



**BOARD OF DIRECTORS
OCTOBER 27, 2005**

**SUBJECT: CONTRACTED BUS LABOR ISSUE
 NORTH REGION (CONTRACT NO. OP31501624)
 TRANSPORTATION CONCEPTS, INC.**

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

Continue to monitor labor issues with Transportation Concepts, Inc. (TCI) including their commitment to offer employment to all of the displaced First Transit employees at their former hourly rate.

ISSUE

At the September 2005 meeting, the Board requested additional information regarding the labor issue with Transportation Concepts, Inc. (TCI). In particular, the Board asked staff whether TCI had violated any provisions of their contract and what Metro's responsibility was if they had done so.

DISCUSSION

At the April 2005 Board Meeting, TCI was awarded the contract to operate the North Region that consists of contract Lines 96, 167, 218, & 603. TCI has provided contract services for Metro for the past eight years and the firm has performed satisfactorily. The start date for their new contract was August 1, 2005.

Prior to August 1, 2005, TCI was the contractor operating Lines 218 & 603 as well as Lines 605, 607, and 608 now operated by First Transit. No collective bargaining unit represented any of their employees. Prior to August 1, 2005, First Transit, Inc. was the contractor operating Lines 96 & 167 and Teamsters Local 848 represented the First Transit bus operators. None of the remaining First Transit employees (mechanical, clerical staff, etc.) were represented by any collective bargaining unit.

The following sections address the Board's two specific concerns raised at the September 29, 2005 Board meeting:

Did TCI comply with all provisions of their contract?

California Labor Code Sections 1070 – 1074 requires two primary duties of a bidder who declares that they will be in compliance with these Sections in order to receive a 10%

preference. First, the bidder shall make a written offer of employment to each employee who has been employed by the prior contractor. The offer must provide at least ten days for the employee to accept the offer. Second, the bidder must retain all employees for a period of at least 90 days, except for reasonable and substantiated cause. In situations where fewer employees are required than were required under the prior contract, the qualified employees shall be retained by seniority within classification.

In response to a written request from Metro dated August 19, 2005, TCI prepared a written account of the company's actions in compliance with Labor Code Sections 1070-1074, and forwarded a response to Metro on August 23, 2005. All of the information has been reviewed and can be evidenced by written records as well as declarations by the individuals involved, including First Transit.

TCI made multiple written offers of employment to the First Transit employees who were to be displaced as a result of the contract transition (See Attachment A). These offers were made in the form of written notices that were posted at the First Transit operating facility in San Fernando. The first posting was placed during the first week of June, 2005. All of the postings allowed at least ten days for the employees to respond. All of the First Transit employees who were displaced as a result of the contract transition were encouraged through the written postings to apply for employment with TCI. No First Transit employees who were displaced were denied employment with TCI.

To further clarify the First Transit employees were being offered employment, Transportation Concepts sent a letter (using the names and addresses provided from First Transit employee records through Metro) on August 17, 2005 via U.S. Mail First-Class, Certified Return Receipt clearly stating that these individuals were offered employment with TCI and that they had ten days from receipt of the letter in order to inform the company if they wished to be hired (See Attachment B).

To further show TCI's commitment to the former employees who operated Lines 96 and 167, TCI sent a letter on October 11, 2005 via U.S. Mail First-Class, Certified Return Receipt offering these individuals employment at the same rate of pay they had previously with First Transit in San Fernando and that they had ten days from receipt of the letter in order to inform the company if they wished to be hired (See Attachment C).

It is staff's judgment that TCI has complied with California Labor Code 1070 and Metro's contract.

Can Metro terminate this contract?

California Labor Code 1074 provides that an awarding authority can terminate a service contract made pursuant to Section 1072 if the contractor substantially breached the contract. Further, Section GC-27A of the contract between Metro and TCI states that Metro may terminate the contract for default if the contractor materially fails to comply with any law, ordinance, rule, regulation, or order of a legal authority applicable to the Contractor.

Staff believes there is no substantial or material breach of the contract and, therefore, no grounds for termination of the contract for default.

ALTERNATIVES FOR BOARD OF DIRECTORS CONSIDERATION

One alternative is the Board of Directors could vote to direct staff to terminate the contract for default. Terminating a contract for default requires that specific actions be taken first. Per contract provisions and Metro policy, a contract may not be terminated for default without providing the contractor with the opportunity to “cure” the deficiency. Additionally, Labor Code Sections 1070-1074 require that the Board hold a public hearing on the proposed termination within 30 days of notice of the proposed termination. In this instance, Labor Code Sections 1070-1074 do not provide specific steps for making offers of employment to displaced employees.

