



08-13-09P02:40 RCVD

1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
619.231.1466 FAX 619.234.3407

Agenda

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

August 20, 2009

9:00 a.m.

James R. Mills Building
Board Meeting Room, 10th Floor
1255 Imperial Avenue, San Diego

This information will be made available in alternative formats upon request. To request an agenda in an alternative format, please call the Clerk of the Board at least five working days prior to the meeting to ensure availability. Assistive Listening Devices (ADLs) are available from the Clerk of the Board/Assistant Clerk of the Board prior to the meeting and are to be returned at the end of the meeting.

ACTION RECOMMENDED

- 1. Roll Call
- 2. Approval of Minutes - July 16, 2009
- 3. Public Comments - Limited to five speakers with three minutes per speaker. Others will be heard after Board Discussion items. If you have a report to present, please give your copies to the Clerk of the Board.

- 4. Transportation Security Administration Presentation Receive

Please turn off cell phones and pagers
during the meeting



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Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations), and San Diego Vintage Trolley, Inc., a 501(c)(3) nonprofit corporation, in cooperation with Chula Vista Transit. MTS is the taxicab administrator for seven cities. MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.

CONSENT ITEMS

6. MTS: Audit Report - Accounts Receivable and Cash Receipts Receive
Action would receive an audit report on MTS's accounts receivable and cash receipts process.
7. MTS: Adoption of Local California Environmental Quality Act (CEQA) Guidelines Adopt/Amend
Action would: (1) adopt proposed local California Environmental Quality Act (CEQA) Guidelines; (2) amend Board Policy No. 2 entitled "Environmental Quality"; and (3) adopt Resolution No. 09-21.
8. MTS: San Diego and Arizona Eastern (SD&AE) Railway Company Quarterly Reports and Ratification of Actions Taken by the SD&AE Board of Directors at its July 28, 2009, Meeting Ratify
Action would: (1) receive San Diego and Imperial Valley Railroad, Pacific Southwest Railway Museum Association, and Carrizo Gorge Railway, Inc. quarterly reports; and (2) ratify actions taken by the SD&AE Railway Company Board of Directors at its meeting on July 28, 2009.
9. MTS: Investment Report - June 2009 Receive
Action would receive a report for information.
10. MTS: Grossmont Substation Rehabilitation MOU and Funds Transfer Approve
Action would: (1) authorize the CEO to execute a Memorandum of Understanding (MOU) for a fund transfer to the San Diego Association of Governments (SANDAG) to rehabilitate the Grossmont substation under SANDAG's construction contract No. 5000956, which would include construction management services; and (2) forward a request to the SANDAG Transportation Committee to transfer \$88,000 from Grant No. CA-03-0525 and \$107,000 from Grant No. CA-03-0655 to Capital Improvement Program 1142100 to exercise an option for rehabilitation of the Grossmont substation.
11. MTS: Capital Rural Reserves Transportation Development Act Funds Approve
Action would approve the transfer of Transportation Development Act (TDA) capital rural reserve funds held at SANDAG to MTS FY 2010 operations.
12. MTS: Minor Service Adjustments Receive
Action would receive a report on minor service adjustments to be implemented in September.
13. MTS: Gate Turnoff (GTO) Firing Boards - Contract Amendment Approve
Action would authorize the CEO to execute MTS Doc. No. L0883.1-09 with Siemens Transportation Systems for Gate Turnoff (GTO) Firing Boards for SD 100 light rail vehicles (LRVs).

14. MTS: AT&T CALNET II Telecommunications Contract Renewal Approve
 Action would authorize the CEO to execute MTS Doc. No. G1279.0-10 with American Telephone and Telegraph (AT&T) for leased-line telecommunications services for MTS, San Diego Transit Corporation (SDTC), and San Diego Trolley, Inc. (SDTI). The contract would fall under the terms and conditions of the State of California's CALNET II Master Services Agreement for modules MSA-1 (voice data and video services) and MSA-2 (long-distance services) for a two-year period with renewable options for up to five years.

CLOSED SESSION

24. a. MTS: CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to California Government Code section 54956.9(a): Tuil v. SDTI, MTS, MTDB (San Diego Superior Court Case No. GIC 37-2008-00078029-CU-NP-CTL) Possible Action
- b. MTS: CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code section 54956.8 Possible Action
Property: Assessor's Parcel No. 548-051-17, San Diego, California, Euclid Avenue south of Market Street and north of Naranja Street
Agency Negotiators: Tiffany Lorenzen, MTS General Counsel; Tim Allison, Manager of Real Estate Assets
Negotiating Parties: Jacobs Center
Under Negotiation: Price and Terms of Payment
- c. MTS: CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code section 54956.8 Possible Action
Property: Assessor's Parcel Nos. 667-020-70, 75, and 76, San Diego, CA, in the Community of San Ysidro
Agency Negotiators: Tiffany Lorenzen, MTS General Counsel; Tim Allison, Manager of Real Estate Assets
Negotiating Parties: United States General Services Administration
Under Negotiation: Price and Terms of Payment
- d. MTS: CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code section 54956.8 Possible Action
Property: Assessor's Parcel No. 547-200-51, 52, & 53, City of San Diego at 220 47th Street
Agency Negotiators: Tiffany Lorenzen, MTS General Counsel; Tim Allison, Manager of Real Estate Assets; Gerald Trimble, Keyser-Marston Associates, Inc.
Negotiating Parties: Creekside Villas
Under Negotiation: Price and Terms of Payment

Oral Report of Final Actions Taken in Closed Session

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

30. SDTC: Actuarial Report Adopt
Action would receive the actuarial report and adopt the annual pension contribution for San Diego Transit Corporation (SDTC) at the rate of 15.82% of payroll.

REPORT ITEMS

45. SDTC: Pension Investment Status Receive
Action would receive a report for information.
46. MTS: Natural Gas Hedge Program Receive
Action would receive a report on MTS's Compressed Natural Gas (CNG) Hedge Program.
47. MTS: Super Loop Pilot Update Receive
Action would receive a report on the Super Loop Pilot Project.
48. MTS: Operations Budget Status Report for May 2009 Receive
Action would receive a status report on MTS's operations budget for May 2009.
60. Chairman's Report Information
61. Audit Oversight Committee Chairman's Report Information
62. Chief Executive Officer's Report Information
63. Board Member Communications
64. Additional Public Comments Not on the Agenda
If the limit of 5 speakers is exceeded under No. 3 (Public Comments) on this agenda, additional speakers will be taken at this time. If you have a report to present, please furnish a copy to the Clerk of the Board. Subjects of previous hearings or agenda items may not again be addressed under Public
65. Next Meeting Date: September 10, 2009
66. Adjournment

**METROPOLITAN TRANSIT DEVELOPMENT BOARD
ROLL CALL**

MEETING OF (DATE): 8/20/09 CALL TO ORDER (TIME): 8:57 a.m.
 RECESS: None RECONVENE: _____
 CLOSED SESSION: 9:06 a.m. RECONVENE: 10:31 a.m.
 PUBLIC HEARING: _____ RECONVENE: _____
 ORDINANCES ADOPTED: _____ ADJOURN: 11:48 a.m.

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
BOYACK	<input checked="" type="checkbox"/> (Cunningham) <input type="checkbox"/>	8:55 a.m.	
EWIN	<input checked="" type="checkbox"/> (Allan) <input type="checkbox"/>	8:51 a.m.	
FAULCONER	<input type="checkbox"/> (Emerald) <input type="checkbox"/>		
GLORIA	<input checked="" type="checkbox"/> (Emerald) <input type="checkbox"/>	8:53 a.m.	11:44 a.m.
JANNEY	<input checked="" type="checkbox"/> (Bragg) <input type="checkbox"/>	8:40 a.m.	
LIGHTNER	<input checked="" type="checkbox"/> (Emerald) <input type="checkbox"/>	8:43 a.m.	
MATHIS	<input checked="" type="checkbox"/> (Vacant) <input type="checkbox"/>	8:52 a.m.	
MCCLELLAN	<input checked="" type="checkbox"/> (Hanson-Cox) <input type="checkbox"/>	8:51 a.m.	
OVROM	<input checked="" type="checkbox"/> (Denny) <input type="checkbox"/>	8:51 a.m.	
RINDONE	<input checked="" type="checkbox"/> (Castaneda) <input type="checkbox"/>	9:00 a.m.	
ROBERTS	<input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>	8:40 a.m.	
RYAN	<input type="checkbox"/> (B. Jones) <input checked="" type="checkbox"/>	8:51 a.m.	
SELBY	<input type="checkbox"/> (England) <input checked="" type="checkbox"/>	8:52 a.m.	
YOUNG	<input checked="" type="checkbox"/> (Emerald) <input type="checkbox"/>	9:15 a.m.	11:15 a.m.
ZARATE	<input type="checkbox"/> (Parra) <input type="checkbox"/>		

SIGNED BY THE OFFICE OF THE CLERK OF THE BOARD Jan Gardetto for Gail Williams
 CONFIRMED BY OFFICE OF THE GENERAL COUNSEL [Signature]

JOINT MEETING OF THE BOARD OF DIRECTORS FOR THE
METROPOLITAN TRANSIT SYSTEM (MTS),
SAN DIEGO TRANSIT CORPORATION (SDTC), AND
SAN DIEGO TROLLEY, INC. (SDTI)

July 16, 2009

MTS
1255 Imperial Avenue, Suite 1000, San Diego

MINUTES

1. Roll Call

Chairman Mathis called the Board meeting to order at 9:02 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Mr. Ewin moved to approve the minutes of the June 25, 2009, MTS Board of Directors meeting. Mr. McClellan seconded the motion, and the vote was 9 to 0 in favor.

3. Public Comments

There were no Public Comments.

CONSENT ITEMS:

Ms. Tiffany Lorenzen, MTS General Counsel, clarified for the Board that approval of Consent Agenda Item No. 6, would permit MTS to exercise the 2 one-year options at its own discretion without returning to the Board for approval.

Chairman Mathis pointed out that a revised Consent Agenda Item No. 13 had been placed at each Board member's place reflecting that \$5.6 million, not \$5.8 million, would be transferred from the Blue Line Rehabilitation Project (CIP 1210001) to MTS fiscal year 2010 operations

6. MTS: LRV Paint and Body Rehabilitation, Vandalism, and Accident Repair – Contract Award (OPS 970.6)

Recommend that the Board of Directors authorize the CEO to execute MTS Doc. No. L0884.0-09 (in substantially the same form as Attachment A of the agenda item) with Carlos Guzman, Inc. for a three-year base period with 2 one-year options for light rail vehicle paint and body rehabilitation, vandalism, and accident repair services.

7. MTS: LRV Hi-Rail Vehicle – Contract Award (OPS 970.6)

Recommend that the Board of Directors authorize the CEO to execute MTS Doc. No. L0874.0-09 (in substantially the same form as Attachment A of the agenda item) with Dion International Truck, LLC for a one-time purchase of a hi-rail vehicle.

8. MTS: Proposed Policy No. 60 – Ticket Distribution (ADM 110.2)

Recommend that the Board of Directors adopt MTS Policy No. 60 regarding ticket distribution (Attachment A of the agenda item).

9. MTS: Investment Report – May 2009 (FIN 300)
Recommend that the Board of Directors receive a report for information.
10. MTS: Increased Authorization for Legal Services – Trovillion Inveiss Ponticello & Demakis, APC (LEG 491)
Recommend that the Board of Directors authorize the CEO to execute MTS Doc. No. G1139.4-08 (in substantially the same form as Attachment A of the agenda item) with Trovillion Inveiss Ponticello & Demakis, APC for legal services and ratify prior amendments entered into under the CEO's authority.
11. MTS: Increased Authorization for Legal Services – Wheatley Bingham & Baker (LEG 491)
Recommend that the Board of Directors authorize the CEO to execute MTS Doc. No. G1111.10-07 (in substantially the same form as Attachment A of the agenda item) with Wheatley Bingham & Baker for legal services and ratify prior amendments entered into under the CEO's authority.
12. MTS: Increased Authorization for Legal Services – Law Offices of Mark H. Barber, APC (LEG 491)
Recommend that the Board of Directors authorize the CEO to execute MTS Doc. No. G1162.5-08 (in substantially the same form as Attachment A of the agenda item) with the Law Offices of Mark H. Barber, APC for legal services and ratify prior amendments entered into under the CEO's authority.
13. MTS: Federal Economic Stimulus Supplemental Appropriations Act (CIP 1210001)
Recommend that the Board of Directors approve (1) the use of the Supplemental Appropriations Act for the American Recovery and Reinvestment Act (ARRA) of 2009 to fund MTS fiscal year 2010 operations; and (2) the transfer of \$5.6 million from the Blue Line Rehabilitation Project (CIP 1210001) to MTS fiscal year 2010 operations.
14. MTS: Capital Improvement Project (CIP) Budget Transfer and Contract Amendment (CIPs 11164, 11216, 11254)
Recommend that the Board of Directors authorize the CEO to (1) transfer \$1,000,000 from CIP 11164 (Rehabilitate Traction Motors) to CIP 11216 (LRV Electronics Components) and CIP 11254 (LRV Brake Overhaul) equally (\$500,000); and (2) execute MTS Doc. No. L0888.1-09 (in substantially the same form as Attachment A of the agenda item) to Knorr Brake Corporation for the procurement and assembly of brake overhaul kits for SD 100 light rail vehicles.
15. MTS: Federal Section 5307 Formula Funds for ADA Paratransit Service (FIN 340)
Recommend that the Board of Directors approve the exchange of \$3.6 million in capital federal Section 5307 formula funds for nonfederal operating dollars for Americans with Disabilities paratransit service.

Action on Recommended Consent Items

Mr. Ewin moved to approve Consent Agenda Item Nos. 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15.
Mr. Janney seconded the motion, and the vote was 11 to 0 in favor.

CLOSED SESSION:

24. Closed Session Items (ADM 122)

The Board convened to Closed Session at 9:05 a.m.

- a. MTS: CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code section 54956.9(a) Balfour Beatty/Ortiz v. Metropolitan Transit System (Superior Court Case No. GIC 868963)
- b. MTS: CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a): Tuil v. SDTI, MTS, MTDB (San Diego Superior Court Case No. GIC 37-2008-0078029-CU-NP-CTL)
- c. MTS: CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a): Gladden v. SDTI, MTS (San Diego Superior Court Case No. GIC 37-2008-0082698-CU-PO-CTL)

The Board reconvened to Open Session at 9:52 a.m.

Oral Report of Final Actions Taken in Closed Session

Ms. Lorenzen reported the following:

- a. The Board received a report from General Counsel.
- b. The Board received a report from outside counsel.
- c. The Board received a report from outside counsel.

PUBLIC HEARING

25. There were no Public Hearings conducted.

DISCUSSION ITEMS:

There were no Discussion Items on the agenda.

REPORT ITEMS:

There were no Report Items on the agenda.

60. Chairman's Report

Chairman Mathis reported that a pin commemorating MTS's APTA award for Best Large Transit Property had been placed at each Board member's place. He added that a formal presentation with Bill Millar, APTA, will take place on July 30 in San Diego, and invitations will be sent to all Board members. He also reported that he and Jerry Rindone will be attending the APTA Annual Meeting where the formal presentation of this award will be made. He advised the Board that Mr. Paul Jablonski, MTS CEO, has had extensive meetings with employees, who were also provided with pins. He added that he and Mr. Jablonski expressed their gratitude during these meetings for the fine job done by the employees.

61. Audit Oversight Committee Chairman's Report

Mr. Ewin reported that the Audit Oversight Committee met on July 9 to receive a report on the initial review that was conducted by MTS's outside auditors. He reported that the auditors will complete their work in September. He added that the Committee's next meeting will be held in October.

62. Chief Executive Officer's Report

Ms. Sharon Cooney, Director of Government Affairs, reported on an incident that occurred at the Encanto trolley station on Wednesday, July 15, 2009, around 6:30 p.m.

63. Board Member Communications

There were no Board Member Communications.

64. Additional Public Comments on Items Not on the Agenda

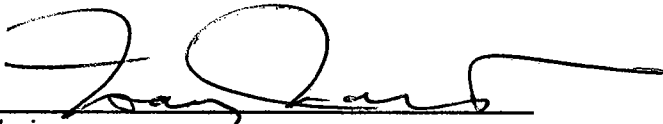
There were no additional public comments.

65. Next Meeting Date

The next regularly scheduled Board meeting is Thursday, August 20, 2009.

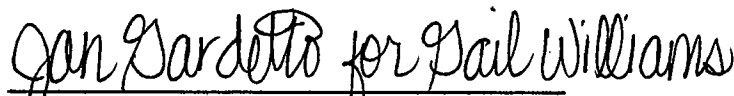
66. Adjournment

Chairman Mathis adjourned the meeting at 9:57 a.m.



Chairperson
San Diego Metropolitan Transit System

Filed by:



Office of the Clerk of the Board
San Diego Metropolitan Transit System

Approved as to form:



Office of the General Counsel
San Diego Metropolitan Transit System

Attachment: A. Roll Call Sheet
gail.williams/minutes



AGENDA ITEM NO.

3

REQUEST TO SPEAK FORM

ORDER REQUEST RECEIVED

1

PLEASE SUBMIT THIS COMPLETED FORM (AND YOUR WRITTEN STATEMENT) TO THE CLERK OF THE BOARD PRIOR TO DISCUSSION OF YOUR ITEM

1. INSTRUCTIONS

This Request to Speak form must be filled out and submitted in advance of the discussion of your item to the Clerk of the Board (please attach any written statement to this form). Communications on hearings and agenda items are generally limited to three minutes per person unless the Board authorizes additional time; however, the Chairperson may limit comment to one or two minutes each if there are multiple requests to speak on a particular item. General public comments on items not on the agenda are limited to three minutes. Please be brief and to the point. No yielding of time is allowed. Subjects of previous hearings or agenda items may not again be addressed under General Public Comments.

(PLEASE PRINT)

Date	2005-08-20		
Name	Clive Richard		
Address	5153 La Dorna St, San Diego		
Telephone	619.582.4036		
Organization Represented			
Subject of Your Remarks	Transit		
Regarding Agenda Item No.			
Your Comments Present a Position of:	<input type="checkbox"/>	SUPPORT	<input type="checkbox"/> OPPOSITION

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

At Public Hearings of the Board, persons wishing to speak shall be permitted to address the Board on any issue relevant to the subject of the Hearing.

3. DISCUSSION OF AGENDA ITEMS

The Chairman may permit any member of the public to address the Board on any issue relevant to a particular agenda item.

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

Public comment on matters not on the agenda will be limited to five speakers with three minutes each, under the Public Comment Agenda Item. Additional speakers will be heard at the end of the Board's Agenda.

REMEMBER: Subjects of previous hearings or agenda items may not again be addressed under General Public Comments.



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Agenda

Item No. 6

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

LEG 492

August 20, 2009

SUBJECT:

MTS: AUDIT REPORT – ACCOUNTS RECEIVABLE AND CASH RECEIPTS

RECOMMENDATION:

That the Board of Directors receive an audit report on MTS’s accounts receivable and cash receipts process.

Budget Impact

None.

DISCUSSION:

During June 2009, the MTS Internal Auditor performed a review of MTS’s accounts receive and cash receipts internal controls and procedures. The objective of the review was to assess the adequacy of internal controls over the accounts receivable and cash receipts functions. As a result of the review, three recommendations were made for management’s consideration. Management has reviewed the recommendations and is taking action to address the issues noted.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Mark Abbey, 619.557.4573, mark.abbey@sdmts.com

AUG20-09.6.AUDIT RPT AR CASH RECEIPTS.MABBEY.doc

Attachment: A. Audit Report



Metropolitan Transit System (MTS) is a California public agency and is comprised of San Diego Transit Corporation and San Diego Trolley, Inc. nonprofit public benefit corporations, in cooperation with Chula Vista Transit and National City Transit. MTS is the taxicab administrator for eight cities and the owner of the San Diego and Arizona Eastern Railway Company. MTS member agencies include: City of Chula Vista, City of Coronado, City of El Cajon, City of Imperial Beach, City of La Mesa, City of Lemon Grove, City of National City, City of Poway, City of San Diego, City of Santee, and the County of San Diego.



1255 Imperial Avenue, Suite 1000
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Memorandum

DATE: June 20, 2009 LEG 492 (PC 50601)
 TO: Linda Musengo
 FROM: Mark Abbey
 SUBJECT: AUDIT REPORT - ACCOUNTS RECEIVABLE AND CASH RECEIPTS REVIEW

EXECUTIVE SUMMARY

I have completed a review of internal controls over the accounts receivable and cash receipts functions at MTS. The review was performed in accordance with the approved audit plan.

Audit Objectives and Scope

The objective of the review was to assess the adequacy of controls over accounts receivable and cash receipts.

The scope of the audit included a review in the following areas:

1. controls over accounts receivable for MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC); and
2. controls over the various sources of cash receipts, including property management income for MTS, SDTI, and SDTC.

Background

MTS billings, receipts, and accounts receivable are processed on the Integrated Fund Accounting System (IFAS) while SDTI and SDTC accounts receivable and receipts are processed on the Ellipse system. The same accounting staff process billings and receipts for the three agencies using the two systems.

Most billings and receipts relate to MTS accounts. Many of the SDTI billings relate to recovery of flagging labor charges. SDTC seldom has any trade billings. MTS billings are made to the San Diego Association of Governments (SANDAG) and the California Department of Transportation (Caltrans) for grant money as well as to some outside parties for various charges. One major source of MTS billings and cash receipts consists of over \$300,000 in property management income received on the various leased properties on MTS right-of-way property—these properties are managed by MTS Real Estate

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grant money as well as to some outside parties for various charges. One major source of MTS billings and cash receipts consists of over \$300,000 in property management income received on the various leased properties on MTS right-of-way property—these properties are managed by MTS Real Estate staff. MTS’s Finance Department receives and deposits the rent checks; MTS also bills various parties for permits and license fees.

One other major source of accounts receivable for MTS consists of the various credit customers of The Transit Store who are billed for monthly pass sales.

Observations and Recommendations

Controls over the receipts and accounts receivable functions are good but can be improved. To improve controls in these areas, the following recommendations are offered for management’s consideration:

1. Ensure that all incoming checks are directed to the attention of the Finance Department.
2. Consider training accounting staff to back up the Accounts Receivable Clerk.
3. Consider coding cost recoveries to a balance sheet account for better tracking.

A detailed explanation of these recommendations is provided in *Detailed Observations* below. I wish to thank Finance and Real Estate personnel for their cooperation and assistance during the course of this review.

DETAILED OBSERVATIONS

1. Incoming Checks

I observed that incoming checks often go to different employees throughout MTS rather than directly to the Cashier in the Finance Department. For example, many real estate rent checks are first received by Real Estate staff. The risk exists that incoming payments could be lost or not get deposited on a timely basis.

In the future, outside parties should be advised to direct their payments to the attention of the “MTS Finance Department.”

Recommendation

Ensure that all incoming checks are directed to the attention of the Finance Department.

Finance Department Response

We will request that all checks be directed to the Finance Department. We will make this request through an e-mail announcement to all management staff, and the Chief Financial Officer will announce this policy change at his regular executive meeting.

2. Accounting Clerk Backup

The Accounts Receivable Clerk is responsible for invoicing, recording, and collecting MTS billings. He performs a number of varied tasks that take time to learn. I have been advised that no other Finance Department staff have been trained to back up the Accounts Receivable Clerk in case of an absence. To ensure continuity, another Finance Department staff member should be trained in these duties.

Recommendation

Consider training accounting staff to back up the Accounts Receivable Clerk.

Finance Department Response

In the past, one AP Accounting Assistant regularly trained with the AR Accounting Assistant, but this practice was not kept up during the past year. We will reinstitute this practice going forward, and the Finance Manager will spend additional time with the AR Accounting Assistant to become more familiar with his daily processes.

3. Cost Recoveries

From time to time, MTS enters into agreements to pay for certain costs and later rebills those costs to SANDAG or some other party. For example, IBI Group recently provided various planning and surveying services to MTS, which are billed to MTS and later rebilled to SANDAG. The invoices from IBI have been coded to an expense account. When the charges are rebilled to SANDAG, the same expense account is credited. The recovery of these charges relies on monitoring of the charges by MTS staff. The risk exists that these charges may not be recovered on a timely basis if staff forgets to monitor the billings. Better control could be provided if the IBI invoices were initially charged to a balance sheet account prior to being rebilled to SANDAG. Balance sheet accounts are constantly analyzed by Finance Department staff, and any unrecovered charges would be constantly monitored.

Recommendation

Consider coding cost recoveries to a balance sheet account for better tracking.

Finance Department Response

There are many occasions when the AP system will accommodate recording a reimbursable expense directly to a receivable account, and this procedure is followed whenever possible. Under these circumstances, a cost-recovery account would not be necessary. In a few limited cases, the department managing the expenditure and subsequent recovery has requested that the expense and subsequent reimbursement payment be recorded to the expense element in order to provide visibility to the transaction details within their cost centers. In all other cases, we will consider establishing and using a cost-recovery account in the balance sheet.

JGardetto/

M.DRAFT.ACCT REC 09.MABBEY.doc

cc: Paul Jablonski, Tiffany Lorenzen, Cliff Telfer, Tom Lynch



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
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Agenda

Item No. 7

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

LEG 492

August 20, 2009

SUBJECT:

MTS: ADOPTION OF LOCAL CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES

RECOMMENDATION:

That the Board of Directors:

1. adopt proposed local California Environmental Quality Act (CEQA) Guidelines;
2. amend Board Policy No. 2 (Attachment A) entitled "Environmental Quality"; and
3. adopt Resolution No. 09-21 (Attachment B).

Budget Impact

None.

DISCUSSION:

The CEQA Guidelines require local agencies to adopt "objectives, criteria and procedures" to implement the requirements of the CEQA statute and the State CEQA Guidelines (State CEQA Guidelines Section 15022). Previously MTS had simply adopted the State guidelines by reference. However, MTS has now created Local CEQA Guidelines to reflect recent changes to the State CEQA Guidelines, the Public Resources Code, and local practices.

Notably, new sections were added to the guidelines to address key provisions of Senate Bill 375, such as transit priority projects. Additionally, new information was added regarding climate change and the increase in Department of Fish and Game fees for filing environmental documents. These guidelines also provide instructions and forms for preparing any environmental documents required under CEQA.



As part of this process, Board Policy No. 2 needs to be revised and Resolution No. 09-21 needs to be enacted. Therefore staff is requesting that the Board adopt the proposed and revised Local CEQA Guidelines, amend Board Policy No. 2 entitled "Environmental Quality," and adopt Resolution No. 09-21.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Tiffany Lorenzen, 619.557.4512, tiffany.lorenzen@sdmts.com

AUG20-09.7.CEQAPOLICY.TLOREN.doc

- Attachments:
- A. Proposed Amendments to Board Policy 2
 - B. Proposed Resolution 09-21
 - C. Best, Best & Krieger memo summarizing 2009 changes to Local CEQA Guidelines
 - D. Local CEQA Guidelines **(Not included due to volume - available upon request or on MTS's Web Site at http://www.sdmts.com/MTS/MTS_board.asp)**



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Policies and Procedures

No. 2

SUBJECT:

Board Approval: 4/29/048/20/09

ENVIRONMENTAL QUALITY

PURPOSE:

To ensure that MTS-initiated projects, as that term is defined in the California Environmental Quality Act, will be in compliance with state and federal environmental laws.

BACKGROUND:

The California Environmental Quality Act (CEQA) requires all public agencies to adopt objectives, criteria, and specific procedures consistent with the State Environmental Impact Report (EIR) Guidelines for the orderly evaluation of projects and preparation of environmental documents.

~~The State EIR Guidelines also state that in adopting procedures to implement CEQA, a public agency may adopt the State CEQA Guidelines through incorporation by reference. The State CEQA Guidelines provide appropriate guidance and adequate specificity for MTS to fulfill its responsibilities for implementing the CEQA. Therefore, MTS has adopted the State CEQA Guidelines by incorporating them by reference into this Environmental Quality policy. MTS has prepared a set of Local CEQA Guidelines for adoption in compliance with CEQA's requirements. These Guidelines reflect recent changes in the State CEQA Guidelines and relevant court opinions. A copy of these Local CEQA Guidelines is on file in the Office of General Counsel. The Local CEQA Guidelines may be modified or amended from time to time by resolution of the Board of Directors.~~

POLICY:

As a public agency, it is the policy of MTS to conform with CEQA, and, where appropriate, the National Environmental Policy Act (NEPA) to avoid or minimize environmental damage where feasible and to protect the interest of the public in securing, maintaining, preserving, protecting, rehabilitating, and enhancing the environment within the MTS jurisdictional area.

GUIDELINES:

~~The State EIR Guidelines~~ MTS Local CEQA Guidelines are hereby incorporated into this policy by reference as MTS's objectives, criteria, and procedures for administering its responsibilities under CEQA.



SChamp/JGarde

AUG20-09.7.AttA.POLICY2 ENVIRONMTL QTY.TLOREN.doc

~~7/10/06~~8/20/09

Original policy approved on 9/11/78.

Policy revised on 5/23/85.

Policy revised on 12/8/88.

Policy revised/renumbered on 1/29/04.

Policy revised on 8/20/09.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 09-21

Resolution Adopting Local Guidelines for Implementing the California Environmental Quality Act (Public Resources Code Section 21000 Et Seq.

WHEREAS, the San Diego Metropolitan Transit System (MTS) is a public entity established under the laws of the State of California for the purpose of providing transportation services in the County of San Diego who desires to apply for and obtain funding for transit security purposes.

WHEREAS, the California Legislature has amended the California Environmental Quality Act ("CEQA") (Pub. Resources Code §§ 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14, §§ 15000 et seq.), and the California courts have interpreted specific provisions of CEQA;

WHEREAS, Section 21082 of CEQA requires all public agencies to adopt objectives, criteria and procedures for the evaluation of public and private projects undertaken or approved by such public agencies and the preparation, if required, of environmental impact reports and negative declarations in connection with that evaluation; and

WHEREAS, MTS must revise its local guidelines for implementing CEQA to make them consistent with the current provisions and interpretations of CEQA;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that MTS adopts "Local Guidelines for Implementing the California Environmental Quality Act (2009 Revision)," a copy of which is on file with the Office of General Counsel of MTS and is available for inspection by the public. All prior actions of MTS enacting earlier guidelines are hereby repealed.

PASSED AND ADOPTED, by the Board of Directors this ____ day of August 2009, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

Chairperson
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

Clerk of the Board
San Diego Metropolitan Transit System

Office of the General Counsel
San Diego Metropolitan Transit System

Memorandum

TO: Project 5
FROM: Best Best & Krieger LLP
DATE: March 13, 2009
RE: 2009 Summary of Changes to Local CEQA Guidelines

Important changes in the law have been incorporated into the 2009 Update to your Local Guidelines for Implementing the California Environmental Quality Act ("Local Guidelines"). For easy reproduction and access to these Local Guidelines, as well as the California Environmental Quality Act ("CEQA") forms your entity will need, and any other important legal alerts, please access the CEQA client portal at www.bbklaw.net/CEQA. For technical support please contact Gar House at Gar.House@bbklaw.com.

This memorandum summarizes numerous amendments to your Local Guidelines that were made in response to legislation and legal cases that changed or impacted certain aspects of CEQA between January 2008 and January 2009. Your Local Guidelines and this memorandum are designed to assist in assessing the environmental implications of a project prior to its approval, as mandated by CEQA. We still recommend, however, that you consult with an attorney when you have specific questions on major, controversial or unusual projects or activities.

2008 Revisions to the Local CEQA Guidelines

Section 3.12 (A)(1)(b). This section was modified slightly to clarify that certain residential housing project exemptions may apply even if a project is inconsistent with applicable zoning.

Section 3.15. A new section 3.15, entitled "Transit Priority Project," was added in response to the enactment of Senate Bill 375, which addresses the intersection of land use planning and project impacts on global warming. Section 3.15 provides for an exemption from CEQA review for "transit priority projects", as defined in section 10.67, below, that are either consistent with a State Air Resources Board-approved Sustainable Community Strategy or an alternative planning strategy that would achieve greenhouse gas emission reduction targets. Furthermore, a transit priority project that otherwise would not qualify for the exemption from CEQA may be eligible for streamlined environmental review. Lastly, environmental review of residential or mixed-use residential projects may limit or omit discussion of growth-inducing impacts or traffic impacts on global warming under certain circumstances. The exemption or streamlined environmental review discussed in this section will not be available until the Air Resources Board sets target greenhouse gas emission levels (which may not occur until September 30, 2010) and the Southern California Association of Governments adopts a Sustainable Communities Strategy for the area.

Section 5.15. Section 5.15, “Consultation with Water Agencies Regarding Large Development Projects,” was revised to include a statement summarizing existing law to the effect that programmatic CEQA documents may not be required to analyze water supply impacts to the same level of detail as project-level CEQA documents.

Section 5.18. Section 5.18, “Climate Change and Greenhouse Gas Emissions,” was expanded in order to reflect developments in the requirements of CEQA with regard to global warming. First, it is noted that projects funded through transportation and flood protection bond measures are not subject to legal challenge on the basis of a failure to adequately analyze global warming impacts. This protection expires, however, on January 1, 2010. Second, section 5.18 references the Governor’s Office of Planning and Research’s (“OPR”) technical advisory on addressing climate change through CEQA. This advisory includes information on methods by which the greenhouse gas impacts of a project may be analyzed and mitigated and includes factors that the City may consider in establishing a threshold of significance. It is also noted that OPR is required, by July 1, 2009, to transmit to the Resources Agency guidelines for the feasible mitigation of greenhouse gas emissions and that the Resources Agency must adopt those guidelines by January 1, 2010. When these guidelines are adopted, further revisions to the Local Guidelines may be required. Lastly, the streamlined analysis of greenhouse gas impacts pursuant to SB 375 (see section 3.15, as described above) is referenced.

Section 6.02. To clarify the Lead Agency’s responsibility to prepare a Mitigated Negative Declaration, a sentence regarding applicant approved mitigation measures was deleted from this section.

Section 6.13. Section 6.13, “Mitigation Reporting or Monitoring Program for Mitigated Negative Declaration,” was revised to provide clarification with regard to designing the mitigation and monitoring program to assure compliance during the implementation or construction of a project.

Section 6.20. Section 6.20, “Filing Fees for Projects Which Affect Wildlife Resources,” has been revised with regard to the process for obtaining a waiver from the Department of Fish & Game filing fee that is due when filing a Notice of Determination with the County Clerk. It is now specified that projects that are statutorily or categorically exempt are not subject to the filing fee and do not require a “no effect” determination, and that the regional divisions of the Department of Fish & Game are responsible for making “no effect” determinations. A request for such a determination should be submitted to the Department at the time public review of the CEQA document begins, and the City must have written confirmation of a “no effect” determination from the Department before the County Clerk can accept a Notice of Determination filing that is not accompanied by payment of the Department of Fish & Game filing fee.

Section 7.06. Section 7.06, “Consultation with Other Agencies and Persons,” has been revised to add transportation planning agencies and public agencies with transportation facilities that could be affected by a project to the list of agencies that must be given notice of a scoping meeting regarding a Draft EIR to be prepared by the City. The revisions further specify that the inclusion of such agencies within the scoping process is for the purposes of obtaining information concerning the project’s effect on major local arterials, public transit, freeways,

highways, overpasses, on-ramps, off-ramps, and rail transit services. These agencies must also be provided copies of environmental documents that relate to the project.

Section 7.23. Section 7.23, "Public Hearing on Draft EIR," has been revised to state that a public hearing is required in order to utilize the limited exemption from CEQA for transit priority projects (see section 3.15, as discussed above).

Section 7.30. Section 7.30, "Findings," was revised to include a requirement that a finding be made that air quality at a proposed project site does not present a significant health risk to students if a project involves the acquisition of a school site within 500 feet of the edge of a freeway or other busy traffic corridor. This finding is to be made pursuant to a health risk assessment and after consideration of any potential mitigation measures.

Section 7.36. Section 7.36, "Filing Fees for Projects Which Affect Wildlife Resources," has been revised to reflect the current amount of the Department of Fish & Game filing fee for a Notice of Determination for an EIR. This amount has increased from \$2,606.75 to \$2,768.25. Additionally, text addressing the procurement of a "no effect" determination allowing for waiver of the filing fee has been deleted and replaced with a reference to section 6.20 (as discussed above).

Section 8.08. Section 8.08, "Program EIR," has been revised to include further descriptions of the uses and limitations of program EIRs.

Section 10.13. Section 10.13, "Developed Open Space," has been added to define that term as being land that is publicly owned or financed, generally open to or available to the public, and predominately lacking structural development other than structures normally associated with open space, such as recreational facilities.

Section 10.25. Section 10.25, "Historical Resources," has been revised to more clearly delineate the statutory and regulatory criteria for determining whether a resource is a historical resource for the purposes of CEQA.

Section 10.26. Section 10.26, which defines the term "Infill Site," has been revised to read more clearly. Additionally, a parcel that has not previously been developed with urban uses, but which is adjacent to urban development, formerly could be considered to be an "infill site." Now, however, such parcels may not be considered to be "infill sites" if they were created within the past ten years, unless their creation was the result of a redevelopment plan. In short, new subdivisions may not be considered to be "infill sites."

Section 10.37. Section 10.37 has been added to define the term "Metropolitan Planning Organization" as a federally-designated agency that provides transportation planning and programming in metropolitan areas.

Section 10.65. Section 10.65 has been added to provide a definition for the term "Sustainable Communities Strategy." A Sustainable Communities Strategy is to be an integrated land use and transportation plan for the reduction of greenhouse gases. The Sustainable Communities Strategy that would apply to the City will be included as an element of the Regional Transportation Plan prepared by the Southern California Association of Governments.

Section 10.67. A new section 10.67 has been added to provide a definition for a “Transit Priority Project.” A transit priority project is a mixed-use project that is consistent with the general use designation, density, building intensity, and applicable policies specified in a Sustainable Communities Strategy or an alternative planning strategy that has been approved by the State Air Resources Board. Specific size and location requirements are listed in this section, as well.

Section 10.68. Section 10.68 has been added to define “Transportation Facilities” as including major local arterials and public transit within five miles of a project site and freeways, highways, overpasses, on-ramps, off-ramps, and rail transit service within ten miles of a project site.

Other Changes. Several other minor grammatical and/or formatting changes were made to the Local Guidelines to facilitate the reading and use of the Local Guidelines.

**LOCAL GUIDELINES
FOR IMPLEMENTING THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

(2009 REVISION)

1. GENERAL PROVISIONS, PURPOSE AND POLICY

1.01 GENERAL PROVISIONS.

These Local Guidelines (“Local Guidelines”) are to assist the San Diego Metropolitan Transit District (“District”) in implementing the provisions of the California Environmental Quality Act (“CEQA”). These Local Guidelines are consistent with the Guidelines for the Implementation of CEQA (“State Guidelines”) which have been promulgated by the Resources Agency for the guidance of state and local agencies in California. These Local Guidelines have been adopted pursuant to California Public Resources Code Section 21082.

1.02 PURPOSE.

The purpose of these Local Guidelines is to help the District accomplish the following basic objectives of CEQA:

- (a) To enhance and provide long-term protection for the environment, while providing a decent home and satisfying living environment for every Californian.
- (b) To provide information to governmental decision-makers and the public regarding the potential significant environmental effects of the proposed project.
- (c) To provide an analysis of the environmental effects of future actions associated with the project to adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project.
- (d) To identify ways that environmental damage can be avoided or significantly reduced.
- (e) To prevent significant avoidable environmental damage through utilization of feasible project alternatives or mitigation measures.
- (f) To disclose and demonstrate to the public the reasons why a governmental agency approved the project in the manner chosen. Public participation is an essential part of the CEQA process. Each public agency should encourage wide public involvement, formal and informal, in order to receive and evaluate public reactions to environmental issues related to a public agency’s activities. Such involvement should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

1.03 APPLICABILITY.

These Guidelines apply to any activity of the District which constitutes a “project” as defined in Local Guidelines Section 10.53. These Local Guidelines are also intended to assist the District in determining whether a proposed activity does not constitute a project that is subject to CEQA review, or whether the activity is exempt from CEQA.

An Environmental Impact Report (“EIR”) is required for each such project which may have a significant effect on the environment. When the District finds that a project will have no significant environmental effect, a Negative Declaration or Mitigated Negative Declaration rather than an EIR shall be prepared.

An EIR serves several functions for the benefit of the District and the public. An EIR (1) identifies and analyzes the significant environmental effects of a proposed project, (2) identifies alternatives to the project, and (3) discloses possible ways to reduce or avoid potential environmental damage. These matters are to be evaluated by the District before the project is approved or disapproved.

The EIR is an informational document. It should not be used to rationalize approval of a project. CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. Indications of adverse environmental impacts from the project which are identified in the EIR do not necessarily require disapproval of a project. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the District must respond to the information by one or more of the following methods:

- (a) Changing the proposed project;
- (b) Imposing conditions on the approval of the project;
- (c) Adopting plans or ordinances to control a broader class of activities to avoid the problems;
- (d) Choosing an alternative way of meeting the same need;
- (e) Disapproving the project; or
- (f) Finding that the unavoidable, significant environmental damage is acceptable pursuant to a Statement of Overriding Considerations.

Although CEQA requires that major consideration be given to preventing environmental damage, the District also has an obligation to balance other public objectives for each project including economic and social factors.

1.04 REDUCING DELAY AND PAPERWORK.

The State Guidelines encourage local governmental agencies to reduce delay and paperwork by, among other things:

- (a) Integrating the CEQA process into early planning review; to this end, the project approval process and these procedures, to the maximum extent feasible, are to run concurrently, not consecutively;
- (b) Identifying projects which fit within categorical or other exemptions and are therefore exempt from CEQA processing;
- (c) Using initial studies to identify significant environmental issues and to narrow the scope of EIRs;
- (d) Using a Negative Declaration when a project not otherwise exempt will not have a significant effect on the environment;

- (e) Consulting with state and local responsible agencies before and during the preparation of an EIR so that the document will meet the needs of all the agencies which will use it;
- (f) Allowing applicants to revise projects to eliminate possible significant effects on the environment, thereby enabling the project to qualify for a Negative Declaration rather than an EIR;
- (g) Integrating CEQA requirements with other environmental review and consultation requirements;
- (h) Emphasizing consultation before an EIR is prepared, rather than submitting adverse comments on a completed document;
- (i) Combining environmental documents with other documents, such as general plans;
- (j) Eliminating repetitive discussions of the same issues by using EIRs on programs, policies or plans and tiering from statements of broad scope to those of narrower scope;
- (k) Reducing the length of EIRs by means such as setting appropriate page limits;
- (l) Preparing analytic, rather than encyclopedic EIRs;
- (m) Mentioning insignificant issues only briefly;
- (n) Writing EIRs in plain language;
- (o) Following a clear format for EIRs;
- (p) Emphasizing the portions of the EIR that are useful to decision-makers and the public and reducing emphasis on background material;
- (q) Incorporating information by reference; and
- (r) Making comments on EIRs as specific as possible.

1.05 COMPLIANCE WITH STATE LAW.

These Local Guidelines are intended to implement the provisions of CEQA and the State Guidelines, and the provisions of CEQA and the State Guidelines shall be fully complied with even though they may not be set forth or referred to herein.

1.06 TERMINOLOGY.

The terms “must” or “shall” identify mandatory requirements. The terms “may” and “should” are permissive, with the particular decision being left to the discretion of the District.

1.07 PARTIAL INVALIDITY.

In the event any part or provision of these Local Guidelines shall be determined to be invalid, the remaining portions which can be separated from the invalid unenforceable provisions shall continue in full force and effect.

1.08 ELECTRONIC DELIVERY OF COMMENTS AND NOTICES.

Individuals may file a written request to receive copies of public notices provided under these Local Guidelines or the State Guidelines. The requestor may elect to receive these notices via email rather than regular mail. Notices sent by email are deemed delivered when the staff person sending the email sends it directed to the last email address provided by the requestor to the public agency. The District may require requests for notices to be renewed annually.

Individuals may also submit comments on the CEQA documentation for a project via email. Comments submitted via email shall be treated as written comments for all purposes. Comments sent to the public agency via email are deemed received when they actually arrive in an email account of a staff person who has been designated or identified as the point of contact for a particular project.

2. LEAD AND RESPONSIBLE AGENCIES

2.01 LEAD AGENCY PRINCIPLE.

The District will be the Lead Agency if it will have principal responsibility for carrying out or approving a project. Where a project is to be carried out or approved by more than one public agency, only one agency shall be responsible for the preparation of environmental documents. This agency shall be called the Lead Agency.

2.02 SELECTION OF LEAD AGENCY.

Where two or more public agencies will be involved with a project, the Lead Agency shall be designated according to the following criteria:

- (a) If the project will be carried out by a public agency, that agency shall be the Lead Agency even if the project will be located within the jurisdiction of another public agency.
- (b) If the project will be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising and approving the project as a whole. The Lead Agency will normally be the agency with general governmental powers, rather than an agency with a single or limited purpose. (For example, a district which will provide a public service or utility to the project serves a limited purpose.) If two or more agencies meet this criteria equally, the agency which acts first on the project will be the Lead Agency.

If two or more public agencies have a substantial claim to be the Lead Agency under either (a) or (b), they may designate one agency as the Lead Agency by agreement. An agreement may also provide for cooperative efforts by contract, joint exercise of powers, or similar devices. If the agencies cannot agree which agency should be the Lead Agency for preparing the environmental document, any of the disputing public agencies or the project applicant may submit the dispute to the Office of Planning and Research. Within 21 days of receiving the request, the Office of Planning and Research will designate the Lead Agency. The Office of Planning and Research shall not designate a Lead Agency in the absence of a dispute. A "dispute" means a contested, active difference of opinion between two or more public agencies as to which of those agencies shall prepare any necessary environmental document. A dispute exists when each of those agencies claims that it either has or does not have the obligation to prepare that environmental document.

2.03 DUTIES OF A LEAD AGENCY.

As a Lead Agency, the District shall decide whether a Negative Declaration, Mitigated Negative Declaration or an EIR will be required for a project and shall prepare, or cause to be prepared, and consider the document before making its decision on whether and how to approve the project. The documents may be prepared by Staff or by private consultants pursuant to a contract with the District. However, the District shall independently review and analyze all draft and final EIRs or Negative Declarations prepared for a project and shall find that the EIR or Negative Declaration reflects the independent judgment of the District prior to approval of the document. If a Draft EIR or Final EIR is prepared under a contract to the District, the contract

must be executed within forty-five (45) days from the date on which the District sends a Notice of Preparation. (See Local Guidelines Section 7.02.)

During the process of preparing an EIR, the District shall have the following duties:

- (a) Immediately after deciding that an EIR is required for a project, the District shall send to the Office of Planning and Research and each Responsible Agency a Notice of Preparation (Form "G") stating that an EIR will be prepared. (See Local Guidelines Section 7.03.)
- (b) The District shall prepare or cause to be prepared the Draft EIR for the project. (See Local Guidelines Section 7.05.)
- (c) Once the Draft EIR is completed, the District shall file a Notice of Completion (Form "H") with the Office of Planning and Research. (See Local Guidelines Section 7.19.)
- (d) The District shall consult with state, federal and local agencies which exercise authority over resources which may be affected by the project for their comments on the completed Draft EIR. (See, e.g., Local Guidelines Sections 5.02, 5.15, Section 7.20.)
- (e) The District shall provide public notice of the availability of a Draft EIR (Form "K") at the same time that it sends a Notice of Completion to the Office of Planning and Research. (See Local Guidelines Section 7.19.)
- (f) The District shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare or cause to be prepared a written response to all comments that raise significant environmental issues and that were timely received during the public comment period. A written response must be provided to all public agencies who commented on the project during the public review period at least ten (10) days prior to certifying an EIR. (See Local Guidelines Section 7.24.)
- (g) The District shall prepare or cause to be prepared a Final EIR before approving the project. (See Local Guidelines Section 7.25.)
- (h) The District shall certify that the Final EIR has been completed in compliance with CEQA and has been reviewed by the Board of Directors. (See Local Guidelines Section 7.27.)
- (i) The District shall include in the Final EIR any comments received from a Responsible Agency on the Notice of Preparation or the Draft EIR. (See Local Guidelines Sections 2.07, 7.24 and 7.25.)

As Lead Agency, the District may charge a non-elected body with the responsibility of making a finding of exemption or adopting, certifying or authorizing environmental documents; however, the District must have a procedure allowing for the appeal of the CEQA decisions of any non-elected body to the Board of Directors.

2.04 PROJECTS RELATING TO DEVELOPMENT OF HAZARDOUS WASTE AND OTHER SITES.

An applicant for a development project must submit a signed statement to the District stating whether the project and any alternatives are located on a site which is included in any list compiled by the Secretary for Environmental Protection of the California Environmental Protection Agency ("California EPA") listing hazardous waste sites and other specified sites located in the District. The applicant's statement must contain the following information:

- (a) The applicant's name, address, and phone number.
- (b) Address of site, and local agency (city/county).
- (c) Assessor's book, page, and parcel number.
- (d) The list which includes the site, identification number, and date of list.

Before accepting as complete an application for any development project as defined in Local Guidelines Section 10.14, the District shall consult lists compiled by the Secretary for Environmental Protection of the California EPA pursuant to Government Code Section 65962.5 listing hazardous waste sites and other specified sites located in the District. The District shall notify an applicant for a development project if the project site is located on such a list and not already identified. In the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration (see Local Guidelines Section 6.04) or the Notice of Preparation of Draft EIR (see Local Guidelines Section 7.03), the District shall specify the California EPA list, if any, which includes the project site, and shall provide the information contained in the applicant's statement.

This provision applies only to projects for which applications have not been deemed complete on or before January 1, 1992.

2.05 RESPONSIBLE AGENCY PRINCIPLE.

When a project is to be carried out or approved by more than one public agency, all public agencies other than the Lead Agency which have discretionary approval power over the project shall be identified as Responsible Agencies.

2.06 DUTIES OF A RESPONSIBLE AGENCY.

When it is identified as a Responsible Agency, the District shall consider the environmental documents prepared or caused to be prepared by the Lead Agency and reach its own conclusions on whether and how to approve the project involved. The District shall also both respond to consultation by the Lead Agency and attend meetings as requested by the Lead Agency to assist the Lead Agency in preparing adequate environmental documents. The District should also review and comment on Draft EIRs and Negative Declarations. Comments shall be limited to those project activities which are within the District's area of expertise or are required to be carried out or approved by the District or are subject to the District's powers. As a Responsible Agency, the District may identify significant environmental effects of a project for which mitigation is necessary. As a Responsible Agency, the District may submit to the Lead Agency proposed mitigation measures which would address those significant environmental effects. If mitigation measures are required, the District should submit to the Lead Agency complete and detailed performance objectives for such mitigation measures which would address the significant environmental effects identified, or refer the Lead Agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the Lead Agency by the District shall be limited to measures which mitigate impacts to resources that are within the District's authority. For private projects, the District, as a Responsible Agency, may require the project proponent to provide such information as may be required and to reimburse the District for all costs incurred by it in reporting to the Lead Agency.

2.07 RESPONSE TO NOTICE OF PREPARATION BY RESPONSIBLE AGENCIES.

Within thirty (30) days of receipt of a Notice of Preparation of an EIR, the District, as a Responsible Agency, shall specify to the Lead Agency the scope and content of the environmental information related to the District's area of statutory responsibility in connection with the proposed project. At a minimum, the response shall identify the significant environmental issues and possible alternatives and mitigation which the District, as a Responsible Agency, will need to have explored in the Draft EIR. Such information shall be specified in writing, shall be as specific as possible, and shall be communicated to the Lead Agency, by certified mail or any other method of transmittal which provides it with a record that the response was received. The Lead Agency shall incorporate this information into the EIR.

2.08 USE OF FINAL EIR OR NEGATIVE DECLARATION BY RESPONSIBLE AGENCIES.

The District, as a Responsible Agency, shall consider the Lead Agency's Final EIR or Negative Declaration before acting upon or approving a proposed project. The District shall consider the adequacy of the prior environmental documents for its purposes and in certain instances may require that a Subsequent EIR or a Supplemental EIR be prepared. Mitigation measures and alternatives deemed feasible and relevant to the District's role in carrying out the project shall be adopted. Findings which are relevant to the District's responsibility shall be made. A Notice of Determination shall be filed by the Responsible Agency, but need not state that the Lead Agency's EIR or Negative Declaration complies with CEQA.

2.09 SHIFT IN LEAD AGENCY RESPONSIBILITIES.

The District, as a Responsible Agency, shall assume the role of the Lead Agency if any one of the following three conditions is met:

- (a) The Lead Agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.
- (b) The Lead Agency prepared environmental documents for the project, and all of the following conditions occur:
 - (1) A Subsequent or Supplemental EIR is required;
 - (2) The Lead Agency has granted a final approval for the project; and
 - (3) The statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.
- (c) The Lead Agency prepared inadequate environmental documents without providing public notice of a Negative Declaration or sending Notice of Preparation of an EIR to Responsible Agencies and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

3. ACTIVITIES EXEMPT FROM CEQA

3.01 ACTIONS SUBJECT TO CEQA.

CEQA applies to discretionary projects proposed to be carried out or approved by public agencies. If the proposed activity does not come within the definition of “project” contained in Local Guidelines Section 10.53, it is not subject to environmental review under CEQA.

“Project” does not include:

- (a) Proposals for legislation to be enacted by the State Legislature;
- (b) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, and general policy and procedure making (except as provided in Local Guidelines Section 10.53);
- (c) The submittal of proposals to a vote of the people in response to a petition drive initiated by voters, or the enactment of a qualified voter-sponsored initiative under California Constitution Art. II, Section 11(a) and Election Code Section 9214;
- (d) The creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project which may have a potentially significant physical impact on the environment. Government funding mechanisms may include, but are not limited to, assessment districts and community facilities districts;
- (e) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment; and
- (f) Activities that do not result in a direct or reasonably foreseeable indirect physical change in the environment.

3.02 MINISTERIAL ACTIONS.

Ministerial actions are not subject to CEQA review. A ministerial action is one that is approved or denied by a decision which a public official or a public agency makes that involves only the use of fixed standards or objective measurements without personal judgment or discretion.

When a project involves an approval that contains elements of both a ministerial and discretionary nature, the project will be deemed to be discretionary and subject to the requirements of CEQA. The decision whether a proposed project or activity is ministerial in nature may involve or require, to some extent, interpretation of the language of the legal mandate, and should be made on a case-by-case basis. The following is a non-exclusive list of examples of ministerial activities:

- (a) Issuance of business licenses;
- (b) Approval of final subdivision maps and final parcel maps;
- (c) Approval of individual utility service connections and disconnections;
- (d) Issuance of licenses;
- (e) Issuance of a permit to do street work; and
- (f) Issuance of building permits where the District does not retain significant discretionary power to modify or shape the project.

3.03 EXEMPTIONS IN GENERAL.

CEQA and the State Guidelines exempt certain activities and provide that local agencies should further identify and describe certain exemptions. The requirements of CEQA and the obligation to prepare an EIR, Negative Declaration or Mitigated Negative Declaration do not apply to the exempt activities which are set forth in CEQA, the State Guidelines and Chapter 3 of these Local Guidelines.

3.04 PRELIMINARY EXEMPTION ASSESSMENT.

If, in the judgment of Staff, a proposed activity is exempt, Staff should so find on the form entitled "Preliminary Exemption Assessment" (Form "A"). The Preliminary Exemption Assessment shall be retained at District Offices as a public record.

3.05 NOTICE OF EXEMPTION.

After District approval of an exempt project, a "Notice of Exemption" (Form "B") may be filed by Staff with the Clerk. If District exempts an agricultural housing, affordable housing, or residential infill project under State Guidelines Sections 15193, 15194 or 15195 and the District approves or determines to carry out that project, it must file a notice with the Office of Planning and Research ("OPR") identifying the exemption. The Preliminary Exemption Assessment shall be attached to the Notice of Exemption for filing. If filed, the Clerk must post the Notice within twenty-four (24) hours of receipt, and the Notice must remain posted for thirty (30) days. Although no California Department of Fish and Game ("DFG") filing fee is applicable to exempt projects, most counties customarily charge a documentary handling fee to pay for record keeping on behalf of the DFG. Refer to the Index in the Staff Summary to determine if such a fee will be required for the project.

The filing of a Notice of Exemption is recommended because it starts a 35-day statute of limitations on legal challenges to the District's determination that the project is exempt from CEQA. The District is encouraged to make postings of all filed notices available in electronic format on the Internet. These electronic postings are in addition to the procedures required by the State Guidelines and the Public Resources Code. If a Notice of Exemption is not filed, a 180-day statute of limitations will apply. Please see Local Guidelines Section 3.12 for certain circumstances in which the District is required to file a Notice of Exemption.

When a request is made for a copy of the Notice prior to the date on which the District determines the project is exempt, the Notice must be mailed, first class postage prepaid, within five (5) days after the District's determination. If such a request is made following the District's determination, then the copy should be mailed in the same manner as soon as possible.

3.06 DISAPPROVED PROJECTS.

Projects which the Lead Agency rejects or disapproves are exempt. An applicant shall not be relieved of paying the costs for an EIR or Negative Declaration prepared for a project prior to the Lead Agency's disapproval of the project.

3.07 PROJECTS WITH NO POSSIBILITY OF SIGNIFICANT EFFECT.

Where it can be seen with absolute certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt.

3.08 EMERGENCY PROJECTS.

The following types of emergency projects are exempt: (The term “emergency” is defined in Local Guidelines Section 10.18.)

- (a) Work in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter a historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of the Public Resources Code.
- (b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.
- (c) Projects necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.
- (d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor to any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide; and
- (e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code Section.

3.09 FEASIBILITY AND PLANNING STUDIES.

A project that involves only feasibility or planning studies for possible future actions which the District has not yet approved, adopted or funded is exempt.

3.10 RATES, TOLLS, FARES AND CHARGES.

The establishment, modification, structuring, restructuring or approval of rates, tolls, fares or other charges by the District that the District finds are for one or more of the purposes listed below are exempt.

- (a) Meeting operating expenses, including employee wage rates and fringe benefits;
- (b) Purchasing or leasing supplies, equipment or materials;
- (c) Meeting financial reserve needs and requirements; or
- (d) Obtaining funds for capital projects necessary to maintain service within existing service areas.

- (e) When the District determines that one of the aforementioned activities pertaining to rates, tolls, fares or charges is exempt from the requirements of CEQA, it shall incorporate written findings setting forth the specific basis for the claim of exemption in the record of any proceeding in which such an exemption is claimed.

3.11 SUBSURFACE PIPELINES WITHIN A PUBLIC RIGHT-OF-WAY.

The installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal or demolition of an existing subsurface pipeline is exempt where the project is less than one mile in length and located within a public street, highway or any other public right-of-way.

3.12 CERTAIN RESIDENTIAL HOUSING PROJECTS.

CEQA does not apply to the construction, conversion, or use of residential housing if the project meets all of the general requirements described in Section A below and satisfies the specific requirements for any one of the following three categories: (1) agricultural housing (Section B below), (2) affordable housing projects in urbanized areas (Section C below), or (3) affordable housing projects near major transit stops (Section D below).

- A. **General Requirements.** The construction, conversion, or use of residential housing units affordable to low-income households (as defined in Section 10.32) located on an infill site in an urbanized area is exempt from CEQA if all of the following general requirements are satisfied:
 - (1) The project is consistent with:
 - (a) Any applicable general plan, specific plan, or local coastal program, including any mitigation measures required by such plan or program, as that plan or program existed on the date that the application was deemed complete; and
 - (b) Any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete. However, the project may be inconsistent with zoning if the zoning is inconsistent with the general plan and the project site has not been rezoned to conform to the general plan;
 - (2) Community level environmental review has been adopted or certified;
 - (3) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees;
 - (4) The project site meets all of the following four criteria relating to biological resources:
 - (a) The project site does not contain wetlands;
 - (b) The project site does not have any value as a wildlife habitat;

- (c) The project does not harm any species protected by the federal Endangered Species Act of 1973, the Native Plant Protection Act, or the California Endangered Species Act; and
 - (d) The project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete;
- (5) The site is not included on any list of facilities and sites compiled pursuant to Government Code Section 65962.5;
- (6) The project site is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. In addition, the following steps must have been taken in response to the results of this assessment:
- (a) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements; or
 - (b) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements;
- (7) The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code (See Local Guidelines Section 10.25.);
- (8) The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection; unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.
- (9) The project site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties;
- (10) The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency;
- (11) Either the project site is not within a delineated earthquake fault zone, or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public Resources Code respectively, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard.

- (12) Either the project site does not present a landslide hazard, flood plain, flood way, or restriction zone, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.
- (13) The project site is not located on developed open space;
- (14) The project site is not located within the boundaries of a state conservancy;
- (15) The project site has not been divided into smaller projects to qualify for one or more of the exemptions for affordable housing, agricultural housing, or residential infill housing projects found in the subsequent sections; and
- (16) The project meets the requirements set forth in either Public Resources Code Sections 21159.22, 21159.23 or 21159.24.

B. Specific Requirements for Agricultural Housing. (Public Resources Code Section 21159.22 and State Guidelines Section 15192.) CEQA does not apply to the construction, conversion, or use of residential housing for agricultural employees that meets all of the general requirements described above in Section A and meets the following additional criteria:

- (1) The project either:
 - (a) Is affordable to lower income households, lacks public financial assistance, and the developer has provided sufficient legal commitments to ensure the continued availability and use of the housing units for lower income households for a period of at least fifteen (15) years; or
 - (b) If public financial assistance exists for the project, then the project must be housing for very low, low, or moderate-income households and the developer of the project has provided sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households for a period of at least fifteen (15) years;
- (2) The project site is adjacent on at least two sides to land that has been developed and the project consists of not more than forty-five (45) units or provides dormitories, barracks, or other group-living facilities for a total of forty-five (45) or fewer agricultural employees, and either:
 - (a) The project site is within incorporated city limits or within a census-defined place with a minimum population density of at least five thousand (5,000) persons per square mile; or
 - (b) The project site is within incorporated city limits or within a census- defined place and the minimum population density of the

census-defined place is at least one thousand (1,000) persons per square mile, unless the Lead Agency determines that there is a reasonable possibility that the project, if completed, would have a significant effect on the environment due to unusual circumstances or that the cumulative effects of successive projects of the same type in the same area would, over time, be significant;

- (3) If the project is located on a site zoned for general agricultural use, it must consist of twenty (20) or fewer units, or, if the housing consists of dormitories, barracks, or other group-living facilities, the project must not provide housing for more than twenty (20) agricultural employees; and
- (4) The project is not more than two (2) acres in area if the project site is located in an area with a population density of at least one thousand (1,000) persons per square mile, and is not more than five (5) acres in area for all other project sites.

C. Specific Requirements for Affordable Housing Projects in Urbanized Areas. (Reference: Public Resources Code Sections 21083, 21159.23 and State Guidelines Section 15194.) CEQA does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of one hundred (100) or fewer units that are affordable to low-income households if all of the general requirements described in Section A above are satisfied and the following additional criteria are also met:

- (1) The developer of the project provides sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least thirty (30) years, at monthly housing costs deemed to be “affordable rent” for lower income, very low income, and extremely low income households, as determined pursuant to Section 50053 of the Health and Safety Code;
- (2) The project site:
 - (a) Has been previously developed for qualified urban uses;
 - (b) Is immediately adjacent to parcels that are developed with qualified urban uses; or
 - (c) At least 75% of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25% of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses, the site has not been developed for urban uses and no parcel within the site has been created within ten (10) years prior to the proposed development of the site;
- (3) The project site is not more than five (5) acres in area; and
- (4) The project site meets one of the following requirements regarding population density:

- (a) The project site is within an urbanized area or within a census-defined place with a population density of at least five thousand (5,000) persons per square mile; or
- (b) If the project consists of fifty (50) or fewer units, the project site is within an incorporated city with a population density of at least twenty-five hundred (2,500) persons per square mile and a total population of at least twenty-five thousand (25,000) persons; or
- (c) The project site is within either an incorporated city or a census-defined place with a population density of one thousand (1,000) persons per square mile, unless there is a reasonable possibility that the project would have a significant effect on the environment due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.

D. Specific Requirements for Affordable Housing Projects Near Major Transit Stops. (Reference: Public Resources Code Sections 21083, 21159.24 and State Guidelines Section 15195.) CEQA does not apply to a residential project on an infill site within an urbanized area if all of the general requirements described above in Section A are satisfied and the following additional criteria are also met:

- (1) Within five (5) years prior to the date that the application for the project is deemed complete, community-level environmental review was certified or adopted. This exemption does not apply, however, if new information about the project or substantial changes regarding the circumstances surrounding the project become available after the community-level environmental review was certified or adopted;
- (2) The site is not more than four (4) acres in total area;
- (3) The project does not contain more than one hundred (100) residential units;
- (4) The project meets either of the following criteria:
 - (a) At least 10% of the housing is sold to families of moderate income or rented to families of low income, or at least 5% of the housing is rented to families of very low income, and the project developer has provided sufficient legal commitments to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs; or
 - (b) The project developer has paid or will pay in-lieu fees sufficient to pay for the development of the same number of units that would otherwise be sold or rented to families of moderate or very low income pursuant to subparagraph (a);
- (5) The project is within one-half mile of a major transit stop;

- (6) The project does not include any single-level building that exceeds one hundred thousand (100,000) square feet; and
 - (7) The project promotes higher density infill housing.
 - (a) A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing.
 - (b) A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.
 - (8) Exception.
 - (a) The Exemption for Affordable Housing Projects near Major Transit Stops does not apply if any one of the following criteria is met:
 - 1. There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances;
 - 2. Substantial changes have occurred since community-level environmental review was adopted or certified with respect to the circumstances under which the project is being undertaken, and those changes are related to the project; or
 - 3. New information regarding the circumstances under which the project is being undertaken has become available, and that new information is related to the project and was not known and could not have been known at the time of the community-level environmental review.
 - (b) If a project satisfies any one of the three criteria described above in Section 3.12D(8)(a), the environmental effects of the project must be analyzed in an Environmental Impact Report or a Negative Declaration. The environmental analysis shall be limited to the project-specific effects and any effects identified pursuant to Section 3.12D(8)(a).
- E. Whenever the Lead Agency determines that a project is exempt from environmental review based on Public Resources Code Section 21159.22 [Section 3.12B of these Local Guidelines], 21159.23 [Section 3.12C of these Local Guidelines], or 21159.24 [Section 3.12D of these Local Guidelines], Staff and/or the proponent of the project shall file a Notice of the Determination of Exemption with the Office of Planning and Research within five (5) working days after the approval of the project.

3.13 MINOR ALTERATIONS TO FLUORIDATE WATER UTILITIES.

Minor alterations to water utilities made for the purpose of complying with the fluoridation requirements of Health and Safety Code Sections 116410 and 116415 or regulations adopted there under are exempt.

3.14 BALLOT MEASURES.

The definition of project in the State Guidelines specifically excludes the submittal of proposals to a vote of the people of the state or of a particular community. This exemption does not apply to the public agency that sponsors the initiative. When a governing body makes a decision to put a measure on the ballot, that decision may be discretionary and therefore subject to CEQA. In contrast, the enactment of a qualified voter-sponsored initiative under California Constitution Art. II, Section 11(a) and Election Code Section 9214 is not a project and therefore is not subject to CEQA review. (See Local Guidelines Section 3.01.)

3.15 TRANSIT PRIORITY PROJECT.

Exemption: Transit priority projects that are part of either a sustainable community project consistent with the Sustainable Community Strategy or an alternative planning strategy are exempt. To qualify for the full CEQA exemption, the project must be a “transit priority project” for which the State Air Resources Board has accepted a determination that the Sustainable Communities Strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets. (Local Guidelines Section 10.67) To qualify for the exemption, the decision-making body must hold a hearing and make findings that the project meets all of Public Resources Code Section 21155.1’s environmental, housing, and public safety conditions and requirements.

Streamlined Review: A Transit Priority Project that has incorporated all feasible mitigation measures or criteria set forth in a prior environmental impact report may be eligible for streamlined environmental review. For a complete description of the requirements for this streamlined review see Public Resources Code Section 21155.2. Similarly, the environmental review for a residential or mixed use residential project may limit, or entirely omit, its discussion of growth-inducing impacts or impacts from traffic on global warming under certain limited circumstances. For complete requirements see Public Resources Code Section 21159.28.

Note that neither the exemption nor the streamlined review will apply until: (1) the Air Resources Board sets target greenhouse gas emissions levels, a process that may not be completed until September 30, 2010; and (2) the applicable Metropolitan Planning Organization (MPO) prepares and adopts a Sustainable Communities Strategy for the region.

3.16 OTHER SPECIFIC EXEMPTIONS.

CEQA and the State Guidelines exempt many other specific activities, including early activities related to thermal power plants, ongoing projects, transportation improvement programs, family day care homes, congestion management programs, railroad grade separation projects, restriping of streets or highways to relieve traffic congestion, and hazardous or volatile liquid pipelines. Specific statutory exemptions are listed in the Public Resources Code,

including Sections 21080 through 21080.33, and in the State Guidelines, including Sections 15260 through 15285.

3.17 CATEGORICAL EXEMPTIONS.

The State Guidelines establish certain classes of categorical exemptions. These apply to classes of projects which have been determined not to have a significant effect on the environment and which, therefore, are generally exempt. Compliance with the requirements of CEQA or the preparation of environmental documents for any project which comes within one of these classes of categorical exemptions is not required. The classes of projects are briefly summarized below. (Reference the State Guidelines for the full description of each exemption is recommended.)

The exemptions for Classes 3, 4, 5, 6 and 11 below are qualified in that such projects must be considered in light of the location of the project. A project that is ordinarily insignificant in its impact on the environment may, in a particularly sensitive environment, be significant. Therefore, these classes are considered to apply in all instances except when the project may impact on an environmental resource of hazardous or critical concern which has been designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

All classes of categorical exemptions are qualified. These exemptions are inapplicable if any of the following circumstances exist:

- (1) The cumulative impact of successive projects of the same type in the same place over time is significant;
- (2) There is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (3) The project may result in damage to a scenic or a substantial adverse change to a historical resource; or
- (4) The project is located on a site which is included on any hazardous waste site or list compiled pursuant to Government Code Section 65962.5.

With the foregoing limitations in mind, the following classes of activity are generally exempt:

Class 1: Existing Facilities. Activities involving the operation, repair, maintenance, permitting, leasing, licensing, minor alteration of, or legislative activities to regulate, existing public or private structures, facilities, mechanical equipment or other property, or topographical features, provided the activity involves negligible or no expansion of use beyond that existing at the time of the District's determination. The types of "existing facilities" itemized in Class 1 are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. (State Guidelines Section 15301.)

Class 2: Replacement or Reconstruction. Replacement or reconstruction of existing facilities, structures, or other property where the new facility or structure will be located on the same site as the replaced or reconstructed facility or structure and will have substantially the same purpose and capacity as the replaced or reconstructed facility or structure. (State Guidelines Section 15302.)

Class 3: New Construction or Conversion of Small Structures. Construction of limited numbers of small new facilities or structures; installation of small new equipment or facilities in small structures; and the conversion of existing small structures from one use to another, when only minor modifications are made in the exterior of the structure. This exemption includes structures built for both residential and commercial uses. (The maximum number of structures allowable under this exemption is set forth in State Guidelines Section 15303.)

Class 4: Minor Alterations to Land. Minor alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry or agricultural purposes. (State Guidelines Section 15304.)

Class 5: Minor Alterations in Land Use Limitations. Minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density. (State Guidelines Section 15305.)

Class 6: Information Collection. Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. (State Guidelines Section 15306.)

Class 7: Actions by Regulatory Agencies for Protection of Natural Resources. Actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. (State Guidelines Section 15307.)

Class 8: Actions By Regulatory Agencies for Protection of the Environment. Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment. (State Guidelines Section 15308.)

Class 9: Inspection. Inspection activities, including, but not limited to, inquiries into the performance of an operation and examinations of the quality, health or safety of a project. (State Guidelines Section 15309.)

Class 10: Loans. Loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions. (State Guidelines Section 15310.)

Class 11: Accessory Structures. Construction or replacement of minor structures accessory or appurtenant to existing commercial, industrial, or institutional facilities, including,

but not limited to, on-premise signs; small parking lots; and placement of seasonal or temporary use items, such as lifeguard towers, mobile food units, portable restrooms or similar items in generally the same locations from time to time in publicly owned parks, stadiums or other facilities designed for public use. (State Guidelines Section 15311.)

Class 12: Surplus Government Property Sales. Sales of surplus government property, except for certain parcels of land located in an area of statewide, regional or areawide concern as that term is defined in State Guidelines Section 15206(b)(4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

- (a) The property does not have significant values for wildlife or other environmental purposes, and
- (b) Any one of the following three conditions is met:
 - 1. The property is of such size, shape, or inaccessibility that it is incapable of independent development or use;
 - 2. The property to be sold would qualify for an exemption under any other class of categorical exemption in the State Guidelines; or
 - 3. The use of the property and adjacent property has not changed since the time of purchase by the public agency. (State Guidelines Section 15312.)

Class 13: Acquisition of Lands for Wildlife Conservation Purposes. Acquisition of lands for fish and wildlife conservation purposes, including preservation of fish and wildlife habitat, establishment of ecological preserves under Fish and Game Code Section 1580, and preservation of access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition. (State Guidelines Section 15313.)

Class 14: Minor Additions to Schools. Minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more 25% or ten (10) classrooms, whichever is less. The addition of portable classrooms is included in this exemption. (State Guidelines Section 15314.)

Class 15: Minor Land Divisions. Division(s) of property in urbanized areas zoned for residential, commercial or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20%. (State Guidelines Section 15315.)

Class 16: Transfer of Ownership of Land in Order to Create Parks. Acquisition, sale, or other transfer of land in order to establish a park where the land is in a natural condition or contains historical or archaeological resources and either:

- (a) The management plan for the park has not been prepared, or
- (b) The management plan proposes to keep the area in a natural condition or preserve the historic or archaeological resources.

CEQA will apply when a management plan is proposed that will change the area from its natural condition or cause substantial adverse change in the significance of the historic or archaeological resource. (State Guidelines Section 15316.)

Class 17: Open Space Contracts or Easements. Establishment of agricultural preserves, making and renewing of open space contracts under the Williamson Act or acceptance of easements or fee interests in order to maintain the open space character of the area. (The cancellation of such preserves, contracts, interests or easements is not included in this exemption.) (State Guidelines Section 15317.)

Class 18: Designation of Wilderness Areas. Designation of wilderness areas under the California Wilderness System. (State Guidelines Section 15318.)

Class 19: Annexations of Existing Facilities and Lots for Exempt Facilities.
Annexations:

- (a) To a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or rezoning of either the gaining or losing governmental agency, whichever is more restrictive; provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities; and
- (b) Of individual small parcels of the minimum size for facilities exempted by Class 3, New Construction or Conversion of Small Structures. (State Guidelines Section 15319.)

Class 20: Changes in Organization of Local Agencies. Changes in the organization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. Examples include but are not limited to:

- (a) Establishment of a subsidiary district;
- (b) Consolidation of two or more districts having identical powers;
- (c) Merger with a city of a district lying entirely within the boundaries of the city.

(State Guidelines Section 15320.)

Class 21: Enforcement Actions by Regulatory Agencies. Actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate or other entitlement for use issued, adopted or prescribed by the regulatory agency or a law, general rule, standard or objective administered or adopted by the regulatory agency; or law enforcement activities by peace officers acting under any law that provides a criminal sanction. The direct referral of a violation of lease, permit, license certificate, or entitlement to the City Attorney is exempt under this Class. (Construction activities undertaken by the District taking the enforcement or revocation action are not included in this exemption.) (State Guidelines Section 15321.)

Class 22: Educational or Training Programs Involving No Physical Changes. The adoption, alteration or termination of educational or training programs which involve no

physical alteration in the area affected or which involve physical changes only in the interior of existing school or training structures. Examples include but are not limited to:

- (a) Development of or changes in curriculum or training methods; or
- (b) Changes in the trade structure in a school which do not result in changes in student transportation.

(State Guidelines Section 15322.)

Class 23: Normal Operations of Facilities for Public Gatherings. Continued or repeated normal operations of existing facilities for public gatherings for which the facilities were designed, where there is past history, of at least three years, of the facility being used for the same or similar purposes. Facilities included within this exemption include, but are not limited to race tracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools and amusement parks. (State Guidelines Section 15323.)

Class 24: Regulation of Working Conditions. Actions taken by the District to regulate employee wages, hours of work or working conditions where there will be no demonstrable physical changes outside the place of work. (State Guidelines Section 15324.)

Class 25: Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources. Transfers of ownership of interest in land in order to preserve open space, habitat, or historical resources. Examples include, but are not limited to, acquisition, sale, or other transfer of areas to: preserve existing natural conditions, including plant or animal habitats; allow continued agricultural use of the areas; allow restoration of natural conditions; preserve open space or lands for natural park purposes; or prevent encroachment of development into floodplains. This exemption does not apply to the development of parks or park uses. (State Guidelines Section 15325.)

Class 26: Acquisition of Housing for Housing Assistance Programs. Actions by a redevelopment agency, housing authority or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units, provided the housing units are either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units. (State Guidelines Section 15326.)

Class 27: Leasing New Facilities. Leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency when the District determines that the proposed use of the facility:

- (a) Conforms with existing state plans and policies and with general, community, and specific plans for which an EIR or Negative Declaration has been prepared;
- (b) Is substantially the same as that originally proposed at the time the building permit was issued;
- (c) Does not result in a traffic increase of greater than 10% of front access road capacity; and

- (d) Includes the provision of adequate employee and visitor parking facilities.

(State Guidelines Section 15327.)

Class 28: Small Hydroelectric Projects as Existing Facilities. Installation of certain small hydroelectric-generating facilities in connection with existing dams, canals and pipelines, subject to the conditions in State Guidelines Section 15328. (State Guidelines Section 15328.)

Class 29: Cogeneration Projects at Existing Facilities. Installation of cogeneration equipment with a capacity of 50 megawatts or less at existing facilities meeting certain conditions listed in State Guidelines Section 15329. (State Guidelines Section 15329.)

Class 30: Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances. Any minor cleanup actions taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing \$1 million or less. (State Guidelines Section 15330.)

- (a) No cleanup action shall be subject to this Class 30 exemption if the action requires the onsite use of a hazardous waste incinerator or thermal treatment unit or the relocation of residences or businesses, or the action involves the potential release into the air of volatile organic compounds as defined in Health and Safety Code Section 25123.6, except for small scale in situ soil vapor extraction and treatment systems which have been permitted by the local Air Pollution Control District or Air Quality Management District. All actions must be consistent with applicable state and local environmental permitting requirements including, but not limited to, off-site disposal, air quality rules such as those governing volatile organic compounds and water quality standards, and approved by the regulatory body with jurisdiction over the site.
- (b) Examples of such minor cleanup actions include but are not limited to:
 1. Removal of sealed, non-leaking drums of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;
 2. Maintenance or stabilization of berms, dikes, or surface impoundments;
 3. Construction or maintenance or interim of temporary surface caps;
 4. Onsite treatment of contaminated soils or sludges provided treatment system meets Title 22 requirements and local air district requirements;
 5. Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;

6. Application of dust suppressants or dust binders to surface soils;
7. Controls for surface water run-on and run-off that meets seismic safety standards;
8. Pumping of leaking ponds into an enclosed container;
9. Construction of interim or emergency ground water treatment systems; or
10. Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

Class 31: Historical Resource Restoration/Rehabilitation. Maintenance, repairs, stabilization, rehabilitation, restoration, preservation, conservation, or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer. (State Guidelines Section 15331.)

Class 32: Infill Development Projects. Infill development meeting the following conditions:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- (c) The project site has no value as habitat for endangered, rare or threatened species;
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- (e) The site can be adequately served by all required utilities and public services. (State Guidelines Section 15332.)

Class 33: Small Habitat Restoration Projects. Examples of small habitat restoration projects include, but are not limited to: revegetation of disturbed areas with native plant species; wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat; stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish; projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment; stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; culvert replacement conducted in accordance with published guidelines of the Department of Fish and Game or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation, and other similar projects to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife.

This exemption only applies to projects that are five acres or less in size and that meet the following criteria:

- (a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to Section 15065 of the State Guidelines;
- (b) There are no hazardous materials at or around the project site that may be disturbed or removed; and
- (c) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. (State CEQA Guidelines Section 15333.)

4. TIME LIMITATIONS

4.01 REVIEW OF PRIVATE PROJECT APPLICATIONS.

Staff shall determine whether the application for a private project is complete within thirty (30) days of receipt of the application. No application may be deemed incomplete for lack of a waiver of the time limitations in Local Guidelines Sections 4.03 and 4.04. Accepting an application as complete does not limit the authority of the District, acting as the Lead Agency, to require the applicant to submit additional information needed for environmental evaluation of the project. Requiring such additional information after the application is complete does not change the status of the application.

4.02 DETERMINATION OF TYPE OF ENVIRONMENTAL DOCUMENT.

Except as provided in Local Guidelines Sections 4.05 and 4.06, Staff's initial determination as to whether a Negative Declaration, Mitigated Negative Declaration or an EIR should be prepared shall be made within thirty (30) days from the date on which an application for a project is accepted as complete by the District. This period may be extended fifteen (15) days with consent of the applicant and the District.

4.03 COMPLETION AND ADOPTION OF NEGATIVE DECLARATION.

For private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the Negative Declaration/Mitigated Negative Declaration shall be completed and approved within one hundred eighty (180) days from the date when the District accepted the application as complete. In the event that compelling circumstances justify additional time and the project applicant consents thereto, Staff may provide for a reasonable extension of the time limit for completing and adopting the Negative Declaration/Mitigated Negative Declaration.

4.04 COMPLETION AND CERTIFICATION OF FINAL EIR.

For private projects, the Final EIR shall be completed and certified by the District within one year after the date when the District accepted the application as complete. In the event that compelling circumstances justify additional time and the project applicant consents thereto, the District may provide a one-time extension up to ninety (90) days for completing and certifying the EIR.

4.05 PROJECTS SUBJECT TO THE PERMIT STREAMLINING ACT.

The Permit Streamlining Act requires agencies to make decisions on certain development project approvals within specified time limits. If a project is subject to the Act, the District cannot require the project applicant to submit the informational equivalent of an EIR or prove compliance with CEQA as a prerequisite to determining whether the project application is complete. In addition, if requested by the project applicant, the District must begin processing the project application prior to final CEQA action, provided the information necessary to begin the process is available.

Under the Permit Streamlining Act, the Lead Agency must approve or disapprove the development project application within one hundred eighty (180) days from the date on which it certifies the EIR, or within ninety (90) days of certification if an extension for completing and certifying the EIR was granted. If the Lead Agency adopts a Negative Declaration/Mitigated Negative Declaration or determines the development project is exempt from CEQA, it shall approve or disapprove the project application within sixty (60) days from the date on which it adopts the Negative Declaration/Mitigated Negative Declaration or determines that the project is exempt from CEQA.

Except for waivers of the time periods for preparing a joint Environmental Impact Report/Environmental Impact Statement (as outlined in Government Code Sections 65951 and 65957), the District cannot require a waiver of the time limits specified in the Permit Streamlining Act as a condition of accepting or processing a development project application. In addition, the District cannot disapprove a development project application in order to comply with the time limits specified in the Permit Streamlining Act.

4.06 PROJECTS, OTHER THAN THOSE SUBJECT TO THE PERMIT STREAMLINING ACT, WITH SHORT TIME PERIODS FOR APPROVAL.

A few statutes require agencies to make decisions on project applications within time limits that are so short that review of the project under CEQA would be difficult. To enable the District as Lead Agency to comply with both the enabling statute and CEQA, the District shall deem a project application as not received for filing under the enabling statute until such time as the environmental documentation required by CEQA is complete. This section applies where all of the following conditions are met:

- (a) The enabling statute for a program, other than development projects under Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, requires the District to take action on an application within a specified period of time of six (6) months or less;
- (b) The enabling statute provides that the project is approved by operation of law if the District fails to take any action within the specified time period; and
- (c) The project application involves the District's issuance of a lease, permit, license, certificate or other entitlement for use.

In any case, the environmental document shall be completed or certified and the decision on the application shall be made within the period established by the Permit Streamlining Act (Government Code Sections 65920, et seq.).

4.07 WAIVER OR SUSPENSION OF TIME PERIODS.

These deadlines may be waived by the applicant if the project is subject to both CEQA and NEPA. (State Guidelines Sections 15110 and 15224; see Section 5.04 of these Local Guidelines for information about projects that are subject to both CEQA and NEPA.)

An unreasonable delay by an applicant in meeting District requests necessary for the preparation of a Negative Declaration or an EIR shall suspend the running of the time periods described in Local Guidelines Sections 4.03 and 4.04 for the period of the unreasonable delay.

Alternatively, the District may disapprove a project application where there is unreasonable delay in meeting requests. The District may also allow a renewed application to start at the same point in the process where the prior application was when it was disapproved.

5. INITIAL STUDY

5.01 PREPARATION OF INITIAL STUDY.

If the District determines that it is the Lead Agency for a project which is not exempt, the District shall prepare an Initial Study to ascertain whether the project may have a substantial adverse effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial. All phases of project planning, implementation and operation must be considered in the Initial Study. An Initial Study may rely on expert opinion supported by facts, technical studies or other substantial evidence. However, an Initial Study is neither intended nor required to include the level of detail included in an EIR.

- (a) For District projects, the Initial Study shall be prepared by Staff or by private experts pursuant to contract with the District.
- (b) For private projects, the person or entity proposing to carry out the project shall submit all data and information as may be required by the District to determine whether the proposed project may have a significant effect on the environment. All costs incurred by the District in reviewing the data and information submitted, or in conducting its own investigation based upon such data and information, or in preparing an Initial Study for the project shall be borne by the person or entity proposing to carry out the project.

5.02 INFORMAL CONSULTATION WITH OTHER AGENCIES.

When more than one public agency will be involved in undertaking or approving a project, the District as Lead Agency shall consult with all Responsible and any Trustee Agencies. Such consultation shall be undertaken in compliance with the notice procedures applicable to the type of CEQA document being prepared. See Section 6.04, Negative Declarations, and Section 7.03, EIRs.

The District may choose to engage in early consultation with Responsible and Trustee Agencies before the District begins to prepare the Initial Study. This early consultation may be done quickly and informally and is intended to ensure that the EIR, Negative Declaration or Mitigated Negative Declaration reflects the concerns of all Responsible Agencies that will issue approvals for the project and all Trustee Agencies responsible for natural resources affected by the project. The District's early consultation process may include consultation with other individuals or organizations with an interest in the project, if the District so desires. The Office of Planning and Research, upon request of the District or a private project applicant, shall assist in identifying the various Responsible Agencies for a proposed project and ensure that the Responsible Agencies are notified regarding any early consultation. In the case of a project undertaken by a public agency, the Office of Planning and Research, upon request of the District, shall ensure that any Responsible Agency or public agency that has jurisdiction by law with respect to the project is notified regarding any early consultation.

If, during the early consultation process it is determined that the project will clearly have a significant effect on the environment, the District may immediately dispense with the Initial Study and determine that an EIR is required.

5.03 CONSULTATION WITH PRIVATE PROJECT APPLICANT.

During or immediately after preparation of an Initial Study for a private project, the District may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study. If the project can be revised to avoid or mitigate effects to a level of insignificance and there is no substantial evidence before the District that the project, as revised, may have a significant effect on the environment, the District may prepare and adopt a Negative Declaration. If any significant effect may still occur despite alterations of the project, an EIR must be prepared.

5.04 PROJECTS SUBJECT TO NEPA

Projects that are carried out, financed, or approved in whole or in part by a federal agency are subject to the provisions of the National Environmental Protection Act (“NEPA”) in addition to CEQA. To the extent possible, the State Guidelines encourage the District to use the federally-prepared Environmental Impact Statement (“EIS”) or Finding of No Significant Impact (“FONSI”) or to prepare joint CEQA/NEPA documents instead of preparing a separate NEPA and CEQA documents for a project that is subject to both NEPA and CEQA. (State Guidelines Section 15220.) For example, the District should attempt to work in conjunction with the federal agency involved in the project to prepare a combined EIR-EIS or Negative Declaration-FONSI. (State Guidelines Section 15222.) The District is required to cooperate with the federal agency and to utilize joint planning processes, environmental research and studies, public hearings, and environmental documents to the fullest extent possible. (State Guidelines Section 15226.) However, since NEPA does not require an examination of mitigation measures or growth-inducing impacts, analysis of mitigation measures and growth-inducing impacts will need to be added before NEPA documents may be used to satisfy CEQA. (State Guidelines Section 15221.)

