

# NOTICE AND AGENDA OF PUBLIC MEETING OF THE TRANSIT AUTHORITY OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LEXTRAN) BOARD OF DIRECTORS

Pursuant to KRS 96.A, the Lextran Board of Directors is to meet monthly. The next meeting will be:  
**Wednesday, November 15, 2023 at 10:00 a.m. EST**

Meeting location:

**Lextran – Room 110  
200 West Loudon Avenue  
Lexington, KY 40508**

Pursuant to KRS 61.810, the Board may enter into Closed Session, but shall not take any action in a Closed Session.

Pursuant to the Americans with Disabilities Act, persons with a disability may request a reasonable accommodation for assistance with the meeting or meeting materials. Please contact Emily Elliott at 859-255-7756. Requests made as early as possible will allow time to arrange accommodation.

## MEETING INSTRUCTIONS

The November 2023 Board of Directors meeting will be held in person.

The livestream is available on Youtube at:

<http://bit.ly/lextranmeeting>

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**BOARD OF DIRECTORS MEETING**

November 15, 2023

10:00 a.m.

**MEETING AGENDA**

- |       |   |               |
|-------|---|---------------|
| I.    | Call to Order & Roll Call   | 10:00         |
| II.   | Public Comment on Agenda Items / Public Hearing                   | 10:05 – 10:10 |
| III.  | Approval of Minutes – October 2023 Meeting                        | 10:10 – 10:15 |
| IV.   | Chair’s Report (Dowell)   | 10:15 – 10:20 |
| V.    | Lextran Monthly Performance Report & Financials – October         | 10:20 – 10:35 |
| VI.   | Action Items  | 10:35 – 10:45 |
|       | A. Resolution 2023-20 – Paratransit Eligibility Assessments       |               |
|       | B. Resolution 2023-21 – Drug & Alcohol Policy Update              |               |
| VII.  | Change Order Report   | 10:45         |
| VIII. | Old Business  | 10:45 – 11:00 |
|       | A. FY2023 KPI Update  |               |
| IX.   | New Business  | 11:00 – 11:05 |
| X.    | Proposed Agenda Items   | 11:05 – 11:10 |
|       | A. Resolution – Kentucky Deferred Comp, Updated Joinder Agreement |               |
|       | B. Resolution – Intelligent Transportation Systems (CAD/AVL)      |               |
| XI.   | Closed Session  | 11:10         |
| XII.  | Adjournment   |               |

The next business meeting of the Board of Directors is scheduled for December 20, 2023 at 10 a.m.

## BOARD OF DIRECTORS MEETING

### BOARD MINUTES

October 25, 2023

#### MEMBERS PRESENT

Harding Dowell, Board Chair  
Jamie Rodgers, Vice Board Chair  
Leidy Borges-Gonzalez (*virtually*)  
George Ward  
Paul Schoninger  
Judge Lindsay Hughes Thurston  
Dr. Koffi Akakpo

#### ABSENT

Christian Motley

#### STAFF PRESENT

Norma Zamora, Interim General Manager  
Fred Combs, Director of Planning, Technology and Community Relations  
Nikki Falconbury, Director of Finance and Human Resources (*virtually*)  
Chris Withrow, Director of Maintenance  
Jason Dyal, Director of Operations  
John Givens, Director of Risk Management (*virtually*)  
John McNeel, Director of Safety and Security  
Alan Jones, Systems Administrator  
Deanna Istre, Purchasing Coordinator

#### OTHERS PRESENT

Gail Swanson, BUILD Member  
Laura Kelly, Lextran Operator and ATU Local 639 Financial Secretary  
Tod Birch, Lextran Operator and ATU Local 639 President  
Brad Schelle, Crowe LLP  
Jonas Bastien, McBrayer, Lextran Counsel

#### I. CALL TO ORDER

Board Chair Harding Dowell called the October 25th, 2023, meeting of the Lextran Board of Directors to order at 10:00 a.m. Mr. Dowell performed a roll call to determine which members were present. Quorum was achieved.

#### II. PUBLIC COMMENT

Gail Swanson introduced herself as a member of the BUILD Transportation Committee. She stated they worked alongside Councilmember Chuck Ellinger to host a community transportation summit. She stated that Fred Combs, Emily Elliott, several councilmembers, and various

community organizations attended. She presented an update for the Board regarding the meeting. The meeting discussed the daily transportation challenges faced by many of the community members. The challenges revolve around accessibility and efficiency. Some who depend on public transit find it limiting in terms of schedules and destinations. Some need transportation to stops while others need a more flexible and adaptable options tailored to their unique needs. BUILD had been focusing on microtransit as a solution to address those issues. During the presentation, a representative from VIA shared how to bridge the gaps and the company's impact in other communities like COTA in Columbus and in Birmingham. Ms. Swanson noted that public transit is a lifeline for many in our city. She thanked Lextran drivers and staff for their service to the community. BUILD's main goal is to ensure that everyone had access to this type of service. She stated that microtransit is successful in communities like ours and they were committed to advocating for the funding needed to launch a microtransit pilot program. There was media coverage of the event, and a video of the presentation is available.

Laura Kelly introduced herself as an occasional Lextran passenger, Bus Operator, ATU member, Financial Secretary for ATU Local 639, and a taxpayer. She stated that she sent an email the day before the Board meeting stating that she does not feel the minutes accurately reflect her comments. Ms. Kelly stated that she made two points. The first was, in respect of the Board's bylaws, to address an agenda item which was a recent hiring fair as reflective of an ongoing employee retention problem. She stated that there was no request to add this topic to this month's agenda. She subsequently met with management once about it, without concrete proposals. She stated she does not expect any outcome on either side, she was satisfied with that meeting. The second point was to request that in the interest of continued harmonious labor management relations here, that the union's serious problems, plural, with Lextran management be placed on the agenda for the next Board meeting. She stated that this request was misconstrued or ignored. She also stated that in the interim the situation had deteriorated from bad to a "circus." She states that the short version was that the collective bargaining agreement was signed, and management is not following it. She stated that she barely had time in the limited public comment to mention, among many violations of the contract, collective bargaining rights, fair labor standards established by the National Labor Relations Act, and in her opinion violations of Kentucky law, Lextran was preparing to spend many thousands of taxpayer dollars to arbitrate to defend management's right to violate constitutional rights. She mentioned that a public sector, unionized worker, found out that he was fired through the grapevine, even though Lextran had policies and procedures to prevent this, commonly known as the "your side of the story" letter. Other employees benefit from that letter but for some reason, someone got trigger happy. Ms. Kelly stated that Lextran had money to burn in arbitration. These policies have members who benefit from them and Lextran management risked that the Union would not vote to arbitrate on behalf of a part-time worker and it was overwhelmingly supported. She does not feel the Board's bylaws were appropriate or fit for purpose for a taxpayer-funded entity in 2023. She stated that she can go to City Council and talk about whatever she wants, and there was a desire from City Council to hear about what is going on at Lextran.

