

IN THE MATTER OF A COLLECTIVE BARGAINING DISPUTE

BETWEEN:

WHISTLER TRANSIT LTD. DIVERSIFIED TRANSPORTATION LTD.
WHISTLER AND SQUAMISH

(the “Employer” or the “Company”)

AND:

UNIFOR LOCAL 114

(the “Union”)

REPORT AND RECOMMENDATIONS

OF VINCENT L. READY, SPECIAL MEDIATOR

SUBMITTED TO THE PARTIES AND THE HONOURABLE HARRY BAINS,

MINISTER OF LABOUR FOR BRITISH COLUMBIA

June 10, 2022

On May 31, 2022, I was appointed as Special Mediator under Section 76 of the *Labour Relations Code* to assist these parties to settle their collective bargaining dispute.

My Terms of Reference are specified in my Notice of Appointment as follows:

1. The special mediator will work with the parties for a maximum period of ten (10) days from the date of this appointment in an attempt to resolve all of the outstanding issues in dispute.
2. If no settlement is reached with the assistance of the special mediator, then on the tenth (10th) day from the date of this appointment, the special mediator will issue to the parties and to my office non-binding recommendations to settle the dispute.
3. In the event non-binding recommendations are issued, the parties will have five (5) days from the date the non-binding recommendations are issued to either accept or reject the recommendations.
4. In the event either or both parties reject the recommendations, the Ministry of Labour may make the recommendations public.
5. The parties will share the costs of the special mediator.

BACKGROUND

Whistler Transit Ltd. and Diversified Transportation operates municipal transit services, under contract to BC Transit, in the communities of Squamish, Whistler and Pemberton.

The bargaining unit is represented by Unifor, Local 114 and is comprised of approximately 90 employees (i.e., drivers, technicians and cleaners) who

operate and maintain the smaller Community and large regular transit buses, as well as HandyDART vehicles (for persons with physical and/or cognitive disabilities), within the Whistler, Squamish, Pemberton area of British Columbia.

HISTORY OF NEGOTIATIONS

The parties' previous collective agreement expired on March 31, 2020.

The COVID-19 pandemic caused the bargaining for a renewal agreement to be delayed; however, the parties did engage in collective bargaining on ten days between November 20, 2020 and July 14, 2021.

The Union conducted a strike vote in August of 2021.

The parties applied for mediation with the BC Labour Relations Board and met again on September 7, 2021 with the aid of a Board-appointed mediator.

On January 19, 2022, the Union issued and served 72-hour strike notice.

On January 29, 2022, the Union commenced in a legal work stoppage and has been on strike since that time.

Bargaining continued on February 24, March 16, 17, and May 11, 2022.

With the able assistance of Labour Relations Board Mediator Dave Schaub, the parties negotiated a tentative renewal agreement on May 27, 2022.

The tentative renewal agreement was unanimously recommended for acceptance by the Union and its bargaining committee; however, the tentative agreement was rejected by the Union membership by a very slim majority on May 30, 2022.

The parties agreed with the appointment of a Special Mediator and I was appointed as such by the Honourable Harry Bains, Minister of Labour for British Columbia on May 31, 2022.

Following my appointment, I met with the parties and was provided with a thorough outline of their respective positions. While the parties exchanged proposals, neither of them were prepared to alter their positions in a manner that would have led to a negotiated settlement. Thus, I advised them I would draft recommendations as per my Terms of Reference.

THE ISSUE

The issue in dispute centers around the wage increases to be paid during the 5-year term of the collective agreement.

For its part, the Union strives for wage parity with cited comparator organizations in Metro Vancouver (i.e., Coast Mountain) who operate, it is argued, similar, if not identical, equipment. As well, the Union asserts that higher wage increases are necessary to meet the sudden rise in the cost of living and housing prices in the Squamish/Whistler area.

The Employer, on the other hand, argues forcefully that the offer it made in the tentative agreement, which was unanimously recommended by the Union and its bargaining committee, should not be altered and should form the basis of any settlement recommendations issued.

Moreover, the Employer argues that the offer contained in the tentative agreement, while not meeting the wage and benefit provisions of the Coast Mountain collective agreement, does compare more than favourably with similar comparator collective agreements in the industry. In this regard, the Employer points to the City of Prince George; Port Alberni; Comox; Campbell River; Kelowna and Kamloops.

The above examples, in the submission of the Employer, clearly establish that:

- the entry-level rates in this agreement are considerably higher than those paid by Whistler Transit's competitors;
- the Transit Driver rates in this agreement are also higher than those paid by competitors.