Should Metro terminate the contract for default and a court subsequently find that the contract was improperly terminated for default, the termination is automatically converted to a termination for convenience. Under termination for convenience, Metro would be liable for all incurred costs including but not limited to payment of TCI’s facilities lease, employee uniforms and severance packages, maintenance equipment purchased for the contract, and other costs.

The second alternative is the Board of Directors could direct staff to terminate the contract for convenience. As noted above, there is a significant financial liability associated with this action.

NEXT STEPS

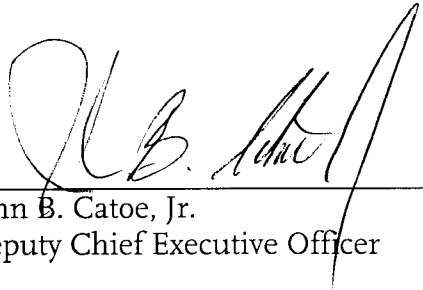
Upon Board direction, staff will continue to monitor the labor issue with TCI.

ATTACHMENT(S)


- A. Written Posted Offers
- B. Written Offer Letter of August 17, 2005 (Sent via U.S. Mail First-Class, Certified Return Receipt)
- C. Written Offer Letter of October 11, 2005 (Sent via U.S. Mail First-Class, Certified Return Receipt)

Prepared by: Mark Maloney, DEO Transportation Contract Services

Margaret Merhoff, Contract Administration Manager



John B. Catoe, Jr.
Deputy Chief Executive Officer



Roger Snoble
Chief Executive Officer



TRANSPORTATION CONCEPTS

BUS DRIVERS NEEDED

We are currently hiring bus drivers for the San Fernando/Sun Valley area. No experience necessary and paid training. Full Time and Part Time positions available for a fixed route. Attractive salaries with benefits.

- Must have clean DMV H6 printout.
- Be at least 21 years of age and have been driving for at least 5 years
- No DUI's or major criminal convictions
- Be able to work flexible hours and days



TRANSPORTATION CONCEPTS

Transportation Concepts has been awarded MTA Line 96 and MTA Line 167. We are currently hiring the current drivers for these lines and would like to take this opportunity to invite you to attend an Orientation to give you an opportunity to learn about our company and us the opportunity to meet with you. The following is the information for the Orientation which will be conducted throughout the day, should you need additional information please feel free to contact me at (323) 268-2202.

Date: Saturday June 18, 2005

Time: 8:00am-5:00pm

**Location: 3345 Medford St
Los Angeles, CA 90063**

Looking forward to meeting with you.

Brett Baum
General Manager



TRANSPORTATION CONCEPTS

Transportation Concepts would like to take this opportunity to invite you to attend an Orientation to give you an opportunity to learn about our company and us the opportunity to meet with you. The following is the information for the Orientation, which will be conducted at different times of the day to accommodate everyone. Should you need additional information or need to reschedule please feel free to contact me at (323) 268-2202.

Date: Thursday July 14, 2005

Times: 10:00am, 1:00pm & 7:00pm

**Location: Airtel Plaza Hotel &
Conference Center**

7277 Valjean Ave

Van Nuys, CA 91406

(Onsite parking is available for a fee; additional parking is available on the street)

Looking forward to meeting with you.

Brett Baum

Regional Manager

TC

TRANSPORTATION CONCEPTS

TRANSPOR

Welcome

Current Contact Info
3345 Medford Street
Los Angeles, CA 90063
(323) 268-2202

TRANSPORTATION CONCEPTS is pleased that you're considering joining our company. We sincerely believe that you will find TC truly values your contributions and will earn your admiration by providing a fair and professional work environment. In turn, the company will expect that your skilled and proficient actions will result in the delivery of consistent, high-quality transit service.

We look forward to the opportunity to have you join our team!

TC has been awarded the contract from METRO for the operation of bus service in their North Region (Lines 96, 167, 218, and 603) for the next 5 years. TC currently operates Lines 218 and 603. We'll start operation of Lines 96 and 167 on August 1st.

The 40' buses (Thomas and Bluebird) currently assigned to 1st Transit will be used on the 96 and 167 Lines. Line 603 utilizes 30' low-floor buses (like the one pictured), and the 218 uses 16 passenger cutaways.



We expect to operate from the facility located at 12776 Foothill Blvd. in Sylmar (near the 118 and 210 junction). We may need to start service from our current facility in East LA (3345 Medford St.) until the lease arrangements and improvements are finalized.

TC offers a starting wage (after training) of \$10.00 per hour. Annual increases will be \$0.25 per hour and your demonstrated years of service will be recognized, up to a starting wage of \$11.25/hour. All hours are paid at this rate (driving and in-service training). TC also offers group medical insurance, a dental/vision plan, paid holidays and vacation pay. The drivers and maintenance workers for this contract are represented by Teamsters Local 911.

