



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August 2023 MONTHLY REPORT

	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
RIDERSHIP							
FIXED ROUTE	8,816	63,569	7,635	47,536	15.47%	33.73%	
PARATRANSIT	7,067	60,211	8,424	62,151	-16.11%	-3.12%	
Total	15,883	123,780	16,059	109,687	-1.10%	12.85%	
FR AVG. DAILY BOARDINGS	326.52						
DR AVG. DAILY BOARDINGS	227.97						
Pass./Hour Pass./Hour Pass./Hour							
REVENUE HOURS	Month	YTD	Month	YTD	PY YTD	PY YTD	% INC/DEC OVR PYTD
FIXED ROUTE	1,800.00	14,042.91	4.90	4.53	3.32	14,301.3	-1.81%
PARATRANSIT	2,563.88	21,304.92	2.76	2.83	3.02	20,595.1	3.45%
Total	4,363.88	35,347.83	3.64	3.50	3.1	34,896.4	
Pass./Mile Pass./Mile							
REVENUE MILES	Month	YTD	Month	YTD	PY YTD	PY YTD	% INC/DEC OVR PYTD
FIXED ROUTE	29,244	225,364	0.30	0.28	227,430		-0.91%
PARATRANSIT	36,231.87	292,939.26	0.20	0.21	291,087		0.64%
Total	65,475.77	518,303.26	0.50	0.49	518,517		-0.04%
ON TIME PERFORMANCE							
	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
FIXED ROUTE	79.00%	85.00%	84.00%	85.00%	-5.95%	0.00%	
PARATRANSIT	86.69%	93.62%	88.00%	94.00%	-1.49%	-0.40%	
RIDERSHIP PER ROUTE							
ROUTE	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
BLACK	2369	15009		1633		45.1%	
BLUE	534	5579		948		-43.7%	
GREEN	1689	12301		1448		16.6%	
RED	1202	7383		849		41.6%	
ORANGE	1670	13295		1639		1.9%	
PURPLE	1352	10002		1118		20.9%	
RIDERSHIP BY DESTINATION							
	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
(Included in 'Ridership Per Route' Numbers)	U-Mary	261	1902		155	68.4%	
	UTTC	59	569		73	-19.2%	
	Bismarck Library	490	3666				
	Mandan Walmart	85	918				
	Mandan Dans	390	3012				
ACCIDENTS							
	Month	Month at Fault	YTD	YTD at Fault			
FIXED ROUTE	0	0	8	5			
PARATRANSIT	2	2	9	9			
SERVICE VEHICLE	0	0	0	0			
COMPLAINTS							
	Month	YTD					
FIXED ROUTE	1	14					
PARATRANSIT	3	13					
Office Staff	0	1					
COMPLIMENTS							
	Month	YTD					
FIXED ROUTE	0	0					
PARATRANSIT	1	8					
Office Staff	0	0					



G

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September 28, 2023

TO: Bis-Man Transit Board of Directors
FROM: Deidre Hughes, Executive Director
SUBJECT: Printing Services

RECOMMENDATION: It is recommended that the Bis-Man Transit Board approve United Printing as the printing vendor for all rider guides, paratransit punch cards, and flat maps. This contract will begin October 1, 2023 and end September 30, 2024.

BACKGROUND: Bis-Man Transit issued an Invitation for Bid for printing services on August 3, 2023, with bids due September 5, 2023. The last bid process for printing services was completed in 2020. Two bids were received. (United Printing and Image Printing). United Printing provided quotes for the upcoming contract period and two additional one-year options. Image Printing provided the lost cost option.

FINANCIAL IMPACT: The price breakdown for each bidder is pictured below.

	Minimum (Per Order)	Maximum (Per Order)	Quantity Tiers (Per Order)				
CAT Route Map & Rider Guide	2,500	20,000	2,500	2,500	2,500	10,000	10,000
				\$0.99	\$0.84	\$0.63	\$0.56
CAT Flat Mat 22"x 24" (Laminated with logo on back)	1	60	1	1	1	30	30
				\$55.00	\$23.00	\$40.00	\$11.83
Paratransit Punch Cards	1,000	30,000	1,000	1,000	1,000	10,000	10,000
				\$0.20	\$0.17	\$0.06	\$0.05
Image Printing							
United Printing							



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H

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September 28, 2023

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: West River Lease Recommendation

RECOMMENDATION: Staff recommends approval of a three-year lease with West River Transit at an annual rate increase of three percent.

BACKGROUND: Bis-Man Transit has been renting office space to West River Transit for several years. To lessen the time spent on lease renewals, staff proposed a three-year lease.

DISCUSSION: West River Transit has been informed of this possibility and supports a long-term lease agreement with Bis-Man Transit.

FINANCIAL IMPACT: The annual rate proposed to West River for the 2024 calendar year is \$11,658.12. Moving forward, there would be a 3% annual increase in the rent effective the first of the year.



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LEASE AGREEMENT

This lease agreement is made and entered into effect the 1st day of January 2024.

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 I

TERM

1.01 To have and to hold the same for a term commencing on January 1, 2024, and ending on December 31, 2026. The LANDLORD may terminate the lease agreement at any time within the term with 120 days notice.