Tod Birch introduced himself as a former Lextran rider, a citizen taxpayer, a Lextran coach operator soon to be starting his 8<sup>th</sup> year proudly serving the people of Lexington and the University of Kentucky. He is the President of the Amalgamated Transit Union, in representation of the collective bargaining unit at Lextran. Mr. Birch read a portion of page 47 of the current collective bargaining agreement, whereas the collective bargaining agreement between the Transit Authority of Lexington-Fayette Urban County Government (Lextran) and the Amalgamated Transit Union, AFL-CIO Local #639 has been ratified, and whereas the Board of Directors of Lextran agrees with the terms of the collective bargaining agreement, and Lextran Board of Directors hereby adopts the collective bargaining agreement as written and directs the General Manager to execute the contract. He stated that the only line of communication between the Board and officials of this chapter was an email address. After several attempts to contact the Board via this email address, he stated they were yet to receive a reply. Mr. Birch stated the only other line of communication with the Board is the Board Meeting which limits their comments to three minutes with the stipulation that they may only comment on the agenda, and this is why he had come for comment. He stated that it seems an attempt to be censored. It is clear that the agreement is between the ATU and the Board, and he receives questions on a daily basis as to who holds Lextran management accountable. He asked how the Board knows whether the contract is being executed properly, precisely, and in its entirety. He also asked how the Board knows whether management was breaking federal law, creating a hostile work environment, and disrespecting the collective bargaining unit and employees of Lextran with rules, terminations, and concessions to new hires that violate the contract. He asked how the Board knows whether management was being loud and aggressive in meetings with the union and how they know whether management was lying to its employees. He asked how the Board knows whether management was causing unmeritable arbitrations and abusing taxpayer dollars. He stated they have the right to report to the Board who signed the contract with the ATU and who had ordered management to execute the contract. He stated there was proof of management's continuous and blatant violations of this contract and insubordination with your order. This chapter of the ATU respectfully requested that the Lextran Board of Directors regularly communicate with them.

### III. APPROVAL OF MINUTES

Mr. Dowell acknowledged Ms. Kelly's dispute with the minutes. He stated that their options as a Board were to amend the minutes or to acknowledge Ms. Kelly's dispute and to work out an appropriate amendment which will be reflected in next month's minutes. Mr. Dowell recommended the second option so that the language can be clearly reflective of Ms. Kelly's comments.

Mr. Dowell called for a motion to approve the minutes from the September 27, 2023, meeting of the Lextran Board of Directors as submitted with acknowledgement of Ms. Kelly's dispute to be rendered in the following month's minutes. Paul Schoninger made a motion to approve the minutes and Judge Lindsay Thurston seconded. The motion passed unanimously.

### **Amendment to the Minutes for the September 27, 2023, meeting of the Lextran Board of Directors**

Ms. Laura Kelly submitted the following corrections to her comments at the September 27, 2023, meeting of the Lextran Board of Directors:

Ms. Kelly spoke of employee retention in the context of respecting the Bylaws' requirement to stick to the agenda, and a hiring fair was on the agenda.

She then segued into her second point, saying "secondly, I respect that the Board's Bylaws limit public comment to the agenda. In the interest of a continued harmonious labor-management relationship here... that the serious problems [the singular 'problem' was stated in the minutes, not the plural 'problems'] the union is experiencing be placed on the agenda for the next Board meeting. We will be prepared and respectful of your time."

#### **IV. CHAIR'S REPORT**

Mr. Dowell stated that he appreciated everyone's public comment during this meeting. He wanted to make it clear that the Board feels a great deal of responsibility to the community and to employees. He had spoken with management with a direction to set up a forum for discussion with union membership to get to the bottom of some of the issues that were brought up during this meeting. He looked forward to having that meeting sooner rather than later but does not have a specific date. He stated they will be in better communication moving forward and he appreciates those comments and takes them very seriously.

#### **V. LEXTRAN AUDIT REPORT – FY 2023**

George Ward presented the Finance Committee report. He stated that the Finance Committee was comprised of Dr. Akakpo, Ms. Rodgers and himself. They met with the auditor and went through the audit very thoroughly. They received an unmodified opinion, which meant the auditor concluded that our financial statements were presented fairly in all material respects and were in accordance with generally accepted accounting practices. Mr. Ward thanked Ms. Falconbury, Ms. Hoke and the team for the year-round work that they do that makes the audit go smoothly.

Brad Schelle, Crowe, presented the findings of the FY2023 Financial Audit. He provided a quick timeline of the testing beginning in mid-August. There were three reports within the financial statements. The first report was over the financial statements and they provided an unmodified or unqualified opinion which meant that the financial statements were free of material misstatements, the highest level of assurance they can provide. The other two reports were related to federal expenditures. The first of those reports tested for accordance with government auditing standards, confirming there were no material weaknesses or significant deficiencies in internal controls and no issues of non-compliance were identified. The second report of the federal reporting package was related to the major program that we tested which was the Federal Transit Cluster that consists of most of the federal dollars. Based on testing, they did not identify

any material weaknesses or significant deficiencies and did not have issues with any kind of allowable cost. They reported an unmodified opinion for that report as well.

Further in the packet there were two more reports or letters. One was a management letter that stated no material weaknesses or deficiencies in internal controls. The other letter was the Audit Communications letter, also known as the SAS 114 letter. This letter goes through a variety of information. The main takeaway was that there were no audit adjustments recorded or waived and no other disagreements or issues.

Mr. Dowell asked about the nature of the testing that was done in the auditing. Mr. Schelle lists and describes three different types of testing: financial statement testing, internal controls testing, and substantive testing. He also described the federal expenditure testing over the fiscal year to make sure they were allowable under the uniform guidance. Another separate piece is the National Transit Database information testing as required by the FTA. That information is due at the end of October. Ms. Rodgers clarified whether testing was taking a sample of the data for analysis. Mr. Schelle confirmed that a sample was tested, not 100 percent of the data.

Mr. Ward stated that Lextran's cash position is favorable and a lot of that was due to reimbursements due to different COVID funds from the federal government. There was one area of strong concern and that was the cost of paratransit which Lextran is required by law to provide. There was a change in the provider last year and so the costs were much higher than previous years. Mr. Ward stated that while it appears that Lextran had a strong cash position, the reality was that the Finance Committee, the Board of Directors, and the paratransit provider will need to work over time to get those costs under control to maintain that stable position.

Judge Thurston made a motion to approve the Lextran Audit Report FY2023 as presented to the board, seconded by George Ward and Leidy Borges Gonzalez. The motion passed unanimously.

## **VI. LEXTRAN PERFORMANCE REPORT & FINANCIALS**

Mr. Combs presented the Monthly Performance Report for September 2023, which can be found on pages 65-70 of the October 2023 board packet.

### **HIGHLIGHTS FOR SEPTEMBER:**

- The 15th Annual Bus Roadeo was held on September 23rd. Michael Burnett, the first-place winner, will represent Lextran at the APTA International Bus Roadeo competition.
- Lextran hosted the Mayor's Urban Growth Management Advisory Committee on a tour of land that is under consideration to join Lexington's Urban Service Boundary.
- A hiring event was held at the Loudon Administrative offices that resulted in 32 interviews.
- Lextran staff engaged in several community events, including five Community Travel Training sessions (two in Spanish) and four 'How to Ride' sessions.
- Lextran received commendations for Cearia Johnson (Bus Operator) and Jason Messer (Bus Operator).

Mr. Dowell asked if Lextran was actively involved in any of the master planning of the Urban Services Boundary expansion area, assuming that transit access to the new developable land would be part of that master plan. Mr. Combs stated that he planned to participate in those conversations.

