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San Diego, CA 92101-7490
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Agenda

JOINT MEETING OF THE BOARD OF DIRECTORS

for the
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

October 16, 2008

9:00 a.m.

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

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**ACTION
RECOMMENDED**

1. Roll Call
2. Approval of Minutes - September 25, 2008
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.

Approve

Please turn off cell phones and pagers
during the meeting



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.

CONSENT ITEMS

- | | | |
|-----|---|---------|
| 6. | <u>MTS: Adoption of Amended 2008 Conflict of Interest Code</u>
Action would: (1) adopt Resolution No. 08-20 amending the MTS Conflict of Interest Code pursuant to the Political Reform Act (PRA) of 1974; (2) adopt the amended 2008 MTS Conflict of Interest Code; and (3) forward the amended 2008 MTS Conflict of Interest Code to the County of San Diego (the designated code reviewing body). | Adopt |
| 7. | <u>MTS: Adoption of the 2009 MTS Executive Committee and Board of Directors Meeting Schedule</u>
Action would adopt the 2009 Executive Committee and Board of Directors Meeting Schedule. | Adopt |
| 8. | <u>MTS: Investment Report for August</u>
Action would receive a report for information. | Receive |
| 9. | <u>SDTC: Drug and Alcohol Policy for San Diego Transit Corporation</u>
Action would adopt Resolution No. 08-19, which would implement San Diego Transit Corporation's (SDTC's) updated drug and alcohol policy in order to comply with current Federal Transit Administration (FTA) regulations. | Approve |
| 10. | <u>MTS: Public Assistance and California Disaster Assistance Act Grant Programs</u>
Action would approve Resolution No. 08-21 authorizing the CEO to submit applications for funds provided by the Federal Emergency Management Agency administered through the Governor's Office of Emergency Services. | Approve |

CLOSED SESSION

- | | | |
|-----|---|-----------------|
| 24. | a. MTS: CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION SIGNIFICANT EXPOSURE TO LITIGATION Pursuant to California Government Code section 54956.9(b) (<u>One Potential Case</u>) | Possible Action |
| | b. MTS: CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a): <u>Balfour Beatty/Ortiz v. Metropolitan Transit System</u> (Superior Court Case No. GIC 868963) | Possible Action |
| | c. MTS: CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a): <u>San Diego Public-Transit Riders Alliance v. MTS et al.</u> San Diego Superior Court Case Nos. 07-2007-0082217-CU-TT-CTL and 37-2008-00086580-CU-TT-CTL | Possible Action |

Oral Report of Final Actions Taken in Closed Session

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

30. MTS: New Flyer Buses - Contract Award Approve
Action would authorize the CEO to: (1) execute MTS Doc. No. G1101.3-07 with New Flyer of America, Inc. to purchase 37 low-floor (40-foot) compressed natural gas (CNG) transit buses; (2) transfer \$308,000 from Chula Vista Transit (CVT) 40-Foot CNG project (Project Code 11250) to MTS 40-Foot CNG Buses project (Project Code 11239); and (3) transfer \$675,000 from MTS 40-Foot CNG Buses project (Project Code 11239) to MTS High Capacity Bus project (Project Code 11189).
31. MTS: Federal Legislative Representation Approve
Action would authorize the CEO to execute Task Order No. 4 of the triagency contract with Blank Rome Government Relations, LLP (MTS Doc. No. G0980.0-06) effective November 1, 2008.
32. MTS: Mission Valley East Light Rail Transit Project - Legal Services Contract Amendment Approve
Action would authorize the CEO to execute MTS Doc. No. M6655.5-07 with Hecht Solberg Robinson Goldberg and Bagley LLP for legal services on the Mission Valley East Light Rail Transit (MVE LRT) Project.
33. MTS: 12th and Imperial Trolley Station and Mills Building Closed-Circuit Television (CCTV) System Upgrade - Contract Ratification and Amendment Ratify/Approve
Action would: (1) ratify MTS Doc. No. L0849.0-08 awarded to Electro Specialty Systems, Inc. for the 12th and Imperial Trolley Station and Mills Building closed-circuit television (CCTV) system upgrade; and (2) authorize the CEO to execute Amendment No. 1 to MTS Doc. No. L0849.0-09 with Electro Specialty Systems, Inc. to exercises options in the base contract.
34. MTS: Clarifier Waste Transportation and Recycling Services - Contract Award Approve
Action would authorize the CEO to execute MTS Doc. No. PWG103.0-09 with Asbury Environmental Services for a five-year period.
35. MTS: Increased Authorization for Legal Services - Law Office of Julie Morris Soden Approve/Ratify
Action would authorize the CEO to execute MTS Doc. No. G1173.3-08 with the Law Office of Julie Morris Soden for legal services and ratify prior amendments enter into under the CEO's authority.

- | | | |
|-----|---|----------------|
| 36. | <u>MTS: Increased Authorization for Legal Services - Law Offices of Wheatley Bingham & Baker</u>
Action would authorize the CEO to execute MTS Doc. No. G1111.3-07 with | Approve/Ratify |
| 37. | <u>MTS: Increased Authorization for Legal Services - McDougal Love Eckis Smith Boehmer & Foley, APC</u>
Action would authorize the CEO to execute MTS Doc. No. G1067.2-07 with McDougal Love Eckis Smith Boehmer & Foley, APC for legal services and ratify prior amendments enter into under the CEO's authority. | Approve/Ratify |
| 38. | <u>MTS: Increased Authorization for Legal Services - Law Office of Mark H. Barber, APC</u>
Action would authorize the CEO to execute MTS Doc. No. G1162.2-08 with the Law Offices of Mark H. Barber, APC for legal services and ratify prior amendments enter into under the CEO's authority. | Approve/Ratify |
| 39. | <u>MTS: Regional Transit Management System - Lease with the City of San Diego for Communications Equipment at Catalina Standpipe</u>
Action would authorize the CEO to execute MTS Doc. No. G1216.0-09 with the City of San Diego (City) for the installation and maintenance of communications equipment for the Regional Transit Management System (RTMS). | Approve |

REPORT ITEMS

- | | | |
|-----|---|-------------|
| 45. | <u>MTS: Semiannual Security Report</u>
Action would receive a report for information. | Receive |
| 46. | <u>MTS: GASB 45 Actual Valuation of Postemployment Welfare Benefits</u>
Action would receive a report for information. | Receive |
| 60. | <u>Chairman's Report</u> | Information |
| 61. | <u>Audit Oversight Committee Chairman's Report</u> | Information |
| 62. | <u>Chief Executive Officer's Report</u> | Information |
| 63. | <u>Board Member Communications</u> | |
| 64. | <u>Additional Public Comments Not on the Agenda</u>
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 Comments. | |
| 65. | <u>Next Meeting Date:</u> October 30, 2008 | |
| 66. | <u>Adjournment</u> | |

DRAFT

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

September 25, 2008

MTS
1255 Imperial Avenue, Suite 1000, San Diego

MINUTES

1. Roll Call

Chairman Mathis called the Board meeting to order at 9:16 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Mr. Young moved to approve the minutes of the September 11, 2008, MTS Board of Directors meeting. Mr. Rindone seconded the motion, and the vote was 8 to 0 in favor.

3. Public Comment

R. Mitchel Beauchamp: Mr. Beauchamp stated that since leaving his years of service on the MTDB and SDTI Boards, he has been involved with restoring service to the San Diego-Tijuana region by two rail companies. He added that most large cities are served by two separate rail lines and requested that the Board move forward with selling the Desert Line to a responsible rail operator. He stated that doing so would remove the liability faced by MTS in operating that line and also relieve a portion of MTS's budgetary problems. He also stated that this action would provide the investment needed to upgrade the system to handle anticipated volumes and would remove the hazardous liquid petroleum cargo and empty gas tank cars from San Diego, and, more specifically, from in front of the Convention center and MTS headquarters. He added that if the Desert Line is sold, MTS would retain its easement and right of reversion.

Mr. Mathis requested that Mr. Beauchamp provide the Board with a copy of his written statement and stated that staff would review the proposal and subsequently advise the Board. Mr. Paul Jablonski, MTS CEO, stated that if someone offered to purchase the Desert Line, staff would evaluate their proposal and bring it to the Board.

Clive Richard: Mr. Richard made complimentary comments about the Route 15, which he uses, and that ties in very well with trolley service. He stated that San Diego needs a system that works well for as many people as possible. He stated that maybe property tax would be a better source of funding for public transportation than sales tax revenues. He stated that other funding options need to be explored so that a viable system can be sustained.

CONSENT ITEM:

6. SDTI: SD 100 Light Rail Vehicle Repairs Sole-Source Contract Award (OPS 970.6)

Recommend that the Board of Directors (1) find that there is only a single source of procurement for repairs to Siemens Transportation Systems, Inc. SD 100 Light Rail Vehicle

(LRV) No. 2052; (2) find that Siemens is the sole-source provider for the structural repair service for SDTI LRV No. 2052; and (3) under the provisions of MTS Board Policy No. 52 (4E), authorize the CEO to award a sole-source, fixed-price contract to Siemens to repair SDTI LRV No. 2052.

Action on Recommended Consent Item

Mr. Clabby moved to approve Consent Agenda Item No. 6. Mr. Ewin seconded the motion, and the vote was 10 to 0 in favor.

30. MTS: New Flyer Buses for Chula Vista – Contract Amendment (CIP 11250)
(This item was taken out of order)

Mr. Elliot Huwitz, Contract Services Administrator, reminded the Board that MTS awarded a contract for 50 buses in February to New Flyer with options for additional buses. He stated that the five buses that staff is proposing to order would be for Chula Vista service and would replace diesel buses that were purchased in 1991. He stated that the new buses would be fueled by compressed natural gas (CNG) and that Chula Vista has its own fueling station. He added that the cost of purchasing these buses is funded in the Capital Improvement Program.

Mr. Rindone was advised that there are 37 seats on these particular buses. Mr. Rindone stated that replacing the older diesel-powered buses with CNG will be beneficial to MTS and to the region.

Mr. Clabby stated that he fully supported this purchase but that he didn't feel that sales tax should be paid on purchases paid for with tax dollars. Mr. Jablonski stated that he has made that point a number of times in Sacramento and especially regarding Proposition 1B funds. He stated that legislators seem partially receptive to the idea, but he wasn't optimistic that anything would be accomplished in the short term given the state's current budgetary problems. He stated that he will continue to discuss this matter with legislators.

Mr. Jablonski advised the Board that over the last three years, MTS has lost \$102 million in funding. He stated that MTS could replace all of its buses with this level of funding, or replace 12 to 14 buses and pay for one-half of the rehabilitation of the Blue Line. He stated that this level of funding could pay for 30 to 40 new rail cars.

Action Taken

Mr. Rindone moved to authorize the CEO to execute MTS Doc. No. G1101.2-07 (in substantially the same format as Attachment A of the agenda item) with New Flyer of America, Inc. to purchase five 40-foot, low-floor, compressed natural gas transit buses. Mr. Ewin seconded the motion, and the vote was 10 to 0 in favor.

CLOSED SESSION:

24. Closed Session Items (ADM 122)

The Board convened to Closed Session at 9:32 a.m.

- a. MTS: CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a): National

Railroad Passenger Corporation (Amtrak) v. San Diego Trolley, Inc. Claim No. TL10339906

- b. MTS: CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION SIGNIFICANT EXPOSURE TO LITIGATION Pursuant to California Government Code section 54956.9 (b) (One Potential Case)

The Board reconvened to Open Session at 10:10 a.m.

Oral Report of Final Actions Taken in Closed Session

Ms. Tiffany Lorenzen, MTS General Counsel, reported the following:

- a. The Board received a report and gave direction to outside counsel.
- b. The Board received a report and gave direction to the CEO and the General Counsel.

NOTICED PUBLIC HEARINGS

25. There were no noticed public hearings.

DISCUSSION ITEMS:

REPORT ITEMS:

45. MTS: Liability Claims Analysis Report (LEG 491)

Mr. Jim Dow, Risk and Loss Prevention Manager, provided the Board with an analysis of liability and workers' compensation claims for fiscal year 2008. He reminded the Board that claims administration for liability claims was brought in-house in October 2007.

Mr. Dow reviewed the number of liability claims that had been submitted, how many had been closed, the percentage of claim types, and the total cost for liability claims. He stated that, taking into account the cost of administering these claims in-house, MTS experienced a 42 percent decrease in claims cost from the preceding fiscal year. He also reported that MTS is experiencing an annualized savings of \$275,066 as a result of bringing administration of these claims in-house. Ms. Carmen Naranjo, Risk and Claims Manager, reported that having security cameras on the buses and videotape of incidents has helped reduce the number of claims people follow-through with. She added that 80 out of 200 buses are equipped with cameras.

Mr. Dow also presented information on workers' compensation claims and cost. He reviewed time lost, information on the number of claims made, frequency of claims, and cost per claim. He reported that the average cost per claim has dropped \$593 over the last four years, which resulted in a savings for fiscal year 2008 of \$105,554.

Mr. Dow reviewed Risk Management's goals for FY 2009.

Mr. Monroe complimented staff on their efforts in this area and asked if recent changes in state workers' compensation law had helped. Ms. Naranjo stated that they had helped tremendously by giving the company more control over where and how employees receive medical treatment after being injured on the job. She stated that this change plus staff effort has yielded the

positive results. Mr. Monroe asked that staff provide him with the data points for the Formal Unique Liability Claims chart.

Action Taken

Mr. Clabby moved to receive the Liability Claims Analysis Report (Attachment A of the agenda item) for MTS, SDTC, and SDTI. Ms. Atkins seconded the motion, and the vote was 9 to 0 in favor.

60. Chairman's Report

The Chairman made no report.

61. Audit Oversight Committee Chairman's Report

Mr. Ewin, Chairman of the Audit Oversight Committee, reported that the audit is ongoing.

62. Chief Executive Officer's Report

Jeff Cross, ARC Employee: Mr. Jablonski reported that Mr. Cross, who was a member of the ARC team that has cleaned MTS buses for the last two years, was killed in a hit-and-run pedestrian accident over the weekend. He stated that grief counseling is being provided

63. Board Member Communications

There were 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, October 16, 2008.

66. Adjournment

Chairman Mathis adjourned the meeting at 10:25 a.m.

Chairperson
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

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

Office of the General Counsel
San Diego Metropolitan Transit System

Attachment: A. Roll Call Sheet

[gail.williams/minutes](#)

**METROPOLITAN TRANSIT DEVELOPMENT BOARD
ROLL CALL**

MEETING OF (DATE): 9/25/08

CALL TO ORDER (TIME): 9:15 a.m.

RECESS: _____

RECONVENE: 10:10 a.m.

CLOSED SESSION: 9:32 a.m.

RECONVENE: _____

PUBLIC HEARING: _____

RECONVENE: _____

ORDINANCES ADOPTED: _____

ADJOURN: 10:25 a.m.

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ATKINS	<input checked="" type="checkbox"/> (Hueso) <input type="checkbox"/>	9:50 a.m. during AI 24	
CLABBY	<input checked="" type="checkbox"/> (Selby) <input type="checkbox"/>		
EMERY	<input type="checkbox"/> (Cafagna) <input type="checkbox"/>		<input checked="" type="checkbox"/>
EWIN	<input checked="" type="checkbox"/> (Allan) <input type="checkbox"/>		
FAULCONER	<input checked="" type="checkbox"/> (Hueso) <input type="checkbox"/>		
MAIENSCHIN	<input checked="" type="checkbox"/> (Hueso) <input type="checkbox"/>		
MATHIS	<input checked="" type="checkbox"/> (Vacant) <input type="checkbox"/>		
MCCLELLAN	<input type="checkbox"/> (Hanson-Cox) <input checked="" type="checkbox"/>	9:20 a.m. during AI 3	
MCLEAN	<input type="checkbox"/> (Bragg) <input type="checkbox"/>		<input checked="" type="checkbox"/>
MONROE	<input checked="" type="checkbox"/> (Downey) <input type="checkbox"/>		
RINDONE	<input checked="" type="checkbox"/> (McCann) <input type="checkbox"/>		
ROBERTS	<input type="checkbox"/> (Cox) <input type="checkbox"/>		<input checked="" type="checkbox"/>
RYAN	<input type="checkbox"/> (B. Jones) <input checked="" type="checkbox"/>		
YOUNG	<input checked="" type="checkbox"/> (Hueso) <input type="checkbox"/>		
ZARATE	<input type="checkbox"/> (Parra) <input type="checkbox"/>		<input checked="" type="checkbox"/>

SIGNED BY THE OFFICE OF THE CLERK OF THE BOARD

CONFIRMED BY OFFICE OF THE GENERAL COUNSEL



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

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.

ADM 110 (PC 50101)

October 16, 2008

SUBJECT:

MTS: ADOPTION OF AMENDED 2008 CONFLICT OF INTEREST CODE

RECOMMENDATION:

That the Board of Directors:

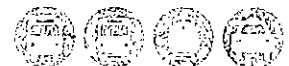
1. adopt Resolution No. 08-20 (Attachment A) amending the MTS Conflict of Interest Code pursuant to the Political Reform Act (PRA) of 1974;
2. adopt the amended 2008 MTS Conflict of Interest Code (in substantially the same format as Attachment B); and
3. forward the amended 2008 MTS Conflict of Interest Code to the County of San Diego (the designated code reviewing body).

Budget Impact

None.

DISCUSSION:

As a public agency, MTS is required to comply with the provisions of the PRA, which mandates that public agencies maintain a Conflict of Interest Code for each of its publicly elected officials as well as certain designated staff. Every other year, MTS is required by the PRA to revise and update its Conflict of Interest Code. Attachment B is



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the proposed amended 2008 Conflict of Interest Code incorporating the model provisions as drafted by the California Fair Political Practices Commission (FPPC). The proposed 2008 Conflict of Interest Code contains the model terms and conditions as well as:

1. a list of designated officials who manage public investments (Exhibit A)
2. a list of designated positions for employees (Exhibit A); and
3. Disclosure Categories (Exhibit B).