For projects that are subject to NEPA, a scoping meeting held pursuant to NEPA satisfies the CEQA scoping requirement as long as notice is provided to the agencies and individuals listed in Local Guidelines Section 7.06, and provided in accordance with these Local Guidelines.

If the federal agency refuses to cooperate with the District with regard to the preparation of joint documents, the District should attempt to involve a state agency in the preparation of the EIR, Negative Declaration, or Mitigated Negative Declaration. Since federal agencies are explicitly permitted to utilize environmental documents prepared by agencies of statewide jurisdiction, it is possible that the federal agency will reuse the state-prepared CEQA documents instead of requiring the applicant to fund a redundant set of federal environmental documents. (State Guidelines Section 15228.)

Where the federal agency has circulated the EIS or FONSI and the circulation satisfied the requirements of CEQA and any other applicable laws, the District may use the EIS or FONSI in place of an EIR or Negative Declaration without having to recirculate the federal documents. The District’s intention to adopt the previously circulated EIS or FONSI must be publicly noticed in the same way as a Notice of Availability of a Draft EIR.

Special rules may apply when the environmental documents are prepared for projects involving the reuse of military bases. See State Guidelines Section 15225.

5.05 AN INITIAL STUDY.

The Initial Study shall be used to determine whether a Negative Declaration, Mitigated Negative Declaration or an EIR shall be prepared for a project. It provides written documentation of whether the District found evidence of significant adverse impacts which might occur. The purposes of an Initial Study are to:

- (a) Identify environmental impacts;
- (b) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is written;
- (c) Focus an EIR, if one is required, on potentially significant environmental effects;
- (d) Facilitate environmental assessment early in the design of a project;
- (e) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;
- (f) Eliminate unnecessary EIRs; and
- (g) Determine whether a previously prepared EIR could be used for the project.

5.06 CONTENTS OF INITIAL STUDY.

An Initial Study shall contain in brief form:

- (a) A description of the project, including the location of the project. The project description must be consistent throughout the environmental review process;
- (b) An identification of the environmental setting;
- (c) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries are briefly explained to show the evidence supporting the entries. The brief explanation may be through either a narrative or a reference to other information such as attached maps, photographs, or an earlier EIR or Negative Declaration. A reference to another document should include a citation to the page or pages where the information is found;
- (d) A discussion of ways to mitigate any significant effects identified;
- (e) An examination of whether the project is consistent with existing zoning and local land use plans and other applicable land use controls;
- (f) The name of the person or persons who prepared or participated in the Initial Study; and
- (g) Identification of prior EIRs or environmental documents which could be used with the project.

5.07 USE OF A CHECKLIST INITIAL STUDY.

When properly completed, the Environmental Checklist (Form "J") will meet the requirements of Local Guidelines Section 5.05 provided that the entries on the checklist are explained. Either the Environmental Checklist (Form "J") should be expanded or a separate attachment should be prepared to describe the project, including its location, and to identify the environmental setting.

California courts have rejected the use of a bare, unsupported Initial Study checklist. An Initial Study must contain more than mere conclusions. It must disclose supporting data or evidence upon which the District relied in conducting the Study. The District shall augment

checklists with supporting factual data and reference information sources when completing the forms. Explanation of all “potential impact” answers should be provided on attached sheets. For controversial projects, it is advisable to state briefly why “no” answers were checked. If practicable, attach a list of reference materials, such as prior EIRs, plans, traffic studies, air quality data, or other supporting studies.

5.08 EVALUATING SIGNIFICANT ENVIRONMENTAL EFFECTS.

In evaluating the environmental significance of effects disclosed by the Initial Study, the District shall consider:

- (a) Whether the Initial Study and/or any comments received informally during consultations indicate that a fair argument can be made that the project may have a significant adverse environmental impact which cannot be mitigated to a level of insignificance. Even if a fair argument can be made to the contrary, an EIR should be prepared.
- (b) Whether both primary (direct) and secondary (indirect) consequences of the project were evaluated. Primary consequences are immediately related to the project, while secondary consequences are related more to the primary consequences than to the project itself. For example, secondary impacts upon the resources base, including land, air, water and energy use of an area, may result from population growth, a primary impact.
- (c) Whether adverse social and economic changes will result from a physical change caused by the project. Adverse economic and social changes resulting from a project are not, in themselves, significant environmental effects. However, if such adverse changes cause physical changes in the environment, those consequences may be used as the basis for finding that the physical change is significant.
- (d) Whether there is serious public controversy or disagreement among experts over the environmental effects of the project. However, the existence of public controversy or disagreement among experts does not, without more, require preparation of an EIR in the absence of substantial evidence of significant effects.
- (e) Whether the cumulative impact of the project is significant and whether the incremental effects of the project are “cumulatively considerable” (as defined in Local Guidelines Section 10.11) when viewed in connection with the effects of past projects, current projects, and probable future projects.
- (f) Whether the project may cause a substantial adverse change in the significance of an archaeological or historical resource.

5.09 MANDATORY FINDINGS OF SIGNIFICANT EFFECT.

Whenever there is substantial evidence, in light of the whole record, that any of the conditions set forth below may occur, the District shall find that the project may have a significant effect on the environment and thereby shall require preparation of an EIR:

- (a) The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered

- plant or animal, or eliminate important examples of major periods of California history or prehistory;
- (b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals;
 - (c) The project has possible environmental effects which are individually limited but cumulatively considerable. “Cumulatively considerable” means that the incremental effects of an individual project are significant when viewed in connection with the effects of past, current, and probable future projects. That is, the District is required to determine whether the incremental impacts of a project are cumulatively considerable by evaluating them against the back-drop of the environmental effects of the other projects; or
 - (d) The environmental effects of a project will cause substantial adverse effects on humans either directly or indirectly.

If, before the release of the CEQA document for public review, the potential for triggering one of the mandatory findings of significance is avoided or mitigation measures or project modifications reduce the potentially significant impacts to a point where clearly the mandatory finding of significance is not triggered, preparation of an EIR is not mandated. If the project’s potential for triggering one of the mandatory findings of significance cannot be avoided or mitigated to a point where the criterion is clearly not triggered, an EIR shall be prepared, and the relevant mandatory findings of significance shall be used: (1) as thresholds of significance for purposes of preparing the EIR’s impact analysis, (2) in making findings on the feasibility of alternatives or mitigation measures, (3) when found to be feasible, in making changes in the project to lessen or avoid the adverse environmental impacts, and (4) when necessary, in adopting a statement of overriding considerations.

Although an EIR prepared for a project that triggers one of the mandatory findings of significance must use the relevant mandatory findings as thresholds of significance, the EIR need not conclude that the impact itself is significant. Rather, the District must exercise its discretion and determine, on a case-by-case basis after evaluating all of the relevant evidence, whether the project’s environmental impacts are avoided or mitigated below a level of significance or whether a statement of overriding considerations is required.

With regard to a project that has the potential to substantially reduce the number or restrict the range of a protected species, the District does not have to prepare an EIR solely due to that impact, provided the project meets the following three criteria:

- (a) The project proponent must be bound to implement mitigation requirements relating to such species and habitat pursuant to an approved habitat conservation plan and/or natural communities conservation plan;
- (b) The state or federal agency must have approved the habitat conservation plan and/or natural community conservation plan in reliance on an EIR and/or EIS; and
- (c) The mitigation requirements must either avoid any net loss of habitat and net reduction in number of the affected species, or preserve, restore, or enhance sufficient habitat to mitigate the reduction in habitat and number of the affected species below a level of significance.

5.10 MANDATORY PREPARATION OF AN EIR FOR WASTE-BURNING PROJECTS.

The District, as Lead Agency, shall prepare or cause to be prepared and certify the completion of an EIR, or, if appropriate, an Addendum, Supplemental EIR, or Subsequent EIR, for any project involving the burning of municipal wastes, hazardous waste or refuse-derived fuel, including, but not limited to, tires, if the project consists of any of the following:

- (a) The construction of a new facility.
- (b) The expansion of an existing hazardous waste burning facility which would increase its permitted capacity by more than 10%.
- (c) The issuance of a hazardous waste facilities permit to a land disposal facility, as defined in Local Guidelines Section 10.29; or.
- (d) The issuance of a hazardous waste facilities permit to an offsite large treatment facility, as defined in Local Guidelines Sections 10.30 and 10.50.

This section does not apply to projects listed in subsections (c) and (d), immediately above, if the facility only manages hazardous waste that is identified or listed pursuant to Health and Safety Code Section 25140 or 25141 or only conducts activities which are regulated pursuant to Health and Safety Code Section 25100, et seq.

The District shall calculate the percentage of expansion for an existing facility by comparing the proposed facility's capacity with either of the following, as applicable:

- (a) The facility capacity authorized in the facility's hazardous waste facilities permit pursuant to Health and Safety Code Section 25200, or its grant of interim status pursuant to Health and Safety Code Section 25200.5, or the facility capacity authorized in any state or local agency permit allowing the construction or operation of the facility for the burning of hazardous waste granted before January 1, 1990; or
- (b) The facility capacity authorized in the facility's original hazardous facilities permit, grant of interim status, or any state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted on or after January 1, 1990.

This section does not apply to any project over which the State Energy Resources Conservation and Development Commission has assumed jurisdiction per Health and Safety Code Section 25500, et seq.

The EIR requirement is also subject to a number of exceptions for specific types of waste-burning projects. (Public Resources Code Section 21151.1 and State Guidelines Section 15081.5.) Even if preparation of an EIR is not mandatory for a particular type of waste-burning project, those projects are not exempt from the other requirements of CEQA, the State Guidelines, or these Local Guidelines. In addition, waste-burning projects are subject to special notice requirements under Public Resources Code Section 21092. Specifically, in addition to the standard public notices required by CEQA, notice must be provided to all owners and occupants of property located within one-fourth mile of any parcel or parcels on which the waste-burning project will be located. (Public Resources Code Section 21092(c).) See Local Guidelines Sections 6.09, 7.19 and 7.21.

5.11 DEVELOPMENT PURSUANT TO AN EXISTING COMMUNITY PLAN AND EIR.

Before preparing a CEQA document, Staff should determine whether the proposed project involves development consistent with an earlier zoning or community plan to accommodate a particular density for which an EIR has been certified. If an earlier EIR for the zoning or planning action has been certified, and if the proposed project is approval of a subdivision map or development, CEQA applies only to the extent the project raises environmental effects peculiar to the parcel which were not addressed in the earlier EIR. Off-site and cumulative effects not discussed in the general plan EIR must still be considered. Mitigation measures set out in the earlier EIR should be implemented at this stage.

Environmental effects shall not be considered peculiar to the parcel if uniformly applied development policies or standards have been previously adopted by a city or county with a finding based on substantial evidence that the policy or standard will substantially mitigate the environmental effect when applied to future projects. Any rezoning action consistent with the Community Plan shall be subject to exemption from CEQA in accordance with this section. "Community Plan" means part of a city's general plan which: (1) applies to a defined geographic portion of the total area included in the general plan; (2) complies with Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code by referencing each of the mandatory elements specified in Government Code Section 65302; and (3) contains specific development policies adopted for the area in the Community Plan and identifies measures to implement those policies, so that the policies which will apply to each parcel can be determined.

5.12 LAND USE POLICIES.

When a project will amend a general plan or another land use policy, the Initial Study must address how the change in policy and its expected direct and indirect effects will affect the environment. When the amendments constitute substantial changes in policies that result in a significant impact on the environment, an EIR may be required.

5.13 EVALUATING IMPACTS ON HISTORICAL RESOURCES.

Projects that may cause a substantial adverse change in the significance of a historical resource, as defined in Local Guidelines Section 10.25, are projects that may have a significant effect on the environment, thus requiring consideration under CEQA. Particular attention and care should be given when considering such projects, especially projects involving the demolition of a historical resource, since such demolitions have been determined to cause a significant effect on the environment.

Substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation or alteration of the resource or its immediate surroundings, such that the significance of a historical resource would be materially impaired.

The significance of a historical resource is materially impaired when a project:

- (a) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register of Historical Resources;
- (b) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources or its identification in a historical resources survey, unless the Lead Agency establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
- (c) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by the Lead Agency for purposes of CEQA.

Generally, a project that follows either one of the following sets of standards and guidelines will be considered mitigated to a level of less than significant: (a) the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings; or (b) the Secretary of the Interior's Standards for Rehabilitation and Local Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer.

In the event of an accidental discovery of a possible historical resource during construction of the project, the District may provide for the evaluation of the find by a qualified archaeologist or other professional. If the find is determined to be a historical resource, the District should take appropriate steps to implement appropriate avoidance or mitigation measures. Work on non-affected portions of the project, as determined by the District, may continue during the process. Curation may be an appropriate mitigation measure for an artifact that must be removed during project excavation or testing.

5.14 EVALUATING IMPACTS ON ARCHAEOLOGICAL SITES.

When a project will impact an archaeological site, the District shall first determine whether the site is a historical resource, as defined in Local Guidelines Section 10.25. If the archaeological site is a historical resource, it shall be treated and evaluated as such, and not as an archaeological resource. If the archaeological site does not meet the definition of a historical resource, but does meet the definition of a unique archaeological resource set forth in Public Resources Code Section 21083.2, the site shall be treated in accordance with said provisions of the Public Resources Code. The time and cost limitations described in Section 21083.2(c-f) do not apply to surveys and site evaluation activities intended to determine whether the project site contains unique archaeological resources.

If the archaeological resource is neither a unique archaeological resource nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

In the event of an accidental discovery of a possible unique archaeological resource during construction of the project, the District may provide for the evaluation of the find by a

qualified archaeologist. If the find is determined to be a unique archaeological resource, the District should take appropriate steps to implement appropriate avoidance or mitigation measures. Work on non-affected portions of the project, as determined by the District, may continue during the process. Curation may be an appropriate mitigation measure for an artifact that must be removed during project excavation or testing.

When an Initial Study identifies the existence of, or the probable likelihood of, Native American human remains within the Project, the District shall comply with the provisions of State Guidelines Section 15064.5(d). In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the District shall comply with the provisions of State Guidelines Section 15064.5(e).

5.15 CONSULTATION WITH WATER AGENCIES REGARDING LARGE DEVELOPMENT PROJECTS.

(a) Projects Subject to Consultation Requirements.

For certain development projects, cities and counties must consult with water agencies. If the District is a municipal water provider for a project, the city or county may request that the District prepare a assessment to be included in the environmental documents prepared for the project. This section applies only to water demand projects as defined by Guideline 10.74. Program level environmental review may not need to be as extensive as project level environmental review. See Local Guidelines Sections 8.03 and 8.08.

(b) Water Supply Assessment.

When a city or county acting as Lead Agency determines the type of environmental document that will be prepared for a water demand project or any project that includes a water demand project, the city or county must identify any public water system (as defined in Local Guidelines Sections 10.55 and 10.74) that may supply water for the project. The city or county must also request that the public water system determine whether the projected demand associated with the project was included in the most recently adopted Urban Water Management Plan. The city or county must also request that the public water system prepare a specified water supply assessment for approval at a regular or special meeting of the public water system governing body.

If no public water system is identified that may supply water for the water demand project, the city or county shall prepare the water supply assessment. The city or county shall consult with any entity serving domestic water supplies whose service area includes the site of the water demand project, the local agency formation commission, and the governing body of any public water system adjacent to the site of the water demand project. The city council or county board of supervisors must approve the water assessment prepared pursuant to this paragraph at a regular or special meeting.

As per Water Code section 10910, the water assessment must include identification of existing water supply entitlements, water rights, or water service contracts relevant to the water supply for the proposed project and water received in prior years pursuant to those entitlements, rights, and contracts, and further information is required if water supplies include groundwater.

The water assessment must determine the ability of the public water system to meet existing and future demands along with the demands of the proposed water demand project in light of existing and future water supplies. This supply demand analysis is to be conducted via a twenty-year projection, and must assess water supply sufficiency during normal year, single dry year, and multiple dry year hydrology scenarios. If the public water agency concludes that the water supply is, or will be, insufficient, it must submit plans for acquiring additional water supplies.

The city or county shall grant the public water agency a 30 day extension of time to prepare the assessment if the public water agency requests an extension within 90 days of being asked to prepare the assessment. If the governing body of the public water system fails to request and receive an extension of time, or fails to submit the water assessment notwithstanding the 30 day extension, the city or county may seek a writ of mandamus to compel the governing body of the public water system to comply.

The city or county shall include the water assessment, and any water acquisition plan in the EIR, negative declaration, or mitigated negative declaration, or any supplement thereto, prepared for the project, and may include an evaluation of the water assessment and water acquisition plan information within such environmental document. A discussion of water supply availability should be included in the main text of the environmental document. Normally, this discussion should be based on the data and information included in the water supply assessment. In making its required findings under CEQA, the city or county shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If a city or county determines that water supplies will not be sufficient, the city or county shall include that determination in its findings for the project.

If a water-demand project has been the subject of a water assessment, no additional water assessment shall be required for subsequent water-demand projects that were included in the larger water-demand project if all of the following criteria are met:

- (1) The entity completing the water assessment concluded that its water supplies are sufficient to meet the projected water demand associated with the larger water-demand project, in addition to the existing and planned future uses, including, but not limited to, agricultural and industrial uses; and
- (2) None of the following changes has occurred since the completion of the water assessment for the larger water-demand project:
 - (A) Changes in the larger water-demand project that result in a substantial increase in water demand for the water-demand project.
 - (B) Changes in the circumstances or conditions substantially affecting the ability of the public water system identified in the water assessment to provide a sufficient supply of water for the water demand project.

- (C) Significant new information becomes available which was not known and could not have been known at the time when the entity had reached its assessment conclusions.

For complete information on these requirements, consult Water Code Sections 10910, et seq. For other CEQA provisions applicable to these types of projects, see Local Guidelines Sections 7.03 and 7.19.

5.16 SUBDIVISIONS WITH MORE THAN 500 DWELLING UNITS.

Cities and counties must obtain written verification (Form "O") from the applicable public water system(s) that a sufficient water supply is available before approving certain development projects. If the District is a municipal water provider for a project, a city or county may request such a verification from the District.

Cities and counties are prohibited from approving a tentative map, parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwellings units, unless:

- (1) The applicable City Council, Board of Supervisors, or the advisory agency receives written verification from the applicable public water system that a sufficient water supply is available; or
- (2) Under certain circumstances, the City Council, Board of Supervisors or the advisory agency makes a specified finding that sufficient water supplies are, or will be, available prior to completion of the project.

For complete information on these requirements, consult Government Code Section 66473.7.

5.17 IMPACTS TO OAK WOODLANDS.

When a county prepares an Initial Study to determine what type of environmental document will be prepared for a project within its jurisdiction, the county must determine whether the project may result in a conversion of oak woodlands that will have a significant effect on the environment. Normally, this rule does not apply to projects undertaken by the District. However, if the District is a Responsible Agency on such a project, the District should endeavor to ensure that the county, as Lead Agency, analyzes these impacts in accordance with CEQA.

5.18 CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS

Neither the Public Resources Code nor the State Guidelines specifically require analysis of climate change, global warming or greenhouse gas ("GHG") emissions and thus, these Local Guidelines do not mandate a discussion of climate change, global warming or GHG in all environmental documents. However, recent cases, legislation and information suggest that an analysis of potential global warming and GHG impacts should be included in every environmental document where feasible and appropriate. In the absence of State Guidelines and

case precedent, the District, as Lead Agency, is responsible for determining how global warming is analyzed in its CEQA documents.

The failure to adequately analyze greenhouse gas emissions will not create a cause of action for a violation of CEQA if the challenged environmental impact report, negative declaration, or mitigated negative declaration was prepared for either: (1) a transportation project funded under the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006; or (2) a project funded under the Disaster Preparedness and Flood Prevention Bond Act of 2006. This limitation on litigation applies retroactively for any of the above documents that are not final and shall be repealed on January 1, 2010. This limitation on litigation, however, does not excuse the Lead Agency from including a discussion of greenhouse gas emissions in the CEQA document.

Thresholds of Significance: The Governor's Office of Planning and Research issued a technical advisory on addressing climate change through CEQA. (Available at <http://www.opr.ca.gov/>.) The technical advisory discusses recommended approaches for analyzing greenhouse gases, and identifies factors the Lead Agency may consider in establishing thresholds of significance. In addition, the advisory lists examples of greenhouse gas reduction measures, which may be used as possible mitigation measures, if appropriate and necessary.

Streamlined Analysis of Greenhouse Gases: Under certain limited circumstances, the legislature has specifically declared that the analysis of greenhouse gas or climate change impacts may be limited. Public Resources Code Sections 21155, 21155.2, and 21159.28 provide that a transit priority project meeting specified ratios and densities that is located within one-half mile of a major transit stop or high-quality transit corridor identified in the regional transportation plan may be exempt from environmental review or subject only to limited review if a detailed list of requirements is met.

Mitigation Measures: OPR is required, by July 1, 2009, to prepare, develop, and transmit to the Resources Agency Guidelines for the feasible mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions. The Resources Agency is required to certify and adopt those Local Guidelines by January 1, 2010.

5.19 ENVIRONMENTAL IMPACT ASSESSMENT.

The job of the Initial Study is to identify which environmental impacts may be significant. Based upon the Initial Study, Staff shall determine whether a proposed project may or will have a significant effect on the environment. Such determination shall be made in writing on the Environmental Impact Assessment Form (Form "C"). If Staff finds that a project will not have a significant effect on the environment, it shall recommend that a Negative Declaration be prepared and adopted by the decisionmaking body. If Staff finds that a project may have a significant effect on the environment, but the effects can be mitigated to a level of insignificance, it shall recommend that a Mitigated Negative Declaration be prepared and adopted by the decisionmaking body. If Staff finds that a project may have a significant effect on the environment, it shall recommend that an EIR be prepared and certified by the decisionmaking body.

5.20 FINAL DETERMINATION.

The Board of Directors shall have the final responsibility for determining whether an EIR, Negative Declaration or Mitigated Negative Declaration shall be required for any project. The Board of Directors' determination shall be final and conclusive on all persons, including Responsible Agencies and Trustee Agencies, except as provided in Section 15050(c) of the State Guidelines.

6. NEGATIVE DECLARATION

6.01 DECISION TO PREPARE A NEGATIVE DECLARATION.

A Negative Declaration (Form “E”) shall be prepared for a project subject to CEQA when the Initial Study shows that there is no substantial evidence in light of the whole record that the project may have a significant or potentially significant adverse effect on the environment. (See Local Guidelines Sections 10.59 and 10.64.)

6.02 DECISION TO PREPARE A MITIGATED NEGATIVE DECLARATION.

A Mitigated Negative Declaration (Form “E”) shall be prepared for a project subject to CEQA when the Initial Study identifies potentially significant effects on the environment, but:

- (a) The project applicant has agreed to revise the project or the District can revise the project to avoid these significant effects or to mitigate the effects to a point where it is clear that no significant effects would occur; and
- (b) There is no substantial evidence in light of the whole record before the District that the revised project may have a significant effect.

If an applicant proposes mitigation measures, the project plans must be revised to incorporate these mitigation measures before the proposed Negative Declaration is released for public review. It is insufficient to require an applicant to adopt mitigation measures after final adoption of the Negative Declaration or to state that mitigation measures will be recommended on the basis of a future study. The District must know the measures at the time the Negative Declaration is adopted in order for them to be evaluated and accepted as adequate mitigation. Evidence of agreement by the applicant to such mitigation should be in the record prior to public review. Except where noted, the procedural requirements for the preparation and approval of a Negative Declaration and Mitigated Negative Declaration are the same.

6.03 CONTRACTING FOR PREPARATION OF NEGATIVE DECLARATION.

The District, when acting as Lead Agency, is responsible for preparing all documents required pursuant to CEQA. The documents may be prepared by Staff or by private consultants pursuant to a contract with the District, but they must be the District’s product and reflect the independent judgment of the District.

6.04 NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

When, based upon the Initial Study, it is recommended to the decisionmaking body that a Negative Declaration or Mitigated Negative Declaration be adopted, a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration (Form “D”) shall be prepared. In addition to being provided to the public through the means set forth in Local Guidelines Section 6.07, this Notice shall also be provided to:

- (a) Each Responsible and Trustee Agency,
- (b) Any other federal, state, or local agency which has jurisdiction by law or exercises authority over resources affected by the project, including:
 - (1) Any water supply agency consulted under Local Guidelines Section 5.15;
 - (2) Any city or county bordering on the project area;
 - (3) For a project of statewide, regional, or areawide significance, to any transportation agencies or public agencies which have major local arterials or public transit facilities within five (5) miles of the project site or freeways, highways, or rail transit service within ten (10) miles of the project site which could be affected by the project; and
 - (4) For a subdivision project located within one mile of a facility of the State Water Resources Development System, to the California Department of Water Resources.
- (c) The last known name and address of all organizations and individuals who have previously filed a written request with the District to receive these Notices;
- (d) For certain projects that may impact a low-level flight path, military impact zone, or special use airspace and that meet the other criteria of Local Guidelines Section 6.05, to the specified military services contact.
- (e) For certain projects that involve the construction or alteration of a facility anticipated to emit hazardous air emissions or handle hazardous substances within one-quarter mile of a school and that meet the other requirements of Local Guidelines Section 7.30, to any potentially affected school district.
- (f) For certain waste-burning projects that meet the requirements of Local Guidelines Section 5.10 (See also Local Guidelines Section 7.21), to the owners and occupants of property within one-fourth mile of any parcel on which the project will be located.
- (g) For a project that establishes or amends a redevelopment plan that contains land in agricultural use, notice shall be provided to the agricultural and farm agencies and organizations specified in Health and Safety Code Section 33333.3.

A copy of the proposed Negative Declaration or Mitigated Negative Declaration and the Initial Study shall be attached to the Notice of Intent to Adopt that is sent to every Responsible Agency and Trustee Agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project.

The Notice of Intent to Adopt a Negative Declaration (Form "D") must be filed and posted with the County Clerk at least twenty (20) days, or, in cases subject to review by the State Clearinghouse, posted by the County Clerk and the State Office and Planning and Research at least thirty (30) days before the final adoption of the Negative Declaration or Mitigated Negative Declaration by the decisionmaking body. See Local Guidelines Section 6.07.

The District may require requests for notices to be renewed annually. The District may charge a fee for providing notices pursuant to written requests, unless the request is made by another public agency.

If the Negative Declaration has been submitted to the State Clearinghouse for circulation, the public review period shall be at least as long as the period of review by the State Clearinghouse. (See Local Guidelines Section 6.07.) Day one of the state review period shall be the date that the State Clearinghouse distributes the document to state agencies. If the Lead Agency is submitting a Negative Declaration or Mitigated Negative Declaration to the State Clearinghouse, the Notice of Completion form may be used.

The Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration shall contain the following information:

- (a) The period during which comments shall be received;
- (b) The date, time and place of any public meetings or hearings on the proposed project;
- (c) A brief description of the proposed project and its location;
- (d) The address where copies of the proposed Negative Declaration or Mitigated Negative Declaration and all documents referenced in the proposed Negative Declaration or Mitigated Negative Declaration are available for review;
- (e) The Environmental Protection Agency (“EPA”) list on which the proposed project site is located, if applicable, and the corresponding information from the applicant’s statement. (See Local Guidelines Section 2.04.); and
- (f) The significant effects on the environment, if any, anticipated as a result of the proposed project.

6.05 PROJECTS AFFECTING MILITARY SERVICES; DEPARTMENT OF DEFENSE NOTIFICATION.

CEQA imposes additional requirements to provide notice to potentially affected military agencies when:

- (a) The project meets one of the following three criteria:
 - (1) The project includes a general plan amendment;
 - (2) The project is of statewide, regional, or areawide significance;
 - (3) The project relates to a public use airport or certain lands surrounding a public use airport; and
- (b) A “military service” (defined in Section 10.39 of these Local Guidelines) has provided the District with its contact office and address and notified the District of the specific boundaries of a “low-level flight path” (defined in Section 10.35 of these Local Guidelines), “military impact zone” (defined in Section 10.38 of these Local Guidelines), or “special use airspace” (defined in Section 10.60 of these Local Guidelines)

When a project meets these requirements, the District must provide the military service’s designated contact with a copy of the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration that has been prepared for the project, unless the project involves the remediation of lands contaminated with hazardous wastes and meets certain other

requirements. See Public Resources Code Sections 21080.4 and 21092 and Health and Safety Code Sections 25300, et seq.; 25396; and 25187.

The District must provide the military service with sufficient notice of its intent to adopt a Negative Declaration or Mitigated Negative Declaration to ensure that the military service has no fewer than twenty (20) days to review the documents before they are approved, provided that the military service shall have a minimum of thirty (30) days to review the environmental documents if the documents have been submitted to the State Clearinghouse. See State Guidelines Sections 15105(b) and 15190.5(c).

6.06 SPECIAL FINDINGS REQUIRED FOR FACILITIES WHICH MAY EMIT HAZARDOUS AIR EMISSIONS NEAR SCHOOLS.

Special procedural rules apply to projects involving the construction or alteration of a facility within one-quarter mile of a school/schools when: (1) the facility might reasonably be anticipated to emit hazardous air emissions or to handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the threshold specified in Health and Safety Code Section 25532(j), and (2) the emissions or substances may pose a health or safety hazard to persons who would attend or would be employed at the school. If the project meets both of those criteria, the District may not approve a Negative Declaration unless both of the following have occurred:

- (a) The District, as Lead Agency, consulted with the affected school district or districts having jurisdiction over the school regarding the potential impact of the project on the school; and
- (b) The school district(s) was given written notification of the project not less than thirty (30) days prior to the proposed approval of the Negative Declaration.

When the District is considering the adoption of a Negative Declaration for a project that meets these criteria, it can satisfy this requirement by providing the Notice of Intent to Adopt a Negative Declaration and the proposed Negative Declaration and Initial Study to the potentially affected school district at least thirty (30) days before the decision-making body will consider the adoption of the Negative Declaration. See also Local Guidelines Section 6.04.

Implementation of this Guideline shall be consistent with the definitions and terms utilized in State Guidelines Section 15186.

6.07 POSTING AND PUBLICATION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

The District shall have a copy of the Notice of Intent to Adopt, the Negative Declaration or Mitigated Negative Declaration and the Initial Study posted at the District's offices and made available for public inspection. The Notice must be provided either twenty (20) or thirty (30) days prior to final adoption of the Negative Declaration or Mitigated Negative Declaration. The public review period for Negative Declarations prepared for projects subject to State Clearinghouse review must be circulated for at least as long as the review period established by the State Clearinghouse, usually no less than thirty (30) days. A shortened review period of at least twenty (20) days may be approved by the State Clearinghouse as provided for in State

Guidelines Section 15105. The state review period will commence on the date the State Clearinghouse distributes the document to state agencies. The State Clearinghouse will distribute the document within three (3) days of receipt if the Negative Declaration or Mitigated Negative Declaration is deemed complete.

The Notice must also be posted in the office of the Clerk in each county in which the Project is located and must remain posted throughout the public review period. The County Clerk is required to post the Notice within twenty-four (24) hours of receiving it.

Notice shall be provided as stated in Local Guidelines Section 6.04. In addition, it must be given by at least one of the following procedures:

- (a) Publication at least once in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas;
- (b) Posting of notice on and off site in the area where the project is to be located; or
- (c) Direct mailing to owners and occupants of property contiguous to the project, as shown on the latest equalized assessment roll.

The District shall consider all comments received during the public review period for the Negative Declaration or Mitigated Negative Declaration. For a Negative Declaration or Mitigated Negative Declaration, the District is not required to respond in writing to comments it receives either during or after the public review period. However, the District may want to provide a written response to all comments if it will not delay action on the Negative Declaration or Mitigated Negative Declaration, since any comment received prior to final action on the Negative Declaration or Mitigated Negative Declaration can form the basis of a legal challenge. A written response which refutes the comment or adequately explains the District's action in light of the comment will assist the District in defending against a legal challenge. The District shall notify any public agency which comments on a Negative Declaration or Mitigated Negative Declaration of the public hearing or hearings, if any, on the project for which the Negative Declaration or Mitigated Negative Declaration was prepared.

6.08 SUBMISSION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION TO STATE CLEARINGHOUSE.

A Negative Declaration or Mitigated Negative Declaration must be submitted to the State Clearinghouse for circulation in the following situations:

- (a) The Negative Declaration or Mitigated Negative Declaration is prepared by a Lead Agency that is a state agency;
- (b) The Negative Declaration or Mitigated Negative Declaration is prepared by a public agency where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law with respect to the project; or
- (c) The Negative Declaration or Mitigated Negative Declaration is for a project identified in State Guidelines Section 15206 as being of statewide, regional, or areawide significance.

State Guidelines Section 15206 identifies the following types of projects as being examples of projects of statewide, regional, or areawide significance which require submission to the State Clearinghouse for circulation:

- (1) Projects which have the potential for causing significant environmental effects beyond the city or county where the project would be located, such as:
 - (a) Residential development of more than 500 units;
 - (b) Commercial projects employing more than 1,000 persons or covering more than 500,000 square feet of floor space;
 - (c) Office building projects employing more than 1,000 persons or covering more than 250,000 square feet of floor space;
 - (d) Hotel or motel development of more than 500 rooms; or
 - (e) Industrial projects housing more than 1,000 persons, occupying more than 40 acres of land, or covering more than 650,000 square feet of floor area.
- (2) Projects for the cancellation of a Williamson Act contract covering more than 100 acres.
- (3) Projects in one of the following Environmentally Sensitive Areas:
 - (a) Lake Tahoe Basin.
 - (b) Santa Monica Mountains Zone.
 - (c) Sacramento-San Joaquin River Delta.
 - (d) Suisun Marsh.
 - (e) Coastal Zone, as defined by the California Coastal Act.
 - (f) Areas within one-quarter mile of a river designated as wild and scenic.
 - (g) Areas within the jurisdiction of the San Francisco Bay Conservation and Development Commission.
- (4) Projects which would affect sensitive wildlife habitats or the habitats of any rare, threatened, or endangered species.
- (5) Projects which would interfere with water quality standards.
- (6) Projects which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

A Negative Declaration or Mitigated Negative Declaration may also be submitted to the State Clearinghouse for circulation if a state agency has special expertise with regard to the environmental impacts involved.

When the Negative Declaration or Mitigated Negative Declaration is submitted to the State Clearinghouse for review, the review period shall be at least thirty (30) days. The review period begins (day one) on the date that the State Clearinghouse distributes the Negative

Declaration or Mitigated Negative Declaration to state agencies. The State Clearinghouse is required to distribute the Negative Declaration or Mitigated Negative Declaration to state agencies within three (3) working days from the date the State Clearinghouse receives the document, as long as the Negative Declaration or Mitigated Negative Declaration is complete when submitted to the State Clearinghouse. If the document submitted to the State Clearinghouse is not complete, the State Clearinghouse must notify the Lead Agency. The review period for the public and all other agencies may run concurrently with the state agency review period established by the State Clearinghouse, but the public review period cannot conclude before the state agency review period does. The review period for the public shall be at least as long as the review period established by the State Clearinghouse.

When a Negative Declaration or Mitigated Negative Declaration is submitted to the State Clearinghouse, a Notice of Completion (Form "H") should be included as a cover sheet. A sufficient number of copies of the documents must be sent to the State Clearinghouse for circulation. Staff should contact the State Clearinghouse to find out the correct number of printed copies required for circulation. In addition to the printed copies, a copy of the documents in electronic format shall be submitted on a diskette or by electronic mail transmission if available.

Alternatively, the District may provide copies of draft environmental documents to the State Clearinghouse for state agency review in an electronic format. The document must be on a CD-ROM in a common file format such as Word or Acrobat. Lead Agencies must provide fifteen (15) copies of the CD-ROM to the State Clearinghouse along with a hard copy version of the Notice of Completion (Form "H"). In addition, each CD-ROM must be accompanied by 15 printed copies of the introduction section of a Negative Declaration or Mitigated Negative Declaration. The printed summary allows both the State Clearinghouse and agency CEQA coordinators to distribute the documents quickly without the use of a computer.

A shorter review period by the State Clearinghouse for a Negative Declaration or Mitigated Negative Declaration can be requested by the decisionmaking body. The shortened review period shall not be less than twenty (20) days. Such a request must be made in writing by the Lead Agency to the Office of Planning and Research. The decisionmaking body may designate by resolution or ordinance an individual authorized to request a shorter review period. Any approval of a shortened review period must be given prior to, and reflected in, the public notice. However, a shortened review period shall not be approved by the Office of Planning and Research for any proposed project of statewide, regional or areawide environmental significance, as defined by State Guidelines Section 15206.

6.09 SPECIAL NOTICE REQUIREMENTS FOR WASTE- AND FUEL-BURNING PROJECTS.

For any waste-burning project not requiring an EIR, as defined in Local Guidelines Section 5.10, Notice of Intent to Adopt a Negative Declaration shall be given to all organizations and individuals who have previously requested it and shall also be given by all three of the procedures listed in Local Guidelines Section 6.07. In addition, Notice shall be given by direct mailing to the owners and occupants of property within one-quarter mile of any parcel or parcels on which such a project is located. (Public Resources Code Section 21092(c).)

These notice requirements apply only to those projects described in Local Guidelines Section 5.10. These notice requirements do not preclude the District from providing additional notice by other means if desired.

6.10 CONSULTATION WITH WATER AGENCIES REGARDING LARGE DEVELOPMENT PROJECTS.

Under specific circumstances a city or county acting as Lead Agency must consult with the public water system which will supply the project to determine whether it can adequately supply the water needed for the project. As a potential Responsible Agency, the District should be aware of these requirements. See Local Guidelines Section 5.15 for more information on these requirements.

6.11 CONTENT OF NEGATIVE DECLARATION.

A Negative Declaration must be prepared directly by or under contract to the District and should generally resemble Form "E." It shall contain the following information:

- (a) A brief description of the project proposed, including any commonly used name for the project;
- (b) The location of the project and the name of the project proponent;
- (c) A finding that the project as proposed will not have a significant effect on the environment;
- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) For a Mitigated Negative Declaration, feasible mitigation measures included in the project to substantially lessen or avoid potentially significant effects, which must be fully enforceable through permit conditions, agreements, or other measures. Such permit conditions, agreements, and measures must be consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law.

The proposed Negative Declaration or Mitigated Negative Declaration must reflect the independent judgment of the District.

6.12 ADOPTION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

Following the publication, posting or mailing of the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration, but in no event sooner than the expiration of the applicable twenty (20) or thirty (30) day public review period, the Negative Declaration or Mitigated Negative Declaration may be presented to the decisionmaking body at a regular or special meeting. Prior to adoption, the District shall independently review and analyze the Negative Declaration or Mitigated Negative Declaration and find that the Negative Declaration or Mitigated Negative Declaration reflects the independent judgment of the District.

If new information is added to the Negative Declaration after public review, the District should determine whether recirculation is warranted. (See Local Guidelines Section 6.15). If the decisionmaking body finds that the project will not have a significant effect on the environment, it shall adopt the Negative Declaration or Mitigated Negative Declaration. If the decisionmaking

body finds that the proposed project may have a significant effect on the environment that cannot be mitigated or avoided, it shall order the preparation of a Draft EIR and the filing of a Notice of Preparation of a Draft EIR.

When adopting a Negative Declaration or Mitigated Negative Declaration, the District shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which it based its decision. If adopting a Negative Declaration for a project that may emit hazardous air emissions within one-quarter mile of a school and that meets the other requirements of Local Guidelines Section 6.06, the decisionmaking body must also make the findings required by Local Guidelines Section 6.06.

As Lead Agency, the District may charge a non-elected official or body with the responsibility of independently reviewing the adequacy of and adopting a Negative Declaration; however, when a non-elected decisionmaking body adopts a Negative Declaration or Mitigated Negative Declaration, the District must have a procedure allowing for the appeal of that decision to the Board of Directors.

6.13 MITIGATION REPORTING OR MONITORING PROGRAM FOR MITIGATED NEGATIVE DECLARATION.

When adopting a Mitigated Negative Declaration pursuant to Local Guidelines Section 6.12, the District shall adopt a reporting or monitoring program to assure that mitigation measures which are required to mitigate or avoid significant effects on the environment will be fully enforceable through permit conditions, agreements, or other measures and implemented by the project proponent or other responsible party in a timely manner, in accordance with conditions of project approval. The District shall also specify the location and the custodian of the documents which constitute the record of proceedings upon which it based its decision. There is no requirement that the reporting or monitoring program be circulated for public review; however, the District may choose to circulate it for public comments along with the Negative Declaration. The mitigation measures required to mitigate or avoid significant effects on the environment must be adopted as conditions of project approval.

This reporting or monitoring program shall be designed to assure compliance during the implementation or construction of a project and shall otherwise comply with the requirements described in Local Guidelines Section 7.32. If a Responsible Agency or Trustee Agency has required that certain conditions be incorporated into the project, the District may request that agency to prepare and submit a proposed reporting or monitoring program. The District shall also require that prior to the close of the public review period for a Mitigated Negative Declaration (see Guidelines Section 6.04), the Responsible or Trustee Agency submit detailed performance objectives for mitigation measures, or refer the District to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the District by a Responsible or Trustee Agency shall be limited to measures which mitigate impacts to resources which are within the Responsible or Trustee Agency's authority.

Local agencies have the authority to levy fees sufficient to pay for this program. Therefore, the District can charge the project proponent a fee to cover actual costs of program processing and implementation.

Transportation information resulting from the reporting or monitoring program required to be adopted by the District shall be submitted to the regional transportation planning agency where the project is located and to the Department of Transportation for a project of statewide, regional or areawide significance according to State Guidelines Section 15206. The transportation planning agency and the Department of Transportation are required by law to adopt guidelines for the submittal of these reporting or monitoring programs, so the District may wish to tailor its submittal to such guidelines.

6.14 APPROVAL OR DISAPPROVAL OF PROJECT.

At the time of adoption of a Negative Declaration or Mitigated Negative Declaration, the decisionmaking body may consider the project for purposes of approval or disapproval. Prior to approving the project, the decisionmaking body shall consider the Negative Declaration or Mitigated Negative Declaration, together with any written comments received and considered during the public review period, and shall approve or disapprove the Negative Declaration or Mitigated Negative Declaration. In making a finding as to whether there is any substantial evidence that the project will have a significant effect on the environment, the factors listed in Local Guidelines Section 5.08 should be considered. (See Local Guidelines Section 7.30 for approval requirements for facilities which may emit hazardous pollutants or which may handle extremely hazardous substances within one-quarter mile of a school site.)

6.15 RECIRCULATION OF A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

A Negative Declaration or Mitigated Negative Declaration must be recirculated when the document must be substantially revised after the public review period but prior to its adoption. A “substantial revision” occurs when the District has identified a new and avoidable significant effect for which mitigation measures or project revisions must be added in order to reduce the effect to a level of insignificance, or the District determines that the proposed mitigation measures or project revisions will not reduce the potential effects to less than significant and new measures or revisions must be required.

Recirculation is not required under the following circumstances:

- (a) Mitigation measures are replaced with equal or more effective measures, and the District makes a finding to that effect;
- (b) New project revisions are added after circulation of the Negative Declaration or Mitigated Negative Declaration or in response to written or oral comments on the project’s effects, but the revisions do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect;
- (c) Measures or conditions of project approval are added after circulation of the Negative Declaration or Mitigated Negative Declaration, but the measures or conditions are not required by CEQA, do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect; or
- (d) New information is added to the Negative Declaration or Mitigated Declaration which merely clarifies, amplifies, or makes insignificant modifications to the Negative Declaration or Mitigated Negative Declaration.

If, after preparation of a Negative Declaration or Mitigated Negative Declaration, the District determines that the project requires an EIR, it shall prepare and circulate the Draft EIR for consultation and review and advise reviewers in writing that a proposed Negative Declaration or Mitigated Declaration had previously been circulated for the project.

6.16 NOTICE OF DETERMINATION ON A PROJECT FOR WHICH A PROPOSED NEGATIVE OR MITIGATED NEGATIVE DECLARATION HAS BEEN APPROVED.

After final approval of a project for which a Negative Declaration has been prepared, Staff shall cause to be prepared, filed and posted a Notice of Determination (Form "F"). The Notice of Determination shall contain the following information:

- (a) An identification of the project, including the project title as identified on the proposed Negative Declaration, location, and the State Clearinghouse identification number for the proposed Negative Declaration if the Notice of Determination is filed with the State Clearinghouse;
- (b) A brief description of the project;
- (c) The name of the District and the date on which the District approved the project;
- (d) The determination of the District that the project will not have a significant effect on the environment;
- (e) A statement that a Negative Declaration or Mitigated Negative Declaration was adopted pursuant to the provisions of CEQA;
- (f) A statement indicating whether mitigation measures were made a condition of the approval of the project, and whether a mitigation monitoring plan/program was adopted; and
- (g) The address where a copy of the Negative Declaration or Mitigated Negative Declaration may be examined.

The Notice of Determination shall be filed with the Clerk of each county in which the project will be located within five (5) working days of project approval. The District is encouraged to make copies of filed notices available in electronic format on the Internet. Such electronic notices are in addition to the posting requirements of the CEQA Guidelines and the Public Resources Code. The Clerk must post the Notice of Determination within twenty-four (24) hours of receipt. The Notice must be posted in the office of the Clerk for a minimum of thirty (30) days. Thereafter, the Clerk shall return the notice to the District with a notation of the period it was posted. The District shall retain the notice for not less than twelve (12) months. If the project requires discretionary approval from any State agency, the Notice of Determination shall also be filed with the Office of Planning and Research within five (5) working days of project approval along with proof of payment of the California Department of Fish and Game fee or a no effect determination form from the Department of Fish and Game (see Local Guidelines Section 6.20). Simultaneously with the filing of the Notice of Determination with the Clerk, Staff shall cause a copy of the Notice of Determination to be posted at District Offices.

If a written request has been made for a copy of the Notice prior to the date on which the District adopts the Negative Declaration, the copy must be mailed, first class postage prepaid, within five (5) days of the District's determination. If such a request is made following the District's determination, then the copy should be mailed in the same manner as soon as possible.

The recipients of such documents may be charged a fee reasonably related to the cost of providing the service.

For projects with more than one phase, Staff shall file a Notice of Determination for each phase requiring a discretionary approval.

The filing and posting of the Notice of Determination with the County Clerk, and, if necessary, with the Office of Planning and Research, usually starts a thirty (30) day statute of limitations on court challenges to the approval under CEQA. When separate notices are filed for successive phases of the same overall project, the thirty (30) day statute of limitation to challenge the subsequent phase begins to run when the second notice is filed. Failure to file the Notice may result in a one hundred eighty (180) day statute of limitations.

6.17 ADDENDUM TO NEGATIVE DECLARATION.

The District may prepare an addendum to an adopted Negative Declaration if only minor technical changes or additions are necessary. The District may also prepare an addendum to an adopted Negative Declaration when none of the conditions calling for a subsequent Negative Declaration have occurred. (See Local Guidelines Section 6.18 below.) An addendum need not be circulated for public review but can be attached to the adopted Negative Declaration. The District shall consider the addendum with the adopted Negative Declaration prior to project approval.

6.18 SUBSEQUENT NEGATIVE DECLARATION.

When a Negative Declaration has been adopted for a project, or when an EIR has been certified, a subsequent Negative Declaration or EIR must be prepared in the following instances:

- (a) Substantial changes are proposed in the project which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (b) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (c) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or the Negative Declaration was adopted which shows any of the following:
 - (1) The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration;
 - (2) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (3) Mitigation measure(s) or alternative(s) previously found not to be feasible would in fact be feasible and would substantially reduce one or more

significant effects of the project, but the project proponents declined to adopt the mitigation measure(s) or alternative(s); or

- (4) Mitigation measure(s) or alternative(s) which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure(s) or alternative(s).

The District as Lead Agency would then determine whether a Subsequent EIR, Supplemental EIR, Negative Declaration or Addendum would be applicable. Subsequent Negative Declarations must be given the same notice and public review period as other Negative Declarations. The Subsequent Negative Declaration shall state where the previous document is available and can be reviewed.

6.19 PRIVATE PROJECT COSTS.

For private projects, the person or entity proposing to carry out the project shall bear all costs incurred by the District in preparing the Initial Study and in preparing and filing the Negative Declaration and Notice of Determination.

6.20 FILING FEES FOR PROJECTS WHICH AFFECT WILDLIFE RESOURCES.

At the time a Notice of Determination for a Negative Declaration is filed with the County or Counties in which the project is located, a fee of \$1,993.00 shall be paid to the Clerk for projects which will adversely affect fish or wildlife resources. These fees are collected by the Clerk on behalf of the California Department of Fish and Game (“DFG”) pursuant to Fish and Game Code Section 711.4.

Only one filing fee is required for each project unless the project is tiered or phased and separate environmental documents are prepared. (Fish & Game Code Section 711.4(g).) For projects where Responsible Agencies file separate Notices of Determination, only the Lead Agency is required to pay the fee.

Note: County Clerks are authorized to charge a documentary handling fee of up to \$50.00 for each project in addition to the Fish and Game fees specified above. Refer to the Index in the Staff Summary to help determine the correct total amount of fees applicable to the project.

For private projects, the District may pass these costs on to the project applicant.

Fish and Game Code fees may be waived for projects with “no effect” on fish or wildlife resources or for certain projects undertaken by the DFG and implemented through a contract with a non-profit entity or local government agency; however, the Lead Agency must obtain a form showing that the DFG has determined that the project will have “no effect” on fish and wildlife. (Fish and Game Code Section 711.4(c)(2)(A)). Projects that are statutorily or categorically exempt from CEQA are also not subject to the filing fee, and do not require a no effect determination (CEQA Local Guidelines Sections 15260 through 15333; Fish and Game Code Section 711.4(d)(1)). Regional Department environmental review and permitting staff are

responsible for determining whether a project within their region will qualify for a no effect determination and if the CEQA filing fee will be waived.

The request should be submitted when the CEQA document is released for public review, or as early as possible in the public comment period. Documents submitted in digital format are preferred (e.g. compact disk). If insufficient documentation is submitted to the Department for the proposed project, a no effect determination will not be issued.

If the District believes that a project will have “no effect” on fish or wildlife resources, it should contact the Department Regional Office. The project’s CEQA document may need to be provided to the Department Regional Office along with a written request. Documentation submitted to the Department Regional Office should set forth facts in support of the fee exemption. It is important to note that the fee exemption requirement that the project have “no” impact on fish or wildlife resources is more stringent than the former requirement that a project have only “de minimis” effects on fish or wildlife resources.

Any request for fee exemption should include the following information:

- (1) the name and address of the project proponent and applicant contact information;
- (2) a brief description of the project and its location;
- (3) site description and aerial and/or topographic map of the project site;
- (4) State Clearinghouse number or county filing number;
- (5) a statement that an Initial Study has been prepared by the District to evaluate the project’s effects on fish and wildlife resources, if any; and
- (6) a declaration that, based on the District’s evaluation of potential adverse effects on fish and wildlife resources, the District believes the project will have no effect on fish or wildlife.

If insufficient documentation is submitted to the Department for the proposed project, a no effect determination will not be issued. (A sample Request for Fee Exemption is attached as Form “L”.) The Department of Fish and Game will review the District’s finding, and if DFG agrees with the Lead Agency’s conclusions, DFG will provide the District with written confirmation. Retain DFG’s determination as part of the administrative record; the District is required to file a copy of this determination with the County after project approval and at the time of filing of the CEQA Lead Agency’s Notice of Determination (NOD).

The District must have written confirmation of DFG’s finding of “no impact” at the time the Lead Agency files its Notice of Determination with the County. The County cannot accept the Notice of Determination unless it is accompanied by the appropriate fee or a completed exemption form from DFG.

7. ENVIRONMENTAL IMPACT REPORT

7.01 DECISION TO PREPARE AN EIR.

An EIR shall be prepared whenever there is substantial evidence in light of the whole record which supports a fair argument that the project may have a significant effect on the environment. (See Local Guidelines Sections 10.53, 10.59 and 10.64.) The record may include the Initial Study or other documents or studies prepared to assess the project's environmental impacts.

7.02 CONTRACTING FOR PREPARATION OF EIRS.

If an EIR is prepared under a contract to the District, the contract must be executed within forty-five (45) days from the date on which the District sends a Notice of Preparation. The District may take longer to execute the contract if the project applicant and the District mutually agree to an extension of the 45-day time limit.

The EIR prepared under contract must be the District's product. Staff, together with such consultant help as may be required, shall independently review and analyze the EIR to verify its accuracy, objectivity and completeness prior to presenting it to the decisionmaking body. The EIR made available for public review must reflect the independent judgment of the District. Staff may require such information and data from the person or entity proposing to carry out the project as it deems necessary for completion of the EIR.

7.03 NOTICE OF PREPARATION OF DRAFT EIR.

After determining that an EIR will be required for a proposed project, the District as Lead Agency shall prepare and send a Notice of Preparation (Form "G") to the Office of Planning and Research and to each of the following:

- (a) Each Responsible Agency and Trustee Agency involved with the project;
- (b) Any other federal, state, or local agency which has jurisdiction by law or exercises authority over resources affected by the project, including:
 - (1) Any water supply agency consulted under Local Guidelines Section 5.15;
 - (2) Any city or county bordering on the project area;
 - (3) For a project of statewide, regional, or areawide significance, to any transportation agencies or public agencies which have major local arterials or public transit facilities within five (5) miles of the project site or freeways, highways, or rail transit service within ten (10) miles of the project site which could be affected by the project; and
 - (4) For a subdivision project located within one mile of a facility of the State Water Resources Development System, to the California Department of Water Resources.

- (c) The last known name and address of all organizations and individuals who have previously filed a written request with the District to receive these Notices;
- (d) For certain projects that may impact a low-level flight path, military impact zone, or special use airspace and that meet the other criteria in Local Guidelines Section 7.04 (See also Local Guidelines Section 7.20), to the specified military services contact.
- (e) For certain projects that involve the construction or alteration of a facility anticipated to emit hazardous air emissions or handle hazardous substances within one-quarter mile of a school and that meet the other requirements of Local Guidelines Section 7.30, to any potentially affected school district.
- (f) For certain waste-burning projects that meet the requirements of Local Guidelines Section 5.10 (See also Local Guidelines Section 7.21), to the owners and occupants of property within one-fourth mile of any parcel on which the project will be located.
- (g) For a project that establishes or amends a redevelopment plan that contains land in agricultural use, notice of preparation shall be provided to the agricultural and farm agencies and organizations specified in Health and Safety Code Section 33333.3.

The Notice of Preparation must also be filed and posted in the office of the Clerk in each county in which the project is located for thirty (30) days. The County Clerk must post the Notice within twenty-four (24) hours of receipt.

When submitting the Notice of Preparation to the Office of Planning and Research, a Notice of Completion (Form "H") should be used as a cover sheet. Responsible and Trustee Agencies, the State Clearinghouse, and the state agencies contacted by the State Clearinghouse have thirty (30) days to respond to the Notice of Preparation. Agencies that do not respond within thirty (30) days shall be deemed not to have any comments on the Notice of Preparation.

The District shall send copies of the Notice of Preparation by certified mail or any other method of transmittal which provides it with a record that the Notice was received.

At a minimum, the Notice of Preparation shall include:

- (a) A description of the project;
- (b) The location of the project indicated either on an attached map (preferably a copy of the USGS 15' or 7½' topographical map identified by quadrangle name) or by a street address and cross street in an urbanized area;
- (c) The probable environmental effects of the project;
- (d) The name and address of the consulting firm retained to prepare the Draft EIR, if applicable; and
- (e) The Environmental Protection Agency ("EPA") list on which the proposed site is located, if applicable, and the corresponding information from the applicant's statement. (See Local Guidelines Section 2.04.)

7.04 SPECIAL NOTICE REQUIREMENTS FOR AFFECTED MILITARY AGENCIES

CEQA imposes additional requirements to provide notice to potentially affected military agencies when:

- (a) A “military service” (defined in Section 10.39 of these Local Guidelines) has provided the District with its contact office and address and notified the District of the specific boundaries of a “low-level flight path” (defined in Section 10.35 of these Local Guidelines), “military impact zone” (defined in Section 10.38 of these Local Guidelines), or “special use airspace” (defined in Section 10.60 of these Local Guidelines); and
- (b) The project meets one of the following criteria:
 - (1) The project is within the boundaries specified pursuant to subsection (a) of this guideline;
 - (2) The project includes a general plan amendment;
 - (3) The project is of statewide, regional, or areawide significance; or
 - (4) The project relates to a public use airport or certain lands surrounding a public use airport.

When a project meets these requirements, the District must provide the military service’s designated contact with any Notice of Preparation, and/or Notice of Availability of Draft EIRs that have been prepared for a project, unless the project involves the remediation of lands contaminated with hazardous wastes and meets certain other requirements. See Public Resources Code Sections 21080.4 and 21092 and Health and Safety Code Sections 25300, et seq.; 25396; and 25187.

The District must provide the military service with sufficient notice of its intent to certify an EIR to ensure that the military service has no fewer than thirty (30) days to review the document; or forty-five (45) days to review the environmental documents before they are approved if the documents have been submitted to the State Clearinghouse.

It should be noted that the effect, or potential effect, a project may have on military activities does not itself constitute an adverse effect on the environment pursuant to CEQA.

7.05 PREPARATION OF DRAFT EIR.

The District as Lead Agency is responsible for preparing a Draft EIR and may begin preparation immediately without awaiting responses to the Notice of Preparation. However, information communicated to the District not later than thirty (30) days after receipt of the District’s Notice of Preparation shall be included in the Draft EIR.

7.06 CONSULTATION WITH OTHER AGENCIES AND PERSONS.

To expedite consultation in response to the Notice of Preparation, the District as Lead Agency, a Responsible Agency, or a project applicant may request a meeting among the agencies involved to assist the District in determining the scope and content of the environmental information that agencies may require. For any project that may affect highways or other facilities under the jurisdiction of the State Department of Transportation, the Department of Transportation can request a scoping meeting. The District must convene the meeting as soon as possible but no later than 30 days after the request.

Prior to completion of the Draft EIR, the District shall consult with each Responsible Agency and any public agency which has jurisdiction by law over the project. The District may fulfill this obligation by distributing the Notice of Preparation in compliance with Local Guidelines Section 7.03 and soliciting the comments of Responsible Agencies, Trustee Agencies, and other affected agencies. The District may also consult with any individual who has special expertise with respect to any environmental impacts involved with a project. The District may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project, including any interested individuals and organizations of which the District is reasonably aware. The purpose of this consultation is to “scope” the EIR’s range of analysis. When a Negative Declaration or Mitigated Negative Declaration will be prepared for a project, no scoping meeting need be held, although the District may hold one if it so chooses. The District as Lead Agency may charge and collect from the applicant a fee not to exceed the actual cost of the consultations.

In addition to soliciting comments on the Notice of Preparation, the District may be required to conduct a scoping meeting to take additional input regarding the impacts to be analyzed in the EIR. The District is required to conduct a scoping meeting when:

- (a) The meeting is requested by a Responsible Agency, a Trustee Agency, the Office of Planning and Research, or a project applicant;
- (b) The project is one of “statewide, regional or areawide significance” as defined in State Guidelines Section 15206; or
- (c) The project may affect highways or other facilities under the jurisdiction of the State Department of Transportation and the Department of Transportation has requested a scoping meeting.

The District shall provide notice of the scoping meeting to all of the following:

- (a) Any county or city that borders on a county or city within which the project is located, unless the District has a specific agreement to the contrary with that county or city;
- (b) Any Responsible Agency;
- (c) Any public agency that has jurisdiction by law over the project;
- (d) A transportation planning agency, or any public agency that has transportation facilities within its jurisdiction, that could be affected by the project; and
- (e) Any organization or individual who has filed a written request for the notice.

The requirement for providing notice of a scoping meeting may be met by including the notice of the public scoping meeting in the public meeting notice.

For projects that are also subject to NEPA, a scoping meeting held pursuant to NEPA satisfies the CEQA scoping requirement as long as notice is provided to the agencies and individuals listed above, and in accordance with these Local Guidelines. (See Local Guideline 5.04 for a discussion of NEPA).

The District shall call the scoping meeting as soon as possible but not later than 30 days after the meeting was requested.

A Responsible Agency or other public agency shall only make comments regarding those activities within its area of expertise or which are required to be carried out or approved by it. These comments must be supported by specific documentation. Any mitigation measures submitted to the District by a Responsible or Trustee Agency shall be limited to measures which mitigate impacts to resources which are within the Responsible or Trustee Agency's authority.

For projects of statewide, areawide, or regional significance, consultation with transportation planning agencies or with public agencies that have transportation facilities within their jurisdictions shall be for the purpose of obtaining information concerning the project's effect on major local arterials, public transit, freeways, highways, overpasses, on-ramps, off-ramps, and rail transit services. Any transportation planning agency or public agency that provides information to the Lead Agency must be notified of, and provided with, copies of any environmental documents relating to the project.

7.07 EARLY CONSULTATION ON PROJECTS INVOLVING PERMIT ISSUANCE.

When the project involves the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the District, upon request of the applicant, shall meet with the applicant regarding the range of actions, potential alternatives, mitigation measures and significant effects to be analyzed in depth in the EIR. The District may also consult with concerned persons identified by the applicant and persons who have made written requests to be consulted. Such requests for early consultation must be made not later than thirty (30) days after the District's decision to prepare an EIR.

7.08 CONSULTATION WITH WATER AGENCIES REGARDING LARGE DEVELOPMENT PROJECTS.

For certain development projects, cities and counties must consult with water agencies. If the District is a municipal water provider for a project, the city or county may request consultation with the District. See Local Guidelines Section 5.15 for more information on these requirements.

7.09 AIRPORT LAND USE PLAN.

When the District prepares an EIR for a project within the boundaries of a comprehensive airport land use plan or, if such a plan has not been adopted for a project within two (2) nautical miles of a public airport or public use airport, the District shall utilize the Airport Land Use Planning Handbook published by CalTrans' Division of Aeronautics to assist in the preparation of the EIR relative to potential airport or related safety hazards and noise problems.

7.10 GENERAL ASPECTS OF AN EIR.

Both a Draft and Final EIR must contain the information outlined in Local Guidelines Section 7.14. Each element must be covered, and when elements are not separated into distinct sections, the document must state where in the document each element is covered.

The body of the EIR shall include summarized technical data, maps, diagrams and similar relevant information. Highly technical and specialized analyses and data should be included in

appendices. Appendices may be prepared in separate volumes, but must be equally available to the public for examination. All documents used in preparation of the EIR must be referenced. An EIR shall not include “trade secrets,” locations of archaeological sites and sacred lands, or any other information subject to the disclosure restrictions of the Public Records Act (Government Code Section 6250, et seq.).

The EIR should discuss environmental effects in proportion to their severity and probability of occurrence. Effects dismissed in the Initial Study as clearly insignificant and unlikely to occur need not be discussed.

The Initial Study should be used to focus the EIR so that the EIR identifies and discusses only the specific environmental problems or aspects of the project which have been identified as potentially significant or important. A copy of the Initial Study should be attached to the EIR or included in the administrative record to provide a basis for limiting the impacts discussed.

The EIR shall contain a statement briefly indicating the reason for determining that various effects of a project that could possibly be considered significant were not found to be significant and consequently were not discussed in detail in the EIR. The District should also note any conclusion by it that a particular impact is too speculative for evaluation.

The EIR should omit unnecessary descriptions of projects and emphasize feasible mitigation measures and alternatives to projects.

7.11 USE OF REGISTERED CONSULTANTS IN PREPARING EIRS.

An EIR is not a technical document that can be prepared only by a registered consultant or professional. However, state statutes may provide that only registered professionals can prepare certain technical studies which will be used in or which will control the detailed design, construction, or operation of the proposed project and which will be prepared in support of an EIR.

7.12 INCORPORATION BY REFERENCE.

An EIR may incorporate by reference all or portions of another document which is a matter of public record or is generally available to the public. Any incorporated document shall be considered to be set forth in full as part of the text of the EIR. When all or part of another document is incorporated by reference, that document shall be made available to the public for inspection at the District’s offices. The EIR shall state where incorporated documents will be available for inspection.

When an EIR uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized, if possible, or briefly described if the data or information cannot be summarized. The relationship between the incorporated document and the EIR shall be described. When information from an EIR that has previously been reviewed through the state review system (“State Clearinghouse”) is incorporated by the District, the state identification number of the incorporated document should be included in the summary or text of the EIR.

7.13 STANDARDS FOR ADEQUACY OF AN EIR.

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which takes into account the environmental consequences of the project. The evaluation of environmental effects need not be exhaustive, but must be within the scope of what is reasonably feasible. The EIR should be written and presented in such a way that it can be understood by governmental decision makers and members of the public. A good faith effort at completeness is necessary. The adequacy of an EIR is assessed in terms of what is reasonable in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a Lead Agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters, but CEQA does require the Lead Agency to make a good faith, reasoned response to timely comments raising significant environmental issues.

There is no need to unreasonably delay adoption of an EIR in order to include results of studies in progress, even if those studies will shed some additional light on subjects related to the project.

7.14 FORM AND CONTENT OF EIR.

The text of the EIR should normally be less than 150 pages. For proposals of unusual scope or complexity, the EIR may be longer than 150 pages but should normally be less than 300 pages. The required contents of an EIR are set forth in Sections 15122 through 15132 of the State Guidelines. In brief, the EIR must contain:

- (a) A table of contents or an index.
- (b) A brief summary of the proposed project, including each significant effect with proposed mitigation measures and alternatives, areas of known controversy and issues to be resolved including the choice among alternatives, how to mitigate the significant effects and whether there are any significant and unavoidable impacts. (Generally, the summary should be less than fifteen (15) pages.)
- (c) A description of the proposed project, including its underlying purpose and a list of permit and other approvals required to implement the project. (See Local Guidelines Section 7.18 regarding analysis of future project expansion.)
- (d) A description of the project's physical environmental conditions from both a local and regional perspective at the time the Notice of Preparation is published, or if no Notice of Preparation is published, at the time environmental analysis begins. (State Guidelines Section 15125.) This environmental setting will normally constitute the baseline physical conditions by which the District determines whether an impact is significant. However, the District may choose any baseline that is appropriate as long as the District's choice of baseline is supported by substantial evidence.
- (e) A discussion of any inconsistencies between the proposed project and applicable general and regional plans.
- (f) A description of the direct and indirect significant environmental impacts of the proposed project explaining which, if any, can be avoided or mitigated to a level of insignificance, indicating reasons that various possible significant effects were determined not to be

- significant and denoting any significant effects which are unavoidable or could not be mitigated to a level of insignificance. Direct and indirect significant effects shall be clearly identified and described, giving due consideration to both short-term and long-term effects.
- (g) An analysis of a range of alternatives to the proposed project which could feasibly attain the project's objectives as discussed in Local Guidelines Section 7.17.
 - (h) A description of any significant irreversible environmental changes which would be involved in the proposed action should it be implemented if, and only if, the EIR is being prepared in connection with:
 - (1) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;
 - (2) The adoption by a Local Agency Formation Commission of a resolution making determinations; or
 - (3) A project which will be subject to the requirement for preparing an Environmental Impact Statement pursuant to the National Environmental Policy Act.
 - (i) An analysis of the growth-inducing impacts of the proposed action. The discussion should include ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.
 - (j) A discussion of any significant, reasonably anticipated future developments and the cumulative effects of all proposed and anticipated action as discussed in Local Guidelines Section 7.18.
 - (k) In certain situations, a regional analysis should be completed for certain impacts, such as air quality.
 - (l) A discussion of any economic or social effects, to the extent that they cause or may be used to determine significant environmental impacts.
 - (m) A statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and, therefore, were not discussed in the EIR.
 - (n) The identity of all federal, state or local agencies or other organizations and private individuals consulted in preparing the EIR, and the identity of the persons, firm or agency preparing the EIR, by contract or other authorization. To the fullest extent possible, the District should integrate CEQA review with these related environmental review and consultation requirements.
 - (o) A discussion of those potential effects of the proposed project on the environment which the District has determined are or may be significant. The discussion on other effects may be limited to a brief explanation as to why those effects are not potentially significant.
 - (p) A description of feasible measures, as set forth in Local Guidelines Section 7.16, which could minimize significant adverse impacts.

7.15 ANALYSIS OF CUMULATIVE IMPACTS.

An EIR must discuss cumulative impacts when the project's incremental effect is "cumulatively considerable" as defined in Local Guidelines Section 10.11. When the District is examining a project with an incremental effect that is not "cumulatively considerable," it need not consider that effect significant, but must briefly describe the basis for this conclusion. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure designed to alleviate the cumulative impact. The District must identify facts and analysis supporting its conclusion that the cumulative impact is less than significant.

A cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

The discussion of cumulative impacts in an EIR must focus on the cumulative impact to which the identified other projects contribute, rather than the attributes of other projects which do not contribute to the cumulative impact. The discussion of significant cumulative impacts must meet either of the following elements:

- (1) A list of past, present, and probable future projects causing related or cumulative impacts including, if necessary, those projects outside the control of the District; or
- (2) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document that was adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact.

When utilizing a list, as suggested above, factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined and the location and type of project. Location may be important, for example, when water quality impacts are involved since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

The District should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

7.16 ANALYSIS OF MITIGATION MEASURES.

The discussion of mitigation measures in an EIR must distinguish between measures proposed by project proponents and other measures proposed by Lead, Responsible or Trust Agencies. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

Where several measures are available to mitigate an impact, each should be disclosed and the basis for selecting a particular measure should be identified. Formulation of mitigation

measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effects of the project and which may be accomplished in more than one specified way.

If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be disclosed but in less detail than the significant effects of the project itself.

If a project includes a housing development, the District may not reduce the project's proposed number of housing units as a mitigation measure or project alternative if the District determines that there is another feasible specific mitigation measure or project alternative that would provide a comparable level of mitigation without reducing the number of housing units.

Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulating, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design. Mitigation measures must also be consistent with all applicable constitutional requirements such as the "nexus" and "rough proportionality" standards.

Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's "Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings" (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus not significant.

The District should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors must be considered and discussed in an EIR for a project involving an archaeological site:

- (a) Preservation in place is the preferred manner of mitigating impacts to archaeological sites.
- (b) Preservation in place may be accomplished by, but is not limited to, the following:
 - (1) Planning construction to avoid archaeological sites;
 - (2) Incorporation of sites within parks, green space, or other open spaces;
 - (3) Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site;
 - (4) Deeding the site into a permanent conservation easement.

When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to excavation. Such studies must be deposited with the California Historical Resources Regional Information Center.

Data recovery shall not be required for a historical resource if the District determines that existing testing or studies have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

7.17 ANALYSIS OF ALTERNATIVES IN AN EIR.

The alternatives analysis must describe and evaluate the comparative merits of a range of reasonable alternatives to the project or to the location of the project which would feasibly attain most of the basic objectives of the project, but which would avoid or substantially lessen any of the significant effects of the project. An EIR need not consider every conceivable alternative to a project, and it need not consider alternatives which are infeasible. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation.

Purpose of the Alternatives Analysis: An EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment. For this reason, a discussion of alternatives must focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effect of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly.

Selection of a Range of Reasonable Alternatives: The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects, even if those alternatives would be more costly or would impede to some degree the attainment of the project's objectives. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the District and rejected as infeasible during the scoping process, and it should briefly explain the reasons for rejecting those alternatives. Additional information explaining the choice of alternatives should be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (a) failure to meet most of the basic project objectives; (b) infeasibility; or (c) inability to avoid significant environmental impacts.

Evaluation of Alternatives: The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed but in less detail than the significant effects of the project as proposed.

The Rule of Reason: The range of alternatives required in an EIR is governed by a "rule of reason" which courts have held means that an alternatives discussion must be reasonable in scope and content. Therefore, the EIR must set forth only those alternatives necessary to permit public participation, informed decisionmaking, and a reasoned choice. The alternatives shall be

limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones the District determines could feasibly attain most of the basic objectives of the project. An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

Feasibility of Alternatives: The factors that may be taken into account when addressing the feasibility of alternatives include: site suitability; economic viability; availability of infrastructure; general plan consistency; other plans or regulatory limitations; jurisdictional boundaries (projects with a regionally significant impact should consider the regional context); and whether the proponent already owns the alternative site or can reasonably acquire, control or otherwise have access to the site. No one factor establishes a fixed limit on the scope of reasonable alternatives.

Alternative Locations: The first step in the alternative location analysis is to determine whether any of the significant effects of the project could be avoided or substantially lessened by putting the project in another location. This is the key question in this analysis. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

The second step in this analysis is to determine whether any of the alternative locations are feasible. If the District concludes that no feasible alternative locations exist, it must disclose its reasons, and it should include them in the EIR. When a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for a project with the same basic purpose, the District should review the previous document. To the extent the circumstances have remained substantially the same with respect to an alternative, the EIR may rely on the previous document to help it assess the feasibility of the potential project alternative.

The “No Project” Alternative: The specific alternative of “no project” must be evaluated along with its impacts. The purpose of describing and analyzing the no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative may be different from the baseline environmental conditions. The no project alternative will be the same as the baseline only if it is identical to the existing environmental setting and the District has chosen the existing environmental setting as the baseline.

A discussion of the “no project” alternative should proceed along one of two lines:

- (a) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the “no project” alternative will be the continuation of the existing plan, policy or operation into the future. Typically, this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan; or
- (b) If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the “no project” alternative is the circumstance under which the project does not proceed. This discussion would compare the environmental

effects of the property remaining in its existing state against environmental effects which would occur if the project is approved. If disapproval of the project would result in predictable actions by others, such as the proposal of some other project, this “no project” consequence should be discussed.

After defining the “no project” alternative, the District should proceed to analyze the impacts of the “no project” alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the “no project” alternative is the environmentally superior alternative, the EIR must also identify another environmentally superior alternative among the remaining alternatives.

Remote or Speculative Alternatives: An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

7.18 ANALYSIS OF FUTURE EXPANSION.

An EIR must include an analysis of the environmental effects of future expansion (or other similar future modifications) if there is credible and substantial evidence that:

- (a) The future expansion or action is a reasonably foreseeable consequence of the initial project; and
- (b) The future expansion or action is likely to change the scope or nature of the initial project or its environmental effects.

Absent these two circumstances, future expansion of a project need not be discussed. CEQA does not require speculative discussion of future development which is unspecific or uncertain. However, if future action is not considered now, it must be considered and environmentally evaluated before it is actually implemented.

7.19 NOTICE OF COMPLETION OF DRAFT EIR; NOTICE OF AVAILABILITY OF DRAFT EIR.

Notice of Completion. When the Draft EIR is completed, a Notice of Completion (Form “H”) must be filed with the Office of Planning and Research in a printed hard copy or in electronic form on a diskette or by electronic mail transmission. The Notice shall contain:

- (a) A brief description of the proposed project,
- (b) The location of the proposed project including the proposed project’s latitude and longitude;
- (c) An address where copies of the Draft EIR are available; and
- (d) The review period during which comments will be received on the Draft EIR.

The Office of Planning and Research has developed a model form Notice of Completion. Form H follows OPR’s model. To ensure that the documents are accepted by OPR staff, this form should be used when documents are transmitted to OPR.

Notice of Availability. At the same time it sends a Notice of Completion to the Office of Planning and Research, the District shall provide public notice of the availability of the Draft

EIR by distributing a Notice of Availability of Draft EIR (Form “K”). The Notice of Availability shall include at least the following information:

- (a) A brief description of the proposed project and its location;
- (b) The starting and ending dates for the review period, and whether the review period has been shortened;
- (c) The date, time, and place of any scheduled public meetings or hearings to be held by the District on the proposed project, if the District knows this information when it prepares the Notice;
- (d) A list of the significant environmental effects anticipated as a result of the project;
- (e) The address where copies of the EIR and all documents referenced in the EIR will be available for public review. This location shall be readily accessible to the public during the District’s normal working hours; and
- (f) A statement indicating whether the project site is included on any list of hazardous waste facilities, land designated as hazardous waste property, or hazardous waste disposal site, and, if so, the information required in the Hazardous Waste and Substances Statement pursuant to Government Code Section 65962.5.

The Notice of Availability shall be provided to:

- (a) Each Responsible and Trustee Agency;
- (b) Any other federal, state, or local agency which has jurisdiction by law or exercises authority over resources affected by the project, including:
 - (1) Any water supply agency consulted under Local Guidelines Section 5.15;
 - (2) Any city or county bordering on the project area;
 - (3) For a project of statewide, regional, or areawide significance, to any transportation agencies or public agencies which have major local arterials or public transit facilities within five (5) miles of the project site or freeways, highways, or rail transit service within ten (10) miles of the project site which could be affected by the project;
 - (4) For a subdivision project located within one mile of a facility of the State Water Resources Development System, to the California Department of Water Resources; and
 - (5) For a general plan amendment, a project of statewide, regional, or areawide significance, or a project that relates to a public use airport, to any “military service” (defined in Section 10.39 of these Local Guidelines) that has provided the District with its contact office and address and notified the District of the specific boundaries of a “low-level flight path” (defined in Section 10.35 of these Local Guidelines), “military impact zone” (defined in Section 10.38 of these Local Guidelines), or “special use airspace” (defined in Section 10.60 of these Local Guidelines).

- (c) The last known name and address of all organizations and individuals who have previously filed a written request with the District to receive these Notices;
- (d) For certain projects that may impact a low-level flight path, military impact zone, or special use airspace and that meet the other criteria of Local Guidelines Section 7.04 to the specified military services contact;
- (e) For certain projects that involve the construction or alteration of a facility anticipated to emit hazardous air emissions or handle hazardous substances within one-quarter mile of a school and that meet the other requirements of Local Guidelines Section 7.30, to any potentially affected school district;
- (f) For certain waste-burning projects that meet the requirements of Local Guidelines Section 5.10 (See also Local Guidelines Section 7.21), to the owners and occupants of property within one-fourth mile of any parcel on which the project will be located; and
- (g) For a project that establishes or amends a redevelopment plan that contains land in agricultural use, notice and a copy of the Draft EIR shall be provided to the agricultural and farm agencies and organizations specified in Health and Safety Code Section 33333.3.

The District may require requests for copies of these Notices to be renewed annually and may charge a fee for the reasonable cost of providing this service. A project will not be invalidated due to a failure to send a requested Notice provided there has been substantial compliance with these notice provisions.

Staff may also consult with and obtain comments from any person known to have special expertise or any other person or organization whose comments relative to the Draft EIR would be desirable.

In addition, notice shall be given to the public by at least one of the following procedures:

- (a) Publication of the Notice of Completion and/or the Notice of Availability at least once in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas;
- (b) Posting of the Notice of Completion and/or the Notice of Availability on and off site in the area where the project is to be located; or
- (c) Direct mailing of the Notice of Completion and/or the Notice of Availability to owners and occupants of property contiguous to the project, as identified on the latest equalized assessment roll.

The Notice of Completion and Notice of Availability shall be posted in the office of the Clerk in each county in which the project is located for at least thirty (30) days. If the public review period for the Draft EIR is longer than thirty (30) days, the District may wish to leave the Notice posted until the public review period for the Draft EIR has expired.

Copies of the Draft EIR shall also be made available at the District office for review by members of the general public. The District may require any person obtaining a copy of the Draft EIR to reimburse the District for the actual cost of its reproduction. Copies of the Draft EIR should also be furnished to appropriate public library systems.

The District is encouraged to make copies of filed notices available in electronic format on the Internet. Such electronic postings are in addition to the procedures required by the CEQA Guidelines and the Public Resources Code.

7.20 SUBMISSION OF DRAFT EIR TO STATE CLEARINGHOUSE.

A Draft EIR must be submitted to the State Clearinghouse for review by state agencies in the following situations:

- (a) A state agency is the Lead Agency for the Draft EIR;
- (b) A state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law over resources potentially affected by the project; or
- (c) The Draft EIR is for a project identified in State Guidelines Section 15206 as being a project of statewide, regional, or areawide significance.

State Guidelines Section 15206 identifies the following types of projects as being examples of projects of statewide, regional, or areawide significance which require submission to the State Clearinghouse for circulation:

- (1) General plans, elements, or amendments for which an EIR was prepared.
- (2) Projects which have the potential for causing significant environmental effects beyond the city or county where the project would be located, such as:
 - (a) Residential development of more than 500 units.
 - (b) Commercial projects employing more than 1,000 persons or covering more than 500,000 square feet of floor space.
 - (c) Office building projects employing more than 1,000 persons or covering more than 250,000 square feet of floor space.
 - (d) Hotel or motel development of more than 500 rooms.
 - (e) Industrial projects housing more than 1,000 persons, occupying more than 40 acres of land, or covering more than 650,000 square feet of floor area.
- (3) Projects for the cancellation of a Williamson Act contract covering more than 100 acres.
- (4) Projects in one of the following Environmentally Sensitive Areas:
 - (a) Lake Tahoe Basin.
 - (b) Santa Monica Mountains Zone.
 - (c) Sacramento-San Joaquin River Delta.
 - (d) Suisun Marsh.
 - (e) Coastal Zone, as defined by the California Coastal Act.
 - (f) Areas within one-quarter mile of a river designated as wild and scenic.

- (g) Areas within the jurisdiction of the San Francisco Bay Conservation and Development Commission.
- (5) Projects which would affect sensitive wildlife habitats or the habitats of any rare, threatened, or endangered species.
- (6) Projects which would interfere with water quality standards.
- (7) Projects which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

A Draft EIR may be submitted to the State Clearinghouse when a state agency has special expertise with regard to the environmental impacts involved.

When the Draft EIR will be reviewed through the State review process handled by the State Clearinghouse, a Notice of Completion (Form "H") should be used as a cover sheet. If the District uses the State Clearinghouse's online process to submit the Notice of Completion form, the form generated on the Internet site satisfies the State Clearinghouse's requirements.

A sufficient number of copies of the documents must be sent to the State Clearinghouse for circulation. Staff should contact the State Clearinghouse to find out the correct number of printed copies required for circulation. In addition to the printed copies, a copy of the documents in electronic format shall be submitted on a diskette or by electronic mail transmission if available.

Alternatively, the District may provide copies of draft environmental documents to the State Clearinghouse for state agency review in an electronic format. The document must be on a CD-ROM in a common file format such as Word or Acrobat. Lead Agencies must provide fifteen (15) copies of the CD-ROM to the State Clearinghouse. In addition, each CD-ROM must be accompanied by 15 printed copies of the DEIR summary, executive summary, or introduction section. The printed summary allows both the State Clearinghouse and agency CEQA coordinators to distribute the documents quickly without the use of a computer.

Submission of the Draft EIR to the State Clearinghouse affects the timing of the public review period as set forth in Local Guidelines Section 7.22.

7.21 SPECIAL NOTICE REQUIREMENTS FOR WASTE- AND FUEL-BURNING PROJECTS.

For any waste-burning project, as defined in Local Guidelines Section 5.10, in addition to the notice requirements specified in Local Guidelines Sections 7.19 and 7.20, Notice of Availability of the Draft EIR shall be given by direct mailing or any other method calculated to provide delivery of the notice to the owners and occupants of property within one-fourth mile of any parcel or parcels on which the project is located.

7.22 TIME FOR REVIEW OF DRAFT EIR; FAILURE TO COMMENT.

A period of between thirty (30) and sixty (60) days from the filing of the Notice of Completion of the Draft EIR shall be allowed for review of and comment on the Draft EIR,

except in unusual situations. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall be at least forty-five (45) days, unless a shorter period is approved by the State Clearinghouse as discussed below.

If a state agency is a Responsible Agency, or if the Draft EIR is submitted to the State Clearinghouse, the public review period shall be at least as long as the review period established by the State Clearinghouse. The public review period and the state agency review period may, but are not required to, begin and end at the same time. The state agency review period begins (day one) on the date that the State Clearinghouse distributes the Draft EIR to state agencies. The State Clearinghouse is required to distribute the Draft EIR to state agencies within three (3) working days from the date the State Clearinghouse receives the document, as long as the Draft EIR is complete when submitted to the State Clearinghouse. If the document submitted to the State Clearinghouse is not complete, the State Clearinghouse must notify the Lead Agency. The review period for the public and all other agencies may run concurrently with the state agency review period established by the State Clearinghouse.

A shorter review period of the Draft EIR by the State Clearinghouse can be requested by the District; however, a shortened review period shall not be less than thirty (30) days for a Draft EIR. Any request for a shortened review period must be made in writing by the District to the Office of Planning and Research. The District may designate a person to make these requests.. The District must contact all responsible and trustee agencies and obtain their agreement prior to obtaining a shortened review period.

A shortened review period is not available for any proposed project of statewide, regional or areawide environmental significance as determined pursuant to State Guidelines Section 15206. Any approval of a shortened review period shall be given prior to, and reflected in, the public notices.

In the event a public agency, group, or person whose comments on a Draft EIR are solicited fails to comment within the required time period, it shall be presumed that such agency, group, or person has no comment to make, unless the Lead Agency has received a written request for a specific extension of time for review and comment and a statement of reasons for the request.

Continued planning activities concerning the proposed project, short of formal approval, may continue during the period set aside for review and comment on the Draft EIR.

7.23 PUBLIC HEARING ON DRAFT EIR.

CEQA does not require formal public hearings for certification of an EIR; public comments may be restricted to written communications. (However, a hearing is required to utilize the limited exemption for Transit Priority Projects as explained in Local Guidelines Section 3.15.) However, if the District provides a public hearing on its consideration of a project, the District should include the project's environmental review documents as one of the subjects of the hearing. Notice of the time and place of the hearing shall be given in a timely manner in accordance with any legal requirements applicable to the proposed project. Generally, the requirements of the Ralph M. Brown Act will provide the minimum requirements for the

inclusion of CEQA matters on agendas and at hearings. (Gov. Code, § 54950 et seq.) At a minimum, agendas for meetings and hearings before commissions, boards, councils, and other agencies must be posted in a location that is freely accessible to members of the public at least seventy-two (72) hours prior to a regular meeting. The agenda must contain a brief general description of each item to be discussed and the time and location of the meeting. (Gov. Code, § 54954.2.)

7.24 RESPONSE TO COMMENTS ON DRAFT EIR.

The District as Lead Agency shall evaluate any comments on environmental issues received during the public review period for the Draft EIR and shall prepare a written response to those comments that raise significant environmental issues. As stated below, the District should also consider evaluating and responding to any comments received after the public review period. The written responses shall describe the disposition of any significant environmental issues that are raised in the comments. The responses may take the form of a revision of the Draft EIR, an attachment to the Draft EIR, or some other oral or written response which is adequate under the circumstances. If the District's position is at variance with specific recommendations or suggestions raised in the comment, the District's response must detail the reasons why such recommendations or suggestions were not accepted. Moreover, the District shall respond to any specific suggestions for project alternatives or mitigation measures for significant impacts, unless such alternatives or mitigation measures are facially infeasible. The response shall contain recommendations, when appropriate, to alter the project as described in the Draft EIR as a result of an analysis of the comments received.

At least ten (10) days prior to certifying a Final EIR, the District shall provide its proposed written response to any public agency which has made comments on the Draft EIR during the public review period. The District is not required to respond to comments received after the public review period. However, the District should consider responding to all comments if it will not delay action on the Final EIR, since any comment received before final action on the EIR can form the basis of a legal challenge. A written response that addresses the comment or adequately explains the District's action in light of the comment may assist the District in defending against a legal challenge.

7.25 PREPARATION AND CONTENTS OF FINAL EIR.

Following the receipt of any comments on the Draft EIR as required herein, such comments shall be evaluated by Staff and a Final EIR shall be prepared.

The Final EIR shall meet all requirements of Local Guidelines Section 7.14 and shall consist of the Draft EIR or a revision of the Draft, a section containing either verbatim or in summary the comments and recommendations received through the review and consultation process, a list of persons, organizations and public agencies commenting on the Draft, and a section containing the responses of the District to the significant environmental points raised in the review and consultation process.

7.26 RECIRCULATION WHEN NEW INFORMATION IS ADDED TO EIR.

When significant new information is added to the EIR after notice and consultation but before certification, the District must recirculate the Draft EIR for another public review period. The term “information” can include changes in the project or environmental setting as well as additional data or other information.