There were roughly 380,000 fixed-route trips in September. Fixed-route ridership was ahead of last year and the average September over the past few years. Paratransit ridership was nearly 14,000 trips in September. Mr. Combs noted that they were underway with the NTD data audit and will discuss the findings next month when that procedure is complete. Mr. Combs had conversations with Ecolane, the Wheels paratransit scheduling and data software. There will be some slight differences in the data, but he will present the information so that everyone is on the same page moving forward.

Fixed route had about 950,000 trips per year to date which was about 150,000 trips over where we were last year. Paratransit rides were close to the same, about 1,500 trips below this time last year. On-time performance was about 85 percent on fixed-route and 65 percent on paratransit for the month which will be monitored moving forward.

From August to September, the total number of preventable accidents decreased by two for fixed-route and remained the same for paratransit. There was one workers' compensation claim in September and a total of four YTD which was lower than FY23 YTD number of nine claims. Lextran operated 25,688 miles between road calls in September. The YTD number of miles between road calls was approximately 4,600 miles higher than last year. Maintenance completed 59 of the 60 preventative maintenance inspections on time. There was an issue with data entry into the system regarding one non-revenue vehicle. The preventative maintenance was completed, just not on schedule.

Mr. Ward asked about on-time performance for fixed-route and paratransit. He noted that it decreased and was wondering if we knew the cause and if anything was done to fix it. Mr. Combs stated the cause on fixed-route had mostly been due to some construction detours and on paratransit it was the capacity issues, noting that the number of trips went up and along with that the on-time performance dropped, particularly during peak period. Mr. Combs spoke with Byron Robinson, Wheels General Manager, and some of that was from staffing issues. Mr. Ward asked how Lextran communicated to the public about construction slowdowns. Mr. Combs stated that there is a detour system within the CAD/AVL system that can help communicate it. Detours created in Dispatch were shared with Community Relations staff to send out social media updates and updates on the app. Mr. Ward asked if the bus stop time was adjusted in the app so that riders were aware. Mr. Combs says that the app will inform riders that stops were closed and how many minutes a bus was late.

Ms. Rodgers asked about the ridership over time. She stated that she noticed all of the fixed route YTD numbers were doing better than last year. She also noticed that the paratransit ridership was lower than last year. Mr. Combs responded that fixed-route ridership was improving in general. He added that he thinks on paratransit, once the NTD audit was completed, some of it will look a little bit better, however ridership will still be lower due to the on-time performance and scheduling



issues that have impacted the service. Mr. Ward asked about the UK routes having high ridership and skewing the data. Mr. Combs stated that the increase in UK routes would outperform the increase in the other routes. There had been increases with other routes such as Route 5 – Nicholasville Rd and Route 17 - Northside Connector. Mr. Combs suggested he could break down in the results of the NTD audit showing how UK ridership compared to the rest of the system. Ms. Rodgers suggested having an idea of what success looks like for paratransit ridership. Mr. Combs noted that prior to the pandemic, there was a concern regarding the rapid increase in ridership and related concerns about cost. There were month-over-month increases in ridership that were increasing the cost. Mr. Combs suggested adding in a slide regarding the COA peer comparison to share with the board.

Mr. Ward asked about same-day bookings no longer being an option and whether they were impacting paratransit ridership. Mr. Combs confirmed there were no more same-day bookings and that it could be impacting the ridership. As part of the BUILD microtransit update Mr. Combs had to share touched on same-day trips being one of the issues he heard in the community.

## **FINANCIAL REPORT**

Ms. Nikki Falconbury presented the September 2023 Financial Report, found on pages 71-72 of the October 2023 board packet.

Ms. Falconbury reviewed the balance sheet and reported operating cash for September was strong. Work in process showed \$5 million Lextran was waiting on from federal grant reimbursement for the CNG buses that were purchased. The amount of property taxes was right on track for this time, most of the money should come in during November or December. Passenger revenue was about \$41,000 over budget and was about \$50,000 more than this time last year. Other revenues such as UK and fuel taxes were right on track. All other expenses were under budget at this time other than paratransit. Diesel fuel was on average \$3.38 for the month of September, which was lower than the \$3.67 it was last year at this time. The YTD average cost was \$3.00. CNG diesel gallon equivalent was \$1.31.

Judge Thurston asked about the property taxes and whether additional tax bills this year would add to the cash flow or not have much significance. Ms. Falconbury does not know for sure but from what she had read she would say it wouldn't be that significant. She noted we received more money last year than we expected. Ms. Rodgers noted that a 3 percent or 3.5 percent increase was already included in the budget for property taxes compared to last year.

Ms. Rodgers asked about the \$340,000 already spent on professional services. Ms. Falconbury stated that was the management contract, the audit, and anything that was contract maintenance related such as sending a vehicle out to be repaired or building repairs. She also noted that the budget accounted for engine rebuilds which were about \$50,000 each spread throughout the year.

## **VII. ACTION ITEMS**

### **A. Resolution to Request Approval of Assistant General Manager (Resolution 2023-18)**

Ms. Zamora presented Resolution 2023-18, requesting the approval of Randolph Williams as Lextran's Resident Assistant General Manager, as submitted, and recommended by Transdev, Lextran's contracted Management Services company.

Lextran's contract with Transdev provides for the Board's review and approval of the Resident Assistant General Manager. Mr. Williams was screened by Transdev's Talent Acquisition department and interviewed with former Lextran General Manager Jill Barnett, Transdev Region Vice President Jarod Varner, and Lextran Interim General Manager Norma Zamora. In addition, a virtual interview was conducted with Board Chair Harding Dowell, Board Vice Chair Jamie Rodgers, and Board Finance Committee Chair George Ward.

Mr. Schoninger made a motion to approve Resolution 2023-18 authorizing the approval of Randolph Williams as Lextran's Resident Assistant General Manager, as submitted, and recommended by Transdev, Lextran's contracted Management Services company, seconded by Mr. Ward. The motion passed unanimously.

**B. Resolution to Request Authority to Designate a Signatory (Resolution 2023-19)**

Ms. Zamora presented Resolution 2023-19, requesting authority to designate Randolph Williams, Jr., Assistant General Manager, as an additional signatory for checking accounts established for the operation of the Transit Authority of Lexington-Fayette Urban County Government (Lextran).

This action was to replace John Givens, Director of Risk Management, upon his retirement. There were normally four signatories, Mr. Williams would be the third. Once the resident General Manager is appointed, they will be the fourth. Mr. Dowell noted that this would be effective once Mr. Williams begins his employment.

Judge Thurston made a motion to approve Resolution 2023-19 requesting authority to designate Randolph Williams, Jr., Assistant General Manager, as an additional signatory for checking accounts established for the operation of the Transit Authority of Lexington-Fayette Urban County Government (Lextran), seconded by Ms. Rodgers. The motion passed unanimously.

**VIII. CHANGE ORDER REPORT**

There was no change order report.

**IX. OLD BUSINESS**

- A. Mr. Combs provided an update on the Proterra Bankruptcy. They filed for Chapter 11 protection in August. The FTA had scheduled listening sessions with different regions around the country. Lextran was a part of one that included TARC in Louisville, the City of Clemson, and South Carolina DOT. Each of those agencies shared the same frustrations with Proterra, which was some of the service requests not being responded to in a timely

manner, issues with getting parts, and issues with keeping the vehicles on the streets. The FTA listened to the concerns and took notes. As they gathered that information, the plan was to take that to the decision makers, the Department of Transportation, and to determine what would happen moving forward. Lextran anticipates information from the Department of Transportation and the FTA in the coming months.