General Counsel is requesting the Board of Directors adopt Resolution No. 08-20 amending the MTS Conflict of Interest Code pursuant to the Political Reform Act of 1974, adopt the 2008 MTS Conflict of Interest Code in substantially the same format as attached, and forward the 2008 MTS Conflict of Interest Code to the County of San Diego—the designated code reviewing body.



Paul C. Jablonski
Chief Executive Officer

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

OCT-16-08.6.CONFLICT OF INTEREST.TLOREN.doc

Attachments: A. Resolution No. 08-20
B. Proposed Amended Appendix for 2008 Conflict of Interest Code
C. 2006 Conflict of Interest Code

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 08-20

Resolution of the Board of Directors of the Metropolitan Transit System Adopting an Amended
Appendix to the Conflict of Interest Code Pursuant to the Political Reform Act of 1974

WHEREAS, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees, and consultants of the Metropolitan Transit System ("MTS") and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the Board of Directors adopted a Conflict of Interest Code (the "Code"), which was amended on December 14, 2006, in compliance with the Act; and

WHEREAS, subsequent changed circumstances within MTS have made it advisable and necessary pursuant to sections 87306 and 87307 of the Act to amend and update MTS's Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief, which could result in MTS being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Board of Directors of, the proposed amended Appendix was provided to each affected designated employee and publicly posted for review; and

WHEREAS, a public meeting was held upon the proposed amended Appendix at a regular meeting of the Board of Directors on October 16, 2008, at which time all present were given an opportunity to be heard on the proposed amended Appendix. NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by a vote of two-thirds or more of all of the members of the San Diego Metropolitan Transit System Board of Directors as follows:

1. The Board of Directors does hereby adopt the proposed amended Appendix to the Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the General Counsel and available to the public for inspection and copying.
2. The said amended Appendix to the Conflict of Interest Code shall be submitted to the Board of Supervisors of the County of San Diego for approval.
3. The said amended Appendix to the Conflict of Interest Code shall become effective 30 days after the Board of Supervisors approves the proposed amended Appendix as submitted.

PASSED AND ADOPTED this 16th day of October 2008.

AYES:

NAYS:

ABSENT:

ABSTAINING:

Chairman
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

Clerk of the Board
San Diego Metropolitan Transit System

General Counsel
San Diego Metropolitan Transit System

OCT16-08.6.AttA.RESO 08-20.COI.TLORENZEN.DOC

Attachment: Proposed Amended Appendix to the Conflict of Interest Code

LEGISLATIVE VERSION
(SHOWS CHANGES MADE)
APPENDIX

CONFLICT OF INTEREST CODE
OF THE
METROPOLITAN TRANSIT SYSTEM

(Amended December 14, 2006October 16, 2008)

EXHIBIT "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

MTS Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to MTS's Code, but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.). [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments¹:

Board of Directors and Alternates

Chief Executive Officer

Chief Financial Officer

Investment Consultant

¹ Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
<u>ADA Manager</u>	<u>6</u>
<u>Assistant Budget Manager</u>	<u>1, 2</u>
<u>Assistant Director – Transit System Security</u>	<u>6</u>
Assistant Transportation Planner	2, 6
Associate Transportation Planner	2, 6
Budget Manager	1, 2
Business Manager – <u>of Marketing & Communications</u>	6
Buyer	5
Chief Operating Officer – <u>Bus Transit Services</u>	1
Chief Operating Officer – Rail	1
Communications Design Manager	6
Communications Designer	6
Contract Services Administrator	6
Controller	1, 2
Copy Center Coordinator	5
Director of Governmental Affairs & Community Relations	1
Director of Human Resources and Labor Relations	6
Director of Maintenance	6
Director of Marketing & Communications	6

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Director of Multimodal Operations	6
Director of Planning & Development <u>Scheduling</u>	1, 2
<u>Director of Transit System Security</u>	6
Director of Transportation	1
<u>Engineering Liaison/Project Engineer</u>	1, 2
General Counsel	1, 2
<u>Liability Claims Adjuster</u>	1, 2
Manager of Facilities	6
Manager of Human Resources	6
<u>Manager of Information</u> <u>Chief Technology Officer</u>	6
Manager of Procurement	5
Manager of Real Estate Assets	1, 2
<u>Media & Communications Specialist</u>	6
<u>Network Operations Manager</u>	6
President & General Manager	1, 2
<u>Performance Monitoring Specialist</u>	2, 5
<u>Principle Contract Administrator</u>	5
Procurement Analyst	6
<u>Regulatory Enforcement Supervisor</u>	7
<u>Revenue Manager (ALL)</u>	4, 6
<u>Right-of-Way Agent</u>	1, 2

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
<u>Right-of-Way Engineer</u>	<u>1, 2</u>
Risk Administrator	6
Risk Management Coordinator	6
Senior Buyer	5
Senior Transportation Planner	1, 2
<u>Software Development Manager</u>	<u>6</u>
Storeroom Manager	5
Superintendent of LRV Maintenance	6
Superintendent of Transportation	6
Superintendent of Wayside Maintenance	6
Taxicab Administration Manager	6
Vice-President of Operations	1, 2

Consultant²

² Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

EXHIBIT "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income located in, that do business in or own real property within the jurisdiction of MTS.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of MTS.

Category 3: All investments and business positions in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of MTS.

Category 4: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions.

Category 5: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by MTS.

Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's Department.

Category 7: All investments and business positions in, and sources of income from, business entities subject to the regulatory, permit, or licensing authority of the Designated Employee's Department.

LAW OFFICES OF
BEST BEST & KRIEGER LLP

CONFLICT OF INTEREST CODE OF THE METROPOLITAN TRANSIT SYSTEM

The following Conflict of Interest Code of the Metropolitan Transit System was adopted by Resolution No. 06-15 of the Members of the Board of Directors on December 14, 2006.

Approved by the Board of Supervisors
County of San Diego

Date: _____

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CONFLICT OF INTEREST CODE
OF THE
METROPOLITAN TRANSIT SYSTEM

(Amended December 14, 2006)

The Political Reform Act, (Government Code Sections 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard model conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This attached regulation and the attached Appendix designating officials and employees and establishing disclosure categories shall constitute the conflict of interest code of the Metropolitan Transit System (MTS).

All Officials and Designated Employees required to submit a statement of economic interests shall file their statements with MTS's General Counsel as MTS's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by Members and Alternates of the Board of Directors, Chief Executive Officer and the Chief Financial Officer, and forward the originals of such statements to the Clerk of the Board of Supervisors. The Filing Officer shall retain the originals of the statements of all other Designated Employees. The Filing Officer will make all retained statements available for public inspection and reproduction (Gov. Code Section 81008).

Regulations of the Fair Political Practices Commission

TITLE 2, DIVISION 6, CALIFORNIA CODE OF REGULATIONS

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code section 87300 or the amendment of a conflict of interest code within the meaning of Government Code section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

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(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Government Code section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to 2 Cal. Code Regs. section 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported,⁶ the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Government Code section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(8.1) Section 8.1 Prohibition on Receipt of Gifts in Excess of \$360.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$360 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - a. The date the loan was made.
 - b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$360 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

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No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 and 2 Cal. Code Regs. sections 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code sections 81000 – 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300 87302, 89501, 89502 and 89503, Government Code.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided

that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

²See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

History

1. New section filed 4-2-80 as an emergency; effective upon filing. Certificate of Compliance included.
2. Amendment of subsection (b) filed 1-9-81; effective 30 days thereafter.
3. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective 30 days thereafter.
4. Amendment of subsection (b)(7)(A) filed 11-10-83; effective 30 days thereafter.
5. Amendment filed 4-13-87; effective 5-13-87.
6. Amendment of subsection (b) filed 10-21-88; effective 11-20-88.
7. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; effective 9-27-90.
8. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of NOTE filed 8-7-92; effective 9-7-92.
9. Amendment filed 2-4-93; effective upon filing.
10. Change without regulatory effect adopting COIC for California Mental Health Planning Council filed 11-22-93. Approved by FPCC 9-21-93.
11. Change without regulatory effect redesignating COIC for California Mental Health Planning Council filed 1-4-94.
12. Amendment filed and effective 3-14-95.
13. Amendment filed and effective 10-23-96.
14. Amendment filed and effective 4-9-97.
15. Amendment filed and effective 8-24-98.
16. Amendment filed and effective 5-11-99.
17. Amendment filed 12-6-2000; effective 1-1-2001.
18. Amendment filed 1-10-2001; effective 2-1-2001.
19. Amendment filed and effective 2-13-2001.
20. Amendment filed 1-16-03; effective 1-01-03.
21. Amendment filed and effective 01-01-05.
22. Amendment filed 10-11-2005; effective 11-10-05.

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

METROPOLITAN TRANSIT SYSTEM

(Amended December 14, 2006)

EXHIBIT "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

MTS Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to MTS's Code, but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.). [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments¹:

Board of Directors and Alternates

Chief Executive Officer

Chief Financial Officer

Investment Consultant

¹ Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Assistant Transportation Planner	2, 6
Associate Transportation Planner	2, 6
Budget Manager	1, 2
Business Manager -- Marketing & Communications	6
Buyer	5
Chief Operating Officer -- Bus	1
Chief Operating Officer -- Rail	1
Communications Designer	6
Contract Services Administrator	6
Controller	1, 2
Copy Center Coordinator	5
Director of Governmental Affairs & Community Relations	1
Director of Human Resources and Labor Relations	6
Director of Maintenance	6
Director of Marketing & Communications	6
Director of Multimodal Operations	6
Director of Planning & Development	1, 2
General Counsel	1, 2
Manager of Human Resources	6

-APP. 2-

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DESIGNATED EMPLOYEES'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Manager of Information Technology	6
Manager of Procurement	5
Manager of Real Estate Assets	1, 2
President & General Manager	1, 2
Procurement Analyst	6
Risk Administrator	6
Risk Management Coordinator	6
Senior Buyer	5
Senior Transportation Planner	1, 2
Storeroom Manager	5
Superintendent of LRV Maintenance	6
Superintendent of Transportation	6
Superintendent of Wayside Maintenance	6
Taxicab Administration Manager	6
Vice-President of Operations	1, 2

Consultant²

² Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

EXHIBIT "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income located in, that do business in or own real property within the jurisdiction of MTS.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of MTS.

Category 3: All investments and business positions in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of MTS.

Category 4: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions.

Category 5: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by MTS.

Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's Department.



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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.

ADM 110.1

October 16, 2008

SUBJECT:

MTS: ADOPTION OF THE 2009 MTS EXECUTIVE COMMITTEE AND BOARD OF
DIRECTORS MEETING SCHEDULE

RECOMMENDATION:

That the Board of Directors adopt the 2009 Executive Committee and Board of Directors
Meeting Schedule (Attachment A).

Budget Impact

None.

DISCUSSION:

The MTS Board of Directors annually adopts its meeting schedule for the next year. The
proposed 2009 Executive Committee and Board of Directors meeting schedule for MTS,
San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) is attached.

This year's schedule reflects one Executive Committee and one Board meeting in
January and February. As is customary, one meeting each is also recommended for the
months of July and August in anticipation of summer vacations and avoidance of
conflicts with city councils' legislative recesses. In addition, one meeting is
recommended for each of the months of November and December to avoid conflicts with
the Thanksgiving and Christmas holidays.

The American Public Transportation Association (APTA) Annual Meeting is scheduled
for the week of October 4. It is recommended that an Executive Committee meeting be



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc.,
in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company.
MTDB 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.

scheduled for October 1, that there be no meeting the following week, and that the corresponding Board meeting be held on October 15.

The League of California Cities is holding its Mayors/Councilmember Forums May 27-30 and its Annual Meeting September 16-19. Some members of our Executive Committee/Board of Directors attend these meetings. If a quorum cannot be obtained for the MTS meetings proposed for May 28 (Board meeting) and/or September 17 (Executive Committee), they may have to be cancelled.

There are no other meeting conflicts.


Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Gail Williams, 619.557.4515, gail.williams@sdmts.com

OCT16-08.7.2009 MTG SCHEDULE.GWILLIAMS.doc

Attachment: A. 2009 MTS Executive Committee and Board of Directors Meeting Schedule

DRAFT

2009 JOINT BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE MEETING SCHEDULE JAMES R. MILLS BUILDING, 10TH FLOOR 1255 IMPERIAL AVENUE, SAN DIEGO

Executive Committee Meetings Thursday, 9:00 a.m.

January 8

February 12

March 5
19April 2
16May 7
21June 4
18

July 9

August 13

September 3
17October 1*
22*

November 5

December 3

9:00 a.m. Finance Workshop >>

8:00 a.m. Finance Workshop >>

8:00 a.m. Finance Workshop >>

Board of Directors Meetings Thursday, 9:00 a.m.

January 15

February 19

March 12
26April 9
23May 14
28June 11
25

July 16

August 20

September 10
24October 15*
29*

November 12

December 10

* The 2009 APTA Annual Meeting & Expo is being held October 4-7, 2009 (second week in October). Meetings in October have been structured accordingly.



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.

FIN 300 (PC 50601)

October 16, 2008

SUBJECT:

MTS: INVESTMENT REPORT FOR AUGUST

RECOMMENDATION:

That the Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

Attachment A is a report of MTS's investments as of August 2008. The report is broken into two columns—the first column relates to investments restricted for capital support or debt service, and the second column is the unrestricted portion. As the schedule shows, the overwhelming bulk of investments are restricted primarily for debt service related to the payments on the 1995 Lease and Leaseback transactions.

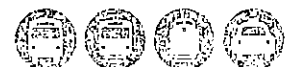
The second column (unrestricted assets) provides the working capital for MTS operations for employee payroll and vendors' goods and services. This column also includes the investment in San Diego Transit Corporation's pension obligation bonds that were repurchased and represents an asset that is not currently liquid. It is expected that the bonds will be remarketed during the next few months, which will liquidate this asset.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Tom Lynch, 619.557.4538, tom.lynch@sdmts.com

OCT16-08.8.AUG INVESTMT RPT.LMUSENGO.doc

Attachment: A. Investment Report



**San Diego Metropolitan Transit System
Investment Report
8/31/2008**

	<u>Restricted</u>	<u>Unrestricted</u>	<u>Avg. Rate of Return</u>
Cash and Cash Equivalents	\$ 10,519,098	4,408,099	0.34%
Investments - Working Capital	18,173,950	1,153,877	2.78%
Cash - Restricted for Capital Support	8,297,742	-	N/A
Investments - Restricted for Debt Service	117,377,521	-	N/A
Investment in POBs*	-	34,539,357	4.50%
Total Cash and Investments	\$ 154,368,311	\$ 40,101,333	

Controller: _____ Date: _____



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

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.

ADM 110.2, OPS 960.10

October 16, 2008

SUBJECT:

SDTC: DRUG AND ALCOHOL POLICY FOR SAN DIEGO TRANSIT CORPORATION

RECOMMENDATION:

That the Board of Directors to adopt Resolution No. 08-19 (Attachment A), which would implement San Diego Transit Corporation's (SDTC's) updated drug and alcohol policy in order to comply with current Federal Transit Administration (FTA) regulations.

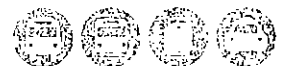
Budget Impact

None.

DISCUSSION:

The FTA requires recipients of federal financial assistance (such as SDTC) to maintain a drug and alcohol policy in compliance with FTA regulations on prevention of prohibited drug use and alcohol misuse in transit operations. The policy must comply with 49 C.F.R. Part 655.

FTA periodically audits transit operators to ensure that the FTA-mandated drug and alcohol testing programs of the operators are in compliance with FTA regulations. The FTA has notified SDTC that it will be auditing the company's compliance with FTA regulations in the near future. As such, MTS staff made certain changes to the policy in order to comply with changes in FTA regulations that have occurred since the policy was last updated in 2005 and to reflect our current practice.



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB 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.

The following is a brief summary of the most significant changes.

1. Persons submitting to preemployment physicals will no longer be tested for alcohol, but they will continue to be tested for drugs.
2. MTS will no longer test employees when they take their biannual Department of Motor Vehicles physical as the FTA does not require it.
3. The FTA changed the definition of reasonable suspicion to be based on "*specific, contemporaneous and articulable observations concerning the appearance, behavior, speech, and body odors of the employee.*"
4. The FTA further clarified that tampering and/or failing to appear for a drug-screen test or alcohol-screen test will be considered a positive test.
5. The Employee Assistance Provider contact information has changed.

Since January 1, 2006, only 12 SDTC employees have tested positive for drugs or alcohol out of 2,177 tests or .005%.

The FTA regulations require that the governing board of the organization approve the drug and alcohol policy. Therefore, staff requests that Board of Directors approve the updated drug and alcohol policy (Attachment A-2).



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Jeff Stumbo, 619.557.4509, Jeff.Stumbo@sdmts.com

OCT16-08.9.SDTC DRUG ALCOHOL POLICY.JSTUMBO.doc

Attachment: A. Resolution No. 08-19 (including Drug and Alcohol Policy)

SAN DIEGO TRANSIT CORPORATION

RESOLUTION NO. 08-19

A Resolution Updating the Drug and Alcohol Policy for San Diego Transit Corporation

WHEREAS, San Diego Transit Corporation (SDTC) provides mass transportation services funded in part by federal financial assistance from the Federal Transit Administration (FTA); and

WHEREAS, the FTA has implemented regulations set forth at 49 C.F.R. Part 655 requiring operators that provide mass transportation services for a recipient of FTA federal financial assistance to establish and implement a policy concerning drugs and alcohol as set forth in those regulations;

WHEREAS, SDTC has updated its drug and alcohol testing policy in order to make certain that it is in compliance with current regulations;

NOW, THEREFORE, BE IT RESOLVED, that the SDTC Board of Directors does hereby adopt the updated drug and alcohol policy for SDTC effective October 1, 2008, which is attached to this Resolution.