Further, the Employer notes that, unlike its competitors, Whistler Transit pays all Bus Drivers the same rate whether driving Handy Dart, Community or large buses, rather than different rates for the two smaller buses.

ANALYSIS AND RECOMMENDATIONS

It is indeed a daunting task for a mediator to resolve a collective bargaining dispute following rejection of a mutually agreed and acceptable tentative agreement by one side as is the case here. That is because in the normal course of collective bargaining, parties reach a final agreement that they recommend to their constituents at the point when they have already exhausted all available compromises.

As a Special Mediator, my approach and starting point in drafting appropriate and acceptable recommendations is to examine the content of the tentative agreement negotiated between the parties, and to conduct an objective assessment of it by comparing the wage rates including the signing bonus contained therein to:

- (a) wage rates for similar work by competitive employers in the transit service throughout British Columbia;
- (b) the general level of wages increases negotiated in different industries throughout the Province of BC; and
- (c) cost of living factors.

I now turn to the application of the above factors to this particular dispute.

Viewing the documentation presented objectively and factually, it is clear the wage rates negotiated by the parties in the tentative settlement meet and exceed wages paid to transit drivers (with the exception of Coast Mountain) covered under collective agreements with competitor employers including Prince George, Port Alberni, Comox, Campbell River, Kelowna and Kamloops.

Similarly, the yearly wage increases already agreed to by the parties in the tentative agreement of 1.5%, 2%, 3%, 3% and 4%, plus the 2% signing bonus also meet and/or exceed the general level of wage increases negotiated in collective agreements in different sectors/industries throughout the Province of British Columbia.

Having examined the above factors objectively, I find no compelling reason to alter the wage increases and signing bonus negotiated by the parties in the tentative agreement.

With respect to cost of living adjustments, it is an irrefutable, inescapable fact the cost of living has been particularly problematic in the past several months, especially in the Whistler area, driven largely by housing costs, rental increases and gas prices. This escalating cost of living pressure has evolved to become a significant issue in this dispute and is contributing to the current impasse between the parties.

Therefore, in order to break this log-jam and conclude collective bargaining between the parties, I am recommending a cost of living adjustment be paid on April 1, 2024, as set out in a Letter of Understanding (LOU) as follows:

In addition to the provisions of Article 18.00 – Wages and Classifications, a cost of living payment will be allocated to each employee effective April 1, 2024, subject to the provisions of this section. This payment will be based on the British Columbia Monthly Consumer Price Index published by Statistics Canada and as calculated using Table: 18-10-004 (hereinafter referred to as the CPI) as follows:

The year-over-year monthly CPI increase in each month from April of 2021 through March of 2024 shall be averaged and compared with the average in wage increases identified in Article 18.00 over the three (3 years) from April 1, 2021 to March 31, 2024. In the event the aforementioned average CPI increase exceeds the average annual increase for the three-year period, the company shall add this difference to the percentage wage increase identified in Article 18.00, effective April 1, 2024.

This Letter of Understanding is unique to the circumstances at the time and will terminate with the expiration date of the current collective bargaining agreement.

I recommend no other changes to the May 27th tentative agreement previously negotiated between the parties (attached as Appendix A).

It is time for both parties to recognize the need to bring this dispute to an end. This labour dispute has been protracted and is having significant negative impact on those living and in need of transportation services in the Whistler/Squamish area. Thus, I recommend the collective agreement as set out in these recommendations be put to a secret ballot vote in accordance with the Minister's terms of reference within five dates of the date of these recommendations and that the Union advise me of the results.

It only remains for me to thank both bargaining committees for their candour and cooperation during this process.

All of which is respectfully submitted this 10th day of June, 2022.



Vincent L. Ready

APPENDIX “A”

Tentative Agreement

For a renewal collective agreement

Between:

Whistler Transit Ltd Diversified Transportation Ltd. Whistler and Squamish

And:



UNIFOR
Local 3000

Unifor Local 114

May 27, 2022

The parties unanimously agree to recommend, to their respective parties, the following terms of settlement for the renewal of the collective agreement, which expired March 31, 2020.

All matters not contained within this Memorandum of Agreement are deemed to have been withdrawn on a without prejudice basis.

All agreed to matters remain agreed to and shall form part of the renewed collective agreement.

All matters contained within this Memorandum of Agreement shall become effective the date of ratification unless otherwise specified.

Unless specifically stated otherwise, none of the altered proposals will be considered retroactive. Further, in order to receive any retroactive pay, employees must be actively employed or on an approved leave of absence (which includes layoff) at date of ratification.

