

SOLTRANS

SOLANO COUNTY TRANSIT BOARD MEETING AGENDA

3:30 Closed Session
4:00 p.m., Regular Meeting
Thursday, March 24, 2011
Benicia Council Chambers

Public Comment: Pursuant to the Brown Act, the public has an opportunity to speak on any matter on the agenda or, for matters not on the agenda, issues within the subject matter jurisdiction of the agency. Comments are limited to no more than 3 minutes per speaker unless modified by the Board Chair, Gov't Code § 54954.3(a). By law, no action may be taken on any item raised during the public comment period (Agenda Item IV) although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the agency.

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Staff Reports: Staff reports are available for inspection at the STA Offices, One Harbor Center, Suite 130, Suisun City during regular business hours, 8:00 a.m. to 5:00 p.m., Monday-Friday. You may also contact the Clerk of the Board via email at jmasiclat@sta-snci.com. **Supplemental Reports:** Any reports or other materials that are issued after the agenda has been distributed may be reviewed by contacting the STA Clerk of the Board and copies of any such supplemental materials will be available on the table at the entry to the meeting room.

Agenda Times: Times set forth on the agenda are estimates. Items may be heard before or after the times shown.

ITEM

BOARD/STAFF PERSON

I. CLOSED SESSION:

A. ANTICIPATED LITIGATION

Pursuant to **CA Gov't Code §54956.9**

(3:30 – 4:00 p.m.)

II. CALL TO ORDER/PLEDGE OF ALLEGIANCE

(4:00 – 4:05 p.m.)

Osby Davis, Mayor
City of Vallejo

III. CONFIRM QUORUM/ STATEMENT OF CONFLICT

Johanna Masiclat
Clerk of the Board for the STA

An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; (3) leave the room until after the decision has been made. Cal. Gov't Code § 87200.

SOLTRANS BOARD MEMBERS

Elizabeth Patterson	Mike Ioakimedes	Osby Davis	Erin Hannigan	Jim Spering	Harry Price
City of Benicia	City of Benicia	City of Vallejo	City of Vallejo	MTC Representative	STA Ex-Officio
Alternate Board Member Mark Hughes		Alternate Board Member Stephanie Gomes (Pending)			

IV. APPROVAL OF AGENDA

V. OPPORTUNITY FOR PUBLIC COMMENT

(4:05 – 4:10 p.m.)

VI. SWEARING IN OF NEW SOLTRANS BOARD MEMBERS

1. Stephanie Gomes

Alternate Board Member Representing the City of Vallejo

Johanna Masiclat,
STA

VII. COMMENTS FROM STAFF

(4:10 – 4:15 p.m.)

VIII. CONSENT CALENDAR

Recommendation:

Approve the following consent items in one motion.

(Note: Items under consent calendar may be removed for separate discussion.)

(4:15 - 4:20 p.m.)

A. Meeting Minutes of February 17, 2011

Johanna Masiclat, STA

Recommendation:

Approve the meeting minutes of February 17, 2011.

Pg. 1

B. Adoption of SolTrans Budget Policy

Nancy Whelan,
Finance Consultant

Recommendation:

Approve the attached SolTrans Budget Policy.

Pg. 7

C. Resolution Adopting SolTrans Purchasing Policy

Greg Anderson
City of Vallejo

Recommendation:

Adopt the attached resolution adopting the SolTrans Purchasing Policy.

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IX. ACTION ITEMS – ADMINISTRATIVE/FINANCE

A. Proposed Adoption of SolTrans Bylaws

Bernadette Curry,
Legal Counsel

Recommendation:

Adopt the attached SolTrans bylaws.

(4:20 – 4:30 p.m.)

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X. ACTION ITEMS – PLANNING AND OPERATIONS

A. None presented.

XI. INFORMATIONAL

- A. **Proposed SolTrans FY 2012 Budget Schedule, Assumptions, and Process**
Informational
(4:30 – 4:40 p.m.)
Pg. 57
Nancy Whelan,
Finance Consultant
- B. **Short Range Transit Plan (SRTP) Status**
Informational
(4:40 – 4:45 p.m.)
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Jeanine Wooley,
City of Vallejo
- C. **Status of Benicia Breeze and Vallejo Transit Fleet Capital**
 - **Procurements/Minor Projects**
 - **Presentation of Major Projects***Informational*
(4:45 – 5:00 p.m.)
Pg. 61
Liz Niedziela, STA
Gary Leach, City of Vallejo
Charlie Knox, City of Benicia
- D. **Status of SolTrans Branding and Marketing Request for Proposal (RFP)**
Informational
(5:00 – 5:05 p.m.)
Pg. 69
Liz Niedziela, STA

XII. BOARD MEMBERS COMMENTS

XIII. ADJOURNMENT

The next regular meeting of the SolTrans Board is *tentatively* scheduled for **Thursday, April 21, 2011, 4:00 p.m., Vallejo City Hall Council Chambers.**

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II. CONFIRM QUORUM/STATEMENT OF CONFLICT

A quorum was confirmed by the Clerk of the Board. There was no Statement of Conflict declared at this time.

III. APPROVAL OF AGENDA

On a motion by Vice Chair Patterson, and a second by Board Member Ioakimedes, the SolTrans Board approved the agenda.

IV. OPPORTUNITY FOR PUBLIC COMMENT

None presented.

V. SWEARING IN OF NEW SOLTRANS BOARD MEMBERS

1. Mark Hughes

Alternate Board Member Representing the City of Benicia

VI. COMMENTS FROM STAFF:

- Presentation: State Transit Update presented by Josh Shaw, California Transit Association

VII. CONSENT CALENDAR

On a motion by Vice Chair Patterson, and a second by Board Member Hannigan, the SolTrans JPA Board approved Consent Calendar Item A and B.

A. Meeting Minutes of December 15, 2010

Recommendation:

Approve the meeting minutes of December 15, 2010.

B. Resolution Adopting SolTrans Conflict of Interest Code

Recommendation:

Approve Resolution No. 2011-01 adopting the SolTrans Conflict of Interest Code as specified in Attachment A.

VIII. ACTION ITEMS – ADMINISTRATIVE/FINANCE

A. Delegation of Authority for Transit Operating Contract Negotiations

Bernadette Curry reviewed the coordination process of negotiations between the three different contracts with MV Transportation between the City of Benicia and the City of Vallejo. She cited that in order to avoid any interruptions in service if the contracts were to expire on June 30, 2011, the Transition Team is recommending proceeding forward with the request for delegated authority to the respective City Councils even though the SolTrans Chief Executive Officer has not yet been selected. She added that due to the short negotiation window, a recommendation as to proceed with either the current provider or with the preparation of a new RFP must be developed no later than this Board’s March meeting.

Public Comments:

None presented.

Board Comments:

After discussion, the SolTrans JPA Board stated that if an extension to the contracts can not be negotiated that addresses compliance with the current contract and contains the operating cost reduction with the current contract, the Transition Team is authorized to combine the contracts into a single Request for Proposal (RFP) and a new solicitation be conducted in anticipation of the contract expiration dates of June 30, 2011.

Recommendation:

Authorize staff to send a request for the delegation of authority to negotiate contract amendments on behalf of the cities of Benicia and Vallejo to the City Councils of Benicia and Vallejo.

On a motion by Vice Chair Patterson, and a second by Board Member Hannigan, the SolTrans JPA Board unanimously approved the recommendation.

B. Proposed SolTrans Employee Benefits/CEO Salary Range

John Harris reviewed the process for recruitment of the SolTrans Chief Executive Officer (CEO). He indicated that discussions on a salary scale and employee benefits were made by the Recruitment and Management Subcommittees. He outlined the matrix of comparable agency CEO/General Manager (GM) salaries and PERS retirement options. With input from the Recruitment and Management Committees, it is recommended that a CEO salary range of \$10,500 to \$12,500 monthly and a PERS retirement plan of 2% at 55.

Public Comments:

None presented.

Board Comments:

Vice Chair Patterson commented on the potential development of a performance measure based on a metric based on the amount of grants brought to the JPA for operations, ridership with the person to be rewarded for bringing that to the community. This will provide a lower based salary and achieve this through performance pay.

Daryl Halls responded that could be included as part of the application and recommended this go back to the subcommittee for them to come back with recommendations.

Board Member Ioakimedes stated he would like to see PERS retirement plan of 2% at 60. He noted that his experience is that PERS is the most inflexible and most difficult to change if we move forward. He noted that we need to be more cognizant as we move forward. He continued to say that if SolTrans lock ourselves at a 55 retirement age, we would be the last of the old style HR system. He added that if we need to be more competitive, we need to introduce PARS; a number of organizations have gone on this direction.

Board Member Hannigan agreed with Councilmember Ioakimedes. She stated that she feels that if the entire county will eventually consolidate then suggests stepping out compared to local agencies. She noted that SolTrans could supplement with PARS, confirming that PARS is more flexible than the PERS system. She stated the Board needs to look at this differently, consider that eventually the entire county will be consolidating. Hannigan stated that she would rather have movement and flexibility and supports 2% at 60 PERS.

Vice Chair Patterson cited that if this is what the subcommittee desires, there are alternative routes. There are downsides and it could discourage applicants. She indicated her support after consideration.

Chair Davis noted his support and that it is time to look at the future. Agency can't get comfortable, but rather look at setting new standard for retirement benefits. Looking forward 15 years, people are living a lot longer. PERS Is not only rigid but very expensive.

Harry Price concurred with Chair Davis but advised to proceed cautiously.

Vice Chair Patterson asked if the retirement includes medical. Joy Apilado responded that medical is a separate issue. Board Member Patterson stated that this is a significant consideration for coming on board.

Daryl Halls recommended bringing back the full compensation package at the next meeting after review by the Subcommittee which will delay the recruitment.

Recommendation:

Approve the following:

1. The salary and benefits recommendations as shown on Attachments A and B which includes 2% at 55 **60** for PERS *with the rest of the package to be determined later including Vice Chair Patterson's request to look into performance measures*; and
2. Authorize recruitment of the Executive Director be initiated.

On a motion by Vice Chair Patterson, and a second by Board Member Hannigan, the SolTrans JPA Board approved the recommendation as amended shown above in ***bold italics***.

IX. ACTION ITEMS – PLANNING AND OPERATIONS

A. None presented.

X. INFORMATIONAL ITEMS

A. Discussion of SolTrans Bylaws

Bernadette Curry, SolTrans Legal Counsel, reviewed the process of adopting Bylaws which would establish the rules and conduct of SolTrans Board of Director meeting. She presented an updated draft set of bylaws indicating the mark-ups that were discussed at the January Board meeting. She stated that staff is seeking additional comments on the proposed changes.

B. SolTrans Budget Update and Review of Benicia Breeze and Vallejo Transit Financial Reports – Status Update

Nancy Whelan highlighted the comparison of the adopted FY 2010-11 budget to the actual revenues and expenditures reported through November 30, 2010. She cited that the budget vs, actual report provides a snapshot of revenues and expenditures at one point in time and will serve as input into the next year’s budget process.

C. Status of Transition Plan Implementation

John Harris reviewed the Implementation Schedule included in the Transitional Plan. He listed the important developments in the process of transit consolidation.

XI. SOLTRANS BOARD MEMBER COMMENTS

Introductions of the SolTrans JPA Board and Transitional Team took place at this time.

XII. ADJOURNMENT

The SolTrans JPA Board meeting was adjourned at 5:10 p.m. The next regular meeting of the SolTrans JPA Board is scheduled for **Thursday, March 24, 2011, 4:00 p.m., Benicia City Council Chambers.**

Attested by:



Johanna Masiclat
Clerk of the Board

Date

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**Solano County Transit
(SolTrans)**

DATE: March 17, 2011
TO: SolTrans Board
FROM: Nancy Whelan, Transition Team Consultant
RE: Adoption of SolTrans Budget Policy

Background

The preparation of an annual budget is a critical milestone in the financial activities of the transit agency. Broad direction and procedures for preparing and adopting the annual budget are provided in an agency's budget policy. This policy and other financial policies that will be adopted by the Board, establish the framework for the Board and staff to manage the agency's finances.