Mr. Ward asks how many of those buses were purchased nationally. Mr. Combs does not know the number but there were some places in California that have quite a number of Proterra buses in their fleet. The frustrations were focused on the first-generation vehicles like the ones at Lextran. Mr. Dowell asked if the intent of the negotiation was to allow Lextran and other agencies to dispose of them sooner than the FTA would normally allow. Mr. Combs said that would be a very welcome outcome, should it happen.

- B. Mr. Combs provided an update on the recent BUILD meeting. He referenced Ms. Swanson and stated she did a great job during her public comment regarding the BUILD meeting. In addition to her comments, Mr. Combs said it was very inspiring to see a room of people interested in transit and transportation and he was happy to be a part of that conversation. He stated that one of the gaps in the system and in transportation was same day scheduling from a Wheels perspective, which had helped make the argument that microtransit. In beginning conversations with BUILD, the concern was people with mental illnesses and making sure they had the proper transportation that they need. Mr. Combs said that the next steps in the community conversation was to make sure that we understand the scope of what we were trying to accomplish. Some of this was investigated at a very conceptual level in the COA. There was no money currently budgeted for a microtransit pilot program. There were some federal grants available that Lextran could partner with the city and pursue, but at the moment, there was not a concrete next step for a pilot program. Some conversations to better define the scope need to happen before we get to that point. If, at some point, Lextran did partner in a microtransit pilot program with the city, we would have to be very careful of procurement rules. VIA was the company who gave the presentation, and they are very active in the microtransit space, but not the only company that works in the space.

Mr. Dowell asked when Lextran entered into professional services contracts, such as architectural services, if those were treated differently than other procurement actions. Mr. Combs stated they were not treated differently, there was an open procurement for an architectural and engineering contract and Kersey and Kersey was selected through a competitive process to be the architect on a contract that allows task orders as needs arise. Lextran does not have a contracted service provider that could provide services such as these on an as needed basis. Mr. Dowell asked whether in those instances we were allowed to use some qualifications-based selection that is not just based on dollars. Mr. Combs confirmed that it would be a Request for Proposals rather than an Invitation for Bid. Ms. Rodgers asked whether this responsibility was always the transit organization's responsibility or in other communities was there a non-profit or other organization

providing those services. Mr. Combs stated that more often than not the transit agency would take the lead, but that is not always the case. Ms. Rodgers noted that there was conversation around mental health and there were great non-profits that provide mental health wraparound services. She was wondering if those non-profits were providing transportation as a part of their services and would want to make sure there was no duplication.

## **X. NEW BUSINESS**

- A. Mr. Combs shared the LEX18 Heroes Among Us news feature which was a very powerful story sharing an impact that was above and beyond ridership numbers. Mr. Combs played the video for the Board and spoke to the inspiration that Lextran employees are.
  
- B. Jason Dyal, Director of Operations, shared a recognition for John Givens', Director of Risk Management, retirement. Jason shared testimony as to Mr. Givens' character and career. John began his career at Lextran in 1983 and served 40 years. When John started, power steering or automatic fare boxes did not exist at Lextran. In 1998 he was involved in the training of the bus operators and Mr. Dyal was in the class that John Givens helped train. In the mid-2000s, John looked into how he could contribute more to the organization, and he became the first Training Coordinator under the leadership of Mr. Ben Spaulding. Over several years, he improved the hiring process for bus operators and Lextran now uses one of the best training systems after years of revisions and upgrades. In 2008, John and some other directors started investigating the Bus Roadeos and in 2009 he led Lextran to their first Bus Roadeo. Every year since then, the operators enjoy this event and the comradery that it provides. After that he started his tenure as the Director of Risk Management, he started looking at ways to maintain the integrity of Lextran through training and safety. He saw the beginning of night service, Saturday and Sunday service, new buses with new features, and most recently the first battery electric bus in Lexington. He developed many safety and security protocols, accident procedures, and many other policies that relate to safety, training, and risk management. His 40 years have been very demanding, but none more than 2020 and the pandemic. These protocols came with a lot of overnight policymaking with things changing so quickly. After all of those accomplishments, probably the most rewarding and exciting time for him just came recently when he had the opportunity to be a contestant in the Bus Roadeo. John had put on this event for 15 years and had never been able to compete because he kept the event about the operators. John left Lextran in a very good position moving forward. Jason thanked Mr. Givens for his service at Lextran.

Mr. Dowell spoke to the immense respect that John had for all of the employees and especially the operators and thanked him for his service to Lextran.

## **XI. PROPOSED AGENDA ITEMS**

- A. Resolution – Kentucky Deferred Comp, Updated Joinder Agreement

- B. Resolution – Drug & Alcohol Policy Update (November)
- C. Resolution – Paratransit Eligibility Assessments (November)

**XII. CLOSED SESSION**

There was no closed session.

**XIII. ADJOURNMENT**

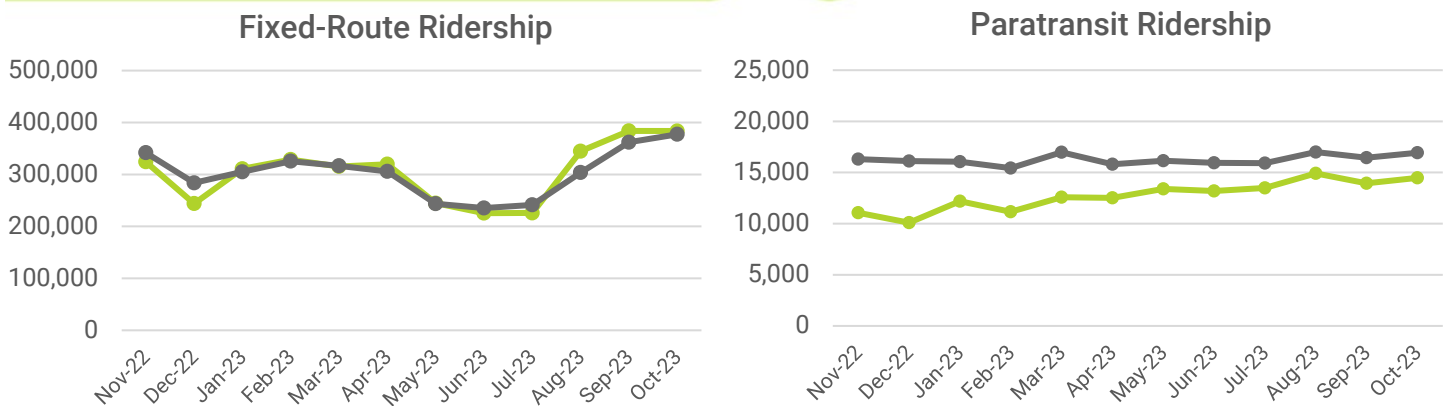
Mr. Dowell declared the meeting adjourned. The meeting adjourned at 11:13 a.m.

## LEXTRAN MONTHLY PERFORMANCE REPORT – OCTOBER 2023

We serve people and our community with mobility solutions.