- Term
5 Years (Effective April 1, 2020)
- Wage Rates

| | Apr. 1st | Apr. 1st | Apr. 1 st | Apr. 1 st | Apr. 1st |
|------------|-------------|-------------|----------------------|----------------------|-------------|
| Year | 2020 | 2021 | 2022 | 2023 | 2024 |
| Percentage | 1.50% | 2% | 3% | 3% | 4% |

The Company will provide a one-time, lump sum payment to all active employees at date of ratification.

This signing bonus will be equivalent of 2% of an employee's 2021 gross earnings.

Employees will be able to elect for the payment to be made as part of their regular payroll deposit or directed as a RRSP contribution.

9.01 Right to a Shop Steward

All employees shall have the right to the presence of a ~~Job~~ **Shop** Steward at any discussion with the Employer where disciplinary action may be taken. In instances where suspension or termination is contemplated or at Step 2 of the grievance procedure, a ~~Job~~ **Shop** Steward must be present. The Employer and the Union agree that this clause is not intended to limit the Employer's ability to conduct informal discussions related to the operations of the Company.

Prior to any informal or formal discussion with an employee, the Employer may meet with the Union to discuss the reasons of the meeting.

14.05 Employment Standards Act

Overtime rates shall be paid in accordance with Employment Standards except as provided for in Article 14.04 and Article ~~16.01~~ **13.01**.

19.01 Employee Benefits **BENEFIT BOOKLET TO BE INCLUDED IN CBA**

The Employer shall pay 100% of the cost of benefit premiums for eligible employees as identified below.

(a) Eligibility for Benefits

~~Employees other than full-time employees shall not be eligible for any benefits except where specifically stated (19.01(a-b)(i)).~~ Employees eligible for such benefits as per **19.01 (b)** must qualify for benefits under the terms and conditions of this Collective Agreement and must also qualify for benefits in accordance with the eligibility requirements for enrolment as governed by the terms of each plan.

Any employee absent from work in accordance with article 17.03 will not serve another waiting period, unless they take an L.O.A. prior to commencing work upon recall.

(b) ~~Additional Participants~~

~~(i) The top sixty (60) Effective~~ **All drivers, who have passed their probationary period on the seniority list shall be eligible for benefits as per articles 19.02 and 19.03 when they have been recalled from their first layoff.**

~~(ii)~~ **All other employees Vehicle Cleaners shall be eligible for benefits as per articles 19.02 and 19.03.**

~~(iii) The senior Shop Cleaners shall be eligible for benefits as per articles 19.02 and 19.03.~~

c) Sick Leave

~~The top forty-two (42) most senior drivers shall have four (4) days, (thirty-two 32) hours) for use in each calendar year for days not covered by the Health and Welfare Plan. Sick day entitlement shall be pro-rated for employees not working the previous full calendar year. At year end, unused hours will be paid out to the employee.~~

All employees shall receive sick pay as per the *Employment Standards Act*, enacted **January 1, 2022**. ~~two (2) days, (sixteen (16) hours) for use in each calendar year for days not covered by the Health and Welfare Plan. Sick day entitlement shall be pro-rated for employees not working the previous full calendar year. At year-end, unused hours will be paid out to the employee.~~

19.3 Insurance Benefits

h) RRSP

The Company will organize a RRSP planning session annually, and upon request of the employee, will facilitate payroll deductions towards a group RRSP.

Completion of two (2) years of service will be eligible for RRSP.

| | | |
|--------------------------|---------------|--|
| April 1, 2017 | All employees | 1% for all earnings up to a maximum of \$60,000 |
| April 1, 2018 | All employees | 2% for all earnings up to a maximum of \$60,000 |
| April 1, 2019 | All employees | 3% for all earnings up to a maximum of \$60,000 |

Letters of Understanding

NEW LOU Squamish Easter Monday Service Hours

The employer shall petition the City of Squamish to maintain regular service on Easter Monday.

NEW LOU RRSP's and Introduction to CAAT Pension

The parties agree to continue negotiating entrance into the CAAT pension plan.

The terms of such negotiation shall be reflected in a further LOU between the Parties. This LOU shall be conditional on agreement by the Employees.

In addition to agreement by the Employees, the Company and the Union are required to negotiate the terms of the pension enrollment with the pension plan itself. The Company is committed to a maximum contribution of 3% to CAAT.

Subject to the above requirements, the targeted date to enter the CAAT pension plan is April 1, 2023.

The existing RRSP program as per Article 19.3 remains in full force and effect until such time as it is replaced by the CAAT pension plan.