PASSED AND ADOPTED, by the SDTC Board of Directors, this _____ day of _____ 2008 by the following vote.

AYES:

NAYES:

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 General Counsel
San Diego Metropolitan Transit System

OCT16-08.9.AttA.RESO 08-19
SDTC DRUG ALCOHOL POLICY.JSTUMBO.doc

Attachment: SDTC Drug and Alcohol Policy

**SAN DIEGO TRANSIT CORPORATION
DRUG AND ALCOHOL POLICY**

**I.
PURPOSES**

The purposes of this policy are as follows:

- A. To maintain a safe and efficient public transportation system;
- B. To establish and maintain a safe, healthy working environment for all employees;
- C. To reduce the incidence of accidental injury to person or property;
- D. To reduce absenteeism, tardiness, and indifferent job performance;
- E. To provide assistance toward rehabilitation for employees who seek the company's help in overcoming addiction to, dependence on, or problems with alcohol or drugs provided they do so before violating this policy;
- F. To maintain a public transportation system and a work environment free of alcohol and drug-related performance problems, accidents, and injuries; and
- G. To comply with the Federal Transit Administration ("FTA") regulations on prevention of prohibited drug use and alcohol misuse in transit operations (49 C.F.R. Part 655).

**II.
APPLICATION OF POLICY**

This policy applies to all San Diego Transit Corporation ("SDTC" or "company") employees and applicants for employment and to certain contract personnel who have been notified of the applicability of this policy to their work for SDTC. The policy also applies to safety sensitive Metropolitan Transit System ("MTS") employees who work at SDTC (titles listed below). The word "employee" as used in this policy includes such designated contract personnel.

Some of the drug testing and alcohol testing required in this policy is mandated by the FTA regulations on prevention of prohibited drug use and alcohol misuse in transit operations, 49 C.F.R. Part 655. The drug testing and alcohol testing mandated by FTA is applicable to "safety-sensitive employees" of SDTC, which includes those who:

- 1. Operate a revenue-service vehicle, including when not in revenue service;
- 2. Operate a nonrevenue-service vehicle when required to be operated by a holder of a Commercial Driver's License;
- 3. Control dispatch or movement of a revenue-service vehicle;
- 4. Maintain a revenue-service vehicle or equipment used in revenue service;
- 5. Carry a firearm for security purposes; or

6. Supervisors of the aforementioned employees since these supervisors may perform safety-sensitive duties.

SDTC has reviewed the actual duties performed by employees and has determined that the following job functions may require the performance of safety-sensitive duties: Bus Operators (student and part-time included), Service Operations Supervisors, all hourly Maintenance employees, Maintenance Manager, Assistant Maintenance Managers, Maintenance Foremen, Quality Assurance Manager, Quality Assurance Supervisor, Dispatchers, Dispatch Clerks, Communications/Operations Supervisors, Operations Trainer, Maintenance Instructor, Manager of Transportation, Assistant Transportation Managers, Senior Transportation Supervisor, Director of Transportation and Director of Maintenance, Manager of Training, Part-Time Training Instructor, Facilities Manager, and Facilities Foremen.

This policy contains certain provisions applicable only to employees performing safety-sensitive functions (as defined above). Each section of this policy applies to all employees unless the particular section states that it applies only to safety-sensitive employees. For example, section V(C) of the policy relating to postaccident alcohol and drug testing and section V(D) of the policy relating to random alcohol and drug testing apply only to safety-sensitive employees.

This policy supersedes the SDTC drug and alcohol policy effective March 1, 2005.

III. ILLEGAL DRUGS, LEGAL DRUGS, AND ALCOHOL

A. Illegal Drugs. The sale, offer to sell, purchase, use, manufacture, transfer, or possession of illegal drugs while on company business or on company premises, property, or vehicles is prohibited. Violation of this rule will result in disciplinary action up to and including termination. Termination is likely for a violation of this rule, even for a first offense.

Illegal drug means any drug (a) which is not legally obtainable or (b) which is legally obtainable but has not been legally obtained. The term includes, but is not limited to, marijuana, cocaine, opiates, amphetamines, and phencyclidine. It includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes. It also includes any substance which a person holds out to another as an illegal drug.

No employee shall bring drug paraphernalia onto company premises or property or into company vehicles.

B. Legal Drugs. The use of prescribed or over-the-counter medications ("legal drugs") at a level, or in a manner, combination or quantity that impedes an employee's ability to safely perform his or her job is prohibited and may lead to disciplinary action, up to and including termination.

It is the employee's duty to ensure that any legal drug he or she is taking allows him or her to safely perform his or her duties. If an employee intends to take any legal drug while working for which the instructions for use indicate the drug may affect or impair judgment, coordination, or other senses, or may otherwise adversely affect the employee's ability to safely perform his or her job, he or she shall have an affirmative obligation to report the drug or medication which he or she is taking to his or her department manager or direct supervisor so that a determination can be made by the company's physicians as to the ability of the employee to perform his or her particular job safely while using that drug. In such a case, an employee may continue to work, even while taking a legal drug, if the company has determined, after consulting with its physicians, that the employee does not pose a threat to his or her own safety, public safety, or the safety of coworkers and that the employee's job performance is not significantly affected by the legal drug. Any employee using a prescription drug in the circumstances described above must provide the prescription and the medication itself (if

requested) to SDTC's company physician within 24 hours after notification to do so by SDTC or its physicians.

C. Alcohol. No employee shall consume alcohol within four hours prior to their shift or any time during their shift. No employee shall consume or have alcoholic beverages in their possession in company vehicles, on company premises or property, or while on company business. Violation of these rules can result in disciplinary action, up to and including termination, even for a first offense.

No employee who is on call and therefore subject to being called into work shall consume alcohol during those on-call hours. In the event, such an employee is called and must report for duty, the employee will be given the opportunity to acknowledge that they have used alcohol and therefore are not able to perform their safety-sensitive function. In such a case, that employee shall not be required to perform work, but may be disciplined for the use of alcohol during on-call hours under SDTC policy (not under FTA regulations). If an on-call employee who is called to duty acknowledges the use of alcohol but claims they are able to perform their safety-sensitive function, they must submit to alcohol testing. If the breath-alcohol concentration is between 0.02 percent and 0.039 percent, the employee will not be allowed to perform any safety-sensitive function until the start of the employee's next regularly scheduled duty period that is at least eight hours following the administration of the alcohol test. A breath-alcohol test result of 0.04 percent or higher will subject the employee to termination from employment with the company.

IV.

PROHIBITION AGAINST EMPLOYEES HAVING ILLEGAL DRUGS OR ALCOHOL IN THEIR BODIES DURING WORKING TIME

All employees of the company must report for work with no illegal drugs or metabolites in their bodies. Employees must not have illegal drugs or metabolites in their bodies at any time while on the job, and employees may be tested for the presence of illegal drugs at any time while on duty. Employees must not have alcohol in their bodies at a breath-alcohol concentration of 0.02 percent or higher while on duty. All alcohol tests will be performed just before an employee performs safety-sensitive duties, during that performance, or just after the employee has performed such duties. Employees are prohibited from using alcohol within four hours prior to their shift. Compliance with these rules is considered an essential job qualification for all employees. **Termination of employment will occur for a violation of any of these rules—even for a first offense. This is a zero-tolerance policy. No employee who violates this policy will be given a second chance.**

V.

ENFORCEMENT OF RULE PROHIBITING EMPLOYEES FROM HAVING ILLEGAL DRUGS OR ALCOHOL IN THEIR BODIES DURING WORKING TIME

A. Preemployment Drug Testing. *(All SDTC applicants are subject to preemployment drug-screen testing. Those who are applying for safety-sensitive positions are subject to an FTA preemployment drug-screen test. Those who are not applying for a safety-sensitive position may be subject to an SDTC preemployment drug-screen test.)* Prior to employment with the company, all final candidates will be required to pass a drug-screen test administered by a medical facility designated by the company. If the drug-screen test is canceled by the Medical Review Officer ("MRO"), the applicant must retake and pass the drug-screen test before being hired. Any prospective employee refusing to submit to such examination will not be hired by the company. Any prospective employee failing the drug-screen test will be rejected from further consideration for employment with the company. Further, any applicant or employee who has previously failed or refused a preemployment drug test must provide proof to SDTC, prior to be considered for employment again, that they have successfully completed a referral, evaluation, and substance abuse treatment plan compliant with the requirements in 49 C.F.R. Part 40. All offers of employment are contingent upon the prospective employee's

compliance with this section. SDTC will provide each applicant or employee who fails a preemployment drug test with a list of names, addresses, and telephone numbers of locally available substance abuse professionals qualified in 49 C.F.R. Part 40 requirements.

B. Reasonable Suspicion Alcohol and Drug Testing. *(All SDTC employees are subject to reasonable suspicion alcohol testing and drug-screen testing. Those who are working in safety-sensitive positions are subject to an FTA alcohol test and drug-screen test. Those who are not working in a safety-sensitive position are subject to an SDTC alcohol test and drug-screen test.)* When the company has reasonable suspicion to believe that an employee has violated the prohibitions set forth in this policy, the employee will be required to submit to an alcohol test and a drug-screen test immediately upon demand by the company. Reasonable-suspicion testing will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an employee. One or more supervisors or company officials trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations. The alcohol testing authorized in this section (and the observations required by the supervisors or company officials referred to above) must occur during, just before, or just after the workday of the employee being tested.

Any employee who fails the drug-screen test or has a breath-alcohol test result of 0.02 percent or greater will be immediately removed from service. An employee with a breath-alcohol concentration of 0.02 to 0.039 percent will, at minimum, not be allowed to perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period that is at least eight hours following the administration of the alcohol test. Any employee with a positive drug-screen test and/or a breath-alcohol test result of 0.04 percent or higher will be subject to termination from employment with the company and will be referred to a locally available substance abuse professional for evaluation in accordance with 49 C.F.R. Part 40.

Refusal to submit to any testing required by this section will be sufficient grounds for termination and will result in the employee being relieved of his or her duties immediately.

C. Postaccident Alcohol and Drug Testing. *(This section of the policy applies only to safety-sensitive employees as defined in Section II above.)* Postaccident alcohol and drug testing will occur under the following circumstances:

1. Fatal Accidents. As soon as practicable following an accident involving the loss of human life, each surviving employee operating the mass transit vehicle at the time of the accident shall submit to an alcohol test and a drug test. Further, any other employee whose performance could have contributed to the accident (e.g., a mechanic in the case of brake failure causing the accident), as determined by the company using the best information available at the time of the decision, shall also be required to submit to an alcohol test and a drug-screen test.

2. Nonfatal Accidents. As soon as practicable following an accident not involving the loss of human life, each employee operating the mass transit vehicle at the time of the accident shall submit to an alcohol test and a drug-screen test, unless company management determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. In addition, any employee whose performance could have contributed to the accident, as determined by the company, using the best information available at the time of the decision, will be required to submit to an alcohol test and a drug-screen test.

3. Definition of "Accident." An accident, as defined in this policy, means an occurrence associated with the operation of a vehicle, if as a result:

- a. An individual dies;

b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or

c. One or more vehicles in the accident incur disabling damage as a result of the occurrence and are transported away from the scene by a tow truck or other vehicle. Disabling damage means damage that precluded the departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail lights, turn signals, horns, or windshield wipers that makes them inoperative.

Any employee involved in an accident is prohibited from using alcohol or marijuana, cocaine, opiates, phencyclidine and amphetamines for eight hours following the accident, or until he or she undergoes a postaccident alcohol test and drug-screen test. Any employee involved in an accident who fails to remain readily available for the testing required by this section, including notifying company officials of his or her location if he or she leaves the scene of the accident prior to submission to such tests, will be deemed to have refused to submit to testing.

Postaccident testing will occur after the employee assists in resolution of the accident or receives medical attention following the accident. SDTC will complete the postaccident drug testing as soon as possible, and such testing will occur no later than 32 hours after the accident. SDTC will attempt to complete the postaccident alcohol testing within two hours of the accident. If the testing is not completed within two hours, SDTC will continue to attempt to complete the test and will prepare a report explaining why the breath specimen was not collected within two hours. If the alcohol test is not completed within eight hours of the accident, SDTC shall cease attempts to complete the test and update the report as to why the test was not completed.

Refusal to submit to a test required by this section will be sufficient grounds for termination and will result in the employee being relieved of his or her duties immediately. Any employee failing a drug-screen test or having a breath-alcohol test result of 0.02 percent or greater will be immediately removed from service. Any employee with a positive drug-screen test and/or a breath-alcohol test result of 0.04 percent or greater will be subject to termination from employment with the company and will be referred to a locally available substance abuse professional for evaluation in accordance with 49 C.F.R. Part 40.

D. Random Alcohol and Drug Testing. (*This section of the policy applies only to safety-sensitive employees as defined in Section II above.*) All safety-sensitive employees, as defined above, will be subject to unannounced, random alcohol testing and random drug testing in accordance with 49 C.F.R. Part 40. The selection of employees for random alcohol testing and random drug testing shall be by a scientifically valid method, such as a random number table or a computer-based random number generator. Each employee will have an equal chance of being tested each time selections are made. These tests will not be announced in advance and will be administered on all days and hours during which transit service is in operation throughout the calendar year. The current minimum testing requirement is to annually perform drug tests on 25% and alcohol tests on 10% of the safety-sensitive employees.

Each employee selected for random alcohol testing and/or random drug testing must proceed to the test site immediately. Refusal to submit to such a test will be sufficient grounds for termination and will result in the employee being relieved of his or her duties immediately. Any employee failing a drug-screen test or having breath-alcohol test result of 0.02 to 0.039 percent will be relieved of his or her duties immediately. Any employee with a positive drug-screen test and/or a breath-alcohol test result of 0.04 percent or greater will be subject to termination from employment with the company and will be referred to a locally available substance abuse professional for evaluation in accordance with 49 C.F.R. Part 40.

E. Drug Testing of Employees Assuming Safety-Sensitive Duties. *(This section applies to employees assuming safety-sensitive duties as defined in Section II above.)* Any employee who accepts a position with the company involving safety-sensitive duties, who has previously been engaged in non-safety-sensitive duties, will be required to submit to and pass a drug-screen test prior to assumption of the safety-sensitive duties. In addition, any employee who has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and where that employee has not been in SDTC's random drug-screen testing selection pool during that time, shall be required to take a pre-employment drug-screen test in accordance with Section V(A) above, with a verified negative result before returning to duty.

If the drug-screen test is canceled by the MRO, the employee must retake and pass that test before assuming safety-sensitive duties. Refusal to submit to such a test will be sufficient grounds for termination of employment. Any employee failing a drug-screen test will not be allowed to assume the safety-sensitive position and will be removed from service. A positive drug-screen test will subject the employee to termination from employment with the company. Any employee with a positive drug-screen test will be referred to a locally available substance abuse professional for evaluation in accordance with 49 C.F.R. Part 40.

F. Return to Duty and Follow-up Alcohol and Drug Testing. *(This section applies to safety-sensitive employees as defined in Section II above.)* Any safety-sensitive employee who is allowed to return to duty after failing an alcohol or drug test, or following leave for substance abuse rehabilitation, must first provide a negative drug, alcohol (or both) test result. For any return to duty or follow-up drug test, the collection of the urine specimen must be under direct observation. Employees returning to duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by a substance abuse professional. The number and frequency of such follow-up testing shall be directed by the substance abuse professional. The employee will be subject to follow-up testing for as long as prescribed by the substance abuse professional, but such testing shall not continue beyond five years from the date the employee returns to safety-sensitive duties (labor agreements notwithstanding). Any such employee failing a drug-screen test or having a breath-alcohol test result of 0.02 percent or higher will be relieved of his or her duties immediately. Any employee with a positive drug-screen test or a breath-alcohol test result of 0.04 percent or greater during this period shall be immediately terminated from employment with the company and referred to a locally available substance abuse professional for evaluation in accordance with 49 C.F.R. Part 40.

G. Alcohol and Drug Screening Following Injuries and Upon Return to Duty Following a Leave of Absence. *(The testing in this section is required by SDTC and not FTA regulations.)* Any employee who sustains an injury on the job will be required to submit to an alcohol test and a drug-screen test.

Any employee returning to duty following a leave of absence from the company for 90 calendar days or more must submit to an alcohol test and a drug-screen test.

Refusal to submit to any of the foregoing alcohol tests or drug-screen tests will be sufficient grounds for termination of employment and will result in the employee being relieved of his or her duties immediately. Any employee failing a drug-screen test and/or having a breath-alcohol test result of 0.02 percent to 0.039 will be relieved of his or her duties immediately and will not be allowed to perform a safety-sensitive function within eight hours following the administration of the alcohol test. Any employee with a positive drug-screen test and/or having a breath-alcohol test result of 0.04 percent or greater will be subject to termination from employment with the company.

VI. PROCEDURES FOR ALCOHOL AND DRUG TESTING

A. Procedures for Alcohol Tests. All FTA-mandated alcohol testing called for in this policy shall be conducted in accordance with 49 C.F.R. Part 40: Procedures for Transportation Workplace Drug and Alcohol Testing Programs. All SDTC-mandated alcohol tests will follow the same procedures. However, the results of FTA-mandated breath-alcohol testing will be compiled on a U.S. Department of Transportation ("DOT") Alcohol Testing Form ("ATF"). The results of breath-alcohol testing required by SDTC (and not FTA) will be on non-DOT testing forms. SDTC management will inform the collection facility whether the test is an FTA or SDTC test. The alcohol testing in this policy applies regardless of whether the alcohol was ingested as beverage alcohol or in a medicinal or other preparation.

The alcohol tests will be administered by a breath alcohol technician, using an evidential breath testing device ("EBT"). The breath alcohol technician will be trained to proficiency in the operation of the EBT. The EBTs are subject to a quality assurance plan developed by the manufacturers of EBTs. In order to ensure that the test results are attributed to the correct employee, the breath-alcohol technician will require the employee to provide photo identification before tests are conducted. If the result of the alcohol-screening test is an alcohol concentration of less than 0.02 percent, the employee will be deemed to have passed the alcohol test. If the result of the screening test is a breath-alcohol concentration of 0.02 percent or greater, a confirmation test shall be performed. The confirmation test shall be conducted within 30 minutes of the completion of the screening test.