New information is significant only when the EIR is changed in a way that would deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of a project or a feasible way to mitigate or avoid such an effect, including a feasible project alternative, that the project proponents decline to implement. Recirculation is required, for example, when:

- (1) New information added to an EIR discloses:
 - (a) A new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented;
 - (b) A significant increase in the severity of an environmental impact (unless mitigation measures are also adopted that reduce the impact to a level of insignificance); or
 - (c) A feasible project alternative or mitigation measure that clearly would lessen the significant environmental impacts of the project, but which the project proponents decline to adopt; or
- (2) The Draft EIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Recirculation is not required when the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. If the revision is limited to a few chapters or portions of the EIR, the District as Lead Agency need only recirculate the chapters or portions that have been modified. A decision to not recirculate an EIR must be supported by substantial evidence in the record.

When the District determines to recirculate a Draft EIR, it shall give Notice of Recirculation (Form “M”) to every agency, person, or organization that commented on the prior Draft EIR. The Notice of Recirculation must indicate whether new comments must be submitted and whether the District has exercised its discretion to require reviewers to limit their comments to the revised chapters or portions of the recirculated EIR. The District shall also consult again with those persons contacted pursuant to Local Guidelines Section 7.19 before certifying the EIR. When the EIR is substantially revised and the entire EIR is recirculated, the District may require that reviewers submit new comments and need not respond to those comments received during the earlier circulation period. In those cases, the District should advise reviewers that, although their previous comments remain part of the administrative record, the final EIR will not provide a written response to those comments, and new comments on the revised EIR must be submitted. The District need only respond to those comments submitted in response to the revised EIR.

When the EIR is revised only in part and the District is recirculating only the revised chapters or portions of the EIR, the District may request that reviewers limit their comments to the revised chapters or portions. The District need only respond to: (1) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (2) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated.

When recirculating a revised EIR, either in whole or in part, the District must, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.

7.27 CERTIFICATION OF FINAL EIR.

Following the preparation of the Final EIR, Staff shall review the Final EIR and make a recommendation to the decisionmaking body regarding whether the Final EIR has been completed in compliance with CEQA, the State Guidelines and the District's Guidelines. The Final EIR and Staff recommendation shall then be presented to the decisionmaking body. The decisionmaking body shall independently review and consider the information contained in the Final EIR and determine whether the Final EIR reflects its independent judgment. Before it approves the project, the decisionmaking body must certify and find that: (1) the Final EIR has been completed in compliance with CEQA, the State Guidelines and the District's Guidelines; (2) the Final EIR was presented to the decisionmaking body and the decisionmaking body reviewed and considered the information contained in the Final EIR before approving the project; and (3) the Final EIR reflects the District's independent judgment and analysis.

Except in those cases in which the Board of Directors is the final decisionmaking body for the project, any interested person may appeal the certification or denial of certification of a Final EIR to the Board of Directors. See Local Guidelines Section 2.03. Appeals must follow the procedures prescribed by the District.

7.28 CONSIDERATION OF EIR BEFORE APPROVAL OR DISAPPROVAL OF PROJECT.

Once the decisionmaking body has certified the EIR, it may then proceed to consider the proposed project for purposes of approval or disapproval.

7.29 FINDINGS.

The decisionmaking body shall not approve or carry out a project if a completed EIR identifies one or more significant environmental effects of the project unless it makes one or more of the following written findings for each such significant effect, accompanied by a brief explanation of the rationale supporting each finding. For impacts that have been identified as potentially significant, the possible findings are:

- (a) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment as identified in the Final EIR, such that the impact has been reduced to a less-than-significant level.

- (b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the District. Such changes have been, or can and should be, adopted by that other agency.
- (c) Specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR. The decisionmaking body must make specific written findings stating why it has rejected an alternative to the project as infeasible.

The findings required by this Section shall be supported by substantial evidence in the record. Measures identified and relied on to mitigate environmental impacts identified in the EIR to below a level of significance should be expressly adopted or rejected in the findings. The findings should include a description of the specific reasons for rejecting any mitigation measures or project alternatives identified in the EIR that would reduce the significant impacts of the project. Any mitigation measures that are adopted must be fully enforceable through permit conditions, agreements, or other measures.

If any of the proposed alternatives could avoid or lessen an adverse impact for which no mitigation measures are proposed, the District shall analyze the feasibility of such alternative(s). If the project is to be approved without including such alternative(s), the District shall find that specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Final EIR and shall list such considerations before such approval.

The decisionmaking body shall not approve or carry out a project as proposed unless: (1) the project as approved will not have a significant effect on the environment; or (2) its significant environmental effects have been eliminated or substantially lessened (as determined through one or more of the findings indicated above), and any remaining unavoidable significant effects have been found acceptable because of facts and circumstances described in a Statement of Overriding Considerations (see Local Guidelines Section 7.31). Statements in the Draft EIR or comments on the Draft EIR are not determinative of whether the project will have significant effects.

When making the findings required by this Section, the District as Lead Agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which it based its decision.

7.30 SPECIAL FINDINGS REQUIRED FOR FACILITIES WHICH MAY EMIT HAZARDOUS AIR EMISSIONS NEAR SCHOOLS.

Special procedural rules apply to projects involving the construction or alteration of a facility within one-quarter mile of a school when: (1) the facility might reasonably be anticipated to emit hazardous air emissions or to handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the threshold specified in Health and Safety Code Section 25532(j); and (2) the emissions or substances may pose a health or safety hazard to persons who would attend or would be employed at the school. If the project meets both of those criteria, the District may not certify an EIR or approve a Negative Declaration unless it makes a finding that:

- (a) The Lead Agency consulted with the affected school district or districts having jurisdiction over the school regarding the potential impact of the project on the school; and
- (b) The school district was given written notification of the project not less than thirty (30) days prior to the proposed certification of the EIR or approval of the Negative Declaration.

Implementation of this Local Guideline shall be consistent with the definitions and terms utilized in State Guidelines section 15186.

Additionally, in its role as a Responsible Agency, the District should be aware that for projects involving the acquisition of a school site or the construction of a secondary or elementary school by a school district, the negative declaration or EIR prepared for the project may not be adopted or certified unless there is sufficient information in the entire record to determine whether any boundary of the school site is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

If it is determined that the project involves the acquisition of a school site that is within 500 feet of the edge of the closest traffic lane of a freeway, or other busy traffic corridor, the Negative Declaration or EIR may not be adopted or certified unless the school board determines, through a health risk assessment pursuant to Section 44360(b)(2) of the Health and Safety Code and after considering any potential mitigation measures, that the air quality at the proposed project site does not present a significant health risk to pupils.

7.31 STATEMENT OF OVERRIDING CONSIDERATIONS.

Whenever a project approved by the decisionmaking body will cause unmitigated significant environmental effects, the decisionmaking body must adopt a Statement of Overriding Considerations. A Statement of Overriding Considerations allows the decisionmaking body to approve a project despite one or more unmitigated significant environmental impacts identified in the Final EIR. A Statement of Overriding Considerations can be made only if feasible project alternatives or mitigation measures do not exist to reduce the environmental impact(s) to a level of insignificance and the benefits of the project outweigh the adverse environmental effect(s). The feasibility of project alternatives or mitigation measures is determined by whether the project alternative or mitigation measure can be accomplished within a reasonable period of time, taking into account economic, environmental, social, legal and technological factors. Project benefits which are appropriate to consider include the economic, environmental, technological and social value of the project.

Substantial evidence in the entire record must justify the decisionmaking body's findings and its use of the Statement of Overriding Considerations. If the decisionmaking body makes a Statement of Overriding Considerations, the Statement must be included in the record of the project approval and it should be referenced in the Notice of Determination.

7.32 MITIGATION MONITORING OR REPORTING PROGRAM FOR EIR.

When making findings regarding an EIR, the District must do all of the following:

- (a) Adopt a reporting or monitoring program to assure that mitigation measures which are required to mitigate or avoid significant effects on the environment will be implemented by the project proponent or other responsible party in a timely manner, in accordance with conditions of project approval;
- (b) Make sure all conditions and mitigation measures are feasible and fully enforceable through permit conditions, agreements, or other measures. Such permit conditions, agreements, and measures must be consistent with applicable constitutional requirements such as the “nexus” and “rough proportionality” standards established by caselaw; and
- (c) Specify the location and the custodian of the documents which constitute the record of proceedings upon which the District based its decision in the resolution certifying the EIR.

There is no requirement that the reporting or monitoring program be circulated for public review; however, the District may choose to circulate it for public comments along with the Draft EIR. Any mitigation measures required to mitigate or avoid significant effects on the environment shall be adopted and made fully enforceable, such as by being imposed as conditions of project approval.

The adequacy of a mitigation monitoring program is determined by the “rule of reason.” This means that a mitigation monitoring program does not need to provide every imaginable measure. It needs only to provide measures that are reasonably feasible and that are necessary to avoid significant impacts or to reduce the severity of impacts to a less-than-significant level.

The mitigation monitoring or reporting program shall be designed to assure compliance with the mitigation measures during the implementation and construction of the project. If a Responsible Agency or Trustee Agency has required that certain conditions be incorporated into the project, the District may request that agency to prepare and submit a proposed reporting or monitoring program. The District shall also require that, prior to the close of the public review period for a Draft EIR, the Responsible or Trustee Agency submit detailed performance objectives for mitigation measures, or refer the District to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the District by a Responsible or Trustee Agency shall be limited to measures that mitigate impacts to resources that are within the Responsible or Trustee Agency’s authority.

When a project is of statewide, regional, or areawide significance, any transportation information resulting from the reporting or monitoring program required to be adopted by the District shall be submitted to the regional transportation planning agency where the project is located and to the Department of Transportation. The transportation planning agency and the Department of Transportation are required by law to adopt guidelines for the submittal of these reporting or monitoring programs, so the District may wish to tailor its submittal to such guidelines.

Local agencies have the authority to levy fees sufficient to pay for this program. Therefore, the District may impose a program to charge project proponents fees to cover actual costs of program processing and implementation.

The District may delegate reporting or monitoring responsibilities to an agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed, the District remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The District may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" is defined as a written compliance review that is presented to the Council or an authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. Reporting is suited to projects which have readily measurable or quantitative mitigation measures or which already involve regular review. "Monitoring" is generally an ongoing or periodic process of project oversight. Monitoring is suited to projects with complex mitigation measures which may exceed the expertise of the District to oversee, are expected to be implemented over a period of time, or require careful implementation to assure compliance.

At its discretion, the District may adopt standardized policies and requirements to guide individually adopted programs.

Standardized policies or requirements for monitoring and reporting may describe, but are not limited to:

- (a) The relative responsibilities of various departments within the District for various aspects of the program;
- (b) The responsibilities of the project proponent;
- (c) Guidelines adopted by the District to govern preparation of programs;
- (d) General standards for determining project compliance with the mitigation measures and related conditions of approval;
- (e) Enforcement procedures for noncompliance, including provisions for administrative appeal;
- (f) Process for informing the Council and staff of the relative success of mitigation measures and using those results to improve future mitigation measures;

When a project is of statewide, regional, or areawide importance, any transportation information generated by a mitigation monitoring or reporting program must be submitted to the transportation planning agency in the region where the project is located, as well as to the Department of Transportation.

7.33 NOTICE OF DETERMINATION.

After approval of a project for which the District is the Lead Agency, Staff shall cause a Notice of Determination (Form "F") to be prepared, filed, and posted. The Notice of Determination shall include the following information:

- (a) An identification of the project, including its common name, where possible, and its location;
- (b) A brief description of the project;
- (c) The date when the District approved the project;

- (d) Whether the project in its approved form with mitigation will have a significant effect on the environment;
- (e) A statement that an EIR was prepared and certified pursuant to the provisions of CEQA;
- (f) Whether mitigation measures were made a condition of the approval of the project;
- (g) Whether findings and/or a Statement of Overriding Considerations was adopted for the project; and
- (h) The address where a copy of the EIR (with comments and responses) and the record of project approval may be examined by the general public.

The Notice of Determination shall be filed with the Clerk of each county in which the project will be located within five (5) working days of project approval. (To determine the fees that must be paid with the filing of the Notice of Determination, see Local Guidelines Section 7.36 and the Staff Summary of the CEQA Process.) The County Clerk is required to post the Notice of Determination within twenty-four (24) hours of receipt. The Notice must be posted in the office of the Clerk for a minimum of thirty (30) days. Thereafter, the Clerk shall return the notice to the District with a notation of the period it was posted. The District shall retain the notice for not less than twelve (12) months.

Simultaneously with the filing of the Notice of Determination with the Clerk, Staff shall cause a copy of such Notice to be posted at District Offices. If the project requires discretionary approval from a state agency, the Notice of Determination shall also be filed with the Office of Planning and Research within five (5) working days of project approval, along with proof that the District has paid the County Clerk the California Department of Fish and Game fee or a completed form from DFG documenting DFG's determination that the project will have no effect on fish and wildlife.

When a request is made for a copy of the Notice prior to the date on which the District approves the project, the copy must be mailed, first class postage prepaid, within five (5) days of the District's approval. If such a request is made following the District's approval of the project, then the copy should be mailed in the same manner as soon as possible. The recipients of such documents may be charged a fee reasonably related to the cost of providing the service.

The District is also encouraged to make copies of filed notices available in electronic format on the Internet. Such electronic notices are in addition to the posting requirements of the CEQA Guidelines and the Public Resources Code.

For projects with more than one phase, Staff shall file a Notice of Determination for each phase requiring a discretionary approval. The filing and posting of a Notice of Determination with the Clerk, and, if necessary, with the Office of Planning and Research, usually starts a thirty (30) day statute of limitations on court challenges to the approval under CEQA. When separate notices are filed for successive phases of the same overall project, the thirty (30) day statute of limitation to challenge the subsequent phase begins to run when the second notice is filed. Failure to file the Notice may result in a one hundred eighty (180) day statute of limitations.

7.34 DISPOSITION OF A FINAL EIR.

The District shall file a copy of the Final EIR with the appropriate planning agency of any city or county where significant effects on the environment may occur. The District shall also retain one or more copies of the Final EIR as a public record for a reasonable period of time. Finally, for private projects, the District may require that the project applicant provide a copy of the certified Final EIR to each Responsible Agency.

7.35 PRIVATE PROJECT COSTS.

For private projects, the person or entity proposing to carry out the project shall be charged a reasonable fee to recover the estimated costs incurred by the District in preparing, circulating, and filing the Draft and Final EIRs, as well as all publication costs incident thereto.

7.36 FILING FEES FOR PROJECTS WHICH AFFECT WILDLIFE RESOURCES.

At the time a Notice of Determination for an EIR is filed with the County or Counties in which the project is located, a fee of \$2,768.25 shall be paid to the Clerk for projects which will adversely affect fish or wildlife resources. These fees are collected by the Clerk on behalf of the California Department of Fish and Game ("DFG").

Only one filing fee is required for each project unless the project is tiered or phased and separate environmental documents are prepared. For projects where Responsible Agencies file separate Notices of Determination, only the Lead Agency is required to pay the fee.

Note: County Clerks are authorized to charge a documentary handling fee of up to \$50.00 for each project in addition to the Fish and Game fees specified above. Refer to the Index in the Staff Summary to help determine the correct total amount of fees applicable to the project.

For private projects, the District should pass these costs on to the project applicant.

No fees are required for projects with "no effect" on fish or wildlife resources or for certain projects undertaken by the DFG and implemented through a contract with a non-profit entity or local government agency. See Local Guidelines Section 6.20 for more information regarding a "no effect" determination.

8. TYPES OF EIRS

8.01 EIRS GENERALLY.

This chapter describes a number of examples of various EIRs tailored to different situations. All of these types of EIRs must meet the applicable requirements of Chapter 7 of these Local Guidelines.

8.02 TIERING.

“Tiering” refers to using the analysis of general matters contained in a previously certified broader EIR in later EIRs or Negative Declarations prepared for narrower projects. The later EIR or Negative Declaration may incorporate by reference the general discussions from the broader EIR and may concentrate solely on the issues specific to the later project.

An Initial Study shall be prepared for the later project and used to determine whether a previously certified EIR may be used and whether new significant effects should be examined. Tiering does not excuse the District from adequately analyzing reasonably foreseeable significant environmental effects of a project, nor does it justify deferring analysis to a later tier EIR or Negative Declaration. However, the level of detail contained in a first-tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed. When the District is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g., an area plan, specific plan or community plan), the development of detailed, site-specific information may not be feasible. Such site-specific information can be deferred, in many instances, until such time as the District prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.

When assessing whether there is a new significant cumulative effect for purposes of a subsequent tier environmental document, the District shall consider whether the incremental effects of the project would be considerable when viewed in the context of past, present, and probable future projects.

The District may use only a valid CEQA document as a first-tier document. Accordingly, the District should carefully review the first-tier environmental document to determine whether or not the statute of limitations for challenging the document has run. If the statute of limitations has not expired, the District should use the first-tier document with caution and pay careful attention to the legal status of the document. If the first-tier document is subsequently invalidated, any later environmental document may also be defective.

8.03 PROJECT EIR.

The most common type of EIR examines the environmental impacts of a specific development project and focuses primarily on the changes in the environment that would result from the development project.

If the EIR for a redevelopment plan is a Project EIR, all public and private activities or undertakings pursuant to or in furtherance of the Redevelopment Plan shall constitute a single project, which shall be deemed approved at the time of the adoption of the Redevelopment Plan. Although the District will probably not act as Lead Agency for a Redevelopment Plan, the District may act as a Responsible Agency. (State Guideline Section 15180.)

8.04 SUBSEQUENT EIR.

A Subsequent EIR is required when a previous EIR has been prepared and certified or a Negative Declaration has been adopted for a project and at least one of the three following situations occur:

- (a) Substantial changes are proposed in the project which will require major revisions of a previous EIR due to the identification of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (b) Substantial changes occur with respect to the circumstances under which the project is to be undertaken which will require major revisions of a previous EIR due to the identification of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (c) New information, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, becomes available and shows any of the following:
 - (1) the project will have one or more significant effects not discussed in a previous EIR or Negative Declaration;
 - (2) significant effects previously examined will be substantially more severe than shown in a previous EIR;
 - (3) mitigation measures or alternatives previously found not to be feasible are in fact feasible and would substantially reduce one or more significant effects, but the project proponent declines to adopt the mitigation measures or alternatives; or
 - (4) mitigation measures or alternatives which were not considered in a previous EIR would substantially lessen one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternatives.

A Subsequent EIR must receive the same circulation and review as the previous EIR received.

In instances where the District is evaluating a modification or revision to an existing use permit, the District may consider only those environmental impacts related to the changes between what was allowed under the old permit and what is requested under the new permit. Only if these differential impacts fall within the categories described above may the District require additional environmental review.

When the District is considering approval of a development project which is consistent with a general plan for which an EIR was completed, another EIR is required only if the project causes environmental effects peculiar to the parcel which were not addressed in the prior EIR or substantial new information shows the effects peculiar to the parcel will be more significant than described in the prior EIR.

8.05 SUPPLEMENTAL EIR.

The District may choose to prepare a Supplemental EIR, rather than a Subsequent EIR, if any of the conditions described in Local Guidelines Section 8.04 have occurred but only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. To assist the District in making this determination, the decisionmaking body should request an Initial Study and/or a recommendation by Staff. The Supplemental EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

A Supplemental EIR shall be given the same kind of notice and public review as is given to a Draft EIR but may be circulated by itself without recirculating the previous EIR.

When the decisionmaking body decides whether to approve the project, it shall consider the previous EIR as revised by the Supplemental EIR. Findings shall be made for each significant effect identified in the Supplemental EIR.

8.06 ADDENDUM TO AN EIR.

The District may choose to prepare an Addendum to an EIR, rather than a Subsequent or Supplemental EIR, only if none of the conditions described in Local Guidelines Section 8.04 or 8.05 calling for preparation of a Subsequent or Supplemental EIR have occurred and only minor technical changes or additions to the previous environmental document are necessary. Since significant effects on the environment were addressed by findings in the original EIR, no new findings are required in the Addendum.

An Addendum to an EIR need not be circulated for public review but should be included in or attached to the Final EIR. The decisionmaking body shall consider the Addendum with the Final EIR prior to making a decision on a project. A brief explanation of the decision not to prepare a Subsequent EIR or a Supplemental EIR should be included in the Addendum, the Lead Agency's findings on the project, or elsewhere in the record. This explanation must be supported by substantial evidence.

8.07 STAGED EIR.

When a large capital project will require a number of discretionary approvals from governmental agencies and one of the approvals will occur more than two years before construction will begin, a Staged EIR may be prepared. The Staged EIR covers the entire project in a general form or manner. A Staged EIR should evaluate a proposal in light of current and contemplated plans and produce an informed estimate of the environmental consequences of an entire project. The particular aspect of the project before the District for approval shall be discussed with a greater degree of specificity.

When a Staged EIR has been prepared, a Supplemental EIR shall be prepared when a later approval is required for the project and the information available at the time of the later approval would permit consideration of additional environmental impacts, mitigation measures, or reasonable alternatives to the project.

8.08 PROGRAM EIR.

A Program EIR is an EIR which may be prepared on an integrated series of actions that are related either:

- (a) Geographically;
- (b) As logical parts in a chain of contemplated actions;
- (c) In connection with the issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or
- (d) As individual projects carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways. (State CEQA Guidelines, § 15168.)

An advantage of using a Program EIR is that it can “[a]llow the Lead Agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts.” (State Guidelines, § 15168(b)(4).) A Program EIR is distinct from a Project EIR, as a Project EIR is prepared for a specific project and must examine in detail site-specific considerations. Program EIRs are commonly used in conjunction with the process of tiering.

Tiering is the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs. (State Guidelines, § 15385; see also Local Guidelines, §§ 8.02 and 10.66.) Tiering is proper “when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.” (Pub. Res. Code, § 21093(a).) For example, the California Supreme Court recently ruled that a Program EIR is consistent with CEQA if it identifies potential sources of water and analyzes the associated environmental effects in general terms. Rather, identification of specific sources and environmental effects is required only at the second-tier stage when specific projects are considered. (*In re Bay-Delta etc.* (2008) 43 Cal. 4th 1143.)

Subsequent activities in the program must be examined in light of the Program EIR to determine whether additional environmental documents must be prepared. Additional environmental review documents must be prepared if the proposed later project may arguably cause significant adverse effects on the environment.

8.09 USE OF A PROGRAM EIR WITH SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS.

A Program EIR can be used to simplify the task of preparing environmental documents in later parts of the program. The Program EIR can:

- (a) Provide the basis for determining whether the later activity may have any significant effects;

- (b) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives and other factors that apply to the program as a whole; or
- (c) Focus an EIR on a subsequent project to permit discussion solely of new effects which had not been considered before.

If a Program EIR is prepared for a redevelopment plan, subsequent activities in the redevelopment program will be subject to review if they would have effects that were not examined in the Program EIR. The District should use a written checklist or similar device to document the evaluation of the site and the proposed activity to determine whether the environmental effects of the operation were indeed covered in the Program EIR. If the District finds that no new effects could occur or no new mitigation measures would be required, the District can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document is required. (See Local Guideline Section 8.04.)

8.10 USE OF AN EIR FROM AN EARLIER PROJECT.

A single EIR may be used to describe more than one project when the projects involve substantially identical environmental impacts. Any environmental impacts peculiar to one of the projects must be separately set forth and explained.

8.11 MASTER EIR.

A Master EIR is an EIR which may be prepared for:

- (a) A general plan (including elements and amendments);
- (b) A specific plan;
- (c) A project consisting of smaller individual projects to be phased;
- (d) A regulation to be implemented by subsequent projects;
- (e) A project to be carried out pursuant to a development agreement;
- (f) A project pursuant to or furthering a redevelopment plan;
- (g) A state highway or mass transit project subject to multiple reviews or approvals; or
- (h) A regional transportation plan or congestion management plan.

A Master EIR must do both of the following:

- (a) Describe and present sufficient information about anticipated subsequent projects within its scope, including their size, location, intensity, and scheduling; and
- (b) Preliminarily describe potential impacts of anticipated subsequent projects for which insufficient information is available to support a full impact assessment.

The District and Responsible Agencies identified in the Master EIR may use the Master EIR to limit environmental review of subsequent projects. However, the Lead Agency for the subsequent project must prepare an Initial Study to determine whether the subsequent project and its significant environmental effects were included in the Master EIR. If the Lead Agency for the subsequent project finds that the subsequent project will have no additional significant environmental effect and that no new mitigation measures or alternatives may be required, it may prepare written findings to that effect without preparing a new environmental document. When

the Lead Agency makes this finding, it must provide public notice of the availability of its proposed finding for public review and comment in the same manner as if it were providing public notice of the availability of a draft EIR. (See Sections 15177(d) and 15087 of the State Guidelines and Section 7.19 of these Local Guidelines.)

A previously certified Master EIR cannot be relied upon to limit review of a subsequent project if:

- (a) A project not identified in the certified Master EIR has been approved and that project may affect the adequacy of the Master EIR for the subsequent project now under consideration; or
- (b) The Master EIR was certified more than five (5) years before the filing of an application for the subsequent project, unless the District reviews the adequacy of the Master EIR and:
 - (1) Finds that, since the Master EIR was certified, no substantial changes have occurred that would cause the subsequent project to have significant environmental impacts, and there is no new information that the subsequent project would have significant environmental impacts; or
 - (2) Prepares an Initial Study and either certifies a Subsequent or Supplement EIR or adopts a Mitigated Negative Declaration that addresses any substantial changes or new information that would cause the subsequent project to have potentially significant environmental impacts. The certified subsequent or supplemental EIR must either be incorporated into the previously certified Master EIR or the District must identify any deletions, additions or other modifications to the previously certified Master EIR in the new document. The District may include a section in the subsequent or supplemental EIR that identifies these changes to the previously certified Master EIR.

When the Lead Agency cannot find that the subsequent project will have no additional significant environmental effect and no new mitigation measures or alternatives will be required, it must prepare either a Mitigated Negative Declaration or an EIR for the subsequent project.

The District may develop a fee program to fund the costs of a Master EIR.

8.12 FOCUSED EIR.

A Focused EIR is an EIR for a subsequent project identified in a Master EIR. It may be used only if the District finds that the Master EIR's analysis of cumulative, growth-inducing, and irreversible significant environmental effects is adequate for the subsequent project. The Focused EIR must incorporate by reference the Master EIR.

The Focused EIR must analyze additional significant environmental effects not addressed in the Master EIR and any new mitigation measures or alternatives not included in the Master EIR. "Additional significant effects on the environment" means those project-specific effects on

the environment which were not addressed as significant effects on the environment in the Master EIR.

The Focused EIR must also examine the following:

- (a) Significant effects discussed in the Master EIR for which substantial new information exists that shows those effects may be more significant than described in the Master EIR;
- (b) Those mitigation measures found to be infeasible in the Master EIR for which substantial new information exists that shows the effects may be more significant than described in the Master EIR; and
- (c) Those mitigation measures found to be infeasible in the Master EIR for which substantial new information exists that shows those measures may now be feasible.

The Focused EIR need not examine the following effects:

- (a) Those that were mitigated through Master EIR mitigation measures; or
- (b) Those that were examined in the Master EIR in sufficient detail to allow project-specific mitigation or for which mitigation was found to be the responsibility of another agency.

A Focused EIR may be prepared for a multifamily residential project not exceeding 100 units or a mixed use residential project not exceeding 100,000 square feet even though the project was not identified in a Master EIR, if the following conditions are met:

- (a) The project is consistent with a general plan, specific plan, community plan, or zoning ordinance for which an EIR was prepared within five (5) years of the Focused EIR's certification;
- (b) The project does not require the preparation of a Subsequent or Supplemental EIR; and
- (c) The parcel is surrounded by immediately contiguous urban development, was previously developed with urban uses, or is within one-half mile of a rail transit station.

A Focused EIR for these projects should be limited to potentially significant effects that are project-specific and/or which substantial new information shows will be more significant than described in the Master EIR. No discussion shall be required of alternatives to the project, cumulative impacts of the project, or the growth-inducing impacts of the project. (See State Guidelines Section 15179.5.)

8.13 SPECIAL REQUIREMENTS FOR REDEVELOPMENT PROJECTS

An EIR for a redevelopment plan may be a Master EIR, Program EIR or Project EIR. An EIR for a redevelopment plan must specify whether it is a Master EIR, a Program EIR or a Project EIR. Normally, the District will not be Lead Agency for a redevelopment plan. However, if the District is a Responsible Agency on such a project, the District should endeavor to ensure that the county, as Lead Agency, analyzes these impacts in accordance with CEQA.

If a Program EIR is prepared for a redevelopment plan, subsequent activities in the redevelopment program will be subject to review if they would have effects that were not examined in the Program EIR. If the EIR for a redevelopment plan is a Project EIR, all public and private activities or undertakings pursuant to or in furtherance of the Redevelopment Plan

shall constitute a single project, which shall be deemed approved at the time of the adoption of the Redevelopment Plan. Once certified, no subsequent EIRs will be needed unless required by State Guidelines sections 15162 or 15163. (State Guideline Section 15180.) If a Master EIR is prepared for a redevelopment plan, subsequent projects will be subject to review if they would have effects that were not examined in the Master EIR. If no new effects could occur or no new mitigation measures would be required, it can approve the activity as being within the scope of the project covered by the Master EIR, and no new environmental document is required.

9. CEQA LITIGATION

9.01 TIMELINES.

When a CEQA lawsuit is filed, there are numerous and complex time requirements that must be met. Pressing deadlines begin to run in the days immediately after a CEQA lawsuit has been filed with the Court. For example, within ten (10) business days of the public agency being served with a petition or complaint alleging a violation of CEQA, the District, if it was the Lead Agency, must provide the petitioner with a list of Responsible Agencies and public agencies with jurisdiction by law over any natural resource affected by the project at issue.

There are a variety of other deadlines that apply in CEQA litigation. If a CEQA lawsuit is filed, CEQA counsel should be contacted immediately in order to ensure that all the applicable deadlines are met.

9.02 ADMINISTRATIVE RECORD.

When the Lead Agency's CEQA finding(s) and/or action is challenged in a lawsuit, the Lead Agency must certify the administrative record that formed the basis of the Lead Agency's decision. To the extent the documents listed below exist and are not subject to a privilege that exempts them from disclosure, the following items should be included in the administrative record:

- (1) All project application materials;
- (2) All staff reports and related documents prepared by the public agency with respect to its compliance with the substantive and procedural requirements of CEQA and with respect to the action on the project;
- (3) All staff reports and related documents prepared by the public agency and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the public agency pursuant to this division;
- (4) Any transcript or minutes of the proceedings at which the decisionmaking body of the public agency heard testimony on or considered any environmental document on the project, and any transcript or minutes of proceedings before any advisory body to the respondent public agency that were presented to the decisionmaking body prior to action on the environmental documents or on the project;
- (5) All notices issued by the public agency to comply with CEQA or with any other law governing the processing and approval of the project;
- (6) All written comments received in response to, or in connection with, environmental documents prepared for the project, including responses to the notice of preparation;

- (7) All written evidence or correspondence submitted to, or transferred from, the public agency with respect to compliance with CEQA or with respect to the project;
- (8) Any proposed decisions or findings submitted to the decisionmaking body of the public agency by its staff or the project proponent, project opponents, or other persons, to the extent such documents are subject to public disclosure;
- (9) The documentation of the final public agency decision, including the final environmental impact report, mitigated negative declaration, or negative declaration, and all documents, in addition to those referenced in paragraph (3) above, cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA;
- (10) Any other written materials relevant to the respondent public agency's compliance with CEQA or to its decision on the merits of the project, including the initial study; any drafts of any environmental document, or portions thereof, that were released for public review; copies of studies or other documents relied upon in any environmental document prepared for the project and either made available to the public during the public review period or included in the public agency's files on the project; and internal agency communications related to the project or to compliance with CEQA, to the extent such documents are subject to public disclosure; and
- (11) The full written record before any inferior administrative decisionmaking body whose decision was appealed prior to the filing of the lawsuit

The administrative record can be prepared: (1) by the petitioner, if the petitioner elects to do so, or (2) by the Lead Agency. The petitioner and the Lead Agency can also agree on any alternative method of preparing the record. However, when a third party such as the project applicant prepares or assists with the preparation of the administrative record, the Lead Agency may not be able to recover fees incurred by the third party unless petitioner has agreed to this method of preparation.

The administrative record should be organized either chronologically or by topic area. The administrative record should include a master index of documents. The documents generated by the Lead Agency during the CEQA process should be properly labeled for ease of identification.

10. DEFINITIONS

Whenever the following terms are used in these Local Guidelines, they shall have the following meaning unless otherwise expressly defined:

10.01 **“Applicant”** means a person who proposes to carry out a project which requires a lease, permit, license, certificate, or other entitlement for use, or requires financial aid from one or more public agencies when applying for governmental approval or assistance.

10.02 **“Approval”** means a decision by the decisionmaking body or other authorized body or officer of the District which commits the District to a definite course of action with regard to a particular project. With regard to any project to be undertaken directly by the District, approval shall be deemed to occur on the date when the decisionmaking body adopts a motion or resolution determining to proceed with the project, which in no event shall be later than the date of adoption of plans and specifications. As to private projects, approval shall be deemed to have occurred upon the earliest commitment to provide service or the issuance by the District of a discretionary contract, subsidy, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project. The mere acquisition of land by the District shall not, in and of itself, be deemed to constitute approval of a project.

For purposes of these Local Guidelines, all environmental documents must be completed as of the time of project approval.

10.03 **“Agricultural Employee”** means a person engaged in agriculture, including farming in all its branches, and, among other things, includes: (1) the cultivation and tillage of the soil, (2) dairying, (3) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, (4) the raising of livestock, bees, furbearing animals, or poultry, and (5) any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

This definition does not include any person covered by the National Labor Relations Act as agricultural employees pursuant to Section 2(3) of the Labor Management Relations Act (Section 152(3), Title 29, United States Code) and Section 3(f) of the Fair Labor Standards Act (Section 203(f), Title 29, United States Code). This definition does not apply to employees who perform work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (as these terms have been construed under Section 8(e) of the Labor Management Relations Act, 29 United States Code Section 158(e)) or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above. As used in this definition, “land leveling” shall include only major land moving operations changing the contour of the land, but shall not include annual or seasonal tillage or preparation of land for cultivation. (State Guidelines Section 15191(a).)

- 10.04** **“Baseline”** refers to the pre-project environmental conditions. By comparing the project’s potential impacts to the baseline, the Lead Agency determines whether the project’s impacts are substantial enough to be significant under the relevant thresholds of significance. Generally, the baseline is the environmental conditions existing on the date the environmental analysis begins, such as the date of the Notice of Preparation is published for an EIR or the date of the Notice of Intent to Adopt a Negative Declaration. However, in certain circumstances, an earlier or later date may provide a more accurate environmental analysis. The District may establish any baseline that is appropriate, including an earlier or later date, as long as the choice of baseline can be supported by substantial evidence.
- 10.05** **“CEQA”** (the California Environmental Quality Act) means California Public Resources Code Sections 21000, et seq.
- 10.06** **“Categorical Exemption”** means an exception from the requirement of preparing a Negative Declaration or an EIR, based on a finding by the Secretary of the Resources Agency that the class of projects does not have a significant effect on the environment.
- 10.07** **“Census-Defined Place”** means a specific unincorporated land area within boundaries determined by the United States Census Bureau in the most recent decennial census.
- 10.08** **“Clerk”** means either the “Clerk of the Board” or the “County Clerk” depending upon the county. Please refer to the “Index to Environmental Filing by County” in the Staff Summary to determine which applies.
- 10.09** **“Community-Level Environmental Review”** means either (1) or (2) below:
- (1) An EIR certified for any of the following:
 - (a) A general plan,
 - (b) A revision or update to the general plan that includes at least the land use and circulation elements,
 - (c) An applicable community plan,
 - (d) An applicable specific plan,
 - (e) A housing element of the general plan, if the Environmental Impact Report analyzed the environmental effects of the density of the proposed project.
 - (2) A Negative Declaration or Mitigated Negative Declaration adopted as a subsequent environmental review document, following and based upon an EIR on a general plan, an applicable community plan or specific plan, provided that the subsequent environmental review document is allowed by CEQA following a Master EIR or a Program EIR or is required pursuant to Public Resource Section 21166.

10.10 **“Cumulative Impacts”** means two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or a number of separate projects, whether past, present or future.

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present and reasonably foreseeable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

10.11 **“Cumulatively Considerable”** means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

10.12 **“Decisionmaking Body”** means the body within the District, e.g., the Board of Directors which has final approval authority over the particular project.

10.13 **“Developed Open Space”** means land that meets each of the following three criteria:

- (1) Is publicly owned, or financed in whole or in part by public funds;
- (2) Is generally open to, and available for use by, the public;
- (3) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ball fields, enclosed child play areas, and picnic facilities.

Developed Open Space may include land that has been designated for acquisition by a public agency for developed open space purposes, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

10.14 **“Development Project”** means any project undertaken for the purpose of development, including any project involving the issuance of a permit for construction or reconstruction but not a permit to operate. It does not include any ministerial projects proposed to be carried out or approved by public agencies. (Government Code Section 65928.)

10.15 **“Discretionary Project”** means a project for which approval requires the exercise of independent judgment, deliberation, or decisionmaking on the part of the District.

10.16 **“District”** means the San Diego Metropolitan Transit District.

10.17 **“Draft EIR”** means an uncertified EIR containing the information summarized in Local Guidelines Section 7.14.

10.18 **“Emergency”** means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or

damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, landslide or other natural disaster, as well as such occurrences as riot, war, terrorist incident, accident or sabotage.

10.19 **“Endangered, Rare or Threatened Species”** means certain species or subspecies of animals or plants. A species or subspecies of animal or plant is “Endangered” when its survival and reproduction in the wild are in immediate jeopardy from one or more cause, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors. A species or subspecies of animal or plant is “Threatened” when it is listed as a threatened species pursuant to the California Endangered Species Act or the federal Endangered Species Act. A species or subspecies of animal or plant is “Rare” when either:

- (1) Although not presently threatened with extinction, the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens; or
- (2) The species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered “threatened” as that term is used in the Federal Endangered species Act.

For purposes of analyzing impacts to biological resources, a species of animal or plant shall be presumed to be endangered, rare or threatened if it is listed under the California Endangered Species Act or the federal Endangered Species Act.

This definition shall not include any species of the Class Insecta which is a pest whose protection under the provisions of CEQA would present an overwhelming and overriding risk to man as determined by the Director of Food and Agriculture (with regard to economic pests) or the Director of Health Services (with regard to health risks).

10.20 **“Environment”** means the physical conditions which exist in the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The “environment” includes both natural and man-made conditions.

10.21 **“EIR”** (Environmental Impact Report) means a detailed written statement setting forth the environmental effects and considerations pertaining to a project. EIR may mean a Draft or a Final version of an EIR, a Project EIR, a Subsequent EIR, a Supplemental EIR, a Tiered EIR, a Staged EIR, a Program EIR, a Redevelopment EIR, a Master EIR, or a Focused EIR.

10.22 **“Feasible”** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

10.23 **“Final EIR”** means an EIR containing the information contained in the Draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the response of the District to the comments received.

10.24 **“Local Guidelines”** means the District’s Local Guidelines for implementing the California Environmental Quality Act.

10.25 **“Historical Resources”** include:

Resources listed in, or eligible for listing in, the California Register of Historical Resources shall be considered historical resources.

A resource may be listed in the California Register if it meets any of the following National Register of Historic Places criteria:

- (a) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- (b) Is associated with the lives of persons important in our past;
- (c) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- (d) Has yielded, or may be likely to yield, information important in prehistory or history.

A resource may also be listed in the California Register if it is identified as significant in an historical resource survey that meets all of the following criteria:

- (a) The survey has been or will be included in the State Historic Resources Inventory;
- (b) The survey and the survey documentation were prepared in accordance with office procedures and requirements; and
- (c) The resource is evaluated and determined by the office to have a significance rating of Category 1 to 5 on DPR Form 523.

Resources included on a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution, or identified as significant in a historical resource survey (as described above) are presumed to be historically or culturally significant, unless a preponderance of evidence demonstrates that they are not historically or culturally significant.

Any of the following may be considered historically significant: any object, building, structure, site, area, place, record or manuscript which a Lead Agency determines, based upon substantial evidence in light of the whole record, to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military or cultural annals of California.

The Lead Agency is not precluded from determining that a resource is a historical resource, as defined in Public Resources Code Sections 5020.1(j) or 5024.1, even if it is: (a) not listed in, or determined to be eligible for listing in, the California Register of Historical Resources; (b) not included in a local register of historical resources; or (c) not identified in a historical resources survey.

10.26 **“Infill Site”** means a site in an urbanized area that meets either of the following criteria:

- (1) The site has been previously developed for qualified urban uses; or
- (2) The site has not been previously developed for qualified urban uses and both (a) and (b) are met :
 - (a) the site is immediately adjacent to parcels that are developed with qualified urban uses, or
 1. at least 75 percent of the perimeter of the site is adjacent to parcels that are developed with existing qualified urban uses at the time the Lead Agency receives an application for an approval; and
 2. the remaining 25 percent of the perimeter of the site adjoins parcels that had been previously developed for qualified urban uses.
 - (b) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(Public Resources Code Section 21061.3.)

10.27 **“Initial Study”** means a preliminary analysis conducted by the District to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

10.28 **“Jurisdiction by Law”** means the authority of any public agency to grant a permit or other entitlement for use, to provide funding for the project in question or to exercise authority over resources which may be affected by the project.

The District will have jurisdiction by law over a project when the District, having primary and exclusive jurisdiction over the area involved, is the site of the project, the area in which the major environmental effects will occur, or the area in which reside those citizens most directly concerned by any such environmental effects.

10.29 **“Land Disposal Facility”** means a hazardous waste facility where hazardous waste is disposed in, on, or under land. (Health and Safety Code Section 25199.1(d).)

10.30 **“Large Treatment Facility”** means a treatment facility which treats or recycles one thousand (1,000) or more tons of hazardous waste during any one month of the

current reporting period commencing on or after July 1, 1991. (Health and Safety Code Section 25205.1(d).)

- 10.31** **“Lead Agency”** means the public agency which has the principal responsibility for preparing environmental documents and for carrying out or approving a project when more than one public agency is involved with the same underlying activity.
- 10.32** **“Low-Income Households”** means households of persons and families of very low and low income. Low-income persons or families are those eligible for financial assistance from governmental agencies for occupants of state-funded housing. Very low income persons are those whose incomes do not exceed the qualifying limits for very low income families as established and amended pursuant to Section 8 of the United States Housing Act of 1937. Such limits are published and updated in the California Code of Regulations. (Public Resources Code Section 21159.20(c); Health and Safety Code Sections 50105 and 50106; State Guidelines Section 15191(g).)
- 10.33** **“Low- and Moderate-Income Households”** means persons and families of low or moderate income” as defined in Section 50093 of the Health and Safety Code to mean persons and families whose income does not exceed 120% of area median income, adjusted for family size by the Department of Housing and Community Development, in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. (Public Resources Code Section 21159.20(d); State Guidelines Section 15191(f).)
- 10.34** **“Lower Income Households”** is defined in Health and Safety Code Section 50079.5 to mean any of the following:
- (1) “Lower income households” means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.
 - (2) “Very low income households” means persons and families whose incomes do not exceed the qualifying limits for very low income families as defined in Health and Safety Code 50105.
 - (3) “Extremely low income households” means persons and families whose incomes do not exceed the qualifying limits for extremely low income families as defined in Health and Safety Code Section 50106.
- 10.35** **“Low-Level Flight Path”** means any flight path for any aircraft owned, maintained, or under the jurisdiction of the United States Department of Defense that flies lower than 1,500 feet above ground level, as indicated in the United States Department of Defense Flight Information Publication, “Area Planning Military Training Routes: North and South America (AP/1B)” published by the United States National Imagery and Mapping Agency or its successor.

- 10.36** **“Major Transit Stop”** means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods. (State Guidelines Section 15191(i).)
- 10.37** **“Metropolitan Planning Organization”** means a federally-designated agency that provides transportation planning and programming in metropolitan areas. A MPO is designated for each urban area that has been defined in the most recent federal census as having a population of more than 50,000 people. The Census Bureau issued its list of qualifying Urbanized Areas based on population counts from the 2000 decennial Census. There are 18 federally-designated MPOs in California. Non-urbanized (rural) areas do not have a designated MPO.
- 10.38** **“Military Impact Zone”** means any area, including airspace, that meets both of the following criteria:
- (1) Is located within two miles of a military installation, including, but not limited to, any base, military airport, camp, post, station, yard, center, homeport facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense; and
 - (2) Covers greater than 500 acres of unincorporated land, or greater than 100 acres of city incorporated land.
- 10.39** **“Military Service”** means the United States Department of Defense or any branch of the United States Armed Forces.
- 10.40** **“Ministerial”** describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Common examples of ministerial permits include automobile registrations, dog licenses, and marriage licenses. A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows the structure to be built in the requested locations, the structure would meet the strength requirements in the Uniform Building Code, and the applicant has paid his fee. (Public Resources Code Section 21080(b)(1).)
- 10.41** **“Mitigated Negative Declaration”** means a Negative Declaration prepared for a Project when the Initial Study has identified potentially significant effects on the environment, but: (1) revisions in the project plans or proposals made, or agreed to, by the applicant before the proposed Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is

no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

- 10.42** **“Mitigation”** means avoiding the environmental impact altogether by not taking a certain action or parts of an action, minimizing impacts by limiting the degree or magnitude of the action and its implementation, rectifying the impact by repairing, rehabilitating or restoring the impacted environment, reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, or compensating for the impact by replacing or providing substitute resources or environments.
- 10.43** **“Negative Declaration”** means a written statement by the District briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and, therefore, does not require the preparation of an EIR.
- 10.44** **“Notice of Completion”** means a brief report filed with the Office of Planning and Research by the District when it is the Lead Agency as soon as it has completed a Draft EIR and is prepared to send out copies for review.
- 10.45** **“Notice of Determination”** means a brief notice to be filed by the District when it approves or determines to carry out a project which is subject to the requirements of CEQA.
- 10.46** **“Notice of Exemption”** means a brief notice which may be filed by the District when it has approved or determined to carry out a project, and it has determined that the project is exempt from the requirements of CEQA. Such a notice may also be filed by an applicant where such a determination has been made by a public agency which must approve the project.
- 10.47** **“Notice of Preparation”** means a brief notice sent by a Lead Agency to notify the Responsible Agencies, Trustee Agencies, the Office of Planning and Research, and involved federal agencies that the Lead Agency plans to prepare an EIR for a project. The purpose of this notice is to solicit guidance from those agencies as to the scope and content of the environmental information to be included in the EIR. Public agencies are free to develop their own formats for this notice.
- 10.48** **“Oak”** means a native tree species in the genus *Quercus*, not designated as Group A or Group B commercial species pursuant to regulations adopted by the State Board of Forestry and Fire Protection pursuant to Public Resources Code Section 4526, and that is five (5) inches or more in diameter at breast height. (Public Resources Code Section 21083.4(a).)
- 10.49** **“Oak Woodlands”** means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover. (Fish & Game Code Section 1361(h).)

10.50 **“Offsite Facility”** means a facility that serves more than one generator of hazardous waste. (Public Resources Code Section 21151.1(h).)

10.51 **“Person”** includes any person, firm, association, organization, partnership, business, trust, corporation, company, city, county, city and county, town, the state, and any of the agencies which may be political subdivisions of such entities, and, to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions.

10.52 **“Private Project”** means a project which will be carried out by a person other than a governmental agency, but which will need a discretionary approval from the District. Private projects will normally be those listed in subsections (2) and (3) of Local Guidelines Section 10.53.

10.53 **“Project”** means the whole of an action or activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment, and is any of the following:

- (1) A discretionary activity directly undertaken by the District including but not limited to public works construction and related activities, clearing or grading of land, or improvements to existing public structures.
- (2) A discretionary activity which involves a public agency’s issuance to a person of a lease, permit, license, certificate, or other entitlement for use, or which is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance by the District.
- (3) A discretionary project proposed to be carried out or approved by public agencies, including but not limited to the enactment and amendment of local General Plans or elements thereof, the enactment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps.

The presence of any real degree of control over the manner in which a project is completed makes it a discretionary project.

The term “project” refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term “project” does not mean each separate governmental approval.

10.54 **“Project-Specific Effects”** means all the direct or indirect environmental effects of a project other than cumulative effects and growth-inducing effects. (Public Resources Code Section 21065.3; State Guidelines Section 15191(j).)

10.55 **“Public Water System”** means a system for the provision of piped water to the public for human consumption that has 3000 or more service connections. A public water system includes all of the following: (A) Any collection, treatment, storage, and distribution facility under control of the operator of the system which is used

primarily in connection with the system; (B) Any collection or pretreatment storage facility not under the control of the operator that is used primarily in connection with the system; (C) Any person who treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption. (State Guideline Section 15155.)

- 10.56** **“Qualified Urban Use”** means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. (Public Resources Code Section 21072; State Guidelines Section 15191(k).)
- 10.57** **“Residential”** means a use consisting of either residential units only or residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15% of the total floor area of the project. (State Guidelines Section 15191(l).)
- 10.58** **“Responsible Agency”** means a public agency which proposes to carry out or approve a project for which a Lead Agency has prepared the environmental documents. For the purposes of CEQA, the term “Responsible Agency” includes all federal, state, regional and local public agencies other than the Lead Agency which have discretionary approval power over the project.
- 10.59** **“Significant Effect”** means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the activity including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.
- 10.60** **“Special Use Airspace”** means the land area underlying the airspace that is designated for training, research, development, or evaluation for a military service, as that land area is established by the United States Department of Defense Flight Information Publication, “Area Planning: Special Use Airspace: North and South America (AP/1A)” published by the United States National Imagery and Mapping Agency or its successor.
- 10.61** **“Staff”** means the General Manager or his or her designee.
- 10.62** **“Standard”** means a standard of general application that is all of the following:
- (1) A quantitative, qualitative or performance requirement found in a statute, ordinance, resolution, rule, regulation, order, or other standard of general application;
 - (2) Adopted for the purpose of environmental protection;
 - (3) Adopted by a public agency through a public review process;
 - (4) Governs the same environmental effect which the change in the environment is impacting; and

- (5) Governs the jurisdiction where the project is located.

The definition of “standard” includes any thresholds of significance adopted by the District which meet the requirements of this Section.

If there is a conflict between standards, the District shall determine which standard is appropriate based upon substantial evidence in light of the whole record.

10.63 **“State Guidelines” or “State CEQA Guidelines”** means the Guidelines for Implementation of the California Environmental Quality Act as adopted by the Secretary of the California Resources Agency as they now exist or hereafter may be amended. (California Administrative Code, Title 14, Sections 15000, et seq.)

10.64 **“Substantial Evidence”** means reliable information on which a fair argument can be based to support an inference or conclusion, even though another conclusion could be drawn from that information. “Substantial evidence” includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. “Substantial evidence” does not include argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment.

10.65 **“Sustainable Communities Strategy”** is an element of a Regional Transportation Plan, which must be adopted by the Metropolitan Planning Organization for the region. (See Local Guidelines Section 10.37.) The Sustainable Communities Strategy is an integrated land use and transportation plan intended to reduce greenhouse gases. The Sustainable Communities Strategy includes various components such as: consideration of existing densities and uses within the region, identification of areas within the region that can accommodate an eight-year projection of the region’s housing needs, development of projections for growth in the region, identification of existing transportation networks, and preparation of a forecast for development pattern for the region that can be integrated with transportation networks.

10.66 **“Tiering”** means the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs or ultimately site-specific EIRs incorporating by reference the general discussions and concentrating solely on the issues specific to the EIR subsequently prepared. Tiering is appropriate when the sequence of EIRs is:

- (a) From a general plan, policy, or Program EIR to a program, plan, or policy EIR of lesser scope or to a site-specific EIR;
- (b) From an EIR on a specific action at an early stage to a subsequent EIR or a supplement to an EIR at a later stage. Tiering in such cases is appropriate when it helps the Lead Agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

(Public Resources Code Sections 21003, 21061 and 21100.)

10.67 **“Transit Priority Project”** means a mixed use project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which for which the State Air Resources Board has accepted a Metropolitan Planning Organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets. Such a project may be exempt from CEQA if a detailed laundry list of requirements is met. To qualify for the exemption, the Transit Priority Project must:

- (1) contain at least 50 percent residential use based on total building square footage
- (2) if the project contains between 26 percent and 50 percent non-residential uses, the floor-to-area ratio (FAR) must be at least 0.75;
- (3) have a minimum net density of 20 dwelling units per acre;
- (4) be located within a half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan; and
- (5) meet all the requirements of Public Resources Code Section 21155.1.

10.68 **“Transportation Facilities”** includes major local arterials and public transit within five (5) miles of the project site, and freeways, highways, and rail transit service within ten (10) miles of the project site.

10.69 **“Trustee Agency”** means a State agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California. Trustee Agencies may include, but are not limited to, the following:

- (a) The California Department of Fish and Game (“DFG”) with regard to the fish and wildlife of the state, designated rare or endangered native plants, and game refuges, ecological reserves, and other areas administered by DFG.
- (b) The State Lands Commission with regard to state owned “sovereign” lands such as the beds of navigable waters and state school lands.

- (c) The State Department of Parks and Recreation with regard to units of the State Park System.
- (d) The University of California with regard to sites within the Natural Land and Water Reserve System.
- (e) The State Water Resources Control Board with respect to surface waters.

10.70 **“Urbanized Area”** means either of the following:

- (1) An incorporated city that either by itself or in combination with two contiguous incorporated cities has a population of at least one hundred thousand (100,000) persons;
- (2) An unincorporated area that meets both of the following requirements:
 - (a) The unincorporated area is either:
 - (i) completely surrounded by one or more incorporated cities, have a population of at least 100,000 persons either by itself or in combination with the surrounding incorporated city or cities, and have a population density that at least equals the population density of the surrounding city or cities; or
 - (ii) located within an urban growth boundary and has an existing residential population of at least five thousand (5,000) persons per square mile. An “urban growth boundary” means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.
 - (b) The board of supervisors with jurisdiction over the unincorporated area has taken all three of the following steps:
 - 1. Prepared a draft document by which the board would find that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that encourage compact development in a manner that promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing, and protects the environment, open space and agricultural areas;
 - 2. Submitted the draft document to the Office of Planning and Research and allowed OPR thirty (30) days to submit comments on the draft finding to the board; and
 - 3. At least thirty (30) days after submitting the draft document to OPR, the board has adopted a final finding in substantial conformity with the draft finding described in the draft document. (Public Resources Code Sections 21083, 21159.20-21159.24; State Guidelines Section 15191(m).)

- 10.71** **“Urban Growth Boundary”** means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side of the boundary.
- 10.72** **“Water Acquisition Plans”** means any plans for acquiring additional water supplies prepared by the public water system or a city or county Lead Agency pursuant to subdivision (a) of section 10911 of the Water Code.
- 10.73** **“Water Assessment” or “Water Supply Assessment”** means the water supply assessment that must be prepared by the governing body of a public water system, or a city or county, pursuant to and in compliance with sections 10910 to 10915 of the Water Code, and that includes, without limitation, the elements of the assessment required to comply with subdivisions (d), (e), (f), and (g) of section 10910 of the Water Code.
- 10.74** **“Water Demand Project”** means any one of the following:
- (A) A residential development of more than 500 dwelling units;
 - (B) A shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;
 - (C) A commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;
 - (D) A hotel or motel, or both, having more than 500 rooms;
 - (E) An industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
 - (F) A mixed-use project that includes one or more of the projects specified in subdivisions (A); (B), (C), (D), (E), or (G) of this section;
 - (G) A project that would demand an amount of water equivalent to, or greater than, the amount of water; required by a 500 dwelling unit project; or
 - (H) For public water systems with fewer than 5,000 service connections, a project that meets the following criteria:
 - (1) A proposed residential, business, commercial, hotel or motel, or industrial development that would account for an increase of 10 percent or more in the number of a public water system’s existing service connections; or
 - (2) A mixed-use project that would demand an amount of water equivalent to, or greater than, the amount of water required by residential development that would represent an increase of 10 percent or more in

the number of the public water system's existing service connections.
(State Guideline Section 15155.)

- 10.75** **“Wetlands”** has the same meaning as that term is construed in the regulations issued by the United States Army Corps of Engineers pursuant to the Clean Water Act. Thus, “wetlands” means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (Public Resources Code Section 21159.21(d), incorporating Title 33, Code of Federal Regulations, Section 328.3.)
- 10.76** **“Wildlife Habitat”** means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection. (Public Resources Code Section 21159.21.)
- 10.77** **“Zoning Approval”** means any enactment, amendment, or appeal of a zoning ordinance; granting of a conditional use permit or variance; or any other form of land use, subdivision, tract, or development approval required from the city or county having jurisdiction to permit the particular use of the property.

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1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 8

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

SDAE 710 (PC 50771)

August 20, 2009

SUBJECT:

**MTS: SAN DIEGO AND ARIZONA EASTERN (SD&AE) RAILWAY COMPANY
QUARTERLY REPORTS AND RATIFICATION OF ACTIONS TAKEN BY THE SD&AE
RAILWAY COMPANY BOARD OF DIRECTORS AT ITS JULY 28, 2009, MEETING**

RECOMMENDATION:

That the Board of Directors:

1. receive the San Diego and Imperial Valley Railroad (SD&IV), Pacific Southwest Railway Museum Association (Museum), and Carrizo Gorge Railway, Inc. (Carrizo) quarterly reports (Attachment A); and
2. ratify actions taken by the San Diego and Arizona Eastern (SD&AE) Railway Company Board of Directors at its meeting on July 28, 2009 (Attachment A).

Budget Impact

None.

DISCUSSION:

Quarterly Reports

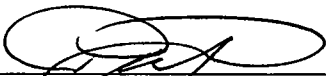
Pursuant to the Agreement for Operation of Freight Rail Services, SD&IV, Museum, and Carrizo have provided the attached quarterly reports of their operations during the second quarter of calendar year 2009 (Attachment A).



SD&AE Property Matters

Under its adopted policy for dealing with the SD&AE Railway, the MTS Board of Directors must review all property matters acted on by the SD&AE Board. At its meeting of July 28, 2009, the SD&AE Board:

1. received a report on the documents processed by staff since its last meeting on April 21, 2009 (Attachment A);
2. approved issuing a license to Tessera Solar for a proposed at-grade crossing over SD&AE tracks located west of Plaster City and south of S80 (Evans Hewes Highway) at County Road 2003. Tessera Solar will pay for and maintain a signalized crossing for any future freight operations, and the annual rate will be negotiated consistent with industry standards.
3. approved a public crossing and agreements for the Otay Valley Regional Park Trail north of the Palm Avenue Station in the City of San Diego.
4. approved issuing a license to the Redevelopment Agency of the City of Chula Vista for a proposed at-grade crossing over SD&AE tracks located on the Coronado Branch north of E Street in the City of Chula Vista. The Redevelopment Agency will pay for and maintain a crossing to railroad requirements, and the annual rate will be negotiated.
5. approved forwarding a recommendation to the MTS Board of Directors to elect Don Seil as Chairman of the SD&AE Railway Company Board of Directors to replace the position vacated by Pete Jespersen.
6. approved forwarding a recommendation to the MTS Board of Directors to elect Wayne Terry as Paul Jablonski's alternate on the SD&AE Railway Company Board of Directors to replace the position vacated by Peter Tereschuck.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Tiffany Lorenzen, 619.557.4512, tiffany.lorenzen@sdmts.com

AUG20-09.8.SDAE REPORTS.TLOREN.doc

Attachment: A. SD&AE Meeting Agenda & Materials (**Board Only Due to Volume**)



AGENDA

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1
(PC 50771)

San Diego & Arizona Eastern
Railway Company

A Nevada Nonprofit
Corporation

1255 Imperial Avenue,
Suite 1000
San Diego, CA 92101-7490
619.231.1466

BOARD OF DIRECTORS
Peter Jespersen, Chairman
Bob Jones
Paul Jablonski

OFFICERS
Paul Jablonski, President
Bob Jones, Secretary
Linda Musengo, Treasurer

OF COUNSEL
Tiffany Lorenzen

July 28, 2009

9:00 a.m.

Executive Committee Room
James R. Mills Building
1255 Imperial Avenue, 10th Floor

This information will be made available in alternative formats upon request. To request an agenda in an alternative format, please call the Clerk of the Board at least five working days prior to the meeting to ensure availability. Assistive Listening Devices (ADLs) are available from the Clerk of the Board prior to the meeting and are to be returned at the end of the meeting.

	RECOMMENDED ACTION
1. <u>Approval of the Minutes of April 21, 2009</u> Action would approve the SD&AE Railway Company minutes of April 21, 2009.	Approve
2. <u>Statement of Railway Finances (Linda Musengo)</u> Action would receive a report for information.	Receive
3. <u>Report on San Diego and Imperial Valley (SD&IV) Railroad Operations (Jose Ramos)</u> Action would receive a report for information.	Receive
4. <u>Report on Pacific Southwest Railway Museum (Diana Hyatt)</u> Action would receive a report for information, including an update on the Museum's abatement activities.	Receive
5. <u>Report on the Desert Line (Armando Freire)</u> Action would receive: (1) a report for information; and (2) an update on the Notice to Abate Nuisance.	Receive
6. <u>Real Property Matters (Tim Allison)</u>	
a. <u>Summary of SD&AE Documents Issued Since April 21, 2009</u> Action would receive a report for information.	Receive

- c. Otay Valley Regional Park Trail Crossing Approve
Action would approve a public crossing and agreements for the Otay Valley Regional Park Trail north of the Palm Avenue Station in the City of San Diego.
- d. Private Crossing of the Coronado Branch North of E Street in Chula Vista Approve
Action would approve issuing a license to the Redevelopment Agency of the City of Chula Vista for a proposed at-grade crossing over SD&AE tracks located on the Coronado Branch north of E Street in the City of Chula Vista.
7. Election to Fill Vacant Position of SD&AE Chairman (Tiffany Lorenzen) Approve
Action would forward a recommendation to the MTS Board of Directors to elect Don Seil as Chairman of the SD&AE Railway Company Board of Directors to replace the position vacated by Pete Jespersen.
8. Election to Fill Vacant Position of SD&AE Alternate (Tiffany Lorenzen) Approve
Action would forward a recommendation to the MTS Board of Directors to elect Wayne Terry as Paul Jablonski's alternate on the SD&AE Railway Company Board of Directors to replace the position vacated by Peter Tereschuck.
9. Old Business
10. New Business
11. Public Comments
12. Next Meeting Date: October 20, 2009
13. Adjournment

DRAFT

MINUTES OF THE BOARD OF DIRECTORS MEETING OF THE SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY

April 21, 2009

A meeting of the Board of Directors of the San Diego & Arizona Eastern (SD&AE) Railway Company, a Nevada corporation, was held at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101, on April 21, 2009, at 9:01 a.m.

The following persons, constituting the Board of Directors, were present: Bob Jones and Paul Jablonski. Also in attendance were:

MTS staff:	Tiffany Lorenzen, Tim Allison, Linda Musengo, Wayne Terry
SANDAG staff:	Pete d'Ablaing, John Haggerty
Kimley-Horn (consultant):	Anthony Podegracz
SD&IV staff:	Matt Domen, Jose Ramos
Pacific Southwest Railway Museum:	Diana Hyatt, Dick Pennick
Carrizo Gorge Railway, Inc. (Carrizo):	Armando Freire
CFNR:	Don Seil
International Border Rail Institute:	Richard Borstadt
Motor Transport Museum:	Carl Calvert, Ed Dilginis
EB Property:	Brian Martins

Bob Jones introduced Don Seil and stated that RailAmerica is proposing that Mr. Seil replace Pete Jespersen as Chairman on the SD&AE Board of Directors. He explained that Mr. Seil has 30 years of experience in railroad—exclusively in California. Mr. Jones feels that Mr. Seil's business and operating background would be an asset to the Board. Paul Jablonski responded that staff will review the terms of the contract and make a decision at the next meeting in regard to the reelection or addition of officers.

1. Approval of Minutes

Mr. Jablonski moved to approve the Minutes of the February 3, 2009, SD&AE Railway Board of Directors meeting. Mr. Jones seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Linda Musengo reviewed the fiscal years 2008 & 2009 operating statement (attached to the agenda item).

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

3. Report on SD&IV Operations

Jose Ramos reviewed the Periodic Report of the SD&AE Railway Company for activities for the first quarter of calendar year 2009 (attached to the agenda item). Mr. Jones clarified that the

decline in carloads is in part due to the warm winter and the economy. He added that gas customers make up more than half of of RailAmerica's income.

Mr. Ramos stated that in the future, more trucks will replace rail freight. Mr. Jablonski expressed concern regarding how many truck trips will be added. He stated that the goal is to promote freight, and we should be cognizant any time we could lose freight traffic to trucks. Mr. Ramos agreed to include the number of trucks trips replacing rail in future reports to the Board.

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

4. Report on Pacific Southwest Railway Museum Operations

Diana Hyatt reviewed the Museum's first quarter report for 2009 (attached to the agenda item). Ms. Hyatt added that the Museum contracted with Allied Weed for weed removal. She clarified that gas prices have negatively affected the Museum's passenger business (other than North Pole trains).

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

5. Report on the Desert Line

Armando Freire reviewed Carrizo's first quarter report for 2009 (attached to the agenda item). Mr. Freire stated that Carrizo is following Osmose's report with regard to repairs. Mr. Freire agreed that once repairs are completed, Carrizo will get in contact with Tim Allison, SD&IV, and the Board to determine when the repairs would be inspected. Mr. Freire will send all completed reports to the Board. He added that Carrizo has started a surveillance system using cameras with Internet access.

Mr. Freire reported that there was a wildfire on the tracks and 80 ties were replaced. In regard to the fire on the bridge at mile post 118.6, Carrizo police are investigating it as arson. Carrizo is waiting on the police report before continuing with the repairs. Mr. Allison reported that there is extensive damage to helper bent 4a. The Board agreed that this bridge will need to be reinspected.

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

6. Real Property Mattersa. Summary of SD&AE Documents Issued Since February 3, 2009

Tim Allison reported that since the February 3, 2009, SD&AE Railway Company Board of Directors meeting, the documents as outlined in the agenda item have been processed by staff.

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

b. Sewer Easement at 54th Street

Tim Allison reviewed the request for an easement to the City of San Diego for an underground sewer pipeline crossing SD&AE right-of-way at 54th Street south of Market Street.

Action Taken

Mr. Jablonski moved to approve an easement to the City of San Diego for an underground sewer pipeline crossing SD&AE right-of-way at 54th Street south of Market Street. Mr. Jones seconded the motion, and it was unanimously approved.

c. License Agreement with SDG&E for Private Crossings and Underground Utility Crossings

Mr. Allison reviewed a request from San Diego Gas and Electric (SDG&E) for a license for private crossings over SD&AE tracks located south of L Street in Chula Vista on the Coronado Branch.

Tiffany Lorenzen clarified that SD&AE would be indemnified. The Board had concerns with terminating the old crossing and adding a new one. Mr. Allison responded that the Board has the option to close the old crossing and only allow the new crossing. He added that there would be a license fee, and the license would be terminable. Mr. Jablonski stated that he would be supportive if the compensation is acceptable.

Action Taken

Mr. Jablonski moved to approve issuing a license to San Diego Gas and Electric, (SDG&E) for private crossings over SD&AE tracks located south of L Street in Chula Vista on the Coronado Branch. Mr. Jones seconded the motion, and it was unanimously approved.

d. License to the United State Fish and Wildlife Service for the Bayside Birding and Walking Trail Project

Mr. Allison reviewed a request for a license to US Fish & Wildlife for construction of the Bayside Birding and Walking Trail within SD&AE right-of-way in Imperial Beach. He stated that this license would be similar to the Bayshore Bikeway license and would be

terminable. Mr. Allison stated that the right-of-way is approximately 45 feet wide, and the bikeway is about 12 feet wide. The new walking trail would be about five feet inside of the right-of-way. Mr. Allison confirmed that the revenue has not been negotiated yet. He added that SD&AE does not get any revenue from the Cities of San Diego and Imperial Beach.

Action Taken

Mr. Jablonski moved to approve issuing a license to the United States Fish and Wildlife Service, San Diego National Wildlife Refuge Complex (USFW) for the construction of the Bayside Birding and Walking Trail within SD&AE right-of-way in the City of Imperial Beach. Mr. Jones seconded the motion, and it was unanimously approved.

e. Motor Transport Museum Request for Spur Track

Mr. Allison reviewed a request by the Motor Transport Museum to install a spur track on the Desert Line east of the Campo Depot. He stated that it used to be a Feldspar mill, which is currently occupied as a museum for buses, delivery vehicles, etc. The Motor Transport Museum is asking to reinstall a spur to the back of its facility to accommodate passenger rail from the Museum's trains, and passengers could get off and go to the Museum facilities. Mr. Allison stated that a full deposit to cover expenses for engineering, etc. would be required.

Public Speakers

1. *Carl Calvert – Mr. Calvert explained that this spur was originally installed in 1926 and was taken out in the 1950s. He added that Wally Barber is a contractor who would reinstall the spur, which would enable the Motor Transport Museum to work with the Pacific Southwest Railway Museum and recreate historic rail cars. Mr. Calvert felt that since the rail line is not currently in operation, it is an ideal time to consider installing the spur.*

Mr. Calvert responded to a question from Mr. Jablonski regarding the Motor Transport Museum's intention to run cars occasionally for tours. He added that the Motor Transport Museum is currently open Wednesdays, Fridays, and Saturdays.

2. *Richard Borstadt – Mr. Borstadt stated that in the mid-90s, this request was approved by this Board. He also stated that adding the spur would the alleviate traffic flow and simplify activities on the main line.*

Ms. Hyatt clarified that the Pacific Southwest Railway Museum would collaborate with the Motor Transport Museum in transporting passengers to the Stone Store and the Motor Transport Museum. She asked to be included in the Motor Transport Museum's plans. The bridge at mile post 66.7 was discussed, and Mr. Allison informed the Board that the Simon Wong bridge inspection report commissioned by the Pacific Southwest Railway Museum has not been submitted to MTS. He added that there are bent caps and stringers that haven't been replaced yet.

Mr. Jablonski stated that he is supportive of adding the spur, but all repairs to the bridge must be completed and inspected before transporting passengers. Mr. Jones added

that Carrizo, the Museum, and the Motor Transport Museum need to work together to formulate a plan and list of responsibilities.

Mr. Allison clarified that the costs to add the spur would be covered by the industry (in this case, the Motor Transport Museum). Mr. Freire stated concern regarding additional costs to Carrizo on an installation that has no bearing to its operations. Mr. Allison responded that no approvals would be considered without letters of support from the Pacific Southwest Railway Museum and Carrizo.

Action Taken

Mr. Jones moved to direct staff to begin the process for the spur installation contingent upon the following:

1. The Motor Transport Museum, Carrizo, and the Pacific Southwest Railway Museum will meet to determine whether they have any issues with the installation. If there are any issues, the operators will contact Tim Allison within the next two weeks, and a report will be brought to the Board at the next meeting; and
2. If the three operators are in agreement regarding the spur installation, they will collaboratively send the Board a letter of support within the next two weeks. Upon receipt of the letter of support, the SD&AE Board will notify the operators whether the spur installation is approved, and, if so, the Motor Transport Museum will bear all costs for the installation.
3. No trains will operate on the line until the bridge has been inspected to FRA standards and the inspection has been provided to the SD&AE Board.

Mr. Jablonski seconded the motion, and it was unanimously approved.

7. a. Status of SD&AE Main Line Track and San Ysidro Freight Yard Improvement Projects

Pete d'Ablaing, Senior Engineer with the San Diego Association of Governments (SANDAG) and Project Manager, introduced Anthony Podegracz of Kimley-Horn. Mr. d'Ablaing reviewed the SD&AE Main Line Track and San Ysidro Freight Yard Improvement Projects (see attached PowerPoint).

In response to Mr. Jones' question regarding the lengthy time period to complete the project, Mr. d'Ablaing explained that the project requires environmental and FRA clearances and purchasing 12 parcels of right-of-way. John Haggerty, Design Principal with SANDAG, added that he doesn't feel that project will take as long as projected. He stated that the State of California is broke, and the Prop 1b money has not yet been distributed. The lengthy time lines for the project were conservative so as not to jeopardize the funding under the "use it or lose it" deadlines.

Mr. Haggerty explained to the Board that although the funds for the San Ysidro Yard have been sitting for about 12 years, there was never enough money to get the project going. He stated that the Yard Project is in the preliminary engineering stage and will be completed by July. The Yard Project has significant drainage, silt, water quality, and right-of-way acquisition issues.

SANDAG staff agreed to include Don Seil in all of the project meetings and keep him updated on all information.

Action Taken

Mr. Jones moved to receive the report for information. Mr. Jablonski seconded the motion, and it was unanimously approved.

b. F Street Diamond, Track, and Signal Elements

John Haggerty reviewed the F Street Diamond Project (see the attached PowerPoint). Mr. Haggerty reported that project team is working to implement improvements to the South Line to bring low-floor vehicles from Imperial Avenue to San Ysidro as one corridor. He stated that due to funding, the project team must be careful implementing projects. The preliminary design work has begun. Interlock crossovers would be added on the line. Mr. Haggerty stated that SANDAG is requesting SD&AE Board approval of the removal of the F Street diamonds. He added that the F Street diamonds increase the costs and complexity of the corridor project. Further engineering would be conducted, and the project team would report back with a recommendation on costs and implications.

Wayne Terry stated that MTS maintains the diamonds, and the diamonds are tough on the trolleys. He added that no freight has been going over the tracks for years, and he would like to see the diamonds removed as there is no use for them.

In response to public concern expressed by Dick Pennick and Richard Borstardt regarding eliminating the final connection to the Coronado Branch line, Mr. Jones stated that the cost to maintain a diamond and the circuitry is excessive, and he understands the preservation concerns but stated that the Board has to do what is reasonable and prudent. Diana Hyatt requested to be on record as opposing SANDAG's request as she is in support of preserving the historic corridor.

Action Taken

Mr. Jones moved to approve the removal of the F Street diamond. Mr. Jablonski seconded the motion, and it was unanimously approved.

8. Old Business

None.

9. New Business

None.

10. Public Comments

None.

11. Next Meeting Date

The next meeting was changed from July 21 to July 28, 2009, at 9:00 a.m.

12. Adjournment

The meeting was adjourned at 10:25 a.m.

President

Of Counsel

JGardetto
MINUTES-SDAE.4-21-09.doc

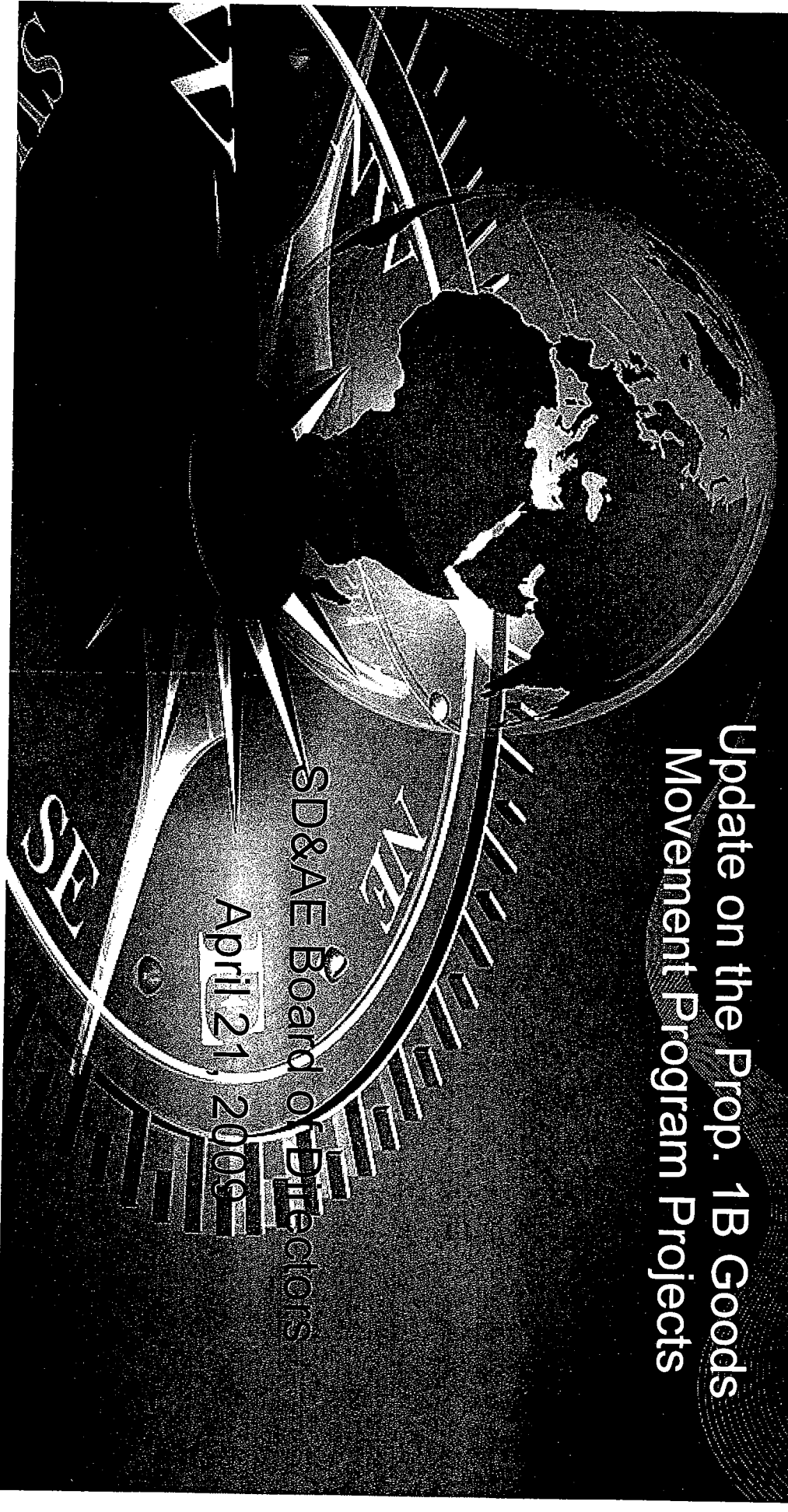
Attachments: South Line Freight Rail Projects PowerPoint (7a)
F Street Diamond PowerPoint (7b)



South Line Freight Rail Projects

Update on the Prop. 1B Goods
Movement Program Projects

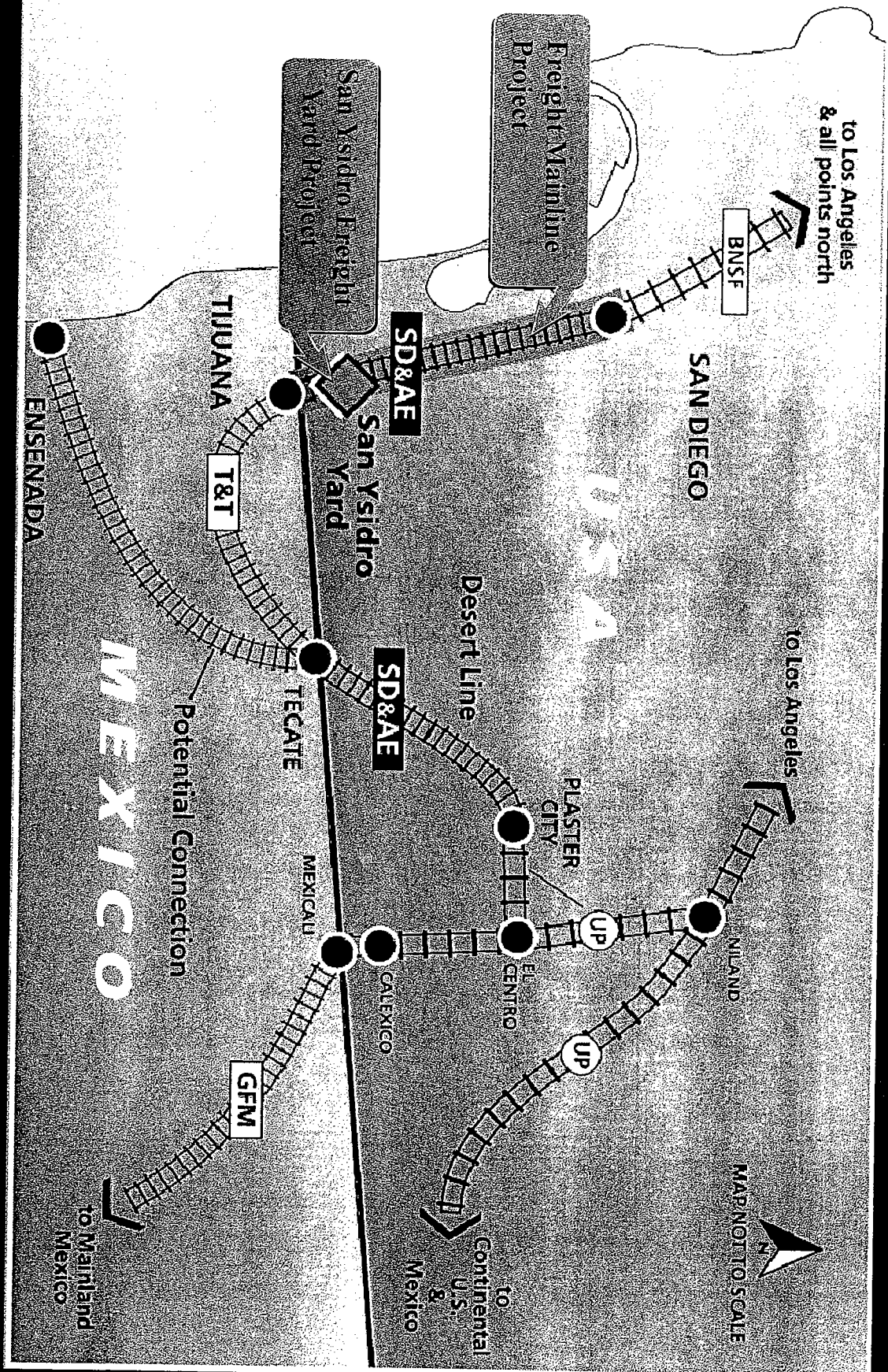
SD&AE Board of Directors
April 21, 2009



Prop. 1B: Goods Movement Program

- » Trade Corridors Improvement Fund (TCIF)
 - Monitored by California Transportation Commission (CTC)
 - \$2 Billion statewide
 - Focus on freight infrastructure improvements on high volume trade corridors
 - Construction must begin in 2013
 - CTC has approved project scope of work

Freight Rail Area Map



South Line Freight Project Benefits

- » Safety improvements
- » Increased Freight Capacity on US side
 - Potential to double capacity - increase freight capacity from 10,000/year to 19,600/year (from 2 to 4 trains/day)
- » Increase speed of freight traffic along corridor
- » Provide freight capacity to potentially eliminate up to 31,800 truck trips/year on regional facilities
- » Potential for improved connectivity with Mexico
- » Leverages rail investments from private operators, *TransNet*, Port of San Diego, Mexico
- » Also benefits MTS and Port of San Diego

Overall South Line Freight Project Details

» Costs/timelines

- Environmental Document completed by 2010
- Must break ground in or before 2013
- 2 Project Phases
 - » \$25.9M from TCIF for yard improvements
 - » \$98.1M from TCIF for mainline improvements

» Risks

- Right-of-way acquisition
- Flood control issues
- Project is on CTC formal watch list for 2010 Environmental Document Completion
- Project on CTC informal watch list as a project of interest
- Project requires Federal Railroad Administration (FRA) approvals for joint operations

Freight Mainline Improvements

» Project Elements

- Positive Train Separation
- Bi-Directional CTC
- Bi-Directional Grade Crossing
- San Diego Yard CTC
- San Ysidro Yard CTC
- Palomar Siding Improvements



Freight Mainline Improvements



» Project Status

- Preliminary Engineering Phase Underway
- Expected Completion: September 2009

» Project Cost

- \$107.0 million

» Project Schedule

- Environmental Clearance: March 2010
- Design Completion: September 2011
- Begin Construction: April 2012
- Construction Completion: June 2015

San Ysidro Freight Yard Expansion

» Project Elements

- Freight Track Improvements
 - Storage Tracks
 - Yard Lead Extension
- Grading & Drainage Improvements
- New Access Road
- Right of Way Acquisition Required



San Ysidro Freight Yard Expansion

» Project Cost

— *\$40.5 million*

» Project Schedule

- Environmental Clearance:
Dec 2010
- Design Completion:
June 2012
- Right-of-Way Acquisition:
June 2012
- Begin Construction:
January 2013
- Construction Completion:
Dec 2014



» Project Status

- Preliminary Engineering
Phase Underway
Expected Completion: June 2009
- Environmental Studies
Underway
Expected Completion: July 2010

Conclusion

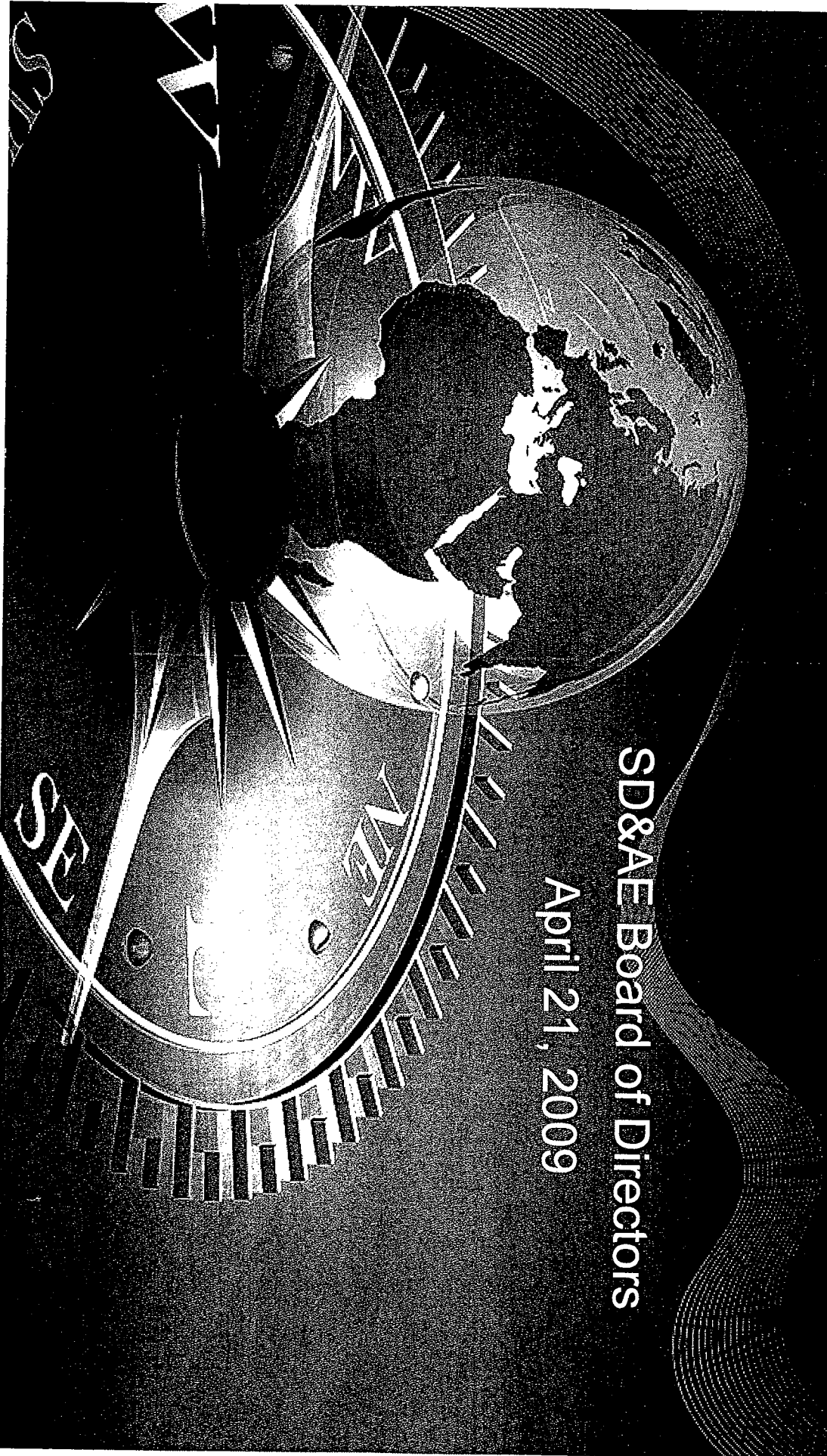
- » We will continue to work with MTS/SD&AE.
- » We will continue to monitor concurrent Trolley Improvement Projects.
- » Questions?
- » Contacts
 - Pete D'Ablaing (619-699-1906;)
 - Anthony Podegracz (619-744-0116;)



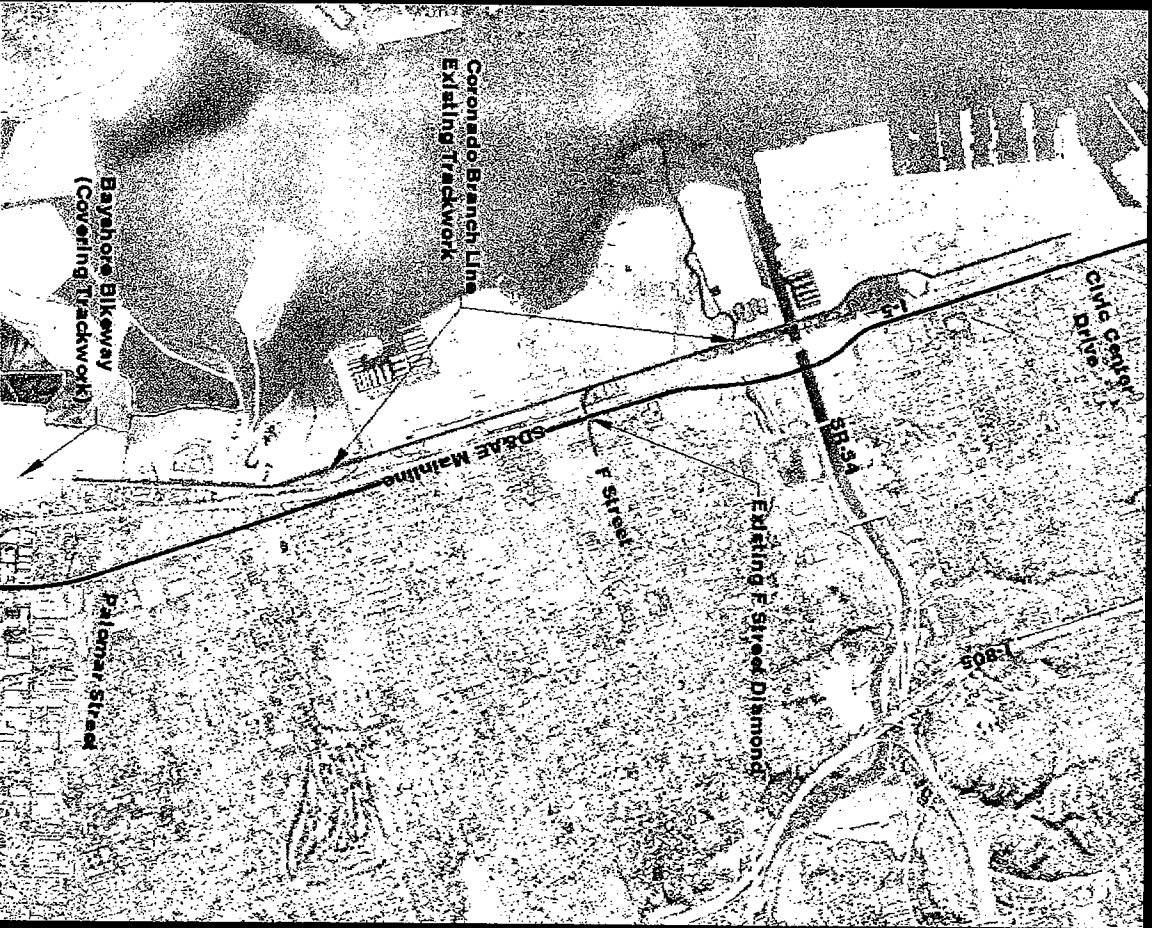
F Street Diamond

SD&AE Board of Directors

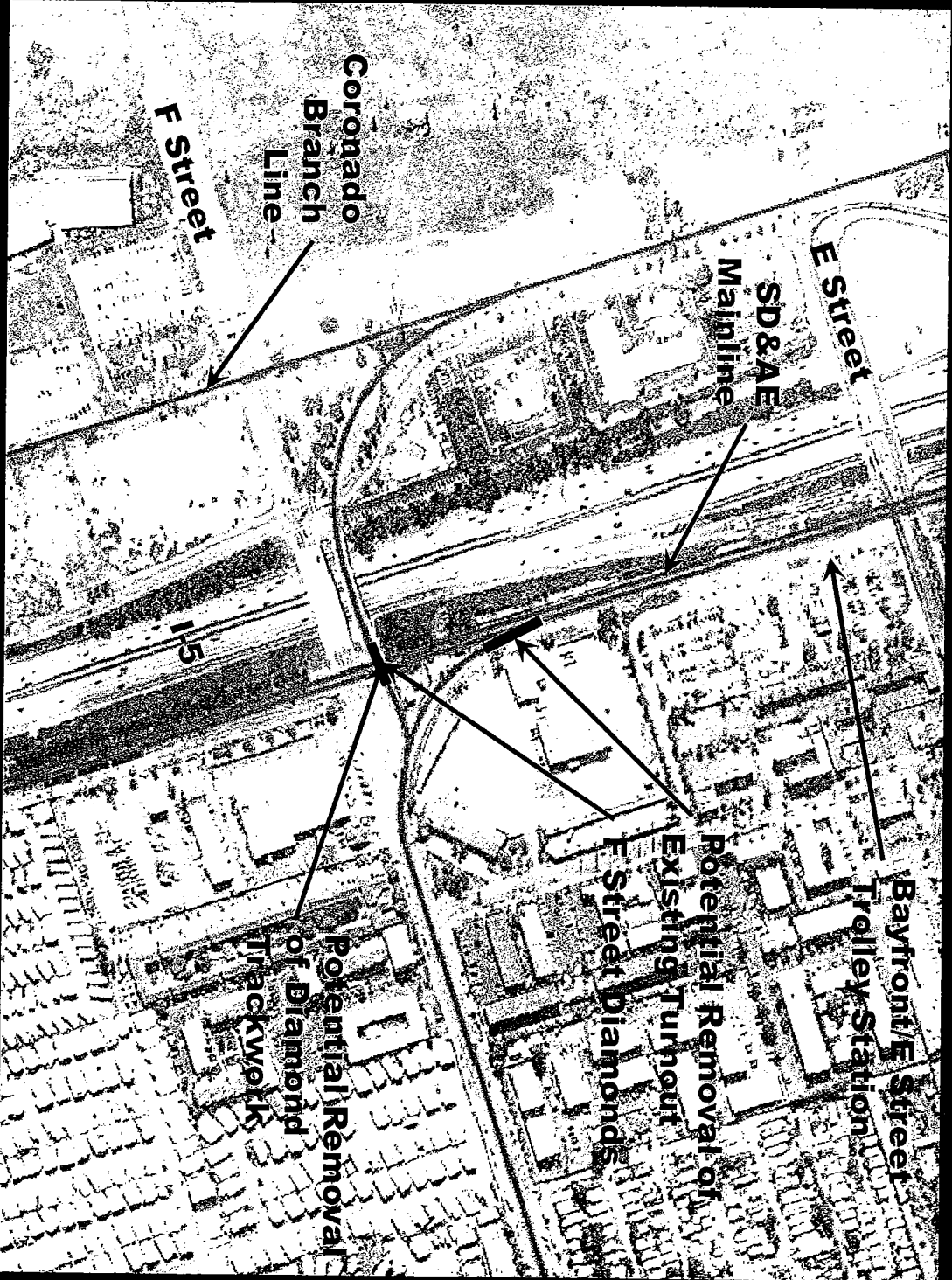
April 21, 2009



Coronado Branch Line



F Street Diamond



Agenda

Item No. 2

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

STATEMENT OF RAILWAY FINANCES

RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

The SD&AE operating statement for fiscal years 2008 and 2009 is attached for information. Linda Musengo will give an update during the meeting.