To work for TC driving for the METRO North Region service, you must complete the following steps:

- Complete, sign and submit an employment application
- Complete and sign a background check authorization form
- Submit a DMV H-6 Motor Vehicle Record (no more than 30 days old)
- Pass a pre-employment DOT physical examination (even if you already have a valid DOT medical card)
- Pass a pre-employment drug screen
- Complete classroom training on TC Policies & Procedures and the TC Substance Abuse Program
- Pass a driving proficiency test





TRANSPORTATION CONCEPTS

Firstly, I would like to thank you for your time in joining us for the Orientation last Thursday. I am happy to have had the opportunity to meet each of you.

I have had numerous calls regarding the training. As we committed, we would try to work with you so that the training would interfere with your schedules. However, the training needs to be completed before July 31st. We will therefore be having our first classroom training session on Saturday July 23rd, starting at 8:00am. I will send another letter detailing the rest of the training classes.

A reminder, please do not forget your H6 Printout. These will be picked up from your Management on Thursday.

Address: 3345 Medford Street
Los Angeles, CA 90063
323.268.2202

Training Schedule for Transportation Concepts

Please contact Blanca (626) 841-2401 to schedule the date that you would like to attend training.

Friday July 22, 2005 8:30am

Saturday July 23, 2005 8:00am

Sunday July 24, 2005 9:00am

Monday July 25, 2005 8:30am

Monday July 25, 2005 5:00pm

Tuesday July 26, 2005 8:30am

Tuesday July 26, 2005 5:00pm

Wednesday July 27, 2005 8:30am

Wednesday July 27, 2005 5:00pm

Thursday July 28, 2005 8:30am

Thursday July 28, 2005 5:00pm

Friday July 29, 2005 8:30am

Friday July 29, 2005 5:00pm



If you have not yet completed the training at our Los Angeles Location, we will be conducting additional training over the weekend. Please contact Blanca at (626) 841-2401 to schedule an appointment.

Thank you,
Brett Baum



TRANSPORTATION CONCEPTS

Unfortunately due to circumstances beyond our control we will have to start roll out on Monday August 1, 2005 for the new contract at our Los Angeles Yard (3345 Medford St. Los Angeles, CA 90063). We do not anticipate us working out of this yard longer than the middle of the month. We therefore request that all drivers sign on 30 minutes prior to their normal schedule time. At this stage everyone will stay at the same schedule that they are currently working. If you have not received your uniforms by Monday, please dress in dark pants and a white shirt.

If you should have any questions please do not hesitate to call me at (310) 864-7814 or Blanca at (626) 841-2401.

Thank you,
Brett Baum

Attachment B: Written Offer Letter of August 17, 2005

August 17, 2005

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED



Re: Employment with Transportation Concepts

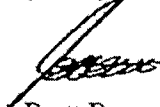
Dear 

We have recently been advised that, despite you being apprised of such by First Transit, you are uncertain or unclear if Transportation Concepts has offered you employment.

To remove any possible doubt or uncertainty, this letter shall constitute a written offer of employment to you, qualifications and required jobs available permitting.

If you wish to pursue employment with Transportation Concepts, please contact me within ten days of receipt of this letter so that appropriate arrangements can be made to process your employment. If I do not hear from you within this time frame, I will assume that you are not interested in becoming an employee of Transportation Concepts.

Very Truly Yours,



Brett Baum



3345 Medford Street
Los Angeles, CA 90063

October 11, 2005

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

[REDACTED]
[REDACTED]
[REDACTED]

RE: EMPLOYMENT OFFER RECOGNIZING FORMER WAGE

Dear Ms. [REDACTED]

This letter is to inform you that Transportation Concepts is modifying its offer of employment to all First Transit employees who may have been displaced by the contract change that affected the METRO Lines 96 and 167, and will pay to these employees the wage that they received while last working for First Transit. Following are the details of the offer.

1. Completed application for employment and a current (less than 30 days old) H-6 DMV report must be received at the TC office (3345 Medford Street, Los Angeles) by Saturday, October 22, 2005.
2. Copy of pay stub from First Transit must be presented to verify the wage that you were last paid by First Transit.
3. Must present verification of current and valid Class B-P driver's license and VTT Certificate (drivers and road supervisors; maintenance staff must have class B-P license).
4. Must sign an authorization for a background check and must successfully pass the background check.
5. Must pass a D.O.T. physical examination and drug screen test. These tests are required by the federal government and our contract with METRO and must be completed even though you have already passed these tests with another employer (e.g. First Transit).

This is a limited time offer. In order to take advantage of the offer and to be eligible to receive the wage that you were paid when you last worked for First Transit, you must submit your completed application and credentials in person no later than October 22, 2005.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brett Baum'.

Brett Baum