Discussion

The attached SolTrans Budget Policy is based on a survey of best practices within the transit industry. Budget policies from several agencies were reviewed and the best and most relevant elements were incorporated into the recommended policy. Key elements of the policy are:

- The budget process begins with an initial discussion in March and the budget is adopted in May of each fiscal year.
- Budget to actual reports are presented to the Board quarterly.
- The General Manager may augment an existing line-item appropriation by reallocating funding within and among expenditure categories without further Board action, so long as the aggregate amount reallocated during the fiscal year does not exceed 10 percent of the original appropriation for that category. The General Manager may request that the Board approve a proposed reallocation of greater than 10 percent of the original appropriation for a budget category.
- Budgetary control is maintained at the modal level (e.g., fixed route transit, paratransit, taxi scrip program) for annual operations and at the project level for each capital project.

Additional financial policies related to operating reserves, investments, debt, and accounting/audit will be presented for the Board's consideration in the future.

Recommendation

Approve the attached SolTrans Budget Policy.

Attachment:

- A. SolTrans Budget Policy

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SolTrans BUDGET POLICY

SolTrans is a joint powers agency organized and existing under the laws of the State of California. Pursuant to the Joint Powers Agreement creating SolTrans, dated November 30, 2011 (the "Agreement"), SolTrans has the authority to exercise all powers necessary and proper to carry out the provisions of the Agreement. The Agreement provides the SolTrans Board of Directors with the authority to adopt, at its sole discretion, an annual or multi-year budget before the beginning of each fiscal year.

By accepting federal funding, the Authority is obligated to comply with various federal regulations regarding financial management. In the event of any conflict between federal law and this Budget Policy, federal law shall supersede this Budget Policy.

SolTrans Budget Procedures

1. The fiscal year is July 1 to June 30.
2. No later than March of the fiscal year, the General Manager shall brief the Board on the upcoming budget process and identify any issues of concern or significant changes.
3. No later than April of the fiscal year, the General Manager shall present the Board a Proposed Operating and Capital Budget for the next fiscal year and a ten year budget outlook. This presentation shall be for purposes of discussion and for receiving public comment.
4. The annual budget is to be presented by line item category with sufficient detail to enable Board members and stakeholders to understand the near term financial situation and plan.
5. The annual budget shall include an analysis of the assumptions underlying revenue and expense projections, the number and job classification of authorized positions and the transit service hours upon which the budget is based.
6. The annual budget is to be balanced with proposed revenues equal to proposed expenditures.
7. The budget shall reflect all activities reported and planned for, including not only activities funded by unrestricted general funds, but also activities funded by restricted funds. The activities include all operating as well as capital programs.
8. The Board shall adopt by May 30 of each fiscal year a balanced budget for the following fiscal year.
9. In the event that an annual budget is not adopted by July 1, the first day of the new fiscal year, the Board shall be required to adopt a monthly interim budget equal to one-twelfth of the prior year's annual budget. The adoption of the monthly interim budget should occur prior to July 1st, and shall continue on a monthly basis until a new annual budget has been approved.

10. Once an annual budget has been adopted, the General Manager may augment an existing line-item appropriation by reallocating funding within and among expenditure categories without further Board action, so long as the aggregate amount reallocated during the fiscal year does not exceed 10 percent of the original appropriation for that category, and the total amount of spending does not vary from the total amount of the approved annual budget. As appropriate, the General Manager may request that the Board approve a proposed reallocation of greater than 10 percent of the original appropriation for a budget category.
11. Budgetary control is maintained at the modal level for annual operations and at the project level for each capital project. Any expenditure in excess of the approved modal budget or approved capital project budget shall require prior approval by the General Manager. Any expenditure in excess of the authorized total budget shall require prior approval by the Board and reported to the Board in the Quarterly report.
12. The General Manager shall submit revised revenue and expenditure projections to the Board quarterly unless there are changes in those projections that significantly impact the financial status of the Agency, in which case, the Board shall be informed at the next Regular or Special Meeting of the Board. The report shall include a quarterly comparison of year-to-date actual expenditure and revenue generations to both the adopted budget and any revisions which have been made.
13. No later than February the General Manager shall present the Board with a six month adopted budget to actuals report, identifying any necessary budget changes.

Date Adopted: _____

Date Revised: _____

**Solano County Transit
(SolTrans)**

DATE: March 24, 2011
TO: SolTrans Board
FROM: Greg Anderson, City of Vallejo Administrative Analyst II
RE: Resolution Cadopting SolTrans Purchasing Policy

Discussion:

In order to enter into contracts and purchase goods and services, state law requires that public agencies adopt a purchasing policy. A purchasing policy is also required to fulfill Federal grant requirements. The attached policy was drafted to meet State law and Federal grant requirements. The City of Vallejo Transportation Division purchasing policy was used as a starting point for drafting the attached policy. Additional policies will be brought to this Board are either referenced in or related to this Purchasing Policy at a later date.

The policy features several items which may be of particular interest to the Board, including:

1. A micropurchase (or “no-bid”) threshold of \$3,000. This means that any contract for less than \$3,000 would be awarded without requiring competitive bidding or quotes.
2. A small purchase threshold of \$25,000, with the exception of cases where the Chief Executive Officer makes a determination that operational efficiency and effectiveness may be negatively impacted , in which case the Chief Executive Officer is delegated authority to award contracts in the amount of \$100,000 or less. This determination must be made in writing and provided to the Board at the following Board Meeting.
3. The authority to issue contract Change Orders in the amount of 10% of the original contract price or \$100,000 (whichever is less) is delegated to the Chief Executive Officer.

Fiscal Impact:

Adoption of the Purchasing Policy will allow SolTrans to procure and enter into contracts.

Recommendation:

Adopt the attached resolution adopting the SolTrans Purchasing Policy.

Attachment:

- A. SolTrans Resolution No. 2011-02
- B. Proposed Purchasing Policy

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RESOLUTION No. 2011-02

**RESOLUTION OF SOLANO COUNTY TRANSIT (“SOLTRANS”)
ADOPTING A PURCHASING POLICY**

WHEREAS, Solano County Transit has recently been formed as a new Joint Powers Agency known as SolTrans; and

WHEREAS, due to the receipt of federal and state funding, SolTrans is required to adopt standards to govern the procurement of supplies, equipment, and other services in order to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of all applicable federal, state and local laws and regulations; and

WHEREAS, SolTrans desires to adopt a Purchasing Policy that will establish the procedures to guide the acquisition of goods and services.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of SolTrans approves and adopts the attached Purchasing Policy set forth in Exhibit A.

Passed by the Solano County Transit (SolTrans) Board on this **24th Day of March, 2011** by the following vote:

Ayes: _____
Noes: _____
Absent: _____
Abstain: _____

Osby Davis, Chair
Solano County Transit (SolTrans)

Attest: _____
Johanna Masiclat
Clerk of the Board

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SolTrans

Purchasing Policy

APPROVED BY THE SOLTRANS BOARD ON _____
RESOLUTION NUMBER: _____

Effective _____

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1 SCOPE AND PURPOSE

1.1 Scope:

This Purchasing Policy addresses the purchase of all goods and services by SolTrans. It includes policy direction about how to handle these transactions in their various forms and within the constraints of legal and policy requirements.

1.2 Purpose:

The purpose of this Policy is to provide guidance and uniformity for purchases of goods and services. It also serves to assist staff with preparing procedures to comply with the requirements of the SolTrans bylaws, the laws of the State of California, and Federal Transit Administration regulations relating to purchases of goods and services. Unless otherwise specified in this Policy, applicable state or federal laws shall apply.

1.3 Compliance:

When procurement involves the expenditure of Federal Transit Administration (FTA) grant funds, the purchasing agent, or authorized authority shall comply with Code of Federal Regulations Title 49, Subtitle A, Part 18, and U.S. Department of Transportation Circulars (i.e. FTA C 4220.1F) for full compliance with terms of the grant. Additionally, procurement shall comply with local guidelines as set forth in the SolTrans bylaws, any local administrative rule, and any written established internal procedure as well as applicable California law. In the event of a conflict, the Federal Guidelines shall govern. If there is no State law on a particular aspect of procurement, then Federal contract law principles apply.

1.4 Contracting Party:

Throughout this manual, “SolTrans” is the contracting party.

1.5 Responsibility:

SolTrans is responsible for the operation of a public transportation system. This includes the planning, design and programming of transportation projects.

SolTrans receives funding from both federal and state government. Therefore, SolTrans must follow procurement policies and procedures that are consistent with local and federal regulations and the laws of the State of California. Additional guidance on specific contractual actions is provided by OMB Circular A-102, Attachment O and FTA Circular 4220.1F as well as the Federal Transit Agency’s Best Practices Procurement Manual.

1.6 Standards:

The purpose of this policy is to provide standards for SolTrans and its staff in the procurement of supplies, equipment, construction and other services. These standards have been developed and will be adopted by SolTrans to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of all applicable federal, state, and local laws and regulations. This policy includes guidelines

for the solicitation, award and administration of formally advertised contracts as well as small purchases.

2 GENERAL STANDARDS - THIRD PARTY PROCUREMENTS

2.1 Contract Administration System:

SolTrans will maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

2.2 Full and Open Competition:

All procurement transactions will be conducted in a manner providing full and open competition. Some situations considered to be restrictive of competition include, but are not limited to:

2.2.1 Prohibition Against Geographic Preferences: SolTrans shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. The criterion may only be used to account for the benefits that can be brought to the project by specialized knowledge of local geography, geology, or architecture.

2.2.2 In order to promote full and open competition no unreasonable requirements will be placed on firms in order to qualify to do business within the jurisdiction of SolTrans.

2.3 Written Procurement Selection Procedures:

SolTrans shall have written selection procedures for procurement transactions. All solicitations shall:

- 1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient characteristics

of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

- 2) Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.

2.4 Prequalification Criteria:

SolTrans shall not preclude potential bidders from qualifying during the solicitation period, which is from the issuance of the solicitation to its closing date. All procurement transactions will be conducted in a manner providing full and open competition.

2.5 Written Standards and Code of Conduct:

The standards established in this Policy shall apply to all employees engaged in the award and administration of contracts and contractors, consultants or advisors who provide advice on the selection and award of contracts. No employee, contractor, consultant, advisor, officer, agent, immediate family member, or Board member of the SolTrans shall participate in the selection, award, or administration of a contract for SolTrans if a conflict of interest, real or apparent, would be involved.

2.6 Personal Conflict of Interest:

Conflict of interests arises, whether real or apparent, may arise when any of the following has a financial or other interest in the firm(s) considered or selected for award:

- a) An employee, officer, director, or agent of SolTrans;
- b) Any member of his/her immediate family, including but not limited to, husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, son-in-law, and daughter-in-law;
- c) His/her business associate; or
- d) A company or organization, which is about to employ any of the above.

Employees, officers, directors, and agents of SolTrans shall be subject to the laws of the State of California concerning conflicts of interest. Anyone found to violate the standards established by such laws may be subject to the penalties, sanctions, or other disciplinary actions as provided by law.

In cases where an employee, officer, director, or agent of SolTrans may have a conflict or potential conflict of interest, SolTrans's policy is that such individual(s) must promptly report the conflict in writing to the SolTrans Chief Executive Officer. If the SolTrans Chief Executive Officer has a conflict or potential conflict, they must promptly report the conflict in writing to the Chair of the SolTrans Board. Failure to adhere to this requirement shall constitute a violation of policy and may subject the violator to disciplinary action, up to and including discharge.

2.7 Organizational Conflict of Interest:

An organizational conflict of interest occurs where - because of other activities, financial interests, relationships, or contracts - a contractor is unable, or potentially unable, to

render impartial assistance or advice to the grantee; the contractor's objectivity in performing the contract work is or might be impaired; or a contractor has an unfair competitive advantage.

Where a real or apparent organizational conflict of interest is detected by staff steps will be taken to mitigate or avoid the conflict. Every effort will be made to ensure a level playing field for all potential contractors is maintained by making all pertinent non-proprietary information available to all parties.

A fairly won competitive advantage is not an organizational conflict of interest. A contractor may have a fair competitive advantage by virtue of its prior experience, its expertise, its more efficient operations, etc. Occasionally an incumbent contractor may have what appears to be an insurmountable competitive advantage by virtue of its previous work for the grantee. An advantage of this type may not necessarily be unfair.