2-RAILWYFINANCES.doc

Attachment: Fiscal Years 2008 & 2009 Operating Statement

SD&AE operating statement FY2009 and FY2008
Subject to audit adjustments

	2009				2008					
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total
Revenue										
Right of entry permits	\$ 30,178	\$ 10,900	\$ 13,113	\$ 35,141	\$ 89,332	\$ 5,000	\$ 8,650	\$ 2,850	\$ 19,050	\$ 35,550
Lease income	9,820	14,783	16,677	3,620	44,900	5,047	8,568	17,587	15,477	46,679
SD&IV 1% freight fee	-	-	-	35,803	35,803	-	38,720	106,331	-	145,051
Joint use fee	-	-	-	-	-	-	-	89,000	-	89,000
Carrizo Gorge	213	99	-	-	312	-	-	1,062	198	1,260
Sale of real property	-	-	-	-	-	-	-	-	288,693	288,693
Other income	-	-	-	-	-	570	5,696	(741)	-	5,525
Total revenue	40,211	25,782	29,790	74,564	170,347	10,617	61,634	216,089	323,418	611,758
Expense										
Admin wages	18,279	15,295	25,443	20,806	79,822	16,636	15,753	14,471	24,747	71,607
Workers' compensation	498	498	499	498	1,992	1,005	1,005	836	497	3,343
Professional services	7,196	13,273	319	1,000	21,788	3,898	10,631	53,987	10,554	79,070
Outside services	-	-	-	26	26	1,250	-	-	4,794	6,044
Telephone	-	-	-	-	-	145	-	-	-	145
Insurance premium	9,114	8,783	8,486	8,974	35,356	10,533	10,373	10,122	8,948	39,976
Other miscellaneous expense	6,666	1,772	5,252	337	14,027	543	845	342	18	1,748
Depreciation	-	-	-	-	-	-	-	-	19,496	19,496
Total expense	41,752	39,620	39,998	31,641	153,010	34,010	38,607	79,758	69,054	221,429
Net income/(loss)	\$ (1,541)	\$ (13,837)	\$ (10,208)	\$ 42,923	\$ 17,337	\$ (23,393)	\$ 23,027	\$ 136,331	\$ 254,364	\$ 390,329

Other miscellaneous expense includes \$12,337.25 paid to Baker & Miller related to petition filing

Reserve balance 2008	\$ 890,451
Allocated interest earnings - estimated	777
Operating profit/(loss)	17,337
Improvement expense 2009	-
Reserve balance 2009- estimated	\$ 908,564

Agenda

Item No. 3

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

REPORT ON SAN DIEGO AND IMPERIAL VALLEY (SD&IV) RAILROAD OPERATIONS

RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

An oral report will be given during the meeting.

Attachment: No report submitted

Agenda

Item No. 4

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

REPORT ON PACIFIC SOUTHWEST RAILWAY MUSEUM

RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information, including an update on the Museum's abatement activities.

Budget Impact

None.

DISCUSSION:

A report will be presented during the meeting.

Attachment: Second Quarter Report for 2009



Pacific Southwest Railway Museum

La Mesa Depot 4695 Nebo Drive La Mesa, CA 91941 619-465-7776

July 17, 2009

SD&AE Board
c/o Metropolitan Transit System
1255 Imperial Avenue, #1000
San Diego, CA 92101

Re: Second Quarter, 2009 report

Dear SD&AE Board:

During the second quarter of 2009, the Pacific Southwest Railway Museum operated 30 Golden State and Tecate passenger trains carrying 1,606 passengers with no FRA reportable accidents or incidents. Total income from SD&AE property for second quarter 2009 was \$23,293. In comparison, during the second quarter of 2008, we operated 46 passenger trains carrying 2,764 passengers with a total income of \$38,487 reflecting an income reduction of 39%. During the month of June, eight Golden State trains, two Saturday Tecate trains, one midweek chartered Tecate train, one school train and the Annual Great Train Robbery train were all cancelled. Our quarterly payment of \$465.86 has been mailed under separate cover.

The public restroom building at the Campo Depot that was completed in March of this year passed its final inspection during the second quarter of 2009 by the County Building Inspector. All that is left to complete is the walkway between the Depot and the restroom building.

On Sunday, May 24th the museum hosted the dress rehearsal train for the annual Great Train Robbery event. This is a fundraising event for the Mountain Empire Business Association who returns all profits to underprivileged groups and individuals in the back country community. During the eastbound operation of this train, a fire began burning along the railroad right of way about one and a quarter mile west of the Chicken Ranch station sign. Another fire began along the railroad right of way within Yard Limits about one quarter mile east of the western Highway 94 grade crossing.

On May 28, 2009, Cal Fire issued a Notice to Abate letter directed at the museum and Carrizo Gorge Railway ceasing all operations of locomotives west of the western Highway 94 grade crossing until the line was brought into compliance. This allowed PSRM to operate trains within the Campo Valley between the two Highway 94 grade crossings. Cal Fire based their conclusion upon two pieces of information: the occurrence of the fires on May 28, 2009 and an earlier abatement notice directed

solely at Carrizo Gorge Railway dated August 25, 2008. This earlier notice provided a grace period to bring the ROW into compliance by October 1, 2008. Since Cal Fire had no follow-up communication from Carrizo Gorge Railway they deemed the railroad to have been in a state of non-compliance when the fires of May 28, 2009 occurred. Since this letter of May 28, 2009, the museum has received no written information from Cal Fire and Cal Fire has never closed their investigation into the cause of these two fires.

On Friday, May 29th, after speaking with Cal Fire whereby they denied a grace period to abate the vegetation and debris, the museum chose to remove the locomotive in question from service until a thorough mechanical review could be performed and replaced it with the Santa Maria Valley Railbus to be operated within the Campo Valley. The Railbus is a small, gas powered vehicle built on a Model A truck chassis that can carry eight to ten people at a time.



Photo of the museum's SMV Railbus.

The museum's COO requested a track warrant to operate the Railbus in the Campo Valley for the weekend and another track warrant for a motorcar to perform a preliminary assessment of the clearance needed along the ROW on Saturday and was denied both by Carrizo Gorge Railway. The museum then received an un-numbered General Bulletin dated May 29, 2009 stating "all operations of locomotives and Rail Cars from Division (MP 59.9) to Plaster City (129.6) have been suspended till further notice." As of today's date, the museum has never been informed that this notice has been repealed.

Saturday, June 13, 2009 marked the first day museum volunteers were able to begin efforts at bringing the ROW into Cal Fire compliance. Weed abatement and debris collection have been difficult, primitive and time-consuming. Many areas are only accessible by rail and the museum is only allowed access by motorcar, which means constant motorcar trips during the time of the track warrant to remove the weeds and debris from the area. The museum owns a gas powered car mover that could have been coupled to a gondola or flat car to move equipment in and weeds and debris out of work areas except for the aforementioned Carrizo Gorge Railway General Bulletin dated May 29, 2009 that prevents railcars on the railroad. The museum is also unable to utilize the services of convict work crews or Cal Fire equipment until the ROW has been brought into compliance.


Museum volunteers with some assistance from the local honor camp have picked up almost every rotten tie, burned bridge ties and rotten switch ties between MP 59.9 and 66.8. They have hand cleared tumbleweeds and dead vegetation where needed, including the longest stretch along the barbed wire fence that borders the Campo Valley. They have cleared trees back and picked up and shredded the accumulation of tree trunks and limbs in culverts and waterways underneath the tracks. The final

July 17, 2009

obstacle remains clearing the ground underneath the tall steel bridge at Division; much of which is so steep it is practically vertical.

To date, the weed and debris abatement continues and the museum's contracted weed sprayer will be contacted to spray the ROW with pre-emergent weed killer to help prevent any new growth. We hope to resume operations of our Golden State and Tecate trains by early to mid August.

Very Truly Yours,


Diana Hyatt
President

Agenda

Item No. 5

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

REPORT ON THE DESERT LINE

RECOMMENDATION:

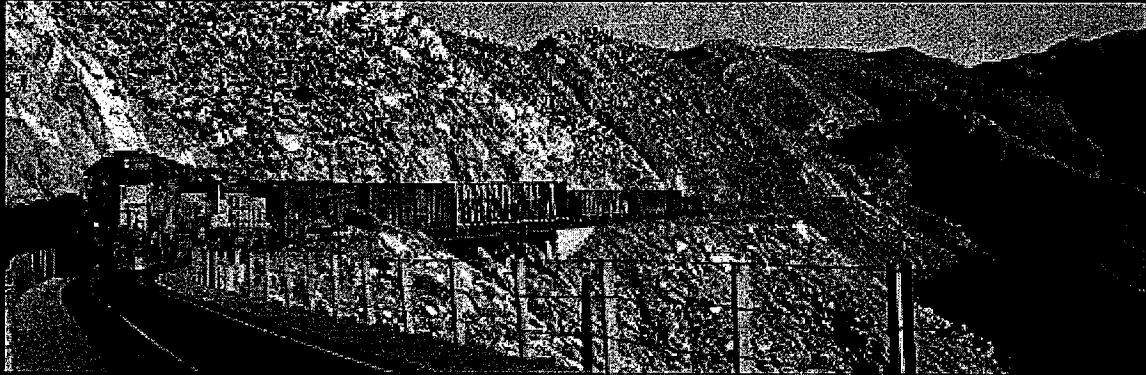
That the SD&AE Board of Directors receive: (1) a report for information; and
(2) an update on the Notice to Abate Nuisance.

Budget Impact

None.

5-DESERTLINE.doc

Attachment: A. Period Report Second Quarter 2009



Carrizo Gorge Railway

Periodic Report

To The San Diego & Arizona Eastern Railway Company

Second Quarter 2009

The periodic Report to the SD&AE Railway Company is produced quarterly by the Carrizo Gorge Railway, Inc for the SD&AE Board, in fulfillment of contractual requirements and to document activity in the restoration of the line to regional service along with its ongoing improvement for future generations.

CARRIZO GORGE RAILWAY, INC.

Accomplishments during Second Quarter 2009

- Weed Abatement.
- Bridge rehabilitation.
- Clean up and reorganization in Jacumba yard.
- Desert Line Spur Maintenance.

Fire Incident Report

CONTENTS

SECOND QUARTER 2009 ACTIVITY

Appendix A- MOW Summary

Appendix B- Desert Line Track Rehabilitation
Offset Financial Summary

Appendix C- Desert Line Freight Revenues
Financial Summary

Second Quarter 2009

CARRIZO GORGE RAILWAY, INC.

Metropolitan Transit Development Board
San Diego & Arizona Eastern Railway Board
1255 Imperial Avenue 10th floor
San Diego, California 92101

Pursuant to reporting agreement, here is the summary of Second Quarter activity for 2009.

I. Labor

As of June 30th, 2009, Carrizo Gorge Railway has **22** employees to cover overall administration of the road and operations in the U.S. on the Desert Line.

- 4 Administration
- 1 Marketing
- 1 Purchasing Agent
- 1 DSL (contractor)
- 1 Train Master-Dispatcher
- 5 Track Maintenance
- 1 Track & Signaling Inspector
- 1 Division Engineer
- 3 Locomotive engineers
- 3 Railroad police
- 1 Railroad police chief

II. Marketing

Carrizo Gorge Railway continued to work with its marketing plan to increase revenues once the Desert Line rehabilitation is concluded.

Carrizo Gorge Railway continued working to improve relations with Admicarga in an effort to increase revenues as well as the improvement of service to the shipping community in the region.

III. Desert Line

Carrizo Gorge Railway is the rail freight operator on the Desert Line by contractual agreement with Rail America/ SD&IV and with the approval of SD&AE/ MTDB.

The desert line condition has been improving due to heavy maintenance, weed abatement and general clean up and repairs.

CARRIZO GORGE RAILWAY, INC.

1. In the second quarter of 2009, Carrizo Gorge continued working on vegetation clearance to mitigate fire hazards within railroad right-of-way.
 - April 10 MP 94.0 to MP 94.1 – 0.1 Miles
 - April 15 MP 93.9 to MP 94.0 – 0.1 Miles
 - April 29 MP 96.0 to MP 96.1 – 0.1 Miles
 - May 8 MP 96.1 to MP 96.2 – 0.1 Miles
 - May 22 MP 82.0 to MP 82.15 – 0.15 Miles
 - May 26 MP 60.0 to MP 61.5 – 1.5 Miles
 - May 27 MP 61.5 to MP 64.0 – 2.5 Miles
 - May 28 MP 129.5 to MP 129.6 – 0.1 Miles
 - May 29 MP 65.5 to MP 66.0 - 0.5 Miles (Campo Yard)
 - June 1 MP 66.0 to MP 66.1 – 0.1 Miles
 - June 2 MP 66.2 to MP 66.25 – 0.05 Miles
 - June 3 MP 65.5 to MP 66.0 – 0.5 Miles (Campo Yard)
 - June 4 MP 66.2 to MP 66.25 – 0.05 Miles
 - June 8-12 MP 82.0 to MP 120.0 Removing fire hazard materials from the required clearance area of 10-ft.
 - June 15 MP 82.5 to MP 82.8 – 0.3 Miles
 - June 16 MP 66.35 to 66.4 – 0.05 Miles
 - June 17 MP 66.4 to MP 66.5 – 0.1 Miles
 - June 22 MP 89.9 to MP 92.9 – 3.1 Miles
 - June 23 MP 80.5 to 89.8 – 9.8 Miles

Following regulations, Carrizo Gorge Railway has concluded the weed abatement program scheduled for this quarter.

2. Desert Line Rehabilitation –Bridge Repairs:

- MP 119.57
 - a) On June 29, 2009 Concluded repairs (per OSMOSE priority 2 and 3).
 - b) On June 30, 2009, CZRY requested inspection from MTS.
 - c) Presently, CZRY awaits bridge inspection from MTS.
- MP 120.37
 - a) On June 25, 2009 Concluded repairs (per OSMOSE priority 2 and 3).
 - b) On June 30, 2009 CZRY requested inspection from MTS.
 - c) Presently, CZRY awaits bridge inspection from MTS.
- MP 126.61

CARRIZO GORGE RAILWAY, INC.

- a) On June 29, 2009 Concluded repairs (per OSMOSE priority 2 and 3).
 - b) On June 30, 2009 CZRY requested inspection from MTS.
 - c) Presently, CZRY awaits bridge inspection from MTS.
- MP 128.92
 - a) On June 25, 2009 Concluded repairs (per OSMOSE priority 2 and 3).
 - b) On June 30, 2009 CZRY requested inspection from MTS.
 - c) Presently, CZRY awaits bridge inspection from MTS.
3. Jacumba Yard:
 - This quarter, CZRY continued clean up and reorganization of the Jacumba Yard.
 4. Desert Line Spur Maintenance:
 - Dubber's Spur: Spur repairs were completed, to allow more storage space. The spur operational track was 350 ft. whereas now is 770 ft.
 - Tunnel 16 Spur: Spur repairs were completed to allow more storage space. The spur operational track was 100 ft. whereas now is 300 ft.

IV. Reportable Injuries / Environmental Incidents

There were no reportable injuries during the second quarter of 2009.

There were no reportable accidents in the second quarter of 2009.

There were no environmental incidents during the second quarter of 2009.

Fire Incident on May 24th, 2009. *Please see attached fire investigation report.

Due to the most recent fire incident, Carrizo Gorge Railway has established new annual programs to prevent and reduce fire hazards.

ANNUAL DESERT LINE WEED ABATEMENT PROGRAM and SPARK ARRESTORS CLEANING PROGRAM

The objective of the programs is to prevent fires between MP 59.9 to MP 129.6 by complying with the requirements and or regulations set forth by the California Department of Forestry and

CARRIZO GORGE RAILWAY, INC.

Fire Protection (CDF), General Code of Operating Rules (GCOR) and the Code of Federal Regulations (Title 49 CFR part 200-300).

V. Freight Activity

There was no freight activity in the second quarter of 2009 due to the ongoing Desert Line rehabilitation project to improve safety, capacity and reliability.

MOW Sand carloads moved on the Desert Line	0
Revenue Sand carloads moved on the Desert Line	0
Revenue Freight carloads moved to/from Seeley Via interchange with UPRR, on the Desert Line	0
Non-Revenue Freight carloads moved from UPRR and USG, on the Desert Line	
Revenue Freight carloads terminating/originating in Mexico to/from San Ysidro via interchange with SD&IV Railroad	0
Total overall Second quarter 2009 Carloads Moved	0

VI. Mexican Railroad

Carrizo Gorge Railway is the rail freight operator for the State of Baja California, México and continues to employ the following personnel dedicated to freight service south of the border.

Here is an update of Carrizo Gorge Railway, Inc. México's Operation.

CURRENT MEXICO PERSONNEL

- 1 Director of Operations
- 1 Trainmaster
- 3 Dispatchers
- 3 Train Engineers
- 6 Conductors
- 1 Mechanic
- 1 Car Inspector
- 1 Division Engineer
- 1 Track Inspector
- 2 Track Supervisor

CARRIZO GORGE RAILWAY, INC.

8 Track laborer

Page 1 of 2

Appendix A M.O.W. SUMMARY

DESERT LINE

TRACK

Ties Installed (6" x 8" x 8')	24	each
(7" x 9" x 9")	0	each
Stringers	0	each
90 lb/yd (33ft) Rail Change Out	2	each
113 lb. Rail Change Out	0	each
Repair Open Joints	0	each
Track Regaging	0	each
Separator Rails (4" x 8" x 20")	0	each
Replace Missing Track Bolts	3	each
Rail Anchors Replaced	10	each
Repair Broken angle bars (60 lb.)	0	each
(75 lb.)	0	each

CARRIZO GORGE RAILWAY, INC.

	(90 lb.)	4	each
Track Surfaced		0	ft
Track Spikes Used (new)		370	each
Switch Ties Installed		0	each

Page 1 of 1

Appendix B

OFFSET FINANCIAL SUMMARY

DESERT LINE SAND OPERATION

There was no production or commercial sale of sand from M.O.W. activity on the Desert Line during First Quarter of 2009.

CARRIZO GORGE RAILWAY, INC.

Page 1 of 1

Appendix C FINANCIAL SUMMARY

DESERT LINE

REVENUE FREIGHT HAULED

Railcar loads to/from UP Interchange, Seeley /Plaster City	0
Railcar loads revenue sand from Dixie (Plaster City) to Campo	0
Non-revenue Freight USG Cars	
Total	0

Track Use Fees:

Interchange freight to/from UPRR over the Desert Line

SD&AE / MTS 1% payment	0.00
SD&IV / Rail America payment 6.9	0.00

CARRIZO GORGE RAILWAY, INC.

Revenue Sand from Dixie to Campo

SD&AE / MTS 1% payment	0.00
SD&IV RailAmerica payment (0 cars at \$0.00 each)	0.00

Agenda

Item No. 6a

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

SUMMARY OF SD&AE DOCUMENTS ISSUED SINCE APRIL 21, 2009

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

Since the April 21, 2009, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-09-399: Right of Entry Permit to HP Communications, Inc. to repair fiber infrastructure at 36th Street in San Diego and Lemon Avenue in La Mesa.
- S200-09-401: Right of Entry Permit to the US Navy for the Bay Bridge run/walk event.
- S200-09-402: Right of Entry Permit to the City of La Mesa for its Flag Day Parade.
- S200-09-403: Right of Entry Permit to David Evans & Associates for performing topographic surveys on the South Line.
- S200-09-404: Right of Entry Permit to Hillcrest Contracting for construction of the Palomar Gateway Project in Chula Vista.
- S200-09-405: Termination of license for a private crossing of the Coronado Branch with Dynergy, Inc.
- S200-09-406: Lease with Levi Herman for a portion of the spur track right-of-way at Main Street in Chula Vista.

- S200-09-407: Right of Entry Permit to Ninyo & Moore for excavation of test pits at the San Ysidro Yard.
- S200-09-408: Right of Entry Permit to Ross A. Guy & Son General Engineering for test pit excavations at the San Ysidro Yard.
- S200-09-409: Construction and Maintenance Agreement with the City of San Diego for the Bayshore Bikeway Project.
- S200-09-410: Right of Entry Permit to Ortiz Asphalt Paving, Inc. to perform roadway paving on State Route 94 in Campo.
- S200-09-411: Right of Entry Permit to PAR Electric to perform pole replacement for SDG&E on the Coronado Branch at F and G Streets.
- S200-09-412: Right of Entry Permit to TY Lin International to perform bridge inspections on the Orange Line.

JULY28-09.6a.DOCS ISSUED.TALLISON.doc

Agenda

Item No. 6b

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

LICENSE AGREEMENT WITH TESSERA SOLAR

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors approve issuing a license to Tessera Solar for a proposed at-grade crossing over SD&AE tracks located west of Plaster City and south of S80 (Evan Hewes Highway) at County Road 2003.

Budget Impact

Yearly license fees would be credited to the SD&AE Reserve, and processing fees would be reimbursed to MTS.

DISCUSSION:

Tessera Solar requests the issuance of a license for an at-grade crossing over SD&AE tracks located west of Plaster City and south of S80 (Evan Hewes Highway) at County Road 2003 on the Desert Line. The crossing would serve as the main entrance to a 750-megawatt solar panel power plant that will serve Southern California. Exhibit of the proposed project are attached.

JULY28-09.6b.TESSERA SOLAR.TALLISON.doc

Attachment: Proposed Project

Agenda

Item No. 6C

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

OTAY VALLEY REGIONAL PARK TRAIL CROSSING

RECOMMENDATION:

That the SD&AE Board of Directors approve a public crossing and agreements for the Otay Valley Regional Park Trail north of the Palm Avenue Station in the City of San Diego.

Budget Impact

Revenue would be credited to the SD&AE Reserve, and processing fees would be reimbursed to MTS.

DISCUSSION:

The County of San Diego (County) is pursuing a regional pedestrian trail running easterly along the Otay Valley Regional Park in the City of San Diego north of the Palm Avenue Station. The County proposes to cross the SD&AE right-of-way with a westerly portion of the trail. Attachment A shows the alignment of the trail through the right-of-way. The trail would cross Hollister Street north of the Otay River; enter the SD&AE right-of-way on the west side of the property; turn south and run southerly along the toe of the existing railway berm; turn east to cross the tracks under the existing bridge at the Otay River; and turn south again and proceed south along the east side of the property to the northerly terminus of the sidewalk of the Palm Avenue Station. The trail would branch to the east along the County property on the south side of the Otay River.

The project is to be constructed by the County and then turned over to the City of San Diego (City) for operations and maintenance. The County and the City have entered into the Joint Exercise of Power Agreement dated July 5, 2006, to document this arrangement. In addition, the County has obtained approval of a public grade-separated crossing from the California Public Utilities Commission dated December 18, 2008 (Decision 08-12-044 attached as Attachment B).

Staff brought this item before the Board in November 2005 for approval. The Board directed staff to return to negotiations with the County on liability and project design issues. Attachment C is the negotiated Draft Construction and Maintenance Agreement for the project that would be executed by SD&AE, MTS, the County, and the City. It covers project design, maintenance, operations, safety, insurance, and liability as negotiated by MTS General Counsel, the County Counsel's Office, and the City Attorney's Office. Staff recommends approval of the agreements in substantially the same format as attached.

JULY28-09.6c.OTAY VALLEY REG
PARK TRAIL XING.TALLISON.doc

- Attachments:
- A. Project Plans
 - B. CPUC Decision 08-12-044
 - C. Draft Construction and Maintenance Agreement

DEPARTMENT OF PARKS AND RECREATION
 COUNTY OF SAN DIEGO
 530 RUFFIN ROAD, SUITE F, SAN DIEGO, CALIFORNIA 92133

NOTES

- 1 SEE SHEET 05 FOR BRIDGE APPROACH GRADING DETAILS
- 2 INSTALL 6" CHAIN LINK FENCE PER STD DETAIL A-3 @ 2' OFFSET FROM TRAIL LOD
- 3 INSTALL 6" CHAIN LINK FENCE PER STD DETAIL A-4 @ 2' OFFSET FROM TRAIL LOD
- 4 INSTALL W1-2 1/2" IN ADVANCE OF CROSSING
- 5 SEE SHEETS 06-08 FOR BRIDGE DETAILS
- 6 FINISH GRADING TO MATCH EXISTING. INSTALL PAVEMENT FENCE PER STD DETAIL A-7.

LEGEND

- ① TRAIL CROSS SECTION. SEE SHEETS 04-0
- ⊗ TRAIL EMBANKMENT (SEE SHEET 7)

BEHALF OF



RM-1

WM-3



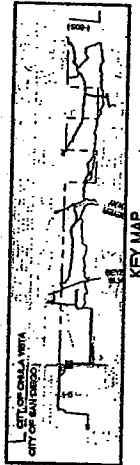
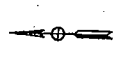
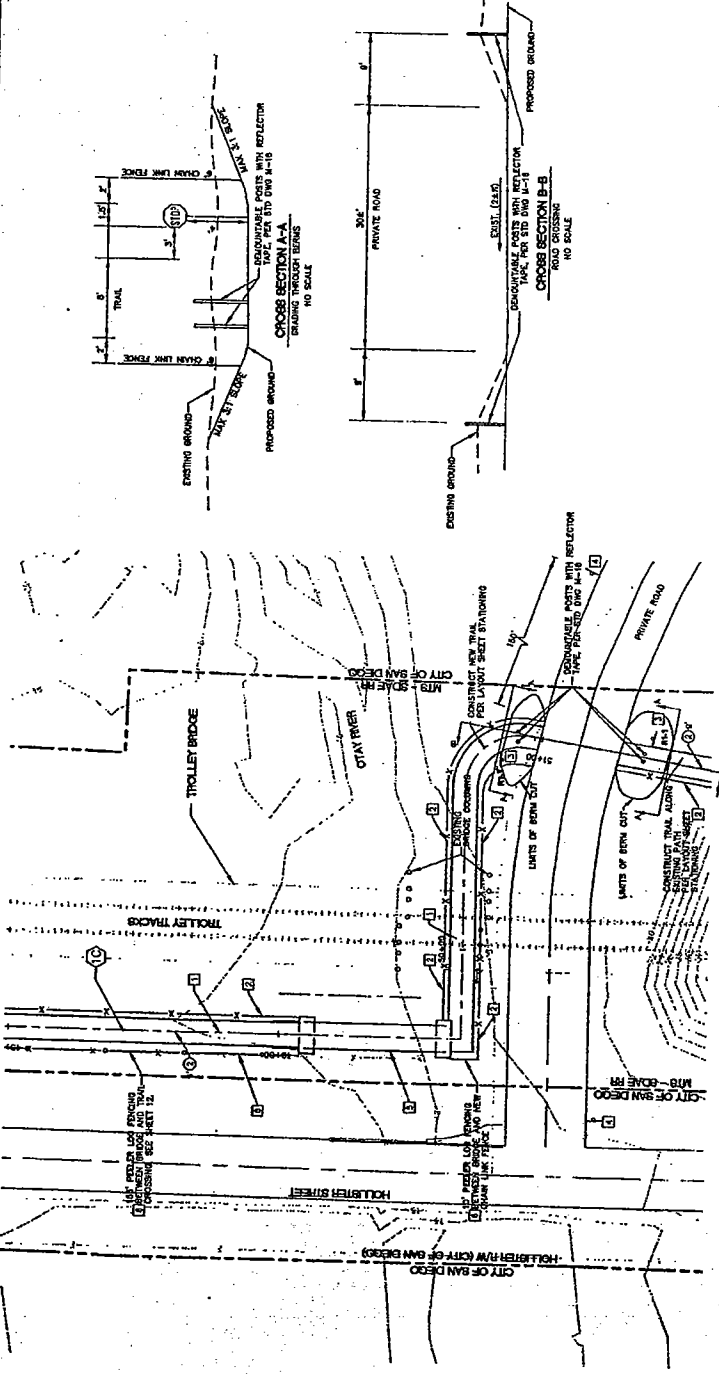
COURTNEY OF EXISTING UTILITIES ON THESE PLANS ARE APPROXIMATE AND SHALL BE VERIFIED BY CONTRACTOR PRIOR TO CONSTRUCTION.

ENGINEER OF WORK

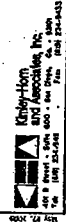
Jeffrey L. Lohman 5/21/2008 DATE
 NATIONAL PROFESSIONAL ENGINEER REG. 07748

PRIVATE CONTRACT
 PLANS FOR THE IMPROVEMENT OF
OTAY VALLEY REGIONAL PARK
 STAGE 2 TRAILS
 LOT UNDERGROUND

CITY OF SAN DIEGO, CALIFORNIA	PROJECT NO. 427160
PROJECT NAME: OTAY VALLEY REGIONAL PARK	PROJECT NO. 1563165
NO. ON SHEET	NO. OF SHEETS
DATE	DATE
1794-6307	15-4-14-17
350998-13-D	



NECESSARY NOTES
 Section 410 of the Government Code requires that the Applicant file a map with the County Registrar for recording. The map must be filed with the County Registrar within 30 days of the date of the final approval of the project.



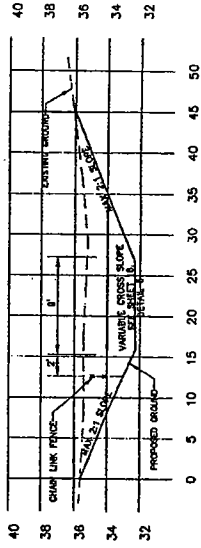
DEPARTMENT OF PARKS AND RECREATION
 COUNTY OF SAN DIEGO
 6001 MATTHEW ROAD, SUITE P, SAN DIEGO, CALIFORNIA 92123

NOTES

- 1. MOVE TRAIL TO MATCH EXISTING BOUNDARY AND RELOCATE FROM 8' TRAIL WIDTH TO 8' SIDEWALK. SEE SHEET 14, DETAIL A.
- 2. 8" CHAIN LINK FENCE WITH CROSS BARS, REVERSIBLE TO TRAIL SIDE. SEE SHEET 14, DETAIL A.
- 3. 8" CHAIN LINK FENCE WITH STD DETAIL A-1, 8' FENCE @ 8' OFFSET FROM EDGE OF TRAIL DRAWING. (CONTINUED FROM SHEET 13)
- 4. 8" CHAIN LINK FENCE WITH STD DETAIL A-2, START @ FENCE AT STATION 10+00 SEE SHEET 14 AND DETAIL A.
- 5. 8" CHAIN LINK FENCE WITH STD DETAIL A-3, START @ FENCE AT STATION 10+00 SEE SHEET 14 AND DETAIL A.

LEGEND

- ① TRAIL CROSS SECTION. SEE SHEETS 8 AND 9
- ⊗ TRAIL SEGMENT (SEE SHEET 9)



**TYPICAL CUT SLOPE
 CROSS SECTION A-A
 STA. TH55+ TO 12+70+
 NTR.**

CAUTION!
 ALL EXISTING UTILITIES ON THIS PLAN SHALL BE VERIFIED BY CONTRACTOR PRIOR TO CONSTRUCTION.

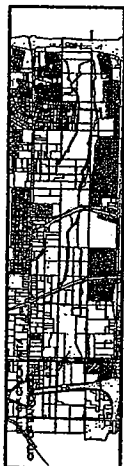
ENGINEER OF WORK

DEREK J. LANDAU, R.C.E. 00270 DATE

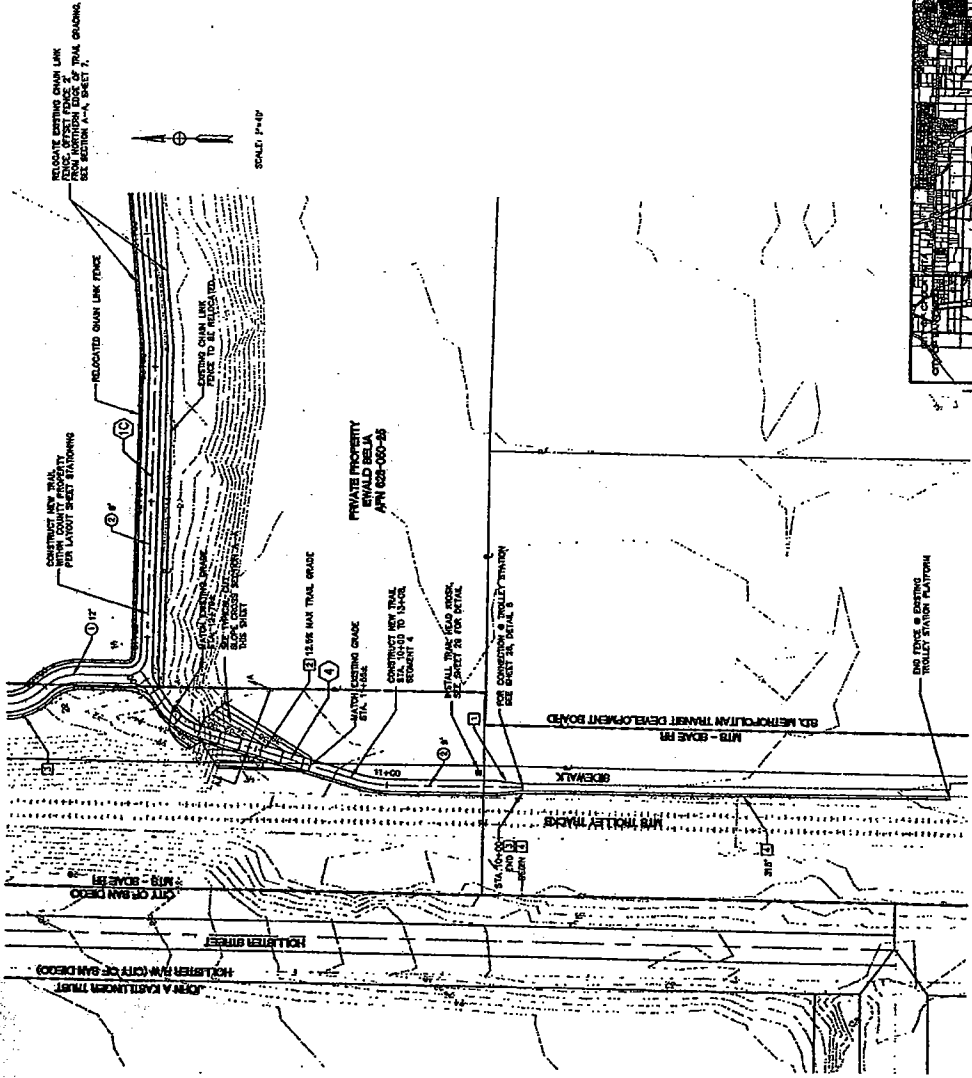
PRIVATE CONTRACT
 PLANS FOR THE IMPROVEMENT OF
 OTAY VALLEY REGIONAL PARK
 STAGE 2 TRAILS

CITY OF SAN DIEGO, CALIFORNIA		PROJECT NO.	427160
PROJECT NAME		PROJECT NO.	156385
SHEET NO.		DATE	1794.6.30.7
SHEET TITLE		DATE	15.6.17.7
SHEET NO.		DATE	35056-14-D

IMPORTANT NOTICE
 THESE PLANS ARE THE PROPERTY OF THE CITY OF SAN DIEGO. THEY ARE TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR MODIFICATION OF THESE PLANS WITHOUT THE WRITTEN PERMISSION OF THE CITY OF SAN DIEGO IS STRICTLY PROHIBITED. THE USER ASSUMES ALL LIABILITY FOR ANY DAMAGE OR INJURY RESULTING FROM THE USE OF THESE PLANS.



KEY MAP



City of San Diego
 Department of Parks and Recreation
 6001 Matthew Road, Suite P
 San Diego, CA 92123
 Tel: 619-441-2200
 Fax: 619-441-2201

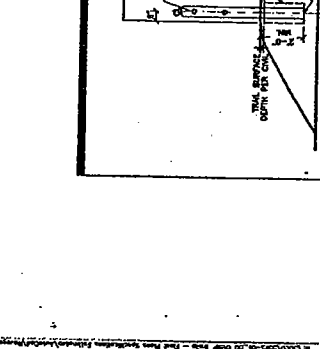
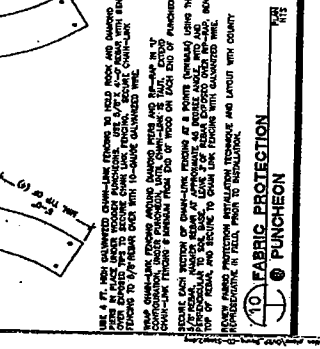
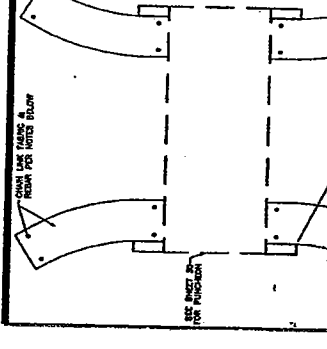
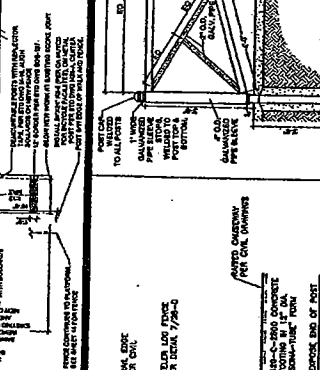
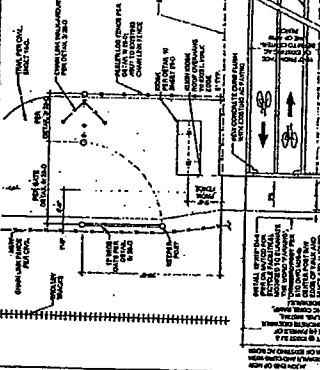
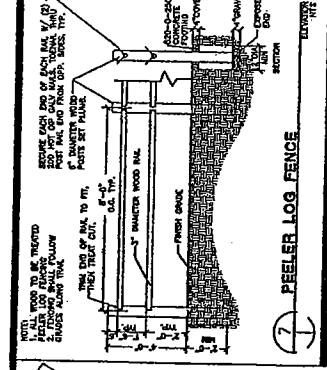
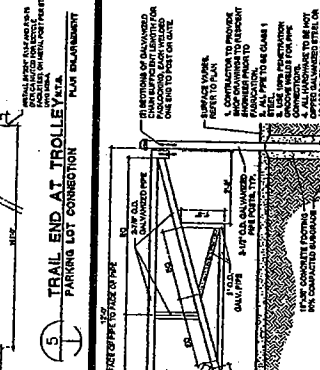
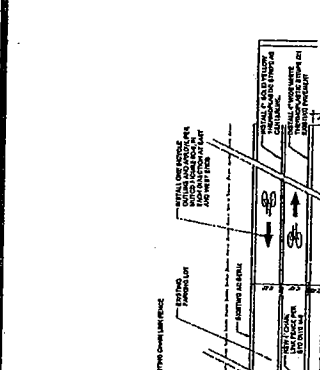
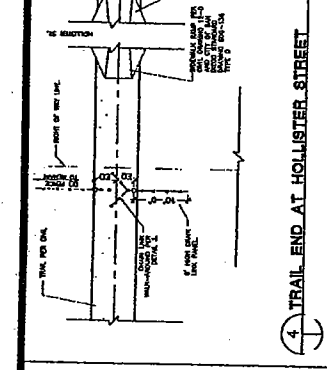
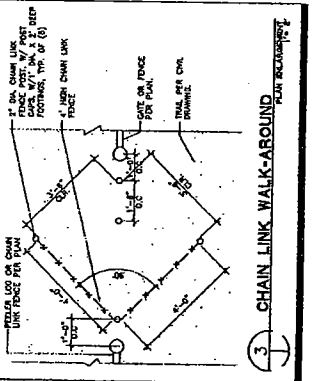
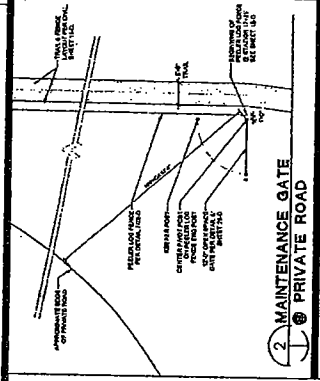
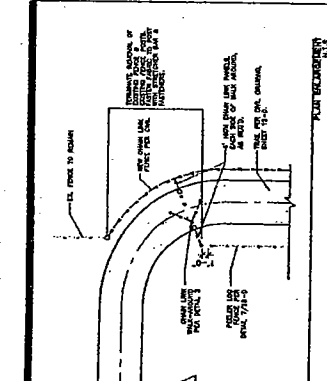
DEPARTMENT OF PARKS AND RECREATION
 COUNTY OF SAN DIEGO
 2307 MULLEN ROAD, SUITE P, SAN DIEGO, CALIFORNIA 92131

IMPORTANT NOTICE
 Section 4118 of the Government Code requires that the contractor be notified by the City of San Diego of the location of existing utilities on these plans are approximate and the contractor is responsible for locating and marking all utilities before construction.
ENGINEER OF WORK

SEAL
 WALLACE ROBERTS & TODD, INC.
 1133 COLUMBIA STREET, SUITE 205
 SAN DIEGO, CALIFORNIA 92101
 619.696.5703
 WALLACE ROBERTS & TODD, INC.
 1133 COLUMBIA STREET, SUITE 205
 SAN DIEGO, CALIFORNIA 92101
 619.696.5703

PRIVATE CONTRACT
 CONSTRUCTION DETAILS FOR:
 OTAY VALLEY REGIONAL PARK
 STAGE 2 TRAILS

NO.	DATE	DESCRIPTION
1	12/18/13	ISSUED FOR BIDDING
2	1/24/14	REVISIONS
3	2/10/14	REVISIONS
4	2/10/14	REVISIONS
5	2/10/14	REVISIONS
6	2/10/14	REVISIONS
7	2/10/14	REVISIONS
8	2/10/14	REVISIONS
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100	2/10/14	REVISIONS



CITY OF SAN DIEGO ENGINEERING DEPARTMENT
 PLANS FOR THE IMPROVEMENT OF
 THE OTAY VALLEY REGIONAL PARK

Drawn By: [Name]
 Checked By: [Name]
 Approved By: [Name]
 Principal City Engineer

Scale: AS SHOWN

Project No. 03089
 S.D.G.P. No. 11-137

Wallace Roberts & Todd, Inc.
 1133 Columbia Street, Suite 205
 San Diego, CA 92101
 619.696.5703
 Fax: 619.594.7935

CPSD/RWC/DAR/JFP/vdl

Mailed 12/22/08

Decision 08-12-044 December 18, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the County of San Diego for authority to construct a multi-use trail below one elevated rail structure, under the Metropolitan Transit System and San Diego Arizona and Eastern Railway rails, along the Otay Valley Regional Park Trail running from Saturn Boulevard (19th Street) to I-805 in the County of San Diego (Proposed PUC Crossing No. 104-36-10.7).

Application 08-07-040
(Filed July 16, 2008)

DECISION GRANTING AUTHORIZATION TO THE COUNTY OF SAN DIEGO TO CONSTRUCT A GRADE-SEPARATED CROSSING OF MTS & SDAE RAIL TRACKS AND A SHARED-USE PATH ALONG THE OTAY VALLEY REGIONAL PARK TRAIL IN THE COUNTY OF SAN DIEGO

Summary

County of San Diego (County) requests authorization to construct a shared-use path (also referred to as a multi-purpose or multi-use trail) below the elevated rail tracks of the Metropolitan Transit System (MTS) and San Diego Arizona and Eastern Railway (SDAE), along the Otay Valley Regional Park Trail running from Saturn Boulevard (19th Street) to Interstate 805 freeway (I-805) in the Otay River Valley within the County of San Diego. This decision grants the County's request to construct the grade-separated rail crossing.

Discussion

The purpose of the shared-use path is to implement a portion of the Otay Valley Regional Park Concept Plan adopted by the City of San Diego on April 17,

A.08-07-040 CPSD/RWC/GG1/DAR/JFP/vdl

2001, the City of Chula Vista on May 15, 2001, and the County on May 23, 2001, to create a continuous east/west trail that extends 8.3 miles between Saturn Boulevard (19th Street) and I-805. To ensure the public's safety, the proposed trail will pass below the existing elevated MTS and SDAE rail tracks. The shared-use path will maintain a twelve-foot minimum vertical clearance from the bottom of the existing overhead bridge structure for the rail tracks. The CPUC crossing number for the proposed grade-separated crossing will be 036-10.70-BD.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, the County is the lead agency for this project and the Commission is a responsible agency. As a responsible agency under CEQA, the Commission must consider the lead

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

A.08-07-040 CPSD/RWC/GG1/DAR/JFP/vdl

agency's environmental documents and findings before acting on or approving this project.²

The County found that the Otay Valley Regional Trail will have potentially significant impacts on the surrounding environment and prepared a Mitigated Negative Declaration (MND), State Clearing House No. 2006041064, dated May 10, 2006. The MND cited the following issues associated with this project: air quality, archeological-historical issues, biological resources, vegetation, water quality, wetland/riparian, and wildlife issues. These impacts were reduced to a less than significant level with the adoption of mitigation measures.

Safety, transportation and circulation, and noise are within the scope of the Commission's permitting process. The County, in the MND, identified no significant environmental impacts among those items within the scope of the Commission's permitting process.

The County subsequently filed a Notice of Determination (NOD) in compliance with the California Public Resources Code on June 16, 2006. The NOD states that 1) the project will have no significant effect on the environment; 2) a Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA; and 3) mitigation measures were made a condition of the approval of the project.

The Commission reviewed and considered the MND and NOD and finds them adequate for our decision-making purposes.

² CEQA Guidelines, Sections 15050(b) and 15096.

A.08-07-040 CPSD/RWC/GG1/DAR/JFP/vdl

Filing Requirements and Staff Recommendations

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section reviewed and analyzed the plans submitted with the application, and recommends that the Commission grant the County's request.

Categorization and Need for Hearings

In Resolution ALJ 176- 3219, dated August 21, 2008, and published in the Commission Daily Calendar on August 22, 2008, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3219.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2) and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on August 19, 2008. There are no unresolved matters or protests; a public hearing is not necessary.

A.08-07-040 CPSD/RWC/GG1/DAR/JFP/vdl

2. County requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade-separated crossing by constructing a shared-use path below the existing elevated rail tracks of MTS and SDAE, along the Otay Valley Regional Park Trail running from Saturn Boulevard (19th Street) to Interstate 805 freeway in the Otay River Valley within the County of San Diego.

3. The County is the lead agency for this project under CEQA, as amended.

4. The County issued an MND, made mitigation measures a condition of approval, and found that with mitigations, the project will not have a significant effect on the environment.

5. The Commission is a responsible agency for this project and has reviewed and considered the County's MND.

Conclusions of Law

1. The NOD and MND adopted by the County as the documentation required by CEQA for the shared-use path project are adequate for our decision-making purposes.

2. The project, with mitigations, will not have a significant effect on the environment.

3. The application is uncontested and a public hearing is not necessary.

4. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The County of San Diego (County) is authorized to construct a grade-separated crossing of existing elevated rail tracks owned by Metropolitan Transit System and San Diego Arizona and Eastern Railway and a proposed shared-use path for the Otay Valley Regional Park Trail, to be identified as CPUC Crossing

A.08-07-040 CPSD/RWC/GG1/DAR/JFP/vdl

No. 036-10.70-BD, in County of San Diego, at the location described in its application.

2. Within 30 days after completion of the work under this order, County shall notify the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section (RCES) in writing, by submitting a completed standard Commission Form G (*Report of Changes at Highway Grade Crossings and Separation*), of the completion of the authorized work.

3. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not satisfied. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

4. A request for extension of the three-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. Upon written request to this office, the time to complete the project may be extended. Any written request for a time extension must include concurrence letters by involved parties in support of the time extension. If an extension is requested, RCES may reevaluate the crossing prior to granting an extension.

5. The application is granted as set forth above.

A.08-07-040 CPSD/RWC/GG1/DAR/JFP/vdl

6. Application 08-07-040 is closed.

This order becomes effective 30 days from today.

Dated December 18, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

**CONSTRUCTION AND MAINTENANCE AGREEMENT FOR THE OTAY VALLEY
REGIONAL PARK TRAIL**

THIS CONSTRUCTION AND MAINTENANCE AGREEMENT ("CMA") is made and entered into this _____ day of _____, 2009, by and between the SAN DIEGO METROPOLITAN TRANSIT SYSTEM ("MTS"), a California public agency, the SAN DIEGO AND ARIZONA EASTERN RAILWAY (SD&AE), a Nevada non-profit corporation (MTS and SD&AE are collectively referred to as the "Railroad"), the COUNTY OF SAN DIEGO, a political subdivision of the State of California ("COUNTY") and the CITY OF SAN DIEGO, a municipal corporation ("CITY") (collectively the "Parties").

RECITALS

WHEREAS, Railroad is the owner of certain railroad right-of-way assets (the "ROW") located in the City of San Diego. The ROW is in active use by heavy and light-rail operators; and

WHEREAS, COUNTY proposes to construct the Otay Valley Regional Park Trail (the "Trail") at separated grade below and parallel to the Railroad tracks in substantial compliance with schematic plans attached hereto as Exhibit "A"; and

WHEREAS, the Parties agree that COUNTY will construct and CITY will maintain the Trail and COUNTY will reimburse Railroad for all Railroad staff expenses, consultant expenses, and other direct expenses accrued in reviewing, approving, and constructing the Trail and in preparing this CMA and any other agreements relating to the Trail, including but not limited to licenses for the Trail and a Right of Entry Permit that allows the COUNTY's contractor to enter into the ROW to construct the Trail; and

WHEREAS, after completion of the Trail construction, and acceptance of the Trail by CITY, this CMA, the Durable Right of Entry Permit described herein, and any Licenses issued to COUNTY under the terms of this CMA shall be automatically assigned to the CITY, as set forth below.

NOW, THEREFORE, IT IS AGREED:

1. **License.** Railroad agrees to grant to COUNTY and CITY licenses upon certain portions of the ROW in the City of San Diego, County of San Diego, attached as Exhibit "B" and Exhibit "C", respectively, solely for the purpose of constructing, maintaining and operating the Trail, in strict accordance with the provisions of this CMA. These licenses will be granted subject to the prior, continuing, and future rights and obligations of Railroad (including its licensees, successors and assigns) to use the ROW for railroad purposes and other consistent uses, including, but not limited to, existing and future transportation activities, utilities,

communication systems, pipeline facilities and appurtenances in, upon, over, across and along the ROW, and there is expressly reserved unto Railroad, and its respective successors and assigns, the right (consistent with the rights herein granted) to construct, reconstruct, maintain, operate, and use any and all existing and future facilities and appurtenances related to the above-referenced uses. COUNTY's license shall automatically terminate and CITY's license shall automatically commence upon assignment of this CMA to CITY pursuant to Paragraph 12.

2. **Use.** If COUNTY shall use the Trail and/or ROW for any purpose other than as stated in Section 1 above, or fail to act in accordance with the provisions of this CMA, or act in a manner which interferes with the use of the ROW by Railroad (including its licensees, successors and assigns), then Railroad (or its successors and assigns) shall provide COUNTY with a timely written notice of any claim of default, meet and confer with COUNTY regarding the claim of default, and allow COUNTY a reasonable opportunity to cure the default so long as COUNTY proceeds expeditiously to cure the default. If COUNTY fails to cure the default in a timely manner, Railroad may exercise its remedies at law or equity against COUNTY. It is expressly understood and agreed by Railroad that COUNTY shall use the Trail without interference or damage to the catenary wires, pipelines, electric transmission lines, telephone lines, telegraph lines, communications systems and other facilities of like character, existing or constructed during the term of this CMA over, under, along and across the Trail and/or ROW. COUNTY hereby agrees that it will indemnify and save harmless Railroad from and against any and all liability for any such interference or damage by the COUNTY or its contractors or agents as more expressly set forth below in paragraph 8.

3. **Limitations**

(a) **Limitations on Use.**

(i) COUNTY shall comply with all applicable terms, conditions, directives and requirements of Railroad's policies regarding rights-of-way and other MTS ordinances, rules and regulations. COUNTY shall comply with all applicable laws and regulations of the federal, state, county, local governments and all administrative agencies thereof which may have jurisdiction over COUNTY's construction, maintenance and operation of the Trail.

(ii) No use, construction, or maintenance by COUNTY or on COUNTY's behalf on the Trail will interfere with any type of railroad operations on the ROW.

(iii) COUNTY shall not leave any personal property or equipment on the ROW unattended at any time.

(b) **Limitations on Licenses.** The licenses and permission to be granted are without warranty of title of any kind, expressed or implied, and are subject to and subordinate to all prior licenses, leases, easements, restrictions, reservations, conditions, covenants,

encumbrances, right-of-ways, liens and claims of title which may in any manner encumber the ROW.

4. **Maintenance of Trail.** COUNTY shall maintain at its expense the Trail and appurtenances constructed pursuant to the terms of this CMA and which are over, under, along and across the ROW. In performing its maintenance obligations in accordance with this Paragraph 4, the COUNTY and/or its contractors, agents and assigns shall notify Railroad seventy-two hours prior to any entry onto the ROW for any purpose (except for emergency maintenance and repairs, in which case COUNTY shall notify Railroad as soon as is possible under the circumstances) and will comply with Railroad's rules and regulations concerning use of and work within the ROW, and the instructions of Railroad's representatives in relation to the proper manner of protecting Railroad's tracks and traffic moving thereon, pole lines, signals, and other property of Railroad, or its tenants or licensees, at or in the vicinity of any maintenance work, and shall perform such work at such times as shall not endanger or interfere with safe and timely operation of Railroad's track and other facilities.

5. **Right of Entry Permit.** The exercise of any and all rights provided by this CMA is subject to the requirement that the COUNTY and/or its contractors and agents first obtain a Right of Entry Permit ("ROE Permit"), attached as Exhibit "D", from Railroad prior to entry onto the ROW for the construction or maintenance of the Trail. The ROE Permit requires that the COUNTY and/or its contractors and agents procure and maintain in force at all times during the construction contract, the insurance described in this CMA. Railroad shall timely process any applications required to obtain the Permits, and shall not unreasonably deny or delay the issuance of such Permit. The COUNTY and/or its contractors and agents will comply with all Railroad policies, rules and regulations as stated in the ROE Permit, and the instructions of Railroad's representatives in relation to the proper manner of protecting the railroad tracks and traffic moving thereon, catenary lines, pull lines, signals and other property of Railroad, or their respective tenants or licensees, during the period of construction of the Trail and shall perform the work at such times and in such a manner so as not to endanger or interfere with the safe and timely operation of the railroad track and other facilities.

6. **Durable Maintenance ROE Permit.** Notwithstanding the foregoing, Railroad hereby grants to COUNTY a Durable Maintenance ROE Permit to allow COUNTY to enter onto the Trail for routine maintenance of the Trail, including, but not limited to, activities such as trash removal, cleaning of the Trail, and similar maintenance activities, as contemplated in the Joint Exercise of Powers Agreement dated July 5, 2006 ("OVRP JPA") and attached hereto as Exhibit "E". The Durable Maintenance ROE Permit shall remain effective throughout the life of this Agreement and be subject to all of the terms of this CMA, including but not limited to the indemnity and insurance provisions. Entry onto the ROW by individuals or entities other than the COUNTY (such as contractors, agents, and non-COUNTY employees) or entry onto the ROW by COUNTY for work other than the maintenance activities as described above, shall require a separate ROE Permit as specified in paragraph 5.

7. [Reserved]

8. Indemnification.

(a) COUNTY

COUNTY shall indemnify, defend and hold harmless MTS, its Board, officers, directors, agents, and employees, Rail America, the San Diego and Imperial Valley Railroad ("SD&IV"), the San Diego and Arizona Eastern Railway (SD&AE), San Diego Trolley, Inc. (SDTI), San Diego Transit Corporation (SDTC) any other entity performing maintenance work on the ROW, their officers, directors, agents and employees ("Railroad Indemnitees"), from any and all liability, loss, expense (including reasonable attorneys' fees and other defense costs), demands, suits, liens, damages, costs, claims, including, but not limited to, third party claims, claims for bodily injury, death, personal injury, or property damage, that are incurred by or asserted against the Railroad Indemnitees arising out of or connected with this CMA, the maintenance of any device or appurtenance implemented under this CMA, and any negligent acts or omissions on the part of the COUNTY, its Board of Supervisors, officers, agents, contractors, or employees. The requirements as to the types and limits of the insurance coverage to be maintained by the COUNTY as required by section 9, and any approval of the insurance by MTS and SD&AE, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by COUNTY pursuant to this CMA, including but limited to, the provisions concerning indemnification.

(b) RAILROAD

Railroad agrees to indemnify, defend and hold harmless the COUNTY and its Board of Supervisor members, officers, agents, volunteers, contractors, and employees ("COUNTY Indemnitees"), from any and all liability, loss, expense (including reasonable attorneys' fees and other defense costs), demands, suits, liens, damages, costs, claims, including but not limited to, claims for bodily injury, death, personal injury, or property damage, that are incurred by or asserted against the COUNTY Indemnitees arising out of or connected with any acts of active negligence or omissions on the part of Railroad, their Boards, officers, agents, contractors, or employees, under or in connection with any work, authority or jurisdiction delegated to Railroad under this CMA.

9. Insurance.

9.1 During the construction period, the COUNTY, at its sole cost and expense, shall maintain the following insurance:

(a) General Liability

- (i) The COUNTY shall maintain \$15 million of general liability coverage. The COUNTY is currently self-insured for its general liability coverage. The COUNTY may opt to place excess coverage outside of CSAC-EIA/CPEIA with a similar program at

any time during this CMA. Upon request by MTS, the COUNTY shall provide satisfactory evidence that it meets the insurance requirements of this CMA. If MTS feels that the COUNTY's self-insurance level is insufficient, it shall meet and confer with the COUNTY. If MTS still feels that the COUNTY's self-insurance level is insufficient, MTS may require the COUNTY to purchase a buffer policy of general liability coverage to reduce the self-insurance amount to a level acceptable to MTS.

- (ii) The coverage described above shall cover bodily injury (including death) and property damage liability, owned and non-owned equipment, and blanket contractual liability.
- (iii) The policies shall not have endorsement limitations relating to operations on or near railroad property.
- (iv) All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), San Diego Transit Corporation (SDTC), and their directors, officers, agents, and employees as additional insureds as their interests may appear.

(b) Automobile Liability

(i) The COUNTY shall maintain \$15 million of automobile liability coverage. The COUNTY is currently self-insured for its automobile liability coverage. The COUNTY may opt to place excess coverage outside of CSAC-EIA/CPEIA with a similar program at any time during this CMA. Upon request by MTS, the COUNTY shall provide satisfactory evidence that it meets the insurance requirements of this CMA. If MTS feels that the COUNTY's self-insurance level is insufficient, it shall meet and confer with the COUNTY. If MTS still feels that the COUNTY's self-insurance level is insufficient, MTS may require the COUNTY to purchase a buffer policy of automobile liability coverage to reduce the self-insurance amount to a level acceptable to MTS.

- (ii) The insurance shall indemnify against loss from liability imposed by law for damages on account of bodily injury, property damage, and personal injury. The automobile coverage shall cover all owned, non-owned and hired automobiles.

(c) **Workers Compensation.** COUNTY shall cover or insure under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the Right-of-Way, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. COUNTY shall provide employers' liability insurance in the amount of not less than two million dollars per accident for bodily injury and disease. By its signature hereunder, COUNTY certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions in connection with any work performed on or in the ROW. Any persons providing services with or on behalf of the COUNTY shall be covered by workers' compensation (or qualified self-insurance.) COUNTY waives any rights of subrogation against MTS, SDTI, SDTC, SD&AE, SD&IV or any of their subsidiaries, and the policy form must permit and accept such waiver.

(d) **Railroad Protective Insurance.** COUNTY shall remove any exclusions relating to performance of operations within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing from its General Liability Coverage for both the self insured and excess policies or purchase a separate Railroad Protective Liability policy.

(e) For any claims arising out of or connected with this CMA regarding the maintenance of any device or appurtenance implemented under this CMA, and any negligent acts or omissions on the part of the COUNTY, its Council, officers, agents, contractors, or employees, or the COUNTY's operations or activities, COUNTY's insurance shall be primary insurance to MTS, SDTI, SDTC, SD&AE, SD&IV, and their directors, officers, employees, contractors, agents or authorized volunteers. Any insurance, self-insurance or other coverage maintained by MTS, SDTI, SDTC, SD&AE, SD&IV, and their directors, officers, employees, agents or authorized volunteers shall not contribute to it. All policies and coverages shall contain a provision for 30 days written notice by the Insurer(s) to the MTS Contracts Specialist of any cancellation or material reduction of coverage. A ten-day notice is required for non-payment of premium.

(f) The COUNTY shall insure that every sublicensee, or contractor or subcontractor retained to perform the construction or maintenance of the Project, who enters upon, uses, or performs any work upon the ROW by or on behalf of COUNTY shall provide to MTS evidence of insurance as follows:

Commercial General Liability. At all times during this contract and, with respect to Products and Completed Operations Liability, for 12 months following the acceptance of the work by MTS, Contractor agrees to maintain Commercial General Liability Insurance for bodily injury and property damage in an occurrence form and with insurance companies acceptable to MTS with minimum policy limits of \$5 million dollars (per occurrence) for any general contractor and \$3 million dollars (per occurrence) for any sub-contractors. Commercial General Liability Insurance must

include coverage for the following:

- Premises/Operations Liability
- Aggregate Limits per Project
- Products/Completed Operations Liability
- No Explosion, Collapse, and Underground (XCU) exclusion
- Contractual Liability, with respect to this agreement
- Personal Injury Liability
- Broad Form Property Damage
- Independent Contractors

All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), San Diego Transit Corporation (SDTC), the COUNTY of San Diego (COUNTY), and their directors, officers, agents, and employees as additional insureds as their interests may appear. All general liability coverages required under this Section 9.1(f) are PRIMARY and any insurance of MTS, SDTI, SD&AE, SD&IV, SDTC, and the COUNTY shall be excess and noncontributory (endorsement required).

(ii) Automobile Liability. At all times during this contract, Contractor agrees to maintain Automobile Liability Insurance for bodily injury and property damage including coverage for all owned, nonowned, and hired vehicles at a minimum policy limit of \$5 million dollars. All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), San Diego Transit Corporation (SDTC), the COUNTY of San Diego (COUNTY), and their directors, officers, agents, and employees as additional insureds as their interests may appear.

(iii) Workers' Compensation/Employer Liability. At all times during this contract, Contractor agrees to maintain Workers' Compensation and Employers' Liability Insurance in compliance with the applicable statutory requirements at a minimum policy limit of \$1 million dollars. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, SDTC, and the COUNTY and the policy form must permit and accept such waiver.

(iv) Railroad Protective Insurance. Remove any exclusions relating to

performance of operations within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing from its General Liability Coverage, or purchase a separate Railroad Protective policy in the amount of \$5,000,000 in the name of MTS.

- (v) All policies and coverages shall contain a provision for 30 days written notice by the Insurer(s) to MTS of any cancellation or material reduction of coverage. A ten-day notice is required for non-payment of premium.

9.2 Effective as of the assignment contemplated in Paragraph 12, the CITY, at its sole cost and expense, shall procure and maintain the following insurance:

(a) General Liability

- (i) The CITY shall maintain \$15 million of general liability coverage. The CITY is currently self-insured for its general liability coverage up to \$5 million and participates in a large risk pool (CSAC-EIA/CPEIA) which provides excess coverage from \$5 million to \$15 million. The CITY may opt to place excess coverage outside of CSAC-EIA/CPEIA with a similar program at any time during this CMA. Upon request by MTS, the CITY shall provide satisfactory evidence that it meets the insurance requirements of this CMA. If the CITY increases the amount of its self-insurance, the CITY shall notify MTS prior to the change in coverage. If MTS feels that the CITY's self-insurance level is insufficient, it shall meet and confer with the CITY. If MTS still feels that the CITY's self-insurance level is insufficient, MTS may require the CITY to purchase a buffer policy of general liability coverage to reduce the self-insurance amount to a level acceptable to MTS.

- (ii) The coverage described above shall cover bodily injury (including death) and property damage liability, owned and non-owned equipment, and blanket contractual liability.

- (iii) The policies shall not have endorsement limitations relating to operations on or near railroad property.

- (iv) All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), San Diego Transit Corporation (SDTC), and their directors, officers, agents, and employees as additional insureds as their interests may appear.

(c) Automobile Liability

- (i) The CITY shall maintain \$15 million of automobile liability coverage. The CITY is currently self-insured for its automobile liability coverage up to \$5 million and participates in a large risk pool (CSAC-EIA/CPEIA) which provides excess coverage from \$5 million to \$15 million. The CITY may opt to place excess coverage outside of CSAC-EIA/CPEIA with a similar program at any time during this CMA. Upon request by MTS, the CITY shall provide satisfactory evidence that it meets the insurance requirements of this CMA. If the CITY increases the amount of its self-insurance, the CITY shall notify MTS prior to the change in coverage. If MTS feels that the CITY's self-insurance level is insufficient, it shall meet and confer with the CITY. If MTS still feels that the CITY's self-insurance level is insufficient, MTS may require the CITY to purchase a buffer policy of automobile liability coverage to reduce the self-insurance amount to a level acceptable to MTS.
- (ii) The insurance shall indemnify against loss from liability imposed by law for damages on account of bodily injury, property damage, and personal injury. The automobile coverage shall cover all owned, non-owned and hired automobiles.

(c) Workers Compensation. CITY shall cover or insure under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the Right-of-Way, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. CITY shall provide employers' liability insurance in the amount of not less than two million dollars per accident for bodily injury and disease. By its signature hereunder, CITY certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions in connection with any work performed on or in the ROW. Any persons providing services with or on behalf of the CITY shall be covered by workers' compensation (or qualified self-insurance.) CITY waives any rights of subrogation against MTS, SDTI, SDTC, SD&AE, SD&IV or any of their subsidiaries, and the policy form must permit and accept such waiver.

(d) Railroad Protective Insurance. CITY shall remove any exclusions relating to performance of operations within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing from its General Liability Coverage for both the self insured and excess policies or purchase a separate Railroad Protective Liability policy.

- (f) For any claims arising out of or connected with this CMA regarding the

maintenance of any device or appurtenance implemented under this CMA, and any negligent acts or omissions on the part of the CITY, its Council, officers, agents, contractors, or employees, or the CITY's operations or activities, CITY's insurance shall be primary insurance to MTS, SDTI, SDTC, SD&AE, SD&IV, and their directors, officers, employees, contractors, agents or authorized volunteers. Any insurance, self-insurance or other coverage maintained by MTS, SDTI, SDTC, SD&AE, SD&IV, and their directors, officers, employees, agents or authorized volunteers shall not contribute to it. All policies and coverages shall contain a provision for 30 days written notice by the Insurer(s) to the MTS Contracts Specialist of any cancellation or material reduction of coverage. A ten-day notice is required for non-payment of premium.

(g) The CITY shall insure that every sublicensee, or contractor or subcontractor retained to perform the construction or maintenance of the Project, who enters upon, uses, or performs any work upon the ROW by or on behalf of CITY shall provide to MTS evidence of insurance as follows:

(i) Commercial General Liability. At all times during this contract and, with respect to Products and Completed Operations Liability, for 12 months following the acceptance of the work by MTS, Contractor agrees to maintain Commercial General Liability Insurance for bodily injury and property damage in an occurrence form and with insurance companies acceptable to MTS with minimum policy limits of \$5 million dollars (per occurrence) for any general contractor and \$3 million dollars (per occurrence) for any sub-contractors. Commercial General Liability Insurance must include coverage for the following:

- Premises/Operations Liability
- Aggregate Limits per Project
- Products/Completed Operations Liability
- No Explosion, Collapse, and Underground (XCU) exclusion
- Contractual Liability, with respect to this agreement
- Personal Injury Liability
- Broad Form Property Damage
- Independent Contractors

All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), San Diego Transit Corporation (SDTC), the City of San Diego (CITY), and their directors, officers, agents, and employees as additional insureds as their interests may appear. All general liability coverages required under this Section 9.2(g) are PRIMARY and that any insurance of MTS, SDTI, SD&AE, SD&IV, SDTC, and the CITY shall be excess

and noncontributory (endorsement required).

(ii) Automobile Liability. At all times during this contract, Contractor agrees to maintain Automobile Liability Insurance for bodily injury and property damage including coverage for all owned, nonowned, and hired vehicles at a minimum policy limit of \$5 million dollars. All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), San Diego Transit Corporation (SDTC), the City of San Diego (CITY), and their directors, officers, agents, and employees as additional insureds as their interests may appear.

(iii) Workers' Compensation/Employer Liability. At all times during this contract, Contractor agrees to maintain Workers Compensation and Employers' Liability Insurance in compliance with the applicable statutory requirements at a minimum policy limit of \$1 million dollars. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, SDTC, and the CITY and the policy form must permit and accept such waiver.

(iv) Railroad Protective Insurance. Remove any exclusions relating to performance of operations within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing from its General Liability Coverage, or purchase a separate Railroad Protective policy in the amount of \$5,000,000 in the name of MTS.

(v) All policies and coverages shall contain a provision for 30 days written notice by the Insurer(s) to MTS of any cancellation or material reduction of coverage. A ten-day notice is required for non-payment of premium.

10. **Co-operation in Defense of Claims.** The Parties agree to co-operate in good faith to seek a prompt disposition by way of dismissal or summary judgment, of any claim or litigation alleging liability of any party to this MOU, based on the construction, maintenance or operation of the Trail.

11. **Default; Termination.**

(a) In the event that COUNTY fails to perform any obligation under this CMA, COUNTY shall pay all costs and expenses incurred by Railroad in obtaining performance of such obligations, including costs of suit and reasonable attorney's fees. If COUNTY uses the ROW for any purpose not expressly authorized by this CMA or fails to act strictly in accordance with the terms and conditions of this CMA, and if such default is not corrected within 30 days' notice from Railroad to COUNTY, Railroad may prevent COUNTY from entering the ROW

until the default is corrected. If Railroad determines that any default by COUNTY does or has the potential to cause a danger to the ROW, light rail vehicle operations, or railroad operations, and COUNTY fails or refuses to timely correct the default, Railroad may perform such work as is reasonable and necessary to remedy the danger, and COUNTY shall reimburse Railroad for all costs and damages so incurred for correcting the default. If COUNTY fails or refuses to correct any default after such notice, or refuses to timely reimburse Railroad for the work required to remedy the danger, Railroad may, upon thirty (30) days additional notice and in addition to any other remedy provided by law, terminate this CMA and prevent COUNTY from entering the ROW thereafter.

(b) In the event Railroad fails to perform any of its obligations under this CMA, COUNTY shall give Railroad written notice of the nature of the default and the steps required to remedy the default. If the default is not cured within thirty (30) days of the delivery of COUNTY's notice, COUNTY may proceed to enforce its rights and protect its interests under this CMA. Railroad shall pay all costs and expenses incurred by COUNTY in obtaining performance of the obligations, and protecting COUNTY's interests hereunder, including costs of suit and reasonable attorney's fees. In no case will any enforcement action modify the ownership or operation of the ROW.

(c) Termination of this CMA shall not release either party from any liability or obligation hereunder resulting from an event which occurred before termination.

12. Assignment.

(a) In accordance with the OVRP JPA, which allows the COUNTY to construct in this area of the OVRP and requires CITY to maintain this area of the OVRP following its construction, this CMA, including the Durable Right of Entry Permit and the Licenses conveyed herein, shall be automatically assigned to the CITY for operation and maintenance of the trail, upon the occurrence of the following events:

- (i) COUNTY's filing of a Notice of Completion for the OVRP construction project with CITY and RAILROAD; and
- (ii) Written Notice of CITY's acceptance of the Notice of Completion.

(b) City hereby accepts such assignment of rights and delegation of duties, including, but not limited to, the terms of Paragraphs 8 and 9.2, above, and agrees to perform all of the COUNTY's obligations under the C&M Agreement accruing on and after the Effective Date. City further agrees to indemnify and hold the COUNTY harmless from any breach of City's duties hereunder as Assignee.

(c) COUNTY's assignment pursuant to Section 12(a) and (b) above excludes any obligations arising solely from COUNTY's construction of the OVRP.

(d) All costs or other obligations incurred by COUNTY prior to the Effective Date will have been paid or discharged and are not assigned to City.

(e) RAILROAD hereby agrees to the assignment of the CMA to CITY as set forth above.

(f) There shall be no further assignment of the CMA without the written consent of RAILROAD, which consent may be withheld for any reason.

13. **Notices.** All notices to be given under this CMA shall be in writing and either:

(a) Sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered upon actual receipt or one (1) business day after deposit with this courier, whichever occurs first; or

(b) Sent by fax or similar means, if a copy of the notice is also sent by United States Mail, in which case notice shall be deemed delivered on transmittal by facsimile provided that a transmission report is generated reflecting the accurate transmission of the notice, as follows:

COUNTY's Address for Notice:

County of San Diego
Department of General Services
Attn: John Kross, Deputy Director
Real Estate Services Division
5555 Overland Avenue, Suite 2110
San Diego, California 92123

Phone: (858) 694-2290

Fax: (858) 694-2369

CITY's Address for Notice:

City of San Diego
Park and Recreation Department
Attn: Stacey LoMedico
202 C Street
San Diego, CA 92101

Phone: (619) 236-6643

Fax: (619) 685-1313

MTS and SDAE Address for Notice:

Metropolitan Transit System/San Diego
and Arizona Eastern Railway
Attn: Manager of Real Estate Assets
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

Phone: (619) 595-4903

Fax: (619) 744-5986

The exercise of any and all rights provided to COUNTY by this CMA is also subject to the notice requirements set forth in the ROE Permit, attached as Exhibit "D", for the construction and maintenance of the Trail, prior to entry onto the ROW for any purpose.

These addresses may be changed by written notice to the other Parties provided that no notice of a change of address shall be effective until actual receipt by the Parties of the notice. Copies of notices, if any are so indicated, are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

14. **Waiver.** Any party's failure to enforce or exercise its rights with respect to any provision hereof shall not be construed as a waiver of such rights or of such provision.

15. **Venue.** This CMA shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this CMA, the action shall be brought in a state or federal court situated in the County of San Diego, State of California.

16. **Dispute Resolution.**

(a) The Parties agree that they shall first meet, through their senior staff representatives, to attempt to informally resolve any dispute that arises under this CMA.

(b) If the informal efforts are unsuccessful, then the Parties agree to participate in mediation. Within five (5) business days of the request of any party, the parties shall mutually agree on the person or alternative dispute resolution agency to conduct the mediation. If the Parties are unable to agree on the person or alternative dispute resolution agency to conduct the mediation, the initiating party may arrange for the office of the American Arbitration Association in downtown San Diego, California, to perform the mediation. The initiating party shall then schedule the mediation so that it is conducted within five (5) business days of the mediator's appointment. The costs of the mediation and fees of the mediator, if any, shall be shared equally by the Parties.

(c) Any dispute not resolved through the mediation required by paragraph (b) of this Section, may proceed to litigation unless the Parties agree in writing to submit the dispute to binding arbitration.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties hereto have caused this CMA to be executed by and through their respective officers duly authorized on the date written below their signatures.

METROPOLITAN TRANSIT SYSTEM

COUNTY OF SAN DIEGO

By: _____
Paul C. Jablonski,
Chief Executive Officer

By: _____
April F. Heinze
Director of General Services

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Office of General Counsel

By: _____
County Counsel

SAN DIEGO & ARIZONA EASTERN
RAILWAY

CITY OF SAN DIEGO

By: _____
Paul C. Jablonski, President

By: _____
Stacey LoMedico, Director, Park and Recreation

APPROVED AS TO FORM:

APPROVED AS TO FORM AND LEGALITY:

By: _____
Of Counsel

By: _____
Deputy City Attorney

Exhibit A

Trail Schematic Plans

DRAFT

Exhibit B

Legal Description for MTS License Area

DRAFT

Exhibit C

Plat Map for MTS License Area

DRAFT

Exhibit D

Right of Entry Permit

DRAFT

Exhibit E

OVRP JPA dated July 5, 2006

DRAFT

Agenda

Item No. 6d

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

PRIVATE CROSSING OF THE CORONADO BRANCH NORTH OF E STREET IN CHULA VISTA

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors approve issuing a license to the Redevelopment Agency of the City of Chula Vista for a proposed at-grade crossing over SD&AE tracks located on the Coronado Branch north of E Street in the City of Chula Vista.

Budget Impact

Yearly license fees would be credited to the SD&AE reserve, and processing fees would be reimbursed to MTS.

DISCUSSION:

Attachment A is a letter from the Redevelopment Agency of the City of Chula Vista (Agency) requesting a private crossing of the Coronado Branch north of E Street. The Agency owns a landlocked parcel to the east of the railroad right-of-way north of E Street across from the Nature Center parking lot. The Agency requests a private crossing to provide access to the parcel so that it can offer the property for development.

The Agency is negotiating access across the SDG&E property to the west of the railroad right-of-way. Once that is approved, the Agency would need access across the SD&AE right-of-way to finish the access to the property. Attachment B shows the location of the crossing requested.

JULY28-09.6d.E ST.TALLISON.doc

Attachments: A. Letter from the Redevelopment Agency of the City of Chula Vista
B. Vicinity Map



June 24, 2009

Mr. Timothy E. Allison
Manager of Real Estate Assets
Metropolitan Transit System
1255 Imperial Avenue
Suite 1000
San Diego, CA 92101-7490

Reference: San Diego & Arizona Railroad Crossing - Chula Vista Bayfront

Dear Mr. Allison:

On behalf of the Redevelopment Agency of the City of Chula Vista, staff would like to request a private crossing of the San Diego & Arizona Railroad line, just north of E Street in the Chula Vista Bayfront. Please see Attachment A for a location map.

The Redevelopment Agency owns two parcels of land (APNs 565-310-25-00 and 565-310-09-00), which were effectively landlocked by the reconstruction of the Interstate 5 Southbound on-ramp. The Agency would like to redevelop the site, but requires access in order to market the property.

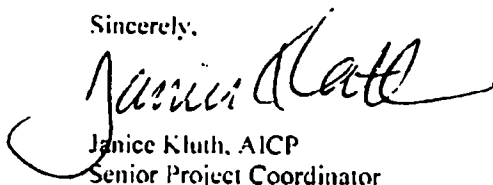
Access to the site requires an easement across San Diego Gas & Electric's property to the west of the rail line, as well. Staff is currently working with Ruth Love of SDG&E to secure an easement across its property. We anticipate execution of that easement by August 2009.

The proposed access to the site will be a 50' wide driveway, extending north from E Street through the Nature Center parking lot, and then turning east across the rail line, as detailed in the Limits of Access (Attachment B), into the site. Permanent access will be developed in the future, with the development of the Bayfront.

We would like to take this crossing request to the next Board Meeting of the Metropolitan Transit System, at the end of July. Please let us know if you need additional information in order for the Board to make its decision.

Thank you for your assistance in resolving this matter. Please call me at 619-691-5022 should you have any questions.