B. Procedures for Drug-screen tests. All FTA-mandated drug-screen tests called for in this policy shall be conducted in accordance with 49 C.F.R. Part 40: Procedures for Transportation Workplace Drug and Alcohol Testing Programs. All SDTC-mandated drug-screen tests will follow the same collection/testing procedures as FTA tests. The DOT drug-testing custody and control form will be utilized in connection with all FTA-mandated drug-screen tests administered pursuant to this policy. The results of drug-screen testing required by SDTC (and not FTA) will be on non-DOT testing forms. SDTC management will inform the collection facility whether the test is an FTA or SDTC test.

The drugs tested for will be marijuana, cocaine, opiates, phencyclidine, and amphetamines. When an employee arrives at the collection site, the collection site person shall positively identify the employee through the presentation of photo identification. Collection personnel will be trained to ensure employee privacy in providing the urine specimen. Urine specimens collected for drug testing will be split into two containers at the collection site. Collection site personnel will be trained to maintain the integrity of the specimen collection and transfer process. In order to maintain the integrity of the urine specimen, the specimen shall remain under the direct control of the collection site person from delivery to its being sealed in the mailer to the laboratory conducting the testing on the urine specimen. A tamperproof sealing system will be utilized to ensure against undetected opening. The specimen bottle shall be identified with a unique identifying number identical to that appearing on the urine custody and control form.

Transfer of a urine specimen will always be accomplished through appropriate chain of custody procedures. The forms accompanying the specimens will have unique preprinted specimen identification numbers, and the employee will sign or initial certifying that the specimen was taken from that employee. All drug-screen tests that are positive will be retested in a confirmation test prior to the laboratory specifying a positive result on a drug-screen test. All drug testing done under this policy will be done by a laboratory that has been certified by the federal Department of Health and Human Services ("DHHS"). SDTC's DHHS-certified laboratory is Quest Diagnostics, Inc. All confirmatory tests will be performed using GC/MS techniques. There are federally mandated cutoff limits for the minimum quantity of drug that must be detected in order for a positive test on the initial and confirming

test. The current cutoff limits expressed in nanograms per milliliter (ng/ml) are as follows:

<u>Drug</u>	<u>Initial Screen</u>	<u>Confirming Test</u>
Marijuana	50	15
Cocaine	300	150
Opiates	2,000	2,000
PCP	25	25
Amphetamines	1,000	500

In order to protect SDTC's employees and the integrity of the drug-testing process, SDTC has retained the services of a Medical Review Officer ("MRO"). SDTC's MRO is Benjamin Gerson, M.D., of University Services. Dr. Gerson's phone number is 215-637-6800. The MRO is a licensed physician with knowledge of drug-abuse disorders. If the laboratory results are confirmed positive, the MRO will interview the employee and review all information provided by the employee to determine whether the results are indicative of illegal or illicit drug use. If the employee provides an adequate explanation, the MRO will verify the test results as negative with the substance abuse program manager and take no further action. If the test result of the primary specimen is positive, the employee may request that the MRO direct that the second split specimen be tested in a different DHHS laboratory. The MRO shall honor such request if it is made within 72 hours of the employee having been notified of a verified positive test. If an employee has not contacted the MRO within 72 hours, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within 72 hours, the MRO shall direct that the reanalysis of the primary specimen or analysis of the split specimen, as applicable, be performed. If the employee requests such testing of the second split specimen, the employee must pay for such testing. The results of the test at the second DHHS-approved laboratory will be forwarded to the MRO. If the results of the second test fail to confirm the presence of the drugs or drug metabolites found in the primary specimen, the MRO shall cancel the test.

If the MRO advises SDTC that the result of the drug test was negative, but that the test was dilute (i.e. a specimen with creatinine and specific gravity values that are lower than expected for human urine), the employee will be required to take another drug-screen test immediately. In this circumstance, the employee will be given as little advance notice as possible that he or she must return to the collection site. The collection of the specimen in this circumstance will be under direct observation by the collector. The test result from this test will be utilized for determining if the employee passed the drug-screen test.

The drug-testing laboratory shall report test results to the MRO in writing identifying the results of the test. The MRO will report to SDTC whether the test is positive or negative, and may report the drug for which there was a positive test, but shall not disclose the quantitation of the test results (except in the case of a grievance, lawsuit, or other proceeding initiated by the employee arising out of the verified positive drug test). All records pertaining to urine specimens shall be retained by the drug-testing laboratory for a minimum of two (2) years. The drug-testing laboratory shall retain all urine specimens confirmed as positive and place them into properly secured long-term frozen storage for a minimum of one (1) year.

VII.
FALSIFICATION, FAILURE TO TIMELY ARRIVE FOR TESTING, AND
FAILURE TO NOTIFY

Any employee who provides false information in connection with an alcohol test or drug-screen test administered under this policy, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution, shall be subject to termination of employment.

Failure to appear for a drug-screen test or alcohol test within a reasonable time when required by this policy, or to remain at the testing site until the testing process is completed, or to cooperate fully in the testing process, constitutes a refusal to be tested and will be considered a positive test.

Under the federal Drug Free Workplace Act, all employees are required to notify the Human Resources Department in writing immediately, but in any event within five days, after they have been convicted of violating a criminal drug statute that occurred in the workplace or while working. Any employee who fails to provide such notification shall be subject to termination of employment.

VIII.
BEHAVIOR CONSTITUTING A REFUSAL TO SUBMIT TO A TEST

A. Actions considered a refusal to submit to an alcohol test include:

- (1) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- (2) Failure to remain at the testing site until the testing process is complete;
- (3) Failure to cooperate with any part of the testing process;
- (4) Refusal by an employee to complete and sign the certification at Step 2 of the Alcohol Testing Form for an FTA-mandated test (or a non-DOT form, if it is a non-FTA test);
- (5) Failure to provide an adequate breath specimen for testing without a valid medical explanation; or
- (6) Refusal to undergo a medical examination or evaluation as directed by the MRO or as directed by a designated-employer representative.

B. Actions considered a refusal to submit to a drug-screen test include:

- (1) Failure to appear for any test (except a preemployment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- (2) Failure to remain at the testing site until the testing process is complete;
- (3) Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when so directed by the collector behaving in a confrontational way that disrupts the collection process);
- (4) Failure to provide a sufficient urine sample as required without a valid medical cause established in writing by a physician;

- (5) Refusal to undergo a medical examination or evaluation as directed by the MRO or as directed by a Designated Employer Representative ("DER");
- (6) Failure or refusal by an employee to take a second drug-screen test if a DER or the MRO has directed the employee to do so;
- (7) Failure to permit the observation or monitoring of the collection of the specimen in the case where the MRO requires a directly observed or monitored collection of a urine specimen;
- (8) For an observed collection, failure to follow the observer's instructions to raise and lower clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process;
- (9) Possessing or wearing a prosthetic or other device that could be used to interfere with the collection device;
- (10) Admitting to the collector or the MRO to having adulterated or substituted the specimen; or
- (11) The MRO reports to SDTC that an employee has a verified adulterated or substituted test result.

Refusal to submit to a drug test constitutes a verified positive drug test result.

IX. EMPLOYEE ASSISTANCE PROGRAM

A. Any employee who feels that he or she has developed an addiction to, dependence upon, or problem with alcohol or drugs, legal or illegal, is encouraged to seek assistance. No disciplinary action will be issued against any employee who (1) comes forward to management with their problem *prior* to being requested to submit to an alcohol or drug-screen test and before the company learns of a violation of the drug and alcohol policy, and (2) provided the employee has not violated the policy before coming to management. If an employee comes forward to management regarding a drug or alcohol problem seeking assistance, but management learns that the employee violated this policy before coming forward (e.g. a bus driver who drove a bus with illegal drugs in his system), SDTC will discipline the employee for violating the policy, up to and including termination of employment. Further, if the company learns of a violation of this policy before the employee comes forward, or if the employee seeks assistance for the problem only after being requested to submit to a drug or alcohol test, the employee will be subject to disciplinary action up to and including termination of employment.

B. Assistance for substance abuse may be sought by contacting the Manager of Human Resources, the immediate supervisor, any officer of the local union, or the Employee Assistant Program ("EAP") directly. The EAP is operated by Horizon Health. Employees may contact the EAP by calling 800-342-8111. Information concerning the EAP is posted on bulletin boards throughout the company and is available from Human Resources. Each request for assistance will be treated as confidential.

C. The company's EAP has developed contacts with local hospitals and community organizations offering alcohol or drug-treatment programs. The EAP will refer employees seeking assistance to an appropriate treatment organization. Any employee failing a test required under this policy will be referred to the EAP, which will determine what assistance, if any, the employee needs in resolving problems associated with drugs or alcohol. The referral to the EAP is independent of any

disciplinary action that the company may impose.

D. Rehabilitation itself is the responsibility of the employee. However, any employee seeking medical attention for alcoholism or drug addiction will be entitled to benefits available under the company or the union's group medical insurance plans subject to the restrictions and limits stated in the applicable plan summary. Furthermore, rehabilitation leave will be available only to those employees whose employment is not terminated by management because they meet the conditions for employee assistance as set forth in paragraph A above. Employees granted rehabilitation leave will be subject to the leave of absence provisions of the collective bargaining agreement (or the applicable administrative leave policies, if the employee is an administrative employee or member of management). Rehabilitation leave will be available on a one-time-only basis subject to the conditions for continuing employment in paragraph E below. **SDTC will not offer rehabilitation leave on a second occasion. The recurrence of an alcohol or drug problem will result in termination of employment.**

E. To be eligible for continuation in employment with SDTC following a rehabilitation leave, the employee must:

1. Undergo evaluation by the substance abuse professional who will recommend a course of rehabilitation.
2. Begin a program of rehabilitation, strictly follow the rules and guidelines of that program, and sign a release allowing the substance abuse professional access to all information regarding the employee's drug and alcohol treatment so the substance abuse professional can monitor his or her progress in the program.
3. Remain continuously enrolled in a treatment program and actively participate in that program.
4. *Not* reject treatment or leave the treatment program prior to being properly discharged therefrom.
5. Agree that the substance abuse professional will determine whether the employee has successfully completed the program.
6. Not violate the Drug and Alcohol Policy.

F. Any employee suffering from an alcohol or drug problem who rejects treatment or who leaves a treatment program prior to being properly discharged therefrom will be terminated from employment with SDTC.

G. All employees returning to active employment from rehabilitation will be required to sign a "Return to Work Agreement" providing:

1. That the employee must pass an alcohol and/or drug test before returning to work;
2. That a substance abuse professional must determine that the employee has properly followed an appropriate rehabilitation program and is capable of returning to duty;
3. For unannounced alcohol and drug testing at a company-designated medical facility for a minimum of 12 months from date of return to work to ensure that the employee has freed himself or herself from the alcohol and/or drug problem. The number and frequency of the unannounced testing shall be as directed by a substance abuse professional and shall consist of at least six tests in the first 12 months following the employee's return to duty. The employee will be subject to follow-up testing for as long as prescribed by the substance abuse professional, but such

testing shall not continue beyond five years from the date the employee returns to duty.

4. That failure of such a test or refusal to immediately submit to such testing during this period shall be grounds for immediate termination;

5. That the employee must maintain an acceptable attendance and performance record, not violate the Drug and Alcohol Policy and comply with all other company rules and policies upon their return to work.

X. ADDITIONAL INFORMATION REGARDING THIS DRUG AND ALCOHOL POLICY

A. Contact Person and Questions Regarding the Policy. Any employees having questions about SDTC's Drug and Alcohol policy should contact the company's Manager of Human Resources at the MTS building, 1255 Imperial Avenue, Suite 1000, San Diego, California 92101-7490, telephone number 619-557-4569.

B. Substance Abuse Professional. SDTC has secured the services of a substance abuse professional. SDTC's substance abuse professional is Peggy Wagner of Horizons Health Group, who can be reached at 858-712-6266 or 800-342-8111. Ms. Wagner is a Certified Employee Assistance Professional who specializes in evaluating and treating individuals with substance abuse disorders. The substance abuse professional will be utilized to evaluate employees who come forward with substance abuse problems, and employees who are found in violation of this policy. As to employees returning to duty after failing an alcohol or drug test or following leave for substance abuse rehabilitation, the substance abuse professional will evaluate the employee and direct the frequency of follow-up drug and alcohol testing for the employee.

C. Notice of Certain Requirements in Addition to FTA-Mandated Requirements. This policy is designed to comply with the Federal Transit Administration ("FTA") regulations on prevention of prohibited drug use and alcohol misuse in transit operations, 49 C.F.R. Part 655. However, SDTC has added certain additional requirements to this policy not mandated by the FTA regulations, including the following:

1. Except as specifically noted, this policy applies to all SDTC employees—not just safety-sensitive employees as defined by FTA.

2. This policy prohibits the use of legal drugs while working if those drugs may impair judgment, coordination or other senses, or have an adverse effect on safety. This policy also requires employees using prescription drugs to report the prescription to their department manager or direct supervisor if the instructions for use indicate that the drug may affect or impair judgment, coordination or other senses, and to provide the medication itself (if requested) to the SDTC medical facility.

3. This policy requires alcohol and drug testing following work-related injuries.

D. Right to Examine Records. Every employee has the unqualified right to review his/her drug and alcohol-testing records, provide information to dispute the results of a drug or alcohol test, and, upon written request, to obtain copies of any records pertaining to his or her drug and alcohol tests, including records pertaining to equipment calibration and laboratory certifications.

E. Training. SDTC provides training for its supervisors in order for them to be able to make a determination of whether reasonable suspicion exists for an employee to be required to submit to reasonable suspicion alcohol/drug screening. This training includes a minimum of 60 minutes of

supervisor training on drugs and 60 minutes of supervisor training on alcohol.

Further, SDTC has conducted training for all existing employees and conducts training for all new employees consisting of a minimum of 60 minutes of employee training on drugs and alcohol and the drug and alcohol policy.

APPROVAL OF SDTC DRUG AND ALCOHOL POLICY

This Drug and Alcohol Policy, which will take effect on October 16, 2008, has been approved by the MTS Board of Directors and Chief Operating Officer of SDTC.

Chairman, Board of Directors
San Diego Metropolitan Transit System

Chief Operating Officer
San Diego Transit Corporation

Date

Date

OCT16-08.9.AttA.RESO 08-19
SDTC DRUG ALCOHOL POLICY.JSTUMBO.doc

**ACKNOWLEDGMENT OF RECEIPT OF
SAN DIEGO TRANSIT CORPORATION
DRUG AND ALCOHOL POLICY
(Effective October 16, 2008)**

I hereby acknowledge receipt of a copy of the SAN DIEGO TRANSIT CORPORATION Drug and Alcohol Policy effective October 16, 2008. I understand that I am responsible to read the policy and, in consideration of my employment with the company, I hereby agree to comply with the policy in all respects and consent to the alcohol testing and drug testing required by this policy.

DATED: _____

Employee Signature

Employee Name (Please Print)

Employee Badge Number



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

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.

AG 210.9 (PC 50102)

October 16, 2008

SUBJECT:

**MTS: PUBLIC ASSISTANCE AND CALIFORNIA DISASTER ASSISTANCE ACT
GRANT PROGRAMS**

RECOMMENDATION:

That the Board of Directors approve Resolution No. 08-21 (Attachment A) authorizing the Chief Executive Officer to submit applications for funds provided by the Federal Emergency Management Agency administered through the Governor's Office of Emergency Services.

Budget Impact

None.

DISCUSSION:

Resolution No. 08-21 would authorize filing applications with and requesting reimbursements from the Governor's Office of Emergency Services and would satisfy requirements of the Governor's Office of Emergency Services Public Assistance and California Disaster Assistance Act Grant Program. MTS's allocation for public assistance was \$27,164; the funds would be used to offset expenses incurred to provide evacuation services and the replacement of the radio receivers and transmitters located on Mt. San Miguel lost during the October 2007 wildfires.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Nancy Dall, 619.557.4537, nancy.dall@sdmts.com

OCT16-08.10.CDAA GRANT.NDALL.doc

Attachment: A. Resolution No. 08-21



SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 08-21

Resolution Approving the Submittal of Applications and Requests for Reimbursements
For FEMA-1731-DR-CA from the Governor's Office of Emergency Services

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 reimbursement related to costs incurred because of the wildfires in October 2007.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that the Chief Executive Officer is hereby authorized to execute any actions necessary for the purpose of obtaining federal financial assistance under P.L. 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 and/or state financial assistance under the California Disaster Assistance Act.

PASSED AND ADOPTED by the Board of Directors this ____ day of _____ 2008,
by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

Chairperson
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

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

Office of the General Counsel
San Diego Metropolitan Transit System



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.

CIP 11239

October 16, 2008

SUBJECT:

MTS: NEW FLYER BUSES - CONTRACT AMENDMENT

RECOMMENDATION:

That the MTS Board of Directors authorize the Chief Executive Officer (CEO) to:

1. execute MTS Doc. No. G1101.3-07 (in substantially the same format as Attachment A) with New Flyer of America, Inc. to purchase 37 low-floor (40-foot) compressed natural gas (CNG) transit buses;
2. transfer \$308,000 from *Chula Vista Transit (CVT) 40-Foot CNG* project (Project Code 11250) to *MTS 40-Foot CNG Buses* project (Project Code 11239); and
3. transfer \$675,000 from *MTS 40-Foot CNG Buses* project (Project Code 11239) to *MTS High Capacity Bus* project (Project Code 11189).