2.8 Gifts and Gratuities:

No employee, officer, director, or agent of SolTrans may solicit or accept, either directly or indirectly, any gift, gratuity, loan, or other item or service of value from a contractor or potential contractors, or parties to subagreements.

Notwithstanding the above, this section shall not apply to the following:

- a) An occasional non-monetary gift of nominal (\$50) value¹ accepted in the ordinary course of a business meeting; or
- b) Unsolicited advertising or promotional material of nominal value.

Failure to adhere to the provisions of this section shall constitute a violation of SolTrans policy and may subject the violator to disciplinary action, up to and including discharge.

2.9 Contacts with Vendor, Bidders and Proposers:

Prior to the issuance of a procurement solicitation, informational and research contacts with prospective vendors may be made for the purpose of gathering data. However, in making such contacts, employees, officers, directors, and agents shall adhere to these written guidelines, and avoid any commitment, or implication, of a possible future award.

Accordingly, requests for substantial complimentary services or supplies, which may imply an obligation on the part of SolTrans, shall be prohibited. Requests for testing services, product samples, or demonstrations, for which SolTrans shall have no obligations to purchase said items or services may be allowed.

Whenever procurement is in process (e.g., during the solicitation, evaluation, negotiation, and award phases) all contacts with potential contractors or vendors shall be made

¹ See also State of California Fair Political Practices Commission (www.fppc.ca.gov) for State law concerning limitations on Gifts, Honoraria, Travel, and Loans. Current single source limit is \$420 total in any calendar year.

through the designated staff person identified in the solicitation or the Chief Executive Officer.

2.10 Releases and Use of Information:

All technical and price information received from a vendor will be treated as confidential during the bid/quotation period. These documents will become public information only after the bid/purchase has been awarded, with the exception of sealed bid pricing during bid opening. During the bidding/quotation period extreme care will be taken to avoid giving a bidder an advantage over another through an unequal exchange of information. Vendors should be informed that it is SolTrans's practice to make competitive choices for Invitations for Bid (IFBs) on the basis of the first price submitted and no revised prices will be solicited or accepted.

No employee, officer, director, or agent of SolTrans shall use such confidential information for the actual or anticipated benefit for themselves, their relatives, or persons with whom they have a common financial interest.

2.11 Disadvantaged Business Enterprise (DBE):

SolTrans will file, as prescribed by law, a DBE program which describes SolTrans's procedures and obligations regarding DBE's.

For the purpose of this program, a DBE is defined as a small business concern, which is both owned and controlled by socially and economically disadvantaged persons. This means that disadvantaged individuals must own at least 51% of the business and control the management and daily operations of the business. Included in the classification of disadvantaged individuals are United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, women or members of other groups or individuals who the Small Business Administration (SBA) has determined are economically and socially disadvantaged under 49 CFR Part 26.

The following affirmative steps shall be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services:

- a) Including qualified small and minority businesses on solicitation lists;
- b) Assuring that small and minority businesses are solicited whenever they are potential sources;
- c) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation;
- d) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses;
- e) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprises of the Department of Commerce and the Community Services Administration as required; or

- f) If any subcontracts are to be let, requesting that the prime contractor take the affirmative steps listed above. If separate contract goals are established, the prime contractor is required to take the affirmative steps listed above.

SolTrans does not certify DBEs. DBEs will be identified through the database maintained by the California Department of Transportation at http://www.dot.ca.gov/hq/bep/find_certified.htm .

2.12 Equal Employment Opportunity (EEO) Policy:

SolTrans has, or will, adopt an Equal Employment Opportunity (EEO) Policy, which applies to both internal hiring and promotion practices as well as to vendors who do business with SolTrans. All invitations for Bids and Requests for Proposal issued by SolTrans require the Bidder or Proposer to certify that:

- a) It does not discriminate against any employee or applicant for employment, because of race, religion, sex, age, creed, color, disability, or national origin;
- b) It is in compliance with all Executive Orders and federal, state and local laws regarding fair employment practices and non-discrimination in employment; and
- c) It agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

2.13 Intergovernmental Procurements:

2.13.1 Whenever feasible SolTrans will utilize available federal, state, and local intergovernmental agreements for procurement or use of common goods and services, including purchases from available Federal General Services Administration (GSA) and State of California Multiple Award System (CMAS). When obtaining goods or services in this manner, SolTrans will ensure all federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, in the contract.

2.13.2 Whenever feasible, SolTrans will procure goods and services jointly with other FTA grantees. When obtaining goods or services in this manner, SolTrans must ensure all federal requirements, required clauses, and certifications are properly followed and included in the resulting joint solicitation and contract documents.

2.13.3 Any procurement obtained thorough use of this section must not be obtained by any partnering government engaging in a prohibited “Tag-on” process as defined in section 14 of this Policy regarding Changes to Purchase Orders and Contracts.

2.14 Written Records of Procurement History:

SolTrans will maintain records detailing the history of each procurement. At a minimum, these records shall include:

- 1) The rationale for the method of procurement;

- 2) Selection of contract type; (if a Time & Materials type of contract is selected it must be documented to file that no other type of contract is suitable and that a ceiling price is set for the contract)
- 3) Reasons for contractor selection or rejection;
- 4) The basis for the contract price; and
- 5) A determination that the price offered is fair and reasonable.

2.15 Dividing Procurements Prohibited:

The requirements outlined in this Purchasing and Procedures document apply to the total purchase amount of supplies, equipment, materials, construction or services. Related parts of procurement are not to be divided for the express purpose of avoiding bidding requirements (e.g..bid-splitting).

2.16 Ensuring Most Efficient and Economic Purchase:

Each proposed procurement will be reviewed by staff to avoid purchase of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase.

Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.

2.17 No Advance Payments:

Advance payments utilizing FTA funds are prohibited without prior written FTA concurrence. Progress payments may be made for receipt of deliverables, percentage of work completed, milestones, or titles received. The Project manager or contract administrator shall make determinations regarding work completed and milestones achieved as part of the invoice payment process.

2.18 Liquidated Damages:

Liquidated Damage assessments must be calculated at a specific rate per day for each day of overrun, and must be credited to the project unless written permission to do otherwise is obtained from FTA. Calculations for liquidated damages must be based on data showing how delay causes damage.

2.19 Authority to Contract:

Authority to purchase and contract is held by the SolTrans Board and currently delegated to the Chief Executive Officer for all purchases in the amount of \$25,000 and less which are not subject to formal competitive bidding procedures and for all service contracts for which there are appropriated funds in the SolTrans Board approved budget.

If the Chief Executive Officer determines that operational efficiency and effectiveness may be negatively impacted by a delay in obtaining SolTrans Board approval, the Chief Executive Officer is delegated the authority to make such necessary purchases and/or contracts for all purchases or services up to \$100,000 for which there are appropriated funds in the SolTrans Board approved budget. Such determination shall be made in

writing and provided to the SolTrans Board at the next regularly scheduled Board meeting.

The Chief Executive Officer may delegate this authority, wholly or in part pursuant to a letter of delegation filed with the Board Clerk.

For purchases and contracts which are above \$25,000, including public works projects in an amount above \$25,000, and all other goods and services which must be competitively bid either because the SolTrans Bylaws require it, or because the California State Contracts code requires it, or because the Federal Guidelines require such competitive bidding, SolTrans will look to its bylaws and this policy for purposes of determining whether the authority to approve any purchase or enter into any contract exists.

Under no circumstances will a subcontractor or consultant have signatory authority to enter into any contract on behalf of SolTrans. For goods and services which are competitively bid, and whose final contract price exceeds \$25,000, the award must be made by the SolTrans Board. Awards for competitively bid or otherwise quoted good and services whose final contract price is less than \$25,000, may be made by the Chief Executive Officer or the SolTrans Board.

3 METHODS OF PROCUREMENT

Once authority to purchase or contract has been determined, the following methods of procurement may be used as appropriate:

3.1 Purchases for less than \$3,000 - Procurement by Micro-Purchases:

Micro-purchases are those purchases under \$3,000. Purchases below that threshold may be made without obtaining competitive quotations. Such purchases are exempt from Buy America requirements. There should be equitable distribution among qualified suppliers and no splitting of procurements to avoid competition. The Davis-Bacon Act applies to construction contracts above \$2,000. Minimum documentation required, but purchases must be documented as fair and reasonable.

These purchases may be accomplished by Petty Cash, if under \$50, by purchase through a Cal-Card, or by purchase Requisition/Purchase Order.

3.2 Purchases for amounts between \$3,000 to \$25,000 - Procurement by Small Purchase Procedures / Informal Quotes (IQ):

Small purchase procedures will be used for those relatively simple and informal procurement methods for securing services, supplies, or other property that cost more than \$3,000 but less than \$25,000, or \$100,000 if the Chief Executive Officer makes a determination regarding operational efficiency or effectiveness as required in section 2.19 of this policy. The Davis-Bacon Act applies to construction contracts above \$2,000. Minimum documentation is required. A determination that the price is fair and reasonable and how this determination was derived must be included in the file.

Purchase Requisitions are appropriate for purchases in this category. Purchase orders will be obtained. A Purchase Requisition, with the correct approval, must be completed before a Purchase Order can be prepared.

- 3.2.1 Minimum Number of Bids. Wherever possible, small purchases will be based on at least three bids, and shall be awarded to the lowest responsible bidder. The requisitioner would need to give the approving authority a Requisition form with at least three vendors, if possible, and their contact information. If only two bids can be obtained, documentation must be provided by the requesting party that a total of five businesses have been solicited.
- 3.2.2 Notice Inviting Quotes / Bids. The purchasing agent will solicit bids or quotes by written or verbal requests to prospective vendors.
- 3.2.3 As an alternative to Small Purchase Procedures, materials, equipment or supplies may be made by request from the State Department of General Services, in accordance with the provisions of Government Code section 14814.

3.3 Purchases of More than \$25,000 - Procurement By Sealed Bids/Invitation For Bid (IFB):

Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. . In order for sealed bidding to be feasible, the following conditions should be present:

- 1) A complete, adequate, and realistic specification or purchase description is available;
- 2) Two or more responsible bidders are willing and able to compete effectively for the business;
- 3) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price; and
- 4) No discussion with bidders is needed.

3.3.1 Requirements. If this procurement method is used, the following requirements apply:

- a) Technical specifications and requirements for the IFB will be prepared by the appropriate requisitioner and submitted to Chief Executive Officer or his or her designee. If approved, the Chief Executive Officer or his or her designee will forward the information to the appropriate Analyst who will work with the requisitioner to draft the appropriate Invitation for Bids (IFBs). The IFB will be reviewed for FTA, local and state law compliance and accuracy before release.
- b) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids; advertising for sealed proposals shall at a minimum be by publication in the official newspaper by at least one

- insertion made by at least ten days prior to the time for opening of bids and publication in the SolTrans Website. Notices inviting bids shall at least include a general description of work, equipment, materials or supplies, and shall refer for details to bid specifications. Location of bid specifications shall be released in the notice inviting bids and may include physical or internet addresses or both.
- c) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond.
 - d) Any change or modification in plans or specifications will occur by way of addenda issued to contractors who have signed up to be on the project planholder's list. Addenda will be posted to the SolTrans website and notice sent to contractors appearing on the planholder's list.
 - e) Sealed bids shall be submitted to the person and address appearing in the notice to contractors and shall be identified as "Bids-[insert solicitation number and short title]" on the envelope or package.
 - f) All proposals shall be made in accordance with the solicitation documents and furnished to interested bidders as provided in the "Notice Inviting Bids/Proposals" with a non-collusion affidavit and any other forms / bonds as required by the solicitation documents. Each bid shall have thereon the affidavit of the bidder that this is genuine and not sham or collusive, or made in the interest of, or in behalf of any persons not therein named, and that the bidder has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, or corporation, or firm to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure to himself an advantage over other bidders.
 - g) Any bid made without such affidavits or other documents as required by the solicitation documents or in violation thereof and any contract let as a result shall be void.
 - h) If, at any time, discovery is made that a contract has been let to a bidder who has violated or evaded this oath, the contract shall be canceled and no recovery shall be had thereon, and the SolTrans Board shall at once proceed as before to award a new contract.
 - i) All proposals or bids offered, except as provided below, shall be accompanied by a bank cashier's check, or by a check certified by a responsible bank, payable to SolTrans, in an amount as specified in the notice inviting bids, or by a bidder's bond for the amount and so payable, signed by the bidder and any one or more sureties authorized to transact surety business in the state of California, acceptable to the purchasing agent and SolTrans legal counsel. No proposal shall be considered unless accompanied by such check or bond; provided, however, that in the case of proposals or bids concerning a contract for the purchase of materials, supplies, equipment or services, the purchasing agent may:
 - 1. Eliminate the requirement that the bids or proposals for a contract be accompanied by a bidder's check or bond; or
 - 2. Set the amount of security required to accompany bids for a contract on a purchase by purchase basis.