Sincerely,

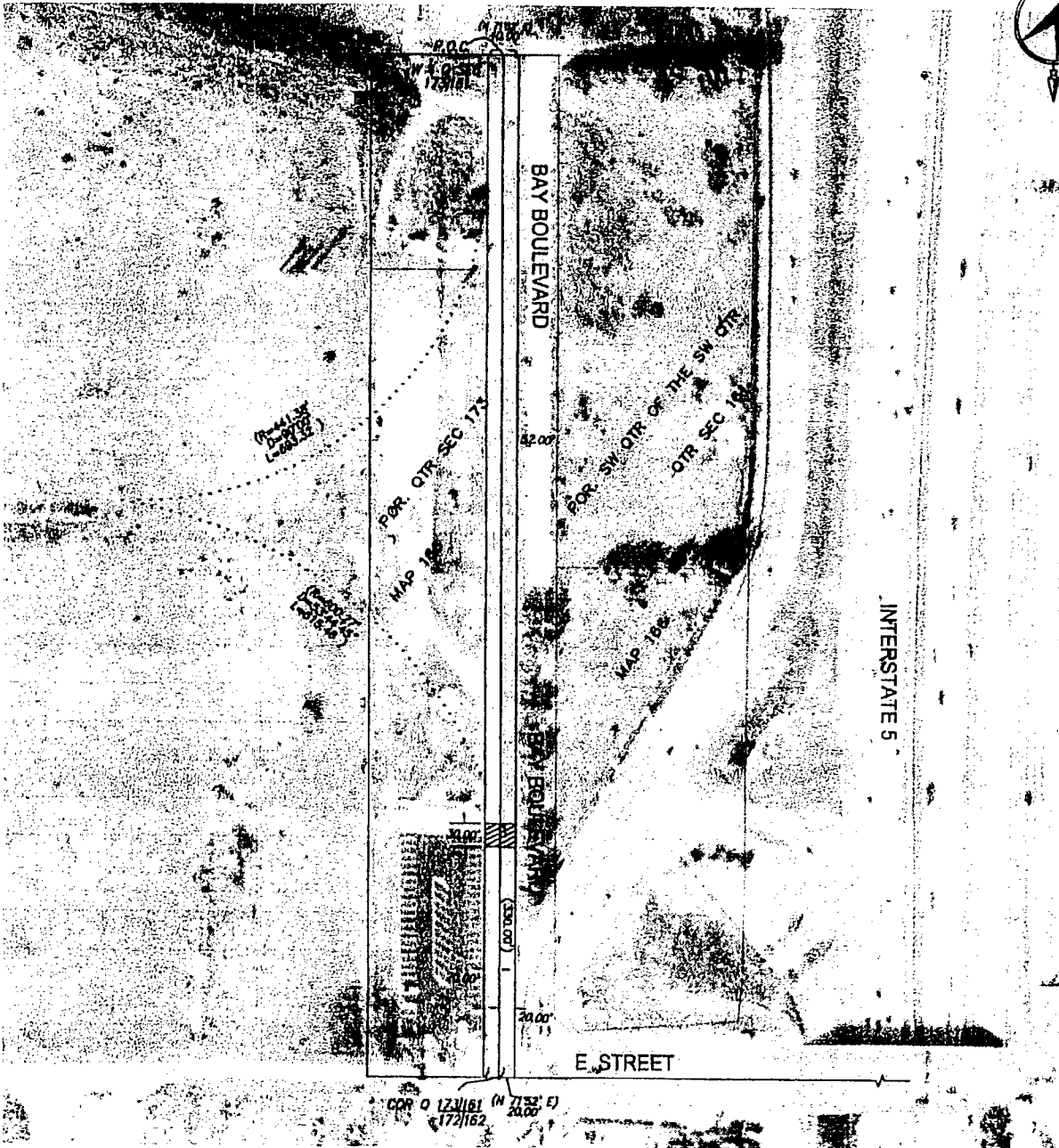



Janice Kluth, AICP
Senior Project Coordinator

Enclosures: Attachment A - Legal Description
Attachment B - Limits of Access (2 pages)

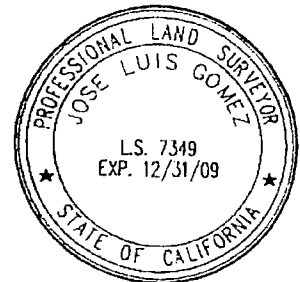
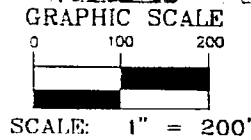
EXHIBIT "B"

Att. B, Al 6d, SDAE 7/28/09 N



 LIMITS OF ACCESS PURPOSES.

() INDICATES RECORD DATA



LEGEND



CITY OF CHULA VISTA
PUBLIC WORKS DEPARTMENT
276 FOURTH AVENUE
CHULA VISTA, CA 91910
(619) 476-2301

JOSE LUIS GOMEZ, P.L.S. 7349
LICENSE EXPIRES 12/31/09

DATE
FILE NO. BF013

Agenda

Item No. 7

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

ELECTION TO FILL VACANT POSITION OF SD&AE CHAIRMAN

RECOMMENDATION:

That the SD&AE Board of Directors forward a recommendation to the MTS Board of Directors to elect Don Seil as Chairman of the SD&AE Railway Company Board of Directors.

Budget Impact

None.

DISCUSSION:

Pete Jespersen is no longer employed by RailAmerica; therefore, RailAmerica is recommending that Don Seil be elected to replace Mr. Jespersen as Chairman of the SD&AE Board of Directors. Upon the SD&AE Board's action, a recommendation would be forwarded to the MTS Board of Directors for approval of the elected SD&AE Chairman.

JULY28-09.7.ELECTCHAIRMAN.DONSEIL.TLORENZEN.doc

Agenda

Item No. 8

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

July 28, 2009

SUBJECT:

ELECTION TO FILL VACANT POSITION OF SD&AE ALTERNATE

RECOMMENDATION:

That the SD&AE Board of Directors forward a recommendation to the MTS Board of Directors to elect Wayne Terry as the alternate for Paul Jablonski (President) to replace the position vacated by Peter Tereschuck.

Budget Impact

None.

DISCUSSION:

Peter Tereschuck, alternate for Paul Jablonski, has retired, and staff proposes forwarding a recommendation to the MTS Board of Directors to elect Wayne Terry as Mr. Jablonski's alternate.

JULY28-09.8.ELECTALTERNATE.
WAYNETERRY.TLOREN.doc



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Agenda

Item No. 9

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

FIN 300

August 20, 2009

SUBJECT:

MTS: INVESTMENT REPORT – JUNE 2009

RECOMMENDATION:

Action would receive a report for information.

Budget Impact

None.

DISCUSSION:

Attachment A is a report of MTS investments as of June 2009. The first column provides details about investments restricted for capital support and debt service—the majority of which are related to the 1995 lease and leaseback transactions

The second column (unrestricted investments) reports the working capital for MTS operations for employee payroll and vendors' goods and services. This column includes the investment in San Diego Transit Corporation's repurchased pension obligation bonds and represents an asset that is not currently available to fund operations.

Total cash and investment balances have decreased by \$7.6 million primarily due to reduced subsidy payments that are scheduled in the last two months of the fiscal year and a reduction in investments restricted for debt service related to a scheduled \$1.3 million payment.

The current monthly yield in the Local Agency Investment Fund is 1.51%, which represents a reduction from 2.779% since August 2008.



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Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations), and San Diego Vintage Trolley, Inc., a 501(c)(3) nonprofit corporation, in cooperation with Chula Vista Transit. MTS is the taxicab administrator for seven cities. MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.

The funds restricted for debt service are structured investments with fixed returns that do not vary with marked fluctuations if held to maturity. These investments are held in trust and will not be liquidated in advance of the scheduled maturities.

Other restricted funds are designated for various capital improvement projects.



Paul S. Jablonski
Chief Executive Officer

Key Staff Contact: Linda Musengo, 619.557.4531, linda.musengo@sdmts.com

AUG20-09.9.JUNE INVESTMT RPT.LMUSENGO.doc

Attachment: A. June 2009 Investment Report

**San Diego Metropolitan Transit System
Investment Report
June 30, 2009**

	<u>Restricted</u>	<u>Unrestricted</u>	<u>Total</u>	Average rate of return
Cash and Cash Equivalents				
Bank of America - concentration sweep account	\$ 7,763,264	\$ 2,185,947	\$ 9,949,211	0.00%
Total Cash and Cash Equivalents	<u>7,763,264</u>	<u>2,185,947</u>	<u>9,949,211</u>	
Cash - Restricted for Capital Support				
US Bank - retention trust account	3,087,872		3,087,872	N/A *
US Bank - retention trust account	2,515,455		2,515,455	N/A *
Bank of America - Proposition 1B TSGP grant funds	2,699,649		2,699,649	N/A *
Total Cash - Restricted for Capital Support	<u>8,302,976</u>	<u>-</u>	<u>8,302,976</u>	
Investments - Working Capital				
Local Agency Investment Fund (LAIF)		10,706,414	10,706,414	1.51%
Bank of New York Money Market POB interest	-	40	40	
Total Investments - Working Capital	<u>-</u>	<u>10,706,454</u>	<u>10,706,454</u>	
Investments - Restricted for Debt Service				
US Bank - Treasury Strips - market value (Par value \$39,474,000)	32,903,799	-	32,903,799	
Rabobank - Payment Undertaking Agreement	84,951,545	-	84,951,545	7.69%
Total Investments Restricted for Debt Service	<u>117,855,343</u>	<u>-</u>	<u>117,855,343</u>	
Investment in SDTC Pension Obligation Bonds				
Bank of America custodial account	-	35,630,000	35,630,000	
Total Investment in SDTC Pension Obligation Bonds	<u>-</u>	<u>35,630,000</u>	<u>35,630,000</u>	
Total cash and investments	<u>\$ 133,921,584</u>	<u>\$ 48,522,401</u>	<u>\$ 182,443,984</u>	

N/A* - Per trust agreements, interest earned on retention accounts is allocated to trust beneficiary (contractor)



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Agenda

Item No. 10

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

CIPs 11225, 11421

August 20, 2009

SUBJECT:

MTS: GROSSMONT SUBSTATION REHABILITATION MOU AND FUNDS TRANSFER

RECOMMENDATION:

That the Board of Directors:

1. authorize the Chief Executive Officer (CEO) to execute a Memorandum of Understanding (MOU) (in substantially the same form as Attachment A) for a fund transfer to the San Diego Association of Governments (SANDAG) to rehabilitate the Grossmont substation under SANDAG's construction contract No. 5000956, which would include construction management services; and
2. forward a request to the SANDAG Transportation Committee to transfer \$88,000 from Grant No. CA-03-0525 and \$107,000 from Grant No. CA-03-0655 to Capital Improvement Program (CIP) 1142100 to exercise an option for rehabilitation of the Grossmont substation (as summarized in Attachment B).

Budget Impact

\$195,000 would be transferred from MTS CIP 11225 (Substation Transformer Rehabilitation) to SANDAG's CIP 1142100 (Fletcher Parkway Substation and Orange Line Substation Rehabilitation).

DISCUSSION:

SANDAG currently has a construction contract (5000956) with Mass Electric, Inc. to rehabilitate three Orange Line substations. The contract includes an option for rehabilitation of one more substation at Grossmont—this option has not been exercised so far due to the lack of funding. Rehabilitation work of three substations will be



completed in the next four to six weeks. The project has about \$150,000 left in construction contingency that could be used toward exercising the option; however, the bid price for the Grossmont substation rehabilitation option is \$515,344, which would leave a shortage of \$365,344.

SANDAG also has two old grants with leftover funds (Grant No. CA-03-0525 with \$88,000 and Grant No. CA-03-0655 with \$107,000) totaling \$195,000. Staff recommends that the MTS Board of Directors forward a request to the SANDAG Transportation Committee to transfer these funds to SANDAG CIP 1142100 and use it toward exercising an option for rehabilitation of the Grossmont substation.

MTS CIP 11225 (Substation Transformer Rehabilitation) has \$195,000 available in the project budget. SDTI staff has carefully reviewed the needs and priorities for the current substation improvement projects and recommends transferring \$195,000 from MTS CIP 11225 to SANDAG CIP 1142100 (as summarized in Attachment B). This transfer together with the leftover contingency funds from CIP 1142100 and a transfer from two old grants would provide \$540,000, which would be sufficient for exercising the contract option and providing funds for construction management and administration of the project.

San Diego Trolley, Inc. (SDTI) staff considers the substation rehabilitation a higher priority over the transformer rehabilitation for the following reasons:

1. The primary cause of a fire resulting in the loss of two substations in the past was due to a weak design and components in the contactors of the substation. SDTI is aggressively pursuing replacement of the contactors with motorized circuit breakers in the substation rehabilitation projects. So far, 7 substations have been rehabilitated, and exercising the option to rehabilitation the Grossmont substation would increase it to 8.
2. The SANDAG substation contract has been awarded and is in place. Due to the lack of funding, the option for Grossmont was not exercised in the past. Staff believes that MTS would have significant cost savings by exercising the current option rather than waiting for future funding and a new bid solicitation.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Russ Desai, 619.595.4908, rushikesh.desai@sdmts.com

AUG20-09.10.GROSSMONT SUBSTATION REHAB MOU FUND TRANSFER.RDESAI.doc

Attachments: A. Memorandum of Understanding
B. Budget Transfer Summary

**MEMORANDUM OF UNDERSTANDING
BETWEEN SAN DIEGO ASSOCIATION OF GOVERNMENTS
AND METROPOLITAN TRANSIT SYSTEM
REGARDING FUNDING AND CONSTRUCTION OF GROSSMONT SUBSTATION
REHABILITATION PROJECT**

This Memorandum of Understanding ("MOU") is made and entered into effective as of this _____ day of August, 2009, by and between the San Diego Association of Governments ("SANDAG") and the Metropolitan Transit System ("MTS").

RECITALS

The following recitals are a substantive part of this Agreement:

WHEREAS, SANDAG implements construction projects for MTS on its light rail system; and

WHEREAS, SANDAG currently has a construction contract for rehabilitation of three substations on the MTS Orange Line, which includes the rehabilitation of the Grossmont substation; and

WHEREAS, SANDAG has not previously authorized the contractor to rehabilitate the Grossmont substation because of insufficient funds; and

WHEREAS, at its August 20, 2009, meeting, the MTS Board of Directors approved transferring funds from MTS Capital Improvement Project (CIP) 11225 to SANDAG CIP 1142100 for construction and construction management of the Grossmont Substation Rehabilitation Project; and

WHEREAS, MTS desires to utilize SANDAG's construction management services for the Grossmont Substation Rehabilitation Project; and

WHEREAS, MTS currently does not have resources to manage the construction contract; and

WHEREAS, SANDAG has resident engineer, Angel Morales, available to help manage the project; and

WHEREAS, under its current policies, SANDAG may provide construction management services to its member agencies; and

WHEREAS, the parties wish to memorialize their agreement in this MOU to carry out the purposes set forth above;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

SANDAG AGREES:

1. To execute a contract change to SANDAG CIP 1142100, contract 5000956 for rehabilitation of the Grossmont substation in accordance with the plans and specifications included in the contract bid documents.
2. That a not-to-exceed amount of \$195,000, in conjunction with other funding sources as shown in Exhibit A, will be sufficient to complete the construction and provide for construction management for rehabilitation of the Grossmont substation. In the event that SANDAG believes that this

amount will be exceeded, it will notify MTS, and the parties will meet to discuss whether an amendment to this MOU is appropriate.

3. To provide construction management services, including a Resident Engineer (RE), to manage the Grossmont Substation Rehabilitation Project.
4. That the maximum amount for the construction management services shall not exceed \$30,000 without prior written approval from MTS.
5. To use any funds provided by MTS under this MOU exclusively for the project and to return any remaining project funds to MTS upon completion of the project.
6. Neither MTS nor any director, officer, agent, or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by SANDAG under or in connection with any work, authority, or jurisdiction delegated to SANDAG under this MOU. It is understood and agreed that, pursuant to Government Code Section 895.4, SANDAG shall fully defend, indemnify, and save harmless MTS, its officers, directors, agents, and employees from all claims, suits, or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANDAG under or in connection with any work, authority, or jurisdiction delegated to SANDAG under this MOU.

MTS AGREES:

1. Fund a portion of the cost for the construction and construction management of the project up to the maximum amount of \$195,000. In the event SANDAG notifies MTS that this amount will be exceeded, MTS will meet with SANDAG to discuss whether an amendment to this MOU is appropriate. In no event shall SANDAG have responsibility to move forward with the Project until the parties are able to identify sufficient funds to complete the work.
2. To provide staff support on the project at no cost to SANDAG, including, but not limited to, any staff support or cooperation needed to defend any contractor claims that may arise on the project.
3. Neither SANDAG nor any director, officer, agent, or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by MTS under or in connection with any work, authority, or jurisdiction delegated to MTS under this MOU. It is understood and agreed that, pursuant to Government Code Section 895.4, MTS shall fully defend, indemnify, and save harmless SANDAG, its officers, directors, agents, and employees from all claims, suits, or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by MTS under or in connection with any work, authority, or jurisdiction delegated to MTS under this MOU.

THE PARTIES MUTUALLY AGREE:

1. That all obligations of the parties under the terms of this MOU are subject to the appropriation of the required resources by parties and the approval of their respective Boards of Directors.
2. Any notice required or permitted under this MOU may be personally served on the other party, by the party giving notice, or may be served by certified mail, return receipt requested, to the following addresses:

For SANDAG

Attn: Office of General Counsel
401 B Street, Suite 800
San Diego, CA 92101

For MTS

Attn: Office of General Counsel
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

- 3. That unless it is amended by the parties in writing, this MOU shall terminate on April 15, 2010, or on such earlier or later date as the parties may agree to in writing. This MOU shall continue in effect unless and until a party to the MOU gives 60 (sixty) days' written notice of its desire to withdraw from the MOU. If such notice is given, the MOU shall continue to be binding on those parties who have not formally withdrawn.
- 4. The indemnification provisions of this MOU shall survive termination of the MOU.
- 5. This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOU, the action shall be brought in a state or federal court situated in the County of San Diego, State of California.
- 6. All terms, conditions, and provisions hereof shall inure to and shall bind each of the parties hereto and each of their respective heirs, executors, administrators, successors, and assigns.
- 7. For purposes of this MOU, the relationship of the parties is that of independent entities and not as agents of each other or as joint venturers or partners. The parties shall maintain sole and exclusive control over their personnel, agents, consultants, and operations.
- 8. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
- 9. Nothing in the provisions of this MOU is intended to create duties or obligations to or rights in third parties to this MOU or affect the legal liability of the parties to this MOU.
- 10. This MOU may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU effective on the day and year first above written.

SAN DIEGO ASSOCIATION OF
GOVERNMENTS

MTS

GARY L. GALLEGOS
Executive Director

PAUL C. JABLONSKI
Chief Executive Officer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Office of General Counsel

Office of General Counsel

AUG20-09.10.AttA.MOU GROSSMONT SUBSTATION.RDESAI.doc

Attachment: Exhibit A – Funding Summary

Exhibit A

FUNDING SUMMARY
FOR
GROSSMONT SUBSTATION REHABILITATION PROJECT

MTS Project 11225	\$ 195,000
Project 1142100 Const. Contingency*	\$ 150,000
SANDAG Grant CA-03-0525*	\$ 88,000
SANDAG Grant CA-03-0655*	\$ 107,000
	<hr/>
	\$ 540,000
	<hr/> <hr/>

* Available balance

BUDGET TRANSFER SUMMARY

CIP NO.	PROJECT NAME	BUDGETS		
		<i>Existing</i>	<i>Proposed</i>	<i>Change</i>
11225	MTS Substation Transformer Rehabilitation	\$327,000.00	\$132,000.00	-\$195,000
1142100	SANDAG Fletcher Parkway and Orange Line Substation Rehabilitation	\$3,618,000.00	\$3,813,000.00	\$195,000



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REVISED

Agenda

Item No. 11

JOINT MEETING OF THE BOARD OF DIRECTORS
 for the
 Metropolitan Transit System,
 San Diego Transit Corporation, and
 San Diego Trolley, Inc.

FIN 340.2

August 20, 2009

SUBJECT:

MTS: CAPITAL RURAL RESERVES TRANSPORTATION DEVELOPMENT ACT FUNDS

RECOMMENDATION:

That the Board of Directors approve the transfer of Transportation Development Act (TDA) capital rural reserves funds held at the San Diego Association of Governments (SANDAG) to MTS FY 2010 operations.

Budget Impact

This action would increase MTS's FY 2010 operating revenues by \$530,481 to offset the current operating deficit.

DISCUSSION:

In June 2009, SANDAG notified MTS of a capital rural reserve TDA balance. As a result of the SANDAG annual TDA reserves audit, a total of \$530,481 in TDA funding has been identified. The balances of funds are the result of the completion of several rural projects related to TDA claim numbers 247, 252, and 255. The table below displays the TDA balances by claim number:

Unused Article 4 TDA Claim	
Claim #	Balance
247	\$ 13,595
252	\$ 470,000
255	\$ 46,886
	\$ 530,481



All three TDA claim numbers supported one or more of the following types of projects; rural bus work, bus stop improvements, facilities, and communication upgrades. Project descriptions and funding amounts are itemized below:

Project	Balance Remaining
Replacement Reserve	212,347
Major Bus Work	40,000
Bus Stop Improvements (#1107600)	248,300
Facilities (#1141000)	(166)
Communications (#1141200)	30,000
Total	530,481

All of the projects above have been successfully completed through MTS- and SANDAG-administered capital projects. Any future needs for rural capital upgrades will be included in the MTS system-wide annual Capital Improvement Program. This action would increase MTS's FY 2010 operating revenues by \$530,481 to offset the current operating deficit. Therefore, staff recommends that the Board approve the transfer of the unused TDA funding (claim numbers 247, 252 and 255) to MTS fiscal year 2010 operations.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Lisa Fowler, 619.557.4510, lisa.fowler@sdmts.com

AUG20-09.11.REVISED.TDA FUNDS.LFOWLER.doc



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Agenda

Item No. 12

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

SRTP 830

August 20, 2009

SUBJECT:

MTS: SEPTEMBER 2009 MINOR SERVICE ADJUSTMENTS

RECOMMENDATION:

Action would receive a report on minor service adjustments to be implemented in September 2009.

Budget Impact

The service changes implemented during the September shake-up are expected to result in an annual operating subsidy savings of \$1.2 million.

DISCUSSION:

Changes to bus and trolley services are implemented three times a year in the fall, winter, and summer. These regularly scheduled service changes provide us with opportunities to improve the service, operation, and schedules of the transit system consistent with service evaluation and customer comments and implement actions from the annual budget process. The next scheduled date for implementing transit service changes is Sunday, September 6. All changes are minor adjustments, which is defined in MTS Policy No. 42 as any service change affecting 25 percent or less of a route's weekly in-service miles or hours and therefore do not require public hearing.

This report is provided so that the MTS Board of Directors is aware of upcoming changes to the regional transit system and services. A 'Take One' with information regarding these changes will be distributed on all service vehicles.

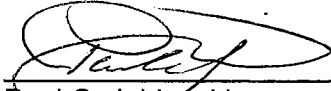


Service Adjustments

1. Minor Schedule Adjustments to Routes 7, 25, 30, 105, 845, 880, 921, and 923: These changes aim to increase on-time performance and to improve network connections. These changes entail modifying time points, adjusting running times, shifting trip times, or minor routing adjustments.
2. Service Adjustments Due to Seasonal Demand Changes: Routes 7 (Mid-City) and 14 (Mission Valley) will receive additional trips to address greater demand from students during the school year. Frequency on Routes 8 and 9 (Pacific Beach) will be reduced during the peaks from 15 minutes to 20 minutes on all days based on reduced demand.
3. Performance-Related Service Adjustments: Staff routinely evaluates the relative performance of each route in the MTS system. The adjustments listed below were determined to increase system productivity as guided by Policy No. 42. In addition to the specific performance measures, staff considered factors such as total number of passengers affected, number of lost passengers, cost savings achievable, and availability of transit alternatives.
 - Route 1 (Downtown to La Mesa): Sunday serviced to be reduced to 60-minute frequencies before 10:00 a.m. and after 6:00 p.m.
 - Route 41 (Mission Valley to UCSD): Sunday service to be reduced to 60-minute frequencies before 10:00 a.m. and after 6:00 p.m.
 - Route 44 (Old Town to Clairemont): Sunday service to be reduced to 60-minute frequencies before 10:00 a.m. and after 6:00 p.m.
 - Route 88 (Hotel Circle): Sunday service to be reduced to 60-minute frequencies all day.
 - Route 120 (Downtown to Kearny Mesa): Sunday service to be reduced to 60-minute frequencies north of Fashion Valley.
 - Routes 201 and 202 – Super Loop (University City): Beginning of service day moved later to approximately 5:45 a.m. on all days. Weekday peak-period 10-minute frequency also adjusted.
 - Route 845 (Poway): Weekend service to be reduced to 90-minute frequencies.
 - Route 929 (Downtown to San Ysidro): Weekend service will terminate at City College Station.
 - Route 964 (Mira Mesa): Weekday 964B service will be eliminated during midday hours.

Route 84

On March 26, 2009, the Board directed staff to eliminate weekend service on Route 84 in Point Loma in September but to reconsider if weekend productivity achieved 11 passengers per revenue hour. Since then, ridership has declined slightly to 6.8 passengers per hour on Saturday and 5.1 passengers per hour on Sunday; therefore, weekend service will be discontinued.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, sharon.cooney@sdmts.com

AUG20-09.12.SERVICE ADJUST.SCOONEY.doc

Attachment: A. September 2009 Service Change Take One



TOME UNO

- Cambios en el servicio de septiembre de 2009
- Horario del Día del Trabajo

ESTA INFORMACION ESTÁ DISPONIBLE EN DIFERENTES FORMATOS. Para solicitar esta información en un formato diferente, por favor llame al (619) 231-1466. Los operadores del Metropolitan Transit System siguen una política que prohíbe la discriminación con respecto a los servicios e instalaciones.

Cambios en el servicio de septiembre de 2009

Todos los cambios en el servicio entrarán en vigor el domingo 6 de septiembre o el martes 8 de septiembre de 2009, para las rutas que no dan servicio los domingos. (El lunes 7 de septiembre es el día festivo por el Día del Trabajo). Asegúrese de tomar un horario nuevo de las rutas con cambios, según se listan a continuación:

ROUTE	DESCRIPTION OF CHANGES
1	Desde 06/09/09: la frecuencia de los domingos se reduce a cada hora antes de las 10am y después de las 6pm.
7	Desde 06/09/09: ajustes en los horarios de las tardes de entre semana para mejorar las conexiones en City College.
8/9	Desde 06/09/09: la frecuencia actual de cada 15 minutos se reduce a cada 20 minutos todos los días.
14	Desde 08/09/09: se agregan dos viajes hacia el este en las noches desde SDSU hasta La Mesa. También hay otros ajustes en los horarios.
25	Desde 08/09/09: el primer viaje hacia el norte se recorrió más tarde para mejorar las conexiones en Kearny Mesa.
30	Desde 06/09/09: ajustes en el horario.
41	Desde 06/09/09: la frecuencia de los domingos se reduce a cada hora antes de las 10am y después de las 6pm. También habrá otros ajustes en los horarios del domingo.
44	Desde 06/09/09: la frecuencia de los domingos se reduce a cada hora antes de las 10am y después de las 6pm. También habrá otros ajustes en los horarios de los fines de semana.
84	Desde 06/09/09: se suspende el servicio de fin de semana debido a la reducida cantidad de pasajeros.
88	Desde 06/09/09: la frecuencia de los domingos se reduce a una vez por hora. También habrá otros ajustes en los horarios de los fines de semana.
105	Desde 06/09/09: en todos los días después de las 7:15pm, los viajes de la noche que salen o llegan a Clairmont Square tomarán Morena Blvd. y Clairmont Dr. (por las calles de Denver e Ingulf) en vez de Milton St. y Burgener Blvd.



TAKE ONE

- September 2009 Service Changes
- Labor Day Schedule

THIS INFORMATION WILL BE MADE AVAILABLE IN ALTERNATIVE FORMATS UPON REQUEST. To request this notice in an alternative format, please call (619) 231-1466. The Metropolitan Transit System operators adhere to a non-discrimination policy with regard to both services and facilities.

September 2009 Service Changes

All schedule changes take effect on Sunday, September 6, 2009, or Tuesday, September 8, 2009 for routes that do not operate on Sunday. (Monday, September 7 is the Labor Day holiday.) Please be sure to pick up a new timetable for the routes with changes, as listed below:

ROUTE	DESCRIPTION OF CHANGES
1	Effective 9/6/09: Sunday frequency is reduced to hourly before 10am and after 6pm.
7	Effective 9/6/09: schedule adjustments on weekday evenings for better connections at City College.
8/9	Effective 9/6/09: the current 15-minute frequency is reduced to every 20 minutes on all days.
14	Effective 9/8/09: two later eastbound evening trips added from SDSU to La Mesa. Also other schedule adjustments.
25	Effective 9/8/09: the first northbound trip is adjusted later to improve connections at Kearny Mesa.
30	Effective 9/6/09: schedule adjustments.
41	Effective 9/6/09: Sunday frequency is reduced to hourly before 10am and after 6pm. Also, other weekend schedule adjustments.
44	Effective 9/6/09: Sunday frequency is reduced to hourly before 10am and after 6pm. Also, other Sunday schedule adjustments.
84	Effective 9/6/09: weekend service is discontinued due to low ridership.
88	Effective 9/6/09: Sunday frequency is reduced to hourly. Also, other weekend schedule adjustments.
105	Effective 9/6/09: on all days, evening trips after 7:15pm that start/end at Clairmont Square will use Morena Blvd. and Clairmont Dr. (via Denver and Ingulf Streets) instead of Milton St. and Burgener Blvd.
120	Effective 9/6/09: Sunday service is reduced to hourly north of Fashion Valley. Also, other weekend schedule adjustments.

- 201/202** **Effective 9/6/09:** beginning of service day changed to approximately 5:45am daily. **(Super Loop)** Weekday peak period 10-minute frequency changed to 7 - 10:30am and 2 - 5:30pm.
- 845** **Effective 9/6/09:** schedule adjustments to weekday mornings to improve connections at Rancho Bernardo. Also, weekend service is reduced to approximately every 90 minutes.
- 880** **Effective 9/8/09:** schedule adjustments.
- 921** **Effective 9/8/09:** weekday schedule adjustments.
- 923** **Effective 9/6/09:** weekend schedule adjustments.
- 929** **Effective 9/6/09:** weekend service will terminate at City College Trolley Station in Downtown San Diego instead of Broadway and State St. Options for passengers travelling west on Broadway include transferring to/from: Route 11 or 901 at 12th/Imperial; Route 3 at Market St.; Blue or Orange Line at City College Trolley station; or Route 2, 7, or 15, on Broadway. Also, other minor weekend schedule adjustments.
- 964** **Effective 9/8/09:** Route 964B service is discontinued during the midday. Route 964A service will continue to operate all day on weekdays, and Route 964B will operate during weekday rush hour periods.

Labor Day Schedule

On Monday, **September 7, 2009**, MTS and NCTD service will operate as follows:

- * **MTS** buses and Trolleys: Sunday schedule
- * **NCTD** services (BREEZE, SPRINTER, and COASTER): Sunday schedule
- * **Telephone Information (511):** available from 8:00am through 5:00pm
- * **The Transit Store:** Closed
- * **MTS Access** and **ADA Suburban Paratransit** subscriptions are cancelled for the day. Please call to maintain your trip.



- 120** **Desde 06/09/09:** la frecuencia de los domingos se reduce a cada hora al norte de Fashion Valley. También habrá otros ajustes en los horarios de los fines de semana.
- 201/202** **Desde 06/09/09 - Super Loop:** el inicio del servicio de día cambiará a aproximadamente las 5:45am todos los días. La frecuencia de cada 10 min. para el periodo de las horas pico cambiará a 7-10:30am y de 2-5:30pm.
- 845** **Desde 06/09/09:** ajuste en el horario de la mañana de entre semana para mejorar las conexiones en Rancho Bernardo. También se reduce el servicio del fin de semana a aproximadamente cada 90 minutos.
- 880** **Desde 08/09/09:** ajustes en el horario.
- 921** **Desde 08/09/09:** ajustes en el horario de los días de entre semana.
- 923** **Desde 06/09/09:** ajustes en el horario de los fines de semana.
- 929** **Desde 06/09/09:** el servicio de fin de semana llegará hasta la estación del Trolley City College en el centro de San Diego en vez de hasta Broadway y State St. Los pasajeros que viajan hacia el oeste en Broadway tienen como opción realizar transbordos en: Ruta 11 ó 901 en la estación de 12th & Imperial; Ruta 3 en Market St.; Blue ó Orange Line en City College Trolley Station; o Ruta 2, 7, ó 15 en Broadway. Además habrá otros ajustes menores en el horario de fin de semana.
- 964** **Desde 08/09/09:** el servicio de la Ruta 964B se discontinuará durante el mediodía. El servicio de la Ruta 964A continuará todo el día entre semana, y la Ruta 964B dará servicio en las horas pico en los días de entre semana.

Horario del Día del Trabajo

El **lunes 7 de septiembre de 2009** los servicios de MTS y de NCTD serán como sigue:

- * Autobuses y Trolleys de **MTS:** horario de domingo
- * Servicios de **NCTD** (BREEZE, SPRINTER y COASTER): horario de domingo
- * **Información telefónica (511):** disponible desde las 8:00am hasta las 5:00pm
- * **The Transit Store:** Cerrada
- * Las suscripciones de **MTS Access** y el servicio **suburbano de ADA** estarán canceladas durante este día. Por favor llame para conservar su viaje.





1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 13

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

OPS 970.4, CIP 11216

August 20, 2009

SUBJECT:

MTS: GATE TURNOFF (GTO) FIRING BOARDS - CONTRACT AMENDMENT

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L0883.1-09 with Siemens Transportation Systems Gate Turnoff (GTO) Firing Boards for SD 100 light rail vehicles (LRVs).

Budget Impact

The total price of this amendment would not exceed \$500,000. This amendment would be federally and locally funded (80% federal and 20% local) under CIP 11216-0200.

DISCUSSION:

Background

On April 26, 2009, a sole-source, five-year contract was awarded to Siemens Transportation Systems, Inc. to supply GTO Firing Boards, which is a vital component of the SD 100 LRV propulsion system.

GTO Firing Boards have been identified as a high-priority existing capital project related to vehicle fleet improvement. Limited funding availability necessitated a multiyear contract rather than a one-time purchase. The base year for the current contract with Siemens Transportation Systems for supplying GTO Firing Boards is \$230,000.00. Adding \$500,000 through this amendment would enable MTS to procure 38 GTO Firing Boards for the SD 100 LRV fleet. This additional funding would accelerate the rehabilitation process critical to safety and performance by 30 months.

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Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations), and San Diego Vintage Trolley, Inc., a 501(c)(3) nonprofit corporation, in cooperation with Chula Vista Transit. MTS is the taxicab administrator for seven cities. MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.

Therefore, MTS staff recommends that the Board authorize the CEO to execute MTS Doc. No. L0883.1-09 with Siemens Transportation Systems Gate Turnoff (GTO) Firing Boards for SD 100 LRVs.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Marco Yniguez, 619.557.4576, marco.yniguez@sdmts.com

AUG20-09.13.GATE TURNOFF FIRING BOARDS.MYNIGUEZ.doc

Attachments: A. MTS Doc. No. L0883.1-09
B. Siemens' Cost Proposal

DRAFT

August 20, 2009

MTS Doc. No. L0883.1-09
OPS 970.6, CIP 11216

Mr. Tony Ritter
Director
Siemens Transportation Systems
7464 French Road
Sacramento, CA 95828

Dear Mr. Ritter:

Subject: AMENDMENT NO. 1 TO MTS DOC. NO. L0883.0-09 – GATE TURNOFF (GTO) FIRING
BOARDS PROCUREMENT

This letter will serve as Amendment No. 1 to MTS Doc. No. L0883.0-09.

SCOPE OF SERVICES

Provide Gate Turnoff (GTO) Firing Boards in accordance with the attached Siemens Transportation Systems' proposal dated February 23, 2009, and the original Procurement Agreement.

SCHEDULE

There are no changes to the schedule of this contract.

PAYMENT

The total cost for providing all of the materials shall not exceed \$500,000 without prior formal authorization by MTS.

All other terms and conditions of the original Gate Turnoff (GTO) Firing Boards Procurement Agreement shall apply.

If you agree with the above, please sign below, and return the document marked "Original" to the Contracts Specialist at MTS. The second copy is for your records:

Sincerely,

Accepted:

Paul C. Jablonski
Chief Executive Officer

Tony Ritter
Siemens Transportation Systems

AUG20-09.13.AttA.GTO FIRING BOARDS.MYNIGUEZ.doc

Date: _____

Attachment: A. Siemens' Cost Proposal

From: Allison, Bradrick (STS US) [bradrick.allison@siemens.com]
Sent: Thursday, February 26, 2009 4:33 PM
To: Marco Yniguez
Subject: Re: GTO Price Quotation - Per Your Request

From: Allison, Bradrick (STS US)
To: Marco Yniguez
Sent: Mon Feb 23 10:01:25 2009
Subject: GTO Price Quotation - Per Your Request

Marco,

I have negotiated with our suppliers, and we are prepared to offer quantity-based discounts for the new GTO Firing Boards. The discount is 10% at quantity 4, and 20% at quantity 20. Core exchange is required for this pricing, meaning that you send us an old unit in exchange for the new one. The old unit does not need to be functional.

GTO Firing Board, SD100 (with core exchange)

P/N: 422901908024

Qty 1=\$14,700/each

Qty 4=\$13,230/each

Qty 20=\$11,755/each

Delivery: 6 available from stock, balance in 6 months maximum

Warranty: Two years from delivery date

Please let me know if I can provide any further information.

Thank you,
Brad

Bradrick Allison
Account Representative

Siemens Transportation Systems, Inc.
A Siemens Industry Business, Mobility Division
Integrated Services
7464 French Road
Sacramento, CA 95828, USA
Tel.: +1 (916) 681 3209
Fax: +1 (916) 681 3296
Mobile: +1 (916) 752 6763
Email: bradrick.allison@siemens.com

B-1



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San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 14

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

ADM 130.2

August 20, 2009

SUBJECT:

MTS: AT&T CALNET II TELECOMMUNICATIONS CONTRACT RENEWAL

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1279.0-10 with American Telephone and Telegraph (AT&T) for leased-line telecommunications services for the Metropolitan Transit System (MTS), San Diego Transit Corporation (SDTC), and San Diego Trolley, Inc. (SDTI). The contract would fall under the terms and conditions of the State of California's CALNET II Master Services Agreement for modules MSA-1 (voice data and video services) and MSA-2 (long-distance services) for a two-year period with renewable options for up to five years.

Budget Impact

The total adjusted cost for the two-year contract would not exceed \$890,760 without prior written approval from MTS and would be paid by MTS operating funds.

DISCUSSION:

Background Information

AT&T currently provides telecommunication services for MTS, SDTC, and SDTI. Staff has evaluated other telecommunication services and cost alternatives to replace the existing leased-line services supplied by AT&T. Due to additional costs and complexities with the existing leased-line infrastructure currently in place, staff has determined that it would not be cost effective to competitively bid out leased-line

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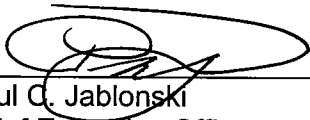
telecommunications services. Staff has also concluded that the rates under the CALNET II State of California Master Service Agreement (MSA) are competitively priced compared to other types of data and voice services offered by other telecommunications service providers.

Utilizing the MSA allows staff to satisfy the bidding requirements of MTS Policy No. 52. The CALNET II contract was a competitively bid process awarded in January 2007. Under the existing State of California contract, MTS, SDTC, and SDTI will be authorized to order telecommunications services under the CALNET II state plan. Four types of service modules are available under the State MSA and CALNET II plan:

1. MSA 1 – Voice Data and Video Services (awarded to AT&T)
2. MSA 2 – Long-Distance Service (awarded to AT&T)
3. MSA 3 – Internet Protocol Services (awarded to Verizon Business)
4. MSA 4 – Broadband and Fixed-Wireless Services (awarded to Verizon Business)

The CALNET II plan allows “non-state” public entities to enroll in the plan for a two-year term. After the two-year period, MTS, SDTC, and SDTI would have the option to terminate the plan or automatically renew the plan with optional years. The two-year CALNET II service agreement contract would be with AT&T.

Therefore, staff recommends that the Board authorize the CEO to execute MTS Doc. No. G1279.0-10 with American Telephone and Telegraph (AT&T) for leased line telecommunications services.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Dan Bossert, 619.238.0100, Ext. 6445, daniel.bossert@sdmts.com

AUG20-09.14.AT&T CALNET II TELECOMMUNICATIONS CONTRACT.DBOSSERT.doc

Attachment: A. Standard Services Agreement & Attachments

DRAFT

Att. A, AI 14, 8/20/09

STANDARD SERVICES AGREEMENT

MTS Doc. No. G1279-0.10
CONTRACT NUMBER
ADM 130.2 (PC 55510)
FILE NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2009, in the state of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: AT&T Address: 3675 T Street, Room 121

Form of Business: Corporation Sacramento, CA 95816
(Corporation, partnership, sole proprietor, etc.)

Telephone: 619.237.2515

Authorized person to sign contracts: Gordon Moss Contract Program Manager
Name Title

The attached Standard Conditions are part of this agreement. The Contractor agrees to furnish to MTS services and materials, as follows:

Provide telecommunications voice and data services under the terms and conditions of the State of California CALNET II Master Services Agreement for modules MSA-1 (Voice Data and Video Services) and MSA-2 (Long-Distance Service). This Agreement shall remain in effect for a two-year commitment period with renewable options (exercisable at the sole discretion of MTS) for up to five years after the initial two-year commitment period has ended. The total contract value for the initial two-year period shall not to exceed \$890,760.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CONTRACTOR AUTHORIZATION
By: _____ Chief Executive Officer	Firm: _____
Approved as to form:	By: _____
By: _____ Office of General Counsel	Signature Title: _____

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$890,760	50902-55510	FY 10 and FY 11

By: _____ Date
Chief Financial Officer

(___ total pages, each bearing contract number)

AUG20-09.14.AttA.AT&T SSA
TELELCOMMUNICATIONS.DBOSSERT.doc

EXHIBIT A-2

AUTHORIZATION TO ORDER UNDER STATE CONTRACT

SBC Global Services, Inc., dba AT&T Global Services on behalf of Pacific Bell Telephone Company, dba AT&T California ("AT&T" or "Contractor") and the State of California ("State") have entered into a Contract for California Integrated Information Network (CALNET) 2 ("CALNET 2") MSA 1 Services dated January 30, 2007 ("Contract"), for a term of five (5) years. The State may, at its sole option, elect to extend the Contract term for up to two (2) additional periods of one (1) year each. Pursuant to the Contract, which is incorporated herein by reference, any public agency, as defined in Government Code section 11541, is allowed to order services and products ("Services") solely as set forth in the Contract.

A non-State public agency (herein "Non-State Agency") shall also be required to complete and submit this Authorization to Order Under State Contract (ATO) prior to ordering Services. A description of the Service(s), applicable rates and charges and the specific terms and conditions under which the Service(s) will be provided to a Non-State Agency are fully set forth in the Contract. Access to the Contract is available at www.stnd.dts.ca.gov.

The San Diego Metropolitan Transit System ("Non-State Agency") desires to order Service(s), and Contractor agrees to provide such Service(s), as identified in the State of California, Telecommunications Service Request (STD. 20), pursuant to the terms and conditions and rate tables contained in the Contract.

1. This ATO shall become effective upon execution by Non-State Agency, Contractor, and the Department of Technology Services, Statewide Telecommunications and Network Division (DTS/STND) ("Effective Date"). No Service(s) shall be ordered by Non-State Agency or provided by Contractor until this ATO has been executed by both parties and approved by DTS/STND.
2. With respect to Services ordered under this ATO, as authorized on Attachment 1, Non-State Agency hereby agrees to obtain such Services exclusively through the Contract and this ATO for a two (2) year commitment period, starting with the Effective Date of the ATO, provided that such commitment does not extend beyond the Term of the Contract, including any extension periods. Any new Services added to an existing ATO shall not extend the two (2) year commitment period previously agreed upon on the ATO.
3. Upon expiration of the two (2) year commitment period, this ATO shall continue in effect through the remainder of the Term of the Contract, unless terminated by Non-State Agency. The Non-State Agency will automatically continue to receive Services at Contract terms and conditions when the two year commitment period ends, and may add, delete or change Services without penalty or additional commitment periods (unless a specific Service requires a term per the Contract).
4. Non-State Agency may terminate this ATO, for specific Service(s) or in total, prior to termination of the Contract, by providing the Contractor with thirty (30) calendar days' written notice of cancellation.

If Non-State Agency elects to terminate Service prior to completion of the two (2) year commitment period, a termination charge may apply. The termination charge may not exceed sixty-five percent (65%) of the Non-State Agency's average monthly bill for the disconnected Service(s), multiplied by the number of full months remaining in the two (2) year commitment period. If Service(s) are terminated after the two (2) year commitment period, no termination liability shall apply.

5. No termination charge will be assessed when Non-State Agency transfers Service(s) to a like Service offered under this Contract, or from one CALNET 2 MSA to another, if the Contractor is the same for both MSAs, or is affiliated with the Contractor for the other MSA.

6. By executing this ATO, Non-State Agency agrees to subscribe to, and Contractor agrees to provide Service(s), in accordance with the terms and conditions of this ATO and the Contract. Upon execution of this ATO by Non-State Agency and Contractor, Contractor shall deliver this ATO to DTS/STND for review and approval.
7. The DTS/STND will provide Contract management and oversight, and upon request by the Non-State Agency or Contractor, will advocate to resolve any Contract service issues. The ATO, and any resulting STD. 20, is a Contract between the Non-State Agency and the Contractor. The State will not represent the Non-State Agency in resolution of litigated disputes between the parties.
8. Non-State Agency, upon execution of this ATO, certifies that Non-State Agency understands that Contractor and the State may, from time to time and without Non-State Agency's consent, amend the terms and conditions of the Contract thereby affecting the terms of service Non-State Agency receives from Contractor.
9. Non-State Agency, upon execution of this ATO, certifies that it has reviewed the terms and conditions, including the rates and charges, of the Contract.
10. Non-State Agency, upon execution of this ATO, certifies the Non-State Agency understands that billing invoices for Service(s) subscribed to under the Contract are subject to review and/or audit by the State, pursuant to provisions of the Contract.
11. All Service(s) ordered under this ATO will be submitted using the STD. 20, signed by the Non-State Agency's authorized signatory. Any additions or deletions to Service(s) shall likewise be accomplished by submission of a STD. 20, noting changes.
12. Non-State Agency may, by placing Service orders issued by its duly authorized representative with Contractor, order any of the Service(s) listed in the Contract. Contractor shall bill Non-State Agency, and Non-State Agency shall pay Contractor according to the terms and conditions and rate tables set forth in the Contract for such Service(s).
13. If, for any fiscal year during the term of this ATO, funds are not appropriated to enable the Non-State Agency to continue paying for services, or universal service discounts are not received, the Non-State Agency may terminate impacted Service(s) without penalty.
14. Whenever any notice or demand is given under this Contract to Contractor or Non-State Agency, the notice shall be in writing and addressed to the following:

Non-State Agency:
MTS
1255 Imperial Avenue, Suite 1000
San Diego, California 92101
Attn: Paul Jablonski CEO

Contractor:
AT&T
3675 T Street, Room 121
Sacramento, CA 95816
Attn: Contract Program Manager

Notices delivered by overnight courier service shall be deemed delivered on the day following mailing. Notices mailed by U.S. Mail, postage prepaid, registered or certified with return receipt requested, shall be deemed delivered five (5) State business days after mailing. Notices delivered by any other method shall be deemed given upon receipt.

IN WITNESS WHEREOF, the parties hereto have caused this ATO to be executed on the date shown below by their respective duly authorized representatives:

CONTRACTOR	NON-STATE AGENCY
By: Authorized Signature	By: Authorized Signature
Printed Name and Title of Person Signing	Printed Name and Title of Person Signing
Date Signed:	Date Signed:

Approved By:
Department of Technology Services,
Statewide Telecommunications and Network Division

By: Authorized Signature
Printed Name and Title of Person Signing
Date Signed:

MTS

MSA 1 ATTACHMENT 1

Selected Services	Voice Services - Core Services Products	Customer Initials
<input checked="" type="checkbox"/>	Bus Access Lines	
<input checked="" type="checkbox"/>	Central Office Exchange Basic Services (Centrex)	
<input checked="" type="checkbox"/>	Central Office Trunk Services (SuperTrunk/PBX/DID)	
<input type="checkbox"/>	Locally Based Automatic Call Distribution (ACD) (Available Option w/C2 Centrex)	
<input type="checkbox"/>	Interactive Voice Response (IVR)	
<input type="checkbox"/>	Specialized Call Routing (Call Router)	
<input type="checkbox"/>	Computer Telephone Integration (CTI) (Compucall)	
<input type="checkbox"/>	Voice Mail Services (Available Option w/C2 Exchange Svcs)	
Selected Services	Data Services - Core Services Products	Customer Initials
<input checked="" type="checkbox"/>	Data Transmission Services (Analog Service, Carrier DS0 (ADN), Carrier DS1 (Hicap/T1), Carrier DS3)	
Custom ATO Required	Gigabit Ethernet Metropolitan Area Network (MAN) (GigaMAN, MON, OPT-E-MAN, CSME, EPLS-WAN, ESS-MAN)	Custom ATO Required
<input checked="" type="checkbox"/>	Multi Protocol Label Switching (MPLS) (AVPN, Network Based Firewall, ANIRA)	
Custom ATO Required	Synchronous Optical Network (SONET) (Point-Point SONET, Ethernet-over SONET, SONET Ring ICB)	Custom ATO Required
<input type="checkbox"/>	ISDN (BRI)	
<input checked="" type="checkbox"/>	ISDN (PRI) (PBX/DID)	
<input type="checkbox"/>	Switched 56/Switched Digital Services (SDS)	
<input type="checkbox"/>	Frame Relay & ATM (Managed or Non Managed)	
<input checked="" type="checkbox"/>	Internet	
<input type="checkbox"/>	DSL Agency Hosted (DSL)	
<input type="checkbox"/>	DSL DSL Virtual Private Network (AVPN, Network Based Firewall, ANIRA)	
<input type="checkbox"/>	Enhanced Centrex VDNA	
Included Services	Other Services - Core Services Products	Automatic Coverage
	IntraLata Calling (Local Usage Zone 1 - 3) (Included on C2 Exchange Services)	
	Bldg. Wiring Services (Automatic Service Coverage on C2 Svcs) Jacks/Wiring Inside Wire Repair Plan(Voice)(If subscribed to) Inside Wire Repair Plan(Data)(If subscribed to)	

Revised: Amendment No. 1.1

EXHIBIT A-2**AUTHORIZATION TO ORDER UNDER STATE CONTRACT**

SBC Global Services, Inc., dba AT&T Global Services on behalf of Pacific Bell Telephone Company, dba AT&T California ("AT&T" or "Contractor") and the State of California ("State") have entered into a Contract for California Integrated Information Network (CALNET) 2 ("CALNET 2") MSA 2 Services dated January 30, 2007 ("Contract"), for a term of five (5) years. The State may, at its sole option, elect to extend the Contract term for up to two (2) additional periods of one (1) year each. Pursuant to the Contract, which is incorporated herein by reference, any public agency, as defined in Government Code section 11541, is allowed to order services and products ("Services") solely as set forth in the Contract.

A non-State public agency (herein "Non-State Agency") shall also be required to complete and submit this Authorization to Order Under State Contract (ATO) prior to ordering Services. A description of the Service(s), applicable rates and charges and the specific terms and conditions under which the Service(s) will be provided to a Non-State Agency, are fully set forth in the Contract. Access to the Contract is available at www.stnd.dts.ca.gov.

The San Diego Metropolitan Transit System ("Non-State Agency") desires to order Service(s), and Contractor agrees to provide such Service(s), as identified in the State of California, Telecommunications Service Request (STD. 20), pursuant to the terms and conditions and rate tables contained in the Contract.

15. This ATO shall become effective upon execution by Non-State Agency, Contractor, and the Department of Technology Services, Statewide Telecommunications and Network Division (DTS/STND) ("Effective Date"). No Service(s) shall be ordered by Non-State Agency or provided by Contractor until this ATO has been executed by both parties and approved by DTS/STND.
16. With respect to Services ordered under this ATO, as authorized on Attachment 1, Non-State Agency hereby agrees to obtain such Services exclusively through the Contract and this ATO for a two (2) year commitment period, starting with the Effective Date of the ATO, provided that such commitment does not extend beyond the Term of the Contract, including any extension periods. Any new Services added to an existing ATO shall not extend the two (2) year commitment period previously agreed upon on the ATO.
17. Upon expiration of the two (2) year commitment period, this ATO shall continue in effect through the remainder of the Term of the Contract, unless terminated by Non-State Agency. The Non-State Agency will automatically continue to receive Services at Contract terms and conditions when the two year commitment period ends, and may add, delete or change Services without penalty or additional commitment periods (unless a specific Service requires a term per the Contract).
18. Non-State Agency may terminate this ATO, for specific Service(s) or in total, prior to termination of the Contract, by providing the Contractor with thirty (30) calendar days' written notice of cancellation.

If Non-State Agency elects to terminate Service prior to completion of the two (2) year commitment period, a termination charge may apply. The termination charge may not exceed sixty-five percent (65%) of the Non-State Agency's average monthly bill for the disconnected Service(s), multiplied by the number of full months remaining in the two (2) year commitment period. If Service(s) are terminated after the two (2) year commitment period, no termination liability shall apply.

19. No termination charge will be assessed when Non-State Agency transfers Service(s) to a like Service offered under this Contract, or from one CALNET 2 MSA to another, if the Contractor is the same for both MSAs, or is affiliated with the Contractor for the other MSA.

20. By executing this ATO, Non-State Agency agrees to subscribe to, and Contractor agrees to provide Service(s), in accordance with the terms and conditions of this ATO and the Contract. Upon execution of this ATO by Non-State Agency and Contractor, Contractor shall deliver this ATO to DTS/STND for review and approval.
21. The DTS/STND will provide Contract management and oversight, and upon request by the Non-State Agency or Contractor, will advocate to resolve any Contract service issues. The ATO, and any resulting STD. 20, is a Contract between the Non-State Agency and the Contractor. The State will not represent the Non-State Agency in resolution of litigated disputes between the parties.
22. Non-State Agency, upon execution of this ATO, certifies that Non-State Agency understands that Contractor and the State may, from time to time and without Non-State Agency's consent, amend the terms and conditions of the Contract thereby affecting the terms of service Non-State Agency receives from Contractor.
23. Non-State Agency, upon execution of this ATO, certifies that it has reviewed the terms and conditions, including the rates and charges, of the Contract.
24. Non-State Agency, upon execution of this ATO, certifies the Non-State Agency understands that billing invoices for Service(s) subscribed to under the Contract are subject to review and/or audit by the State, pursuant to provisions of the Contract.
25. All Service(s) ordered under this ATO will be submitted using the STD. 20, signed by the Non-State Agency's authorized signatory. Any additions or deletions to Service(s) shall likewise be accomplished by submission of a STD. 20, noting changes.
26. Non-State Agency may, by placing Service orders issued by its duly authorized representative with Contractor, order any of the Service(s) listed in the Contract. Contractor shall bill Non-State Agency, and Non-State Agency shall pay Contractor according to the terms and conditions and rate tables set forth in the Contract for such Service(s).
27. If, for any fiscal year during the term of this ATO, funds are not appropriated to enable the Non-State Agency to continue paying for services, or universal service discounts are not received, the Non-State Agency may terminate impacted Service(s) without penalty.
28. Whenever any notice or demand is given under this Contract to Contractor or Non-State Agency, the notice shall be in writing and addressed to the following:

Non-State Agency:
 MTS
 1255 Imperial Avenue, Suite 1000
 San Diego, California 92101
 Attn: Paul Jablonski CEO

Contractor:
 AT&T
 3675 T Street, Room 121
 Sacramento, CA 95816
 Attn: Contract Program Manager

Notices delivered by overnight courier service shall be deemed delivered on the day following mailing. Notices mailed by U.S. Mail, postage prepaid, registered or certified with return receipt requested, shall be deemed delivered five (5) State business days after mailing. Notices delivered by any other method shall be deemed given upon receipt.

IN WITNESS WHEREOF, the parties hereto have caused this ATO to be executed on the date shown below by their respective duly authorized representatives:

CONTRACTOR	NON-STATE AGENCY
By: Authorized Signature	By: Authorized Signature
Printed Name and Title of Person Signing	Printed Name and Title of Person Signing
Date Signed:	Date Signed:

Approved By:
 Department of Technology Services,
 Statewide Telecommunications and Network Division

By: Authorized Signature
Printed Name and Title of Person Signing
Date Signed:

MTS

MSA 2 ATTACHMENT 1

Selected Services	Long Distance - Voice Services	Customer Initials
<input checked="" type="checkbox"/>	Long Distance Calling Services (Includes Intralata Toll)	
<input type="checkbox"/>	900 Services	
<input type="checkbox"/>	Automatic Call Distributor (ACD) Services	
<input type="checkbox"/>	Network Based Interactive Voice Response (IVR) Services	
<input type="checkbox"/>	Computer Telephone Integration (CTI) for Network Based ACD	
<input checked="" type="checkbox"/>	Toll Free Services	
<input type="checkbox"/>	International Toll Free Services	
<input type="checkbox"/>	Calling Card Services	
<input type="checkbox"/>	Pre-Paid Calling Services	
<input checked="" type="checkbox"/>	Network Audio Conferencing Service	
<input checked="" type="checkbox"/>	Network Conferencing (Web Conferencing)	
Included Services	Other Services - Long Distance Voice Services	Automatic Coverage
	Bldg. Wiring Services (Automatic Service Coverage on C2 Svcs) Jacks/Wiring	

Revised: Amendment No. 2.1



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 30

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

FIN 370

August 20, 2009

SUBJECT:

SDTC: ACTUARIAL REPORT

RECOMMENDATION:

That the Board of Directors receive the actuarial report and adopt the annual pension contribution for San Diego Transit Corporation (SDTC) at the rate of 15.82% of payroll.

Budget Impact

The FY 2010 budget was developed using this assumption.

DISCUSSION:

Bob McCrory from EFI Actuaries will present the latest actuarial report for SDTC's pension plan, including potential future contributions to the plan, the current plan's assumptions, and possible changes to the current plan's assumptions that could impact SDTC's future funding requirements.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Cliff Telfer, 619.557.4532, cliff.telfer@sdmts.com

AUG20-09.30.ACTUARIAL REPORT.CTELFER.doc

Attachment: A. SDTC Retirement Plans Actuarial Review **(Board Only due to Volume)**
Available on MTS's Web Site

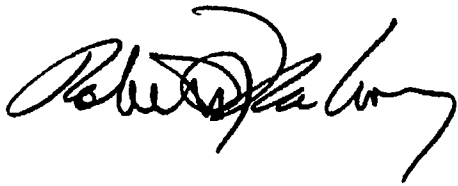
1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • www.sdmts.com

Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations), and San Diego Vintage Trolley, Inc., a 501(c)(3) nonprofit corporation, in cooperation with Chula Vista Transit. MTS is the taxicab administrator for seven cities. MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.



**Retirement Plans of
San Diego Transit
Corporation**

Actuarial
Review and
Analysis as of
July 1, 2008



Robert T. McCrory, FSA



Graham A. Schmidt, ASA

Prepared July 27, 2009

EFI* Actuaries • EFI Asset/Liability Management Services, Inc.
The nation's leader in plan-specific, interactive asset allocation optimization counseling
Washington, DC • New York • Seattle • Philadelphia • Sacramento

*Ed Frenck, Inc.

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Summary of Results

A Brief Summary

This actuarial valuation of the Retirement Plans of San Diego Transit Corporation (the Plan) as of July 1, 2008 has produced an increase in recommended contributions. The table below shows how the cost of the Plan has changed since the last actuarial valuation as of July 1, 2007:

	<u>Cost in Dollars</u>	<u>Cost as % of Payroll</u>
July 1, 2007 (Section 3.1, Column 1)	\$4,717,735	14.285%
Change in cost due to demographic gains/losses from July 1, 2007 to July 1, 2008	74,892	2.021%
Change in cost due to gains/losses from salary increases from July 1, 2007 to July 1, 2008	(141,218)	(0.327)%
Change in cost due to entry of new hires into the Plan from July 1, 2007 to July 1, 2008	503,285	(0.477)%
Change in cost due to investment gains/losses from July 1, 2007 to July 1, 2008	105,669	0.318%
July 1, 2008 (Section 3.1, Column 2)	\$5,260,363	15.820%

These computations are based on the Plan provisions and on the actuarial assumptions as of July 1, 2008. To the best of our knowledge, there have been no changes in the Plan provisions since the July 1, 2007 valuation. There were no changes to the actuarial methods or assumptions in this valuation.

We have computed the cost of the Plan as of July 1, 2008 using a five-year asset smoothing method. The smoothing method spreads investment gains and losses over five years. The resulting actuarial value of assets is constrained to remain within 20% of market value.

Current Plan provisions are outlined in Section 1.1. A summary of current actuarial methods and assumptions is presented in Section 1.3.

The percentage of payroll cost shown above is based on a member payroll of \$33.25 million projected for the 2008-09 fiscal year. We expect that the contribution rate above will become effective for the 2009-10 fiscal year. Therefore, the payroll figure actually used by the Corporation to compute its dollar contributions for the 2009-10 fiscal year will differ from this number, and the contribution rate shown above should be applied to the actual covered payroll for the fiscal year.

We note that the recommended employer contribution has increased since the July 1, 2007 valuation. The principal reason for this increase is the higher than expected number of retirements; the actual

number of retirements was about twice that expected, producing an actuarial loss. This issue and others are discussed in more detail below.

Purpose of the Report

This Report presents the results of an actuarial valuation of the Retirement Plans of San Diego Transit Corporation as of July 1, 2008. The purposes of this actuarial valuation are:

- To compute the annual contribution required for the 2009-10 fiscal year to fund the Plan in accordance with actuarial principles, and
- To present those items required for disclosure under Statement No. 25 of the Governmental Accounting Standards Board (GASB).

Organization of the Report

This Report is organized in five sections:

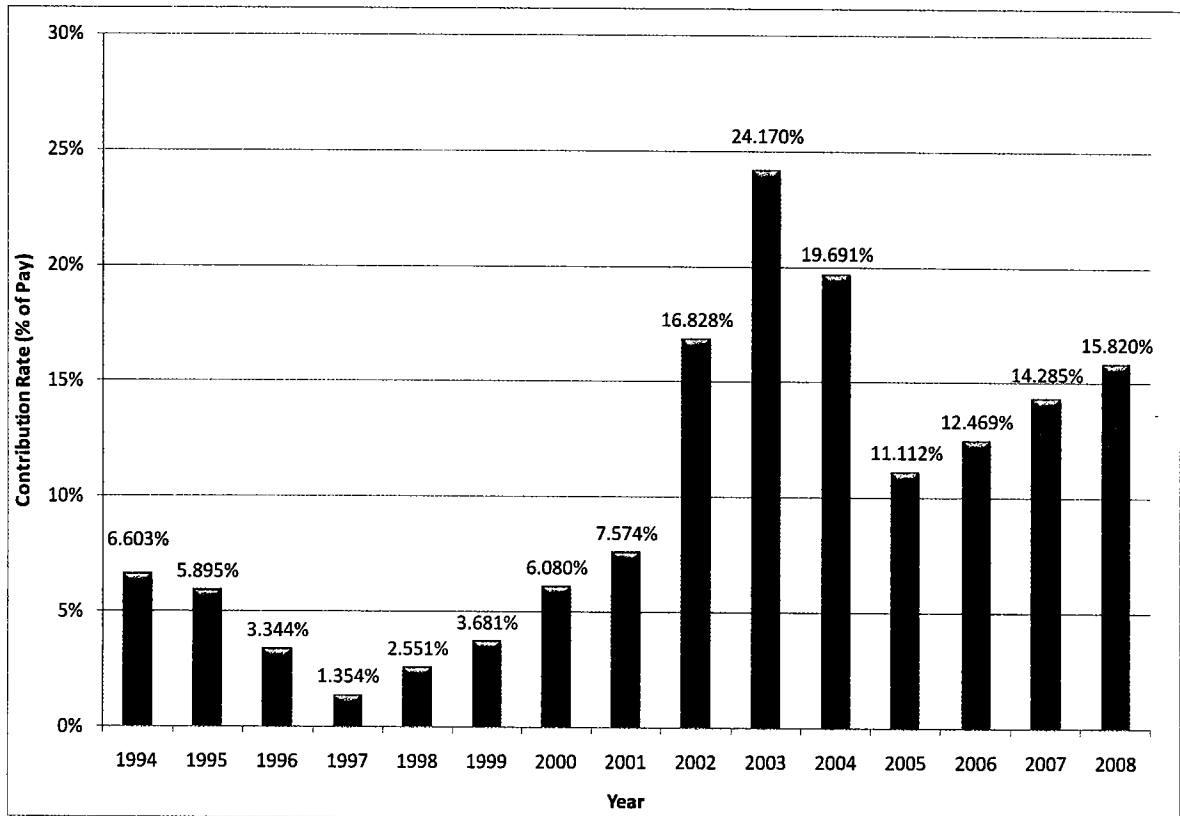
- This Summary presents the conclusions of the Report and discusses the reasons for changes since the last valuation.
- Section 1 below contains an outline of the Plan provisions on which our calculations are based, statistical data concerning Plan participants, and a summary of the actuarial assumptions employed to compute liabilities and costs.
- Section 2 presents information concerning Plan assets, including an income statement from July 1, 2007 to June 30, 2008.
- Section 3 contains the actuarial calculation of liabilities and Plan cost.
- Section 4 contains pension plan information required under Statement No. 25 of the Governmental Accounting Standards Board.

Plan Cost

Since the last actuarial valuation was performed as of January 1, 2006, the Plan cost has increased both in dollar terms and as a percentage of active members' payroll. The table below shows a brief summary.

<u>Valuation Date</u>	<u>Total Cost</u>	<u>Total Cost (% Payroll)</u>
July 1, 2007 (Section 3.1, Column 1)	\$4,717,735	14.285%
July 1, 2008 (Section 3.1, Column 2)	\$5,260,363	15.820%

The percentage of payroll cost shown above is based on a member payroll of \$33.25 million projected for the 2008-09 fiscal year. We expect that the contribution rate above will become effective for the 2009-10 fiscal year. The graph below shows the history of Plan costs since the July 1, 1994 actuarial valuation.



We note in the graph above that the Plan cost increased from the July 1, 1997 actuarial valuation to January 1, 2003. These increases in cost were due to Plan improvements combined with actuarial losses from investments. The decline in costs since January 1, 2003 has been a result of asset gains in 2003 combined with the large contribution from the Pension Obligation Bond in 2004.

Costs have been increasing since January 1, 2005 due to investment losses and losses from an unexpectedly high rate of retirement in the past two years.

The unfavorable investment climate since July 1, 2008 will cause further actuarial losses, and a significant increase in the Plan cost.

Change in Plan Cost from July 1, 2007 to July 1, 2008

The following is an analysis of the changes in Plan cost since July 1, 2007.

- In the July 1, 2007 Report, the computed cost was \$4,717,735, or 14.285% of active member payroll. This was based on the same actuarial assumptions and Plan provisions currently in place.

This computation is shown in Section 3.1 below.

- Demographic experience was unfavorable.

The demographic experience of the Plan from July 1, 2007 to July 1, 2008 – rates of retirement, death, disability, and termination – produced actuarial losses. In particular, there were many more retirements than expected. Among ATU and IBEW members, there were 50 retirements versus 23 that would have been expected under the actuarial assumptions. For clerical and administrative members, five retired while about nine were expected to retire.

The larger than expected number of retirements produced an actuarial loss during 2007-08; the impact of this loss was to increase the cost of the Plan by \$75,000 annually.

- Salary increases were lower than expected.

During the 2007-08 plan year, salaries for Plan members increased at a rate slightly below our assumptions. Much of this resulted from overall wage inflation below our assumption of 3.5% annually. As a result, liabilities and costs increased less than assumed, and the Plan cost decreased by 0.327% of payroll.

- New members joined the Plan.

During 2007-08, 293 newly hired employees became Plan members. As a result, Plan costs decreased as a percentage of payroll by 0.477%, but increased in dollar terms, by \$503,285, as a result of the additional covered payroll.

- Investment returns were below expectations on an actuarial value basis.

As can be seen in Section 2.1, the return on Plan assets on a market value basis was approximately -3.2% during the 2007-08 fiscal year, well below the 8% assumed return. However, most of the loss is deferred for up to five years under the actuarial smoothing method used to reduce cost volatility.

The combination of the return on market value during the 2007-08 fiscal year and the operation of the actuarial smoothing method caused a small cost increase of 0.318% of pay, or \$106,000.

In summary, the principal reason for the increase in Plan cost since July 1, 2007 was the unexpectedly large number of retirees. This is the second year in a row that excess retirements have occurred. We will be working with staff to discern if there is an emerging pattern, what may be causing it, and if any such pattern is expected to continue in the face of the current economic downturn.

Future Plan Costs

In general, we know with certainty that actuarial assumptions will not be met. In particular, the current turmoil in the financial markets has meant that returns in 2008 and 2009 will not be favorable. The investment losses for the 2008-09 fiscal year will result in a sharp increase in District contribution requirements, with higher contributions expected to continue for some years. In addition, we note that the last actuarial experience study was completed four years ago, for the period from January 1, 2001

through December 31, 2005. Since that study was prepared, the active membership in the Plan has declined and aged, with a resulting impact on patterns of future Plan cost.

Given the investment losses and their impact on Plan cost, the length of time since the last review of Plan assumptions, and the changes in Plan membership, we recommend a comprehensive review of all aspects of Plan funding in connection with the July 1, 2009 actuarial valuation. This review would include:

- Actuarial methods and assumptions, through the preparation of an updated actuarial experience study,
- Funding policy, including all aspects of the funding method: Actuarial methods, asset smoothing policy, and amortization methods and periods, and
- Projections of Plan cost under various future economic scenarios.

Conclusion

This report has been prepared using generally accepted actuarial methods and assumptions. If there are any questions about this report, please feel free to contact us. We enjoy being of service to you and we look forward to doing so in the future.

Section 1:

**Summary of Plan Provisions,
Member Statistics, and
Actuarial Assumptions**

1.1: Brief Outline of Plan Provisions

Definitions

Average Monthly Final Earnings

Average Monthly Final Earnings means the average monthly compensation during the consecutive months that produces a Participant's highest average compensation, computed by dividing the Compensation Earnable for such period by the number of months in such period.

- For ATU, IBEW, and Clerical Participants, the averaging period is thirty-six (36) consecutive months.
- For Non-Contract Participants, the number of consecutive months is twelve (12).

Those months during which the Participant did not receive Compensation from the Employer equivalent to one half the regular working days will be excluded. The average is then based on that portion of the averaging period remaining after the excluded months.

Compensation

Compensation means the remuneration for services paid by the Employer. The monetary value of board, lodgings, fuel, car allowance, laundry or other advantages furnished to a Participant is not included.

Compensation Earnable

Compensation Earnable is the Compensation actually received by a Participant during a period of employment. For ATU and Non-Contract Participants, any bonus or retroactive wage increases are treated as compensation when received rather than when the services are performed. For IBEW Participants, Compensation Earnable is limited to 2,140 hours of straight time equivalent hours in any 12-month period.

In addition, the value of any vacation or sick leave accumulated but unused when benefits begin is excluded from Compensation Earnable and from Average Monthly Final Earnings.

Credited Years of Service

In general, Credited Years of Service is continuous Service with the San Diego Transit Corporation and its predecessor company from the last date of employment through the date of retirement, death, disability, or other termination of service.

As of November 10, 1997, part-time ATU employees receive one Credited Year of Service for every 2,080 Hours of Service worked as a part-time employee after December 1, 1990.

For Non-Contract Participants, Credited Years of Service includes any year commencing on or after July 1, 1982 in which the Participant completes at least 1,000 Hours of Service. In addition, Credited Years of Service for Non-Contract Participants will exclude any period of Service after the Participant's Normal Retirement Date.

A Participant who is disabled and recovers from disability and reenters the Plan as an active Participant will not receive Credited Years of Service for the period of disability.

Additional Credited Years of Service

The following additional Credited Years of Service have been provided for in amendments to the Plan document.

Non-Contract Participants

<u>Name</u>	<u>Additional Credited Service</u>
Marv Dougall	3 Years
John Garland	2 Years, 9 Months, 28 Days
Sandra Showalter	5 Years, 6 Months
Dianne Daley	2 Years, 3 Months
Tim Price	8 Months, 14 Days

ATU Participants

<u>Name</u>	<u>Additional Credited Service</u>
Lawrence D. Maxwell	1 Years, 15 Days
Roderick A. Lagrimas	3 Years, 10 Months, 12 Days
Olavo Michel	5 Years, 7 Months, 13 Days
William M. O'Donovan	6 Years, 9 Months, 13 Days
Guadalupe Guerrero, Jr.	1 Years, 11 Months, 12 Days
A.E. Napier	6 Years, 4 Months, 3 Days
R.F. Enhelder	4 Years, 7 Months, 25 Days
R.E. Dey	4 Years, 7 Months, 25 Days
L. Dietmeyer	10 Months, 11 Days
Karol Ferris	9 Months

Participation

All full-time and certain part-time ATU and IBEW employees become Participants on their date of hire. All Non-Contract employees become Participants after earning one Credited Year of Service.

Retirement Benefit

Eligibility

Clerical and Non-Contract members are eligible for normal service retirement upon attaining age 63 and completing five or more years of service and eligible for early service retirement upon attaining age 53 and completing five or more years of service.

ATU and IBEW members are eligible for normal service retirement upon attaining age 63 (65 for IBEW) and completing five or more years of service and eligible for early service retirement upon attaining age 55 and completing five or more years of service.

Benefit Amount

The monthly service retirement benefit is the Participant's Average Monthly Final Earnings multiplied by the percentage figures shown in the tables below.

- For ATU and Clerical Participants terminating prior to October 1, 2005, ATU/Clerical Table A-1 is used; for ATU and Clerical Participants terminating on and after October 1, 2005, ATU/Clerical Table A-2 is used. Prior to January 1, 2006, the benefit from the table is limited to 60%.
- For IBEW Participants terminating prior to January 1, 2007, IBEW Table A-1 is used; for IBEW Participants terminating on and after January 1, 2007, IBEW Table A-2 is used.
- For Non-Contract participants terminating prior to July 1, 2000, Non-Contract Table A-1 is used; for Non-Contract participants terminating on and after July 1, 2000, Non-Contract Table A-2 is used.

For Participants with fractions of a year of age or service, the Participant's age or service will be rounded to the completed quarter year, and the percentage multiplier will be computed from the table using interpolation.

ATU participants who are active as from November 10, 1997 to December 31, 1998 and from November 10, 1997 to December 31, 1999 receive an additional 2.5% and 2.5%, respectively. However, the multiplier from Table A-1 or A-2, as augmented by the additional 2.5% increments, is still limited to 60% prior to January 1, 2006 and 70% thereafter.

Non-Contract Participants who are active as of July 1, 1994 and July 1, 1995 receive an additional 6% and 2%, respectively. However, the benefit multiplier, as augmented by the additional 6% and 2% increments, is still limited to 60% under Table A-1 and 70% under Table A-2.

A Participant who is disabled and recovers from disability and reenters the Plan as an active Participant will have this benefit amount reduced by the actuarial equivalent of the benefits paid during the period of disability.

Form of Benefit

The normal form of benefit is an annuity payable for the life of the Participant, with no continuation of benefits to a beneficiary after death. The retirement benefit will be paid as a 50% Joint and Survivor benefit actuarially equivalent to the normal form for participants who have been married for at least one year. Otherwise, the normal form will be paid.

The ATU and IBEW benefits have been amended from time to time to remove the actuarial reduction in benefits for previously retired Participants whose spouses have died before them. However, these adjustments are retroactive only, and they do not apply to benefits paid to currently active Participants.

ATU/Clerical Table A-1

Credited Years Of Service	Age at Retirement								
	55	56	57	58	59	60	61	62	63+
5	5.9%	6.3%	6.7%	7.2%	7.8%	8.3%	8.9%	9.5%	10.1%
6	7.1%	7.5%	8.1%	8.7%	9.3%	10.0%	10.7%	11.4%	12.1%
7	8.2%	8.8%	9.4%	10.1%	10.9%	11.7%	12.4%	13.3%	14.1%
8	9.4%	10.1%	10.8%	11.6%	12.4%	13.3%	14.2%	15.1%	16.1%
9	10.6%	11.3%	12.1%	13.0%	14.0%	15.0%	16.0%	17.0%	18.1%
10	11.8%	12.6%	13.5%	14.4%	15.5%	16.7%	17.8%	18.9%	20.1%
11	12.9%	13.8%	14.8%	15.9%	17.1%	18.3%	19.5%	20.8%	22.2%
12	14.1%	15.1%	16.2%	17.3%	18.6%	20.0%	21.3%	22.7%	24.2%
13	15.3%	16.3%	17.5%	18.8%	20.2%	21.7%	23.1%	24.6%	26.2%
14	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	24.9%	26.5%	28.2%
15	17.6%	18.9%	20.2%	21.7%	23.3%	25.0%	26.7%	28.4%	30.2%
16	18.8%	20.1%	21.5%	23.1%	24.8%	26.7%	28.4%	30.3%	32.2%
17	20.0%	21.4%	22.9%	24.5%	26.4%	28.3%	30.2%	32.2%	34.3%
18	21.2%	22.6%	24.2%	26.0%	27.9%	30.0%	32.0%	34.1%	36.3%
19	22.3%	23.9%	25.6%	27.4%	29.5%	31.7%	33.8%	36.0%	38.3%
20	23.5%	25.2%	26.9%	28.9%	31.0%	33.3%	35.5%	37.9%	40.3%
21	24.7%	26.4%	28.3%	30.3%	32.6%	35.0%	37.3%	39.7%	42.3%
22	25.9%	27.7%	29.6%	31.8%	34.1%	36.7%	39.1%	41.6%	44.3%
23	27.0%	28.9%	31.0%	33.2%	35.7%	38.3%	40.9%	43.5%	46.3%
24	28.2%	30.2%	32.3%	34.6%	37.2%	40.0%	42.6%	45.4%	48.4%
25	29.4%	31.4%	33.7%	36.1%	38.8%	41.7%	44.4%	47.3%	50.4%
26	30.6%	32.7%	35.0%	37.5%	40.3%	43.3%	46.2%	49.2%	52.4%
27	31.7%	34.0%	36.4%	39.0%	41.9%	45.0%	48.0%	51.1%	54.4%
28	32.9%	35.2%	37.7%	40.4%	43.4%	46.7%	49.8%	52.0%	56.4%
29	34.1%	36.5%	39.1%	41.9%	45.0%	48.3%	50.0%	55.0%	58.4%
30	35.3%	37.7%	40.4%	43.4%	46.5%	50.0%	51.0%	55.5%	60.0%
31	36.5%	39.0%	41.7%	44.8%	48.1%	51.0%	51.5%	56.0%	60.0%
32	37.6%	40.2%	43.1%	46.2%	49.6%	51.5%	52.0%	56.5%	60.0%
33	38.8%	41.5%	44.4%	47.6%	50.0%	52.0%	52.5%	57.0%	60.0%
34	40.0%	42.8%	45.8%	49.1%	51.0%	52.5%	53.0%	57.5%	60.0%
35 or more	41.2%	44.0%	47.1%	50.0%	51.5%	53.0%	53.5%	58.0%	60.0%



ATU/Clerical Table A-2

Credited Years Of Service	Age at Retirement										
	Clerical		55	56	57	58	59	60	61	62	63+
	53	54									
5	8.71%	9.33%	10.00%	10.26%	10.52%	10.78%	11.05%	11.31%	11.57%	11.83%	12.09%
6	10.45%	11.20%	12.00%	12.31%	12.62%	12.94%	13.26%	13.57%	13.88%	14.20%	14.51%
7	12.19%	13.06%	14.00%	14.36%	14.73%	15.09%	15.47%	15.83%	16.20%	16.56%	16.93%
8	13.94%	14.93%	16.00%	16.42%	16.83%	17.25%	17.68%	18.10%	18.51%	18.93%	19.34%
9	15.68%	16.79%	18.00%	18.47%	18.94%	19.40%	19.89%	20.36%	20.83%	21.29%	21.76%
10	17.42%	18.66%	20.00%	20.52%	21.04%	21.56%	22.10%	22.62%	23.14%	23.66%	24.18%
11	19.16%	20.53%	22.00%	22.57%	23.14%	23.72%	24.31%	24.88%	25.45%	26.03%	26.60%
12	20.90%	22.39%	24.00%	24.62%	25.25%	25.87%	26.52%	27.14%	27.77%	28.39%	29.02%
13	22.65%	24.26%	26.00%	26.68%	27.35%	28.03%	28.73%	29.41%	30.08%	30.76%	31.43%
14	24.39%	26.12%	28.00%	28.73%	29.46%	30.18%	30.94%	31.67%	32.40%	33.12%	33.85%
15	26.13%	27.99%	30.00%	30.78%	31.56%	32.34%	33.15%	33.93%	34.71%	35.49%	36.27%
16	27.87%	29.86%	32.00%	32.83%	33.66%	34.50%	35.36%	36.19%	37.02%	37.86%	38.69%
17	29.61%	31.72%	34.00%	34.88%	35.77%	36.65%	37.57%	38.45%	39.34%	40.22%	41.11%
18	31.36%	33.59%	36.00%	36.94%	37.87%	38.81%	39.78%	40.72%	41.65%	42.59%	43.52%
19	33.10%	35.45%	38.00%	38.99%	39.98%	40.96%	41.99%	42.98%	43.97%	44.95%	45.94%
20	34.84%	37.32%	40.00%	41.04%	42.08%	43.12%	44.20%	45.24%	46.28%	47.32%	48.36%
21	36.58%	39.19%	42.00%	43.09%	44.18%	45.28%	46.41%	47.50%	48.59%	49.69%	50.78%
22	38.32%	41.05%	44.00%	45.14%	46.29%	47.43%	48.62%	49.76%	50.91%	52.05%	53.20%
23	40.07%	42.92%	46.00%	47.20%	48.39%	49.59%	50.83%	52.03%	53.22%	54.42%	55.61%
24	41.81%	44.78%	48.00%	49.25%	50.50%	51.74%	53.04%	54.29%	55.54%	56.78%	58.03%
25	43.55%	46.65%	50.00%	51.30%	52.60%	53.90%	55.25%	56.55%	57.85%	59.15%	60.45%
26	45.29%	48.52%	52.00%	53.35%	54.70%	56.06%	57.46%	58.81%	60.16%	61.52%	62.87%
27	47.03%	50.38%	54.00%	55.40%	56.81%	58.21%	59.67%	61.07%	62.48%	63.88%	65.29%
28	48.78%	52.25%	56.00%	57.46%	58.91%	60.37%	61.88%	63.34%	64.79%	66.25%	67.70%
29	50.52%	54.11%	58.00%	59.51%	61.02%	62.52%	64.09%	65.60%	67.11%	68.61%	70.00%
30	52.26%	55.98%	60.00%	61.56%	63.12%	64.68%	66.30%	67.86%	69.42%	70.00%	70.00%
31	54.00%	57.85%	62.00%	63.61%	65.22%	66.84%	68.51%	70.00%	70.00%	70.00%	70.00%
32	55.74%	59.71%	64.00%	65.66%	67.33%	68.99%	70.00%	70.00%	70.00%	70.00%	70.00%
33	57.49%	61.58%	66.00%	67.72%	69.43%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
34	59.23%	63.44%	68.00%	69.77%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
35 or more	60.97%	65.31%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%

IBEW Table A-1

Credited Years Of Service	Age at Retirement										
	55	56	57	58	59	60	61	62	63	64	65+
5	5.2%	5.5%	5.9%	6.3%	6.7%	7.2%	7.8%	8.3%	8.9%	9.5%	10.1%
6	6.2%	6.6%	7.1%	7.5%	8.1%	8.7%	9.3%	10.0%	10.7%	11.4%	12.1%
7	7.2%	7.7%	8.2%	8.8%	9.4%	10.1%	10.9%	11.7%	12.4%	13.3%	14.1%
8	8.2%	8.8%	9.4%	10.1%	10.8%	11.6%	12.4%	13.3%	14.2%	15.1%	16.1%
9	9.3%	9.9%	10.6%	11.3%	12.1%	13.0%	14.0%	15.0%	16.0%	17.0%	18.1%
10	10.2%	11.0%	11.8%	12.6%	13.5%	14.4%	15.5%	16.7%	17.8%	18.9%	20.1%
11	11.2%	12.1%	12.9%	13.8%	14.8%	15.9%	17.1%	18.3%	19.5%	20.8%	22.2%
12	12.3%	13.2%	14.1%	15.1%	16.2%	17.3%	18.6%	20.0%	21.3%	22.7%	24.2%
13	13.3%	14.3%	15.3%	16.3%	17.5%	18.8%	20.2%	21.7%	23.1%	24.6%	26.2%
14	14.4%	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	24.9%	26.5%	28.2%
15	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	25.0%	26.7%	28.4%	30.2%
16	16.4%	17.6%	18.8%	20.1%	21.5%	23.1%	24.8%	26.7%	28.4%	30.3%	32.2%
17	17.5%	18.7%	20.0%	21.4%	22.9%	24.5%	26.4%	28.3%	30.2%	32.2%	34.3%
18	18.5%	19.8%	21.2%	22.6%	24.2%	26.0%	27.9%	30.0%	32.0%	34.1%	36.3%
19	19.6%	20.9%	22.3%	23.9%	25.6%	27.4%	29.5%	31.7%	33.8%	36.0%	38.3%
20	20.6%	22.0%	23.5%	25.2%	26.9%	28.9%	31.0%	33.3%	35.5%	37.9%	40.3%
21	21.6%	23.1%	24.7%	26.4%	28.3%	30.3%	32.6%	35.0%	37.3%	39.7%	42.3%
22	22.7%	24.2%	25.9%	27.7%	29.6%	31.8%	34.1%	36.7%	39.1%	41.6%	44.3%
23	23.7%	25.3%	27.0%	28.9%	31.0%	33.2%	35.7%	38.3%	40.9%	43.5%	46.3%
24	24.8%	26.4%	28.2%	30.2%	32.3%	34.6%	37.2%	40.0%	42.6%	45.4%	48.4%
25	25.8%	27.5%	29.4%	31.4%	33.7%	36.1%	38.8%	41.7%	44.4%	47.3%	50.4%
26	26.9%	28.6%	30.6%	32.7%	35.0%	37.5%	40.3%	43.3%	46.2%	49.2%	52.4%
27	27.9%	29.7%	31.7%	34.0%	36.4%	39.0%	41.9%	45.0%	48.0%	51.1%	54.4%
28	29.0%	30.9%	32.9%	35.2%	37.7%	40.4%	43.4%	46.7%	49.8%	52.0%	56.4%
29	30.0%	32.0%	34.1%	36.5%	39.1%	41.9%	45.0%	48.3%	50.0%	55.0%	58.4%
30	31.1%	33.1%	35.3%	37.7%	40.4%	43.4%	46.5%	50.0%	51.0%	55.5%	60.0%
31	32.1%	34.2%	36.5%	39.0%	41.7%	44.8%	48.1%	51.0%	51.5%	56.0%	60.0%
32	33.2%	35.3%	37.6%	40.2%	43.1%	46.2%	49.6%	51.5%	52.0%	56.5%	60.0%
33	34.3%	36.5%	38.8%	41.5%	44.4%	47.6%	50.0%	52.0%	52.5%	57.0%	60.0%
34	35.4%	37.6%	40.0%	42.8%	45.8%	49.1%	51.0%	52.5%	53.0%	57.5%	60.0%
35 or more	36.5%	38.7%	41.2%	44.0%	47.1%	50.0%	51.5%	53.0%	53.5%	58.0%	60.0%

IBEW Table A-2

Credited Years Of Service	Age at Retirement								
	55	56	57	58	59	60	61	62	63+
5	10.00%	10.26%	10.52%	10.78%	11.05%	11.31%	11.57%	11.83%	12.09%
6	12.00%	12.31%	12.62%	12.94%	13.26%	13.57%	13.88%	14.20%	14.51%
7	14.00%	14.36%	14.73%	15.09%	15.47%	15.83%	16.20%	16.56%	16.93%
8	16.00%	16.42%	16.83%	17.25%	17.68%	18.10%	18.51%	18.93%	19.34%
9	18.00%	18.47%	18.94%	19.40%	19.89%	20.36%	20.83%	21.29%	21.76%
10	20.00%	20.52%	21.04%	21.56%	22.10%	22.62%	23.14%	23.66%	24.18%
11	22.00%	22.57%	23.14%	23.72%	24.31%	24.88%	25.45%	26.03%	26.60%
12	24.00%	24.62%	25.25%	25.87%	26.52%	27.14%	27.77%	28.39%	29.02%
13	26.00%	26.68%	27.35%	28.03%	28.73%	29.41%	30.08%	30.76%	31.43%
14	28.00%	28.73%	29.46%	30.18%	30.94%	31.67%	32.40%	33.12%	33.85%
15	30.00%	30.78%	31.56%	32.34%	33.15%	33.93%	34.71%	35.49%	36.27%
16	32.00%	32.83%	33.66%	34.50%	35.36%	36.19%	37.02%	37.86%	38.69%
17	34.00%	34.88%	35.77%	36.65%	37.57%	38.45%	39.34%	40.22%	41.11%
18	36.00%	36.94%	37.87%	38.81%	39.78%	40.72%	41.65%	42.59%	43.52%
19	38.00%	38.99%	39.98%	40.96%	41.99%	42.98%	43.97%	44.95%	45.94%
20	40.00%	41.04%	42.08%	43.12%	44.20%	45.24%	46.28%	47.32%	48.36%
21	42.00%	43.09%	44.18%	45.28%	46.41%	47.50%	48.59%	49.69%	50.78%
22	44.00%	45.14%	46.29%	47.43%	48.62%	49.76%	50.91%	52.05%	53.20%
23	46.00%	47.20%	48.39%	49.59%	50.83%	52.03%	53.22%	54.42%	55.61%
24	48.00%	49.25%	50.50%	51.74%	53.04%	54.29%	55.54%	56.78%	58.03%
25	50.00%	51.30%	52.60%	53.90%	55.25%	56.55%	57.85%	59.15%	60.45%
26	52.00%	53.35%	54.70%	56.06%	57.46%	58.81%	60.16%	61.52%	62.87%
27	54.00%	55.40%	56.81%	58.21%	59.67%	61.07%	62.48%	63.88%	65.29%
28	56.00%	57.46%	58.91%	60.37%	61.88%	63.34%	64.79%	66.25%	67.70%
29	58.00%	59.51%	61.02%	62.52%	64.09%	65.60%	67.11%	68.61%	70.00%
30	60.00%	61.56%	63.12%	64.68%	66.30%	67.86%	69.42%	70.00%	70.00%
31	62.00%	63.61%	65.22%	66.84%	68.51%	70.00%	70.00%	70.00%	70.00%
32	64.00%	65.66%	67.33%	68.99%	70.00%	70.00%	70.00%	70.00%	70.00%
33	66.00%	67.72%	69.43%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
34	68.00%	69.77%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
35 or more	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%

Non-Contract Table A-1

Credited Years Of Service	Age at Retirement										
	53	54	55	56	57	58	59	60	61	62	63+
5	5.2%	5.5%	5.9%	6.3%	6.7%	7.2%	7.8%	8.3%	8.9%	9.5%	10.1%
6	6.2%	6.6%	7.1%	7.5%	8.1%	8.7%	9.3%	10.0%	10.7%	11.4%	12.1%
7	7.2%	7.7%	8.2%	8.8%	9.4%	10.1%	10.9%	11.7%	12.4%	13.3%	14.1%
8	8.2%	8.8%	9.4%	10.1%	10.8%	11.6%	12.4%	13.3%	14.2%	15.1%	16.1%
9	9.3%	9.9%	10.6%	11.3%	12.1%	13.0%	14.0%	15.0%	16.0%	17.0%	18.1%
10	10.2%	11.0%	11.8%	12.6%	13.5%	14.4%	15.5%	16.7%	17.8%	18.9%	20.1%
11	11.2%	12.1%	12.9%	13.8%	14.8%	15.9%	17.1%	18.3%	19.5%	20.8%	22.2%
12	12.3%	13.2%	14.1%	15.1%	16.2%	17.3%	18.6%	20.0%	21.3%	22.7%	24.2%
13	13.3%	14.3%	15.3%	16.3%	17.5%	18.8%	20.2%	21.7%	23.1%	24.6%	26.2%
14	14.4%	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	24.9%	26.5%	28.2%
15	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	25.0%	26.7%	28.4%	30.2%
16	16.4%	17.6%	18.8%	20.1%	21.5%	23.1%	24.8%	26.7%	28.4%	30.3%	32.2%
17	17.5%	18.7%	20.0%	21.4%	22.9%	24.5%	26.4%	28.3%	30.2%	32.2%	34.3%
18	18.5%	19.8%	21.2%	22.6%	24.2%	26.0%	27.9%	30.0%	32.0%	34.1%	36.3%
19	19.6%	20.9%	22.3%	23.9%	25.6%	27.4%	29.5%	31.7%	33.8%	36.0%	38.3%
20	20.6%	22.0%	23.5%	25.2%	26.9%	28.9%	31.0%	33.3%	35.5%	37.9%	40.3%
21	21.6%	23.1%	24.7%	26.4%	28.3%	30.3%	32.6%	35.0%	37.3%	39.7%	42.3%
22	22.7%	24.2%	25.9%	27.7%	29.6%	31.8%	34.1%	36.7%	39.1%	41.6%	44.3%
23	23.7%	25.3%	27.0%	28.9%	31.0%	33.2%	35.7%	38.3%	40.9%	43.5%	46.3%
24	24.8%	26.4%	28.2%	30.2%	32.3%	34.6%	37.2%	40.0%	42.6%	45.4%	48.4%
25	25.8%	27.5%	29.4%	31.4%	33.7%	36.1%	38.8%	41.7%	44.4%	47.3%	50.4%
26	26.9%	28.6%	30.6%	32.7%	35.0%	37.5%	40.3%	43.3%	46.2%	49.2%	52.4%
27	27.9%	29.7%	31.7%	34.0%	36.4%	39.0%	41.9%	45.0%	48.0%	51.1%	54.4%
28	29.0%	30.9%	32.9%	35.2%	37.7%	40.4%	43.4%	46.7%	49.8%	52.0%	56.4%
29	30.0%	32.0%	34.1%	36.5%	39.1%	41.9%	45.0%	48.3%	50.0%	55.0%	58.4%
30	31.1%	33.1%	35.3%	37.7%	40.4%	43.4%	46.5%	50.0%	51.0%	55.5%	60.0%
31	32.1%	34.2%	36.5%	39.0%	41.7%	44.8%	48.1%	51.0%	51.5%	56.0%	60.0%
32	33.2%	35.3%	37.6%	40.2%	43.1%	46.2%	49.6%	51.5%	52.0%	56.5%	60.0%
33	34.3%	36.5%	38.8%	41.5%	44.4%	47.6%	50.0%	52.0%	52.5%	57.0%	60.0%
34	35.4%	37.6%	40.0%	42.8%	45.8%	49.1%	51.0%	52.5%	53.0%	57.5%	60.0%
35 or more	36.5%	38.7%	41.2%	44.0%	47.1%	50.0%	51.5%	53.0%	53.5%	58.0%	60.0%

Non-Contract Table A-2

Credited Years Of Service	Age at Retirement										
	53	54	55	56	57	58	59	60	61	62	63+
5	8.71%	9.33%	10.00%	10.26%	10.52%	10.78%	11.05%	11.31%	11.57%	11.83%	12.09%
6	10.45%	11.20%	12.00%	12.31%	12.62%	12.94%	13.26%	13.57%	13.88%	14.20%	14.51%
7	12.19%	13.06%	14.00%	14.36%	14.73%	15.09%	15.47%	15.83%	16.20%	16.56%	16.93%
8	13.94%	14.93%	16.00%	16.42%	16.83%	17.25%	17.68%	18.10%	18.51%	18.93%	19.34%
9	15.68%	16.79%	18.00%	18.47%	18.94%	19.40%	19.89%	20.36%	20.83%	21.29%	21.76%
10	17.42%	18.66%	20.00%	20.52%	21.04%	21.56%	22.10%	22.62%	23.14%	23.66%	24.18%
11	19.16%	20.53%	22.00%	22.57%	23.14%	23.72%	24.31%	24.88%	25.45%	26.03%	26.60%
12	20.90%	22.39%	24.00%	24.62%	25.25%	25.87%	26.52%	27.14%	27.77%	28.39%	29.02%
13	22.65%	24.26%	26.00%	26.68%	27.35%	28.03%	28.73%	29.41%	30.08%	30.76%	31.43%
14	24.39%	26.12%	28.00%	28.73%	29.46%	30.18%	30.94%	31.67%	32.40%	33.12%	33.85%
15	26.13%	27.99%	30.00%	30.78%	31.56%	32.34%	33.15%	33.93%	34.71%	35.49%	36.27%
16	27.87%	29.86%	32.00%	32.83%	33.66%	34.50%	35.36%	36.19%	37.02%	37.86%	38.69%
17	29.61%	31.72%	34.00%	34.88%	35.77%	36.65%	37.57%	38.45%	39.34%	40.22%	41.11%
18	31.36%	33.59%	36.00%	36.94%	37.87%	38.81%	39.78%	40.72%	41.65%	42.59%	43.52%
19	33.10%	35.45%	38.00%	38.99%	39.98%	40.96%	41.99%	42.98%	43.97%	44.95%	45.94%
20	34.84%	37.32%	40.00%	41.04%	42.08%	43.12%	44.20%	45.24%	46.28%	47.32%	48.36%
21	36.58%	39.19%	42.00%	43.09%	44.18%	45.28%	46.41%	47.50%	48.59%	49.69%	50.78%
22	38.32%	41.05%	44.00%	45.14%	46.29%	47.43%	48.62%	49.76%	50.91%	52.05%	53.20%
23	40.07%	42.92%	46.00%	47.20%	48.39%	49.59%	50.83%	52.03%	53.22%	54.42%	55.61%
24	41.81%	44.78%	48.00%	49.25%	50.50%	51.74%	53.04%	54.29%	55.54%	56.78%	58.03%
25	43.55%	46.65%	50.00%	51.30%	52.60%	53.90%	55.25%	56.55%	57.85%	59.15%	60.45%
26	45.29%	48.52%	52.00%	53.35%	54.70%	56.06%	57.46%	58.81%	60.16%	61.52%	62.87%
27	47.03%	50.38%	54.00%	55.40%	56.81%	58.21%	59.67%	61.07%	62.48%	63.88%	65.29%
28	48.78%	52.25%	56.00%	57.46%	58.91%	60.37%	61.88%	63.34%	64.79%	66.25%	67.70%
29	50.52%	54.11%	58.00%	59.51%	61.02%	62.52%	64.09%	65.60%	67.11%	68.61%	70.00%
30	52.26%	55.98%	60.00%	61.56%	63.12%	64.68%	66.30%	67.86%	69.42%	70.00%	70.00%
31	54.00%	57.85%	62.00%	63.61%	65.22%	66.84%	68.51%	70.00%	70.00%	70.00%	70.00%
32	55.74%	59.71%	64.00%	65.66%	67.33%	68.99%	70.00%	70.00%	70.00%	70.00%	70.00%
33	57.49%	61.58%	66.00%	67.72%	69.43%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
34	59.23%	63.44%	68.00%	69.77%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
35 or more	60.97%	65.31%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%

ATU and IBEW Participants may elect an Alternative Retirement Formula if they terminate employment before early retirement but after 10 years of credited service or were hired between April 1, 1968 and March 31, 1971 and desire to retire at their Normal Retirement Date. These Participants are eligible for a deferred benefit commencing at age 65 based on Table B.