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 \$11,658.12, payable at the rate of \$971.51 per month for the calendar year of 2024.

TENANT agrees to pay LANDLORD a minimum rent for said leased premises, an annual sum of \$12,007.92, payable at the rate of \$1000.66 per month for the calendar year of 2025.

TENANT agrees to pay LANDLORD a minimum rent for said leased premises, an annual sum of \$12,368.16, payable at the rate of \$1030.68 per month for the calendar year of 2026.

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 and internet 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, TENANT, and the CITY OF BISMARCK in the amount of Two Million Dollars (\$2,000,000.00) 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, TENANT, and the CITY OF BISMARCK as

insures thereunder and shall protect the interest of LANDLORD and the CITY OF BISMARCK for incidents that are caused by or contributed by the TENANT.

13.02 On the Effective Date, TENANT shall deliver to LANDLORD and the CITY OF BISMARCK original certificates from TENANT'S customary insurers indicating that the following insurance policies are in effect with respect to the Premises:

- 1) Commercial General Liability & Commercial Excess Liability. Commercial General Liability (CGL) and, Commercial Excess Liability (CEL) insurance with limits of not less than \$2,000,000 each occurrence combined for CGL and CEL shall be secured by at TENANT'S sole expense from carrier acceptable to Landlord.
- 2) Personal Property Insurance. All risk type insurance covering TENANT'S property in the Premises; except that TENANT has the right to elect not to carry such insurance if it reasonably deems that it is not necessary.
- 3) Worker's Compensation. Statutory workforce safety, including Employers Liability.
- 4) Commercial Property Insurance. LANDLORD shall at all times keep the Premises insurance against loss by fire or other casualty customarily included in the coverages and policy available from the North Dakota Fire and Insurance Fund. The policies shall be issued in the amount necessary to restore the Premises to the condition required in this Lease (i.e., cost of replacement insurance). The TENANT shall reimburse the LANDLORD for all of the premium or deductible cost of this insurance.

13.03 Any personal property brought on-site by the TENANT must be insured by the TENANT'S policy. The LANDLORD and CITY OF BISMARCK insurance policies do not cover these items.

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

SHOWING PREMISES

22.01 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 XXIII

MISCELLANEOUS

23.01 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 _____



September 28, 2023

TO: Bis-Man Transit Board of Directors
FROM: Deidre Hughes, Executive Director
SUBJECT: Paratransit Bus Purchases

RECOMMENDATION: Staff and the Finance Committee recommend Bis-Man Transit Board approve the purchase of four paratransit cutaway buses to replace buses 1701, 1702, 1703, and 1704. Staff also recommend decommissioning and selling buses 1701, 1702, 1703, and 1704, as all have exceeded the FTA useful life in age and miles (5 years, 150,000 miles).

	Delivery Date	Mileage
1701	10/2/2016	211,460
1702	10/2/2016	223,672
1703	10/2/2016	220,835
1704	10/2/2016	233,132

BACKGROUND: Bis-Man Transit received FY24 5310 grant funding to replace buses 1701, 1702, 1703, and 1704. However, due to the significant increase in replacement cost, the original grant funding is insufficient to cover the 85% federal portion of the purchase.

After discussions with NDDOT, staff was advised to purchase three replacement vehicles with the FY24 5310 grant as the funding source. The NDDOT will add a new project to Bis-Man Transit's FY22 5339 grant to cover the federal portion of the fourth bus and the federal gap amount on the first three buses.

DISCUSSION: The buses will be purchased from the State of North Dakota bid for fourteen passenger cutaway buses. The factory lead time for these vehicles is estimated at seven months through Davey Coach Sales, LLC. The proposed vehicles do not require a CDL to operate.

FINANCIAL IMPACT: The purchase price of each bus is estimated to be \$153,100. The federal portion will be \$520,540 with a local match of \$91,860. This will be added to the 2024 budget.

	Federal	Local	Total
Total Purchase Amounts	\$ 520,540.00	\$ 91,860.00	\$ 612,400.00





J

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

September 28, 2023

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: National Express Liquidated Damages Waiver Request – September & October 2023

BACKGROUND: Staffing issues have been ongoing for National Express. The local management team has been working to correct the situation through aggressive higher efforts but has continued to struggle.

DISCUSSION: Due to the issues with staffing, paratransit, and demand response, trip denials have increased. This can be attributed to the number of requested trips when transit is short on drivers. To correct the situation, staff has altered the dispatching software's capacity limits. Although this has helped lessen the trip denials, it is anticipated that on-time performance, trip duration, and missed trips may increase.

FINANCIAL IMPACT: Bis-Man Transit budgeted for \$30,000 in performance liquidated damages. Through July, \$45,449 in performance liquidated damages have been assessed. Preventable accidents will continue to be evaluated.

RECOMMENDATION: Staff recommends approval of this request to waive the performance liquidated damages for September and October. Staff recommends that preventable accidents continue to be assessed during this time.



3750 E Rosser Avenue,
Bismarck, ND 58501



701.258.6817



info@bisantransit.com



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