LOU #1 – Renew

LOU #4 (Original) – Amend as follows:

Delete the following from the LOU and move it to the body of the CBA and renumber into Article 13:

Book Offs

Time off requests will be approved, provided all of the imperatives as follows, are met and/or complied with.

- (a) The driver has requested a book off before 09:00 on the Wednesday prior to the week for which the day-off is requested.*
- (b) The driver has submitted an Application for Change Form.*
- (c) The book off will be considered on a first come first serve basis, and drivers shall be provided with a response to their request, by 13:00 the Thursday prior to the week for which the day-off is requested.*
- (d) Operational requirements permit the granting of time off, and Management approval is obtained.*
- (e) A Book-off obtained under false pretenses will be considered a Company disciplinary matter.*

- (f) *A signed driver may choose to drop a longer shift and select a shorter shift on the same day, on an occasional basis for bona fide reasons (i.e. doctor's appointment), subject to operational requirements. Signed driver shifts cannot be placed on to the Spare Board Sheet for consecutive weeks.*

Any driving work assignment, which must be covered due to the absence of a previously assigned driver, will be assigned to Spare Board drivers with the exception of any work for which the Company does not have at least four (4) hours advance notice, in which case, the Company may take any steps necessary to ensure the work is performed.

In the event of a short notice absence of less than four hours, available Spare Board Drivers will be contacted in order of seniority. If Spare Board drivers cannot be immediately contacted by telephone and/or their availability cannot be confirmed, the Company may take any steps necessary to ensure the work is performed.

Any driver who fails to report for work or contact the company prior to the commencement of his work shall forfeit his assigned work and his hours of work for that day.

The following will be amended and remain in the LOU:

Shift Trades

A Spare Board driver is not permitted to trade shifts with any other driver.

~~Drivers with a shift, wishing to trade shifts, will be responsible to do so, on their own, however both drivers involved in the trade, must contact a manager or supervisor, using an Application for Change Form and the trade is subject to final approval by the manager or supervisor. The company will not incur any overtime resulting from drivers trading shifts. The reverse of the trade must be completed within the same scheduled period.~~

~~The Company and the Union agree that Spare Board operating rules shall be reviewed and amended as required, by mutual agreement between the Employer and the Union.~~

LOU #5 – Amend as follows:

The committee shall be established within 30 days after ratification and shall meet within the first week of March, June, September and December. Any additional meetings must be mutually agreed upon. The parties may decide to “waive” a meeting.

At the first Joint Labour Management Committee meeting, the Committee will establish a *Terms of Reference Document* that will outline the following:

- Agenda design and distribution
 - Standing agenda items to include: Apprenticeship, WFA, maintenance KPI’s
- Taking and distributing minutes
- Responsibilities of Chair/Co-Chair
- Parameters of grievance discussions
- Dealing with “walk-on” items
- Any other applicable issues

The Union committee shall consist of a Shop Steward (Driver) **from Squamish and Whistler** and Shop Steward (Maintenance) and the Union Representative. The Union Representative may assign a designate to attend in their absence, ~~but the designate cannot be another bargaining unit member.~~ The Company representatives shall consist of the Operations Manager or designate and the Service Delivery Manager or designate. The Company can also have an additional attendee join the committee. The Company agrees to pay all lost wages **for up to three bargaining unit members.** ~~the bargaining committee members.~~ **In addition to lost time, being paid, any member required to travel between Whistler and Squamish, in order to attend the meetings, shall be compensated an additional two (2) hours.**

The purpose of this committee is to meet to build respectful labour relations, discuss workplace related issues and work towards problem solving the related issues ie.) Working conditions, schedules, communications, service improvements, etc.

LOU #7 – Amend as follows:

Definitions: Custom Transit (HandyDART) is public transportation designed for persons with a physical and/or a cognitive disability. The service requires operators who recognize the special needs of customers and are trained to assist them. A Custom Transit Driver (HandyDART Driver) must possess the following qualifications; must have a cheerful, outgoing, and caring manner, the ability to relate to people with disabilities, ability to maneuver wheelchairs up and down ramps, ability to aid the elderly and disabled up and down stairs, good health, patience, ability to plan ones route and make quick decisions regarding efficient time management, good record keeping skills and ability to work with

Fares and Fare Products.