- j) Construction or facility improvement contract and subcontract bids over \$100,000 have the following additional requirements:
1. A bid guarantee equivalent to five (5) percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified;
 2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and
 3. A payment bond on the part of the contractor. A payment bond is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts determined to adequately protect the federal interest are as follows:
 4. Fifty percent of the contract price if the contract price is not more than \$1 million;
 5. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 6. Two and a half million dollars if the contract price is more than \$5 million.
- k) The Purchasing Agent shall direct opening of sealed bids at the time and place designated in the invitation for bids as stated in the public notices. The opening shall occur in the presence of any two of the following officers: a member of the SolTrans Board, the Purchasing Agent, the SolTrans legal counsel, or the Chief Executive Officer, and all other interested parties and bidders who desire to be present. As each bid is opened, it shall be read aloud so that all persons interested in the bidding may become acquainted with the contents thereof. From and after the time of opening, the Purchasing Agent shall, upon the request of any interested party, read or give such further information from the said bid as may be requested. A tabulation of all bids received shall be open for public inspection at the office of the Purchasing Agent during business hours for a period of one year after the bid opening.
- l) After they have been opened, all bids shall be referred to the Chief Executive Officer together with a price and cost analysis and, if appropriate, a staff report to the SolTrans Board together with such recommendations as may be deemed appropriate. (Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
- m) Any or all bids may be rejected if there is a sound documented business reason.
- n) Upon execution of the contract, the contractor will deliver to the Purchasing Agent security to guarantee performance of the requirements and obligations to be performed by the contractor as allowed or required by 3.20.180.

- o) The sealed bid method is the preferred method for procuring construction if the conditions in paragraph (a) above apply.

3.4 Procurement By Competitive Proposal/Request for Proposals (RFP):

This method is appropriate when conditions are not appropriate for the use of sealed bids because one of the following reasons exists and the method is not prohibited by state or local law:

- 1) A complete, adequate, and realistic specification or purchase description is not available.
- 2) Two or more responsible bidders are not willing and able to compete effectively for the business.
- 3) The procurement does not lend itself to a firm fixed price contract and the selection of the successful bidder cannot be made principally on the basis of price.
- 4) Discussion with the bidders is needed.

3.4.1 Requests for proposals will be publicized, which shall require at a minimum publication on the SolTrans website. All evaluation factors will be identified along with their relative importance; technical specifications and requirements.

3.4.2 Awards will be made to the responsible firm whose proposal is most advantageous and of best value to SolTrans's program with price and other factors considered.

3.4.3 In determining which proposals is most advantageous, SolTrans may award to the proposer whose proposals offer the greatest business value to the Agency based upon an analysis of a tradeoff of qualitative technical factors and price/cost to derive which proposal represents the "Best Value" to SolTrans. "Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. The award selection is based upon consideration of a combination of technical and price factors to determine {or derive} the offer deemed most advantageous and of the greatest value to SolTrans if the Purchasing Agent elects to use the best value selection method as the basis for award, however, the solicitation must contain language which establishes that an award will be made on a "best value" basis. Publication of evaluation criteria with the RFP will serve as notice to proposers that a "best value" method will be used.

3.5 Procurement of Architectural and Engineering Services (A&E):

SolTrans will use qualifications-based competitive proposal procedures (i.e., Brooks Act procedures) when contracting for A&E services as defined in 40 U.S.C. §541 and 49 U.S.C. §5325(d). Services subject to this requirement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

Qualifications-based competitive proposal procedures require that:

- 1) An offeror's qualifications be evaluated;
- 2) Price be excluded as an evaluation factor;
- 3) Negotiations be conducted with only the most qualified offeror; and
- 4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.

These qualifications-based competitive proposal procedures can only be used for the procurement of the services listed above. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services.

3.6 Procurement of Design-Bid-Build:

SolTrans may procure design-bid-build services through means of sealed bidding or competitive negotiations. These services must be procured in a manner that conforms to applicable state and local law, the requirements of the appropriate FTA guidance relative to the method of procurement used and all other applicable federal requirements.

3.7 Procurement of Design-Build:

As provided pursuant to Public Contract Code section 20175.2, SolTrans may procure services using the design-build delivery method. SolTrans must procure design-build services through means of qualifications-based competitive proposal procedures based on the Brooks Act when the preponderance of the work to be performed is considered to be for architectural and engineering (A&E) services. Qualifications-based competitive proposal procedures should not be used to procure design-build services when the preponderance of the work to be performed is not of an A&E nature, unless required by State law.

3.8 Procurement By Noncompetitive Proposals (Sole Source):

Sole Source procurements are accomplished through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract change that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.

Other Than Full and Open Competition (Federally Funded Purchases). Normally, the recipient must provide for full and open competition when soliciting bids or proposals. The Common Grant Rule for governmental recipients, however, acknowledges that under certain circumstances, a recipient may conduct procurements without providing for full and open competition.

- 1.) When Appropriate. SolTrans may use noncompetitive proposals only when the procurement is inappropriate for small purchase procedures, sealed bids, or competitive proposals, and at least one of the following circumstances are present:
 - a. Competition Adequacy. After soliciting several sources, the Purchasing Agent will review its specifications to determine if they are

unduly restrictive or if changes can be made to encourage submission of more bids or proposals. After the Purchasing Agent determines that the specifications are not unduly restrictive and changes cannot be made to encourage greater competition, the Purchasing Agent may determine the competition adequate. A cost analysis must be performed in lieu of a price analysis when this situation occurs.

- b. Sole Source. When SolTrans requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements, SolTrans may make a sole source award. When the SolTrans requires an existing contractor to make a change to its contract that is beyond the scope of that contract, SolTrans has made a sole source award that must be justified.
 - i. Unique Capability or Availability. The property or services are available from one source if one of the conditions described below is present:
 - 1. Unique or Innovative Concept. The offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to SolTrans only from one source and has not in the past been available to SolTrans from another source.
 - 2. Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.
 - 3. Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
 - 4. Unacceptable Delay. In the case of a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling the recipient's needs.
 - ii. Single Bid or Proposal. Upon receiving a single bid or proposal in response to a solicitation, the Purchasing Agent should

determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.

1. Adequate Competition. Competition is acknowledged to be adequate when the reasons for few responses were caused by conditions beyond the control of SolTrans. Many unrelated factors beyond SolTrans's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, competition requirements will be fulfilled, and the procurement will qualify as a valid sole source.
 2. Inadequate Competition. Competition is inadequate when, caused by conditions within SolTrans's control. For example, if the specifications used were within the SolTran's control and those specifications were unduly restrictive, competition will be inadequate.
- c. Unusual and Compelling Urgency. SolTrans may limit the number of sources from which it solicits bids or proposals when a SolTrans has such an unusual and urgent need for the property or services that SolTrans would be seriously injured unless it were permitted to limit the solicitation. SolTrans may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the property, supplies, or services.
- d. Associated Capital Maintenance Item Exception Repealed. Any sole source procurement of associated capital maintenance items must qualify for an exception under the same standards that would apply to other sole source acquisitions.
- e. Authorized by FTA. The Common Grant Rules provide Federal agencies authority to permit a recipient to use noncompetitive proposals. Under this authority, FTA has made the following determinations:
- i. Consortium, Joint Venture, Team, Partnership. With some exceptions, when FTA awards a grant agreement or enters into a cooperative agreement with a consortium, joint venture, team, or partnership, or provides FTA assistance for a research project in which FTA has approved the participation of a particular firm or combination of firms in the project work, the grant agreement or cooperative agreement constitutes approval of those arrangements. In such cases, FTA expects the recipient to use competition, as feasible, to select other participants in the project.

- ii. FAR Standards. To ensure that the recipient has flexibility equal to that of Federal contracting officers, FTA authorizes procurement by noncompetitive proposals in all of the circumstances authorized by FAR Part 6.3. In addition to circumstances discussed in the Common Grant Rules, the FAR authorizes less than full and open competitive procurements in one or more of the following circumstances:
 - 1. Statutory Authorization or Requirement. To comply with Department of Transportation (DOT) appropriations laws that include specific statutory requirements, with the result that only a single contractor can perform certain project work.
 - 2. National Emergency. To maintain a facility, producer, manufacturer, or other supplier available to provide supplies or services in the event of a national emergency or to achieve industrial mobilization.
 - 3. To establish or maintain an educational or other non-profit institution or a federally funded research and development center that has or will have an essential engineering, research, or development capability.
 - 4. Protests, Disputes, Claims, Litigation. To acquire the services of an expert or neutral person for any current or anticipated protest, dispute, claim, or litigation.
 - 5. International Arrangements. When precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or when prohibited by the written directions of a foreign government reimbursing the recipient for the cost of the acquisition of the supplies or services for that government.
 - 6. National Security. When the disclosure of the recipient's needs would compromise the national security.
 - 7. Public Interest. When the recipient determines that full and open competition in connection with a particular acquisition is not in the public interest.

- 2.) When Prohibited. Less than full and open competition is not justified based on:
 - a. Failure to Plan. SolTran's lack of advance planning, or
 - b. Limited Availability of Federal Assistance. Concerns about the amount of Federal assistance available to support the procurement (for example, expiration of Federal assistance previously available for award).

- 3.) Procurement Procedures. When less than full and open competition is available to SolTrans will:
 - a. Potential Sources. Solicit offers from as many potential sources as is practicable under the circumstances.
 - b. Sole Source Justification. If SolTrans decides to solicit an offer from only one source, SolTrans must justify its decision adequately in light of the standards of subparagraph (1)(b) of this Chapter. Sole source justification must be in writing.
 - c. Cost Analysis. Prepare or obtain a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits.
 - d. Preaward Review. Submit the proposed procurement to FTA for preaward review if FTA so requests.

3.9 Options:

SolTrans may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, SolTrans may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If an option is included in a contract, the requirements below apply:

- 1) Evaluation of Options. The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.
- 2) Exercise of Options.
 - a. SolTrans will ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.
 - b. An option may not be exercised unless SolTrans has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

3.10 Capital Purchases:

For financial purposes, items over \$5,000.00 with a useful life of over one (1) year are defined as capital purchases. In addition to any other requirements which may apply, such expenditures must be charged against capital accounts, rather than operating accounts. The SolTrans Board must approve all budgeted capital expenditures for the current fiscal year along with the operating budget. Un-budgeted capital expenditures must be submitted to the SolTrans Board for approval. The Chief Executive Officer or designee must approve all capital expenditures. The Chief Executive Officer may delegate this authority to approve capital purchases. If this authority is delegated, the Chief Executive Officer must specify the dollar limit for purchases that the authorized staff may approve.

4 CONTRACT COST OR PRICE ANALYSIS FOR EVERY ACTION

SolTrans will perform a cost or price analysis in connection with every procurement action, including contract modifications. A cost or price analysis must be performed before Bids or Proposals are received. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, SolTrans must make independent estimates before receiving bids or proposals. Responsibility for ensuring that an independent estimate is completed will reside with the person issuing the solicitation. No solicitation will be issued prior to conducting an independent estimate regarding the anticipated cost of the item or service to be procured. The estimate will include the methodology used to make the estimate.

4.1 Cost Analysis:

A cost analysis must be performed when the offeror is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost, (e.g., under professional consulting and architectural and engineering services contracts, etc.)

A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation.

4.2 Price Analysis:

A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.