Budget Impact

- Encumber \$14,346,613.47 to MTS Capital Improvement Project (CIP) *40-Foot CNG Low-Floor Buses* (CIP 11239-1300) and \$1,062,697 to the Franchise Tax Board for sales tax to *MTS 40-Foot CNG Buses* (CIP 11239-1300). This would leave a balance of \$355,000 remaining in the procurement line item.
- Transfer \$308,000 from *CVT 40-Foot CNG* (CIP 11250-1300) to *MTS 40-Foot CNG Buses* (CIP 11239-1300). Transfer \$675,000 from *MTS 40-Foot CNG Buses* (CIP 11239-1300) to *MTS High Capacity Bus* (CIP 11189-1300).



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB 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.

DISCUSSION:

MTS has 97 CNG-powered buses that were purchased in 1995. This group of buses has CNG tanks that expire in 2010 or a maximum certified life of 15 years. MTS Bus and MTS Contract Services are in need of replacing all 97 buses during the next two years. As part of the CIP process, the replacement of the fleet of 97 buses is being programmed. At this point in time, sufficient funds exist in the bus capital projects to purchase 37 of the 97 buses.

Transferring excess funds from the *CVT 40-Foot CNG* bus project to the *MTS 40-Foot CNG Buses* project and transferring funds to the *MTS High Capacity Bus* project (articulated 60-foot buses) would ensure that sufficient funds exist for administration, inspection services, and sales taxes.

In February 2008, MTS awarded a contract to New Flyer for 35-foot and 40-foot low-floor transit coaches with options available on an as-needed basis for a period of five years. MTS staff is ready to award a contract amendment with options for 37 new 40-foot, low-floor buses. Following award of the contract, it is expected that the buses would be delivered within 12 months (approximately summer/fall 2009).

In accordance with federal regulations, the MTS Internal Auditor is conducting the preaward audit. This audit confirms that New Flyer, the manufacturer of the buses, meets all Buy America and Federal Motor Vehicle Safety Standards compliance requirements.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Claire Spielberg, 619.238.0100, Ext. 6400, Claire.Spielberg@sdmts.com

OCT16-08.30.NEWFLYER.EHURWITZ.doc

Attachment: A. Draft MTS Doc. No. G1101-3.07

DRAFT

Att. A, AI 30, 10/16/08

October 16, 2008

MTS Doc. No. G1101.3.07
CIP 11250

Mr. Paul Smith
Executive Vice President Sales and Marketing
New Flyer of America, Inc.
711 Kernaghan Avenue
Winnipeg, Manitoba
R2C 3T4 Canada

Dear Mr. Smith:

Subject: AMENDMENT NO. 3 TO MTS DOC. NO. G1101.0-07 – 37 40-FOOT OPTION BUSES

In accordance with Article 2, "Changes," of the Standard Conditions Services of MTS Doc. No. G1101.0-07, MTS amends the Agreement to order 37 option 40-foot, low-floor, compressed natural gas- (CNG)-powered buses and to make minor changes to the options and pricing (as detailed below).

This Amendment shall consist of the following:

	<u>Unit Price</u>	<u>Total (37 buses)</u>
• Base price of bus (includes WC equipment and delivery):	\$389,560.31	\$14,413,731.47
• Option changes adjustment:	(\$1,914.00)	(\$70,818.00)
• Production contingency:	<u>\$100.00</u>	<u>\$3,700.00</u>
TOTAL FOR AMENDMENT NO. 3:	\$387,746.31	\$14,346,613.47

Page 1 (Standard Procurement Agreement cover page) shall be amended to change the total contract amount from \$30,567,389.61 to a revised amount of \$44,914,003.08.

Sales tax up to a maximum of \$1,062,697 to be paid by MTS directly to the State of California Franchise Tax Board.

Pricing Form – revised pricing form to include minor technical and price changes and the cost of the 37 option buses for MTS.

Delivery of the 37 buses shall be to: MTS South Bay Division, 3650A Main Street, Chula Vista, CA 91911.

All other conditions remain unchanged. If you agree with the above, please sign below and return the document marked "original" to the Contracts Specialist at MTS. The other copy is for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Paul Smith
New Flyer of America, Inc.

OCT16-08.30.AttA.NEWFLYER G1101.3-07.EHURWITZ.doc

Date: _____

Attachment: A. Revised Pricing Forms (10/16/08)

MTS - BUS ORDER OCTOBER 2008 - 37 BUSES

Options From MTS Bus Order - Contract No. G1101.3.07

NEW FLYER OF AMERICA, INC.

Price Change Detail

Property: **MTS - SOUTH BAY DIVISION**

Bus Type: **C40LF**

Quantity: **Thirty-seven (37)**

Price Per Coach						
Price Change Type	Ref. No.	Option No.	Option Group	Description	Total Per Bus	Total Contract
Base Bus Price Change	3	PPI	Producer Price Index	No change - Less than 240 days since original order	\$ -	\$ -
	4	205	Tires	Change to NF supplied tires - same as San Diego	\$ 2,684.03	\$ 99,309.11
	5	246	Air, Brake, & Lev System	Change to metal "Pull to Apply" park brake instructions	\$ 4.76	\$ 176.12
	6	470	Destination Signs	Remove AVM system	\$ (855.77)	\$ (31,663.49)
	7	526	Seating and Stanchions	Add 2 handhold straps to change to requested qty of 6	\$ 38.70	\$ 1,431.90
	8	600	Customer Options	Change farebox pedestal to be reinforced for standard mounting	\$ 35.35	\$ 1,307.95
	9	600	Customer Options	Remove APC system	\$ (3,821.07)	\$ (141,379.59)
	Base Bus Price Change Total				\$ (1,914.00)	\$ (70,818.00)
	Base Bus Price (Includes WC Equipment and Delivery)				\$ 389,560.31	\$ 14,413,731.47
Production Contingency				\$ 100.00	\$ 3,700.00	
Grand Total				\$ 387,746.31	\$14,346,613.47	



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

Agenda

Item No. 31

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

LEG 470

October 16, 2008

SUBJECT:

MTS: FEDERAL LEGISLATIVE REPRESENTATION

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute Task Order No. 4 (Attachment A) of the triagency contract with Blank Rome Government Relations, LLP (MTS Doc. No. G0980.0-06) effective November 1, 2008.

Budget Impact

The total annual triagency cost is \$152,028. MTS's share of the cost will be \$38,007. Recommended amounts are contained within the fiscal year 2009 budget.

DISCUSSION:

As part of the consolidation of the region's transportation agencies, the San Diego Association of Governments (SANDAG) initiated a joint procurement for federal legislative services in 2005. The purpose of the joint procurement was to enhance the federal advocacy efforts of North County Transit District (NCTD), SANDAG, and MTS. The MTS Board approved funding for a contract with the chosen firm, Blank Rome Government Relations, LLP (Peter Peyser, Principal), on October 27, 2005. Based on the joint agreement and with the CEO's concurrence, SANDAG authorized Task Order No. 2 in October 2006.

The contract with Blank Rome includes a one-year base contract with four option years. Each of the first two years was secured at a fixed cost of \$144,000 of which MTS was responsible for \$36,000, NCTD for \$36,000, and SANDAG for \$72,000. Execution of the third task order was authorized by the Board on November 8, 2007, at a cost of \$147,888 based on the agreed-upon Consumer Price Index escalation, and MTS's share



was \$36,972. Task Order No. 4 would authorize the continuation of the agreement at a cost of \$38,007 based on the agreed-upon Consumer Price Index escalation. Staffs from the three agencies recommend continuing the contractual relationship with Blank Rome Government Relations, LLP.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Cooney, 619.557.4513, Sharon.Cooney@sdmts.com

OCT16-08.31.BLANKROME.COONEY.doc

Attachment: A. Draft Agreement

DRAFT

**AGREEMENT FOR SERVICES BETWEEN THE
SAN DIEGO ASSOCIATION OF GOVERNMENTS, NORTH COUNTY TRANSIT DISTRICT,
METROPOLITAN TRANSIT SYSTEM, AND BLANK ROME GOVERNMENT RELATIONS, LLC**

**TASK ORDER NO. 4
SANDAG AGREEMENT NO. 5000276, OWP 7000900**

1. Under the Agreement between the San Diego Association of Governments (SANDAG), North County Transit District (NCTD), Metropolitan Transit System (MTS), and Blank Rome Government Relations, LLC (Consultant), dated November 1, 2005, Consultant is responsible for providing services and deliverables described in the Scope of Work and Activity and Payment Schedule attached as Exhibits A and B to the Agreement. All of the terms of said Agreement are hereby incorporated herein by reference.
2. Task Order No. 4 authorizes Consultant to continue to perform work on the Federal Legislative Representation Services (hereinafter referred to as the "Project") according to the terms of the Agreement.
3. The term of performance for this Task Order is November 1, 2008, through October 31, 2009. SANDAG shall not pay for services rendered by Consultant on this Task Order after October 31, 2009.
4. Consultant shall be paid an amount not to exceed \$152,028 for work performed on the Project pursuant to this Task Order.

The persons below executed this Task Order effective this _____ day of October 2008.

SAN DIEGO ASSOC. OF GOVERNMENTS

BLANK ROME GOVERNMENT RELATIONS, LLC

Gary Gallegos (or designee)
Executive Director

Peter A. Peyser, Jr.
Senior Principal

APPROVED AS TO SUFFICIENCY OF
FORM AND LEGALITY

SANDAG Office of General Counsel

METROPOLITAN TRANSIT SYSTEM

APPROVED AS TO SUFFICIENCY OF
FORM AND LEGALITY

Paul C. Jablonski
Chief Executive Officer

Tiffany Lorenzen
MTS General Counsel

NORTH COUNTY TRANSIT DISTRICT

APPROVED AS TO SUFFICIENCY OF
FORM AND LEGALITY

Ray Patchett
Interim Executive Director

C. Michael Cowett
NCTD Legal Counsel

OCT16-08.31.AttA.BLANK ROME AGMT.SCOONEY.doc



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

Agenda

Item No. 32

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

CIP 10426.12

October 16, 2008

SUBJECT:

MTS: MISSION VALLEY EAST LIGHT RAIL TRANSIT PROJECT - LEGAL SERVICES
CONTRACT AMENDMENT

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. M6655.5-07 (in substantially the same format as Attachment A) with Hecht Solberg Robinson Goldberg and Bagley LLP for legal services on the Mission Valley East Light Rail Transit Project (MVE LRT) Project.

Budget Impact

The \$500,000 for the legal services contract amendment would come from the MVE LRT Project budget line item (CIP 10426-0800 Professional Services) leaving a balance of \$227,205.

DISCUSSION:

On March 22, 2007, the Board approved a contract with Hecht Solberg Robinson Goldberg and Bagley LLP for legal services on the MVE LRT Project on an as-needed, on-call basis. MTS has been utilizing the professional services of James G. Ehlers and others from the law firm for several years through various MTS contracts.



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.

Additional hours for Mr. Ehler's legal services are needed for MVE LRT Project issues. The amount of the contract, which now totals \$880,000, is as follows:

1. The initial \$100,000 was approved by the Board on March 22, 2007;
2. Amendment No. 1 for \$100,000 was approved by the Board on June 28, 2007;
3. Amendment No. 2 for \$90,000 was approved by the CEO in August 2007;
4. Amendment No. 3 for \$500,000 was approved by the Board on September 13, 2007.
5. Amendment No. 4 for \$90,000 was approved by the CEO on May 25, 2008; and
6. Amendment No. 6 to add authorized legal staff with no cost increase was approved on June 11, 2008.

The hours invoiced by the law firm have reached the contract limit, and staff will require more legal services from Mr. Ehlers and the claims experts on the MVE LRT Project until the conclusion of the litigation with Balfour Beatty/Ortiz Joint Venture (BBO) for the claim against MTS. Amendment No. 5 would provide funds for the legal services until the end of the calendar year 2008.

Staff is requesting approval of Amendment No. 5 to MTS Doc. No. M6655.0-07, which would increase the total contract amount to \$1,380,000 for legal services from Hecht Solberg Robinson Goldberg and Bagley LLP in the defense of contractor claims by BBO against MTS on the MVE LRT Project.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contacts: Dennis L. Wahl, 619.235.2635, dwa@sandag.org
Ramon A. Ruelas, 619.699.6944, rrue@sandag.org

OCT16-08.32.MVE LEGAL
CONTRACT.DWAHL.doc

Attachment: A. Draft MTS Doc. No. M6655.5-07

DRAFT

October 16, 2008

MTS Doc. No. M6655.5-07
CIP 10426

Mr. James Ehlers
Hecht Solberg Robinson Goldberg and Bagley LLP
600 West Broadway, 8th Floor
San Diego, CA 92101-3542

Dear Mr. Ehlers:

Subject: AMENDMENT NO. 5 TO MTS DOCUMENT NO. M6655.0-07; LEGAL SERVICES FOR THE
MISSION VALLEY EAST LRT PROJECT

This letter will serve as Amendment No. 5 to MTS Document No. M6655.0-07 for professional services as further described below.

SCOPE OF SERVICES

The approved contract amount is hereby increased by \$500,000 for all expenditures outlined in the original contract not to exceed \$1,380,000.

SCHEDULE

There shall be no changes in the contract schedule for services outlined in the original contract and prior amendments, including this amendment.

PAYMENT

Payment shall be based on actual costs not to exceed \$500,000 (WBS 10426-0800) in accordance with the original contract provisions. There shall be no change in the basic hourly billing rate or contract amount, up to and including this Amendment No. 5, other than those allowed in the original contract. Additional authorization is contingent upon written approval of MTS. The total value of MTS Document No. M6655.0-07, including this amendment, is \$1,380,000. All other conditions of the original contract shall remain the same.

If you agree with the above, please sign in the space provided below and return the document marked "original" to the Contracts Specialist at MTS. The other copy is for your records.

Sincerely,

Accepted:

Paul C. Jablonski
Chief Executive Officer

James Ehlers
Hecht Solberg Robinson Goldberg and Bagley LLP

OCT16-08.32.AttA.MVE LRT
LEGAL SVCS CONTRACT.DWAHL.doc

Date: _____

cc: Tiffany Lorenzen - MTS
Jim Linthicum, Bill Prey, John Haggerty, Dennis Wahl - SANDAG



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

Agenda

Item No. 33

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

CIP 11201

October 16, 2008

SUBJECT:

MTS: 12TH AND IMPERIAL TROLLEY STATION AND MILLS BUILDING CLOSED-CIRCUIT TELEVISION (CCTV) SYSTEM UPGRADE – CONTRACT RATIFICATION AND AMENDMENT

RECOMMENDATION:

That the Board of Directors:

1. ratify MTS Doc. No. L0849.0-08 (Attachment A) awarded to Electro Specialty Systems, Inc. for the 12th and Imperial Trolley Station and Mills Building closed-circuit television (CCTV) system upgrade; and
2. authorize the Chief Executive Officer (CEO) to execute Amendment No. 1 to MTS Doc. No. L0849.0-08 (Attachment B) with Electro Specialty Systems, Inc. to exercise options in the base contract.

Budget Impact

The total cost of \$32,520.56 for MTS Doc. No. L0849.1-08 would come from FY 2008 Capital Improvement Project (CIP) 11201-0800 (Security Cameras – 12th & Imperial/America Plaza).

DISCUSSION:

On August 1, 2008, MTS Procurement Department staff issued a Request for Quotations (RFQ) for the 12th and Imperial Trolley Station and Mills Building CCTV System Upgrade Project. Two bids were received in response on August 22, 2008. The lowest



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.

responsive and responsible bid was submitted by Electro Specialty Systems, Inc., for \$130,451.96. A contract was awarded under CEO's authority to Electro Specialty Systems, Inc. for \$97,931.39 by not selecting some optional work, which was done primarily to expedite the project because the Transportation Security Act grant that funds this project expires on December 31, 2008. That contract is awarded, and most of the equipment is on order; staff recommends exercising the remaining options in the original scope of work. The current project budget has sufficient funds to cover all of the optional work and, since many of the long lead-time items are already on order, staff has enough time to complete the entire project (including options) prior to the December 31, 2008, deadline.

Therefore, staff is requesting ratification of the original contract (MTS Doc. No. L0849.0-08) and approval of Amendment No. 1 to MTS Doc. No. L0849.0-08 to Electro Specialty Systems, Inc., for the 12th and Imperial Trolley Station and Mills Building CCTV System Upgrade Project.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Russ Desai 619.595.4908, rdesai@sdti.sdmts.com

OCT16-08.33.MILLS BLDG CCTV UPGRADE.RDESAI.doc

Attachments: A. MTS Doc. No. L0849.0-08
B. MTS Doc. No. L0849.1-08 (with cost proposal)



STANDARD PROCUREMENT AGREEMENT

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

ORIGINAL

L0849.0-09
CONTRACT NUMBER
OPS 970.4
FILE NUMBER(S)

THIS AGREEMENT is entered into this 8th day of Sept 2008, in the State of California by and between San Diego Metropolitan Transit System, a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: Electro Specialty SystemsAddress: 9474 Chesapeake Drive, Suite 903

Form of Business: Corporation
(Corporation, partnership, sole proprietor, etc.)

San Diego, CA 92123Telephone: 858.571.7746

Authorized person to sign contracts: David R. Reed V.P. Business Development
Name Title

The attached Standard Conditions are part of this agreement. The Contractor agrees to furnish to MTS services and materials, as follows:

To provide and install, integrated, and commission the upgrade to the existing CCTV System at 12th and Imperial Trolley Station and Mill's Building, wiring upgrade, CCTV equipment relocation, and new mega pixel camera system. The contractor shall pay prevailing wages as required by the California Labor Code and the Davis Bacon Act.

This contract consists of the Standard Procurement Agreement, Standard Conditions Procurement, TSA Requirements, and the MTS Safety Department SOP (SAF016-03). The following order of precedence will govern the interpretation of this contract: 1) Request for Quote (RFQ), 2) the upgrade to the existing CCTV System at 12th and Imperial Trolley Station Scope of Work, 3) E Response, 4) Standard Procurement Agreement including the Standard Conditions Procurement, and 5) TSA Requirements.