Table B

Credited Years Of Service	Percentage
10	20.1%
11	22.2%
12	24.2%
13	26.2%
14	28.2%
15	30.2%
16	32.2%
17	34.3%
18	36.3%
19	38.3%
20	40.3%
21	42.3%
22	44.3%
23	46.3%
24	48.4%
25	50.4%
26	52.4%
27	54.4%
28	56.4%
29	58.4%
30	60.4%
31	62.5%
32	64.5%
33	66.5%
34	68.5%
35 or more	70.5%

Disability Retirement Benefit

Eligibility

A Participant is eligible for a Disability Retirement Benefit if:

- The Participant has earned five Credited Years of Service (ATU, IBEW, Clerical and Non-Contract), and
- The Participant is unable to perform the duties of his or her job with the Corporation, cannot be transferred to another job with the Corporation, and has submitted satisfactory medical evidence of permanent disqualification from his or her job.

Benefit Amount

The Disability Retirement Benefit is a monthly benefit equal to the lesser of:

1. $1\frac{1}{2}\%$ times Credited Years of Service at Disability Retirement Date times the Participant's Average Monthly Final Earnings; and
2. The Normal Retirement Benefit calculated using the Average Monthly Final Earnings at Disability Retirement Date and the projected Credited Years of Service to Normal Retirement Date.

The benefit is reduced by 50% of the amount of any earned income from other sources in excess of 50% of the Participant's Average Monthly Earnings during the 12 months prior to disability; this reduction applies to all IBEW and Non-Contract Participants, but only to ATU Participants hired after June 30, 1983.

Form of Benefit

The normal form of benefit is an annuity commencing at disability and payable for the life of the Participant, with no continuation of benefits to a beneficiary after death. The Disability Retirement Benefit will be paid as a 50% Joint and Survivor benefit actuarially equivalent to the normal form for participants who have been married for at least one year. Otherwise, the normal form will be paid.

The ATU and IBEW benefits have been amended from time to time to remove the actuarial reduction in benefits for previously retired Participants whose spouses have died before them. However, these adjustments are retroactive only, and they do not apply to benefits paid to currently active Participants.

Pre-Retirement Death Benefit

Eligibility

A vested Participant is entitled to elect coverage of a pre-retirement spouse's benefit.

For years a Participant is age 55 or under, the cost of the coverage is paid by the Company. For the years a Participant is over age 55 and has elected this coverage the cost of this coverage is paid by

the Participant in the form of a reduced benefit upon retirement. The reduction is 3.5¢ per \$10 of monthly benefit for each year of coverage.

There is no cost for this benefit for any ATU, Clerical, or Non-Contract Participant whose monthly benefit commences after November 27, 1990. There is no cost for this benefit for any IBEW Participant whose monthly benefit commences after December 3, 1996.

In order for the spouse to be eligible for this benefit, the participant must be married to the spouse for one year prior to death, unless death occurs from accidental causes.

Benefit Amount

For a Participant who is eligible to retire at death, the pre-retirement death benefit is 50% of the benefit that would have been payable had the Participant retired immediately prior to his or her death and elected to receive a 50% Joint and Survivor annuity.

For a Participant who dies before being eligible to retire, the pre-retirement death benefit is 50% of the benefit that would have been payable had the Participant survived to his or her earliest retirement date, retired, elected to receive a 50% Joint and Survivor annuity, and died immediately.

Form of Benefit

For a Participant who is eligible to retire at death, the death benefit begins when the Participant dies and continues for the life of the surviving spouse.

For a Participant who dies before being eligible to retire, the death benefit begins when the Participant would have reached his or her earliest retirement date and continues for the life of the surviving spouse.

Termination Benefit

Eligibility

A Participant is eligible for a termination benefit after earning five years of service.

Benefit Amount

The termination benefit is computed in the same manner as the Normal Retirement Benefit, but it is based on Credited Years of Service and Average Monthly Final Earnings on the date of termination.

Effective July 1, 2000, Non-Contract participants who terminate prior to eligibility for early service retirement will have their benefits actuarially reduced if they begin receiving benefits before normal retirement age.

Form of Benefit

The Participant will be eligible to commence benefits at the later of termination and earliest retirement eligibility age.

The normal form of benefit is an annuity payable for the life of the Participant, with no continuation of benefits to a beneficiary after death. The retirement benefit will be paid as a 50% Joint and Survivor benefit actuarially equivalent to the normal form for participants who have been married for at least one year. Otherwise, the normal form will be paid.

The ATU and IBEW benefits have been amended from time to time to remove the actuarial reduction in benefits for previously retired Participants whose spouses have died before them. However, these adjustments are retroactive only, and they do not apply to benefits paid to currently active Participants.

Cost of Living Adjustments

Eligibility

An annual Cost of Living Adjustment (COLA) has been added for Non-Contract Participants who were actively employed on or after June 30, 1999. One time only (ad hoc) COLAs were granted to ATU and IBEW Participants in 1991 and 1992.

Benefit Amount

For Non-Contract Participants, the cumulative COLA is the increase in the Consumer Price Index (CPI) since the Participant began receiving benefits.

The COLA is subject to the following limits for Non-Contract Participants:

- The cumulative COLA cannot exceed 2% compounded annually for all years since the Participant's benefits began;
- The annual COLA is zero if the CPI increase in that year is less than 1%;
- The annual COLA is limited 6% of the initial benefit amount in any year; and
- A Participant's benefit cannot be reduced below the benefit level when payments commenced.

Voluntary Early Retirement Program

The Plan provided enhanced benefits to ATU participants who voluntarily elected early retirement during the window period from January 1, 1998 through February 20, 1998.

The Plan provided enhanced benefits to certain IBEW participants who voluntarily elected early retirement during the window period from July 1, 2004 through December 31, 2004.

DROP Program

The Plan provided DROP benefits to a number of ATU participants who elected retirement from July 1, 2002 through December 31, 2002.

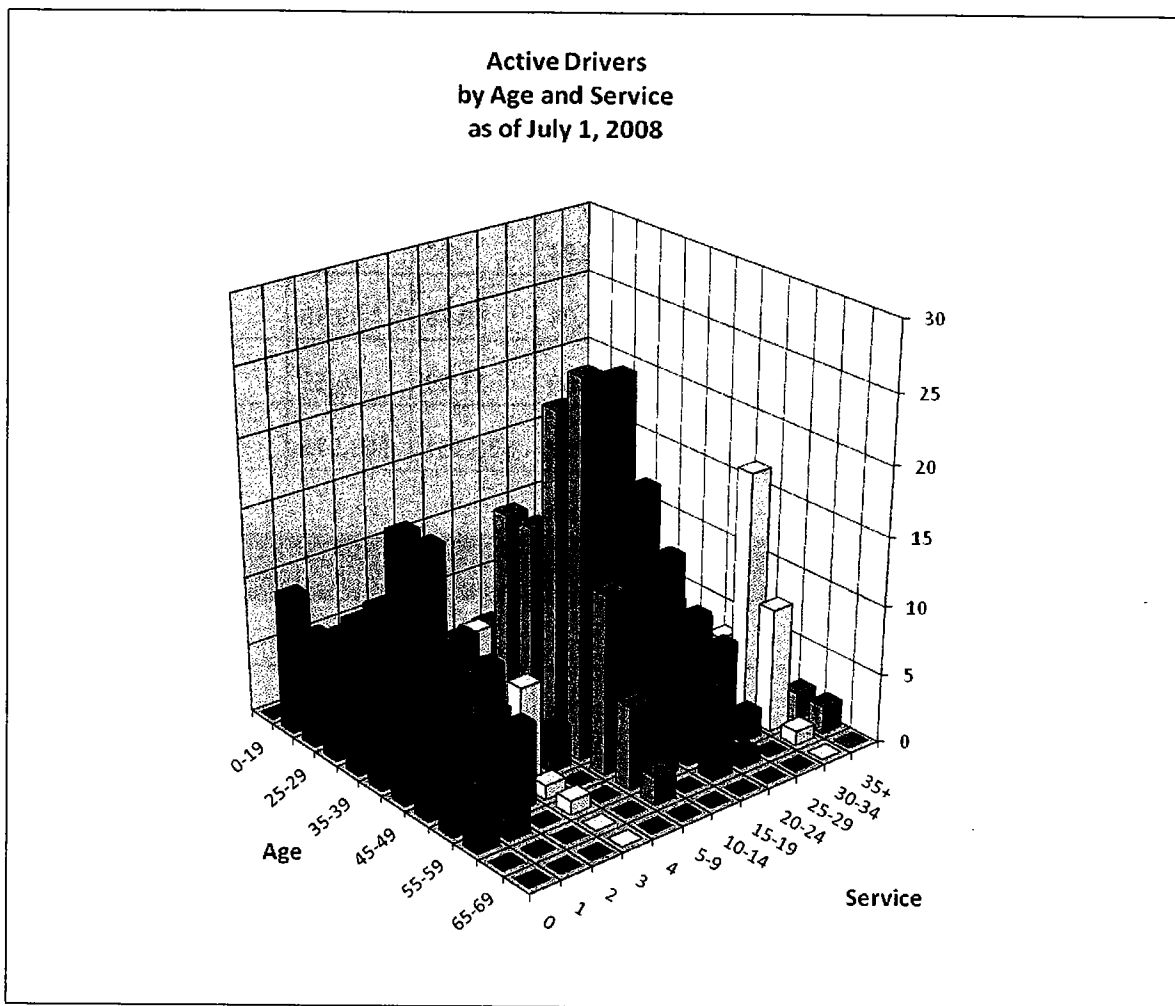
Funding

The Corporation pays the entire cost of the Plan.

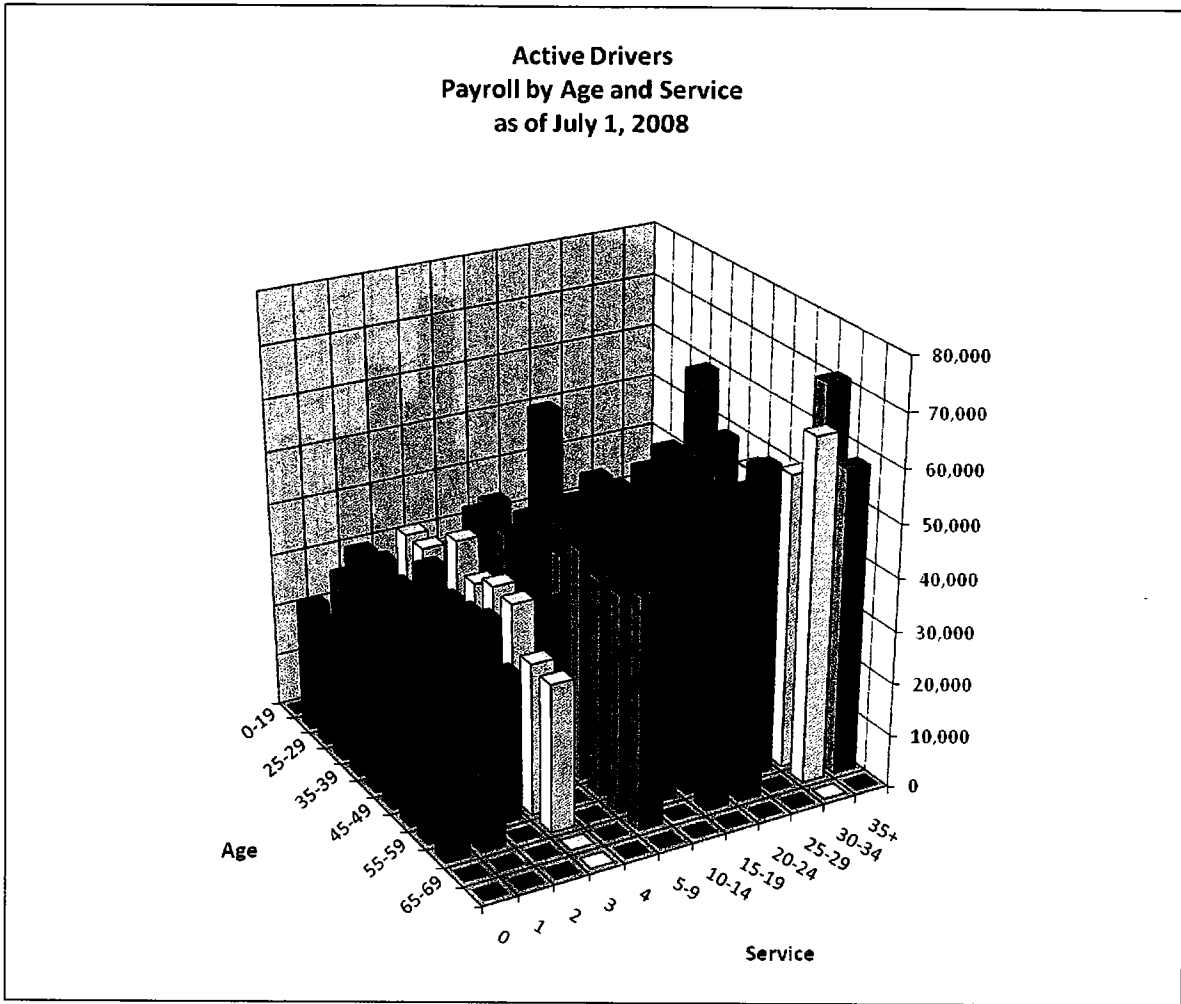
1.2: Participant Data as of July 1, 2008

Active Participants	Drivers	Mechanics	Clerical	Admin	Chula Vista	Total
Number	562	183	24	76	0	845
Average Age	48.25	45.04	50.18	49.98	0.00	47.76
Average Service	10.02	13.50	11.09	16.59	0.00	11.40
Average Pay	\$39,610	\$40,403	\$36,181	\$63,975	\$0	\$41,876

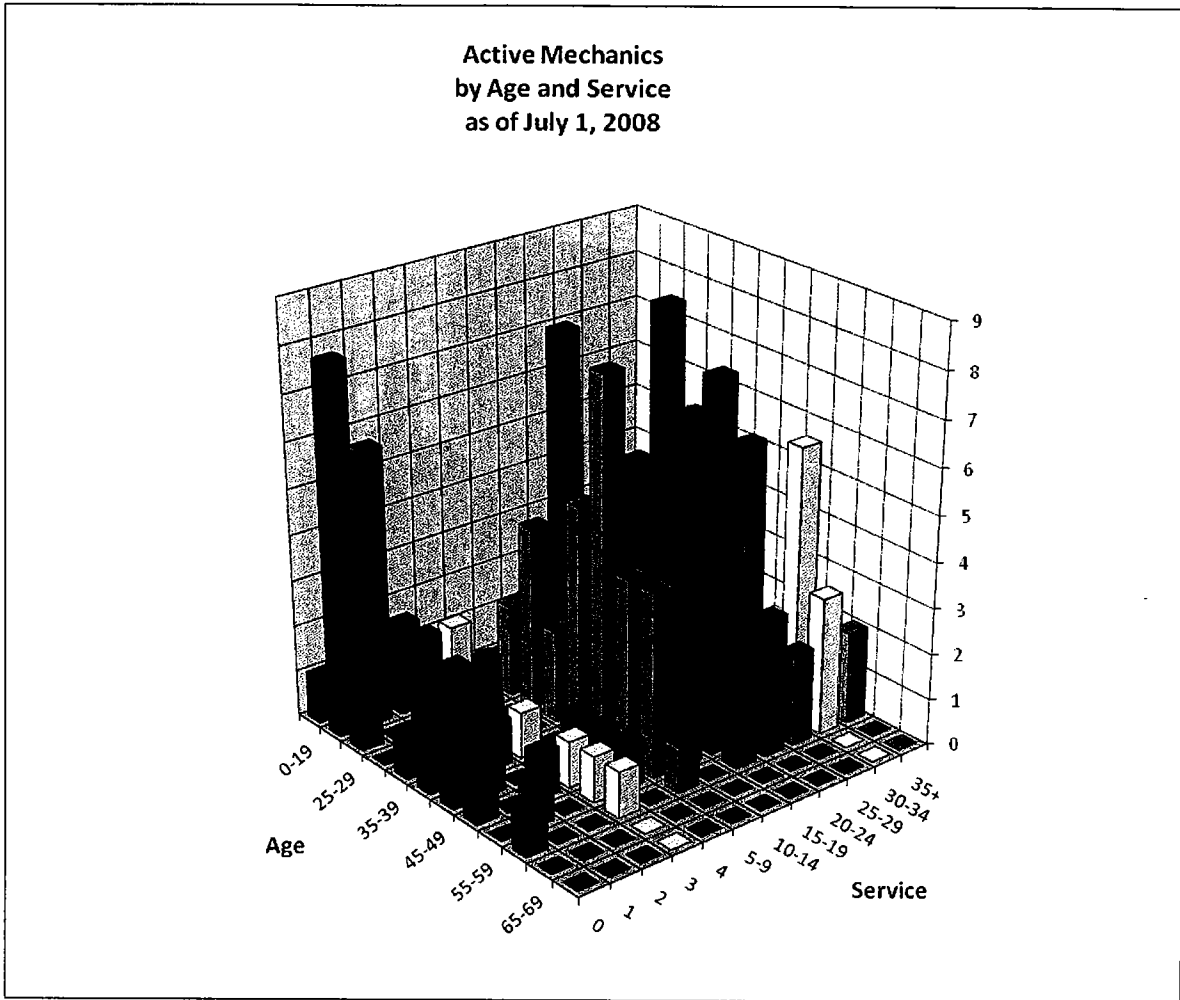
Inactive Participants	Drivers	Mechanics	Clerical	Admin	Chula Vista	Total
Service Retired						
Number	318	58	27	84	2	489
Average Age	67.67	68.59	74.30	62.98	70.88	67.35
Average Benefit	\$18,426	\$15,351	\$10,722	\$32,833	\$4,401	\$20,054
Beneficiaries						
Number	78	17	4	23	0	122
Average Age	72.52	76.78	71.63	66.17	0.00	71.89
Average Benefit	\$5,203	\$4,709	\$3,984	\$13,910	\$0	\$6,737
Disabled						
Number	97	15	4	2	0	118
Average Age	62.87	59.18	64.17	58.72	0.00	62.37
Average Benefit	\$8,637	\$11,959	\$5,149	\$7,437	\$0	\$8,920
Terminated Vested						
Number	146	48	20	30	12	256
Average Age	50.97	49.77	48.50	49.81	50.42	50.39
Average Benefit	\$6,205	\$5,233	\$5,950	\$13,943	\$3,139	\$6,766



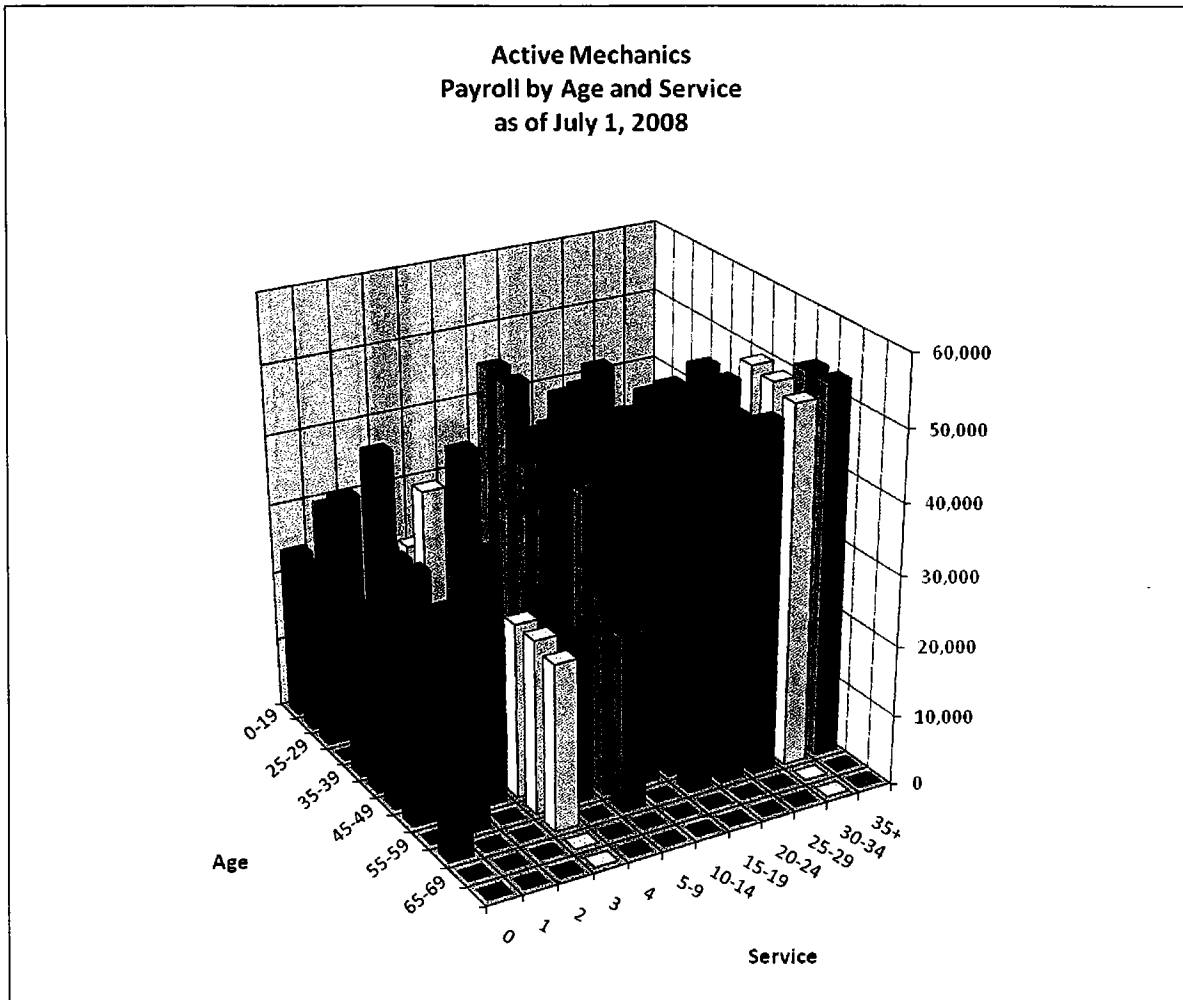
Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	10	1	1	1	0	0	0	0	0	0	0	0	13
25-29	8	3	2	5	0	1	0	0	0	0	0	0	19
30-34	9	9	4	2	1	6	1	0	0	0	0	0	32
35-39	11	9	3	4	0	15	6	1	0	0	0	0	49
40-44	13	9	2	9	1	15	7	7	3	0	0	0	66
45-49	19	7	3	3	1	24	17	25	8	1	0	0	108
50-54	19	12	6	7	3	27	14	18	9	7	5	0	127
55-59	11	11	6	1	0	13	9	14	9	6	18	2	100
60-64	2	2	0	1	0	6	7	5	4	2	9	2	40
65-69	0	0	0	0	0	2	0	2	1	0	1	2	8
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	102	63	27	33	6	109	61	72	34	16	33	6	562



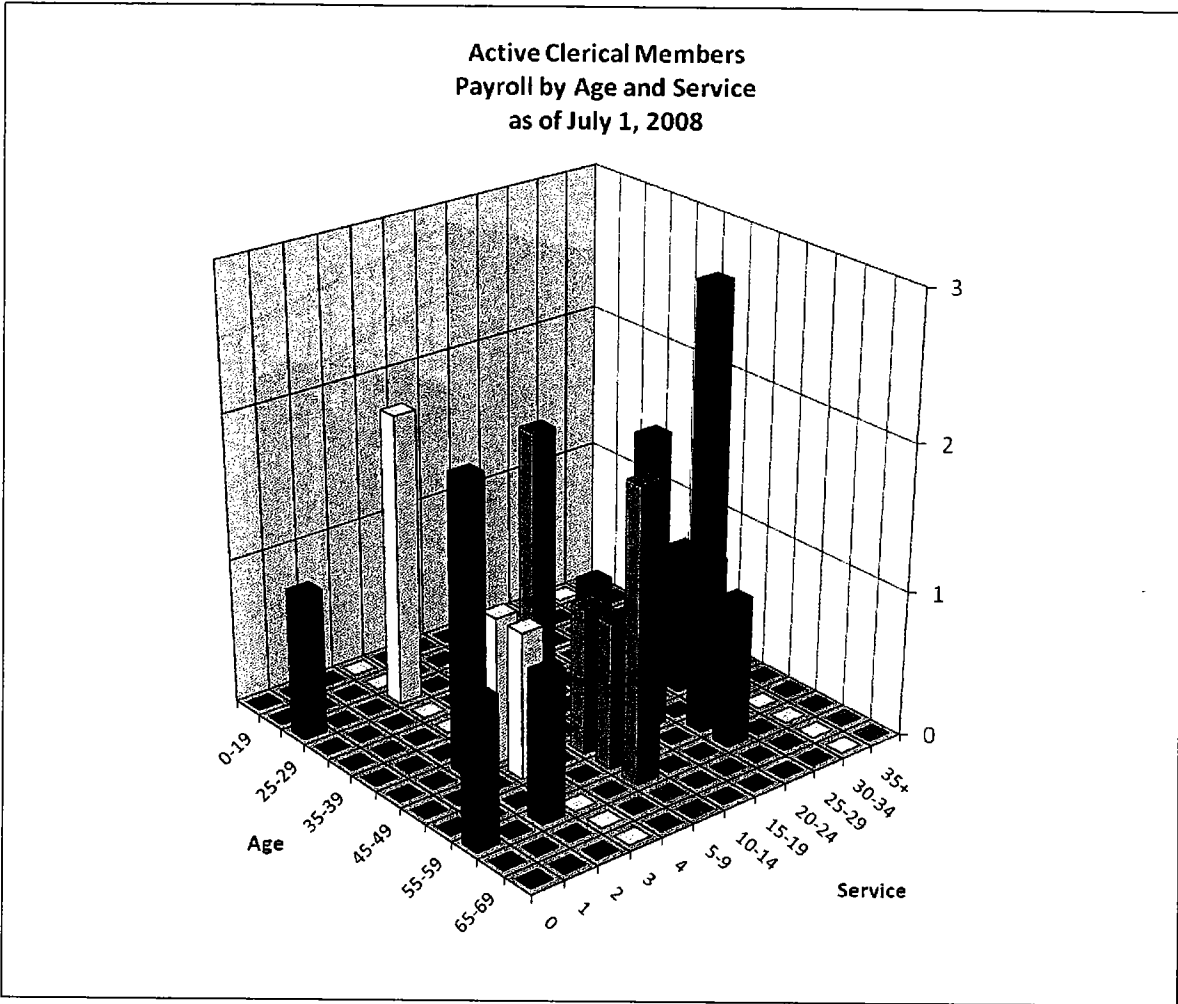
Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	24,187	28,570	29,997	33,975	0	0	0	0	0	0	0	0	25,724
25-29	23,455	35,827	27,953	33,937	0	39,681	0	0	0	0	0	0	29,494
30-34	23,585	36,075	29,599	28,966	41,744	36,285	58,320	0	0	0	0	0	32,220
35-39	24,033	29,831	36,888	40,740	0	42,103	43,204	46,577	0	0	0	0	35,588
40-44	23,866	33,612	33,447	35,363	28,620	41,786	46,467	47,342	49,477	0	0	0	37,249
45-49	24,614	31,381	33,897	37,600	48,350	40,220	44,675	46,912	55,568	68,619	0	0	40,379
50-54	24,730	28,078	35,404	37,104	35,002	43,967	46,308	47,283	51,822	58,612	52,052	0	41,003
55-59	24,290	33,060	28,054	28,802	0	41,316	45,258	48,756	51,802	51,493	51,572	44,826	42,481
60-64	25,704	32,360	0	28,022	0	41,207	45,871	44,331	55,199	58,391	55,897	71,191	47,929
65-69	0	0	0	0	0	43,841	0	37,591	55,015	0	65,281	58,037	49,904
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	24,240	32,011	32,011	35,520	37,287	41,653	45,558	46,962	52,982	56,540	53,240	58,018	39,610



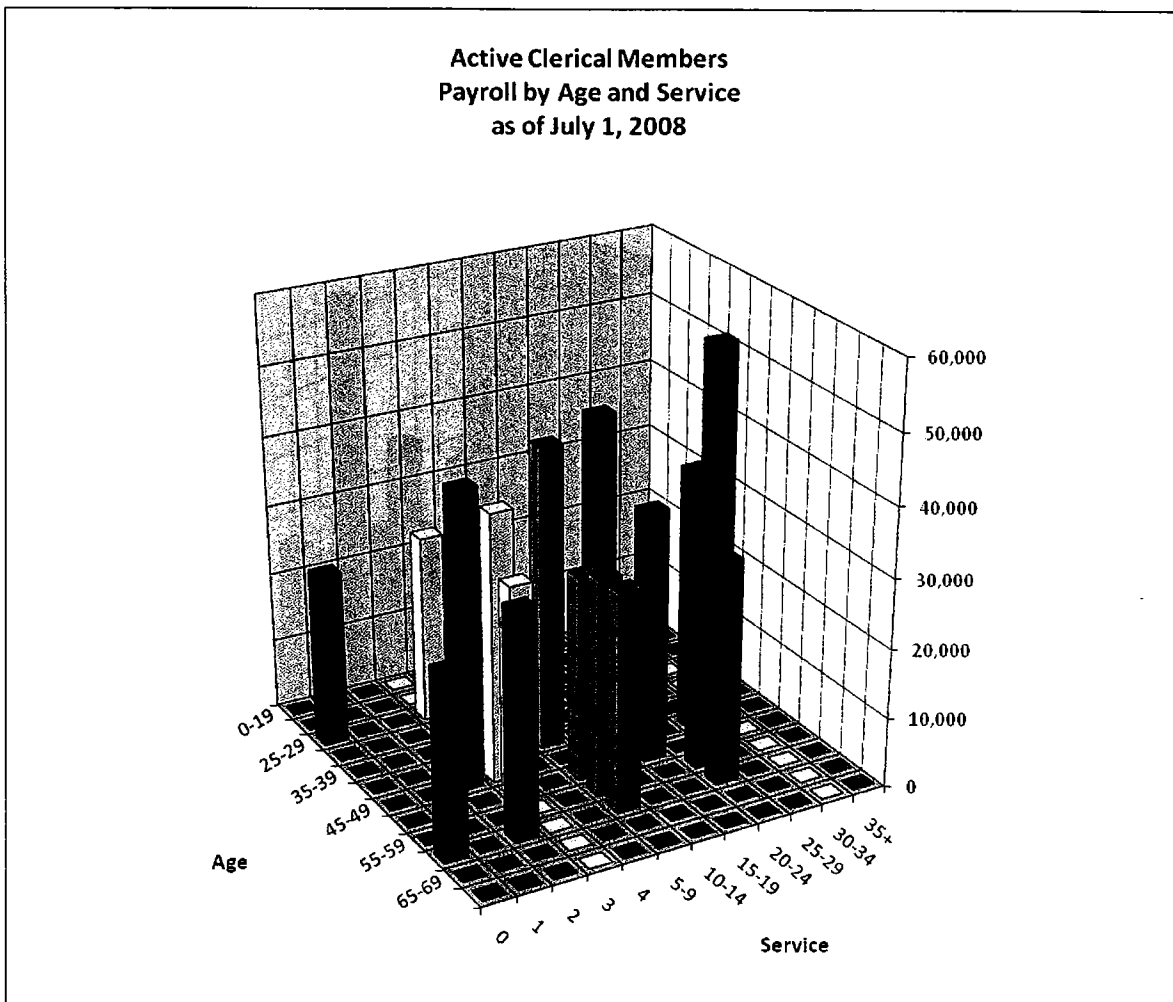
Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	1	2	0	0	0	0	0	0	0	0	0	0	3
20-24	8	6	2	1	0	0	0	0	0	0	0	0	17
25-29	2	0	2	2	1	2	0	0	0	0	0	0	9
30-34	0	0	1	0	0	4	8	0	0	0	0	0	13
35-39	1	2	0	0	0	2	2	4	0	0	0	0	11
40-44	2	1	1	1	0	5	2	3	1	0	0	0	16
45-49	3	2	0	0	1	8	6	9	6	5	0	0	40
50-54	2	0	1	1	1	4	2	7	4	6	2	0	30
55-59	0	1	0	1	1	4	2	8	2	1	6	2	28
60-64	1	0	0	1	0	1	0	3	3	2	3	2	16
65-69	0	0	0	0	0	0	0	0	0	0	0	0	0
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	20	14	7	7	4	30	22	34	16	14	11	4	183



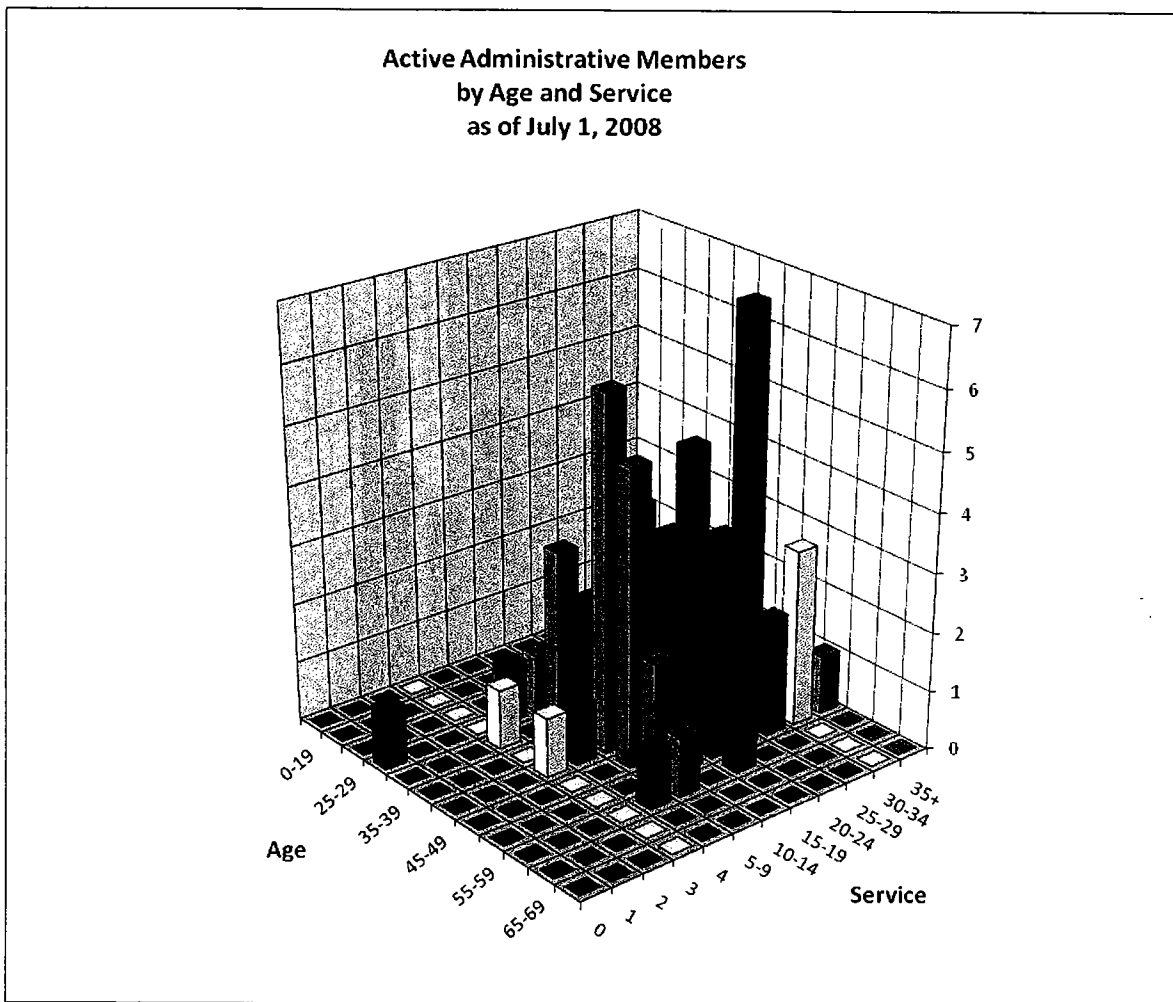
Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	23,699	29,638	0	0	0	0	0	0	0	0	0	0	27,658
20-24	23,699	32,770	38,231	23,699	0	0	0	0	0	0	0	0	28,610
25-29	23,699	0	23,699	33,679	38,231	48,972	0	0	0	0	0	0	33,148
30-34	0	0	24,800	0	0	48,503	40,762	0	0	0	0	0	41,916
35-39	23,699	29,638	0	0	0	38,656	47,498	50,301	0	0	0	0	41,499
40-44	23,699	24,878	23,699	23,699	0	40,619	50,301	45,442	47,498	0	0	0	37,950
45-49	23,699	25,245	0	0	24,878	36,547	42,642	47,555	50,301	51,984	0	0	42,110
50-54	23,699	0	35,576	24,878	50,445	40,743	40,988	48,219	47,498	51,589	53,105	0	44,884
55-59	0	24,207	0	24,800	23,699	27,739	47,498	42,453	47,498	47,498	52,524	53,105	42,219
60-64	23,699	0	0	23,699	0	24,878	0	39,649	51,236	49,618	51,340	53,105	44,025
65-69	0	0	0	0	0	0	0	0	0	0	0	0	0
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	23,699	29,625	29,705	26,876	34,313	38,785	43,387	45,930	49,250	51,156	52,307	53,105	40,403



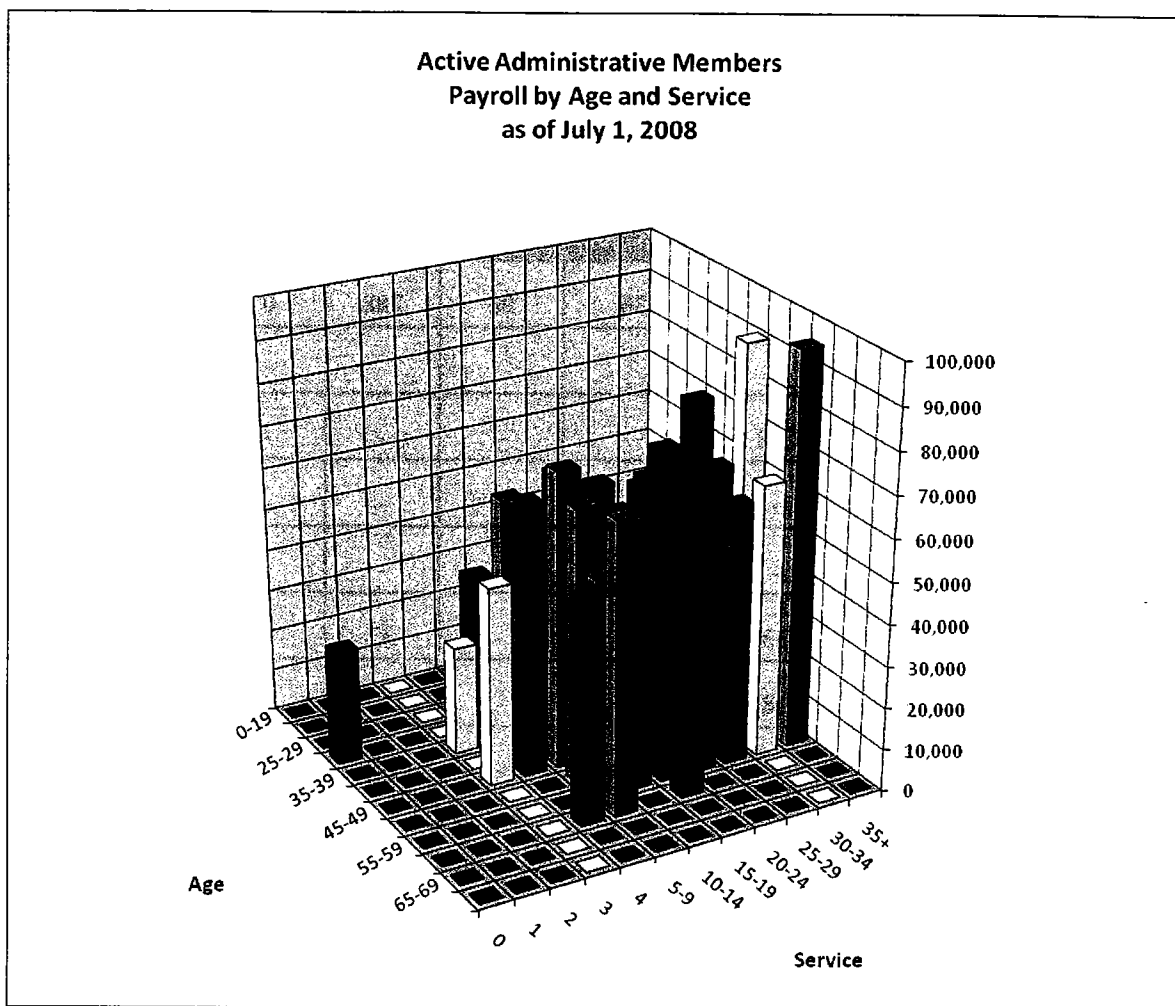
Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	0	0	0	0	0	0	0	0	0	0	0	0
25-29	1	0	0	2	0	0	0	0	0	0	0	0	3
30-34	0	0	0	0	0	0	0	0	0	0	0	0	0
35-39	0	0	0	0	0	0	0	0	0	0	0	0	0
40-44	0	0	0	0	0	2	0	0	0	0	0	0	2
45-49	0	0	2	1	0	0	1	0	0	1	0	0	5
50-54	0	0	0	1	0	1	0	2	0	1	0	0	5
55-59	0	0	0	0	0	1	0	0	3	0	0	0	4
60-64	1	0	1	0	0	2	0	0	1	0	0	0	5
65-69	0	0	0	0	0	0	0	0	0	0	0	0	0
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	2	0	3	4	0	6	1	2	4	2	0	0	24



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	0	0	0	0	0	0	0	0	0	0	0	0
25-29	25,001	0	0	27,102	0	0	0	0	0	0	0	0	26,402
30-34	0	0	0	0	0	0	0	0	0	0	0	0	0
35-39	0	0	0	0	0	0	0	0	0	0	0	0	0
40-44	0	0	0	0	0	43,650	0	0	0	0	0	0	43,650
45-49	0	0	42,762	38,542	0	0	48,690	0	0	37,996	0	0	42,150
50-54	0	0	0	30,440	0	29,296	0	36,212	0	57,356	0	0	37,903
55-59	0	0	0	0	0	31,140	0	0	38,848	0	0	0	36,921
60-64	26,569	0	32,532	0	0	31,397	0	0	31,984	0	0	0	30,776
65-69	0	0	0	0	0	0	0	0	0	0	0	0	0
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	25,785	0	39,352	30,797	0	35,088	48,690	36,212	37,132	47,676	0	0	36,181



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	0	0	0	0	0	0	0	0	0	0	0	0
25-29	0	0	0	0	0	0	0	0	0	0	0	0	0
30-34	1	0	0	0	1	1	0	0	0	0	0	0	3
35-39	0	0	0	1	0	3	2	0	0	0	0	0	6
40-44	0	0	0	0	0	0	2	1	3	0	0	0	6
45-49	0	0	0	1	1	6	4	2	2	3	0	0	19
50-54	0	0	0	0	0	5	3	5	3	7	1	0	24
55-59	0	0	0	0	0	2	1	3	3	2	3	1	15
60-64	0	0	0	0	1	1	0	1	0	0	0	0	3
65-69	0	0	0	0	0	0	0	0	0	0	0	0	0
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	1	0	0	2	3	18	12	12	11	12	4	1	76



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	0	0	0	0	0	0	0	0	0	0	0	0
25-29	0	0	0	0	0	0	0	0	0	0	0	0	0
30-34	27,498	0	0	0	37,895	54,870	0	0	0	0	0	0	40,088
35-39	0	0	0	25,974	0	57,132	62,658	0	0	0	0	0	53,781
40-44	0	0	0	0	0	0	51,441	53,766	59,231	0	0	0	55,724
45-49	0	0	0	47,601	63,912	71,083	65,968	50,004	70,955	80,647	0	0	67,671
50-54	0	0	0	0	0	65,643	62,661	69,001	72,253	67,930	95,180	0	68,694
55-59	0	0	0	0	0	52,531	56,804	65,943	65,318	62,397	65,389	94,993	64,774
60-64	0	0	0	0	53,430	69,497	0	55,858	0	0	0	0	59,595
65-69	0	0	0	0	0	0	0	0	0	0	0	0	0
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	27,498	0	0	36,788	51,746	64,197	61,405	62,706	66,574	70,187	72,837	94,993	63,975

**Changes in Plan Membership
 Drivers**

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2007	524	136	98	288	0	70	1,116
New Entrants	253	-	-	-	-	-	253
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(33)	(4)	-	37	-	4	4
Vested Terminations	(18)	18	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	(3)	-	(4)	-	7	0
Transfers	-	-	-	-	-	-	0
Died, Without Beneficiary, and Other Terminations	(164)	-	-	(1)	-	-	(165)
Beneficiary Deaths	-	-	-	-	-	(3)	(3)
Data Corrections	-	(1)	(1)	(2)	-	-	- 4
July 1, 2008	562	146	97	318	0	78	1,201

**Changes in Plan Membership
 Mechanics**

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2007	192	49	15	41	0	15	312
New Entrants	34	-	-	-	-	-	34
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(17)	(2)	-	19	-	-	0
Vested Terminations	(4)	4	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	(1)	-	-	(1)	-	2	0
Transfers	(2)	-	-	-	-	-	(2)
Died, Without Beneficiary, and Other Terminations	(19)	(3)	-	(1)	-	-	(23)
Beneficiary Deaths	-	-	-	-	-	-	0
Data Corrections	-	-	-	-	-	-	0
July 1, 2008	183	48	15	58	0	17	321

**Changes in Plan Membership
 Clerical**

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2007	29	20	3	26	0	3	81
New Entrants	4	-	-	-	-	-	4
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	-	(1)	-	1	-	-	0
Vested Terminations	(1)	1	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	-	-	(1)	-	1	0
Transfers	(3)	-	-	-	-	-	(3)
Died, Without Beneficiary, and Other Terminations	(5)	-	-	(1)	-	-	(6)
Beneficiary Deaths	-	-	-	-	-	-	0
Data Corrections	-	-	1	2	-	-	3
July 1, 2008	24	20	4	27	0	4	79

**Changes in Plan Membership
 Non-Contract**

	Vested					Beneficiaries	Total Participants
	Actives	Terminations	Disabled	Retired	DROP		
January 1, 2007	80	33	2	78	0	18	211
New Entrants	2	-	-	-	-	-	2
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(5)	(7)	-	12	-	2	2
Vested Terminations	(5)	5	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	(1)	-	(3)	-	4	0
Transfers	5	-	-	-	-	-	5
Died, Without Beneficiary, and Other Terminations	(1)	-	-	(3)	-	-	(4)
Beneficiary Deaths	-	-	-	-	-	(1)	(1)
Data Corrections	-	-	-	-	-	-	0
July 1, 2008	76	30	2	84	0	23	215

Changes in Plan Membership
Chula Vista

	Vested					Beneficiaries	Total Participants
	Actives	Terminations	Disabled	Retired	DROP		
January 1, 2007	0	13	0	2	0	0	15
New Entrants	-	-	-	-	-	-	0
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	-	-	-	-	-	-	0
Vested Terminations	-	-	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	-	-	-	-	-	0
Transfers	-	-	-	-	-	-	0
Died, Without Beneficiary, and Other Terminations	-	(1)	-	-	-	-	(1)
Beneficiary Deaths	-	-	-	-	-	-	0
Data Corrections	-	-	-	-	-	-	0
July 1, 2008	0	12	0	2	0	0	14

Changes in Plan Membership
Total of All Groups

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2007	825	251	118	435	0	106	1,735
New Entrants	293	-	-	-	-	-	293
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(55)	(14)	-	69	-	6	6
Vested Terminations	(28)	28	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	(1)	(4)	-	(9)	-	14	0
Transfers	-	-	-	-	-	-	0
Died, Without Beneficiary, and Other Terminations	(189)	(4)	-	(6)	-	-	(199)
Beneficiary Deaths	-	-	-	-	-	(4)	(4)
Data Corrections	-	(1)	-	-	-	-	- 1
July 1, 2008	845	256	118	489	0	122	1,830

1.3: Actuarial Methods and Assumptions

Actuarial Method

Annual contributions to the Retirement Plans of San Diego Transit Corporation (the Plan) are computed under the Aggregate Entry Age Actuarial Cost Method.

Under this Cost Method, Plan benefits are assumed to accrue ratably over the years from each Participant's Plan entry date to date of retirement, termination, disability, or death. At each valuation date, the actuarial present value of the benefits accrued to date is computed. This comprises the Actuarial Accrued Liability. The excess of the Actuarial Accrued Liability over Plan assets is the Unfunded Actuarial Accrued Liability, and this liability is amortized over a fixed number of years.

Amounts may be added to or subtracted from the Unfunded Actuarial Accrued Liability due to Plan amendments, changes in actuarial assumptions, and actuarial gains and losses.

The Normal Cost is obtained in three steps as follows:

1. The single sum present value of all future benefit payments to be made by the Plan to its present members and beneficiaries is determined. From this present value is subtracted the sum of:
 - a. The actuarial value of the assets in the Plan Trust Fund,
 - b. The Unfunded Actuarial Accrued Liability, and
 - c. The present value of any future contributions to be made by active members.
2. The remainder is divided by the present value of all future pay that the present members are expected to receive during their future working lifetime. The resulting quotient is a normal cost accrual rate per dollar of active member payroll.
3. The Normal Cost is obtained by multiplying the normal cost accrual rate per dollar of earnings by the total covered payroll projected for the upcoming year and adding any allowance for administrative expense.

The total Plan cost is the sum of the Normal Cost and the amortization of the Unfunded Actuarial Accrued Liability.

In the valuation as of July 1, 1999, the entire Actuarial Accrued Liability had been funded. A new Unfunded Actuarial Accrued Liability was created as of April 1, 2000, primarily as a result of improvements in Plan benefits. Therefore, beginning with the April 1, 2000 actuarial valuation, all sources of the Unfunded Actuarial Accrued Liability are combined and amortized as a level dollar payment over a rolling 30-year period.

Valuation Date	All assets and liabilities are computed as of July 1, 2008.
Rate of Return	The annual rate of return on all Plan assets is assumed to be 8.00% net of expenses.
Cost of Living	The cost of living as measured by the Consumer Price Index (CPI) is assumed to increase at the rate of 3.5% per year.

Pay for Benefits

For the most part, pay for benefits is based on each member's pay during the year preceding the valuation date. Special procedures are used in some cases, as noted below for full-time Participants.

<u>Unit</u>	Pay for Continuing <u>Participants</u>	Pay for New <u>Participants</u>
Drivers	The larger of gross pay or 1,800 hours times the member's hourly rate	
Mechanics	2,150 hours times the member's hourly rate	
Clerical	Gross pay	The larger of gross pay or 2,100 hours times the member's hourly rate
Non-Contract	Gross pay	The larger of gross pay or 2,080 hours times the member's hourly rate

Part-time Participants are assumed to work 1,040 hours in the calculations shown above.

Increases in Pay

Assumed pay increases for active Participants consist of increases due to inflation (cost of living adjustments) and those due to longevity and promotion.

Based on an analysis of pay levels and service for the Drivers and Mechanics, we assume that pay increases due to longevity and promotion will be 7.5% per year for the first ten years of service and 0.5% per year thereafter.

Based on an analysis of pay levels and service for the Clerical and Non-Contract Participants, we assume that pay increases due to longevity and promotion will be 1.5% per year.

In addition, annual adjustments in pay due to inflation will equal the CPI, for an additional annual increase of 3.5%.

Active Participant Mortality	<p>Mortality rates were reviewed in the Actuarial Experience Study for 1997-2000.</p> <p>Rates of mortality for active Drivers and Mechanics are given by the UP-1984 Mortality Table published by the Society of Actuaries.</p> <p>Rates of mortality for active Clerical and Non-Contract Participants are given by the 1994 Group Annuity Mortality (GAM) Table, weighting male rates by 50% and female rates by 50%.</p>
Retired Participant Mortality	<p>Mortality rates were reviewed in the Actuarial Experience Study for 1997-2000.</p> <p>Rates of mortality for retired Drivers and Mechanics and their spouses, beneficiaries, and survivors are given by the UP-1984 Mortality Table published by the Society of Actuaries.</p> <p>Rates of mortality for retired Clerical and Non-Contract Participants and their spouses, beneficiaries, and survivors are given by the 1994 Group Annuity Mortality (GAM) Table, weighting male rates by 50% and female rates by 50%.</p>
Disabled Participant Mortality	<p>Mortality rates were reviewed in the Actuarial Experience Study for 1997-2000.</p> <p>Rates of mortality for disabled Drivers and Mechanics are given by the PBGC Mortality Table for Members Not Receiving Social Security Benefits, weighting male rates by 75% and female rates by 25%.</p> <p>Rates of mortality for disabled Clerical and Non-Contract Participants are given by the PBGC Mortality Table for Female Members Receiving Social Security Benefits.</p>
Disability	<p>Disability rates were reviewed in the Actuarial Experience Study for 1997-2000.</p> <p>Among Drivers and Mechanics, 0.85% of Participants eligible for a disability benefit are assumed to become disabled each year. For Clerical and Non-Contract Participants, the figure is 0.20%.</p> <p>Disabled Participants are assumed not to return to active service.</p>

Service Retirement

Retirement rates were reviewed in the Actuarial Experience Study for 2001-2005.

Retirement among Participants eligible to retire is assumed to occur at the ages shown in the following table:

<u>Age</u>	<u>Prior Rate</u>	<u>ATU/IBEW</u>	<u>Clerical/Non</u>
53	20%	0%	15%
54	7.5%	0%	15%
55	7.5%	5%	30%
56	7.5%	5%	30%
57	7.5%	5%	30%
58	7.5%	5%	30%
59	7.5%	10%	30%
60	7.5%	10%	30%
61	7.5%	10%	30%
62	25%	30%	60%
63	25%	30%	60%
64	25%	30%	60%
65	25%	55%	60%
66	25%	30%	60%
67	25%	30%	60%
68	25%	30%	60%
69	25%	30%	60%
70+	100%	100%	100%

Plan Expenses

No allowance for Plan administrative expenses has been included in the annual cost calculated.

Family Composition

All Participants are assumed to be married. Male spouses are assumed to be four years older than their wives.

Employment Status

No future transfers among member groups are assumed.

Termination

Termination rates were reviewed in the Actuarial Experience Study for 2001-2005.

Rates of termination for all Participants from causes other than death, disability, and service retirement are shown in the tables below. In each age group, the rate is shown at the central age. The rates are not applied to Participants eligible to retire.

The table below shows the assumed termination rates for ATU and IBEW members.

	<u>Prior Rates</u>		<u>Current Rates</u>			
	Under 3 Age Years	3+ Years	0-1 Years	2-3 Years	4-9 Years	10+ Years
20-24	25.0%	15.0%	25.0%	14.0%	8.0%	1.3%
25-29	22.6%	9.7%	25.0%	14.0%	8.0%	1.3%
30-34	20.2%	6.2%	25.0%	14.0%	8.0%	1.3%
35-39	17.8%	4.0%	25.0%	14.0%	8.0%	1.3%
40-44	15.3%	2.6%	25.0%	14.0%	8.0%	1.3%
45-49	12.9%	1.7%	25.0%	14.0%	8.0%	1.3%
50-54	10.5%	1.1%	25.0%	14.0%	8.0%	1.3%
55+	0.0%	0.0%	25.0%	14.0%	8.0%	0.0%

The table below shows the assumed termination rates for Non-Contract members.

Age	Prior Rates	<u>Current Rates</u>		
		0-3 Years Service	4-9 Years Service	10+ Years Service
20-24	8.0%	20.0%	7.0%	5.0%
25-29	7.1%	20.0%	7.0%	5.0%
30-34	6.3%	20.0%	7.0%	5.0%
35-39	5.5%	20.0%	7.0%	5.0%
40-44	4.9%	20.0%	7.0%	5.0%
45-49	4.3%	20.0%	7.0%	5.0%
50-54	0.0%	20.0%	7.0%	5.0%
55-59	0.0%	20.0%	7.0%	0.0%
60+	0.0%	0.0%	0.0%	0.0%

Termination (Continued)

The table below shows the assumed termination rates for clerical members. These are unchanged from the prior valuation.

<u>Age</u>	<u>Clerical</u>
20-24	40.00%
25-29	28.43%
30-34	20.21%
35-39	14.37%
40-44	10.21%
45-49	7.26%
50-52	5.16%
53+	0.00%

Actuarial Value of Plan Assets

Actuarial gains and losses from Plan investments over the four years prior to the valuation date are recognized at the rate of 20% per year in computing the actuarial value of Plan assets. The actuarial value of assets is constrained to within 20% of market value.

Participant Data

Data on active and inactive Members and their beneficiaries as of the valuation date was supplied by the Plan Administrator on electronic media. As is usual in studies of this type, Member data was neither verified nor audited.

Section 2:

Asset Information

2.1: Income Statement: July 1, 2007 through June 30, 2008

	<u>Market</u>	<u>Expected</u>
Balance July 1, 2007	\$168,378,632	\$168,378,632
Employer Contributions	4,655,668	4,655,668
Investment Income	(5,265,896)	13,356,916
Net Benefit Payments	(11,325,295)	(11,325,295)
Other Expenses	(820,414)	(820,414)
Balance June 30, 2008	\$155,622,695	\$174,245,507
Estimated Return	-3.20%	8.00%

2.2: Computation of Actuarial Value of Assets

<u>Plan Year</u> ¹	<u>Assumed Earnings</u>	<u>Actual Earnings</u>	<u>Unexpected Earnings</u>	<u>Phase-In Factor</u>	<u>Phase-In Adjustment</u> ²
2006-07	12,165,718	21,767,825	9,602,107	0.6	5,761,264
2007-08	13,356,916	(5,265,896)	(18,622,812)	0.8	(14,898,250)
Total Adjustment					(9,136,986)
Market Value June 30, 2008					155,622,695
Actuarial Value June 30, 2008 (Market Value less Total Adjustment, within 80%/120% Corridor of Market Value)					164,759,681
Ratio to Market Value					105.87%

¹ Five year asset smoothing was reset as of July 1, 2006 due to the change in valuation date from January 1 to July 1. 2006-07 and future investment gains and losses will be recognized over a period of five years.

² Phase-in factor times unexpected earnings

Section 3:

Actuarial Computations

3.1: Computation of Annual Contribution

	<u>July 1, 2007</u>	<u>July 1, 2008</u>
(1) <u>Active Accrued Liability</u>		
ATU	42,620,746	41,391,274
IBEW	17,965,367	15,460,610
Clerical	2,292,446	2,132,950
Non-Contract	<u>21,220,579</u>	<u>21,186,223</u>
Total	84,099,138	80,171,057
(2) <u>Active Projected Liability</u>		
ATU	54,102,357	54,100,162
IBEW	21,709,075	19,007,263
Clerical	2,622,850	2,396,058
Non-Contract	<u>23,024,899</u>	<u>22,802,697</u>
Total	101,459,181	98,306,180
(3) <u>Inactive Liability</u>		
ATU	57,879,352	62,609,387
IBEW	7,139,560	10,345,574
Clerical	2,740,893	3,138,375
Non-Contract	<u>34,752,518</u>	<u>39,359,763</u>
Total	102,512,323	115,453,099
(4) Total Actuarial Accrued Liability (1) + (3)	186,611,461	195,624,156
(5) Assets	160,696,946	164,759,680
(6) Unfunded Accrued Liability (4) – (5)	25,914,515	30,864,476
(7) 30-Year Amortization of Unfunded Accrued Liability	2,131,407	2,538,530
(8) Total Projected Liability (2) + (3)	203,971,504	213,759,279
(9) Present Value of Future Normal Costs (8) – (4)	17,360,043	18,135,123
(10) Present Value of Future Member Payroll	256,315,297	258,563,820
(11) Normal Cost (% of Member Payroll) (9) / (10)	6.773%	7.014%
(12) Projected Member Payroll	33,026,594	33,251,305
(13) Normal Cost (\$) (11) X (12)	2,236,866	2,332,177
(14) Total Cost (7) + (13)	4,368,273	4,870,707
(15) Total Cost (Interest Adjusted) (14) X 1.08	4,717,735	5,260,364
(16) Cost (% Member Payroll) (15) / (12)	14.285%	15.820%

Section 4:

Disclosure Information

4.1: Schedules of Funding Status and Employer Contributions Required Under GASB Statement No. 25

The Governmental Accounting Standards Board (GASB) Statements No. 25 and 27 relate to the disclosure of pension liabilities on a public employer's financial statements. For accounting periods beginning after June 15, 1996, information required under these statements must be prepared for a public employer who seeks compliance with generally accepted accounting principles (GAAP) on behalf of its public employee retirement system.

GASB Statement No. 25 requires preparation of schedules of funding status and employer contributions, as well as the disclosure of plan provisions, actuarial assumptions, and other information.

The required schedules are shown below. In each case, we have relied upon information from our files and contained in the reports of prior actuaries employed by the employer in completing the schedules. While we have no reason to believe the information in our files or in prior actuaries' reports is inaccurate, we strongly recommend that employer personnel verify the schedules below before they are included in Plan or employer financial statements.

Schedule of Funding Status						
Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Accrued Liability	Unfunded Actuarial Accrued Liability	Funded Ratio	Covered Payroll	Unfunded Liability as a Percent of Payroll
7/1/94	41,150,550	48,598,130	7,447,580	85%	30,446,521	24%
7/1/95	43,088,223	49,675,115	6,586,892	87%	30,097,199	22%
7/1/96	52,287,086	51,786,729	(500,357)	101%	29,501,808	-2%
7/1/97	61,387,821	54,474,874	(6,912,947)	113%	32,932,552	-21%
7/1/98	65,958,070	62,203,756	(3,754,314)	106%	34,371,069	-11%
7/1/99	70,915,059	70,205,508	(709,551)	101%	36,705,306	-2%
4/1/00	76,603,624	83,858,909	7,255,285	91%	39,890,376	18%
1/1/01	75,196,033	94,343,205	19,147,172	80%	40,510,107	47%
1/1/02	74,859,876	119,777,766	44,917,890	62%	38,245,667	117%
1/1/03	56,330,528	125,584,398	69,253,870	45%	34,944,956	198%
1/1/04	78,667,471	132,307,053	53,639,582	59%	36,236,639	148%
1/1/05	152,877,022	162,878,929	10,001,907	94%	34,858,941	29%
1/1/06	153,083,086	168,877,304	15,794,218	91%	34,958,968	45%
7/1/07	160,696,946	186,611,461	25,914,515	86%	33,026,594	78%
7/1/08	164,759,680	195,624,156	30,864,476	84%	33,251,305	93%

We note in the schedule above that in the valuation as of January 1, 2002, the Plan's assumptions were modified to incorporate the results of an actuarial experience study for the years 1997-2000. As a result of these assumption changes and a minor benefit improvement, Plan liabilities and costs increased significantly.

In the valuation as of January 1, 2004, the Actuarial Value of Assets was changed from the market value to a five-year smoothing method. In 2004, a Pension Obligation Bond was issued, and subsequently \$76 million was contributed to the Plan, which is reflected in the January 1, 2005 asset value.

Schedule of Employer Contributions

Year Ending	Annual Required Contribution	Actual Contribution	Percentage Contributed
6/30/96	1,774,262	1,774,262	100%
6/30/97	986,683	986,683	100%
6/30/98	446,001	446,001	100%
6/30/99	876,786	876,786	100%
6/30/00	1,351,090	1,351,090	100%
12/31/01	3,068,323	3,068,323 (Est)	100%
12/31/02	6,436,083	6,436,083 (Est)	100%
12/31/03	5,880,631	4,691,246	80%
12/31/04 ¹	7,135,333	76,282,335	1,069%
12/31/05 ²	3,884,661	1,800,066	46%
6/30/07 ³	4,575,781	4,575,781	100%
6/30/08 ⁴	4,655,668	4,655,668	100%

The table below summarizes certain information about this actuarial report.

Valuation date	July 1, 2008
Actuarial cost method	Aggregate entry age normal
Amortization method	Level dollar open
Remaining amortization period	30 Years (Level dollar open)
Asset valuation method	Market value less unrecognized investment gains or losses during the prior four years, phased in at 20% per year, but required to be within 20% of market value
Actuarial assumptions:	
Investment rate of return*	8.00%
Projected salary increases*	4.00 – 11.00% for drivers and mechanics 5.00% for administrative and clerical members
*Includes inflation at	3.50%
Cost of living adjustments	Up to 2% annually for certain Non-Contract members only

¹ Based on 1/1/04 contribution percentage multiplied by 2005 projected payroll
² Based on 1/1/05 contribution percentage multiplied by 2006 projected payroll
³ Based on 1/1/06 contribution percentage multiplied by 2007 projected payroll
⁴ Based on 1/1/06 contribution percentage multiplied by 2007-08 projected payroll

Retirement Plans of San Diego Transit Corporation

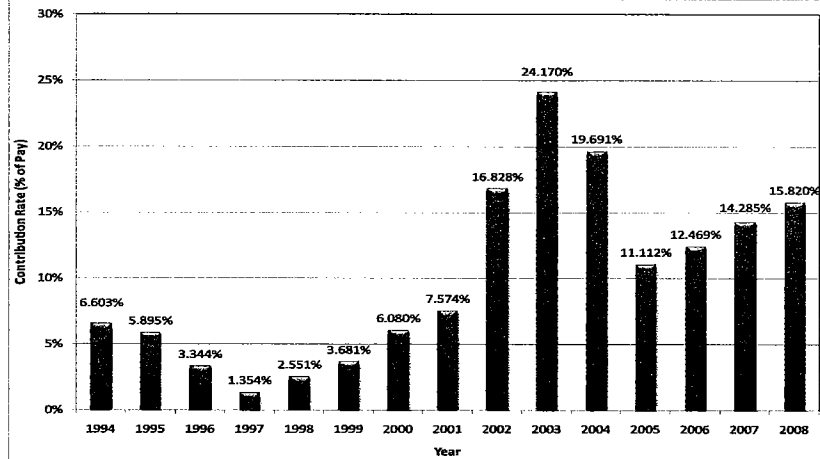
Actuarial Review and Analysis as of July 1, 2008

Bob McCrory, FSA
EFI Actuaries

Introduction

- ◆ History of Plan cost
- ◆ Current Plan cost
- ◆ History of Plan funding ratios
- ◆ Funding ratio basics
- ◆ Comparisons with other districts
- ◆ Project future Plan costs
- ◆ Coming attractions

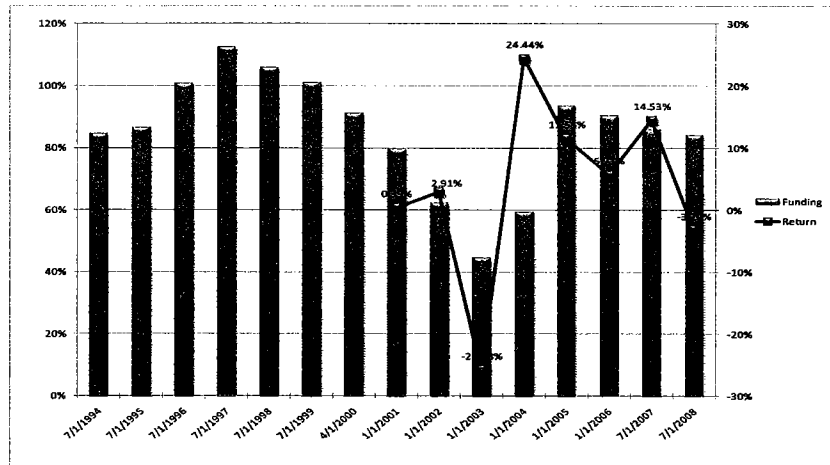
History of Costs



Current Cost

	<u>Cost as % of Payroll</u>
July 1, 2007 (Section 3.1, Column 1)	14.285%
Change in cost due to demographic gains/losses from July 1, 2007 to July 1, 2008	2.021%
Change in cost due to gains/losses from salary increases from July 1, 2007 to July 1, 2008	(0.327)%
Change in cost due to entry of new hires into the Plan from July 1, 2007 to July 1, 2008	(0.477)%
Change in cost due to investment gains/losses from July 1, 2007 to July 1, 2008	0.318%
July 1, 2008 (Section 3.1, Column 2)	15.820%

History of Funding Ratio



Funding Ratio

- ◆ Assets are 84% of target
 - "Actuarial accrued liability" is not a liability
 - AAL is a target level of assets
 - Assets are about 84% of that target
- ◆ Contributions increase to catch up with asset target
 - About one half of contribution is devoted to funding the actuarial accrued liability

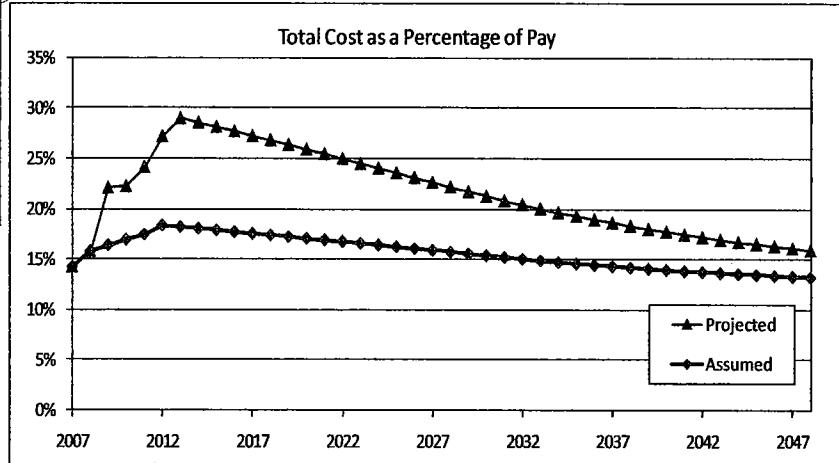
Funding Ratio Misconceptions

- ◆ Plan sponsor is not failing to contribute
 - All required contributions have been made
 - Below target because of actuarial experience, or
 - Below target because of investment returns, or
 - Below target because of benefit increases, or both
- ◆ Plan is not insolvent or unsound
 - Sound as long as contribution is affordable
 - Includes cost of current accruals (normal cost)
 - Includes cost to fund the asset target over time (amortization of unfunded liability)

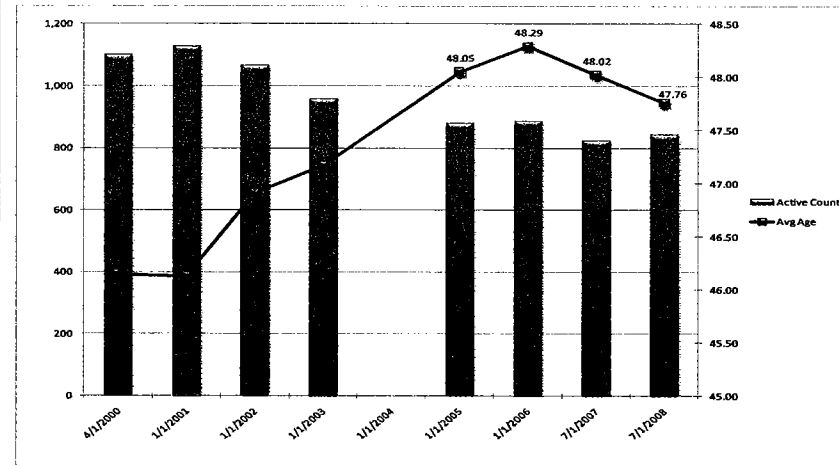
Comparison With Other Districts

<u>District</u>	<u>Cost (% Pay)</u>	<u>Funding Ratio</u>
AC Transit	28.16%	61.1%
Sacramento RT	17.83%	78.3%
San Diego Transit	15.82%	84.2%
VTA	18.25%	73.5%

Future Costs



History of Active Membership

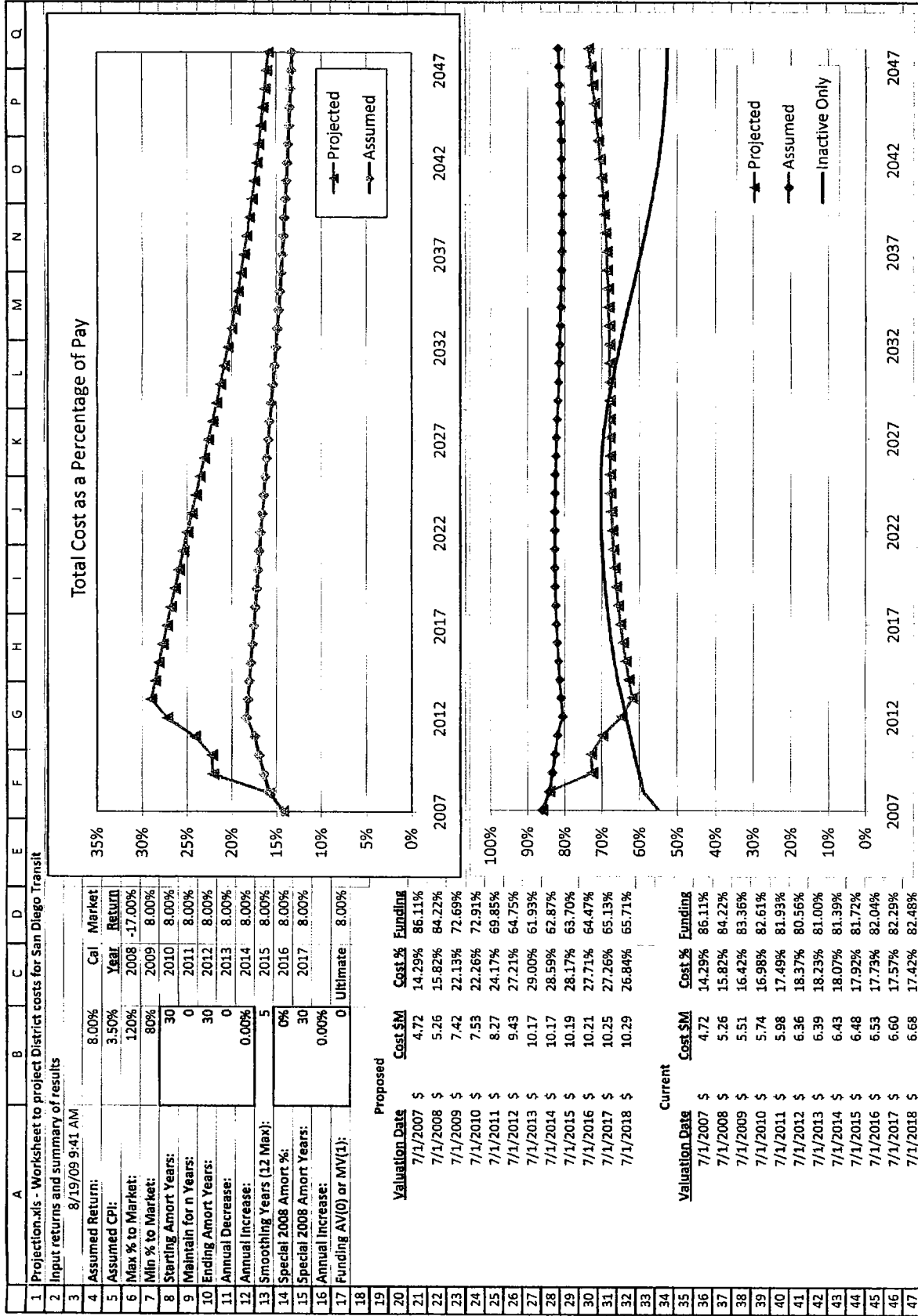


Projects for Next Year

- ◆ Changing membership suggests a comprehensive review of methods and assumptions
- ◆ Assumptions
 - Last review was for years 2001-05
 - New actuarial experience study is due
- ◆ Funding methods need to be reviewed
 - Are they appropriate for a reduced and older workforce?
 - Are they appropriate in the wake of recent asset losses?

Contact Information

- Bob McCrory
(206) 328-8628
bobmccrory@efi-actuaries.com
- Graham Schmidt
(415) 439-5313
gschmidt@efi-actuaries.com



Valuation Date	Cost \$M	Cost %	Funding
7/1/2007	4.72	14.29%	86.11%
7/1/2008	5.26	15.82%	84.22%
7/1/2009	7.42	22.13%	72.69%
7/1/2010	7.53	22.26%	72.91%
7/1/2011	8.27	24.17%	69.85%
7/1/2012	9.43	27.21%	64.75%
7/1/2013	10.17	29.00%	61.93%
7/1/2014	10.17	28.59%	62.87%
7/1/2015	10.19	28.17%	63.70%
7/1/2016	10.21	27.71%	64.47%
7/1/2017	10.25	27.26%	65.13%
7/1/2018	10.29	26.84%	65.71%

Valuation Date	Cost \$M	Cost %	Funding
7/1/2007	4.72	14.29%	86.11%
7/1/2008	5.26	15.82%	84.22%
7/1/2009	5.51	16.42%	83.36%
7/1/2010	5.74	16.98%	82.61%
7/1/2011	5.98	17.49%	81.93%
7/1/2012	6.36	18.37%	80.56%
7/1/2013	6.39	18.23%	81.00%
7/1/2014	6.43	18.07%	81.39%
7/1/2015	6.48	17.92%	81.72%
7/1/2016	6.53	17.73%	82.04%
7/1/2017	6.60	17.57%	82.29%
7/1/2018	6.68	17.42%	82.48%

Handed out @ mtg 8/20/09



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 45

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

OPS 960.5

August 20, 2009

SUBJECT:

SDTC: PENSION INVESTMENT STATUS

RECOMMENDATION:

That the Board of Directors receive a report for information.

Budget Impact

None at this time.

DISCUSSION:

Attachment A is a copy of RV Kuhn's pension investment performance analysis for San Diego Transit Corporation's (SDTC's) employee retirement plans as of June 30, 2009. During the fourth quarter of 2009, the plan's assets increased by approximately \$9.5 million and had an investment return of 10.8% for the quarter. The fourth quarter's positive return helped to offset some of the plan's earlier loss; however, the investment return for FY 2009 was still negative coming in at -17.3%. The pension plan's investment advisor, Bruno Grimaldi, will be attending the meeting to discuss the capital market's performance in general and SDTC's pension plan performance specifically. This report is being provided to the Board as an informational item only.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Cliff Telfer, 619.557.4532, cliff.telfer@sdmts.com

AUG20-09.45.PENSION INVESTMT STATUS.CTELFER.doc

Attachment: A. SDTC Pension Plan Investment Review - **Board Only Due to Volume**
(Available on MTS's Web site)



1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • www.sdmts.com

Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations), and San Diego Vintage Trolley, Inc., a 501(c)(3) nonprofit corporation, in cooperation with Chula Vista Transit. MTS is the taxicab administrator for seven cities. MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.