In October, Lextran completed an audit of its annual National Transit Database submission and its FTA Drug and Alcohol Program. Lextran provided service to the Keeneland Fall Meet throughout the month of October. Lextran’s annual Health and Wellness fair was held in the Operators’ Lounge on October 11. Director of Planning, Technology, and Community Relations Fred Combs and Community Relations Manager Emily Elliott attended the BUILD Micro Transit Information Session on October 19. Lextran conducted a fundraiser for the Markey Cancer Center for Breast Cancer Awareness month.

### DEMONSTRATE VALUE TO THE COMMUNITY



Performance Indicator	Fixed Route System			Paratransit (Wheels)		
	This Month	FY24YTD	FY23YTD	This Month	FY24YTD	FY23YTD
<b>System Production</b>						
Total Ridership	383,596	1,338,309	1,148,702	14,467	56,802	56,613
Weekday Ridership	336,797	1,150,293	980,475	12,050	46,768	46,537
Saturday Ridership	25,636	108,160	96,618	1,185	5,133	5,191
Sunday Ridership	21,163	72,188	65,014	1,232	4,428	4,323
Total Revenue Miles	170,629	636,073	620,090	88,945	343,241	359,666
Total Revenue Hours	17,488	65,972	64,826	6,405	25,655	26,620
Trips per Mile	2.25	2.10	1.85	0.16	0.17	0.16
Trips per Hour	21.93	20.29	17.72	2.26	2.21	2.13

- Fixed-route ridership effectively remained the same compared to the previous month but increased by 13 percent compared to October 2022.
- October 2023 ridership exceeded the average October ridership by 2 percent.
- Trips per Mile and Hour for FY24YTD continue to exceed those of FY23YTD on both systems.

## LEXTRAN IN THE MEDIA

- October 17 – Lextran driver is a hero to a homeless woman  
<https://www.lex18.com/community/heroes-among-us/lextran-driver-is-a-hero-to-a-homeless-woman>
- October 19 – New form of public transit presented to Lexington  
<https://www.wkyt.com/2023/10/20/new-form-public-transit-presented-lexington/>
- October 20 – Is a micro-transit service coming to Lexington?  
<https://www.wtvq.com/is-a-micro-transit-service-coming-to-lexington/>
- October 24 – Here’s how much taxpayer money Lexington Sporting Club could receive for stadium, fields  
<https://www.kentucky.com/news/local/counties/fayette-county/article280924273.html>

## COMMUNITY INVOLVEMENT AND OTHER MEETINGS

- October 2 – FTA Listening Session – Feedback on Proterra Buses
- October 3 – ‘How to Ride’ – Christ the King Pre-K
- October 4 – ‘How to Ride’ – Chrysalis House
- October 4 – UK Campus Outreach with UK Transportation
- October 5 – Job Fair – Lexington Public Library and Kentucky Refugee Ministries
- October 5 – ‘How to Ride’ – Chrysalis House
- October 6 – Senior Services Meeting
- October 6 – ‘How to Ride’ – Transylvania University
- October 7 – Community Builder’s Resource Fair – Community Action Council
- October 8 – Meeting with Council Member Ellinger
- October 10 – ‘How to Ride’ – Optimal Living Solutions
- October 11 – Public Policy Luncheon with Commerce Lexington
- October 11 – ‘How to Ride’ – Optimal Living Solutions
- October 11 – Employee Health and Wellness Fair
- October 11 – Transportation Technical Coordination Committee
- October 12 – North Lexington YMCA Senior Health and Resource Fair
- October 12 – ‘How to Ride’ – Optimal Living Solutions
- October 13 – The Ridge Mental Health Awareness ‘Donut Day Friday’
- October 13 – Community Travel Training
- October 14 – Community Fest
- October 17 – Community Travel Training
- October 18 – Community Travel Training
- October 19 – Community Travel Training
- October 19 – KRUCK Meeting
- October 19 – BUILD Micro Transit Information Session

**COMMUNITY INVOLVEMENT AND OTHER MEETINGS (CONTINUED)**

- October 23 – Kentucky Workforce Innovation/KY Career Center Bluegrass Townhall
- October 25 – Transportation Policy Committee
- October 25 – Community Partners Winter Weather Planning Meeting – Office of Homelessness Prevention and Intervention
- October 25 – Access Lexington Meeting
- October 25 – Community Travel Training
- October 25 – Re-Entry Resources Program – Passport/Molina Healthcare and KY Dept. of Corrections
- October 26 – Laundry Care Night and Vaccine Clinic
- October 31 – WORK Lexington Clean Slate Job Fair



**DELIVER A HIGH-QUALITY PRODUCT**

Performance Indicator	Fixed Route						Paratransit (Wheels)					
	This Month		FY24 YTD		FY23 YTD		This Month		FY24 YTD		FY23 YTD	
Service Quality	85.71%		87.65%		89.15%		66.34%		69.06%		57.76%	
On-Time Performance	85.71%		87.65%		89.15%		66.34%		69.06%		57.76%	
Farebox Recovery	6.74%		6.94%		6.66%		N/A		N/A		N/A	
Operating Expenses	\$1,593,478		\$6,576,422		\$6,268,127		\$664,033		\$2,593,904		\$1,795,218	
Per Mile	\$3.09		\$3.44		\$3.83		N/A		N/A		N/A	
Per Hour	\$60.97		\$66.96		\$60.63		N/A		N/A		N/A	
Customer Service	This Month		FY24 YTD		FY23 YTD		This Month		FY24 YTD		FY23 YTD	
	Count	Rate	Count	Rate	Count	Rate	Count	Rate	Count	Rate	Count	Rate
Customer Feedback Totals per 100k Trips	50	13.03	196	14.65	207	18.02	35	241.93	89	156.68	172	303.82
Commendations	7	1.82	15	1.12	18	1.57	0	0.00	0	0.00	4	7.07
Discourtesy	13	3.39	57	4.26	48	4.18	10	69.12	23	40.49	26	45.93
Late or Early	3	0.78	9	0.67	21	1.83	5	34.56	17	29.93	54	95.38
Safety	8	2.09	36	2.69	31	2.70	1	6.91	18	31.69	29	51.22
Passed Boarding /Missed Trips (Wheels)	14	3.65	46	3.44	38	3.31	0	0.00	5	8.80	17	30.03
Information and Service Requests	2	0.52	13	0.97	23	2.00	16	110.60	16	28.17	0	0.00
Other	3	0.78	20	1.49	28	2.44	3	20.74	10	17.61	42	74.19
Call Length	1:08		1:01		1:20		1:34		1:34		1:35	
Time to Abandon	0:12		0:25		1:38		1:29		3:18		1:34	

- Fixed-route on-time performance increased by about one percent from the previous month but decreased by about two percent from October 2022.
- The high volume of customer feedback for paratransit in FY23YTD reflects the service transition to RATP-Dev, who began operating the service in October 2022.

**MANAGE AND SUSTAIN RESOURCES**

Performance Indicator	Fixed Route System			Paratransit (Wheels)		
	This Month	FY24 YTD	FY23 YTD	This Month	FY24 YTD	FY23 YTD
<b>Safety</b>						
Preventable Accidents	1	8	15	2	8	7
Preventable Accidents per 100,000 miles	0.56	1.20	2.31	1.95	1.93	1.72
Days with No Preventable Accidents	22	107	108	29	113	116
Workers Compensation Claims	1	5	9	N/A	N/A	N/A
Injury Frequency Rate	6.47	7.47	13.38	N/A	N/A	N/A
Days of Lost Time	2	51	93	N/A	N/A	N/A

- From September to October, the total number of preventable accidents remained the same for both fixed-route and paratransit.
- The injury frequency rate decreased by one tenth of a point between September and October as a result of the same number of OSHA-reportable workplace injuries and roughly the same number of hours worked.