MTS will exercise the base contract including the options specified below:

- One (1) 11MP-HD-PRO-C, Day/Night Color Camera
- One (1) Canon, 35MM F/1.4, Auto Iris Lens
- One (1) ES-HD-PRO Enclosure for Avigilon Camera
- One (1) ES-OPT-Wall-SL-right angle wall mount

The delivery, installation, testing, and acceptance for this project will be completed within sixty calendar days from the date of the Notice to Proceed. The total contract expenditure shall not exceed \$97,931.39. Price includes all material, labor, and sales tax. Payment terms shall be net 30 days from invoice approval date.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CONTRACTOR AUTHORIZATION

By: 

Chief Executive Officer

Approved as to form:

By: 

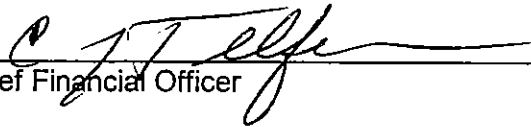
Office of General Counsel

Firm: Electro Specialty SystemsBy: 

Signature

Title: V.P. Business Development

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$97,931.39	11201-0800	2009

By:  9/2/08
Chief Financial Officer Date

(30 total pages, each bearing contract number)

SA-L0849.0-09.ELECTROSPECIALTYSYSTEMS.MYNIGUEZ
CBROWN-SA
8/28/2008

DRAFT

October 16, 2008

MTS Doc. No. L0849.1-08
CIP 11201

Mr. Dan Brault
President
Electro Specialty Systems, Inc.
9474 Chesapeake Drive, Suite 903
San Diego, CA 92123

Dear Mr. Brault:

Subject: AMENDMENT NO. 1 TO SDTI DOC. NO. L0849.0-08 – 12th & IMPERIAL TRANSIT CENTER
CCTV SYSTEM UPGRADE PROJECT

This letter will serve as Amendment No. 1 to MTS Doc. No. L0849.0-08 as further described below.

SCOPE OF SERVICES

This Amendment shall exercise the following options in the original contract cost proposal:

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Extended Price</u>
O-1	16 MP-HD-PRO-C day/night color camera	1	\$8,865.00	\$8,865.00
O-3	Cannon 35 mm, F1.4 Auto Iris-LEF-3514CA	1	\$2,098.50	\$2,098.50
O-4	HD NVR- 8C-5, OTB-HD NVR	1	\$13,401.00	\$13,401.00
O-5	HD View Client	4	\$346.50	\$1,386.00
O-6	ES-HD-PRO-S Enclosure for Avigilon Camera	1	\$280.50	\$280.50
O-7	ES-OPT-wall-SL-right-angle wall mount	1	\$139.50	\$139.50
O-8	ES-HD-PRO-S pole mount	1	\$82.50	\$82.50
O-9	Ethernet over Co-Ax converter- C2E-P	2	\$561.00	\$1,122.00
TOTAL:				\$27,375.00
TAX (7.75%):				\$2,121.56
O-10	Labor for one HD camera installation	1		\$2,016.00
O-11	Labor for second HD camera installation	1		\$1,008.00
TOTAL AMENDMENT COST:				\$32,520.56

SCHEDULE

Twenty one calendar days from the date of receipt of the executed Amendment No. 1 shall be allowed for completion of all work specified in this Amendment. Liquidated damages of \$250 per calendar day for any delay beyond this time limit shall apply.

Letter to Electro Specialty Systems, Inc.
October 16, 2008
Page 2 of 2

PAYMENT

The total cost for providing all of the materials, equipment, and services as described in the cost proposal (attached), including freight and California sales tax, shall not exceed \$32,520.56 without prior formal authorization by MTS.

All other terms and conditions of the original 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

Dan Brault
Electro Specialty Systems, Inc.

OCT16-08.33.CCTV UPGRADE AMDMT.AttB.RDESAI.doc

Date: _____

Attachment: Cost proposal

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

BID FORM

MTS Doc. No.: L0849.0-09

Opening: August 22, 2008
2:00 p.m., Prevailing
Local Time

Vendor Name: ELECTRO SPECIALTY SYSTEMS

For: 12th and Imperial Trolley Station and Mill's Building CCTV system upgrade

Item	Description	Qty	Unit Price	Extended Price
FIXED CAMERA				
1	PELCO CCC 1390H-6 Day/Night	17	\$ 543.60	\$ 9,241.20
2	PELCO 13VD-5-50 Lens F1.4	17	\$ 166.80	\$ 2,835.60
3	PELCO EH3512MT Housing	17	\$ 105.60	\$ 1,795.20
PTZ CAMERA				
4	PELCO SD435-PG-E1 spectra IV	3	\$ 3087.60	\$ 9,262.80
5	PELCO IWM-GY Mount	3	\$ 85.20	\$ 255.60
6	PELCO PA 402 pole mount adapter	3	\$ 61.20	\$ 183.60
DIGITAL VIDEO RECORDER				
7	ISCSI, Bosch DVA 12T-12050RA	1	\$ 13,320.00	\$ 13,320.00
ENCODER				
8	Bosch Encoder VIPX 1600-16	1	\$ 5,531.10	\$ 5,531.10
9	Bosch Encoder VIPX 1600-12	1	\$ 4,387.80	\$ 4,387.80
CODE DISTRIBUTION UNIT				
10	PELCO CM9760-CDU-T	1	\$ 505.20	\$ 505.20
DATA MANAGER				
11	PELCO CM9760-DMR	1	\$ 543.60	\$ 543.60
KEYBOARD				
12	PELCO Keyboard - KBD 300A kit	1	\$ 738.00	\$ 738.00
VIDOS SERVER 16 CAMERA UPGRADE				
13	VIDOSSRV 16CAM	LS	\$ 1,668.60	\$ 1,668.60
UTP TRANSRECEIVER				
14	NVT NV214A/M	21	\$ 45.00	\$ 945.00
ACTIVE RECEIVER DISTRIBUTION AMP. HUB				
15	NV 1672	1	\$ 3,084.00	\$ 3,084.00
1200VA UNINTERRUPTABLE POWER SUPPLY				
16	1200VA UPS - APC	1	\$ 262.50	\$ 262.50

ESS

WALL MOUNT EQUIPMENT CABINET				
17	Mid-Atlantic DWR-24-22 PD	1	\$ 1,200.00	\$ 1,200.00
18	Miscellaneous Hardware and cables	Lump	\$ 2,700.00	\$ 2,700.00
TOTAL BASE EQUIPMENT COST			-	\$ 58,459.80
OPTIONAL EQUIPMENT				
HD IP COLOR CAMERA				
O-1	16MP-HD-PRO-C, Day/Night, Color	1	\$ 8865.00	\$ 8,865.00
O-2	11MP -HD-PRO-C, Day/Night Color	1	\$ 6,210.00	\$ 6,210.00
CANON, 35MM, F/1.4, AUTO IRIS LENS			\$	\$
O-3	LEF-3514CA	2	2,098.50	4,197.00
HD NVR, 8 CAMERA, 5 TB STORAGE, 1 VIEWING CLIENT, 2U RACK MOUNT			\$	\$
O-4	8C-5, OTB-HD NVR	1	13,401.00	13,401.00
O-5	HD View-Client	4	\$ 346.50	\$ 1,386.00
ES-HD-PRO-S ENCLOSURE FOR AVIGILON				
O-6	HD IP Professional Camera	2	\$ 280.50	\$ 561.00
CAMERA MOUNT				
O-7	ES-OPT-Wall-SL-right angle wall mount	2	\$ 139.50	\$ 279.00
ES-OPT-POLE- POLE MOUNT FOR				
O-8	ES-HD-PRO-S	1	\$ 82.50	\$ 82.50
ETHERNET OVER CO-AX CONVERTER			\$	
O-9	Avigilon part no. C2E-P	2	\$ 361.00	\$ 722.00
TOTAL OPTION EQUIPMENT COST				\$ 36,103.50
TOTAL BASE + OPTION EQUIPMENT				\$ 94,563.30
CA TAX 7.75%				\$ 7,328.66
EQUIPMENT TOTAL				\$ 101,891.96
19	LABOR FOR BASE INSTALLATION Wiring upgrade and install, configure, integrate other fixed and PTZ cameras per specification.	\$ 84/hr	304 hrs	\$ 25,536.00
O-10	OPTION LABOR FOR ONE HD CAMERA SYSTEM Labor to install configure, integrate and commission one Mega Pixel camera system per specification	\$ 84/hr	24 hrs	\$ 2,016.00
O-11	OPTION LABOR FOR SECOND HD CAMERA Labor to install, configure, integrate, and commission 2nd Mega Pixel camera system per specification	\$ 84/hr	12 hrs	\$ 1,008.00
BASE + (O10+O-11) LABOR TOTAL				\$ 28,560.00
GRAND TOTAL PROJECT COST (LABOR + EQUIPMENT)				\$ 130,451.96

RETURN THIS FORM WITH YOUR BID
RETAIN OTHER PAGES FOR YOUR RECORDS



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

Agenda

Item No. 34

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

OPS 901

October 16, 2008

SUBJECT:

MTS: CLARIFIER WASTE TRANSPORTATION AND RECYCLING SERVICES -
CONTRACT AWARD

RECOMMENDATION:

That the Board of Directors to authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG103.0-09 (in substantially the same format as Attachment A) with Asbury Environmental Services for a five-year period.

Budget Impact

This contract would cover a five-year period, and the total cost would not exceed \$231,430.64. The cost is based on the estimated quantities budgeted annually under MTS's bus and rail operations using state and federal funding.

DISCUSSION:

MTS Policy No. 52 (Procurement of Goods and Services) requires a formal competitive bid process for procurements of goods and services exceeding \$100,000. In the event that the circumstances dictate other than a competitive bid process, a written explanation is required by staff stating the reasons for not pursuing all or part of any of the processes.

On July 17, 2008, MTS issued an Invitation for Bids to interested parties for clarifier waste transportation and recycling services for the both bus and rail divisions. This solicitation was to obtain the services of a qualified firm to provide comprehensive hazardous waste transportation and treatment and disposal services for San Diego Trolley, Inc. and San Diego Transit Corporation. Five bids were received on



September 3, 2008 (see Bid Summary - Attachment B). Asbury Environmental Services was the lowest responsive, responsible bidder for the five-year period at \$231,430.64; therefore; pursuant to MTS policy, staff recommends award of the contract to ACT.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contacts: Frank Toth, 619.238.0100, Ext. 6511, frank.toth@sdmts.com
Terry Mulcahy, 619.595.4904, terry.mulcahy@sdmts.com

OCT16-08.34.WASTE TRANSPORT RECYCLING SVCS.KBENSON.doc

Attachments: A. Draft Standard Services Agreement
B. Bid Summary

DRAFT

Att. A, AI 34, 10/16/08

STANDARD SERVICES AGREEMENT

PWG103.0-09
CONTRACT NUMBER
OPS 960.2/970.2
FILE/PO NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2008, 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: Asbury Environmental Services Address: 9119 Birch Street
Form of Business: Corporation Spring Valley, CA 91977
(Corporation, Partnership, Sole Proprietor, etc.)
Telephone: 619.463.1126
Authorized person to sign contracts: Jim Ennis Sr. Vice President
Name Title

The attached Standard Conditions are part of this agreement. The Contractor agrees to furnish to MTS services and materials, as follows:

Provide clarifier waste transportation and recycling services, as stipulated in MTS's Invitation for Bids (IFB), including; and in accordance with the Standard Services Agreement, including the Standard Conditions for Services, Federal Requirements, MTS's Safety Program, and Bid Proposal (hereinafter "Contract Documents"). If there are any inconsistencies between the Contract Documents, the following order of precedence will govern the interpretation of this contract.

1. Invitation for Bids, MTS Safety Program, and Bid Proposal.
2. Standard Services Agreement, including the Standard Conditions Services, and Federal Requirements.

This contract shall remain in effect for five years effective November 1, 2008 through October 30, 2013. The total amount of this contract shall not exceed \$231,430.64.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CONTRACTOR AUTHORIZATION
By: _____ Chief Executive Officer	Firm: _____
Approved as to form:	By: _____ Signature
By: _____ Office of General Counsel	Title: _____

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
<u>\$231,430.64</u>	<u>Various</u>	<u>2009-2013</u>

By: _____ Date
Chief Financial Officer

(_____ total pages, each bearing contract number)

OCT16-08.34.AttA.SSA WASTE RECYCLE.KBENSON.doc

BID SUMMARY

Clarifier Waste Transportation and Recycling Services IFB

SDTI

LOCATION - 1535 Newton Ave.

	1	2	3	4	5
	ADVANCED CHEMICAL	ASBURY	NCR	UNITED PUMPING	EFR ENVIRON.
Grand Total Basis of Award:	\$115,053.73	\$108,454.72	\$235,012.00	\$190,760.00	\$ -

SDTC

LOCATION - Imperial Avenue Div.

	ADVANCED CHEMICAL	ASBURY	NCR	UNITED PUMPING	EFR ENVIRON.
Grand Total Basis of Award:	\$60,446.90	\$74,678.82	\$167,137.00	\$133,018.00	\$ -

SDTCLOCATION - Kearny Mesa
Division

	ADVANCED CHEMICAL	ASBURY	NCR	UNITED PUMPING	EFR ENVIRON.
Grand Total Basis of Award:	\$44,173.67	\$48,297.10	\$107,420.00	\$64,091.00	\$ -

GRAND TOTAL:

\$219,674.30
Bld nonresponsive due to
bid withdrawal.

\$231,430.64

\$509,569.00

\$387,869.00

Bid nonresponsive--
did not submit any
completed forms with
bid.



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

Agenda

Item No. 35

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

LEG 491 (PC 50633)

October 16, 2008

SUBJECT:

**MTS: INCREASED AUTHORIZATION FOR LEGAL SERVICES – LAW OFFICE OF
JULIE MORRIS SODEN**

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1173.3-08 (in substantially the same form as Attachment A) with the Law Office of Julie Morris Soden for legal services and ratify prior amendments entered into under the CEO's authority.

Budget Impact

Not to exceed \$60,000 for the Law Office of Julie Morris Soden. The recommended amounts are contained within the fiscal year 2009 budget.

DISCUSSION:

On January 18, 2007, the Board approved a list of qualified attorneys for general liability and workers' compensation for use by MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) (hereinafter referred to as the Agencies) staffs on an as-needed basis. Thereafter, MTS began to contract with approved attorneys for various amounts depending upon current and anticipated needs.

Pursuant to Board Policy No. 52 (Procurement of Goods and Services), the CEO may enter into contracts with service providers for up to \$100,000. The Board must approve all agreements in excess of \$100,000. All attorneys listed have multiple cases that are



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB 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.

scheduled to proceed to trial, and the total cost of their legal services will exceed the CEO's authority.

The Law Office of Julie Morris Soden is currently under contract with the Agencies for \$100,000. Attorney Julie Morris Soden has successfully defended the Agencies in a number of tort liability matters. Pending invoices for recent and current services are anticipated to exceed current contract authority due to legal defense costs.

LAW OFFICE OF JULIE MORRIS SODEN G1173.0-08	PERIOD: 3/5/08 – 9/3/08
Anthony Johnson v. SDTI	\$1,250.00
Bertha Garcia v. SDTI	\$41,045.51
Catherine Christensen v. SDTC	\$9,453.58
David Coder v. SDTC	\$2,162.50
Gregory Shattuck v. SDTI	\$10,047.64
Joseph McFarlane v. SDTI	\$3,150.00
Laura Gutierrez v. SDTI	\$687.50
Pedro Aguilar v. SDTI	\$7,294.77
Peter Iglesias v. SDTI	\$2,429.14
Rosa Lagmay v. SDTI	\$5,375.73
Sonia Leahy v. SDTC	\$4,475.49
Virginia Rodriguez v. SDTI	\$2,750.00
	\$90,122

The CEO has approved contracts up to the \$100,000 authority level. Staff is requesting Board approval of MTS Doc. No. G1173.3-08 with the Law Office of Julie Morris Soden for legal services and ratification of prior contracts/amendments entered into under the CEO's authority.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: James Dow, 619.557.4562, jim.dow@sdmts.com

OCT16-08.35.LEGAL SVCS JULIE MORRIS SODEN.JDOW.doc

Attachment: A. MTS Doc. No. G1173.3-08

DRAFT

Att. A, AI 35, 10/16/08

October 16, 2008

MTS Doc. No. G1173.3-08
LEG 491 (PC 50633)

Ms. Julie Morris Soden
Law Office of Julie Morris Soden
12707 High Bluff Drive, Suite 200
San Diego, CA 92130-2037

Dear Ms. Soden:

Subject: AMENDMENT NO. 3 TO MTS DOC. NO. G1173.0-08: LEGAL SERVICES – GENERAL
LIABILITY

This letter will serve as Amendment No. 3 to MTS Doc. No. G1173.0-08. This contract amendment authorizes additional costs not to exceed \$60,000 for professional services. The total value of this contract including this amendment is \$160,000. Additional authorization is contingent upon MTS approval.

If you agree with the above, please sign below and return the document marked "Original" to the Contracts Specialist at MTS. The other copy is for your records.

Sincerely,

Accepted:

Paul C. Jablonski
Chief Executive Officer

Julie Morris Soden
Law Office of Julie Morris Soden

Date: _____

OCT16-08.35.AttA.LEGAL SVCS JULIE SODEN.JDOW.doc



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

Agenda

Item No. 36

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

LEG 491 (PC 50633)

October 16, 2008

SUBJECT:

**MTS: INCREASED AUTHORIZATION FOR LEGAL SERVICES – LAW OFFICES OF
WHEATLEY BINGHAM & BAKER**

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1111.3-07 (in substantially the same form as Attachment A) with the Law Offices of Wheatley Bingham & Baker for legal services and ratify prior amendments entered into under the CEO's authority.

Budget Impact

Not to exceed \$80,000 for Law Offices of Wheatley Bingham & Baker. The recommended amounts are contained within the fiscal year 2009 budget.