4.3 Profit:

SolTrans will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

4.4 Federal Cost Principles:

Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles. Grantees may reference their own cost principles that comply with applicable Federal cost principles.

4.5 Cost Plus Percentage of Cost Prohibited:

The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

5 REJECTION OF BIDS

Invitations for bids may be canceled after opening but prior to award, and all bids rejected, where it is consistent with Federal, State, and local procurement regulations. A written determination must be included in the invitation for bid file stating that cancellation is in the best interest of SolTrans for reasons such as the following:

- a) Inadequate, ambiguous, or otherwise deficient specifications were cited in the invitation for bids;
- b) The supplies or services are no longer required;
- c) The invitation for bids did not provide for consideration of all factors of cost to SolTrans;
- d) Bids received indicate that the needs of SolTrans can be satisfied by a less expensive item differing from that on which bids were received;
- e) All otherwise acceptable bids received are at unreasonable prices;
- f) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith. Such situation must be substantiated and reported to SolTrans counsel; or
- g) The bids received did not provide competition, which was adequate to ensure reasonable prices. A price or cost analysis may be used to establish the reasonableness of price.
- h) Adequate funding is not available to enter into and administer the contract.

5.1 Rejection of Individual Bids:

Normally, any bid which fails to conform to the essential requirements of the invitation for bids, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.

A bid shall be rejected where the bidder imposes conditions, which modify requirements of the invitation for bids. For example, bids may be rejected in which the bidder:

- 1) Attempts to protect himself against future changes in conditions such as increased costs, if a total price to SolTrans cannot be determined for bid evaluation;
- 2) Fails to state a price and in lieu thereof states that price shall be “price in effect at the time of delivery”;
- 3) States a price but qualifies such price as being subject to “price in effect at time of delivery”;
- 4) Where not authorized by the invitation for bid, conditions or qualifies his/her bid by stipulating that the bid is to be considered only if, prior to date of award, bidder received or does not receive award under a separate procurement;
- 5) Limits rights of SolTrans under any contract clause;
- 6) Fails to comply with all of the requirements of the IFB.

5.1.1 Bids received from any person or firm debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired.

- 5.1.2 Low bids received from firms determined to be not responsible pursuant to Federal, State or local procurement regulations shall be rejected.
- 5.1.2.1 A determination of responsibility will be made and documented to file prior to award, and the review used to make that determination shall consist of an analysis of the bidder's ability to provide the appropriate financial backing, equipment, facility and personnel; ability to meet the delivery schedule, a satisfactory period of performance, record of integrity (suspension or debarred list checks), and receipt of all necessary data from the supplier.
- 5.1.3 A bid may be rejected if a bid guarantee and / or insurance is required and a bidder fails to furnish it in accordance with the requirement of the invitation for bids.
- 5.1.4 The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.
- 5.1.5 After submitting a bid, if a bidder transfers all of his/her assets or that part of his/her assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid, thus, SolTrans may reject the bid.

6 AWARD OF CONTRACT/COMPETITIVELY BID CONTRACTS

In the event of a purchase subject to sealed bids, after considering the report of the Chief Executive Officer, the SolTrans Board shall award the contract to the lowest responsible bidder, or reject all bids, and may readvertise in its discretion. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Contracts for goods or services based on other procurement methods allowed as described above in section 3 may be awarded as follows:

6.1 Contracts for procurement of goods and services for amounts of \$100,000 and above:

Contracts in this range will be awarded by SolTrans Board authorizing the Chief Executive Officer to enter into such contract.

6.2 Contracts for Procurement of goods and services for amounts between \$3,000 and \$100,000:

Contracts for procurements of goods and services for amounts between \$3,000 and \$100,000 shall be awarded by the Chief Executive Officer, in his discretion and as authorized by SolTrans bylaws, or any other SolTrans Board action or resolution.

7 DETERMINATION - LOWEST RESPONSIBLE BIDDER EVALUATION

Before the SolTrans Board awards the contract, or the Chief Executive Officer authorizes the procurement, SolTrans shall make a determination that a prospective contractor is responsible and the prices are reasonable. This information will be given to the Purchasing Agent. A responsible prospective contractor is one who meets the standards forth below:

- a) Has adequate financial resources, or the ability to obtain such resources as required during the performance of the contract;
- b) Is not listed on the Federal “List of Parties Excluded from Federal Procurement or Nonprocurement Programs (Debarred List)” located at <http://www.epls.gov/> .
- c) Is able to comply with the required or proposed deliver or performance schedule, taking into consideration all existing business commitments, commercial as well as governmental;
- d) Has a satisfactory record of performance. Contractors who are, or have been seriously deficient in current or recent contract performance, when the number of contracts and the extent of deficiency of each are considered, will be considered non-responsive;
- e) Has a satisfactory record of integrity and business ethics;
- f) Is otherwise qualified and eligible to receive an award under applicable laws and regulations;
- g) Has the necessary organizational, experience, operational controls; and technical skills, or the ability to obtain them; or
- h) Has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

Evaluation of the responsibility of prospective contractors may be made based upon the following sources:

- 1) A list of debarred, suspended or ineligible firms or individuals;
- 2) From the prospective contractor’s bids and proposals, replies to questionnaires, financial data such as balance sheets, profits & loss statements, cash forecasts, and financial histories of the contractor and affiliated concerns; current and past production records, list of tolls, equipment, and facilities, written statements of commitments concerning financial assistance and subcontracting arrangements;
- 3) Publications, including credit ratings, trade and financial journals, and business directories may also be used;
- 4) References such as suppliers, subcontractors, customers or the prospective contractor, banks and financial institutions, commercial credit agencies, other government agencies, purchasing and trade associations, and better business bureaus and chamber of commerce; or
- 5) Documented past performance on contracts with SolTrans.

8 FILING PROTESTS

8.1 Definitions

- 1) Awarding Authority: The SolTrans Board or Purchasing Agent possessing the authorization to make final decisions regarding selection of bidders or proposers.

8.2 Filing Procedure:

Protests dealing with restrictive specifications or alleged improprieties in solicitation must be filed no later than ten (10) working days prior to bid opening or closing date for receipt of proposals. Any other protest must be filed no later than three (3) working days after:

1. Notification of Intent to Award is issued for award of contract if the contract is awarded by SolTrans Board and SolTrans Board follows staff recommendation; or
2. Notification of Award is issued if the SolTrans Board has delegated award authority to the Purchasing Agent or SolTrans Board does not award the contract according to the Notification of Intent to Award.

Protests shall be in writing and addressed to the Chief Executive Officer.

The protest shall identify the protestor, contain a statement officially declaring a protest and describing the reasons for the protest, and provide any supporting documentation. Additional materials in support of the initial protest will only be considered if filed within the time limit specified above. The protest shall indicate the ruling or relief desired from SolTrans.

8.3 Confidentiality:

Materials submitted by a protester will not be withheld from any interested party, except to the extent that the withholding of information is permitted or required by law or regulation. If the protest contains proprietary material, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears.

8.4 Withholding of Award:

When a protest is filed before opening of bids or closing date of proposals, the bids will not be opened prior to resolution of the protest, and when the protest is filed before award, the award will not be made prior to resolution of the protest, unless the Awarding Authority determines that:

- a) Items to be procured are urgently needed, or delivery or performance will be unduly delayed by failure to make award promptly; or
- b) Failure to make award will cause undue harm to SolTrans.

In the event an award is to be made while a protest is pending, the Federal Transit Administration shall be notified if Federal funding is involved.

8.5 Processing the Request:

- a) The Chief Executive Officer shall respond to the protestor within five (5) working days of receiving the protest. A conference on the merits of the protest may be held with the protestor.
- b) Any additional information required by SolTrans from the protestor shall be submitted as expeditiously as possible, but no later than three (3) days after receipt of such request.

8.6 Notification:

The Chief Executive Officer shall notify the protestor of a decision regarding the protest no later than ten (10) days following receipt of all relevant information.

8.7 Appeal:

If a protestor is not satisfied with the decision made by the Chief Executive Officer the protestor may appeal the decision to the Awarding Authority by way of a letter to the Chief Executive Officer no later than three (3) working days after notification of denial of the protest by the Chief Executive Officer. If the Chief Executive Officer is the Awarding Authority the protestor will be deemed to have exhausted its appeals to SolTrans upon receipt of the initial rejection of the protest by the Chief Executive Officer^[GA1]. If Federal funds are involved, the protestor may file protest with the Federal Transit Administration appealing the final decision of the Awarding Authority. Review by FTA will be limited to:

- a) Violation of Federal law or regulations.
- b) Violation of SolTrans's protests procedures described herein, or failure by SolTrans to review protest.

Protests must be filed with FTA (with a concurrent copy to SolTrans) within five (5) days after the Awarding Authority renders a final decision, or five (5) days after the protestor knows, or has reason to know, that the Awarding Authority failed to render a final decision. After five (5) days, SolTrans will confirm with FTA that FTA has not received protest on the contract in question.

Circular 4220.1F is available for review at SolTrans office. A copy may be obtained for FTA at the following address:

Federal Transit Administration
Region IX
201 Mission Street – Suite 2210
San Francisco, California 94105

SolTrans shall not be responsible for any protests not filed in a timely manner with FTA.

In the event an award is to be made while a protest is pending, the Federal Transit Administration shall be notified if Federal funding is involved.

9 PURCHASE REQUISITION APPROVAL AND PURCHASE ORDERS

- a) All purchase orders between \$1,000 to \$25,000 require the approval of the Chief Executive Officer, or his designee.
- b) Purchase orders greater than \$25,000 require the approval of the SolTrans Board.
- c) Purchase orders are not required for medical, legal, insurance, payroll, petty cash, travel reimbursements, utility payments, postage, temporary help, conferences and subscription renewals.
- d) Purchase Requisition forms are filled out by the party requesting goods or services, and then input into the SolTrans' automated purchasing system by administrative staff to begin the approval process.

9.1 Purchase Orders (PO's):

Purchase Order (PO) numbers are assigned by the Soltrans' automated purchasing system after receipt and approval of a purchase requisition by the appropriate parties with proper authorization.

The Chief Executive Officer will review the Purchase requisition and all documentation to ensure its completeness, accuracy and compliance with FTA regulations.

9.2 Purchase Order Approval:

The SolTran's automated purchasing system will route purchase requisitions to the correct authorization levels, and upon final authorization, assign a Purchase Order Number. The Finance Director will sign the generated Purchase Order and notify the requestor that the Purchase Order has been authorized and provide the requestor with the Purchase Order.

The Requisitioner may either fax or orally notify the vendor of the approved Purchase Order number. A copy of the approval purchase order shall be sent to the vendor along with any FTA terms and conditions unless those terms already exist in a formal contract. The method of purchase shall be specified on the Purchase Requisition.

Vendors shall be told to include their Purchase Order number on all correspondence, including packages, invoices, credit memos, etc.

9.3 Receiving/Approval to Pay:

Only authorized persons may receive goods. Upon receipt, the packing slip is compared to the goods received.

If correct, the packing slip is signed and dated as received.

If the packing slip is also an invoice, these documents will then be sent to the Transportation Finance Officer for payment.

If the packing slip is not an invoice, requisitioner will check invoice file. If the invoice has been received, it should be matched against the packing slip. If it does not match the vendor should be notified. When a correct invoice is received, it should be attached to the rest of the procurement documentation and sent to the Transportation Finance Officer for payment.

For the receipt of services, the responsibility to deem the service completed will rest with the requisitioner. Upon completion, sign all documents that confirm the proper completion of services performed and forward the receiving document to the Chief Executive Officer for payment.

9.4 Blanket Purchase Orders:

SolTrans does not authorize the use of this type of purchase order.

9.5 Releasing Purchase Order Numbers:

SolTrans does not authorize the practice of giving Purchase Order numbers to requisitioners over the telephone without adherence to the guidelines contained herein.

10 CHECK REQUEST POLICY

SolTrans does not authorize any requests for checks to be provided to staff or to vendors or contractors before the accounts payable division mails them out.

11 PETTY CASH POLICY

Purchases of up to \$50 may be made through petty cash. However, this is a privilege that should never be used to circumvent the procurement procedures. A petty cash voucher shall be obtained from Account Payable and approved by the Chief Executive Officer. All receipts, and any change received in the transaction, shall be returned to Account Payable immediately upon return to the facility.