Performance Indicator	Fixed Route System		
	This Month	FY24YTD	FY23YTD
<b>Maintenance</b>			
Miles between Road Calls	13,125	14,135	9,419
Percent of Preventive Maintenance Inspections on Schedule	100%	99.6%	100%

- In October, the maintenance department reported 13,125 miles between road calls.
- Maintenance completed 100 percent (62 of 62) of preventive maintenance inspections on schedule in October.

Performance Indicator	Fixed Route System	
	This Month	FY24YTD
<b>Training Activities</b>		
CPR First Aid Training	11	11
Customer Service Orientation	7	7
Dispatch Orientation	7	11
Electric Bus Training	7	7
Maintenance Orientation	7	7
Smith System Training	7	7
Union Orientation	7	7
Workers Comp Remedial Training	3	6
Accident Remedial	1	7
Incident Remedial Training	1	7
Rehire Training	1	1

Hiring and Recruiting	This Month	Interviews	New Hires
Open Positions	28	16	7
Operations	19	5	6
Maintenance	7	9	1
Administration	2	2	0

Procurements	
CAD/AVL Intelligent Transportation and ERP Systems	Open
Employee Development and Customer Service Training	Open
Paratransit Eligibility Assessments	October Resolution
Fuel for Paratransit Vehicles	Upcoming
Radio Purchasing and Maintenance	Upcoming
Shelters and Benches	Upcoming
Towing Services	Upcoming

**FINANCIALS**
**BALANCE SHEET**

as of October 31, 2023

	CURRENT YEAR-TO-DATE	LAST YEAR-TO-DATE
<b>ASSETS</b>		
Current assets		
Operating Cash	\$28,732,516	\$21,935,750
Accounts receivable	\$979,549	\$1,301,865
Inventory	\$921,238	\$858,775
Work in process	\$5,439,435	\$872,335
Prepaid	\$1,025,124	\$862,878
Total Current Assets	<u>\$37,097,864</u>	<u>\$25,831,603</u>
Long term asset - Pension	<u>\$2,472,657</u>	<u>\$1,962,500</u>
Total Long Term Assets	<u>\$2,472,657</u>	<u>\$1,962,500</u>
Net capital and related assets	\$36,606,278	\$37,028,081
<b>TOTAL ASSETS</b>	<u><u>\$76,176,798</u></u>	<u><u>\$64,822,184</u></u>
<b>LIABILITIES</b>		
Current liabilities		
Accounts payable	\$928,494	\$1,573,133
Payroll liabilities	\$764,751	\$634,720
Total Current Liabilities	<u>\$1,693,245</u>	<u>\$2,207,852</u>
Long term liability - Pension	<u>\$747,248</u>	<u>\$464,607</u>
Total Long Term Liabilities	<u>\$747,248</u>	<u>\$464,607</u>
<b>NET POSITION</b>	\$73,736,305	\$62,149,725
<b>TOTAL LIABILITIES AND NET POSITION</b>	<u><u>\$76,176,798</u></u>	<u><u>\$64,822,184</u></u>

## STATEMENT OF REVENUES, EXPENSES AND CHANGE IN NET POSITION

October 2023

	FY2024 ACTUAL	FY2024 BUDGET	FY2024 VARIANCE	FY 2023 ACTUAL
<b>REVENUES</b>				
Property taxes	\$494,372	\$672,547	(\$178,175)	\$531,298
Passenger revenue	\$456,174	\$410,741	\$45,433	\$417,207
Federal funds	\$0	\$4,694,746	(\$4,694,746)	\$4,928,834
State funds	\$0	\$0	\$0	\$0
Advertising revenue	\$260,000	\$260,000	\$0	\$260,000
Other revenue	\$897,704	\$892,410	\$5,294	\$6,295,368
<b>TOTAL REVENUES</b>	<b>\$2,108,250</b>	<b>\$6,930,444</b>	<b>(\$4,822,195)</b>	<b>\$12,432,707</b>
<b>EXPENSES</b>				
Wages	\$3,819,592	\$3,863,476	(\$43,884)	\$3,666,583
Fringe benefits	\$1,911,836	\$2,176,293	(\$264,457)	\$1,846,468
Professional services	\$430,987	\$659,912	(\$228,925)	\$389,303
Materials and supplies	\$427,459	\$493,500	(\$66,041)	\$447,082
Fuel-Diesel	\$308,674	\$478,833	(\$170,159)	\$472,765
Fuel-Other	\$172,498	\$261,717	(\$89,219)	\$213,445
Utilities - Facilities	\$140,562	\$138,833	\$1,728	\$125,733
Utilities - Electric Bus	\$81	\$28,667	(\$28,585)	\$5,869
Insurance	\$316,264	\$290,172	\$26,093	\$270,418
Fuel taxes	\$72,296	\$66,667	\$5,629	\$70,644
Paratransit Expenses	\$2,789,483	\$2,693,333	\$96,150	\$2,468,179
Vanpool Expenses	\$16,423	\$24,000	(\$7,577)	\$10,178
Dues and subscriptions	\$44,539	\$36,350	\$8,189	\$3,667
Travel, training and meetings	\$29,873	\$66,600	(\$36,727)	\$41,952
Media advertising	\$68,274	\$76,667	(\$8,392)	\$34,766
Miscellaneous	\$19,047	\$25,133	(\$6,086)	\$27,138
Leases and rentals	\$2,184	\$2,184	\$0	\$2,184
Depreciation	\$858,508	\$858,508	(\$0)	\$1,005,598
<b>TOTAL EXPENSES</b>	<b>\$11,428,580</b>	<b>\$12,240,845</b>	<b>(\$812,264)</b>	<b>\$11,101,974</b>
<b>CHANGE IN NET POSITION</b>	<b>(\$9,320,330)</b>	<b>(\$5,310,400)</b>	<b>(\$4,009,930)</b>	<b>\$1,330,733</b>
Monthly Average Diesel Cost:	\$3.19			
YTD Average Diesel Cost:	\$3.05			
CNG Diesel Gallon Equivalent	\$1.31			

**MEMORANDUM**

November 15, 2023

**TO: Lextran Board of Directors****FROM: Nikki Falconbury, Director of Finance & HR****CC: Norma Zamora, Interim General Manager****SUBJECT: Resolution to Award a Contract for a Provider of Paratransit Eligibility Assessments**

Attached is a resolution requesting authority to award a contract for a provider of Paratransit eligibility assessments.

RFP 2023-08 was issued August 15, 2023, with proposals received on October 5, 2023. A staff evaluation committee reviewed and approved the proposals for compliance and responsiveness. A responsive proposal was received from two (2) qualified proposers:

- ADARide
- IPS Lynx (BIOKINETIX)

The proposal from IPS Lynx was determined to offer a fair and reasonable price and is recommended to be awarded the contract according to the terms of their proposal in response to RFP 2023-08.