San Diego Transit Corporation Employees Retirement Plan

Investment Performance Analysis

Quarter Ended
June 30, 2009

Prepared By
Amanda Kingsbury

1 Penn Plaza, Suite 2128
New York, New York 10119
646.805.7075
www.rvkuhns.com



RVKuhns

▶ ▶ & ASSOCIATES, INC.

San Diego Transit Corporation Employees Retirement Plan
Table of Contents

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Section 3	Asset Allocation and Performance Review	Page 16
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San Diego Transit Corporation Employees Retirement Plan
Executive Summary
As of June 30, 2009

The San Diego Transit Corporation Employees Retirement Plan had a total market value of \$121,488,228 on June 30, 2009, an increase of approximately \$9.5 million from March 31, 2009.

As of June 30, 2009, equity and REIT investments comprised 46.53% of the portfolio (under the 55.0% equity target), fixed income and cash investments comprised 39.70% (over the target of 32.5%), and alternative investments comprised 13.77% of the portfolio (over the target of 12.5%).

For the quarter ending June 30, 2009, the Total San Diego Transit Portfolio returned 10.80%, and underperformed the policy index by 233 basis points. This return ranked at the 59th percentile in the All Corporate Plans (\$20 million to \$250 million) Plan Sponsor universe for the quarter. The Plan has outperformed its peer group median over a longer term period of 10 years, ranking in the 45th percentile.

During the second quarter, the Westwood Large Cap Value Portfolio underperformed the Russell 1000 Value Index (12.52% vs. 16.69%), and ranked at the 90th percentile in the US Value/Large Cap Equity (SA+CF) universe. The Portfolio invests in about 50 high quality companies that appear undervalued relative to their forecasted growth rate based on proprietary research. The Portfolio remains fully invested (95-100%) at all times.

The Rainier Large Cap Equity Portfolio returned 12.67% during the second quarter of 2009, underperforming the Russell 1000 Growth Index by 365 basis points. The Portfolio ranked at the 75th percentile in the US Growth/Large Cap Equity (SA+CF) universe. Rainier Investment management seeks to maximize long-term capital appreciation. The investment philosophy utilizes a GARP approach to purchase companies with superior earnings and attractive valuations.

For the quarter ending June 30, 2009, Westwood SMid Cap Equity returned 17.39% versus 18.76% for the Russell 2500 Value Index. Westwood ranked at the 65th percentile in the US Small/Mid Cap Value (SA+CF) universe. The Portfolio invests in value securities ranging from \$100 million to \$10 billion with a selection of approximately 46-60 securities. The Fund seeks sector diversity as well as a below market risk profile.

During the second quarter of 2009, the Boston Company SMid Cap Growth Portfolio returned 12.80%, underperforming the Russell 2500 Growth Index by 899 basis points. The Portfolio ranked at the 85th percentile in the US Small/Mid Cap Growth (SA+CF) universe. The Boston Company management is focused on fundamental analysis, using earnings as the key barometer for stock appreciation. The fund seeks to remain fully invested in all market cycles with a range of 90-150 holdings.

The Cohen & Steers Institutional Realty Fund posted a return of 29.53% for the quarter, underperforming the Wilshire US REIT Index return of 31.66%. The Fund ranked at the 54th percentile in the Real Estate Sector Funds (MF) universe. The Fund seeks maximum total return through both the current income and capital appreciation by investing in real estate securities, primarily real estate investment trusts (REITs).

Brandes Global Large Cap Portfolio returned 19.84% for the quarter, underperforming the MSCI World Index (Gross) return of 21.05%. The Portfolio ranked at the 51st percentile in the Global Equity (SA+CF) universe. The Portfolio is designed for investors who seek long-term capital appreciation along with diversification and value equity management.

TT International Investment Trust Active International Equity underperformed the MSCI EAFE Index (Gross) (21.60% vs. 25.85%), and ranked at the 77th percentile for the quarter against the International Equity All (SA+CF) universe. The actively managed fund's returns are driven by a combination of currency management, a top-down, and a bottom up approach to international equity. TT International focuses on mid to large cap equity holdings in Europe, Australasia, and the Far East. The Fund protects capital through currency management and will hedge up to 100% of the portfolio.

JP Morgan Core Bond Trust returned 3.18% for the quarter, outperforming the Barclays Capital U.S. Aggregate Bond Index return by 140 basis points on a relative basis. The Trust ranked at the 53rd percentile in the US Broad Market Core Fixed Income (SA+CF) universe. The Trust invests mainly in investment grade bonds and debt securities. These

Note: Performance versus SA+CF or plan sponsor peer groups is shown gross of fees, while performance versus MF peer groups is shown net of fees.

San Diego Transit Corporation Employees Retirement Plan
Executive Summary
As of June 30, 2009

include U.S. government obligations and mortgage-backed securities.

The PIMCO Total Return Fund returned 4.71% for the quarter and outperformed the Barclays Capital U.S. Aggregate Bond Index by 293 basis points on a relative basis. The Fund ranked at the 53rd percentile in the US Broad Market Core Fixed Income Funds (MF) universe for the quarter. The Fund uses a core bond portfolio strategy that seeks maximum current income and price appreciation consistent with the preservation of capital and prudent risk taking. All sectors of the bond markets are utilized to add value while maintaining an overall risk level similar to the benchmark.

The Loomis Sayles World Bond Trust returned 10.97% during the second quarter and outperformed the Citigroup World Government Bond Index, which returned 3.49%. The Fund ranked at the 28th percentile in the Global Fixed Income (SA+CF) universe for the quarter. The objective of the Fund is to seek a high total investment return through a combination of high current income and capital appreciation. At the end of Jun-2008, the Fund (LSGBX) was sold to transition into the Loomis Sayles World Bond Trust commingled fund (CF) equivalent.

The Wellington Diversified Inflation Hedges (Gross) returned 19.09% for the quarter. The fund outperformed the CPI + 5% and the Wellington Diversified Inflation Hedges Composite Index, which returned 2.65% and 13.53%, respectively. The Fund seeks to provide real return performance which is measured against the Consumer Price Index plus 5%.

The PIMCO All Asset Fund (Net) returned 12.60% for the quarter, outperforming the CPI + 5% by 995 basis points. The fund outperformed the All Asset Composite Index, which posted a return of 9.44%. The Fund invests in a combination of other PIMCO products to preserve capital while maximizing the real return for the underlying assets and providing a diversified inflation hedge for the Portfolio.

The PAAMCO Pacific Hedged Strategies Portfolio (Net) returned 5.65% for the quarter and outperformed its custom benchmark (3 Month LIBOR + 5%) by 418 basis points. The Portfolio seeks to match or outperform its return objective of 500 to 600 basis points above LIBOR by investing in a diversified portfolio of hedge funds and strategies with the goal of preserving capital and adding appreciable value (alpha).

Note: Performance versus SA+CF or plan sponsor peer groups is shown gross of fees, while performance versus MF peer groups is shown net of fees.

Capital Markets Review As of June 30, 2009

Capital Markets Review

Second Quarter Economic Environment

The second quarter of 2009 was marked by cautious optimism as the rate of contraction across economic indicators slowed, yet investors await significant positive growth as a sign of a lasting recovery. The Federal Reserve held the Federal Funds Rate to a range of 0% to 0.25%, but many global central banks cut short-term target rates during the quarter. The US Dollar Index, which measures the Dollar against a basket of most commonly traded world currencies, fell 6.2% during the second quarter as some world leaders called for a new world currency. Unemployment continues to weigh on consumer sentiment; the U.S. seasonally adjusted unemployment rate reached 9.5% in the second quarter, compared to 8.5% at the close of the first quarter and 7.6% in January.

Despite persisting concerns, returns for the quarter were positive for all asset classes with the exception of U.S. Treasuries and private real estate. The Pending Home Sales Index rose for four consecutive months, and the credit markets appear to be regaining strength, as many banks have repaid their TARP loans and creditworthy companies are able to borrow again. The Consumer Price Index rose modestly by 1.4% in the second quarter but has fallen by 1.4% over the last 12 months. Finally, long-term interest rates on Treasury securities rose throughout the quarter. The yield on the 10-Year Note climbed from 2.71% in March to 3.53% in June. Despite the Federal Reserve's attempts to hold rates low, investors' embrace of riskier assets contributed to a sell-off in Treasuries and consequent rise in yields.

Second Quarter Equities

During the second calendar quarter the U.S. stock market posted its largest gain since December 1998. The S&P 500 Index rose by 15.93% in the quarter and has risen 36.88% since its March 9, 2009 low. Each of the sectors that make up the S&P 500 Index posted positive returns for the quarter. The Financial sector rebounded strongly from first quarter losses and was the best performing sector during the second quarter. Small capitalization stocks outperformed larger stocks during the quarter. Growth and value stocks posted similar gains in the large-cap segment of the market, while smaller-capitalization growth stocks outperformed their value counterparts by a five-percentage-point margin. Risk was also rewarded in the international markets, which were led by the emerging markets and smaller issues. As measured by the MSCI All Country World Ex US Index, all sectors posted positive returns with Financials leading other sectors.

Second Quarter Fixed Income

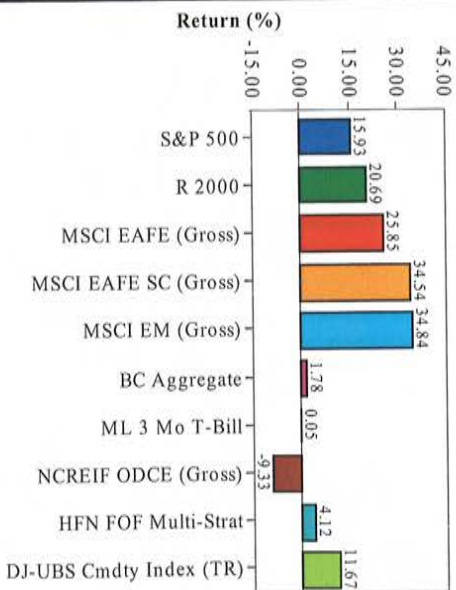
The only sector of the Barclays Capital Aggregate Bond Index to post negative returns in the second quarter was Treasuries. Long-Term Corporates posted the strongest gains in the quarter, yet fixed-rate mortgage-backed securities have posted the largest gains over the one-, three-, and five-year trailing periods. Within the corporate fixed income space, high yield outperformed other credit qualities by a significant margin during the second quarter.

Trailing-Period Performance

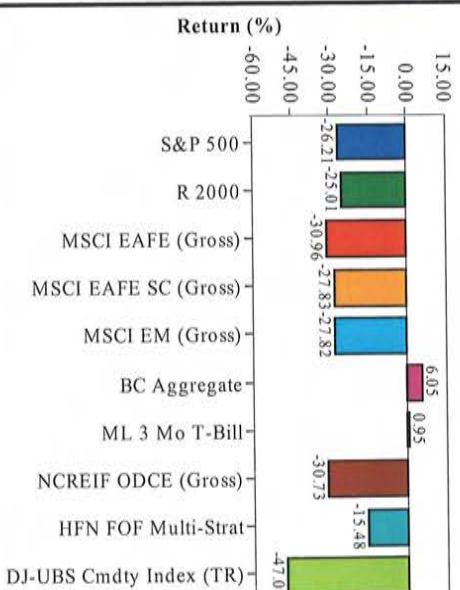
	1 Month Ending Apr-2009	1 Month Ending May-2009	1 Month	1 Quarter	Year To Date	1 Year	3 Years	5 Years	10 Years
S&P 500	9.57	5.59	0.20	15.93	3.16	-26.21	-8.22	-2.24	-2.22
R 2000	15.46	3.01	1.47	20.69	2.64	-25.01	-9.89	-1.70	2.38
MSCI EAFE (Gross)	12.96	12.01	-0.54	25.85	8.42	-30.96	-7.51	2.79	1.59
MSCI EAFE SC (Gross)	15.44	14.29	1.98	34.54	21.79	-27.83	-9.52	2.99	5.44
MSCI EM (Gross)	16.66	17.15	-1.33	34.84	36.22	-27.82	3.27	15.08	9.02
BC Aggregate	0.48	0.73	0.57	1.78	1.90	6.05	6.43	5.01	5.98
ML 3 Mo T-Bill	0.03	0.01	0.01	0.05	0.10	0.95	3.25	3.17	3.23
NCREIF ODCE (Gross)	N/A	N/A	N/A	-9.33	-21.74	-30.73	-4.13	4.31	6.82
HFN FOF Multi-Strat	0.83	3.00	0.26	4.12	4.30	-15.48	-1.30	2.38	5.94
DJ-UBS Cmtly Index (TR)	0.73	13.00	-1.90	11.67	4.62	-47.08	-8.30	-0.23	7.21

Performance is annualized for periods greater than one year.

1 Quarter

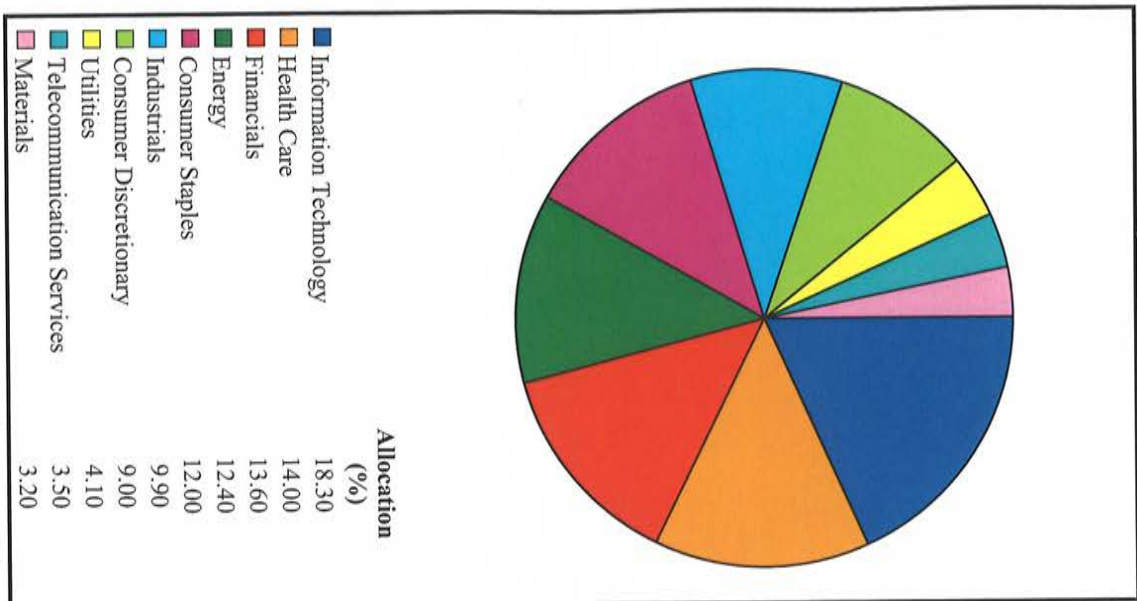


1 Year

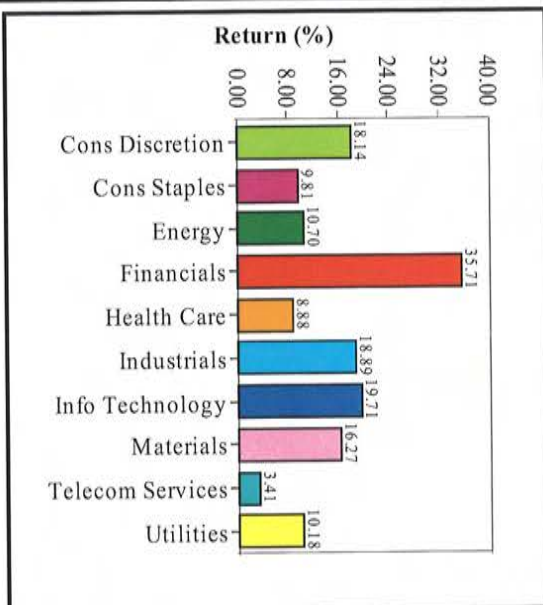


Domestic Equity Sector Weights and Returns As of June 30, 2009

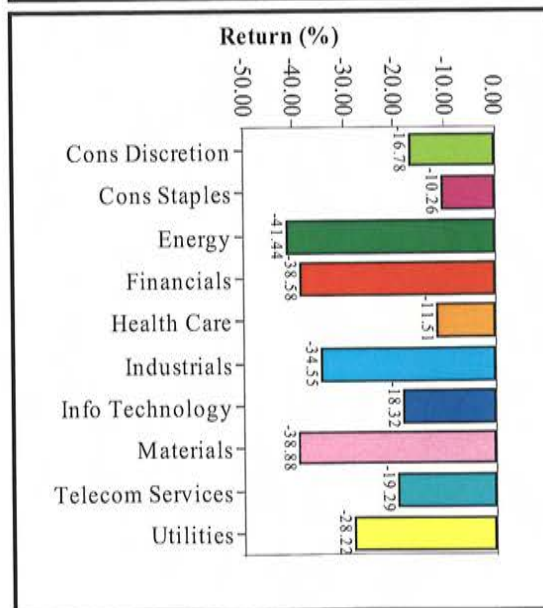
S&P 500 Sector Weights



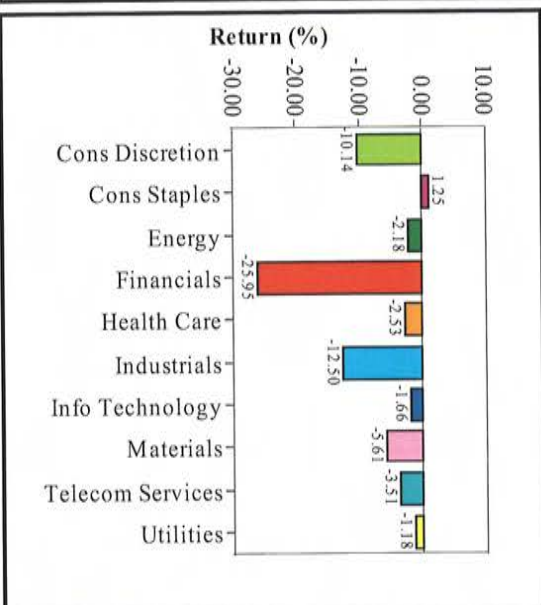
S&P 500 Sector Returns - 1 Quarter



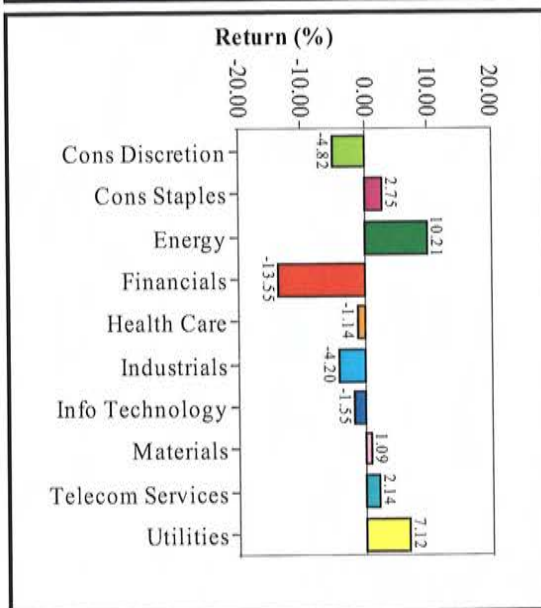
S&P 500 Sector Returns - 1 Year



S&P 500 Sector Returns - 3 Years

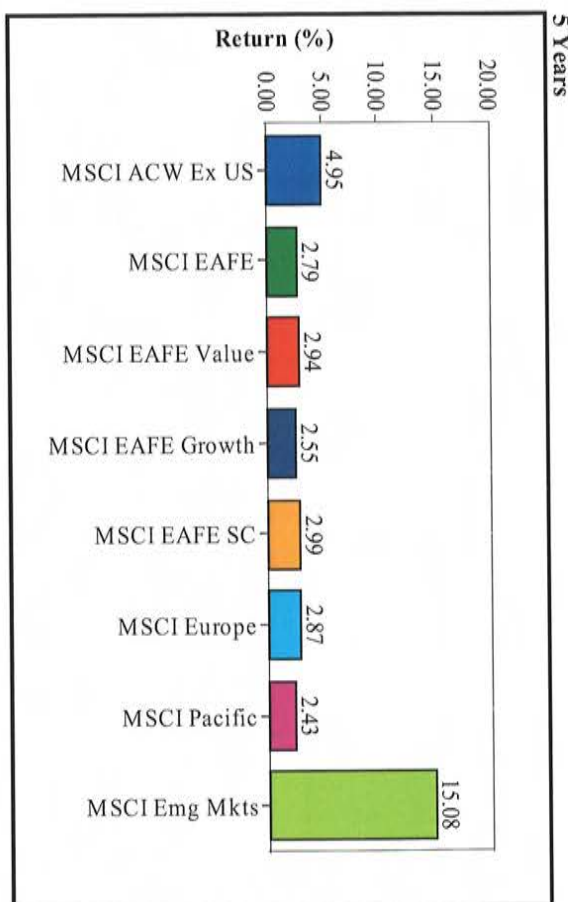
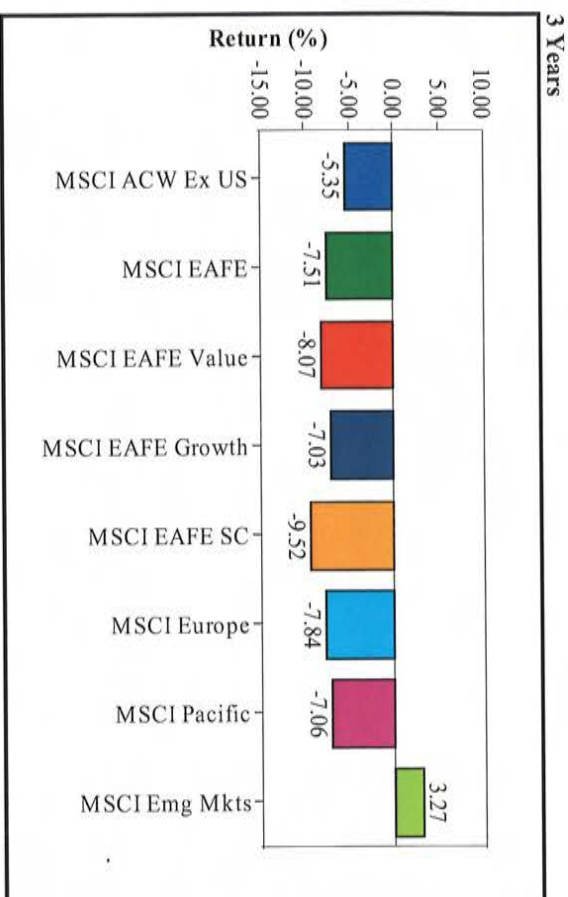
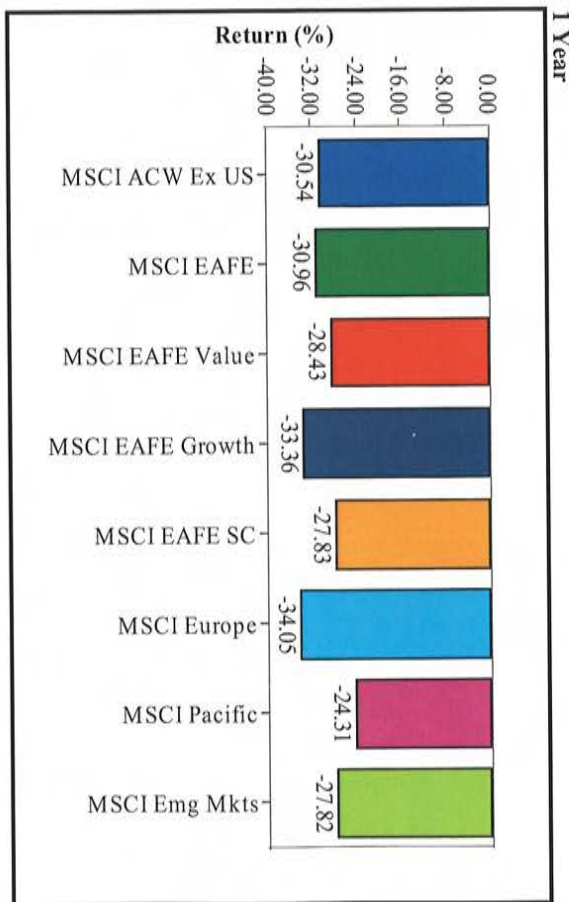
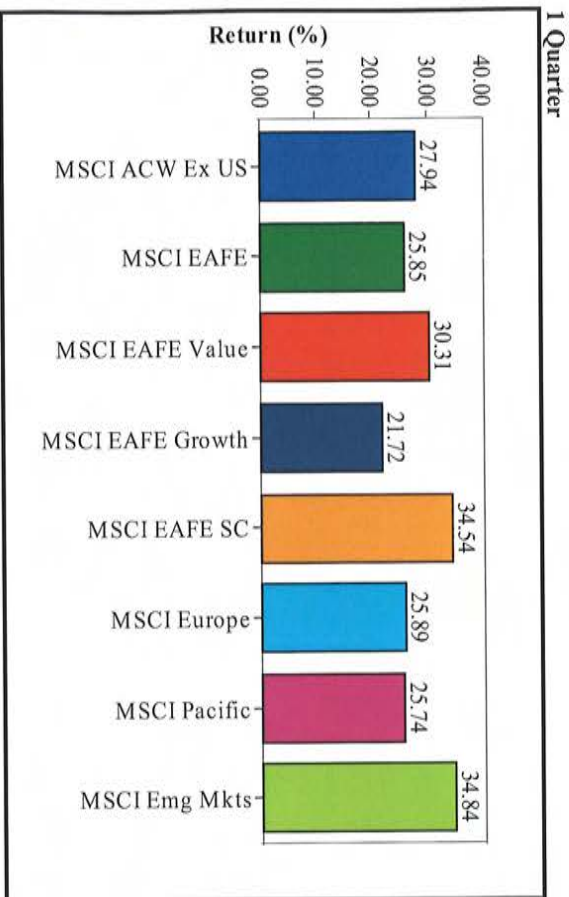


S&P 500 Sector Returns - 5 Years



Performance is annualized for periods greater than one year. Returns provided by MPI Stylus, allocations provided by Standard & Poor's.

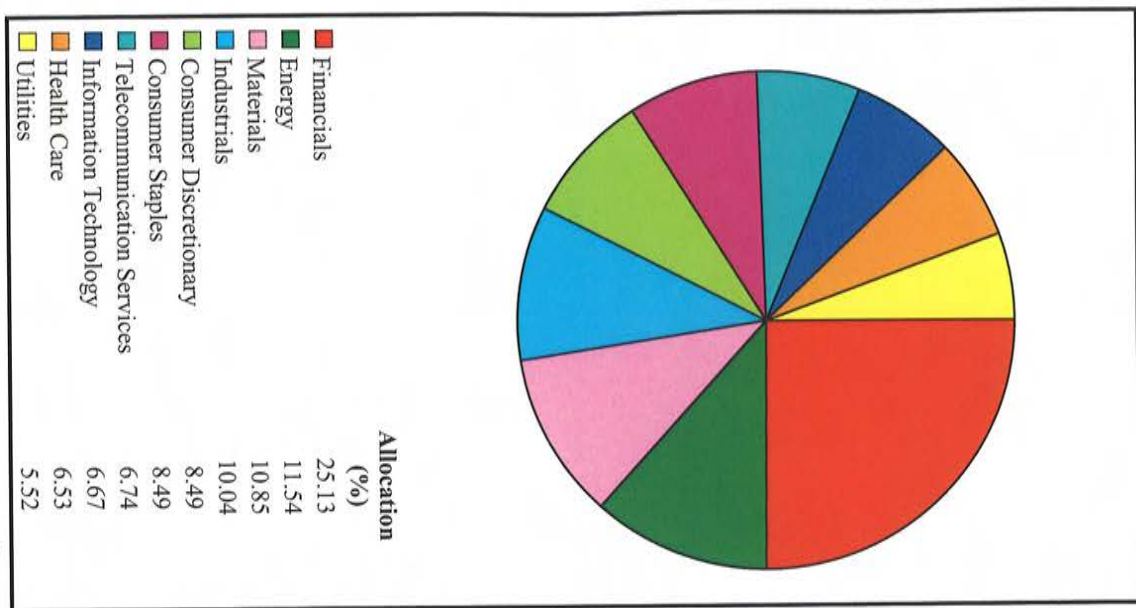
International Equity Market Performance
As of June 30, 2009



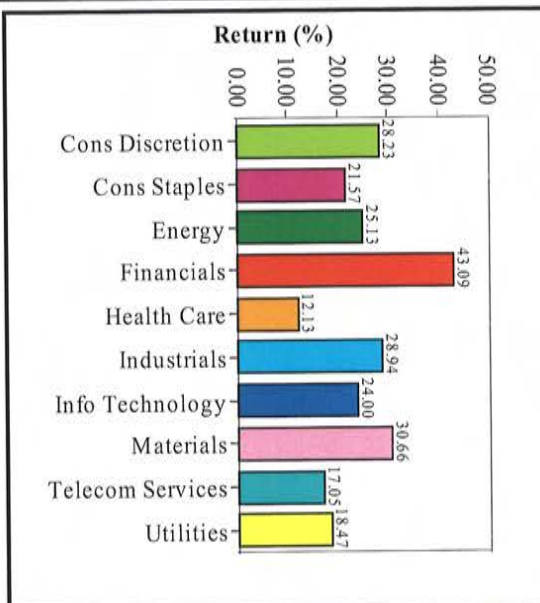
Performance is annualized for periods greater than one year.

International Equity Sector Weights and Returns
As of June 30, 2009

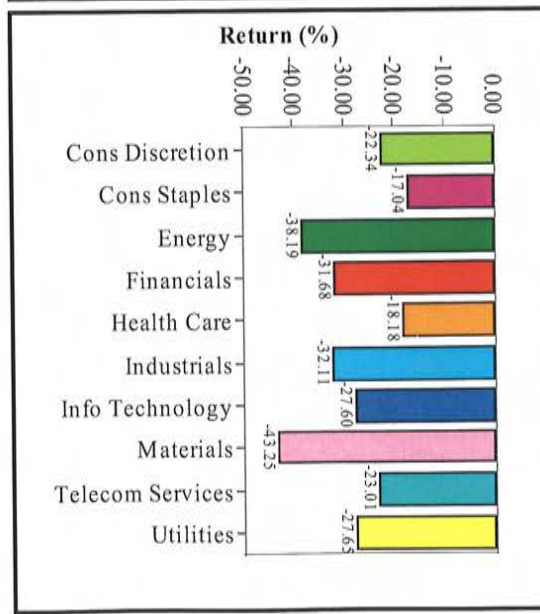
MSCI ACW Ex US Sector Weights



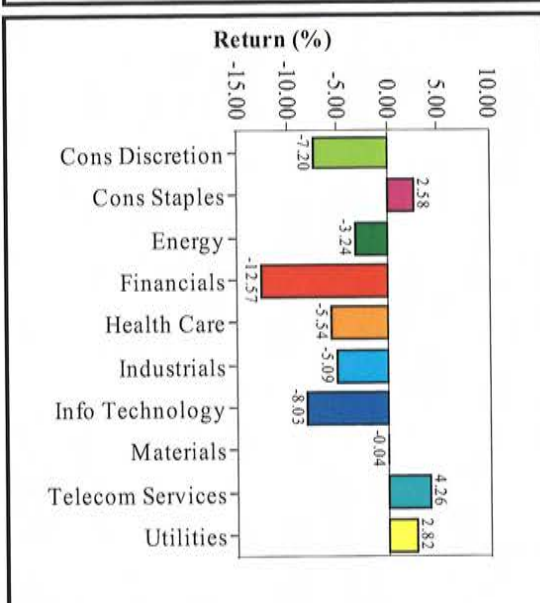
MSCI ACW Ex US Sector Returns - 1 Quarter



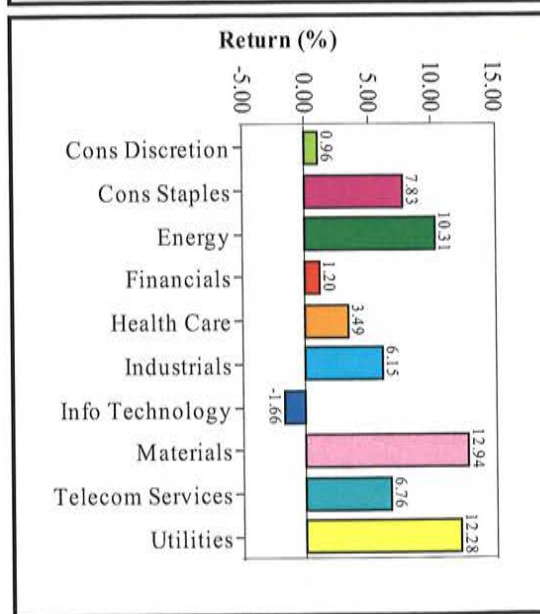
MSCI ACW Ex US Sector Returns - 1 Year



MSCI ACW Ex US Sector Returns - 3 Years

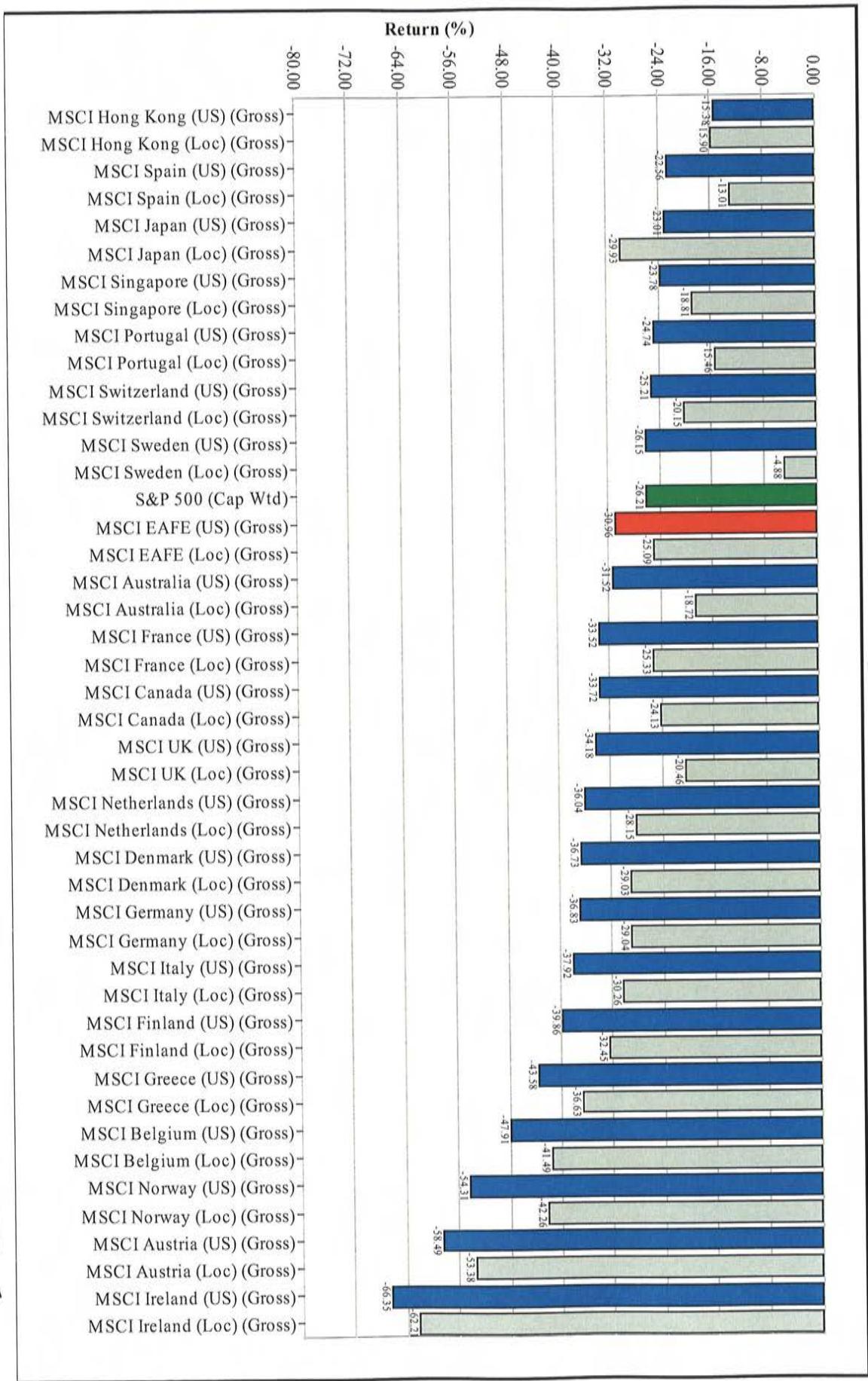


MSCI ACW Ex US Sector Returns - 5 Years



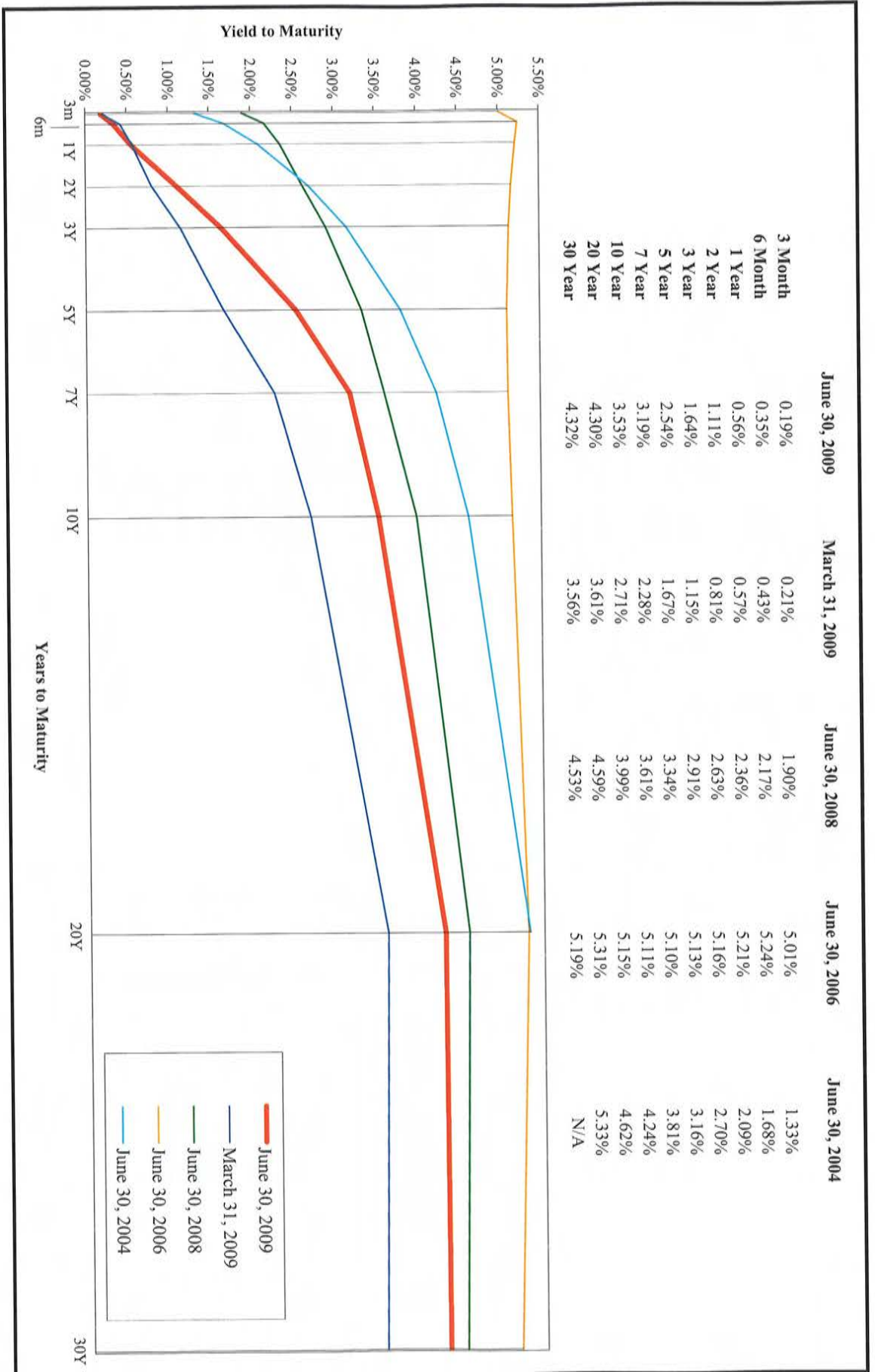
Performance is annualized for periods greater than one year. Returns and allocations provided by MSCI Barra.

International Equity Market Performance
As of June 30, 2009

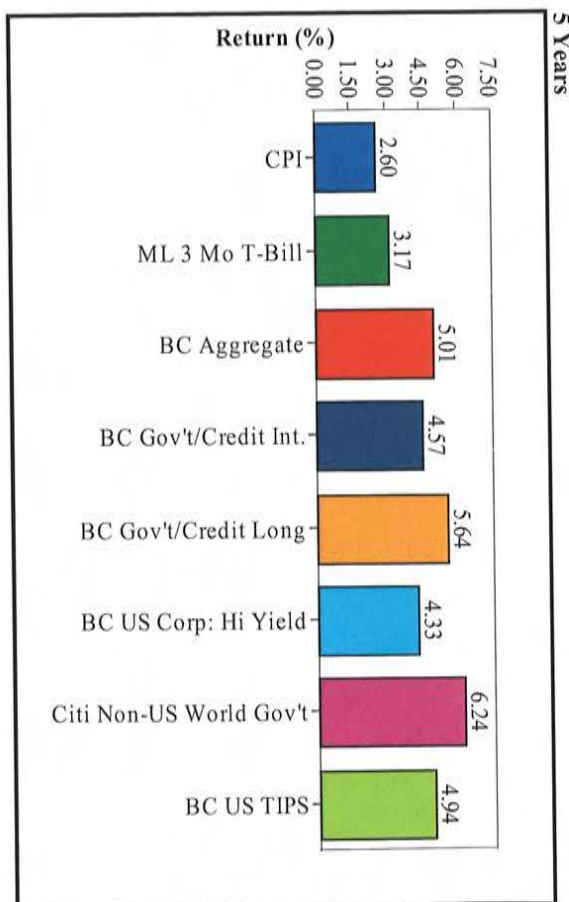
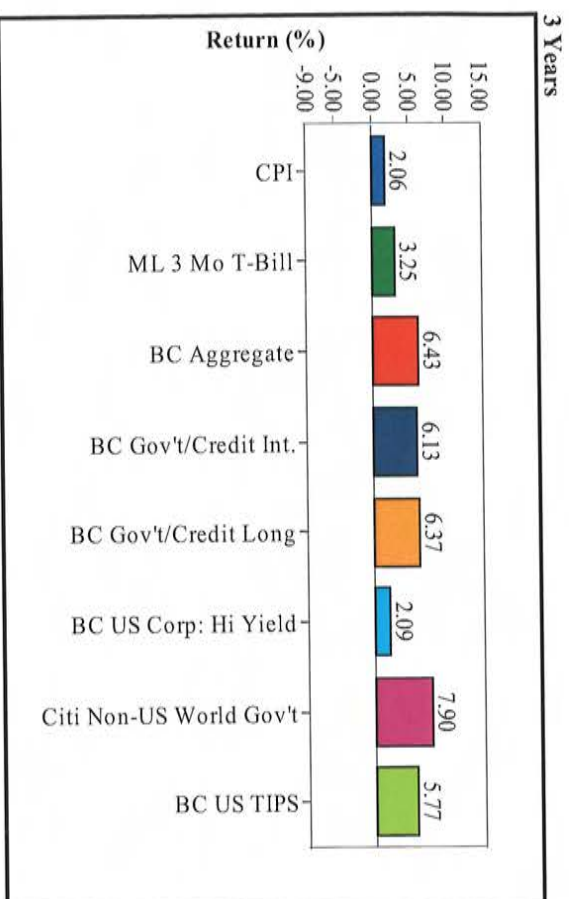
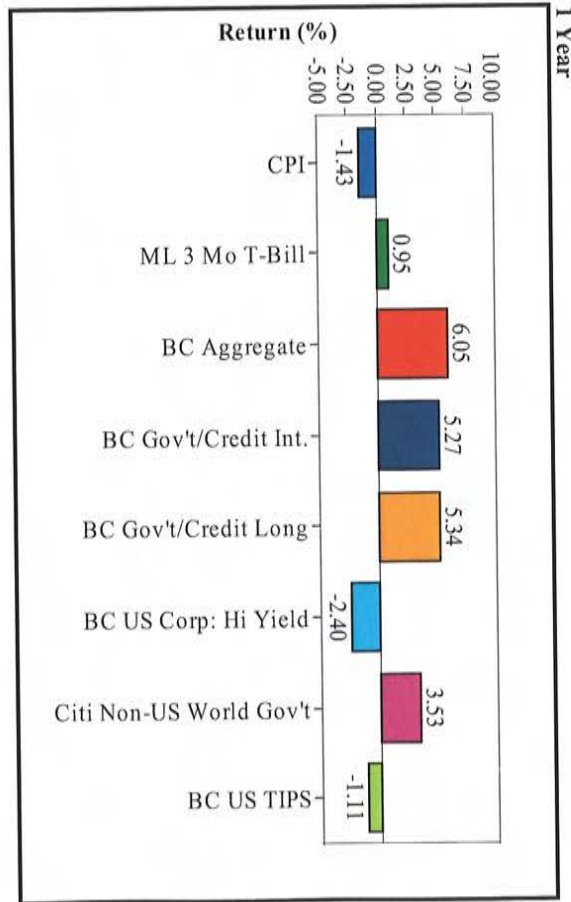
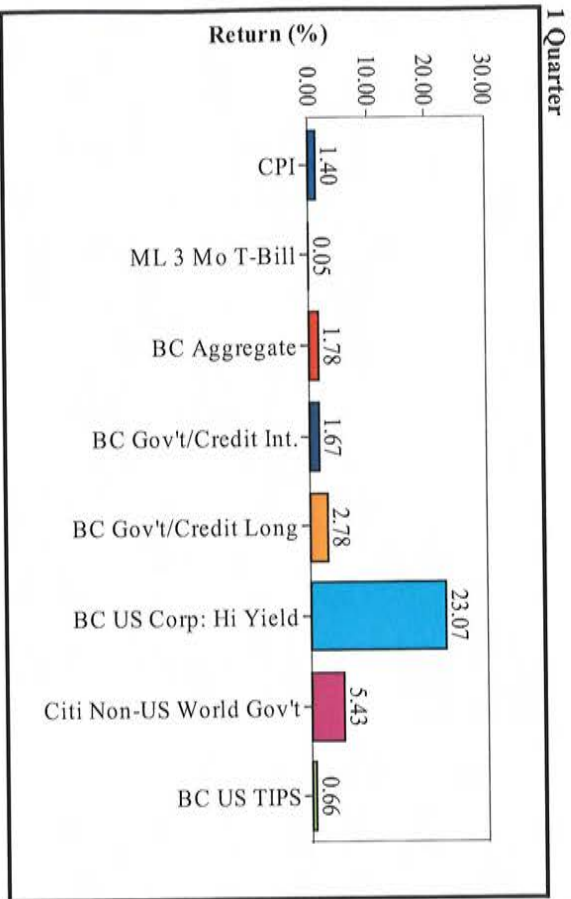


1 Year

Treasury Yield Curve
As of June 30, 2009



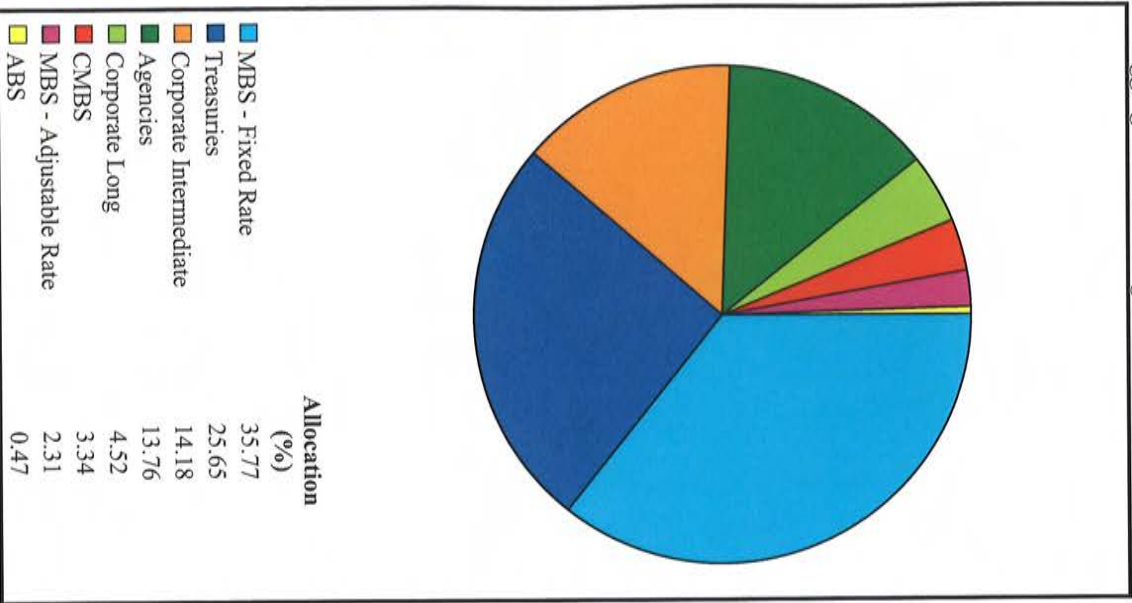
Fixed Income Market Performance
As of June 30, 2009



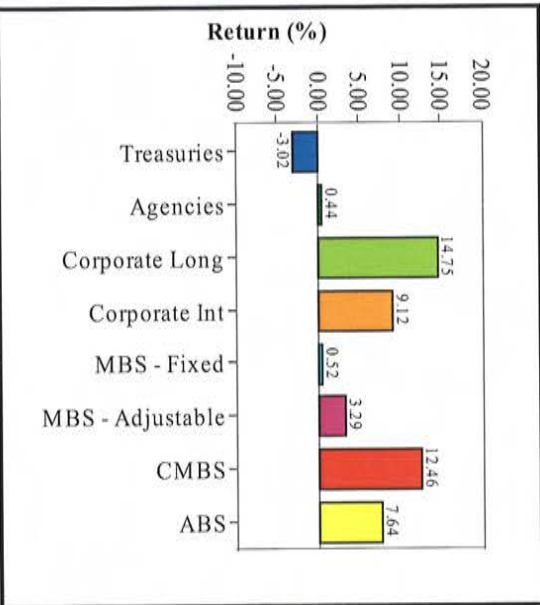
Performance is annualized for periods greater than one year.

Domestic Fixed Income Sector Weights and Returns
As of June 30, 2009

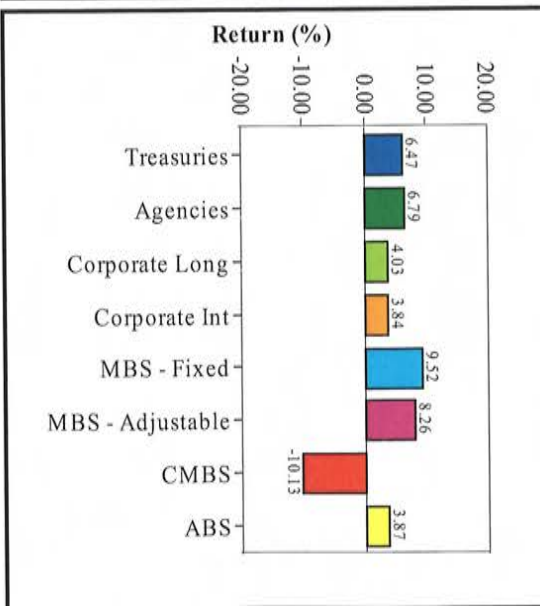
BC Aggregate Sector Weights



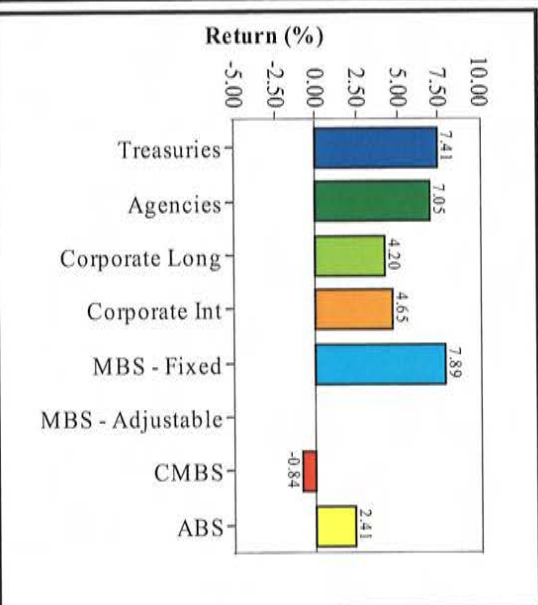
BC Aggregate Sector Returns - 1 Quarter



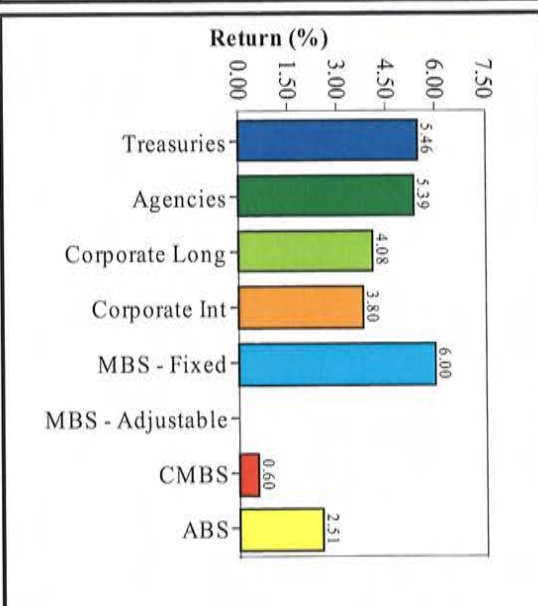
BC Aggregate Sector Returns - 1 Year



BC Aggregate Sector Returns - 3 Years

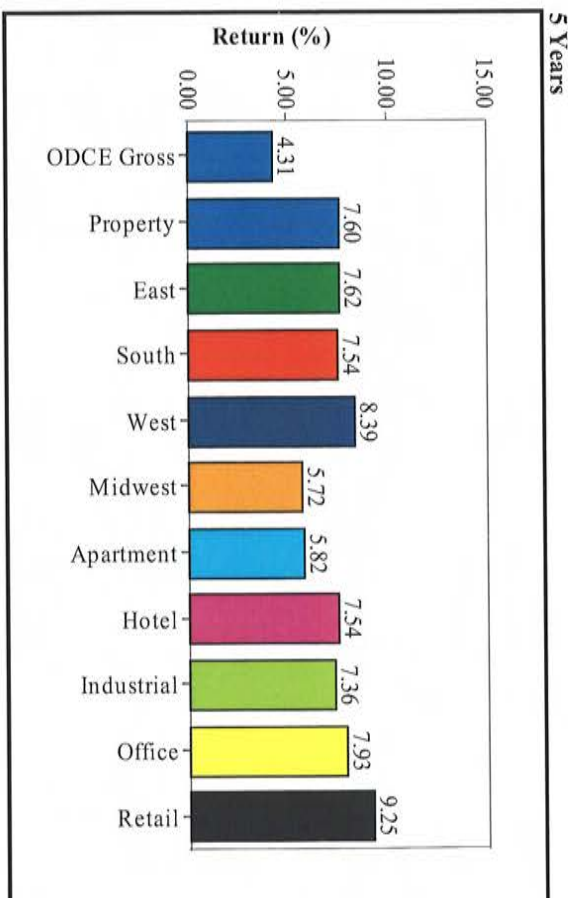
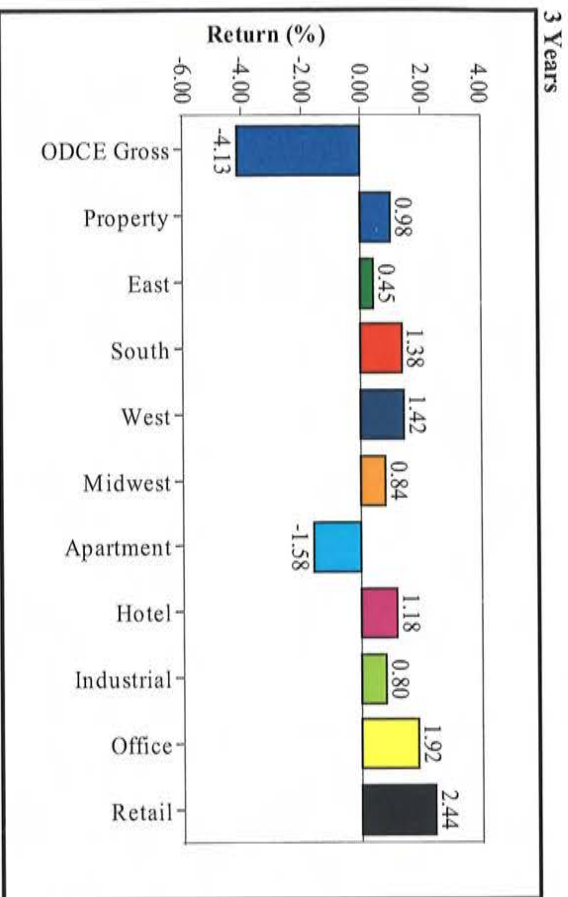
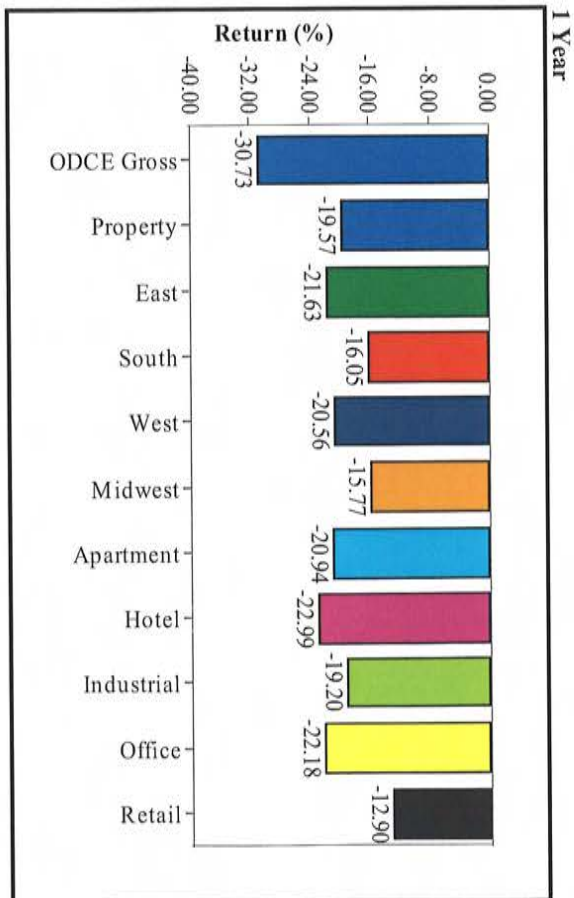
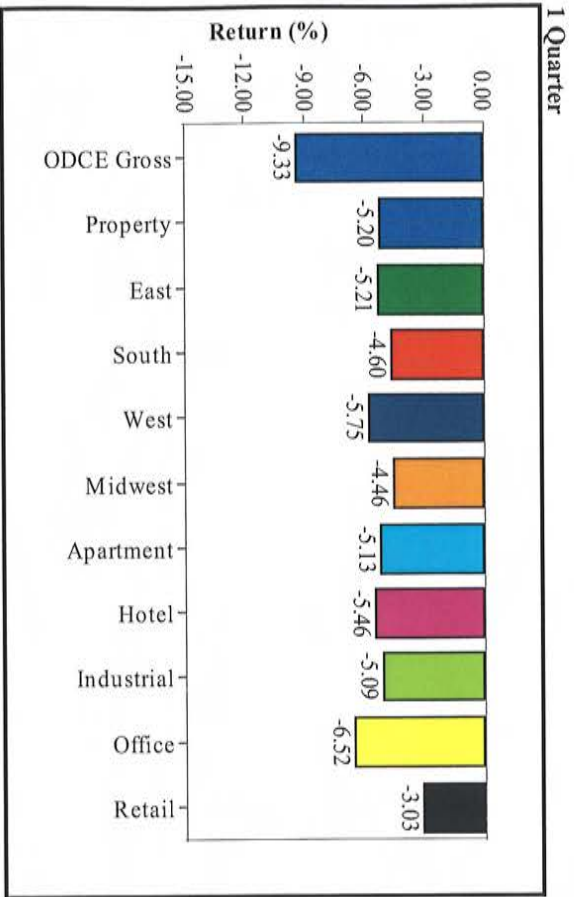


BC Aggregate Sector Returns - 5 Years



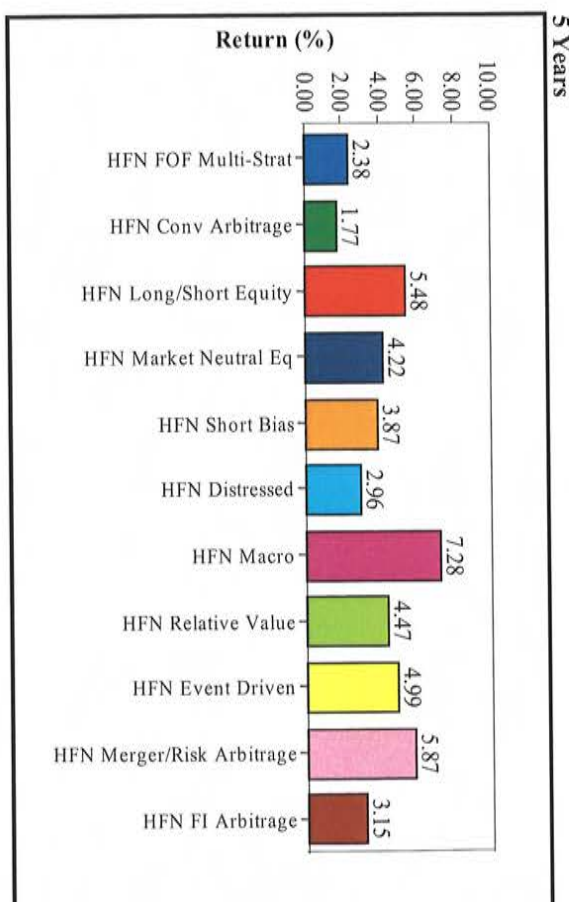
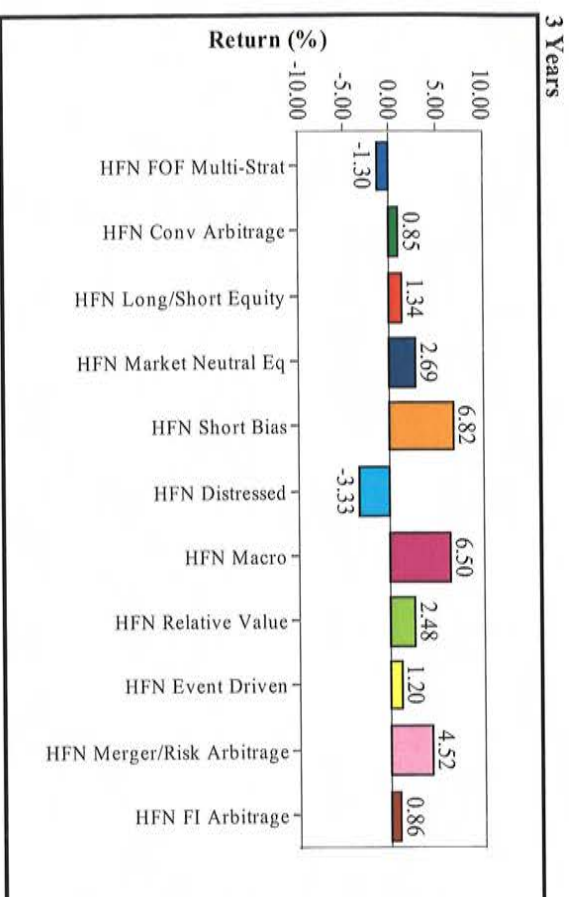
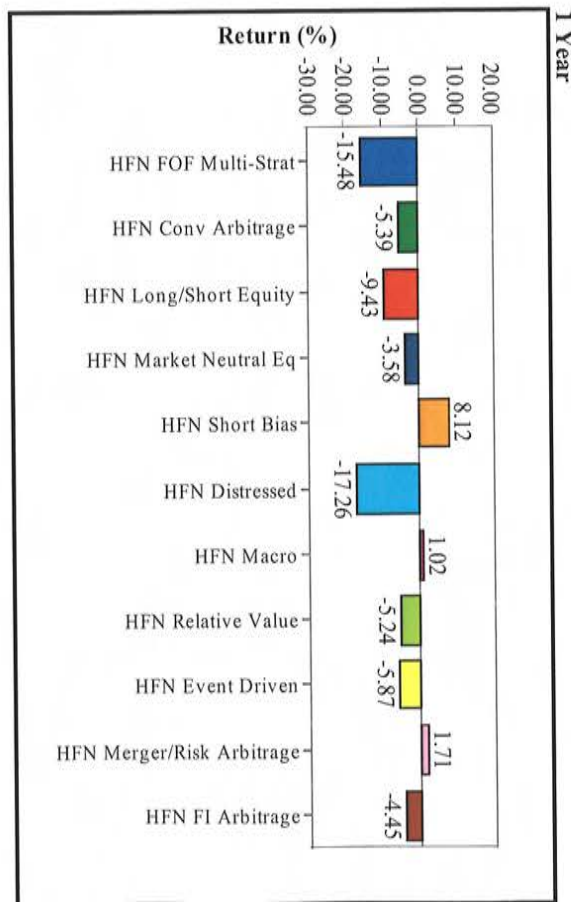
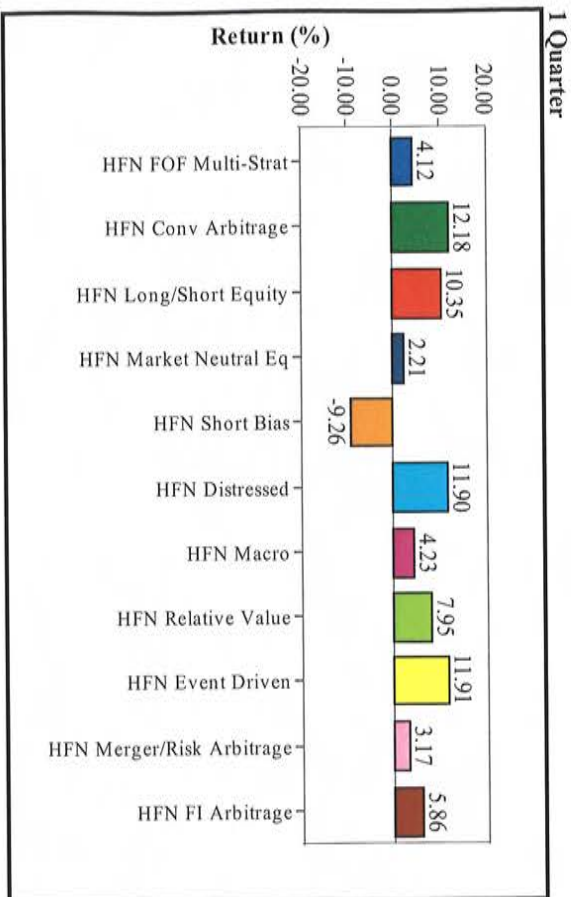
Performance is annualized for periods greater than one year. Returns and allocations provided by Barclays Capital Indices.

Real Estate Market Performance
As of June 30, 2009



Performance is annualized for periods greater than one year.
Region and sector returns represent the Property Index.

Hedge Fund Market Performance
As of June 30, 2009



Performance is annualized for periods greater than one year. Values are preliminary and subject to change.

Annual Asset Class Performance
As of June 30, 2009

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	YTD
	37.58%	23.17%	33.36%	28.58%	66.42%	31.84%	8.44%	25.91%	62.14%	31.27%	34.54%	32.59%	39.78%	8.44%	36.22%
	29.95%	22.96%	22.36%	20.34%	27.31%	16.16%	7.89%	16.56%	56.28%	25.95%	26.65%	26.86%	16.23%	5.24%	30.43%
	28.44%	17.38%	17.65%	16.43%	24.69%	14.26%	7.28%	14.81%	47.25%	20.70%	21.40%	19.67%	16.05%	2.06%	21.79%
	19.17%	16.49%	15.12%	11.77%	24.35%	13.15%	6.61%	10.25%	39.17%	18.33%	21.36%	18.37%	11.63%	-2.35%	8.42%
	18.47%	11.71%	14.52%	8.69%	21.26%	12.40%	5.62%	5.55%	28.97%	13.06%	14.02%	16.32%	11.63%	-9.98%	6.21%
	15.21%	11.35%	12.76%	5.23%	21.04%	11.63%	5.28%	3.12%	28.68%	11.13%	6.75%	15.79%	9.91%	-20.47%	4.62%
	13.54%	6.34%	9.65%	3.94%	20.19%	6.18%	4.42%	1.78%	23.93%	10.88%	5.33%	11.85%	6.97%	-26.16%	4.30%
	11.55%	6.04%	5.33%	3.75%	13.17%	-3.02%	2.49%	-1.41%	11.93%	9.15%	4.91%	9.85%	6.60%	-33.79%	3.16%
	7.11%	5.30%	2.05%	1.87%	4.85%	-5.86%	-2.37%	-6.00%	9.27%	8.56%	4.55%	4.85%	5.49%	-35.65%	2.64%
	6.03%	3.63%	-3.39%	-2.55%	2.40%	-7.22%	-11.89%	-7.44%	8.39%	8.46%	3.07%	4.33%	5.00%	-37.00%	1.90%
	-5.21%	0.14%	-11.60%	-25.33%	2.39%	-9.10%	-12.11%	-15.66%	5.87%	6.79%	2.84%	2.71%	1.87%	-43.06%	0.10%
	N/A	N/A	N/A	-27.03%	-0.82%	-13.96%	-19.51%	-20.48%	4.10%	4.34%	2.74%	2.07%	1.79%	-46.78%	-3.54%
	N/A	N/A	N/A	N/A	-7.65%	-30.61%	-21.21%	-22.10%	1.15%	1.33%	2.43%	0.41%	-1.57%	-53.18%	-21.74%

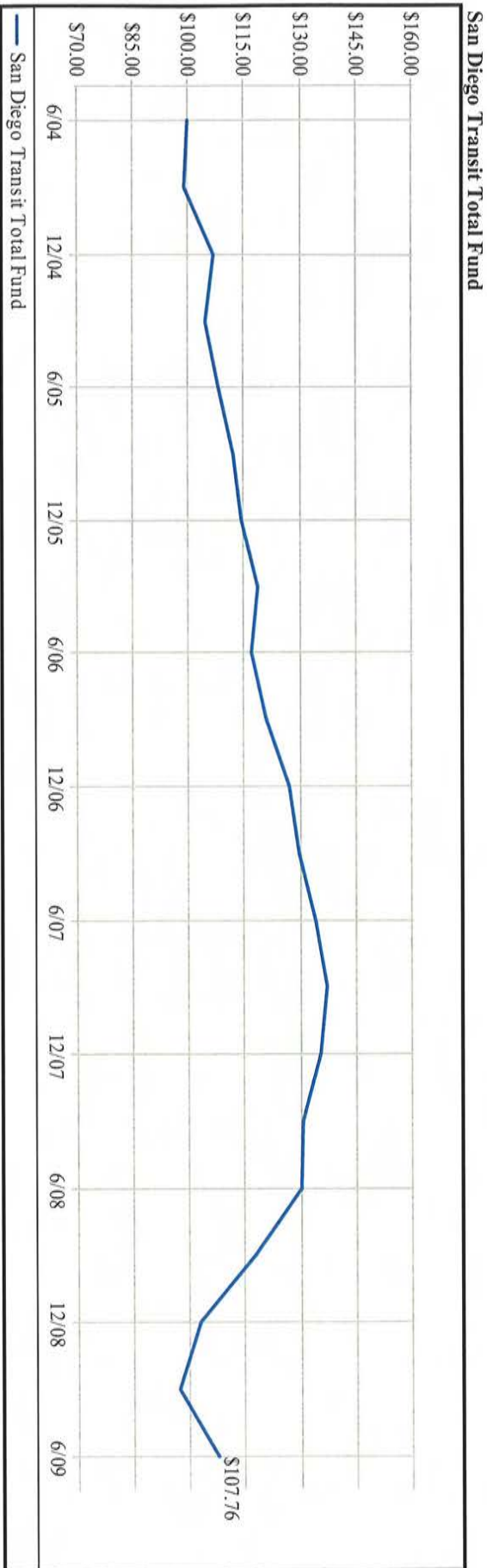
Best



Worst

S&P 500 - US Large Cap	R 2000 - US Small Cap	MSCI EAFE (Gross) - Int'l Dev.	MSCI EAFE Sm Cap (Gross) - SC Int'l	MSCI EMF - Int'l Emerging Markets	BC AIG Bond - FI	BC US Corp: HI Yield - FI	BC US Treasury TIPS - FI	BC Gov't/Cre dit Long Term Bond - FI	NCREIF ODCE (Gross) - Real Estate	HFN FOF Multi-Str at (Net) - Hedge Fund	DJ-UBS Cndry Index (TR)	ML 3 Mo T-Bill - Cash Equiv
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San Diego Transit Corporation Employees Retirement Plan
 Growth of \$100
 San Diego Transit Total Fund
 5 Years Ending June 30, 2009



Performance shown is gross of fees. Calculation is based on quarterly periodicity.

San Diego Transit Corporation Employees Retirement Plan
San Diego Transit Total Fund
 As of June 30, 2009

Asset Allocation by Manager

June 30, 2009 : \$121,488,228

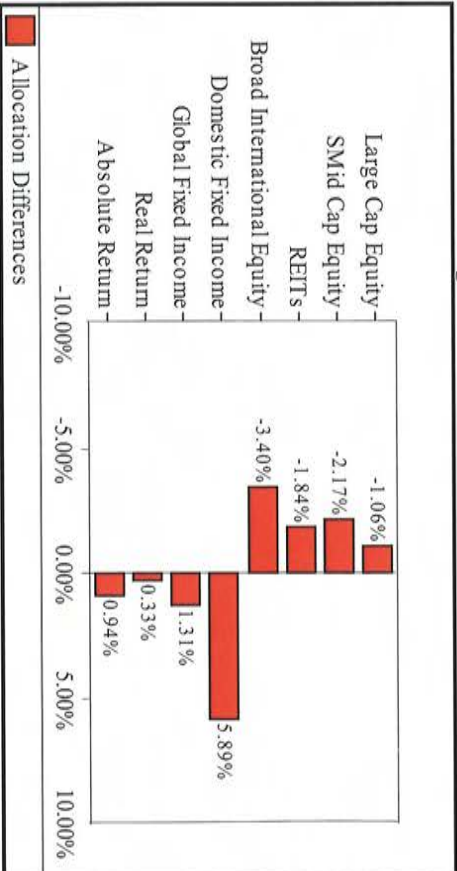


Manager	Market Value (\$)	Allocation (%)
PIMCO:Tot Rtn:Inst (PTTRX)	20,510,477	16.88
JPMorgan Core Bond Trust (CF)	19,979,801	16.45
Westwood Large Cap Value (CF)	11,827,871	9.74
Rainier Large Cap Equity (SA)	11,178,777	9.20
The Boston Co. SMid Cap Grth (CF)	8,132,022	6.69
Loomis Sayles World Bond Trust (CF)	7,663,152	6.31
Westwood SMIIDCap Equity (CF)	7,450,934	6.13
Brandes Global Equity (CF)	7,095,002	5.84
TT Intl Inv Tr Active Intl Eq (CF)	6,998,267	5.76
PIMCO:All Asset:Inst (PAALX)	6,831,339	5.62
PAAMCO Pacific Hedged Strategies (CF)	5,398,329	4.44
Wellington DIH Portfolio (CF)	4,508,085	3.71
Cohen & Steers Inst Rlty (CSRIX)	3,839,295	3.16
Disbursement Account	74,878	0.06

Asset Allocation vs. Target Allocation

Asset Class	Market Value (\$)	Allocation (%)	Target (%)
Large Cap Equity	23,006,648	18.94	20.00
SMid Cap Equity	15,582,956	12.83	15.00
REITs	3,839,295	3.16	5.00
Broad International Equity	14,093,269	11.60	15.00
Domestic Fixed Income	40,565,155	33.39	27.50
Global Fixed Income	7,663,152	6.31	5.00
Real Return	11,339,424	9.33	9.00
Absolute Return	5,398,329	4.44	3.50
Total Fund	121,488,228	100.00	100.00

Asset Allocation vs. Target Allocation Differences



Schedule of Investable Assets

Periods	Beginning Market Value (\$)	Net Cash Flow (\$)	Gain/Loss (\$)	Ending Market Value (\$)	%Return	Unit Value
Year To Date	120,254,263	-4,452,010	5,685,974	121,488,228	4.83	104.83

Performance shown is gross of fees. Allocations shown may not sum up to 100% exactly due to rounding.
 Target Allocation shown represents current asset allocation objectives.

San Diego Transit Corporation Employees Retirement Plan
Schedule of Investable Assets
San Diego Transit Total Fund
10 Years Ending June 30, 2009

Period Ending	Beginning Market Value (\$)	Net Cash Flow (\$)	Gain/Loss (\$)	Ending Market Value (\$)	%Return	Unit Value
Jun-99	70,915,013	-	-	70,915,013	N/A	100.00
Sep-99	69,343,179	-168,591	-1,403,242	69,343,179	-1.98	98.02
Dec-99	69,343,179	-1,019,511	5,874,524	74,198,192	8.78	106.63
Mar-00	74,198,192	-147,517	2,801,102	76,851,777	3.78	110.66
Jun-00	76,851,777	-2,079,174	753,936	75,526,538	1.02	111.79
Sep-00	75,526,538	-82,337	318,123	75,762,325	0.43	112.27
Dec-00	75,762,325	-1,095,298	526,990	75,194,017	0.77	113.13
Mar-01	75,194,017	-243,013	-3,658,964	71,292,040	-4.88	107.61
Jun-01	71,292,040	-979,951	1,148,182	71,460,272	1.59	109.31
Sep-01	71,460,272	-823,697	-5,508,259	65,128,316	-7.79	100.80
Dec-01	65,128,316	601,279	2,613,899	68,343,494	7.16	108.02
Mar-02	68,343,494	-17,509	856,376	69,182,361	1.95	110.13
Jun-02	69,182,361	-1,485,144	-4,317,874	63,379,343	-6.30	103.19
Sep-02	63,379,343	-62,783	-6,894,336	56,422,224	-10.89	91.96
Dec-02	56,422,224	-931,783	2,314,306	57,804,747	4.94	96.51
Mar-03	57,804,747	-136,902	-1,152,421	56,515,424	-1.98	94.59
Jun-03	56,515,424	-2,139,277	6,508,167	60,884,314	11.37	105.35
Sep-03	60,884,314	-195,295	1,971,438	62,660,457	3.24	108.76
Dec-03	62,660,457	-189,903	5,601,518	68,072,072	8.95	118.50
Mar-04	68,072,072	-98,195	1,505,800	69,479,677	2.21	121.12
Jun-04	69,479,677	-136,123	589,649	69,933,203	0.85	122.15
Sep-04	69,933,203	-133,826	-622,742	69,176,635	-0.89	121.06
Dec-04	69,176,635	74,698,772	8,814,778	152,690,186	7.81	130.51
Mar-05	152,690,186	-3,449,347	-3,441,126	145,799,713	-2.09	127.79
Jun-05	145,799,713	-289,860	4,993,549	150,503,402	3.43	132.17
Sep-05	150,503,402	-236,880	5,372,913	155,639,435	3.57	136.89
Dec-05	155,639,435	-336,445	3,114,567	158,417,557	2.01	139.64
Mar-06	158,417,557	-4,611,370	6,124,214	159,930,401	3.96	145.16
Jun-06	159,930,401	-3,400,919	-2,212,359	154,317,124	-1.42	143.10
Sep-06	154,317,124	-1,797,194	5,106,618	157,626,548	3.34	147.88
Dec-06	157,626,548	-48,741	7,614,415	165,192,222	4.83	155.02
Mar-07	165,192,222	-1,698,690	3,362,066	166,855,598	2.05	158.20
Jun-07	166,855,598	-2,766,935	5,929,124	170,017,788	3.55	163.82

The last row shown in bold at the end of the table contains aggregate values pertaining to the period specified in the header. Performance shown is gross of fees. Calculation is based on quarterly periodicity.

San Diego Transit Corporation Employees Retirement Plan
Schedule of Investable Assets
San Diego Transit Total Fund
10 Years Ending June 30, 2009

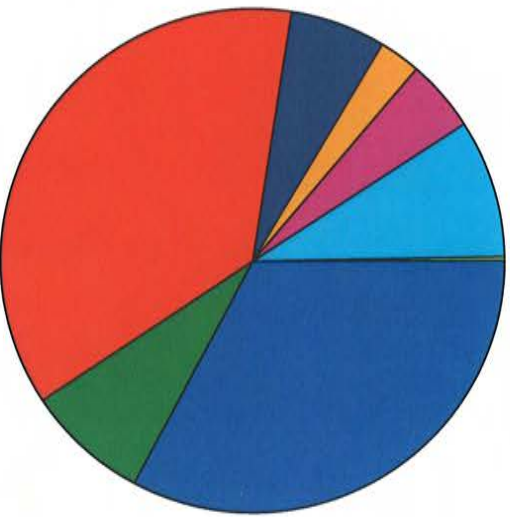
Period Ending	Beginning Market Value (\$)	Net Cash Flow (\$)	Gain/Loss (\$)	Ending Market Value (\$)	%Return	Unit Value
Sep-07	170,017,788	-274,708	3,777,477	173,520,558	2.23	167.47
Dec-07	173,520,558	-390,659	-2,056,030	171,073,868	-1.19	165.48
Mar-08	171,073,868	-1,881,998	-5,976,479	163,215,391	-3.50	159.69
Jun-08	163,215,391	-4,706,455	-373,336	158,135,601	-0.29	159.24
Sep-08	158,135,601	-212,898	-15,202,736	142,719,946	-9.62	143.92
Dec-08	142,719,946	-4,322,517	-18,143,166	120,254,263	-12.75	125.57
Mar-09	120,254,263	-1,919,040	-6,398,906	111,936,317	-5.39	118.79
Jun-09	111,936,317	-2,532,970	12,084,881	121,488,228	10.80	131.63
	70,915,013	28,256,597	22,316,617	121,488,228	2.79	131.63

The last row shown in bold at the end of the table contains aggregate values pertaining to the period specified in the header. Performance shown is gross of fees. Calculation is based on quarterly periodicity.

San Diego Transit Corporation Employees Retirement Plan
 Asset Allocation by Segment
 San Diego Transit Total Fund

Asset Allocation by Segment

March 31, 2009 : \$111,936,317

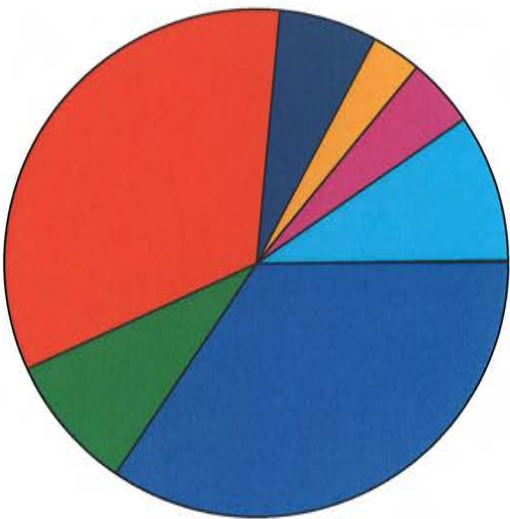


Segments	Market Value (\$)	Allocation (%)
Domestic Equity	36,719,908	32.80
International Equity	8,873,117	7.93
Domestic Fixed Income	41,200,774	36.81
International Fixed Income	6,914,987	6.18
Real Estate	2,963,890	2.65
Alternative Investment	5,109,614	4.56
Real Return	9,854,968	8.80
Cash Equivalent	299,059	0.27

Allocations shown may not sum up to 100% exactly due to rounding.