12 EMERGENCY ACQUISITIONS

For internal control purposes, deviations from the process outlined in this section are permitted only in emergency situations, and only with the approval of the Chief Executive Officer. Whether an emergency exists will be determined by the Chief Executive Officer. Emergency procurements are those which, due to unusual circumstances beyond the control of the requisitioner, cannot be foreseen or otherwise provided for in the routine manner, but which must be accomplished without delay. Emergencies usually involve urgent repair of revenue vehicles, facilities or utilities, correction of unsafe conditions, which if left uncorrected would result in immediate financial loss, and the like.

When a purchase order is issued in an emergency situation, the responsibility for following through with a Purchase Requisition is not relieved when the purchase is

accomplished through emergency channels. A properly executed and approved Purchase Requisition must be provided in order to complete the requisition.

When an emergency arises, the requester may inform the Chief Executive Officer or his/her authorized designee of the requirements, including the vendor's name and the approximate amount of the procurement. It is then the responsibility of the requisitioner to coordinate completion of the confirming Purchase Requisition. If the requester does not know which vendor will be used, the Chief Executive Officer or his/her authorized designee shall be notified as soon as a vendor is located.

In instances where a valid emergency exists and goods or services may be obtained after normal working hours, the requester may follow one of the several options:

- 1) Make the purchase from a firm willing to accept an oral Purchase Order;
- 2) Pay cash and be reimbursed from petty cash (if less than \$50), or by check, the following business day; or
- 3) Charge the purchase and present the sales slip the following day to have a Purchase Requisition processed and a check issued for reimbursement.

13 SERVICE CONTRACTS AND/OR MAINTENANCE AGREEMENTS

Service contracts and maintenance agreements are legally binding documents stating that a particular vendor will perform the specified services on equipment as agreed upon and described. These contracts should be obtained by whichever procurement method is applicable, depending on amount and/or circumstances. All contracts, including service and maintenance, shall be submitted to the SolTrans Legal Counsel for review and approval.

Repairs of equipment not covered by service contracts or maintenance agreements must have a Purchase Order number issued before the equipment can be repaired. If the equipment is to be shipped or hand carried for repair, a Purchase Requisition should be prepared (including estimates) for proper record keeping prior to shipment.

For all repairs, the following information is required:

- a) Make, model and serial number of equipment;
- b) Inventory tag number;
- c) Department where equipment is located;
- d) Hourly or flat rate to be charged; and
- e) If the item being repaired is an accessory to a major piece of equipment, provide the above information from the equipment to which it is an accessory.

(NOTE: If a Purchase Order number was orally given because of an on-site emergency repair, the Purchase Requisition must have that number affixed, include all the

information shown above, and have a written service report of the incident attached before sending to the Transportation Finance Officer.)

14 PROCEDURES FOR CHANGE ORDERS/CONTRACT MODIFICATION

This section describes the steps to take when changes or cancellations must be made to existing purchase orders or contracts.

14.1 Changes to Purchase Orders and Contracts:

Changes are made to existing purchase orders and contracts either by issuing a purchase order change or a contract amendment (and sometimes both). Examples of circumstances that warrant making a change to a purchase order or contract are:

- 1) When there is a substantial change in the description of the supplies or services to be delivered against the purchase order or contract.
- 2) When there is a change in the scope, price and/or quantity or delivery of supplies or services to be delivered against the purchase order or contract.
- 3) When the specifications, terms or conditions are in error or need to be modified.
- 4) When there is a change in funding.

All purchase order and contract modifications for purchases over **\$3,000** must be approved by the Chief Executive Officer. The Chief Executive Officer may approve changes and modifications that do not exceed the project budget and do not exceed a one-time increase of 10% above the originally-approved contract price, with a limit of **\$100,000**. Changes/Modifications that exceed **\$100,000** must be approved by the SolTrans Board.

14.1.1 Processing Time Required: Changes to purchase orders and contracts will usually be completed within five (5) working days after a Request for Correction/Change to Purchase Order is received by the Chief Executive Officer.

NOTE: Changes that require approval of the SolTrans Board require a longer period of time. If SolTrans Board approval is required, a minimum of three (3) weeks may be required before a change can be completed.

14.1.2 Information Required by the Chief Executive Officer: A completed Memo Request for Correction/Change to Purchase order or contract must be submitted to the Chief Executive Officer. The Request should include a complete description of all needed changes and the reason for the changes. It must be signed by the Project Manager.

14.1.3 Changes to purchase orders and contracts that constitute an “out of scope” or “Cardinal change” to the purchase order or contract are considered “Tag-ons” and

are prohibited unless accompanied by a sole source justification. A determination that a change to a purchase order or contract does not constitute an out of scope change is required prior to authorization and that determination must be documented to the contract file.

14.2 Cancellations of Purchase Orders:

Purchase orders are canceled either by issuing a purchase order change or a letter of cancellation (or both). Such cancellations can be made by the Chief Executive Officer when the necessary information regarding the need for the cancellation is provided.

14.2.1 Processing Time Required: Cancellations of purchase orders and contracts will usually be completed within five (5) working days after the Chief Executive Officer receives a Request for Correction/Change to Purchase Order. The requesting organization will receive a copy of the Purchase Order marked CANCELED or a copy of the letter canceling the contract after the cancellation has been completed.

14.2.2 Information Required by Chief Executive Officer: A Request for Cancellation must be submitted to the Chief Executive Officer. The Request should ask that the purchase order or contract be canceled and should give the reason for the cancellation. It must be signed by requisitioner.

14.2.3 Description of Process: Upon receipt of the Request for Cancellation, the Chief Executive Officer will review the information and approve/disapprove, as appropriate. If cancellation is approved, the purchase order/contract will be forwarded to the Transportation Finance Officer who will effect the cancellation. The requesting organization and the vendor will receive a copy of the purchase order marked "CANCELED" and/or letter notifying them of contract cancellation

15 PURCHASING PROCEDURE AMENDMENT

From time to time, the U.S. Department of Transportation, FTA or other governing bodies may set forth new procurement standards, issue supplementary directives, or revise certain procurement regulations or procedures. The amended policy or procedures will then be incorporated into SolTrans's Procurement Policies and Procedures.

16 CONTRACT PROVISIONS FOR FTA GRANTEES

A number of general contract provisions are required by the Federal Transit Administration (FTA) for FTA funded contracts. These provisions are intended to establish minimum guidelines to which grantees must adhere when purchasing supplies, equipment and construction and professional services. Additionally, a number of provisions are required by State law and local practice.

SolTrans will work with the SolTrans legal counsel's office to include all necessary contract clauses in each contract. Special attention will be given to the applicability and inclusion of model contract clauses from the Federal Transit Administration's Best Practices Procurement Manual. These contract requirements change from time to time, so when drafting a contract check the latest contract clause requirements from FTA. Transportation Division Procurement Analyst II will be responsible for updating contract provisions.

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**Solano County Transit
(SolTrans)**

DATE: March 24, 2011
TO: SolTrans Board
FROM: Bernadette Curry, Legal Counsel
RE: Proposed Adoption of SolTrans Bylaws

Discussion:

At both the initial and February SolTrans Board Meetings, a draft set of bylaws was presented for discussion. Comments have been incorporated but based on the previous statements, additional comments or Board input may be warranted to adequately craft the bylaws to reflect the intention of this new organization. Staff is recommending that the Board adopt the attached bylaws or provide additional comments and/or edits. Once adopted, the bylaws can be amended by this Board at anytime.

Fiscal Impact:

There is no fiscal impact associated with the adoption of bylaws.

Recommendation:

Adopt the attached SolTrans bylaws.

Attachment:

- A. Proposed SolTrans Bylaws

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**BYLAWS
of
SOLANO COUNTY TRANSIT (“SolTrans”)
BOARD OF DIRECTORS**

ARTICLE 1. DEFINITIONS

The definitions of terms used in these Bylaws shall be the same as are contained in the Joint Powers Agreement creating Solano County Transit or “SolTrans”, hereinafter called the Agreement, unless otherwise expressly provided.

ARTICLE II. OFFICES

SolTrans's principal office for the transaction of business is located at 311 Sacramento St., Vallejo, California. The Board of Directors may change the location of the principal office from time to time.

The Board may establish one or more subordinate offices at any place or places where SolTrans is qualified to do business.

ARTICLE III. MEETINGS OF THE BOARD OF DIRECTORS

1. Regular Meetings

a. Time Held

The Board of Directors shall hold a minimum of four meetings per year. These meetings should, if at all possible, be scheduled at least one calendar year in advance. Unless otherwise changed by a majority vote of the Voting Directors at a regular meeting, these meetings shall be held at 4:00 p.m. on the 3rd Thursday of each quarter; however, when closed session items are scheduled, the meetings shall start at 3:30 p.m. Should any of these days fall upon a legal holiday, the meeting of the Board shall be held on the same day of the following week.

b. Business to be Transacted

At the Spring regular meeting, the Board shall review, modify if necessary, and adopt the annual operating budget.

At the first yearly regular meeting, the Board shall elect officers as required by the Agreement and these Bylaws.

At any meeting, the Board may transact any other business within its powers, and receive reports of the operations and affairs of SolTrans.

c. Notice

Written notice of each regular meeting of the Board shall be delivered to each director and/or alternate director at least five (5) days in advance of the meeting. The notice shall specify:

- i. The place, date and hour of the meeting.
- ii. Those matters which are intended to be presented for action by the Board.
- iii. The general nature of any proposal for action by the Board concerning a change in the Agreement or these Bylaws, a change in the membership of SolTrans, or any other matter substantially affecting the rights and obligations of the members.

2. Special Meetings

A special meeting of the Board of Director may be called at any time by the Chair of the Board, or by a majority of the members of the Board subject to the requirement for 24-hour written notice to the members and to requesting representatives of the media provided in Section 54956 of the California Government Code. The notice of a special meeting shall specify the time and place of the meeting and the business to be transacted. No other business shall be considered at the meeting.

3. Place of Meeting

All meetings shall be open sessions alternating in location between the Benicia and Vallejo Council Chambers, except such closed sessions that the law permits. The Board may also, from time to time, schedule special meetings as necessary to conduct its business.

4. Adjourned Meetings

Any meeting of the Board may be adjourned to any date and time when necessary for the transaction of business, whether or not a quorum has been established. If a quorum is not established, no business other than adjournment may be transacted.

ARTICLE IV. NOMINATION AND SELECTION OF BOARD OFFICERS

1. Officers

The officers of the Board are the Chair, the Vice Chair, and the Secretary.

2. Selection

At the first regular meeting of the calendar year, the Chair and the Vice Chair shall be elected by majority vote of the Voting Directors present. The selection of Chair shall rotate between each of the Member Cities but shall not be limited to the Mayors.

3. Term of Office

The Chair, Vice Chair and Chair Pro Tem shall be selected for a period of one year or until such time as a successor has been selected by the Board pursuant to these Rules. In the event of a vacancy, the Board shall fill the vacancy within 30 days from the date of such vacancy.

4. Absence of Chair

During the absence of the Chair, the Vice Chair shall preside. In the event that both the Chair and Vice Chair are absent, the remaining members will select someone to temporarily preside.

5. Removal and Vacancies

The Board of Directors may remove an officer at any time upon a majority vote of the Voting Directors. In the event that the office of Chair or Vice Chair becomes vacant, the Board, within 30 days from the date of such vacancy, will select one of its Voting Directors to fill that office.

6. Secretary

The Executive Director or designated representative shall serve as Secretary to the Board of Directors.

ARTICLE V. MOTIONS DURING MEETINGS

1. Actions by Motion

Action of the Board shall be taken by motion and shall require the affirmative vote of a majority of the Voting Directors, which must include at least one affirmative vote of a Director representing each Voting Member Agency. Any action of the Board may be proposed by the motion of any Member. Such a motion, if seconded by any Member, shall be on the floor and must be considered. If a motion is not seconded, the motion fails for lack of a second, and the Chair shall so declare.