DISCUSSION:

On January 18, 2007, the Board approved a list of qualified attorneys for general liability and workers' compensation for use by MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) (hereinafter referred to as the Agencies) staffs on an as-needed basis. Thereafter, MTS began to contract with approved attorneys for various amounts depending upon current and anticipated needs.

Pursuant to Board Policy No. 52 (Procurement of Goods and Services), the CEO may enter into contracts with service providers for up to \$100,000. The Board must approve all agreements in excess of \$100,000. All attorneys listed have multiple cases that are



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB 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.

scheduled to proceed to trial, and the total cost of their legal services will exceed the CEO's authority.

Wheatley Bingham & Baker are currently under contract with the Agencies for \$230,000. Attorney Roger Bingham has successfully defended the Agencies in a number of tort liability matters. Pending invoices for recent and current services are anticipated to exceed current contract authority due to legal defense costs.

LAW OFFICE OF WHEATLEY BINGHAM & BAKER G1173.0-08	PERIOD: 7/31/07 – 9/18/08
Alfred Buso v. SDTC	\$12,170
Allan Carnes v. MTS	\$4,484
Barbara Fong v. SDTC	\$56,725
City of National City v. MTS	\$6,705
David Gladden v. SDTI	\$2,611
Delores Jackson v. SDTI	\$4,882
Donald Gaskin v. SDTC	\$46
Gale Kellogg v. SDTC	\$21,391
General MTS	\$2,495
Jahlel Tuil v. SDTI	\$2,589
James Jackson v. SDTC	\$81
Kevin Perry v. MTS	\$8,846
Lorraine Daley v. SDTC	\$2,745
Maria Phelps v. SDTC	\$11,467
MTS General	\$12,441
National RR / Amtrak v. SDTI	\$23,510
SD Public Rider Alliance v. MTS	\$27,863
Triple AAA Association & Noni Gotti v. MTS	\$4,602
Yolanda Aguirre v. SDTI	\$18,908
	\$224,561

The CEO has approved contracts up to the \$100,000 authority level. Staff is requesting Board approval of MTS Doc. No. G1111.3-07 with Wheatley Bingham & Baker for legal services and ratification of prior contracts/amendments entered into under the CEO's authority.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: James Dow, 619.557.4562, jim.dow@sdmts.com

OCT16-08.36.LEGAL SVCS WHEATLEY BINGHAM BAKER.JDOW.doc

Attachment: A. MTS Doc. No. G1111.3-07

DRAFT

October 16, 2008

MTS Doc. No. G1111.3-07
LEG 491 (PC 50633)

Mr. Roger Bingham
Wheatley Bingham & Baker
1201 Camino del Mar, Suite 201
Del Mar, CA 92014-2569

Dear Mr. Bingham:

Subject: AMENDMENT NO. 3 TO MTS DOC. NO. G1111.0-07: LEGAL SERVICES – GENERAL
LIABILITY

This letter will serve as Amendment No. 3 to MTS Doc. No. G1111.0-07. This contract amendment authorizes additional costs not to exceed \$80,000 for professional services. The total value of this contract, including this amendment, is \$310,000. Additional authorization is contingent upon MTS approval.

If you agree with the above, please sign below and return the document marked "original" to the Contracts Specialist at MTS. The other copy is for your records.

Sincerely,

Accepted:

Paul C. Jablonski
Chief Executive Officer

Roger Bingham
Wheatley Bingham & Baker

Date: _____

CL-G1111.2-07.Wheatley Bingham Baker.JDOW.doc



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

Agenda

Item No. 37

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

LEG 491 (PC 50633)

October 16, 2008

SUBJECT:

MTS: INCREASED AUTHORIZATION FOR LEGAL SERVICES – MCDUGAL LOVE
ECKIS SMITH BOEHMER & FOLEY, APC

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1067.2-07 (in substantially the same form as Attachment A) with McDougal Love Eckis Smith Boehmer & Foley, APC for legal services and ratify prior amendments entered into under the CEO's authority.

Budget Impact

Not to exceed \$40,000 for McDougal Love Eckis Smith Boehmer & Foley, APC. The recommended amounts are contained within the fiscal year 2009 budget.

DISCUSSION:

On January 18, 2007, the Board approved a list of qualified attorneys for general liability and workers' compensation for use by MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) (hereinafter referred to as the Agencies) staffs on an as-needed basis. Thereafter, MTS began to contract with approved attorneys for various amounts depending upon current and anticipated needs.

Pursuant to Board Policy No. 52 (Procurement of Goods and Services), the CEO may enter into contracts with service providers for up to \$100,000. The Board must approve all agreements in excess of \$100,000. All attorneys listed have multiple cases that are



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB 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.

scheduled to proceed to trial, and the total cost of their legal services will exceed the CEO's authority.

McDougal Love Eckis Smith Boehmer & Foley, APC are currently under contract with the Agencies for \$90,000. Attorney Steven Boehmer has successfully defended the Agencies in a number of tort liability matters. Pending invoices for recent and current services are anticipated to exceed current contract authority due to legal defense costs.

LAW OFFICE OF MCDUGAL LOVE ECKIS SMITH BOEHMER & FOLEY APC – G1067.2-07	PERIOD: 5/2/07 – 9/30/08
Beatriz Jaramilo v. SDTC	\$528.00
Bettie Jones v. MTS	\$192.00
Carmen Moreno v. MTS	\$33.75
City of San Diego v. SDTC	\$3,241.01
City of San Diego v. SDTC/Guzman	\$265.75
Emmanuel Adebayo v. SDTI	\$39,118.84
Express Courier v. MTS	\$4,439.79
Feliciana Mancilla v. SDTC	\$1,691.77
General File - MTS	\$1,024.00
Hawthorne Machinery Co. v. MTS	\$624.00
Jason Sanchez v. MTS	\$6,879.69
Juan Guzman v. SDTC	\$4,997.38
Ksyode Adebayo v. SDTI	\$352.00
Rayman/Stella Reed v. SDTI/MTS	\$9,627.91
Ricardo Lavado v. SDTI	\$72.00
Sharonda Lucious v. MTS	\$629.40
Wesley Ashcraft v. SDTC	\$1,608.50
	\$75,326

The CEO has approved contracts up to the \$100,000 authority level. Staff is requesting Board approval of MTS Doc. No. G1067.2.07 with McDougal Love Eckis Smith Boehmer & Foley, APC for legal services and ratification of prior contracts/amendments entered into under the CEO's authority.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: James Dow, 619.557.4562, jim.dow@sdmts.com

OCT16-08.37.LEGAL SVCS.BOEHRER.JDOW.doc

Attachment: A. MTS Doc. No. G1067.2-07

DRAFT

October 16, 2008

MTS Doc. No. G1067.2-07
LEG 491 (PC 50633)

Mr. Steven E. Boehmer
McDougal Love Eckis Smith Boehmer & Foley, APC
460 North Magnolia Avenue, PO Drawer 1466
El Cajon, CA 92020-1466

Dear Mr. Boehmer:

Subject: AMENDMENT NO. 2 TO MTS DOC. NO. G1067.0-07: LEGAL SERVICES – GENERAL
LIABILITY

This letter will serve as Amendment No. 2 to MTS Doc. No. G1067.0-07. This contract amendment authorizes additional costs not to exceed \$40,000, for professional services. The total value of this contract including this amendment is \$130,000. Additional authorization is contingent upon MTS approval.

If you agree with the above, please sign below and return the document marked "Original" to the Contracts Specialist at MTS. The other copy is for your records.

Sincerely,

Accepted:

Paul C. Jablonski
Chief Executive Officer

Steven E. Boehmer
McDougal Love Eckis Smith Boehmer & Foley, APC

OCT16-08.37.AttA.BOEHMER
LEGAL SVCS.JDOW.doc

Date: _____



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

Agenda

Item No. **38**

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

LEG 491 (PC 50633)

October 16, 2008

SUBJECT:

MTS: INCREASED AUTHORIZATION FOR LEGAL SERVICES – LAW OFFICES OF
MARK H. BARBER, APC

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1162.2-08 (in substantially the same form as Attachment A) with the Law Offices of Mark H. Barber for legal services and ratify prior amendments entered into under the CEO's authority.

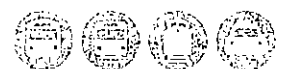
Budget Impact

Not to exceed \$60,000 for the Law Offices of Mark Barber, APC. The recommended amounts are contained within fiscal year 2009 budget.

DISCUSSION:

On January 18, 2007, the Board approved a list of qualified attorneys for general liability and workers' compensation for use by MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) (hereinafter referred to as the Agencies) staffs on an as-needed basis. Thereafter, MTS began to contract with approved attorneys for various amounts depending upon current and anticipated needs.

Pursuant to Board Policy No. 52 (Procurement of Goods and Services), the CEO may enter into contracts with service providers for up to \$100,000. The Board must approve all agreements in excess of \$100,000. All attorneys listed have multiple cases that are scheduled to proceed to trial, and the total cost of their legal services will exceed the CEO's authority.



The Law Offices of Mark H. Barber, APC are currently under contract with the Agencies for \$100,000. Attorney Mark Barber has successfully defended the Agencies in a number of workers' compensation matters. Pending invoices for recent and current services are anticipated to exceed current contract authority due to legal defense costs.

LAW OFFICE OF MARK H. BARBER, APC - G1162.0-08			
Time Period: 2/14/08 – 9/30/08			
ARTURO SOTO V SDTC	\$708.21	LENNIE ST JULIEN V SDTC	\$647.20
BRADLEY BUXTON V SDTI	\$1,581.65	LISA BENDER V SDTC	\$3,832.68
CARLOS HERNANDEZ V SDTC	\$2,749.33	NORMA CALLOWAY V SDTC	\$9,419.34
CHARLES GOODMAN V SDTC	\$935.61	NURAL KUYKENDALL V SDTC	\$5,082.37
CHERYL NEWTON V SDTC	\$1,026.79	RICHARD JORDAN V SDTC	\$1,911.81
CONSTANCE TAVARES V SDTC	\$3,533.10	ROBERT ROMERO V SDTI	\$603.44
DOLORES ALVARADO V SDTC	\$1,434.66	ROBERTO ROMERO V SDTI	\$1,350.00
EARL WOOLRIDGE V SDTC	\$790.48	RODOLFO MARTINEZ V SDTI	\$4,643.72
EDWARD JENKINS V SDTC	\$753.00	ROSEMARY DURAN-RANGEL V SDTC	\$436.82
GABRIEL NAHOUM V SDTC	\$1,631.30	ROSEMARY DURAN-RANGEL V SDTC	\$6,822.33
GARRY DUNCAN PLATEL V SDTC	\$4,683.32	SCOTT AGUE V SDTC	\$2,143.76
GARY NORTH V SDTC	\$3,282.41	SHARON HANSON V SDTC	\$14,368.77
GARY PLATEL V SDTC	\$932.42	TERRI MORRIS V SDTC	\$1,962.43
GEORGE METCALF V SDTI	\$215.00	TITO MORENO V SDTC	\$435.20
GREGORY ATTAWAY V SDTC	\$291.40	TRINA GOLDER V SDTC	\$272.21
JACQUELINE THOMPSON-DUN V SDTC	\$585.41	VALERIE ALCOM V SDTC	\$75.00
JOSE FLORES V SDTI	\$253.00	VALERIE ALCORN V SDTC	\$9,123.81
JUNE ENNALS V SDTC	\$1,438.08	WILLIAM NELSON V SDTC	\$706.81
LC DOUGLAS V SDTC	\$5,243.67		\$95,907

The CEO has approved contracts up to the \$100,000 authority level. Staff is requesting Board approval of MTS Doc. No. G1162.2-08 with the Law Offices of Mark H. Barber, APC for legal services and ratification of prior contracts/amendments entered into under the CEO's authority.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: James Dow, 619.557.4562, jim.dow@sdmts.com

OCT16-08.38.LEGAL SVCS MARK BARBER.JDOW.doc

Attachment: A. MTS Doc. No. G1162.2-08

DRAFT

October 16, 2008

MTS Doc. No. G1162.2-08
LEG 491 (PC 50633)

Mr. Mark H. Barber
Law Offices of Mark H. Barber, APC
2727 Camino Del Rio South, Suite 220
San Diego, CA 92108

Dear Mr. Barber:

Subject: AMENDMENT NO. 2 TO MTS DOC. NO. G1162.0-08: LEGAL SERVICES – WORKERS'
COMPENSATION

This letter will serve as Amendment No. 2 to MTS Doc. No. G1162.0-08. This contract amendment authorizes additional costs not to exceed \$60,000 for professional services. The total value of this contract including this amendment is \$160,000. Additional authorization is contingent upon MTS approval.

If you agree with the above, please sign below and return the document marked "Original" to the Contracts Specialist at MTS. The other copy is for your records.

Sincerely,

Accepted:

Paul C. Jablonski
Chief Executive Officer

Mark H. Barber
Law Offices of Mark H. Barber, APC

OCT16-08.38.AttA.LEGAL SVCS MARK BARBER.JDOW.doc

Date: _____



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

Agenda

Item No. 39

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

OPS 901

October 16, 2008

SUBJECT:

MTS: REGIONAL TRANSIT MANAGEMENT SYSTEM - LEASE WITH THE CITY OF
SAN DIEGO FOR COMMUNICATIONS EQUIPMENT AT CATALINA STANDPIPE

RECOMMENDATION:

That the MTS Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1216.0-09 (in substantially the same form as Attachment A) with the City of San Diego (City) for the installation and maintenance of communications equipment for the Regional Transit Management System (RTMS).

Budget Impact

This is a ten-year lease agreement with base rent set at \$30,000 annually and escalating by five percent per year thereafter with a fair market appraisal in year five of the lease.

DISCUSSION:

Background Information

On January 10, 2002, the MTS Board authorized staff to procure an RTMS using a competitive negotiated procurement process. In April 2002, a Request for Proposals (RFP) was released and, in August, four responses were received from Siemens, Motorola/Orbital Sciences Corporation, NextBus, and Science Applications International Corporation (SAIC). The contract was awarded to Motorola Corporation in April of 2003.



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.

In 2004, this project was transferred to the San Diego Association of Governments (SANDAG) as part of the consolidation process. SANDAG staff has monitored the construction and completion of the RTMS project. The final phase was to negotiate communication equipment leases at various locations in the County of San Diego. Locations were chosen based upon the operational needs.

The General Counsels for SANDAG and MTS worked with the City Attorney's office to negotiate a ten-year lease agreement for communications equipment at the Catalina Standpipe. A copy of the final lease is included with this agenda item (Attachment A). Therefore, staff is requesting that the Board authorize the CEO to execute the Lease Agreement with the City of San Diego.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contacts: Jim Byrne, 619.238.0100, Ext. 420, jim.byrne@sdmts.com
Tiffany Lorenzen, 619.557.4512, tiffany.lorenzen@sdmts.com

OCT16-08.39.CITY SD CATALINA LEASE.JBYRNE.doc

Attachment: A. Final Lease Agreement (MTS Doc. No. G1216.0-09) **(Board Only Due to Volume)**



LEASE AGREEMENT

between

THE CITY OF SAN DIEGO

and

**SAN DIEGO
METROPOLITAN TRANSIT SYSTEM**

at

Catalina Standpipe

CITY OF SAN DIEGO
LEASE AGREEMENT

This Lease Agreement ("Lease") is entered into by and between the CITY OF SAN DIEGO (CITY), a municipal corporation ("CITY"), and the SAN DIEGO METROPOLITAN TRANSIT SYSTEM, a California public agency ("LESSEE"), to be effective upon execution by CITY ("Commencement Date") and approval by the City Attorney, as follows:

SECTION 1: PREMISES

1.1 Leased Premises.

CITY owns certain real property located in the City of San Diego, County of San Diego, State of California, known as "Catalina Standpipe" more particularly described in Exhibit "A" – Legal Description, attached to this Lease and by this reference made part of this Lease, which shall be referred to as the "Site." LESSEE leases from CITY that portion of the Site described in Exhibit "B" - Site Plan/ Location, attached to this Lease and by this reference made part of this Lease, which portions shall be referred to as the "Premises." LESSEE, its agents, employees, contractors, guests and invitees may enter the Premises using the access point shown on the attached Exhibit "B" – Site Plan/Location on a 24-hour nonexclusive basis.

1.2 Easements and Reservations.

- a. CITY reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises.
- b. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as it deems advisable, in its sole discretion, for the public good.
- c. CITY may enter the Premises to develop and/or repair municipal resources and services.

CITY shall not unreasonably or substantially interfere with LESSEE'S use of the Premises and shall reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Premises or Communications Equipment (defined below) resulting from CITY exercising the rights reserved in this section. The reimbursement may include a reduction in the rent proportionate to the amount of physical damage as reasonably determined by CITY. CITY shall pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

1.3 Eminent Domain.

If all or part of the Premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, other than the CITY, the interests of CITY and LESSEE (or beneficiary or mortgagee) shall be as follows:

- a. Full Taking. If the entire Premises is taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
- b. Partial Taking - Remainder Unusable. If a partial taking of the Premises occurs, and in the opinion of CITY, the remaining part of the Premises is unsuitable for the Lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
- c. Partial Taking - Remainder Usable. If a partial taking of the Premises occurs, and in the opinion of CITY, the remaining part of the Premises is suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The rent shall be equitably reduced to reflect the portion of the Premises taken, only to the extent that LESSEE'S operations are reduced or impaired.
- d. Award. All monies awarded in any taking shall belong to CITY, whether the taking results in diminution in value of the leasehold or the fee or both. LESSEE shall be entitled to any award attributable to the taking of, or damages to, LESSEE'S then remaining leasehold interest in installations or improvements of LESSEE. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.
- e. Transfer. CITY may transfer CITY'S interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.
- f. No Inverse Condemnation. The exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

1.4 Related Council Actions.

By entering into this Lease, neither CITY nor Council of CITY is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the development or operation of the Premises. Discretionary action includes, but is not limited to, rezonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Premises. LESSEE shall diligently seek all entitlements and actions, from both CITY and other governmental agencies with jurisdiction over the Premises, as are necessary to develop and operate the uses contemplated by this Lease, all at no cost to CITY.