~~HandyDART Service in Squamish – Custom Transit runs in Squamish forty (40) hours per week Monday through Friday with no service on weekends and statutory holidays.~~

This letter sets out the agreement between the Union and the Company with regards to HandyDART Training, eligibility to sign HandyDART Shifts, and HandyDART shift coverage. It is agreed that HandyDART Drivers require training and skills which are not the same as Conventional Transit Drivers. It is further agreed that drivers must possess the training and skills required for HandyDART service in order to be eligible to sign a HandyDART shift or shift coverage.

HandyDART Training

The Company will provide HandyDART training. ~~for up to three (3) Drivers from November 10, 2014 through November 14, 2014.~~ The Company will post the training opportunity for five (5) working days. Drivers can request to be included in the HandyDART Training by submitting an Application for Change either to the Whistler Transit Service Delivery Manager or the Squamish Transit Manager. Training will be given to the most senior drivers who apply during the five (5) day posting.

The Company, along with the input of the Driver Trainer, will determine whether or not a driver has successfully completed the one week training program offered by the Company. If it is determined that a driver has successfully completed the HandyDART Training they will receive a training completion certificate, and will have their name added to the list of HandyDART drivers. Drivers who have their names added to the list cannot choose to be removed from the list for twenty four (24) months.

HandyDART training will be offered periodically, as the Company determines **necessity**. The Company will offer HandyDART training at least once every twenty four (24) months. The Company shall determine how many drivers will receive training.

Signing HandyDART Shifts

During Seasonal Sign Ups, or when vacancies occur, drivers will not be eligible to sign a HandyDART shift unless their names are included on the list of HandyDART drivers prior

to the bid date.

If during the Sign Up bid process or when a vacancy occurs a HandyDART shift is not signed yet, the most junior driver on the list of HandyDART drivers must sign the shift.

List of HandyDART Drivers

~~Prior to the 2014-2015 Full Winter Sign Up bid date,~~ The Company will post a list of HandyDART drivers. The list will include drivers who have successfully completed HandyDART training. An eligible driver whose name is on the list at the sign up bid date cannot choose to have their name removed during that sign up season.. i\

Excluding drivers within their first twenty four (24) months on the list, prior to the sign up bid date, drivers may submit an Application For Change requesting that their name be removed from the list before the next (not current) sign up season. Once a driver's name has been removed from the list, the name will not be placed back on the list unless mutually agreed to by the Company and the Union.

HandyDART Shift Coverage

~~During a sign up season,~~ When HandyDART work becomes available for a day or a block of days, the Company may offer the days to eligible drivers either separately or as a block, or blocks.

The work will first be offered in seniority order to eligible Spare Board drivers that are on the HandyDART list of trained drivers. When the work is offered as a block or blocks of days eligible ~~Spare Board~~ Drivers on the HandyDART list can accept the work even when some or all of the work falls on their days off, except where the driver would exceed forty (40) hours in a week.

If no eligible ~~Spare Board~~ drivers on the list of HandyDART drivers accepts the work it will next be offered to eligible Full Time drivers on the HandyDART list. ~~An eligible Full Time driver~~ **who** can elect to drop ~~regular~~ **signed** work in favor of taking HandyDART work.

If all the drivers on the list of HandyDART drivers have been offered the work, and it still remains uncovered, the Company can take any steps necessary to ensure the work is covered including forcing the junior drivers on the list to drop ~~regular~~ **signed** work to

cover HandyDART work.

Drivers accepting HandyDART work will be paid the rate applicable to the work classification at straight time unless their weekly hours exceed forty (40). Hours above forty (40) will be paid at applicable over time rates.

Part M – Maintenance

4.03 Lead Hand

Any hourly paid employee designated by the Company as Lead Hand Mechanic shall receive a premium of ~~one (\$1.00)~~ **two dollars (\$2.00)** per hour in addition to his/her regular pay for hours worked as Lead hand Mechanic.

An employee assigned to work as Lead hand Mechanic shall have no vested authority to reprimand or effectively recommend promotions, demotions, lay off, and discharges or to take any other disciplinary action against another employee in the bargaining Unit.

New 4.04 Shop Cleaner

"Shop Cleaners" are employees who perform shop cleaning duties. Shop cleaners are not entitled to the tool allowance, nor shall they be required to provide their own tools.

- 5.01 The Employer will supply, maintain and clean coveralls for each shop employee and the Employer shall provide appropriate waterproof clothing for maintenance and wash rack employees required to work out of doors. Further, any employee who works in the wash rack shall be provided with a full set of rain gear and waterproof boots. **Effective April 2022, mechanics will be provided with a winter jacket and a winter coat.**

Dated this _____ day of June, 2022.

For PWT Canada (Whistler Transit Ltd.)

For Unifor Local 114