2. Withdrawal of Motions

A motion may be withdrawn by its maker at any time before adoption or rejection, with the consent of the second. Absent the consent of the second, the motion shall remain on the floor. The second to a motion may be withdrawn by the second at any time before adoption or rejection of the motion. Upon withdrawal of the second, the motion will be lost for lack of a second and so declared by the Chair unless seconded by another Member.

3. Debate of Motion

a) After a motion has been seconded, any Member may discuss the subject of the motion. When no Member wishes to discuss the motion further, the Chair shall call for a vote on the motion. At any time after a motion has been seconded, any Member who has the floor may call for the question. The Chair may call for the vote if it appears that further discussion will be repetitious or that a majority of the Members present concur in the call.

b) If a motion with a second contains two or more separable propositions, the Chair may, and on request of a Member shall, divide the motion.

c) When an "original motion" or question is under debate, no motion shall be received unless:

- (1) To adjourn;
- (2) To lay on the table;
- (3) To consider the previous question;
- (4) To postpone to a certain date;
- (5) To refer to committee;
- (6) To amend;
- (7) To postpone indefinitely.

These motions shall have preference in the above order.

d) A motion to adjourn or a motion to fix time of adjournment shall be decided with debate.

e) At any time after a motion has been seconded, any Member may move to table the motion. If the motion to table is seconded, the Chair shall forthwith call for a vote on such motion. A motion to table shall include all amendments to the original motion. A motion to table an item is not debatable and no further discussion or debate shall be permitted on either the original motion or the motion to table. If the motion to table does not pass, consideration of the original motion will continue. If the motion to table does pass, the original motion will remain on the floor but may not again be considered at that meeting unless a motion to remove the original motion from the table is passed. The original motion may then be considered and voted upon at the next regular meeting of the Board unless again tabled. If not considered at such meeting, it will be deemed lost. For the purposes of this subsection, an adjourned meeting shall be considered a separate meeting.

f) A motion to consider the previous question shall preclude all amendment from debate to the main question and shall be put in the form "shall the main question be put to a vote."

g) A motion to refer to committee shall specify the purpose of the committee, the length of time the committee shall serve, and the times and methods by which the committee shall report to the Board.

4. Amendment of Motions

A motion on the floor may be amended by motion at any time before adoption or rejection. If the motion to amend fails, the original motion will be voted upon. If the motion to amend passes, the amendment is adopted and, thereafter, the original motion, as amended, will be voted upon.

5. Motion to Reconsider

A motion to reconsider any action taken by the Board, whether acting in a legislative or quasi-judicial capacity, may be made at the same meeting, at a recessed or adjourned session of that meeting, or at the next subsequent meeting; provided, however, that the Board may only reconsider a resolution or motion authorizing or relating to the approval of a contract before the actual execution of the contract. Only a Member who voted with the prevailing side may make the motion. After a vote on the motion, there shall be no other motion to reconsider the same question without the unanimous consent of the Board

within that calendar year.

ARTICLE VI. FISCAL YEAR

The fiscal year of SolTrans shall be from July 1 to June 30.

ARTICLE VII. ADVISORY COMMITTEES

1. Power to Create

The Board may create and appoint advisory committees when deemed necessary for the proper conduct of the Board's business. The Board shall direct the committees to perform acts or study matters that are within the Board's authority to perform or resolve and that are legally delegated. The Board shall not assign nor delegate to the committees to any action or undertaking which state law or the Agreement identifies as a duty or function of a district administrative or executive officer.

2. Standing Committees

At the time of approval of these bylaws, standing committees include the following:

a. Bylaws Committee. This committee is responsible for periodically reviewing these Bylaws and recommending any necessary revisions to the Board.

ARTICLE VIII. AMENDMENTS

These Bylaws may be amended at any time by a majority vote of the Voting Directors. Following adoption of amendments, the Chief Executive Officer shall prepare and distribute a revision of the Bylaws to all members.

ARTICLE IX. PARLIMENTARY PROCEDURE

These Bylaws shall govern the proceedings of the Board. In all situations not covered by these Bylaws or any provision of law, the proceedings shall be determined by a majority Vote of the Voting Directors.

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**Solano County Transit
(SolTrans)**

DATE: March 17, 2011
TO: SolTrans Board
FROM: Nancy Whelan, Transition Team Consultant
RE: Proposed SolTrans FY 2012 Budget Schedule, Assumptions, and Process

This report will be provided under separate cover.

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**Solano County Transit
(SolTrans)**

DATE: March 17, 2011
TO: SolTrans Board
FROM: Jeanine Wooley, City of Vallejo
RE: Short Range Transit Plan (SRTP) Status

Discussion:

Four proposals were received for the SRTP engagement. The respondents were interviewed by a panel consisting of Jeanine Wooley (City of Vallejo), Rob Sousa (City of Benicia) and Elizabeth Richards (STA). The recommended firm of Moore & Associates will go to the Vallejo City Council for approval on April 12. Once a notice to proceed is issued, staff will schedule a kick-off meeting with selected staff participants and the consultant team.

Fiscal Impact:

MTC has entered into an agreement with the City of Vallejo to complete the SRTP on behalf of SolTrans. FTA section 5303 funds represent MTC's funding source.

Recommendation:

Informational.

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**Solano County Transit
(SolTrans)**

DATE: March 14, 2011
TO: SolTrans Board
FROM: Liz Niedziela, Transit Program Manager/Analyst
RE: Status of Benicia Breeze and Vallejo Transit Fleet Capital

Background:

Various capital transit funding opportunities become available and will continue over the next several years. Some of these funding opportunities include the State Transportation Improvement Program (STIP), Proposition 1B, and Lifeline.

With the passage of Proposition 1B by California's voters in November 2006, the Metropolitan Transportation Commission (MTC) passed Resolution 3814 regarding the distribution and use of the projected \$347 million of Bay Area share of Proposition 1B Regional Transit capital funds estimated to be available over a ten year cycle. Of this total, Solano County will receive approximately \$500,000 annually for Small Operators/North Counties - Capital Improvements category.

Based on the 10-Year Transit Fleet Plan approved by STA Board in 2007, prioritization was used as the basis of funding the following three transit vehicle replacement projects of \$1,475,912 in Prop 1B matching funds as follows:

Fairfield and Suisun Transit (5 vehicles)	\$400,000
Vacaville Transit (5 vehicles)	\$240,000
<u>Vallejo Transit (20 vehicles)</u>	<u>\$835,912</u>
TOTAL	\$1,475,912

Vallejo Transit is in the process of procuring 21 hybrid buses which are scheduled to be delivered by summer 2011. In addition, Solano County has also received and will continue to receive funding from the Lifeline Prop 1 B Funding for Transit Operators. MTC's Lifeline Transportation Funding Program is intended to improve mobility for residents of low-income communities and, more specifically, to fund solutions identified through the Community Based Transportation Plans (CBTP). A CBTP for Vallejo was completed in July 2008. In the Lifeline Funding Cycle of Fiscal Year (FY) 2009-11, almost \$3.8 million was awarded for bus shelters, replacement vehicles, bike racks on buses, expanding and sustaining Lifeline identified service (Attachment A). Vallejo received \$760,000 to replace bus shelters.

Over the two year, the America Recovery and Reinvestment Act (ARRA) provided funding to transit operators for transit capital projects (Attachment B). Solano County transit operators received almost \$18 million in funding for transit capital projects from the Federal Transit Administration (FTA). The ARRA funds have been and will be used to complete some projects that were on the 2007 Transit Capital List. The transit operators updated the transit stimulus list by providing completion date and anticipated completion dates (Attachment B). Benicia and Vallejo combined received over \$10 million in ARRA funds.

Discussion:

The STA staff has been working with the Transit Operators to update the 10-Year Transit Fleet Plan. The 10-Year Transit Fleet and Minor Transit Capital Investment Plan is intended to be a guide for not only programming decisions over the next decade, but also to be a document that provides detailed information about transit capital priority needs in the county for near-term funding opportunities. The STA Board recommended that STA will update the 10-Year Transit Fleet and Minor Transit Capital Investment Plan at least every two years in association with other capital investment plans. The STA staff plans to present the operators' Transit Fleet and Minor Transit Capital Investment Plans to the STA Board for approval in April 2011.

In reviewing the updated Transit Operators Fleet Inventory, the county operators added 21 new local route buses and 10 new cut-a-ways for paratransit and local service. In the next few months, 29 new buses will be in revenue service on local routes and 18 new cutaways for paratransit service and local service are in the process to be replaced this year. Vallejo will be replacing 21 local buses with diesel hybrids and adding seven (7) new paratransit vehicles this year. The STA staff developed a graph to show the Revenue Bus Replacement Need for the Solano County Operators (Attachment C). The 29 new buses going into service this year will reach their useful life in 2023 and 21 of these buses will be operated by SolTrans (Attachment D).

With 41 intercity buses countywide reaching their useful life at the same time, a substantial amount of funding will be needed. Three (3) intercity buses are up for replacement in 2015 and 41 intercity buses are up for replacement in the year 2017, of these SolTrans will need to replace 25 intercity buses. The 44 total intercity countywide bus replacements are estimated at \$44 million with a local match of \$8.5 million if hybrid buses were procured. SolTrans intercity bus replacement is estimated at almost \$25 million with a local share at \$4.8 million if hybrid buses are procured based on MTC's Regional Bus Pricelist with prices escalated at 3% annually. This estimate does not include the 10 buses Vallejo is currently leasing to Fairfield.

The STA has \$534,190 funds available for allocation in Population Based Proposition 1B – PTMISEA and an estimated total of approximately \$4 million in Prop 1B in future years. An allocation request must be submitted to MTC by April 22, 2011 for the \$534,190. The staff is recommending Vallejo Transit receives these funds for the intercity bus replacement in 2015. STA has successfully secured two earmarks for a total of \$1.26 million for alternative fuel intercity vehicles for Vallejo Transit through Congressman George Miller. The first earmark is for \$760,000 and is currently in an executed FTA grant. The second earmark is for \$500,000 and still needs to be executed. The estimated cost of (3) 45' Hybrid over the Road Bus is approximately \$2.7 million. One of these buses is leased to Fairfield. The estimated cost for two (2) hybrid buses is 1.8 million. With the two earmarks and the Prop 1B allocation, the amount totals \$1,794,190. The Prop 1B funding would complete the funding needed for the two (2) intercity buses for Vallejo.

The STA staff needs STA Board approval before programming the \$534,190 Prop 1B funds. The STA staff will make a recommendation to the Board for approval of funding in April 20, 2011 to meet MTC Prop 1B allocation request deadline on April 22, 2011 and seek further direction of programming the \$4 million in future years for local match on intercity countywide bus replacements funding needs.

Also, MTC has announced a preliminary date of the summer 2011 for approximately \$2.5 million of Lifeline funding available in Solano County. The STA Board will be approving the Lifeline award for Solano County.

Fiscal Impact:

The Transit Fleet and Minor Transit Capital Investment Plan are intended to be a guide for future programming of transit capital funds such as Prop. 1B Transit Capital and other transit capital funds.

Recommendation:

Informational.