The term of the contract awarded will be for 2 years with 3 additional options (for 1 year each), for a total of 5 possible contract years. The cost for the assessment services is not to exceed the following amounts:

- Year 1 – Assessment – \$60.00, Auto-recertification – \$30.00, In-person assessment or appeal – \$90.00
- Year 2 – Assessment – \$61.00, Auto-recertification – \$31.00, In-person assessment or appeal – \$91.00
- Year 3 – Assessment – \$62.00, Auto-recertification – \$32.00, In-person assessment or appeal – \$92.00
- Year 4 – Assessment – \$63.00, Auto-recertification – \$33.00, In-person assessment or appeal – \$93.00
- Year 5 – Assessment – \$64.00, Auto-recertification – \$34.00, In-person assessment or appeal – \$94.00
- One way trip to In-person assessment or appeal – \$21.96

If you have any questions, please contact me at 859.255.7756.

**RESOLUTION 2023-20****TRANSIT AUTHORITY OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT****NOVEMBER 15, 2023**

**WHEREAS**, the Transit Authority of the Lexington-Fayette Urban County Government (Lextran) issued RFP 2023-08 for Paratransit eligibility assessment services; and

**WHEREAS**, RFP 2023-08 resulted in proposals from one qualified proposer; and

**WHEREAS**, the proposal from IPS Lynx was determined to be responsive and offer a fair and reasonable price;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors of the Transit Authority of the Lexington-Fayette Urban County Government (Lextran) hereby authorizes and directs the General Manager to execute a contract with IPS Lynx to provide Paratransit eligibility assessment services per the terms as set forth in RFP 2023-08 and the proposal submitted by IPS Lynx which are incorporated herein by reference. The term of the contract awarded will be for 2 years with 3 additional options (for 1 year each), for a total of 5 possible contract years. The cost for the assessment services is not to exceed the following amounts:

- Year 1 – Assessment – \$60.00, Auto-recertification – \$30.00, In-person assessment or appeal – \$90.00
- Year 2 – Assessment – \$61.00, Auto-recertification – \$31.00, In-person assessment or appeal – \$91.00
- Year 3 – Assessment – \$62.00, Auto-recertification – \$32.00, In-person assessment or appeal – \$92.00
- Year 4 – Assessment – \$63.00, Auto-recertification – \$33.00, In-person assessment or appeal – \$93.00
- Year 5 – Assessment – \$64.00, Auto-recertification – \$34.00, In-person assessment or appeal – \$94.00
- One way trip to In-person assessment or appeal – \$21.96

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**MOTION**

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**SECOND**

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**CHAIRPERSON**

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**DATE**

**MEMORANDUM**

November 15, 2023

**TO:** Lextran Board of Directors

**FROM:** John McNeel, Director of Safety & Security

**CC:** Norma Zamora, Interim General Manager

**SUBJECT:** Resolution for Adoption of Drug and Alcohol Policy

Attached is a resolution requesting the adoption of an updated drug and alcohol policy.

Drug and alcohol testing is mandated by the Federal Transit Administration (FTA) and the United States Department of Transportation (USDOT) in 49 CFR Part 40 and Part 655, as Amended. In addition, drugs are prohibited in the workplace by the *Drug-Free Workplace Act of 1988* located in 20 CFR Part 29. Lextran was audited on this policy by FTA as part of a regularly scheduled audit, and as a result was required to make revisions to its existing policy to ensure it is fully compliant with the aforementioned regulations.

Pre-audit, Cahill-Swift, the subcontracted auditor for the FTA requested that we use the *Policy Builder* from the FTA website to update our policy. This creates consistency with most agencies regulated by the FTA and includes the federal guidelines that Lextran needs to abide by. It removed unnecessary and duplicate content in several areas.

This policy was originally adopted in June 1998, with subsequent revisions in August 2002, April 2008, April 2011, July 2014, and February 2018. The document is attached and includes the following revisions:

- Removal of the Introduction and *Drug Free Workplace* language
- Removal of duplicate “covered employees” language
- Removal of “Contractor” language
- Removal of the role of the Medical Review Office
- Removal of “Criminal Drug Conviction at Workplace”
- Removal of “Post Voluntary Referral Testing”
- Removal of “Return to Work – Pending Test results” language
- Condensed language on the collection process (referring only to Article 49 part 40)
- Removal of “MRO Verification of Prescriptions” language
- Condensed language of the SAP/EAP program
- Removal of Definitions and Contractors from appendix.

If you have any questions, please contact me at 859.255.7756.



**RESOLUTION 2023-21****TRANSIT AUTHORITY OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT****NOVEMBER 15, 2023**

**WHEREAS**, drug and alcohol testing is mandated by the Federal Transit Administration (FTA) and the United States Department of Transportation (USDOT) in 49 CFR Part 40 and Part 655, as Amended, and;

**WHEREAS**, drugs are prohibited in the workplace by the *Drug-Free Workplace Act of 1988* located in 20 CFR Part 29, and;

**WHEREAS**, the Transit Authority of the Lexington-Fayette Urban County Government has revised its drug and alcohol policy to be fully compliant with the aforementioned regulations, and;

**WHEREAS**, the by-laws of the Transit Authority of the Lexington-Fayette Urban County Government provides that the Board of Directors shall have the power to set policies;

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Directors of the Transit Authority of the Lexington-Fayette Urban County Government hereby adopts and approves the revised drug and alcohol policy which is attached hereto and incorporated herein by reference.

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**MOTION**

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**SECOND**

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**CHAIRPERSON**

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**DATE**



# Lextran

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## DRUG AND ALCOHOL POLICY

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Transit Authority of Lexington-Fayette Urban County Government

Adopted by: \_\_\_\_\_

Date Adopted: [dd/mm/yyyy]

Last Revised: [dd/mm/yyyy]

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## I. PURPOSE OF POLICY

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.

Portions of this policy are not FTA-mandated but reflect Lextran's policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

**All Lextran employees are subject to the provisions of the Drug-Free Workplace Act of 1988.**

**The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Director of Human Resources no later than five days after such conviction.**

**Employees must abide by the terms of the policy statement as a condition of employment.**

## Training

**The Company shall conduct substance abuse awareness training for all employees. This substance abuse awareness training shall consist of the following minimum requirements:**

- **Upon a conditional offer of employment with the Company, each applicant shall be provided a copy of and will be asked to read the Company's Drug & Alcohol-Free Workplace policy.**
- Employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.
- Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.
- **Annual refresher training shall be conducted for all employees in substance abuse awareness and shall consist of no less than sixty (60) minutes.**
- **Supervisory personnel, in addition to all the above training shall receive an additional sixty**

**(60) minutes each year of alcohol and substance abuse education and awareness training. This additional supervisory training shall consist of at least the following:**

- 1. Recognizing the signs of alcohol and substance abuse in the workplace.**
- 2. How to document signs of employee alcohol or substance abuse.**
- 3. How to refer employees to an employee assistance program or other alcohol and substance abuse treatment program; and**
- 4. Legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol.**

## **2. COVERED EMPLOYEES**

This policy applies to every person, including an applicant or transferee, who performs or will perform a “safety-sensitive function” as defined in Part 655, section 655.4.

You are a covered employee if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver’s license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

See Attachment A for a list of covered positions by job title.