Asset Allocation by Segment

June 30, 2009 : \$121,488,228



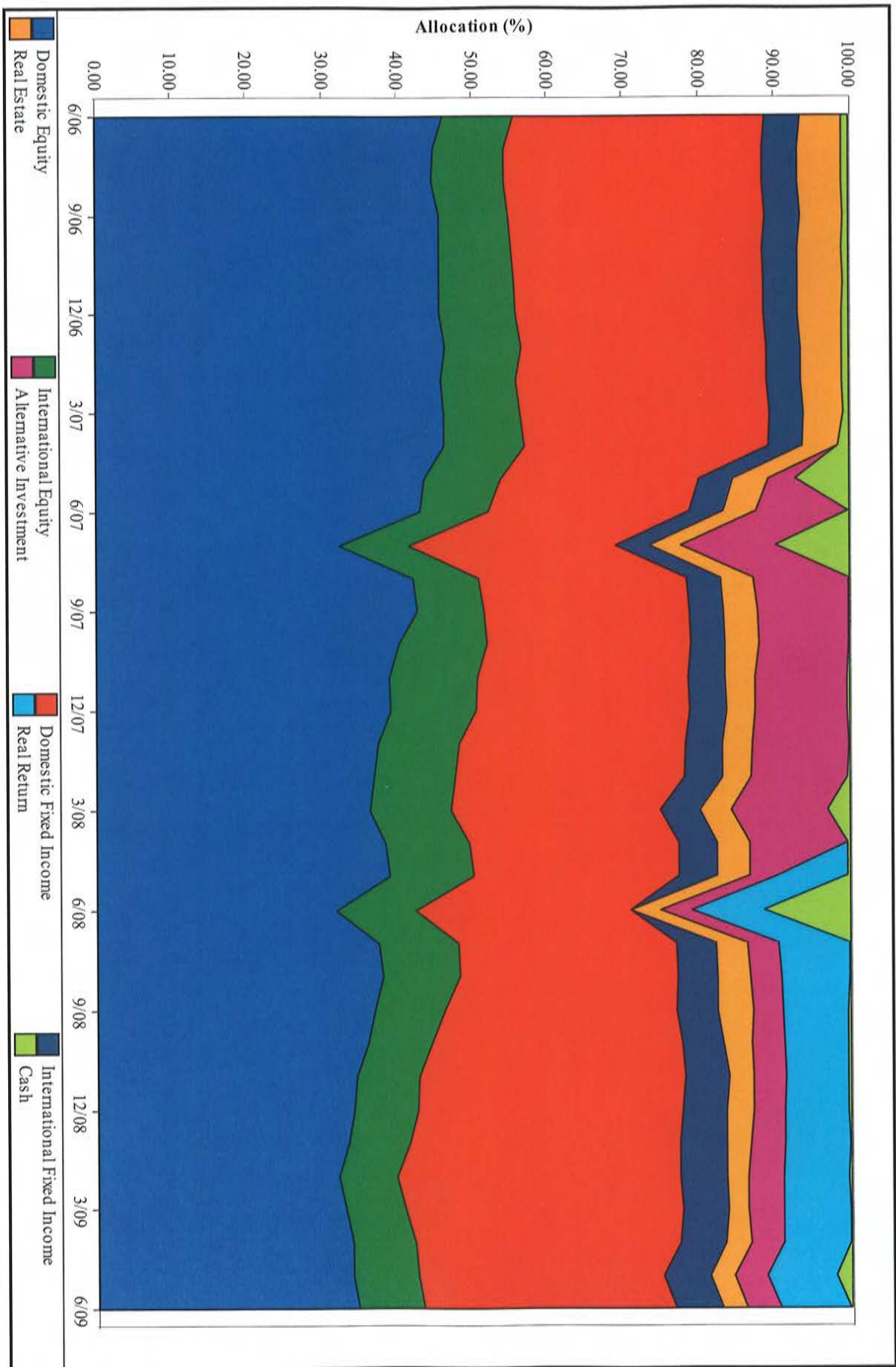
Segments	Market Value (\$)	Allocation (%)
Domestic Equity	41,987,896	34.56
International Equity	10,586,169	8.71
Domestic Fixed Income	40,490,277	33.33
International Fixed Income	7,663,152	6.31
Real Estate	3,839,115	3.16
Alternative Investment	5,398,329	4.44
Real Return	11,335,195	9.33
Cash Equivalent	188,095	0.15

San Diego Transit Corporation Employees Retirement Plan
Asset Allocation
(000 Dollars)
As of June 30, 2009

	Domestic Equity		International Equity		Domestic Fixed Income		International Fixed Income		Real Estate		Alternative Investment		Real Return		Cash Equivalent		Total Fund		
	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	
Composite - Large Cap Equity																			
Westwood Large Cap Value (CF)	11,825	99.98	-	-	-	-	-	-	-	-	-	-	-	-	3	0.02	11,828	9.74	
Reinher Large Cap Equity (SA)	11,116	99.44	-	-	-	-	-	-	-	-	-	-	-	63	0.56	11,179	9.20		
Total	22,941	99.71	-	-	-	-	-	-	-	-	-	-	-	66	0.29	23,007	18.94		
Composite - SMid Cap Equity																			
Westwood SMidCap Equity (CF)	7,450	99.98	-	-	-	-	-	-	-	-	-	-	-	1	0.02	7,451	6.13		
The Boston Co. SMid Cap Grh (CF)	8,116	99.80	-	-	-	-	-	-	-	-	-	-	-	16	0.20	8,132	6.69		
Total	15,566	99.89	-	-	-	-	-	-	-	-	-	-	-	17	0.11	15,583	12.83		
Composite - REITs																			
Cohen & Steers Inst Rlty (CSRXX)	-	-	-	-	-	-	-	-	3,839	100.00	-	-	-	-	-	-	3,839	3.16	
Total	-	-	-	-	-	-	-	-	3,839	100.00	-	-	-	-	-	-	3,839	3.16	
Composite - Global/Int'l Equity																			
Brandeis Global Equity (CF)	3,481	49.07	3,591	50.61	-	-	-	-	-	-	-	-	-	-	23	0.32	7,095	5.84	
TT Intl Inv Tr Active Intl Eq (CF)	-	-	6,995	99.95	-	-	-	-	-	-	-	-	-	3	0.05	6,998	5.76		
Total	3,481	24.70	10,586	75.12	-	-	-	-	-	-	-	-	-	26	0.18	14,093	11.60		
TOTAL EQUITY	41,988	74.29	10,586	18.73	-	-	-	-	3,839	6.79	-	-	-	109	0.19	56,522	46.52		
Composite - Domestic Fixed Income																			
JPMorgan Core Bond Trust (CF)	-	-	-	-	19,980	100.00	-	-	-	-	-	-	-	-	-	-	19,980	16.45	
PIMCO Tot Ret:Inst (PTTRX)	-	-	-	-	20,510	100.00	-	-	-	-	-	-	-	-	-	-	20,510	16.88	
Disbursement Account	-	-	-	-	40,490	99.82	-	-	-	-	-	-	-	-	-	-	40,565	33.39	
Total	-	-	-	-	40,490	99.82	-	-	-	-	-	-	-	-	-	-	40,565	33.39	
Composite - Global Fixed Income																			
Loomis Styles World Bond Trust (CF)	-	-	-	-	-	-	7,663	100.00	-	-	-	-	-	-	-	-	7,663	6.31	
Non-US Fixed Income Comp	-	-	-	-	-	-	7,663	100.00	-	-	-	-	-	-	-	-	7,663	6.31	
TOTAL FIXED INCOME	-	-	-	-	40,490	83.96	7,663	15.89	-	-	-	-	-	-	-	-	48,228	39.70	
Composite - Real Return																			
Wellington DIH Portfolio (CF)	-	-	-	-	-	-	-	-	-	-	4,508	100.00	-	-	-	-	4,508	3.71	
PIMCO All Asset:Inst (PAADX)	-	-	-	-	-	-	-	-	-	-	6,827	99.94	-	-	-	-	6,831	5.62	
Total	-	-	-	-	-	-	-	-	-	-	11,335	99.96	-	-	-	-	11,339	9.33	
Composite - Absolute Return																			
PAAMCO Pacific Hedged Strategies (CF)	-	-	-	-	-	-	-	-	-	-	5,398	100.00	-	-	-	-	5,398	4.44	
Total	-	-	-	-	-	-	-	-	-	-	5,398	100.00	-	-	-	-	5,398	4.44	
TOTAL ALTERNATIVES	-	-	-	-	-	-	-	-	-	-	5,398	32.25	-	-	4	0.03	16,738	13.78	
SAN DIEGO TRANSIT TOTAL FUND	41,988	34.56	10,586	8.71	40,490	33.33	7,663	6.31	3,839	3.16	5,398	4.44	11,335	9.33	188	0.15	121,488	100.00	

Allocations shown may not sum up to 100% exactly due to rounding.

San Diego Transit Corporation Employees Retirement Plan
 Historical Asset Allocation by Segment
 San Diego Transit Total Fund
 3 Years Ending June 30, 2009



San Diego Transit Corporation Employees Retirement Plan
Comparative Performance
As of June 30, 2009

	1 Quarter	Year To Date	1 Year	3 Years	5 Years	7 Years	10 Years	2008	2007	Since Inception	Inception Date
San Diego Transit Total Fund (Gross)	10.80	4.83	-17.34	-2.75	1.51	3.54	2.79	-24.12	6.74	9.55	10/01/1982
Policy Index	13.13	3.95	-16.83	-2.82	1.55	3.68	2.25	-23.37	5.28	9.69	
<i>Difference</i>	<i>-2.33</i>	<i>0.88</i>	<i>-0.51</i>	<i>0.07</i>	<i>-0.04</i>	<i>-0.14</i>	<i>0.54</i>	<i>-0.75</i>	<i>1.46</i>	<i>-0.14</i>	
All Corporate Plans (\$20M to \$250M)-Total Fund Median	11.70	5.07	-17.36	-2.71	2.05	4.13	2.77	-26.10	8.09	N/A	
Percentile Rank	59	56	49	52	77	75	45	40	74	N/A	
San Diego Transit Total Fund (POB) (Gross)	10.80	4.83	-17.34	-2.75	N/A	N/A	N/A	-24.12	6.74	1.78	10/01/2004
Policy Index (POB)	13.13	3.95	-16.83	-2.82	N/A	N/A	N/A	-23.37	5.28	1.55	
<i>Difference</i>	<i>-2.33</i>	<i>0.88</i>	<i>-0.51</i>	<i>0.07</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-0.75</i>	<i>1.46</i>	<i>0.23</i>	
All Corporate Plans (\$20M to \$250M)-Total Fund Median	11.70	5.07	-17.36	-2.71	2.05	4.13	2.77	-26.10	8.09	N/A	
Percentile Rank	59	56	49	52	N/A	N/A	N/A	40	74	N/A	
Westwood Large Cap Value (CF)	12.52	-3.69	-29.00	-6.35	2.41	3.52	2.53	-31.92	13.08	10.09	07/01/1986
R 1000 Value Index	16.69	-2.87	-29.03	-11.11	-2.13	1.06	-0.15	-36.85	-0.17	8.79	
<i>Difference</i>	<i>-4.17</i>	<i>-0.82</i>	<i>0.03</i>	<i>4.76</i>	<i>4.54</i>	<i>2.46</i>	<i>2.68</i>	<i>4.93</i>	<i>13.25</i>	<i>1.30</i>	
US Value/Large Cap Equity (SA+CF) Median	16.69	2.23	-26.28	-8.62	-0.73	2.25	1.58	-36.06	3.57	N/A	
Percentile Rank	90	92	74	24	9	26	36	16	4	N/A	
Rainier Large Cap Equity (SA)	12.67	3.94	-33.06	N/A	N/A	N/A	N/A	-40.86	N/A	-21.08	09/01/2007
R 1000 Growth Index	16.32	11.53	-24.50	-5.45	-1.82	1.46	-4.18	-38.44	11.81	-17.04	
<i>Difference</i>	<i>-3.65</i>	<i>-7.59</i>	<i>-8.56</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-2.42</i>	<i>N/A</i>	<i>-4.04</i>	
US Growth/Large Cap Equity (SA+CF) Median	14.95	9.06	-25.45	-5.93	-0.99	2.13	-0.69	-38.61	13.11	N/A	
Percentile Rank	75	83	87	N/A	N/A	N/A	N/A	71	N/A	N/A	

Performance versus SA+CF or plan sponsor peer groups is shown gross of fees, while performance versus MF peer groups is shown net of fees. Performance is annualized for periods greater than one year. In accordance with GIPS, performance for investment managers and composites is calculated using differing methodologies. For additional information, please see the Glossary.

San Diego Transit Corporation Employees Retirement Plan
Comparative Performance
 As of June 30, 2009

	Year 1		Year 3		Year 5		Year 7		Year 10		2008	2007	Since Inception	Inception Date	
	Quarter	To Date	Year	Years	Years	Years	Years	Years	Years	Years					
Westwood SMidCap Equity (CF)	17.39	8.49	-19.02	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-19.02	07/01/2008
R 2500 Value Index	18.76	-0.62	-26.24	-11.23	-1.56	3.01	4.97	-31.99	-7.27	-26.24					
<i>Difference</i>	<i>-1.37</i>	<i>9.11</i>	<i>7.22</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>7.22</i>		
US Small/Mid Cap Value (SA+CF) Median	20.49	6.71	-25.06	-7.62	1.31	5.35	7.00	-35.00	2.84	N/A					
Percentile Rank	65	39	23	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
The Boston Co. SMid Cap Grth (CF)	12.80	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	12.80	04/01/2009	
R 2500 Growth Index	21.79	14.52	-27.29	-7.72	-0.65	3.95	0.66	-41.50	9.69	21.79					
<i>Difference</i>	<i>-8.99</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-8.99</i>					
US Small/Mid Cap Growth (SA+CF) Median	18.06	10.97	-28.32	-7.73	-0.60	4.33	2.58	-41.76	14.84	N/A					
Percentile Rank	85	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					
Cohen & Steers Inst Rlty (CSRIX)	29.53	-10.27	-39.77	-16.99	N/A	N/A	N/A	-34.42	-18.84	-5.01	04/01/2005				
Wilshire US REIT Index	31.66	-13.00	-45.26	-19.69	-3.25	1.61	5.54	-39.20	-17.55	-7.19					
<i>Difference</i>	<i>-2.13</i>	<i>2.73</i>	<i>5.49</i>	<i>2.70</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>4.78</i>	<i>-1.29</i>	<i>2.18</i>					
Real Estate Sector Funds (MF) Median	29.74	-10.47	-43.03	-18.64	-3.15	1.76	4.90	-38.91	-17.18	N/A					
Percentile Rank	54	47	16	17	N/A	N/A	N/A	10	77	N/A					
Brandes Global Equity (CF)	19.84	2.38	-30.57	-11.64	-2.36	2.51	N/A	-44.51	2.79	1.14	01/01/2002				
MSCI World Index (Gross)	21.05	6.79	-29.01	-7.48	0.57	3.33	-0.37	-40.33	9.57	1.87					
<i>Difference</i>	<i>-1.21</i>	<i>-4.41</i>	<i>-1.56</i>	<i>-4.16</i>	<i>-2.93</i>	<i>-0.82</i>	<i>N/A</i>	<i>-4.18</i>	<i>-6.78</i>	<i>-0.73</i>					
Global Equity (SA+CF) Median	19.88	7.72	-29.08	-6.55	1.82	4.90	2.11	-40.93	11.60	N/A					
Percentile Rank	51	85	61	95	96	90	N/A	75	91	N/A					
TT Int'l Inv Tr Active Int'l Eq (CF)	21.60	7.40	-37.95	N/A	N/A	N/A	N/A	-47.90	N/A	-31.77	11/01/2007				
MSCI EAFE Index (Gross)	25.85	8.42	-30.96	-7.51	2.79	5.26	1.59	-43.06	11.63	-27.60					
<i>Difference</i>	<i>-4.25</i>	<i>-1.02</i>	<i>-6.99</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-4.84</i>	<i>N/A</i>	<i>-4.17</i>					
International Equity All (SA+CF) Median	24.56	9.51	-30.64	-6.55	3.57	6.42	4.30	-43.25	11.94	N/A					
Percentile Rank	77	64	90	N/A	N/A	N/A	N/A	82	N/A	N/A					

Performance versus SA+CF or plan sponsor peer groups is shown gross of fees, while performance versus MF peer groups is shown net of fees. Performance is annualized for periods greater than one year. In accordance with GIPS, performance for investment managers and composites is calculated using differing methodologies. For additional information, please see the Glossary.

San Diego Transit Corporation Employees Retirement Plan
Comparative Performance
As of June 30, 2009

	Year 1		Year 3		Year 5		Year 7		Year 10		2008	2007	Since Inception	
	Quarter	To Date	Year	Years	Years	Years	Years	Years	Years	Years			Inception Date	
JPMorgan Core Bond Trust (CF)	3.18	5.73	7.50	7.20	5.64	N/A	N/A	N/A	N/A	N/A	3.27	7.47	4.83	06/01/2003
BC US Agg Bond Index	1.78	1.90	6.05	6.43	5.01	5.08	5.08	5.98	5.24	5.24	6.97	4.12	4.12	
<i>Difference</i>	<i>1.40</i>	<i>3.83</i>	<i>1.45</i>	<i>0.77</i>	<i>0.63</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-1.97</i>	<i>0.50</i>	<i>0.50</i>	<i>0.71</i>	<i>0.71</i>	
US Broad Market Core Fixed Income (SA+CF) Median	3.37	3.81	6.42	6.46	5.14	5.27	6.10	3.58	6.93	6.93	N/A	N/A	N/A	
Percentile Rank	53	21	35	26	22	N/A	N/A	55	19	19	N/A	N/A	N/A	
PIMCO:Tot Rm:Inst (PTTRX)	4.71	6.34	9.32	8.43	6.27	N/A	N/A	4.80	9.11	5.23	06/01/2003			
BC US Agg Bond Index	1.78	1.90	6.05	6.43	5.01	5.08	5.98	5.24	6.97	4.12	4.12	4.12	4.12	
<i>Difference</i>	<i>2.93</i>	<i>4.44</i>	<i>3.27</i>	<i>2.00</i>	<i>1.26</i>	<i>N/A</i>	<i>N/A</i>	<i>-0.44</i>	<i>2.14</i>	<i>1.11</i>	<i>1.11</i>	<i>1.11</i>	<i>1.11</i>	
US Broad Market Core Funds (MF) Median	4.86	5.60	3.42	4.50	3.67	4.15	5.00	-2.70	5.37	5.37	N/A	N/A	N/A	
Percentile Rank	53	38	5	1	1	N/A	N/A	13	1	1	N/A	N/A	N/A	
Loomis Sayles World Bond Trust (CF)	10.97	6.68	0.26	5.80	5.72	8.42	8.38	-3.53	9.24	7.85	06/01/1998			
Citi World Gov't Bond Index	3.49	-1.50	3.99	7.76	6.05	7.43	6.53	10.87	10.95	6.28	6.28	6.28	6.28	
<i>Difference</i>	<i>7.48</i>	<i>8.18</i>	<i>-3.73</i>	<i>-1.96</i>	<i>-0.33</i>	<i>0.99</i>	<i>1.85</i>	<i>-14.40</i>	<i>-1.71</i>	<i>1.57</i>	<i>1.57</i>	<i>1.57</i>	<i>1.57</i>	
Global Fixed Income (SA+CF) Median	7.01	4.65	1.81	5.78	5.62	7.39	6.80	0.53	9.01	9.01	N/A	N/A	N/A	
Percentile Rank	28	35	67	50	44	21	15	63	47	47	N/A	N/A	N/A	

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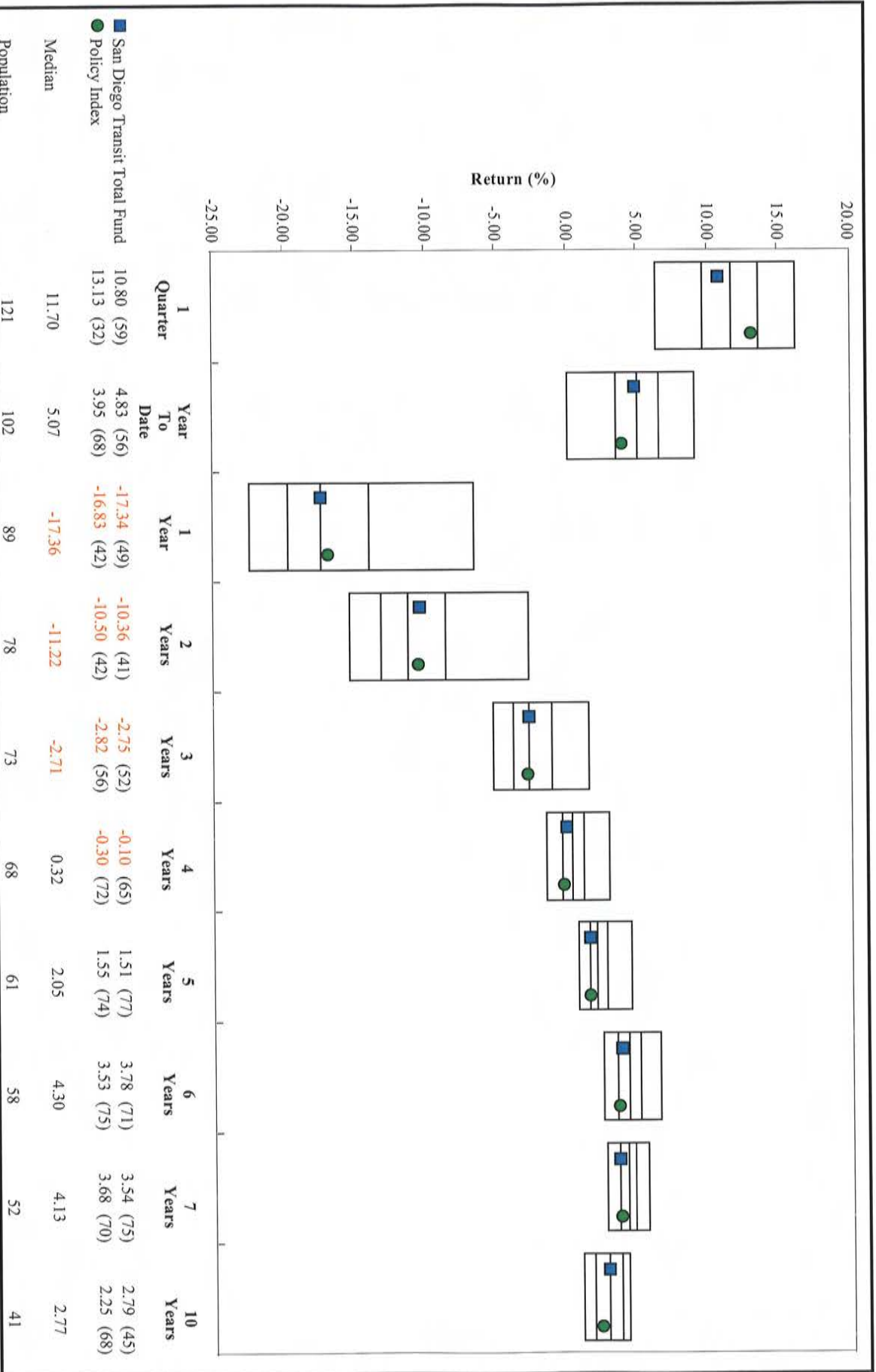
San Diego Transit Corporation Employees Retirement Plan
Comparative Performance
As of June 30, 2009

	Year		1		3		5		7		10		2008		2007		Since Inception	Inception Date
	Quarter	To Date	Year	Years	Years	Years	Years	Years	Years	Years	2008	2007	2008	2007				
Wellington DIH Portfolio (CF)	19.09	18.25	-42.44	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-39.37	06/01/2008
Consumer Price Index + 5%	2.65	5.13	3.50	7.16	7.73	7.76	7.77	5.10	9.29	4.58								
<i>Difference</i>	<i>16.44</i>	<i>13.12</i>	<i>-45.94</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-43.95</i>	
Wellington DIH Portfolio (CF)	19.09	18.25	-42.44	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-39.37	06/01/2008
Wellington DvFrd Infl Hedge Comp Index	13.53	10.17	-32.52	0.07	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-29.55	
<i>Difference</i>	<i>5.56</i>	<i>8.08</i>	<i>-9.92</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-9.82</i>	
PIMCO: All Asset:Inst (PAAIX)	12.60	9.74	-7.04	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-7.79	06/01/2008
Consumer Price Index + 5%	2.65	5.13	3.50	7.16	7.73	7.76	7.77	5.10	9.29	4.58								
<i>Difference</i>	<i>9.95</i>	<i>4.61</i>	<i>-10.54</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-12.37</i>	
PIMCO: All Asset:Inst (PAAIX)	12.60	9.74	-7.04	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-7.79	06/01/2008
All Asset Composite Index	9.21	3.99	-10.91	0.92	3.92	5.96	5.69	-13.89	6.87	-11.67								
<i>Difference</i>	<i>3.39</i>	<i>5.75</i>	<i>3.87</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>3.88</i>								
PAAMCO Pacific Hedged Strategies (CF)	5.65	8.80	-16.84	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-3.70	06/01/2007
3 Month LIBOR Index + 5%	1.47	3.04	7.13	9.06	8.95	8.21	8.72	8.22	10.58	8.37								
<i>Difference</i>	<i>4.18</i>	<i>5.76</i>	<i>-23.97</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-12.07</i>								
PAAMCO Pacific Hedged Strategies (CF)	5.65	8.80	-16.84	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	-3.70	06/01/2007
HFRI FOF Cnstv Index	3.91	4.64	-15.11	-1.94	1.53	2.82	4.14	-19.86	7.68	-7.43								
<i>Difference</i>	<i>1.74</i>	<i>4.16</i>	<i>-1.73</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>-2.07</i>	<i>N/A</i>	<i>3.73</i>								

Loomis Sayles World Bond Trust is comprised of Loomis Sayles Global Bond Fund (LSGBX) thru Jun-2008 and Loomis Sayles World Bond Trust (CF) thereafter.

Performance versus SA+CF or plan sponsor peer groups is shown gross of fees, while performance versus MF peer groups is shown net of fees. Performance is annualized for periods greater than one year. In accordance with GIPS, performance for investment managers and composites is calculated using differing methodologies. For additional information, please see the Glossary.

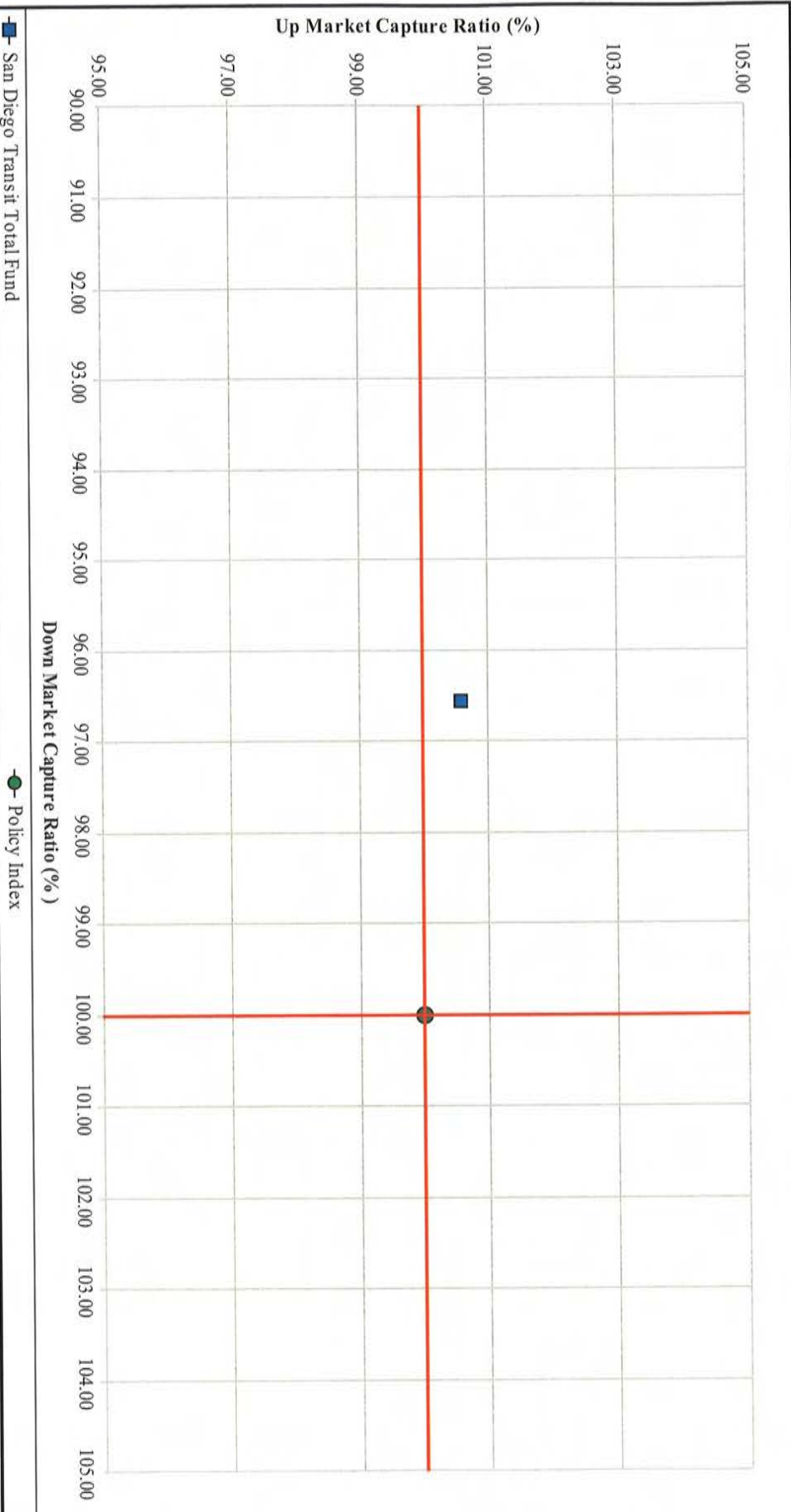
San Diego Transit Corporation Employees Retirement Plan
 Plan Sponsor Peer Group Analysis
 All Corporate Plans (\$20M to \$250M)-Total Fund
 As of June 30, 2009



Performance shown is gross of fees. Calculation is based on quarterly periodicity. Parentheses contain percentile ranks. Performance is annualized for periods greater than one year.

San Diego Transit Corporation Employees Retirement Plan
 Up/Down Markets
 Versus Policy Index
 10 Years Ending June 30, 2009

	Full Period Return		Months Benchmark Up(72)				Months Benchmark Down(48)			
	Manager	Benchmark	Manager Ahead	Manager Behind	Manager Ahead	Manager Behind	Manager Ahead	Manager Behind		
	No. Months	Avg. Ahead	No. Months	Avg. Behind	No. Months	Avg. Behind	No. Months	Avg. Behind		
San Diego Transit Total Fund	2.79	2.25	36	0.50	36	-0.47	27	0.66	21	-0.65
Policy Index	2.25	2.25	72	0.00	-	0.00	48	0.00	-	0.00



Performance shown is gross of fees. Calculation is based on monthly periodicity.

San Diego Transit Corporation Employees Retirement Plan
Addendum
As of June 30, 2009

Performance Related Comments

- Performance is annualized for periods greater than one year.
- Reported performance may differ from manager reported performance due to large flows.
- Since inception returns exclude the first partial month's performance. Performance calculations begin with the client's first full month of investing.
- Performance for Loomis Sayles World Bond Trust is comprised of Loomis Sayles Global Bond Fund (LSGBX) thru June-2008 and Loomis Sayles World Bond Trust (CF) thereafter.

Manager Transition Comments

- Brandes Global Equity (SA) was sold at the end of Dec-2005 to transition into the Brandes Global Equity commingled fund (CF) equivalent. Historical data prior to Jan-2006 for Brandes Global Equity (CF) is from the separate account (SA) vehicle.
- Kayne Anderson (SA) was liquidated in Mar-2006. The proceeds were used to purchase GMO US SMid Value Fund (GMSUX).
- UBS Dynamic Alpha Fund (BNAYX) and PAAMCO Pacific Hedged Strategies Portfolio were both funded in May-2007.
- TCW Large Cap Growth (SA) was liquidated in Aug-2007. The proceeds were used to fund Ramier Large Cap Equity (SA).
- Nicholas Applegate Global Select Fund (NACHX) was liquidated in Oct-2007. The proceeds were used to fund TT Intl Investment Trust Active Intl Equity (CF).
- UBS Dynamic Alpha Fund (BNAYX) was liquidated in May-2008. The proceeds were used to purchase PIMCO:All Asset:Inst (PAAI) and Wellington Diversified Inflation Hedges (CF).
- Loomis Sayles Global Bond Fund (LSGBX) was sold at the end of Jun-2008 to transition into the Loomis Sayles World Bond Trust commingled fund (CF) equivalent. Historical data prior to Jul-2008 for the Loomis Sayles World Bond Trust (CF) is from the mutual fund vehicle (LSGBX).
- GMO US SMid Value Fund (GMSUX) was liquidated in Jun-2008. The proceeds were used to fund Westwood SMidCap Equity (CF).
- Vanguard Explorer:Adm (VEXRX) was liquidated in Mar-2009. The proceeds were used to fund The Boston Co. SMid Cap Growth (CF).

Holdings Comments

- Due to portfolio turnover, buy and hold attribution may not accurately represent quarterly performance relative to the benchmark.

**San Diego Transit Corporation Employees Retirement Plan
Addendum**

As of June 30, 2009

Investment Manager Fee Schedule

<u>Manager Name</u>	<u>Product Type</u>	<u>Ticker/CUSIP</u>	<u>Annual Expense Ratio</u>
1. Brandes Global Equity Portfolio	Commingled Fund	105BGEQ13	0.98% (a)
2. Cohen & Steers Institutional Realty Shares	Mutual Fund	CSR1X	0.75%
3. JP Morgan Core Bond Trust	Commingled Fund	62826M921	0.30%
4. Loomis Sayles World Bond Trust	Commingled Fund	5434L SWB3	0.55% (b)
5. PAAMCO Pacific Hedged Strategies	Fund of Hedge Funds	69347PHS3	1.00% (c)
6. PIMCO All Asset Fund - Institutional Class	Mutual Fund	PAAIX	0.86%
7. PIMCO Total Return Fund - Institutional Class	Mutual Fund	PTTRX	0.46%
8. Rainier Large Cap Equity Portfolio	Separate Account	N/A	0.75% (d)
9. The Boston Company Small/Mid Cap Growth Equity	Commingled Fund	585BCP993	0.90% (e)
10. TT Int'l Investment Trust Active Int'l Equity	Commingled Fund	707TT1995	1.00%
11. Wellington Diversified Inflation Hedges Portfolio	Commingled Fund	959WTC996	0.90%
12. Westwood Trust Large Cap Equity - EB Fund	Commingled Fund	9617WTLC5	0.77% (f)
13. Westwood Trust SMidCap Equity - EB Fund	Commingled Fund	999PCF994	0.85% (g)

(a) The annual expense ratio for the **Brandes Global Equity Portfolio** is based on the portfolio's assets at the end of the quarter using the following fee schedule:

- 1.00% on the first \$5 million; 0.90% on the next \$5 million; and 0.80% on the next \$10 million

(b) The annual expense ratio for the **Loomis Sayles World Bond Trust** is based on the portfolio's assets at the end of the quarter using the following fee schedule:

- 0.55% on the first \$10 million; 0.35% on the next \$65 million; and 0.25% thereafter

(c) **PAAMCO Pacific Hedged Strategies** has a fee structure of 1.00% management fee plus an incentive fee of 5.0% of appreciation, taken quarterly, and subject to a loss carry forward (high-water mark).

(d) The annual expense ratio for the **Rainier Large Cap Equity Portfolio** is based on the fund's assets at the end of the quarter using the following fee schedule:

- 0.75% on the first \$10 million; and 0.50% thereafter

(e) The annual expense ratio for **The Boston Company Small/Mid Cap Growth Equity** is based on the fund's assets at the end of the quarter using the following fee schedule:

- 0.90% on the first \$25 million; and 0.75% thereafter

(f) The annual expense ratio for the **Westwood Trust Large Cap Equity - EB Fund** is based on the fund's assets at the end of the quarter using the following fee schedule:

- 0.80% on the first \$5 million; 0.75% on the next \$5 million; 0.70% on the next \$5 million; and 0.60% thereafter

(g) The annual expense ratio for the **Westwood Trust SMidCap Equity - EB Fund** is based on the fund's assets at the end of the quarter using the following fee schedule:

- 0.85% on the first \$10 million; and 0.80% thereafter

San Diego Transit Corporation Employees Retirement Plan
Addendum
As of June 30, 2009

Policy Index - The static custom index for the San Diego Transit Total Fund is calculated monthly and consists of:

- From Nov-2007 through present: **20%** S&P 500, **15%** Russell 2500, **7.5%** MSCI World (Gross), **7.5%** MSCI EAFE (Gross), **27.5%** BC US Aggregate Bond, **5%** Citigroup WGBI, **5%** Wilshire US REIT, **4.5%** All Asset Composite Index, **4.5%** Wellington Diversified Inflation Hedge Composite Index, & **3.5%** HFRI Fund of Funds Conservative Index.
- From June-2007 through Oct-2007: **20%** S&P 500, **15%** Russell 2500, **15%** MSCI World (Gross), **27.5%** BC US Aggregate Bond, **5%** Citigroup WGBI, **5%** Wilshire US REIT, **9%** CPI + 5%, & **3.5%** 3 Month LIBOR Index + 5%.
- From Apr-2006 through May-2007: **25%** S&P 500, **15%** Russell 2500, **15%** MSCI World (Gross), **35%** BC US Aggregate Bond, **5%** Citigroup WGBI, & **5%** Wilshire US REIT.
- From Apr-2005 through Mar-2006: **25%** S&P 500, **7.5%** Russell 2500, **7.5%** MSCI World (Gross), **35%** BC US Aggregate Bond, **5%** Citigroup WGBI, & **5%** Wilshire US REIT.
- From Jan-2002 through Mar-2005: **25.2%** S&P 500, **4.2%** Russell 2500, **4.2%** MSCI World (Gross), **35%** BC US Aggregate Bond, & **5%** Citigroup WGBI.
- From Oct-1998 through Dec-2001: **35%** S&P 500, **10%** Russell 2000, **15%** MSCI EAFE (Net), **35%** BC US Aggregate Bond, & **5%** Citigroup WGBI.
- From Oct-1996 through Sep-1998: **27%** S&P 500, **10%** Russell 2000, **10%** MSCI EAFE (Net), **13%** MSCI World (Net), **36%** BC US Aggregate Bond, & **4%** Citigroup WGBI.
- From Jan-1994 through Sep-1996: **37%** S&P 500, **10%** MSCI EAFE (Net), **13%** MSCI World (Net), **36%** BC US Aggregate Bond, & **4%** Citigroup WGBI.
- From Jan-1989 through Dec-1993: **50%** S&P 500, **10%** MSCI EAFE (Net), & **40%** BC US Aggregate Bond.
- From Jul-1982 through Dec-1988: **60%** S&P 500 & **40%** BC US Aggregate Bond.

Policy Index (POB) - The static custom index for the San Diego Transit Total Fund (POB) is calculated monthly and consists of:

- From Nov-2007 through present: **20%** S&P 500, **15%** Russell 2500, **7.5%** MSCI World (Gross), **7.5%** MSCI EAFE (Gross), **27.5%** BC US Aggregate Bond, **5%** Citigroup WGBI, **5%** Wilshire US REIT, **4.5%** All Asset Composite Index, **4.5%** Wellington Diversified Inflation Hedge Composite Index, & **3.5%** HFRI Fund of Funds Conservative Index.
- From June-2007 through Oct-2007: **20%** S&P 500, **15%** Russell 2500, **15%** MSCI World (Gross), **27.5%** BC US Aggregate Bond, **5%** Citigroup WGBI, **5%** Wilshire US REIT, **9%** CPI + 5%, & **3.5%** 3 Month LIBOR Index + 5%.
- From Apr-2006 through May-2007: **25%** S&P 500, **15%** Russell 2500, **15%** MSCI World (Gross), **35%** BC US Aggregate Bond, **5%** Citigroup WGBI, & **5%** Wilshire US REIT.
- From Apr-2005 through Mar-2006: **25%** S&P 500, **7.5%** Russell 2500, **7.5%** MSCI World (Gross), **35%** BC US Aggregate Bond, **5%** Citigroup WGBI, & **5%** Wilshire US REIT.
- From Oct-2004 through Mar-2005: **25.2%** S&P 500, **4.2%** Russell 2500, **4.2%** MSCI World (Gross), **35%** BC US Aggregate Bond, & **5%** Citigroup WGBI.

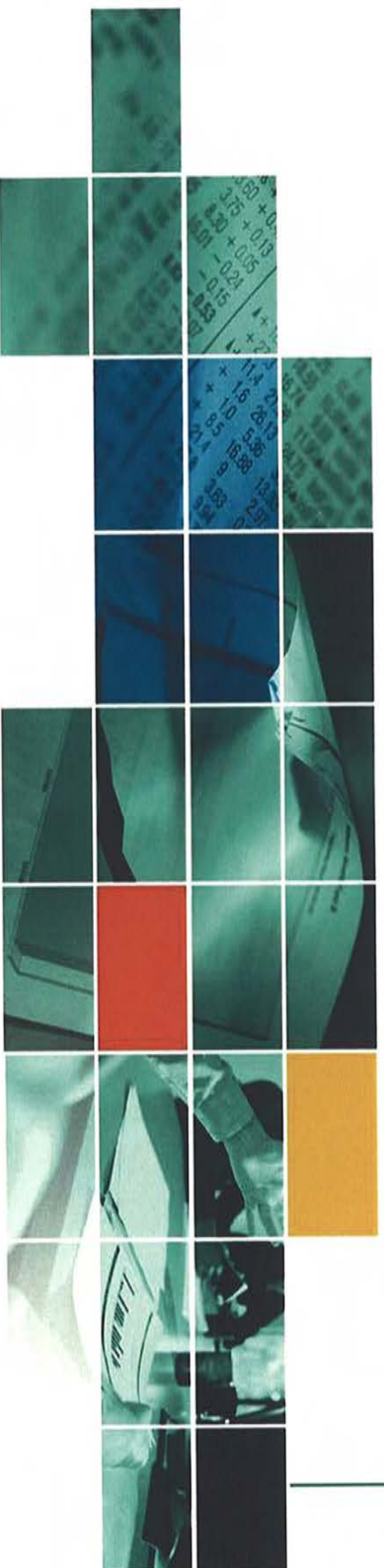
RVKuhns

◆◆◆ & ASSOCIATES, INC.

San Diego Transit Corporation Employees Retirement Plan

An RVK Update

July 28, 2009





RVK Corporate Overview

➤RVK is one of the top ten largest consultants as determined by *Pension & Investments*'
2008 Special Report - Consultants

2005

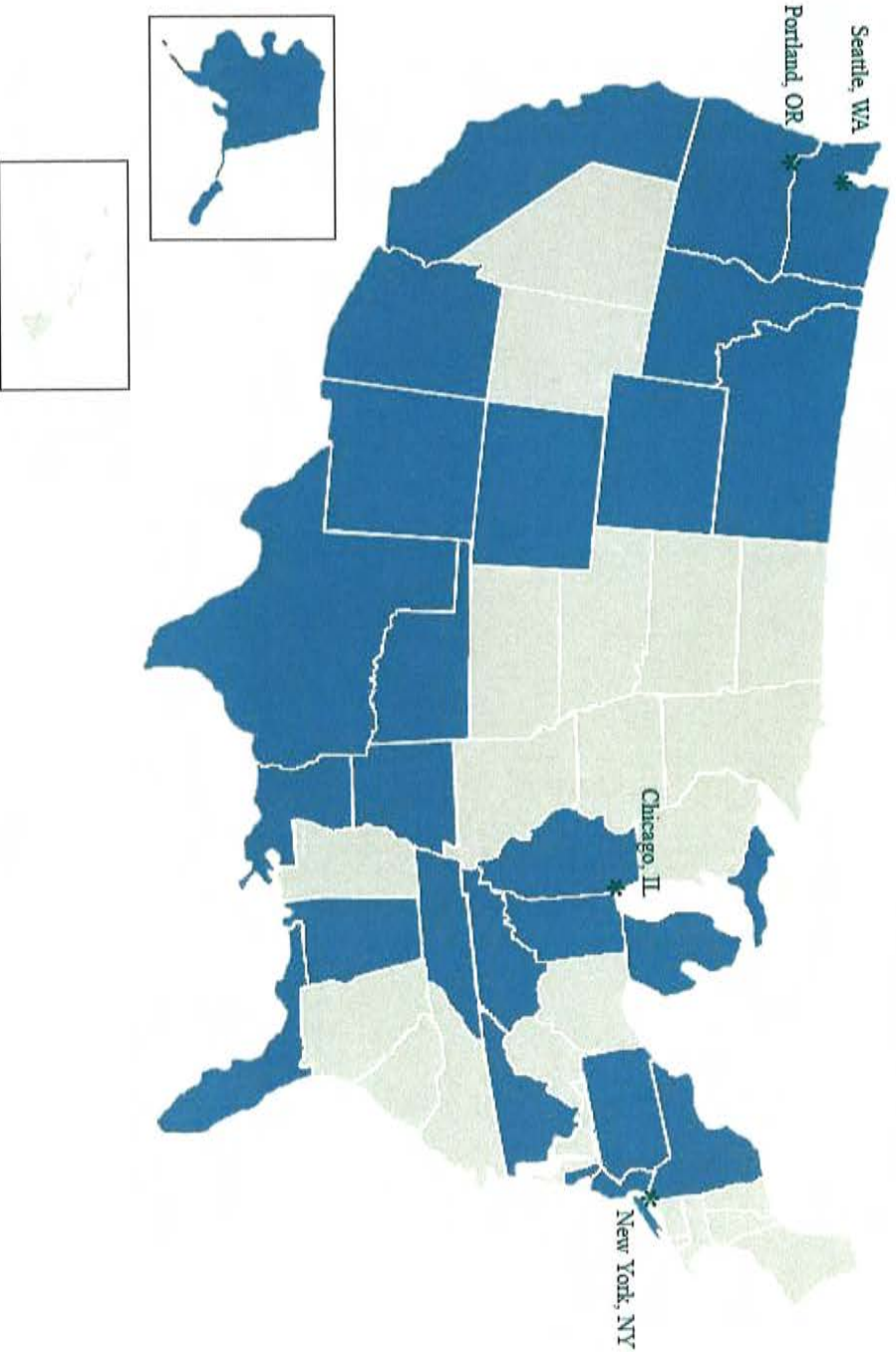
- **Ownership**
 - 100% Employee Owned
 - 15 Employee Principals
 - Three member Board of Directors
- **Client Accounts**
 - More than 250 client accounts
 - \$540+ billion in assets under advisement
- **RVK has *no conflicts of interest***
 - Code of Ethics from our inception
 - 100% of revenue comes from cash payments from clients
- **Staff**
 - 59 employees

2009

- **Ownership**
 - 100% Employee Owned
 - 20 Employee Principals
 - Eight member Board of Directors
- **Client Accounts**
 - More than 380 client accounts
 - \$650+ billion in assets under advisement
 - RVK clients in 26 states and offshore
- **RVK has *no conflicts of interest***
 - Code of Ethics from our inception
 - 100% of revenue comes from cash payments from clients
- **Staff**
 - 95 employees



State-Based Client Representation

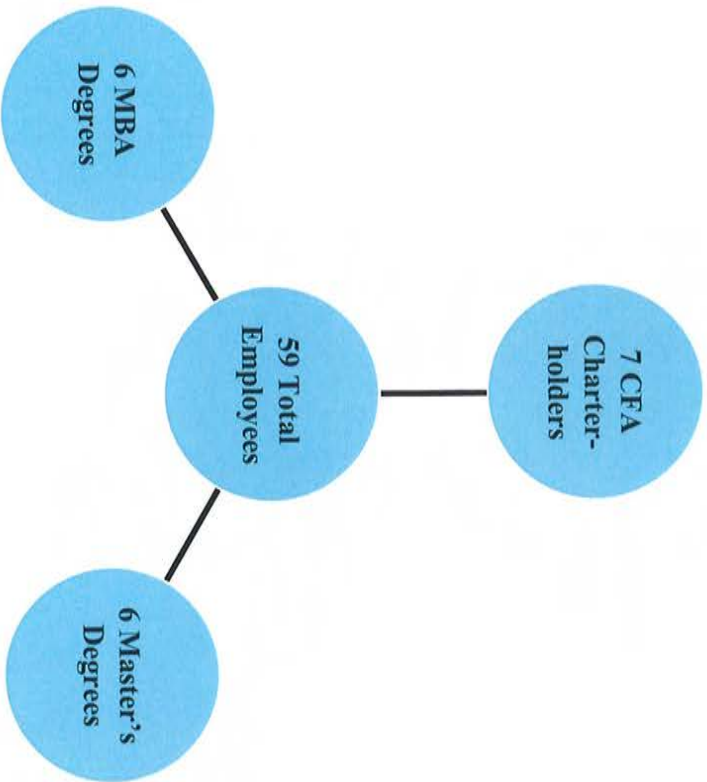


Blue indicates states where RVK has clients
* Regional Offices

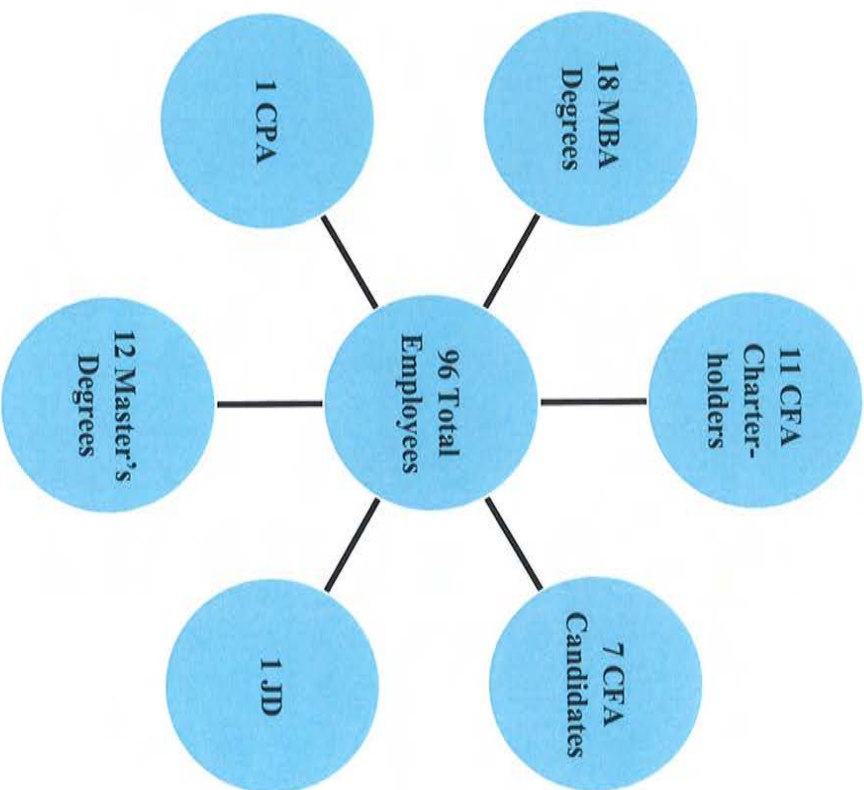


RVK Education and Qualifications

2005



2009





RVK Client Services

General Consulting Solutions

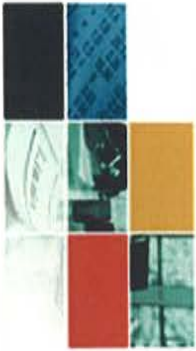
- ▶ Trustee Education – Multiple Topics/Issues
- ▶ Investment Policy Reviews
- ▶ Asset Allocation Analysis
- ▶ Manager Search and Evaluation
- ▶ Manager Monitoring and Due Diligence
- ▶ Performance Reporting – Total Fund
- ▶ Performance Reporting – Alternative Asset Classes
- ▶ Equity Structure Studies
- ▶ Fixed Income Structure Studies
- ▶ Absolute Return Strategies
- ▶ Real Return Strategies
- ▶ Asset/Liability Studies
- ▶ Spending Policy Analysis
- ▶ Stochastic Risk Studies
- ▶ Board Reporting Reviews
- ▶ Compliance Monitoring and Analysis
- ▶ Strategic Planning and Organization Analysis
- ▶ Compensation Reviews
- ▶ Peer Reviews – Public Funds and Endowments
- ▶ Rebalancing Policy Studies
- ▶ Private Equity Fund Due Diligence
- ▶ Hedge Fund Due Diligence
- ▶ Private Equity Pacing Studies
- ▶ Legislative Issues Support

DC Solutions

Specialty Consulting Solutions

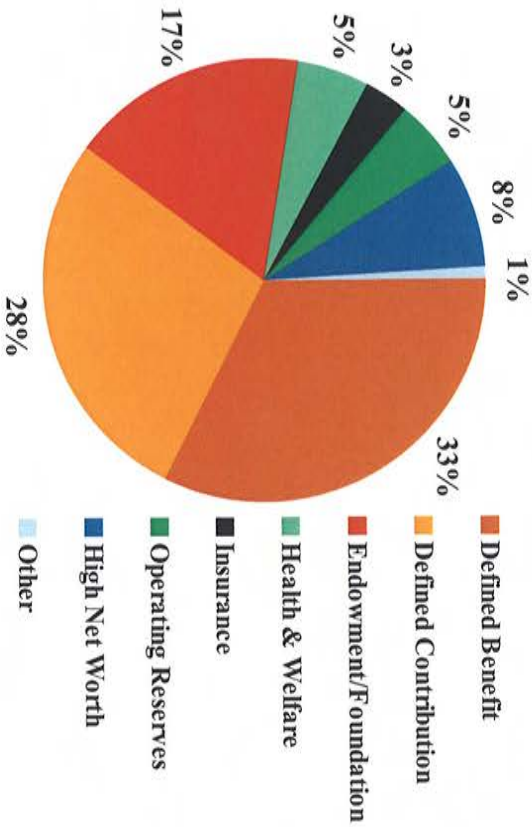
- | | | | | |
|---|--|---|---|---|
| <ul style="list-style-type: none"> ▶ Plan Structure ▶ Investments Gap Analysis ▶ Manager Search & Selection ▶ Vehicle Selection (mutual fund, commingled fund, separate account) ▶ Plan Mapping ▶ Default Option ▶ Custom Risk-Based & TRD Funds ▶ Third Party Administrators ▶ Search/RFPs ▶ Evaluating ▶ Due Diligence ▶ Monitoring ▶ SLA's ▶ Pricing ▶ Fiduciary Policy ▶ Investment Policy ▶ Committee Charter ▶ Plan Document ▶ Delegation ▶ Fiduciary Monitoring | <ul style="list-style-type: none"> ▶ Industry Trend Analysis ▶ Fee Transparency ▶ Auto Services ▶ Alternative Asset Classes ▶ Investment Monitoring ▶ Ongoing Manager Due Diligence ▶ Quarterly Performance Reports ▶ Monthly Performance Flashes ▶ Watch Status ▶ Plan Operations ▶ Utilization ▶ Participant Behavior Analysis ▶ Fee Analysis ▶ Education ▶ Communications ▶ Benchmarking | <ul style="list-style-type: none"> ▶ Real Estate ▶ Hedge Fund of Funds ▶ Securities Lending ▶ Program Review ▶ Search/RFP ▶ Monitoring & Risk Analysis ▶ Trade Execution ▶ Trade Cost Analysis ▶ Search & Evaluation ▶ Compliance Monitoring ▶ External Reviews ▶ Internal Reviews ▶ Compliance Reviews ▶ Organizational & Compensation Analysis ▶ Structural Reviews ▶ Functional Reviews ▶ Peer Data Reviews | <ul style="list-style-type: none"> ▶ Private Equity Fund of Funds ▶ Real Return ▶ Trust/Custody ▶ Search/RFPs ▶ Evaluation ▶ Due Diligence ▶ SLA's ▶ Pricing ▶ Prime Brokerage ▶ Search/RFPs ▶ Evaluating ▶ Due Diligence ▶ SLA's ▶ Pricing ▶ Transition Management ▶ Search ▶ Evaluation ▶ Due Diligence ▶ Cost Analysis | <ul style="list-style-type: none"> ▶ Cash Management ▶ Program Reviews ▶ Investment Options ▶ Search Evaluations |
|---|--|---|---|---|

Investment Operations Solutions

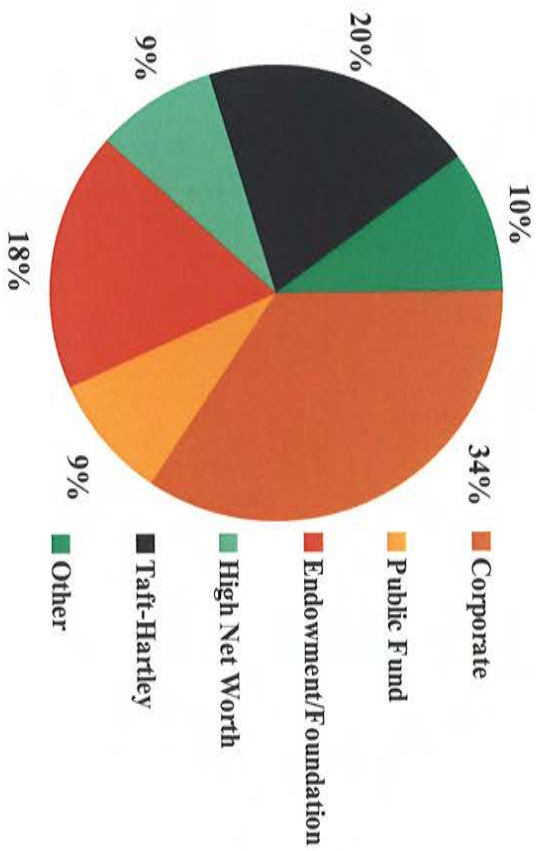


RVK Accounts by Client & Plan Type

Number of Retainer
Accounts by Client Type



Number of Retainer
Accounts by Plan Type





1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 46

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

FIN 310.2

August 20, 2009

SUBJECT:

MTS: NATURAL GAS HEDGE PROGRAM

RECOMMENDATION:

That the Board of Directors receive a report on MTS's Compressed Natural Gas (CNG) Hedge Program.

Budget Impact

None at this time.

DISCUSSION:

In February 2009, the MTS Board of Directors approved the Natural Gas Hedge Program in an effort to better manage costs and remove market volatility of this commodity for which MTS is budgeted to spend \$10.5 million dollars in FY 2010. This program consists of two parts: (1) utilizing San Diego Gas and Electric's Core Aggregation Transfer (CAT) Program to enable MTS to competitively purchase CNG directly from suppliers at market prices, and (2) the Commodity Swap Program to hedge future CNG rates from market volatility.

In March of 2009, MTS went out to bid for a direct supplier of CNG under SDG&E's CAT Program. After receiving competitive bids from three suppliers, British Petroleum was awarded the contract and became MTS's gas supplier effective June 1, 2009.

In June of 2009, MTS entered into swap agreements with three financial institutions. In July of 2009 MTS received bids for fixed CNG rates for the period of August 1, 2009, through June 30, 2010. Barclays submitted the lowest bid and was awarded the



contract. The result of this award includes a CNG price of \$1.29 per therm, which is \$0.06 lower than MTS's budgeted rate of \$1.35 per therm.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Larry Marinesi, 619.557.4542, larry.marinesi@sdmts.com

AUG20-09.46.GAS HEDGE PROGRAM.MTHOMPSON.doc

Metropolitan Transit System FY 2010 CNG Hedge Program

MTS Board of Directors Meeting
August 20, 2009



MTS CNG Hedge Program

- Initiated at Board direction February 19, 2009
 - Adopted Compressed Natural Gas (CNG) Hedging Policy
 - Pursue Core Aggregation Transfer (CAT) program
 - Utilize a commodity swap to hedge CNG rates for FY10
- Enabling agreements with creditworthy counterparties
 - Gas Purchase and Sale Agreement for CAT program bidders
 - Industry standard swap agreements for commodity swap providers
- Receive competitive bids



MTS CNG Hedge Program

- CAT Program
 - Distributed RPF to suppliers to become MTS' direct CNG supplier
 - Received responses from:
 - British Petroleum (BP)
 - Shell North America
 - Sempra Energy Solutions
 - BP was awarded contract
 - Became direct supplier effective June 1, 2009
 - Projected savings of \$200,000 annually
 - Also eliminates basis risk with commodity swap



MTS CNG Hedge Program

- Commodity Swap
 - Executed standard swap agreements with the following:
 - British Petroleum (BP)
 - Shell North America
 - Barclay's Bank
 - Barclay's Bank submitted the lowest bid
 - Hedge went into effect on August 1, 2009
 - FY10 Budget rate of \$1.35 per therm assumed \$4.81 per mMBTU raw gas cost
 - Hedged rate will be \$4.35 per mMBTU, which equates to \$1.29 per therm
 - Projected swap savings of \$286,000 versus budget
- Total projected program savings of \$486,000 versus budget



Metropolitan Transit System FY 2010 CNG Hedge Program

MTS Board of Directors Meeting
August 20, 2009





1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 47

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

CIP 11246

August 20, 2009

SUBJECT:

MTS: SUPER LOOP PILOT UPDATE

RECOMMENDATION:

That the Board of Directors receive a report on the Super Loop Pilot Project.

Budget Impact

None at this time.

DISCUSSION:

MTS began operating a precursor to the TransNet Super Loop Project on June 15, 2009. The pilot includes service operation in both directions every 10 minutes in the peak on a loop route serving 9 stops between University of California San Diego's campuses, University Towne Centre, and La Jolla Village Square. The service includes use of the newly purchased hybrid gas electric buses but does not include priority treatments or new-station amenities. Operation of this pilot provides additional service in the north city area, which has experienced high transit demand. Staff will provide a report on the first two months of operation.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

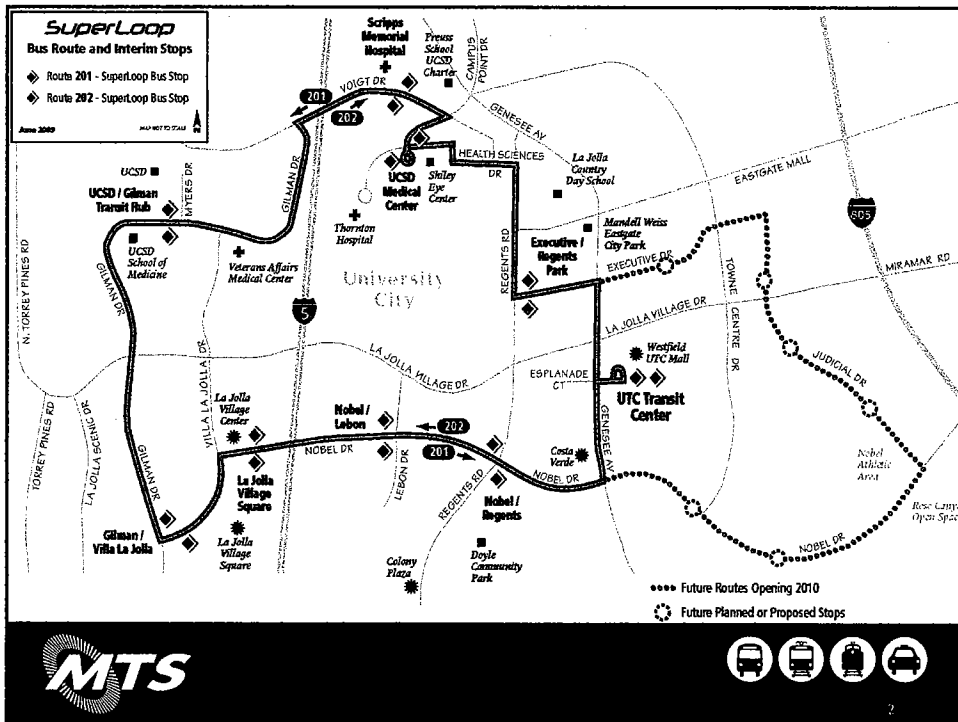
AUG20-09.47.SUPERLOOP.SCOONEY.doc



Metropolitan Transit System

SuperLoop Pilot Update

Board of Directors
August 20, 2009



Service Description

- Bidirectional loop anchored at UTC Transit Center
 - Serves as regional distributor and local circulator
- Days & Span Mon-Sun 5:00a – 10:00p
- Frequency :10 Peak / :15 Off Peak
- Limited Stops 9
 - 5 attractor UTC, UCSD, Voigt Dr medical facilities, La Jolla Village Square / Center
 - 4 residential Executive Dr, Nobel Dr, Villa La Jolla Dr
- Vehicles 35' low floor gas hybrid with 29 seats

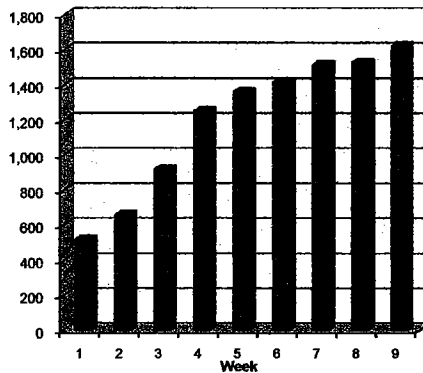


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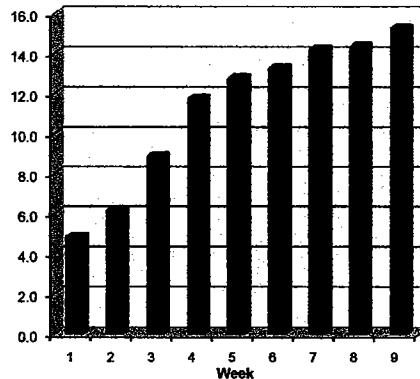
Ridership Results

Jun 15 – Aug 16

Passengers per Day



Passengers per Revenue Hour



4

Marketing

Current Efforts

- Launch event at UTC Transit Center Jun 15
- *SuperLoop* Experience at UTC Jul – mid Aug
- Free ride coupon distribution Jun – mid Aug

Upcoming Outreach

- UCSD Campus AY 2009/2010
- Major University City employers Fall 2009



Operating Results

Jun 15 – Aug 15

- Completion Rate 99.84%
- On Time 95.30%
- Vehicle Issue Noise of gas engine



7

Public Comments

Complaints

- Noise (residents) 12
- Equity of new service during cutbacks 1

Requests

- Additional stops en route 10
- Reroute to serve additional riders 4
- Increase span to midnight 1
- Implement Phase 2 service ASAP 1

Thank You's

- Convenience & frequency in commuting 2



8

Next Steps

Aug 2009	Engine “kick down” profile modified to reduce noise
Sep 2009	Schedule adjusted / East Campus stop relocated
1st Qtr 2010	Station construction begins - delayed to Federalize project
4th Qtr 2010	Permanent stations opened / Full routing implemented





1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Agenda

Item No. 48

JOINT MEETING OF THE BOARD OF DIRECTORS
for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

FIN 310.2

August 20, 2009

SUBJECT:

MTS: OPERATIONS BUDGET STATUS REPORT FOR MAY 2009

RECOMMENDATION:

That the Board of Directors receive a status report on MTS's operations budget for May 2009.

Budget Impact

None at this time.

DISCUSSION:

This report summarizes MTS's operating results for May 2009 compared to the amended midyear budget. Attachment A-1 combines the operations, administration, and other activities results for May 2009. Attachment A-2 details the May 2009 combined operations results, and Attachments A-3 to A-8 present budget comparisons for each MTS operation. Attachment A-9 details budget comparisons for MTS Administration, and Attachment A-10 provides May 2009 results for MTS's other activities (Taxicab/San Diego and Arizona Eastern Railway Company/debt service).

MTS NET-OPERATING SUBSIDY RESULTS

As indicated within Attachment A-1, the year-to-date May 2009 MTS net-operating subsidy favorable variance totaled \$588,000 (0.6%). Operations produced a \$1,189,000

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Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations), and San Diego Vintage Trolley, Inc., a 501(c)(3) nonprofit corporation, in cooperation with Chula Vista Transit. MTS is the taxicab administrator for seven cities. MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.

(1.1%) favorable variance, and the administrative/other activities areas were unfavorable by \$601,000.

MTS COMBINED RESULTS

Revenues

Year-to-date combined revenues through May 2009 were \$85,633,000 compared to the year-to-date budget of \$87,041,000, which represents a \$1,408,000 (-1.6%) negative variance.

Expenses

Year-to-date combined expenses through May 2009 were \$191,813,000 compared to the year-to-date budget of \$193,809,000, which resulted in a \$1,996,000 (1.0%) favorable variance.

Personnel Costs. Year-to-date personnel-related costs totaled \$90,555,000 compared to a year-to-date budgetary figure of \$90,865,000, which produced a favorable variance of \$309,000 (0.3%).

Outside Services and Purchased Transportation. Total outside services for the first 11 months of the fiscal year totaled \$64,524,000 compared to a budget of \$64,857,000, which resulted in a year-to-date favorable variance of \$333,000 (0.5%).

Materials and Supplies. Total year-to-date materials and supplies expenses totaled \$6,586,000 compared to a budgetary figure of \$6,869,000, which resulted in a favorable expense variance of \$283,000 (4.1%). This is primarily due to materials and supplies favorable variances within rail operations.

Energy. Total year-to-date energy costs were \$24,511,000 compared to the budget of \$26,249,000, which resulted in a year-to-date favorable variance of \$1,738,000 (6.6%). Year-to-date diesel prices averaged \$2.735 per gallon compared to the midyear-adjusted budgetary rate of \$2.570 per gallon. Year-to-date CNG prices averaged \$1.315 per therm compared to the midyear-adjusted budgetary rate of \$1.470 per therm.

Risk Management. Total year-to-date expenses for risk management were \$4,050,000 compared to the year-to-date budget of \$3,645,000, which resulted in an unfavorable variance totaling \$405,000 (-11.1%). This is primarily due to higher than expected legal claims costs within rail operations.

General and Administrative. Year-to-date general and administrative costs, including vehicle and facilities leases, were \$263,000 (-19.9%) unfavorable to budget totaling \$1,587,000 through May 2009 compared to a year-to-date budget of \$1,324,000. This is primarily due to a year-to-date reclassification of bank fees as well as some higher-than-expected office equipment expenses that were not qualified as capital procurements.

YEAR-TO-DATE SUMMARY

The May 2009 year-to-date net-operating subsidy totaled a favorable variance of \$588,000 (0.6%). These factors include favorable variances in outside services, energy, and materials and supplies partially offset by passenger revenue, risk management, and general and administrative expenses.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Larry Marinesi, 619.557.4542, Larry.Marinesi@sdmts.com

AUG20-09.48.OPS BUDGET MAY.MTHOMPSON.doc

Attachment: A. Comparison to Budget

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

MTS

Att. A, AI 48, 8/20/09

CONSOLIDATED

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ 78,987	\$ 79,932	\$ (945)	-1.2%
Other Revenue	6,646	7,109	(463)	-6.5%
Total Operating Revenue	\$ 85,633	\$ 87,041	\$ (1,408)	-1.6%
Personnel costs	\$ 90,555	\$ 90,865	\$ 309	0.3%
Outside services	64,524	64,857	333	0.5%
Transit operations funding	-	-	-	-
Materials and supplies	6,586	6,869	283	4.1%
Energy	24,511	26,249	1,738	6.6%
Risk management	4,050	3,645	(405)	-11.1%
General & administrative	1,108	899	(209)	-23.3%
Vehicle/facility leases	479	425	(54)	-12.7%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	(0)	(0)	0	-122.9%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 191,813	\$ 193,809	\$ 1,996	1.0%
Operating income (loss)	\$ (106,180)	\$ (106,768)	\$ 588	0.6%
Total public support and nonoperating revenues	(9,172)	(8,345)	(827)	9.9%
Income (loss) before capital contributions	\$ (115,353)	\$ (115,114)	\$ (239)	0.2%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

OPERATIONS

Att. A, AI 48, 8/20/09

CONSOLIDATED OPERATIONS

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ 78,987	\$ 79,932	\$ (945)	-1.2%
Other Revenue	723	630	93	14.8%
Total Operating Revenue	\$ 79,710	\$ 80,562	\$ (852)	-1.1%
Personnel costs	\$ 80,846	\$ 81,260	\$ 414	0.5%
Outside services	61,715	61,834	119	0.2%
Transit operations funding	-	-	-	-
Materials and supplies	6,578	6,857	279	4.1%
Energy	24,169	25,893	1,723	6.7%
Risk management	3,645	3,256	(389)	-11.9%
General & administrative	406	355	(51)	-14.3%
Vehicle/facility leases	474	420	(54)	-12.8%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	8,415	8,415	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 186,247	\$ 188,288	\$ 2,041	1.1%
Operating income (loss)	\$ (106,537)	\$ (107,726)	\$ 1,189	1.1%
Total public support and nonoperating revenues	(619)	208	(827)	-397.3%
Income (loss) before capital contributions	\$ (107,156)	\$ (107,518)	\$ 362	-0.3%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

OPERATIONS

Att. A, AI 48, 8/20/09

TRANSIT SERVICES (SAN DIEGO TRANSIT CORPORATION)

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ 24,784	\$ 24,391	\$ 393	1.6%
Other Revenue	193	9	184	2006.6%
Total Operating Revenue	\$ 24,977	\$ 24,400	\$ 577	2.4%
Personnel costs	\$ 50,886	\$ 51,267	\$ 381	0.7%
Outside services	1,690	1,766	76	4.3%
Transit operations funding	-	-	-	-
Materials and supplies	3,993	4,057	64	1.6%
Energy	7,700	8,151	452	5.5%
Risk management	1,695	1,605	(90)	-5.6%
General & administrative	143	152	9	6.0%
Vehicle/facility leases	181	133	(49)	-36.7%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	4,358	4,358	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 70,647	\$ 71,489	\$ 842	1.2%
Operating income (loss)	\$ (45,669)	\$ (47,089)	\$ 1,419	3.0%
Total public support and nonoperating revenues	(4,220)	(3,393)	(827)	24.4%
Income (loss) before capital contributions	\$ (49,890)	\$ (50,482)	\$ 592	-1.2%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
RAIL OPERATIONS (SAN DIEGO TROLLEY, INCORPORATED)
COMPARISON TO BUDGET - FISCAL YEAR 2009
MAY 31, 2009
(in \$000's)

Att. A, AI 48, 8/20/09

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ 29,627	\$ 30,348	\$ (721)	-2.4%
Other Revenue	471	621	(150)	-24.1%
Total Operating Revenue	\$ 30,099	\$ 30,969	\$ (871)	-2.8%
Personnel costs	\$ 28,859	\$ 28,860	\$ 2	0.0%
Outside services	8,460	7,795	(665)	-8.5%
Transit operations funding	-	-	-	-
Materials and supplies	2,553	2,763	209	7.6%
Energy	8,251	8,099	(152)	-1.9%
Risk management	1,950	1,651	(299)	-18.1%
General & administrative	246	184	(62)	-33.7%
Vehicle/facility leases	155	150	(4)	-2.9%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	3,213	3,213	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 53,686	\$ 52,716	\$ (971)	-1.8%
Operating income (loss)	\$ (23,588)	\$ (21,746)	\$ (1,841)	-8.5%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ (23,588)	\$ (21,746)	\$ (1,841)	8.5%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

OPERATIONS

Att. A, AI 48, 8/20/09

MULTIMODAL OPERATIONS (FIXED ROUTE)

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ 19,554	\$ 19,795	\$ (241)	-1.2%
Other Revenue	59	-	59	-
Total Operating Revenue	\$ 19,613	\$ 19,795	\$ (182)	-0.9%
Personnel costs	\$ 376	\$ 421	\$ 45	10.6%
Outside services	36,438	36,893	454	1.2%
Transit operations funding	-	-	-	-
Materials and supplies	25	26	2	6.7%
Energy	6,159	7,019	860	12.3%
Risk management	-	-	-	-
General & administrative	11	10	(1)	-7.1%
Vehicle/facility leases	138	136	(2)	-1.4%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	668	668	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 43,816	\$ 45,174	\$ 1,358	3.0%
Operating income (loss)	\$ (24,203)	\$ (25,379)	\$ 1,176	4.6%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ (24,203)	\$ (25,379)	\$ 1,176	-4.6%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

OPERATIONS

Att. A, AI 48, 8/20/09

MULTIMODAL OPERATIONS (PARATRANSIT)

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ 1,666	\$ 1,726	\$ (60)	-3.5%
Other Revenue	-	-	-	-
Total Operating Revenue	\$ 1,666	\$ 1,726	\$ (60)	-3.5%
Personnel costs	\$ 119	\$ 125	\$ 6	4.9%
Outside services	9,381	9,630	248	2.6%
Transit operations funding	-	-	-	-
Materials and supplies	-	-	-	-
Energy	1,553	1,879	326	17.4%
Risk management	-	-	-	-
General & administrative	4	4	(0)	-7.0%
Vehicle/facility leases	-	1	1	-
Amortization of net pension asset	-	-	-	-
Administrative Allocation	27	27	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 11,085	\$ 11,666	\$ 581	5.0%
Operating income (loss)	\$ (9,419)	\$ (9,940)	\$ 521	5.2%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ (9,419)	\$ (9,940)	\$ 521	-5.2%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
CONSOLIDATED CHULA VISTA TRANSIT OPERATIONS
COMPARISON TO BUDGET - FISCAL YEAR 2009
MAY 31, 2009
(in \$000's)

Att. A, AI 48, 8/20/09

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ 3,355	\$ 3,673	\$ (317)	-8.6%
Other Revenue	-	-	-	-
Total Operating Revenue	\$ 3,355	\$ 3,673	\$ (317)	-8.6%
Personnel costs	\$ 417	\$ 397	\$ (19)	-4.8%
Outside services	5,454	5,460	6	0.1%
Transit operations funding	-	-	-	-
Materials and supplies	7	11	4	39.9%
Energy	506	743	237	31.8%
Risk management	-	-	-	-
General & administrative	2	5	3	66.8%
Vehicle/facility leases	-	-	-	-
Amortization of net pension asset	-	-	-	-
Administrative Allocation	149	149	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 6,534	\$ 6,764	\$ 230	3.4%
Operating income (loss)	\$ (3,179)	\$ (3,092)	\$ (87)	-2.8%
Total public support and nonoperating revenues	3,454	3,454	-	0.0%
Income (loss) before capital contributions	\$ 275	\$ 362	\$ (87)	-24.0%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Att. A, AI 48, 8/20/09

OPERATIONS
CORONADO FERRY

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ -	\$ -	\$ -	-
Other Revenue	-	-	-	-
Total Operating Revenue	\$ -	\$ -	\$ -	-
Personnel costs	\$ -	\$ -	\$ -	-
Outside services	135	135	-	0.0%
Transit operations funding	-	-	-	-
Materials and supplies	-	-	-	-
Energy	-	-	-	-
Risk management	-	-	-	-
General & administrative	-	-	-	-
Vehicle/facility leases	-	-	-	-
Amortization of net pension asset	-	-	-	-
Administrative Allocation	-	-	-	-
Depreciation	-	-	-	-
Total Operating Expenses	\$ 135	\$ 135	\$ -	0.0%
Operating income (loss)	\$ (135)	\$ (135)	\$ -	0.0%
Total public support and nonoperating revenues	148	148	-	0.0%
Income (loss) before capital contributions	\$ 12	\$ 12	\$ -	0.0%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

**ADMINISTRATION
CONSOLIDATED**

Att. A, AI 48, 8/20/09

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ -	\$ -	\$ -	-
Other Revenue	4,972	5,605	(633)	-11.3%
Total Operating Revenue	\$ 4,972	\$ 5,605	\$ (633)	-11.3%
Personnel costs	\$ 9,167	\$ 9,071	\$ (96)	-1.1%
Outside services	2,721	2,888	167	5.8%
Transit operations funding	-	-	-	-
Materials and supplies	6	5	(1)	-25.9%
Energy	334	342	8	2.4%
Risk management	372	358	(15)	-4.1%
General & administrative	603	443	(160)	-36.2%
Vehicle/facility leases	5	5	0	0.2%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	(8,457)	(8,457)	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 4,753	\$ 4,656	\$ (97)	-2.1%
Operating income (loss)	\$ 219	\$ 949	\$ (730)	76.9%
Total public support and nonoperating revenues	(8,554)	(8,554)	-	0.0%
Income (loss) before capital contributions	\$ (8,334)	\$ (7,604)	\$ (730)	9.6%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

OTHER ACTIVITIES

Att. A, AI 48, 8/20/09

CONSOLIDATED

COMPARISON TO BUDGET - FISCAL YEAR 2009

MAY 31, 2009

(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VARIANCE
Passenger Revenue	\$ -	\$ -	\$ -	-
Other Revenue	950	873	77	8.8%
Total Operating Revenue	\$ 950	\$ 873	\$ 77	8.8%
Personnel costs	\$ 542	\$ 534	\$ (8)	-1.5%
Outside services	88	135	47	34.6%
Transit operations funding	-	-	-	-
Materials and supplies	2	7	6	75.5%
Energy	8	15	7	47.5%
Risk management	33	31	(1)	-3.3%
General & administrative	99	101	2	2.1%
Vehicle/facility leases	-	-	-	-
Amortization of net pension asset	-	-	-	-
Administrative Allocation	42	42	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 813	\$ 865	\$ 52	6.0%
Operating income (loss)	\$ 137	\$ 8	\$ 129	-1595.7%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ 137	\$ 8	\$ 129	1595.7%

Metropolitan Transit System FY 2009 - May 2009 Financial Review

MTS Board of Directors Meeting
August 20, 2009



**COMBINED MTS TRANSIT OPERATORS
COMPARISON TO BUDGET - MAY 31, 2009 - FY 2009
(in \$000's)**

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VAR
Fare Revenue	\$78,987	\$79,932	(\$945)	-1.2%
Other Revenue	723	630	93	14.8%
Total Operating Revenue	\$79,710	\$80,562	(\$852)	-1.1%

- Fare Revenue comparison to Mid-Year Budget
 - Year to date Ridership 2.2% under budget
 - May ridership was 658K passengers under budget (and 513K below May 2008)
 - Average Fares ahead of budget by 1.0%



COMBINED MTS TRANSIT OPERATORS COMPARISON TO BUDGET - MAY 31, 2009 - FY 2009 (in \$000's)				
	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	% VAR
Personnel Costs	\$80,846	\$81,260	\$414	0.5%
Purchased Transportation	50,242	50,694	452	0.9%
Other Outside Services	11,473	11,139	(333)	-3.0%
Energy	24,169	25,893	1,723	6.7%
Other Expenses	19,517	19,302	(215)	-1.1%
Total Expenses	\$186,247	\$188,288	\$2,041	1.1%

- Energy - May year to date rates:
 - CNG averaged \$1.315 per therm vs. budget of \$1.470
 - Diesel averaged \$2.735 per gallon vs. budget of \$2.570
 - Current spot pricing is \$1.19 for CNG and \$2.02 for Diesel



METROPOLITAN TRANSIT SYSTEM COMPARISON TO BUDGET - FY 2009 TOTAL REVENUE LESS EXPENSES (in \$000's)	
Combined Net Operating Variance	
MTS Operating Revenue	\$ (852)
MTS Operating Expenses	2,041
MTS Administration / Other Activities	(601)
Total Combined Net Operating Variance	\$ 588



Metropolitan Transit System FY 2009 - May 2009 Financial Review

MTS Board of Directors Meeting
August 20, 2009





1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
619.231.1466 FAX 619.234.3407

Agenda

Item No. 62

Chief Executive Officer's Report

ADM 121.7

August 20, 2009

In accordance with Board Policy No. 52, Procurement of Goods and Services, attached are listings of contracts, purchase orders, and work orders that have been approved within the CEO's authority (up to and including \$100,000) for the period July 7, 2009, through August 10, 2009.

gail.williams/agenda item 62



CONTRACTS - Expense				
Doc #	Organization	Subject	Amount	Day
G1080.4-07	LAW OFFICES OF MICHAEL RIPLEY	LEGAL SERVICES GENERAL & TORT LIABILITY	\$45,000.00	7/13/2009
G1268.0-09	BP CORPORATION NORTH AMERICA	CNG DIRECT PURCHASING AGREEMENT	Variable	7/13/2009
B0509.1-09	KINGSBURY UNIFORMS	AMEND 1 BUS OPERATOR UNIFORMS	\$7,744.12	7/16/2009
G1111.9-07	WHEATLEY BINGHAM & BAKER	LEGAL SERVICES GENERAL & TORT LIABILITY	\$100,000.00	7/16/2009
G1162.4-08	LAW OFFICES OF MARK H BARBER	LEGAL SERVICES WORKERS COMP	\$10,000.00	7/16/2009
G1269.0-09	SHELL ENERGY	FINANCIAL CNG HEDGING AGREEMENT	Variable	7/16/2009
L0899.0-10	SLY BUILD, INC	ROE PERMIT ECTC TROLLEY STA TENANT IMPRO	\$0.00	7/16/2009
G1273.0-09	DIA PIPPER, LLP	LEGAL SVCS INTELLECTUAL PROPERTY, PATENT	\$25,000.00	7/20/2009
PWL112.1-09	ELECTRO SPECIALTY SYSTEMS, INC	AMENDMENT TO DELETE LICENSES FORM CONTRA	\$2,830.45	7/20/2009
PWL115.1-09	MOORE ELECTRICAL CONTRACTING	EXTENSION OF FIBER OPTIC CABLE TO CITY	\$19,090.00	7/20/2009
B0511.1-09	VEHICLE TECHNICAL CONSULTANTS	AMENDMENT ADD COSTS IN-PLANT INSPECT SV	\$14,178.00	7/22/2009
G1270.0-09	SAN DIEGO FILM FESTIVAL	2009 SD ASIAN FILM FESTIVAL PARTNERSHIP	Exchange Value	7/22/2009
B0526.1-09	FIRST TRANSIT INC	EXERCISE OPTION YEARS 1 AND 2 RFP 06-200	\$73,443.00	7/27/2009
L6301.8-05	MORENA VISTA, LLC	AMENDMENT TO GROUND LEASE	\$0.00	7/27/2009
G1111.10-07	WHEATLEY BINGHAM & BAKER	LEGAL SERVICES GENERAL & TORT LIABILITY	\$95,000.00	7/30/2009
T0475.1-00	SANDAG	2009 TAXICAB PASSENGER SURVEY	\$75,701.00	7/30/2009
G1162.5-08	LAW OFFICES OF MARK H BARBER	LEGAL SERVICES WORKERS COMP	\$55,000.00	8/3/2009
G1272.0-09	SAN DIEGO ASIAN FILM FESTIVAL	2009 SAN DIEGO ASIAN FILM FESTIVAL PARTN	Exchange Value	8/3/2009
G1139.4-08	TROVILLION INVEISS PONTICELLO	LEGAL SERVICES WORKERS COMP	\$45,000.00	8/6/2009
G1274.0-09	BEST BEST & KRIEGER, LLP	LEGAL SERVICES REAL ESTATE ACQUISITION	\$10,000.00	8/6/2009
G1276.0-10	CITY OF SAN DIEGO C/O STEVEN	FIBER USE AGREEMENT	\$0.00	8/6/2009
PWL119.0-09	SELECT ELECTRIC	FIBER OPTIC PROJECT	\$13,280.00	8/6/2009
PWL121.0-10	ANGUS ASPHALT, INC	ASPHALT REPAIR PROJECT AT EL CAJON TRANS	\$6,690.00	8/6/2009
G1260.0-09	ZOOLOGICAL SOCIETY OF SANDIEGO	ZOOLOGICAL SOCIETY FALL PROMOTION	Exchange Value	8/10/2009
G1264.0-09	BP CORPORATION	FINANCIAL CNG HEDGING AGREEMENT	\$0.00	8/10/2009

PURCHASE ORDERS			
DATE	Organization	Subject	AMOUNT
7/20/2009	BORDEAUX PRINTERS INC	SD TROLLEY POCKET GUIDE PRINTS	\$3,361.46
7/20/2009	THE PINNACLE GROUP	DELL ULTRA SHARP 1908 FLAT PANEL	\$11,617.76
7/20/2009	RAPHAEL'S PARTY RENTAL	RENTALS FOR APTA AWARDS RECEPTION	\$930.09
7/25/2009	WALL TO WALL INDOOR ADVERT	DRINK COASTERS	\$2,750.00
7/27/2009	COUNTYWIDE MECHANICAL SYSTEMS	REPLACE 7.5 TON GAS PKG UNIT MTS	\$11,500.00

PURCHASE ORDERS

DATE	Organization	Subject	AMOUNT
7/27/2009	PIXEL IMAGING MEDIA	APTA AWARD TROLLEY WRAP	\$16,338.34
7/27/2009	CLEAR CHANNEL BROADCASTING	12-MONTH RADIO/ONLINE/PROMO PARTNER	\$75,000.00
7/27/2009	PHONE SUPPLEMENTS	H101N ENCORE HEADSET BINAURAL	\$225.72
7/30/2009	BORDEAUX PRINTERS INC	MTS NEWSLETTER - SUMMER 09	\$7,111.16
7/30/2009	DAY WIRELESS SYSTEMS	G808 ENH ASTRO DIGITAL FLASHPORT	\$7,045.75
7/30/2009	INTEGRATED OFFICE SYSTEMS	COPIER MAINTENANCE SVC AGREEMENT	\$7,666.50
8/3/2009	TENNANT SALES & SERV CO	SCRUBBER, 650/800 MM	\$23,577.59
8/3/2009	DIMENSIONAL SILKSCREEN	INTERIOR BUS DECALS PER QUOTE	\$793.88
8/3/2009	ABTECH SYSTEMS INC	ANNUAL SUPPORT MAINT HP UNIX SERVER	\$19,212.00
8/3/2009	COX MEDIA	OPEN PO FOR COX CABLE TV SPOTS	\$99,998.00
8/3/2009	SHI INTERNATIONAL CORP	HP WORK STATION XW4600 CORE 2	\$7,389.36

WORK ORDERS

Doc #	Organization	Subject	Amount	Day
G1246.0-09.03	DAVID EVANS & ASSOC. INC	GEN ENGINEERING FOR STORM WATER MON	\$39,000.00	7/16/2009
G1127.0-08.06.02	BUREAU VERITAS/BERRYMAN & HENN	HAZ WASTE ENVIRONMENTAL SVCS H ST.	\$20,000.00	7/29/2009
G1246.0-09-04	DAVID EVANS & ASSOCIATES	TECHNICAL SPEC ASSIST FOR LRV VIDEO	\$61,177.33	8/6/2009

CONTRACTS - Revenue

Doc #	Organization	Subject	Amount	Day
G0975.5-06	DAN FERBAL	ECO PASS	(\$18,144.00)	7/13/2009
G1006.4-06	SDSU ASSOC STUDENTS	ECO PASS	(\$17,452.80)	7/13/2009
S200-09-411	PAR ELECTRIC	ROE PERMIT SDGE POLE REPLACEMENT BAY BLV	(\$2,250.00)	7/13/2009
G1241.2-09	THE SOFIA HOTEL	ECO PASS	(\$5,022.00)	7/16/2009
L0898.0-09	SOUTHERN CONTRACTING CO.	ROE PERMIT SDGE METER PEDESTAL	(\$1,850.00)	7/16/2009
L5707.0-09	PAR ELECTRIC	JROE PERMIT NCTD SDGE POLO LINE TRANSFER	(\$2,800.00)	7/16/2009
S200-10-419	ERRECA'S, INC	ROE PERMIT I-805/IMPERIAL CALTRANS EMERG	(\$4,500.00)	7/16/2009
S200-10-417	TC CONSTRUCTION	ROE PERMIT L G AVE SEWER MAIN ABANDONED	(\$1,500.00)	7/22/2009
L0893.0-09	AFC HALF MARATHON	ROE PERMIT TO CROSSTRACKS @ BROADWAY	(\$500.00)	7/29/2009
G0878.7-03	SCRIPPS HEALTH CENTER	ECO PASS	(\$20,736.00)	8/3/2009
G1275.0-09	SDSU CONTRACTS/PROCUREMENT	PARTNERSHIP AGREEMENT TO SELL DAY PASS	(\$40,000.00)	8/3/2009