Attachments:

- A. Lifeline Funding
- B. Stimulus Funding for Transit Capital Projects
- C. Graph of Solano County Revenue Bus Replacement
- D. Graph of SolTrans Revenue Bus Replacement

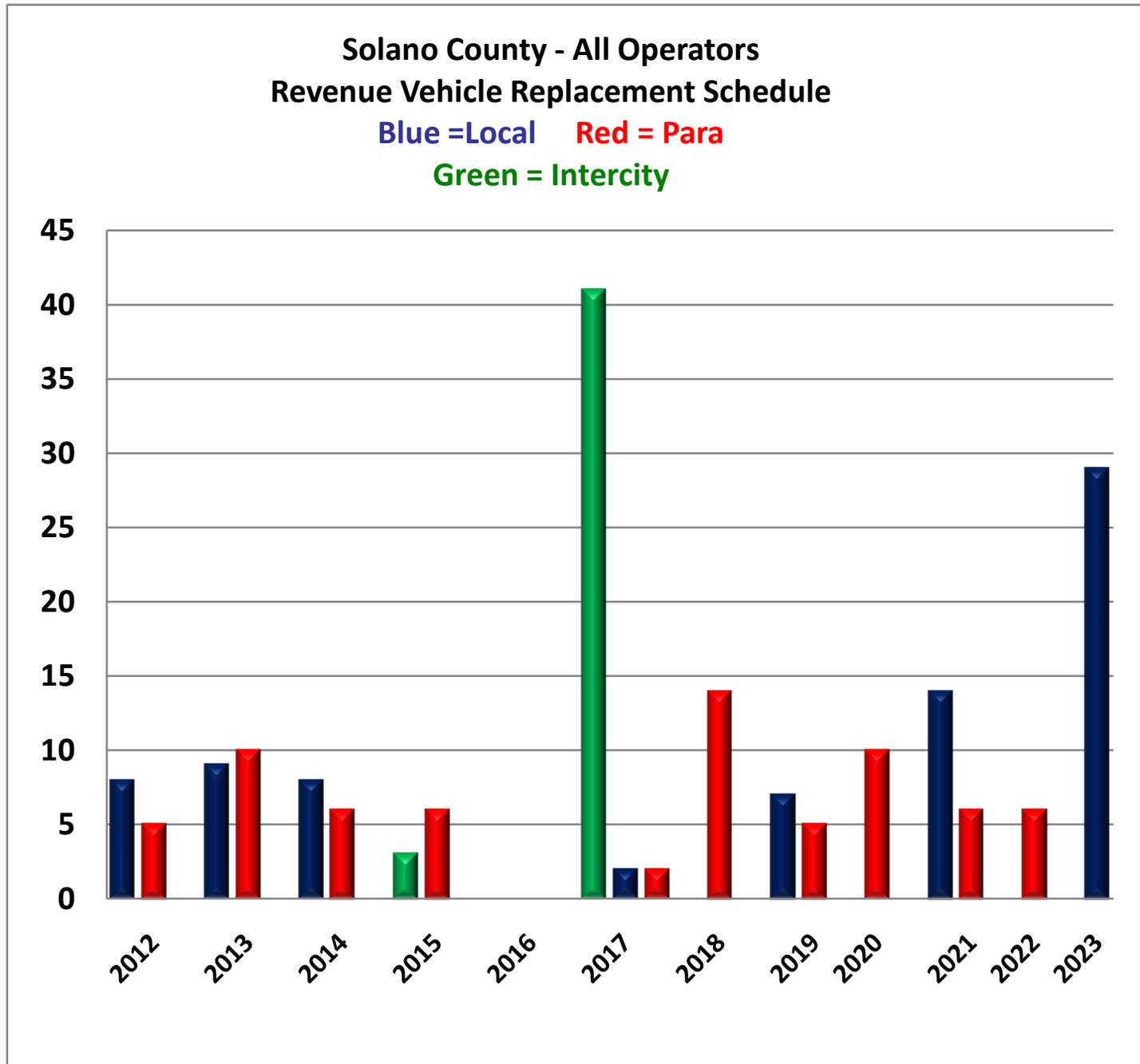
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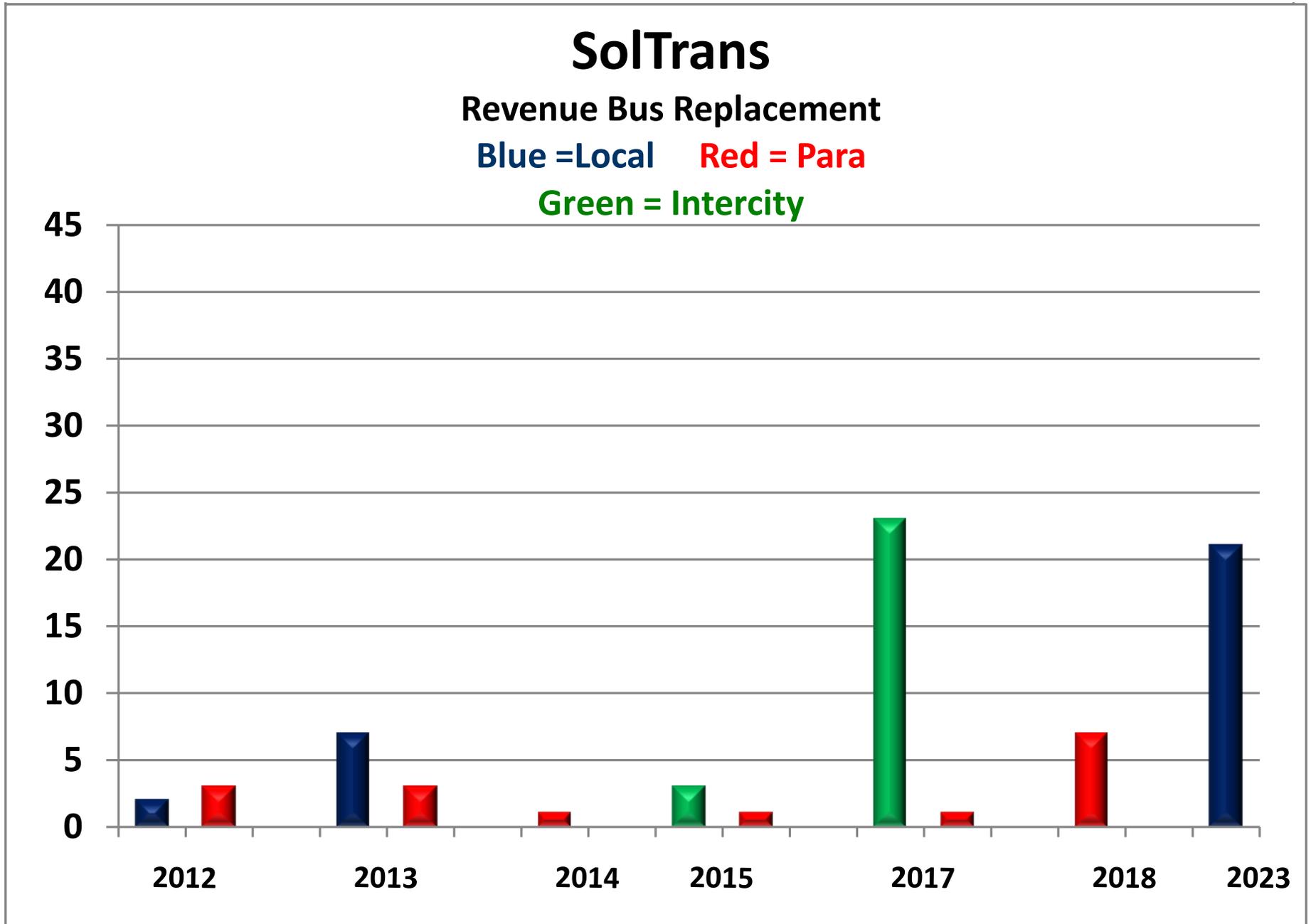
LIFELINE FUNDING				Completed	In Progress	Not Started	
			Total	Date Completed	Anticipated Date Completed	Anticipated Start Date	Anticipated Completion Date
JARC	FAST	Intercity Bus/Bike Racks	\$ 45,000		Dec-11		
Prop 1B	Dixon Read-Ride	Bus (local match)	\$ 15,000	Dec-10			
Prop 1B	Dixon Read-Ride	Bus Replacement	\$ 60,000	Mar-10			
Prop 1B	FAST	Shelters	\$ 419,088		Jun-12		
Prop 1B	FAST	Replacement Vehicle	\$ 41,600		Apr-11		
Prop 1B	FAST	Downtown Flex Shuttle	\$ 60,000		Apr-11		
Prop 1B	Vallejo Transit	Shelters	\$ 761,014		Jun-11		
Prop 1B	Vacaville City Coach	Shelters	\$ 109,800			May-11	
		TOTAL PROP 1B	\$ 1,511,502				

Stimulus Funding
Transit Capital Projects

Tier	Local Agency	Project Title	ARRA	Completed	In Progress	Not Started	
				Date Completed	Anticipated Date Completed	Anticipated Start Date	Anticipated Completion Date
T1	City of Benicia	Fueling Station Upgrade	\$ 57,000			Mar-11	Jun-11
T1	City of Benicia	Replace 12 Bus Shelters	\$ 68,400		Jun-11		
T1	City of Benicia	Operating Assistance	\$ 6,600			Jun-11	Jun-11
FTA 5311	City of Dixon	Preventative Maintenance for Dixon Re	\$ 48,000	Feb-10			
FTA 5311	City of Dixon	Municipal Service Center	\$ 381,676		Mar-11		
FTA 5311	City of Dixon (STA transferred)	Paratransit Buses (3)	\$ 225,000		May-11		
T1	City of Fairfield	FAST Preventative Maintenance	\$ 826,080		Jun-11		
T1	City of Fairfield	Bus Purchase/Replacement (3)	\$ 417,747		Mar-11		
T1	City of Fairfield	GFI Fareboxes	\$ 1,577,660		Dec-11		
T1	City of Fairfield	Operating Assistance	\$ 313,498		Jun-11		
T1-S	City of Fairfield	GFI Fareboxes	\$ 172,340			Jun-12	
T2	City of Fairfield	Bus Purchase/Replacement	\$ 788,484		Mar-11		
FTA 5311	City of Rio Vista	Preventative Maintenance	\$ 75,000		Jun-11		
T1	City of Vacaville	Fixed Route Bus Replacement	\$ 1,734,372	Aug-10			
T1	City of Vacaville	Vacaville Intermodal Station	\$ 482,702		Feb-11		
T1-S	City of Vacaville	Fareboxes	\$ 115,330			Sep-11	Sep-11
T2	City of Vacaville	Vacaville Intermodal Station	\$ 527,655		Feb-11		
T1	City of Vallejo	Rehab/Preventative Maintenance	\$ 3,238,768	Jun-10			
T1	City of Vallejo	Ferry Terminal ADA, Rehab	\$ 800,000		Mar-11		
T1	City of Vallejo	Bus Maintenance Facility	\$ 812,324	Dec-10			
T1	City of Vallejo	Repower Ferry Engines	\$ 2,000,000		Dec-12		
T1	City of Vallejo	Operating Assistance	\$ 761,232	Jun-10			
T1-S	City of Vallejo	Vallejo Station Bus Transit Center	\$ 439,212		May-11		
T2	City of Vallejo	Vallejo Station	\$ 2,009,466		May-12		
FTA 5311	City of Vallejo (STA transferred)	Paratransit Buses (1)	\$ 75,000		Jan-12		
			\$ 17,953,546				

City of Benicia	Total ARRA Funds	\$ 132,000
City of Vallejo	Total ARRA Funds	\$ 10,136,002





**Solano County Transit
(SolTrans)**

DATE: March 14, 2011
TO: SolTrans Board
FROM: Liz Niedziela, Transit Program Manager/Analyst
RE: Status of SolTrans Marketing Logo and Branding Request for Proposal (RFP)

Background:

With the formation of SolTrans, both Board members and member agencies have identified the need for a new organizational logo and brand for numerous activities, including, but not limited to vehicle/fleet identification, facility and bus stop signage, schedules, letterhead, website, and marketing programs and materials. The development of themes, color schemes, designs and logos are all necessary to accomplish these goals.

Discussion:

The SolTrans Marketing subcommittee met in January to review and comment on the scope of work for the SolTrans Marketing Logo and Branding Request for Proposal (RFP), to discuss the schedule and next steps. The STA staff released the RFP on February 1, 2011 and the proposals were due on February 28, 2011. A total of 12 proposals were received.

The STA staff reviewed the 12 proposals and selected five consultant teams to interview. The interviews were conducted on March 10th. The five consultant teams interviewed were:

1. BB&B Business Group
2. Communications Philanthropy Group
3. Oculus Creative
4. Page Design Group
5. Pat Davis Design Group

STA staff selected Page Design Group for SolTrans Marketing Logo and Branding project. STA staff is currently working with legal counsel to develop an agreement with the selected consultant.

After the agreement is signed by both parties, the STA staff will schedule a meeting with the SolTrans Marketing subcommittee and the consultants to discuss the development of the logo and branding.

Fiscal Impact:

The funding for this effort is estimated to cost up to \$40,000 and is recommended to be covered by STAF provided by STA to cover SolTrans transitional costs.

Recommendation:

Informational.

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