### 3. PROHIBITED BEHAVIOR

Use of illegal drugs is prohibited at all times. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

### 4. CONSEQUENCES FOR VIOLATIONS

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided with contact information for Substance Abuse Professionals (SAPs).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

#### Zero Tolerance

**Per Lextran policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be terminated from employment.**

## 5. CIRCUMSTANCES FOR TESTING

### Pre-Employment Testing

Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40. An alcohol test result of less than 0.02 is required before an employee can first perform safety-sensitive functions. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

**If a covered Lextran employee has not performed a safety-sensitive function for 30 or more consecutive calendar days and has not been in the random testing pool during that time, the employee must take and pass a pre-employment non-DOT test before he or she can return to a safety-sensitive function.**

A covered employee or applicant who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

### Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when Lextran has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

### Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

### Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by Lextran using the best information available at the time of the decision, will be tested.

### Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (3) The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by Lextran using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

## **Random Testing**

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at [www.transportation.gov/odapc/random-testing-rates](http://www.transportation.gov/odapc/random-testing-rates).

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.



A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

**In the case of random testing, all employees shall be considered “on the clock” and shall be compensated at their applicable rate of pay for the time spent in undergoing such random testing.**

**The Company shall provide to its corresponding Union, if requested, information regarding the scientifically valid method of random selection for comment.**

## **End of Shift**

**Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or childcare commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or childcare commitment, for the period immediately following an employee’s shift, must be provided at least 48 hours before the end of the shift.**

## **6. TESTING PROCEDURES**

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

### **Dilute Urine Specimen**

If a Pre-Employment test results in a negative dilute test result, Lextran will conduct one additional retest. The result of the second test will be the test of record. If there is a negative dilute test result and the test type was not a Pre-Employment test, Lextran will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

## Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. Lextran guarantees that the split specimen test will be conducted in a timely fashion. If the split sample reveals no measurable presence of the drug in question, the former positive test will be canceled.

**If the split sample reveals the same positive result, Lextran will seek reimbursement for the cost of the split sample.**

## 7. TEST REFUSALS

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by Lextran.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to provide a specimen for a drug or alcohol test. An employee who does not provide a specimen because they have left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient specimen for a drug or alcohol test without a valid medical explanation.
- (6) Fail or decline to take a second drug test as directed by the collector or Lextran.
- (7) Fail to undergo a medical evaluation as required by the MRO or Lextran's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly observed urine drug test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions and provided with contact information for SAPs.

## 8. VOLUNTARY SELF-REFERRAL

Any employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing, or has not refused a drug or alcohol test may voluntarily refer themselves to the Director of Human Resources, who will refer the individual to a substance abuse counselor for evaluation and treatment.

Alcoholism and controlled substance addiction are recognized as diseases responsive to proper treatment. The Company provides a level of care through its Employee Assistance Program (EAP) with a contracted provider. Any employee wishing to voluntarily seek assistance with drug/alcohol problems may contact the contracted EAP provider.

All employees of Lextran are strongly encouraged to voluntarily contact the Employee Assistance Program if they believe they have a problem with drug or alcohol abuse.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from their safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

Employees who voluntarily report a substance abuse problem prior to being required to take a controlled substance or alcohol test as defined in this policy, will not be subject to disciplinary action if they voluntarily and conscientiously seek substance abuse assistance and agree to a treatment plan. However, such an employee must understand that if the problem is not corrected and satisfactory job performance is not maintained, he or she will be subject to disciplinary action up to and including termination of employment. Failure to seek such assistance, or failure to abide by the terms of the treatment plan, shall be grounds for termination. Upon voluntarily reporting a substance abuse problem, the employee will be required to sign a Substance Abuse Treatment Plan/Return to Work Agreement Form that will further define conditions of continued employment.

## 9. PRESCRIPTION DRUG USE

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to the Director of Human Resources or the Director of Safety and Security. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

Prior to initiating usage after such medications are prescribed, the employee shall submit a ***Prescription Drug Notification Form*** to their immediate supervisor who shall in turn, submit it to the Director of Human Resources or their designee **as soon as possible**.

After receiving such form, the Director of Human Resources may request written medical authorization showing the employee may possess/use such medication, that it was used in the prescribed manner and showing the employee is fit to safely perform HSAL assigned duties. If the use of such medication could compromise the safety of the HSAL employee, fellow employees, or the public at large, it is the HSAL employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty and notify their supervisor) to avoid unsafe workplace practices. No prescription drugs shall be brought onto Company property or consumed on Company property by anyone other than the individual for whom the drugs have been prescribed by a licensed medical practitioner. **The illegal or unauthorized use of prescription drugs is strictly prohibited**. It is a violation of the Company's Drug Free Workplace Policy to **intentionally misuse and/or abuse prescription medications**.

## 10. CONTACT PERSON

For questions about Lextran's anti-drug and alcohol misuse program, contact the **Director of Human Resources** or the **Director of Safety and Security**.

## Attachment A: Covered Positions

This policy is intended to apply whenever anyone is representing or conducting business for the Company. Accordingly, this policy applies during all working hours, on call or paid standby and while performing work on behalf of the Company while on or off Company property. The policy applies to all Company employees with special provisions designated to those employees identified as a safety-sensitive function. Those positions identified as requiring a heightened safety awareness level include:

Operating a revenue service vehicle, including when not in revenue service;  
Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;  
Controlling dispatch or movement of a revenue service vehicle;  
Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service.

- Operators
- Mechanics
- Service Workers
- Utility Workers
- Dispatchers
- Road/Street Supervisors
- Maintenance Supervisors
- Director of Maintenance
- Director of Operations
- Director of Safety
- Training Manager

**NOTE:** The positions identified above as having a safety-sensitive function include those regulated under 49 CFR Part 40 and Part 655 as amended. While this program includes those federally mandated employees, this Drug and Alcohol-Free Workplace Policy is not intended to replace and shall be separate from any Drug and Alcohol-Free Workplace Policy previously adopted and implemented by Lextran, which may have included only federally regulated employees.

The Company's Drug & Alcohol-Free Workplace Program shall include controlled-access maintenance in the Office of the Director of Human Resources of business records, including the names and position titles of all employees and supervisory personnel trained under the program as described above and the names of all persons who presented alcohol and substance abuse awareness training, for review by the Office of Worker's Claims.

## Attachment B: SAP - EAP Program Providers

### SAP Provider

Dave Thomas, MS, LCADC, SAP  
Roaring Brook Recovery Center  
600 Perimeter Dr. Suite 125  
Lexington, KY 40517

Regina Gullette, PHD, SAP  
1400 West North Bend Rd.  
Cincinnati, OH 45223

### EAP resources:

859 225-1212 ..... Alcoholics Anonymous Bluegrass Intergroup  
888 370-5639 ..... Al-Anon  
859 977-2504 ..... Chrysalis House, Inc.  
800 928-8000 ..... Comprehensive Care-Lexington  
859 885-6315 ..... Comprehensive Care-Jessamine Co.  
859 225-4673 ..... Hope Center for Men  
859 252-2002 ..... Hope Center for Women  
859 373-0077 ..... Morton Center  
859 253-4673 ..... Narcotics Anonymous  
859 224-2022 ..... St Joseph Behavioral Medicine  
859 269-2325 ..... The Ridge Behavioral Medicine  
800 527-5344 ..... American Council on Alcoholism  
800 662-4347 ..... Center for Substance Abuse Treatment  
800 967-5752 ..... Drug Free Workplace Helpline