1.5 Quiet Possession.

LESSEE, paying the rent and performing its obligations under this Lease, shall at all times during the Term (defined in Section 2.1) peaceably and quietly have, hold, and enjoy the Premises. If CITY for any reason cannot deliver possession of the Premises to LESSEE on the Commencement Date (defined in Section 2.1), or if during the Term LESSEE is temporarily dispossessed through action or claim of a title superior to CITY'S, then this Lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or resulting damage; provided, however, the Commencement Date shall automatically extend until the date CITY delivers possession of the Premises to LESSEE. Notwithstanding the foregoing, if CITY is unable to deliver possession of the Premises to LESSEE within six (6) months of the full execution and delivery of this Lease, LESSEE may terminate this Lease upon written notice to CITY without further liability and any prepaid rent paid by LESSEE to CITY, shall be returned in full to LESSEE.

1.6 Reassignment of Space.

At any time during the Term, CITY, in its sole discretion, may reassign LESSEE an equivalent amount of space in a different location at the Site. CITY shall exercise its reassignment right by delivering written notice (the "Reassignment Notice") to LESSEE that proposes one or more alternate locations on the Site to which LESSEE may relocate its Communications Equipment. LESSEE shall have ninety (90) days from the date it receives the Reassignment Notice to evaluate CITY'S proposed relocation space, during which period LESSEE shall have the right to conduct tests to determine the technological feasibility of the proposed relocation space. Any relocation space which CITY and LESSEE agree upon in writing is referred to in this Lease as the "Relocation Space." LESSEE shall then have a period of ninety (90) days to relocate its Communications Equipment to the Relocation Space after the later to occur of: execution of a written agreement between the parties concerning the location and dimensions of the Relocation Space; or receipt by CITY of all necessary permits and approvals required for any CITY construction or redevelopment project which requires a

relocation of the Communications Equipment (including all permits and approvals required for LESSEE'S use of the Relocation Space. LESSEE shall cooperate fully with CITY and its contractors during any reassignment, and shall pay all expenses associated with the reassignment; provided, however, that the actual relocation of all or any part of LESSEE'S Communications Equipment shall only be done by LESSEE or LESSEE'S contractors. CITY shall use its best efforts to ensure continuous, uninterrupted broadcast/receiving capability during any conversion, including the installation and operation by LESSEE of a CITY-approved temporary communications facility on the Site. If CITY and LESSEE are unable to agree on a mutually acceptable Relocation Space, then LESSEE may terminate this Lease upon thirty (30) days prior written notice to CITY, without further obligation. Upon relocation of the Communications Equipment, or any part thereof, to the Relocation Space, all references to the Premises in this Lease shall be deemed to be references to the Relocation Space. CITY and LESSEE agree that "as built" drawings of the Relocation Space (including the access and utility easement) may be prepared by a licensed architect at the sole cost of LESSEE and such drawings shall then replace the relevant portions of Exhibit "A" – Legal Description and Exhibit "B" - Site Plan/Location and by this reference made a part of this Lease. Except as expressly provided in this Section 1.6, the relocation of the Communications Equipment, or any part thereof, shall not alter, modify or otherwise change any of the terms and conditions of this Lease.

SECTION 2: TERM

2.1 Term.

The Term of this Lease shall be ten (10) years ("Term"). If the Commencement Date is not the first day of a calendar month, the Term shall include the partial calendar month from and including the Commencement Date through the last month of the full Term, so that the Term shall expire on the last day of a calendar month. "Lease Year" as used in this Lease shall mean the first full 12-month period following the Commencement Date, and each succeeding 12-month period thereafter during the Term.

2.2 Holdover.

Any holding over by LESSEE after the expiration or earlier termination of this Lease shall not be considered a renewal or extension of this Lease. LESSEE'S occupancy of the Premises after the expiration or earlier termination of this Lease shall constitute a month-to-month tenancy, and all other terms and conditions of this Lease shall continue in full force and effect. At the sole discretion of the City Manager of CITY, CITY may increase the rent to bring the rent to fair market value and may terminate the holdover tenancy at will upon thirty (30) days prior written notice.

2.3 Quitclaim and Surrender of LESSEE'S Interest.

- a. Quitclaim Deed. At termination of this Lease for any reason, LESSEE shall execute, acknowledge and deliver to CITY, within five (5) days after written demand, a valid and recordable quitclaim deed covering all of the Premises. If LESSEE fails or refuses to deliver the required quitclaim deed, CITY may prepare and record a notice reciting LESSEE'S failure to execute this Lease provision, and the notice shall be conclusive evidence of the termination of this Lease and all LESSEE'S rights to the Premises.
- b. Surrender and Restoration of Premises. Upon the expiration or earlier termination of this Lease, LESSEE shall surrender the Premises to CITY free and clear of all liens and encumbrances, except those liens and encumbrances which (i) existed on the Commencement Date, and (ii) existing after the Commencement Date and not the result of LESSEE'S use of the Premises, and in a decent, safe, and sanitary condition.

SECTION 3: USES

3.1 Sole Permitted Uses.

The Premises are leased to LESSEE solely and exclusively for the purposes of installing, constructing, modifying, maintaining, operating, and removing, at its expense, a communications facility on the Premises, including, without limitation, antenna equipment, cable wiring, utility lines, transmission lines, air conditioned equipment shelters, backup power sources that may include, with proper permits obtained, backup power generators with connected fuel storage tanks for emergency backup power, related fixtures and, if applicable to the Premises, an antenna structure or structures (collectively, "Communications Equipment"), as listed in the attached Exhibit "C" - Equipment. The use of the Premises for any unauthorized, illegal or unpermitted purpose shall constitute a default and subject this Lease to termination at the sole option of the CITY.

3.2 Competent Management.

Throughout the Term, LESSEE shall provide competent management of the Premises for the permitted uses to the reasonable satisfaction of the City Manager. For purposes of this section, "competent management" shall mean demonstrated ability in the management and operation of a communications facility and related activities in a fiscally responsible manner and in accordance with industry standards.

SECTION 4: RENT

4.1 Time and Place of Payment.

Rent is due annually in advance on or before the first day of each Lease Year. If the Commencement Date is not the first day of a calendar month, then the accrued rent for the partial month at the beginning of the Term shall be prorated on a per diem basis, and paid in conjunction with the rent for the first full month of the Term. All rents required by this Lease must be made payable to the City Treasurer and mailed to:

The Office of the City Treasurer
City of San Diego
P.O. Box 122289
San Diego, California 92112-4165

or hand delivered to:

The Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue
First Floor
San Diego, California

The place of payment may be changed at any time by CITY upon thirty (30) days prior written notice to LESSEE. Mailed rental payments shall be deemed paid upon the date the payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed paid upon actual receipt by the City Treasurer. LESSEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail. LESSEE shall clearly identify the Premises by location and include CITY'S customer account number for LESSEE on the rent payment so CITY can apply the rent to the appropriate account.

4.2 Rent.

- a. Rent Amount. LESSEE shall pay CITY an initial rent of thirty thousand dollars (\$30,000) annually in advance, subject to annual adjustments on the first day of each Lease Year as provided in the following rent schedule:

Lease Year Two	\$31,200.00
Lease Year Three	\$32,448.00
Lease Year Four	\$33,745.92
Lease Year Five	\$35,095.76
Lease Year Six	Market Rate

The above rent schedule reflects an annual rent escalation equal to four percent (4%) of the annual rent for each preceding Lease Year. At Lease Year Six the rent is subject to the adjustment provisions by appraisal described in Section 4.2b below.

- b. Market Rent Adjustment – By Appraisal. At the end of the fifth Lease Year, the rent for the ensuing five (5) years, subject to percentage escalations for each Lease Year, seven through ten, as described in Section 4.2a above, shall be determined by an appraisal of the multiple sites under this master Lease as of the adjustment date by a Real Estate Assets Department (“READ”) staff appraiser or a California State Certified General Real Estate Appraiser who is confirmed by READ as being competent in determining market rent for telecommunication sites/properties/leases (“Qualified Appraiser”). In establishing a market rent for the leased portfolio of mini-cell sites, the Qualified Appraiser shall base his or her determination on a current appraisal by surveying comparable market rents for similar leased facilities in Southern California or other comparable market areas. The date of value of the appraisal shall be the date of rental adjustment as established in this section. If the appraisal is not completed in time to permit the adjustment to be made upon the date specified, LESSEE shall continue to pay rent in accordance with the then existing Lease rates, and the adjustment, when determined, will be retroactive to the effective date of rental adjustment. Any deficiency shall be paid by LESSEE to CITY within thirty (30) days after determination of the new rental rate. In no event shall the adjusted rent be less than the rent in existence immediately prior to the adjustment date. The City Manager, in his sole discretion, may determine that no market value adjustment is necessary and waive the requirement for the appraisal process for any specific adjustment period.

4.3 Delinquent Rent.

If LESSEE fails to pay rent when due, LESSEE shall pay, in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days past due, LESSEE shall pay an additional five percent (5%) [being a total of ten percent (10%)], which is agreed by the parties to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. In no event shall the charge for late payments of rent be less than one hundred dollars (\$100). Acceptance of late charges and any portion of the late payment by CITY shall neither constitute a waiver of LESSEE’S default with respect to late payment nor prevent CITY from exercising any other rights and remedies available at law or in equity.

4.4 Additional Rent.

LESSEE shall pay to CITY as additional rent fifty percent (50%) of net revenue generated by each sublease of any part of the Premises entered into by LESSEE and a third party, payable within thirty (30) days of payment under the sublease. As used in this Lease the term "rent" shall include such additional rent.

4.5 Inspection of Records.

LESSEE shall maintain complete and accurate records and accounts showing all income and receipts from use of the Premises. LESSEE shall make any and all records and accounts available to CITY for inspection at a reasonable location and at all reasonable times so that CITY can determine LESSEE'S compliance with this Lease. LESSEE'S failure to keep and maintain records and make them available for inspection by CITY shall be a default of this Lease and cause for termination. LESSEE shall maintain all records and accounts for a minimum period of five (5) years. This section shall survive the expiration or earlier termination of this Lease.

SECTION 5: ASSIGNMENT

5.1 Assignment and Subletting.

LESSEE shall not assign this Lease or any interest in this Lease and shall not sublet the Premises, or any part of the Premises, or any right or appurtenant privilege to the Premises, or permit any other person, except employees, agents, and guests of LESSEE, to use or occupy the Premises or any part of the Premises, without the prior written consent of the City Manager in each instance, which consent shall not be unreasonably withheld. A consent to assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any assignment or subletting without CITY'S consent shall be void and shall, at the option of CITY, terminate this Lease. This Lease shall not, nor shall any interest in this Lease, be assignable as to the interest of LESSEE by operation of law, without the written consent of the City Manager. For the purpose of this section, "assignment" shall include without limitation the transfer of any interest in this Lease and, if LESSEE is other than a natural person, the transfer of a controlling interest in LESSEE or any of LESSEE'S general partners, principals, or controlling shareholders. Approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations assigned or subleased and that assignee or sublessee will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired. As a further condition to CITY'S consenting to any sublease or assignment of this Lease, the City Manager may require that this Lease or the requested sublease be amended to comply with then-

current standard CITY lease requirements. Pursuant to City Charter Section 225, which is incorporated into this Lease by reference, the City Manager must review and approve every person or entity which will have an interest in this Lease as a sublessee or assignee.

5.2 Encumbrance.

Subject to prior consent by the City Manager, LESSEE may encumber this Lease, its leasehold estate, and its improvements on the Premises by deed of trust, mortgage, chattel mortgage, or other security instrument to assure the payment of a promissory note or notes of LESSEE, upon the condition that the proceeds of the loan or loans be devoted exclusively to the purpose of developing the Premises. A reasonable portion of the loan proceeds may be disbursed for payment of incidental costs of construction, including but not limited to the following: off-site improvements for service of the Premises; on-site improvements; escrow charges; premiums for hazard insurance or other insurance or bonds required by CITY; title insurance premiums; reasonable loan costs such as discounts, interest, and commissions; and architectural, engineering, and attorney fees and other normal expenses incidental to the construction. Any subsequent encumbrances on the Premises or on any permanent improvements on the Premises must first have the approval in writing of the City Manager. Subsequent encumbrances shall also be for the exclusive purpose of development of the Premises. After the Premises are fully developed to the satisfaction of the City Manager, proceeds from refinancing or from subsequent encumbrances may be used to reduce LESSEE'S equity. The City Manager shall have the sole and absolute discretion to approve, disapprove, or condition any proposed subsequent encumbrance, including but not limited to amending the Lease to provide then current rents and provisions.

If any approved deed of trust or mortgage or other security instrument should at any time be in default and be foreclosed or transferred in lieu of foreclosure, CITY shall accept the approved mortgagee or beneficiary as the "LESSEE" under this Lease with all the rights and obligations granted and imposed in this Lease.

Upon prior written approval by the City Manager, the mortgagee or beneficiary may assign this Lease to its nominee, if the nominee is a reputable, qualified, and financially responsible person or entity in the opinion of the City Manager. Any deed of trust, mortgage, or other security instrument shall be subject to all of the terms, covenants, and conditions of this Lease and shall not be deemed to amend or alter any such terms, covenants, or conditions. Pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have a financial interest in this Lease. The City Manager's approval may not be unreasonably withheld, provided all persons and entities are of good character and reputation in the community.

SECTION 6: DEFAULTS AND REMEDIES

6.1 Defaults and Remedies.

Upon default by LESSEE, CITY may pursue any one or more of the remedies listed in this section in addition to any other remedies now or later available to CITY in law or equity. These remedies are not exclusive but cumulative.

a. Defaults. Each of the following shall constitute an event of default under this Lease:

- (1) LESSEE'S failure to make any payment required under this Lease when due if the failure continues for five (5) days following written notice of the failure by CITY; or
- (2) LESSEE'S breach of any of its obligations under this Lease, other than those requiring payment to CITY, and LESSEE either: (i) fails to cure the breach within thirty (30) days following written notice from CITY; or, (ii) if such breach is not curable within thirty (30) days, fails to commence to cure the breach within thirty (30) days and diligently pursue the cure to completion; or
- (3) LESSEE voluntarily files any petition under any bankruptcy or insolvency act or law; or
- (4) LESSEE has involuntarily filed against it any petition under any bankruptcy or insolvency act or law and the matter is not dismissed by a court of competent jurisdiction within ninety (90) days of filing; or
- (5) LESSEE is adjudicated a bankrupt; or
- (6) LESSEE makes a general assignment for the benefit of creditors; or
- (7) LESSEE uses the Premises for any unauthorized purpose.

b. Remedies.

- (1) For Default Based Upon Nonpayment. Upon default by LESSEE for nonpayment under Section 6.1a (1) of this Lease, CITY may, at its option, give LESSEE, or any person claiming rights through LESSEE, a written Five-Day Notice to Pay or Quit or CITY may terminate the Lease and all right of LESSEE and of all persons claiming right through LESSEE to the Premises or to possession of

the Premises, and CITY may enter and take possession of the Premises and may recover the amount set forth below.

- (2) For Any Other Default. Upon default by LESSEE based upon Section 6.1a (2-7) of this Lease, CITY may, at its option, terminate the Lease and all right of LESSEE and of all persons claiming right through LESSEE to the Premises or possession of the Premises, and CITY may enter and take possession of the Premises and may recover from LESSEE the amount set forth below. If any default described in Section 6.1a (2-7) of this Lease, is not curable within thirty (30) days after notice to LESSEE, CITY will not terminate this Lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues the cure to completion.
- (3) CITY Recovery Upon LESSEE Default. Upon termination of the Lease due to default, CITY may recover the sum of:
 - (a) the worth at the time of award of any unpaid rent that had been due at the time of termination;
 - (b) the worth at the time of award of the amount by which (i) the unpaid rent that would have been earned after termination until the time of award minus (ii) the amount of the rent lost, if any, that LESSEE affirmatively proved could have been reasonably avoided;
 - (c) the worth at the time of award of the amount by which (i) the unpaid rent for the balance of the Term after the time of the award minus (ii) the amount of rent lost, if any, as LESSEE affirmatively proves could be reasonably avoided;
 - (d) any other amount necessary to compensate CITY for the detriment proximately caused by LESSEE'S failure to perform LESSEE'S obligations or that, in the ordinary course of things, would be likely to result; and
 - (e) all other amounts in addition to or in lieu of those previously stated as may be permitted by California law. As used in clauses (a) and (b) of this section, the "worth at time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause (c) of this section, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this section the

terms "rent" shall include base rent, percentage rent and any other payments required of LESSEE.

- (4) Default if the Leasehold Interest is Encumbered by a Deed of Trust or Mortgage. If there is a deed of trust or mortgage on the leasehold interest, and LESSEE has provided CITY with an address where notice can be sent to the mortgagee or beneficiary, CITY shall give the mortgagee or beneficiary written notice of the defaults complained of, and the mortgagee or beneficiary will have thirty (30) days from the notice to cure the default(s) or, if any default is not curable within thirty (30) days, to commence to cure the defaults) and diligently pursue the cure to completion. The thirty-day period may be extended upon written request by mortgagee or beneficiary if mortgagee or beneficiary is pursuing the cure with reasonable diligence.

If the mortgagee or beneficiary is required to exercise its right to cure one or more default(s) through litigation or through foreclosure, then CITY shall have the option of the following courses of action in order that the default(s) may be expeditiously corrected:

- (a) CITY may correct the default(s) and charge the costs incurred to the account of LESSEE, which charge shall be due and payable on the date that the rent is next due after presentation by CITY to LESSEE and mortgagee or beneficiary of a statement of the costs;
- (b) CITY may correct the default(s) and may recover the costs incurred from the proceeds of any insurance fund held by CITY, CITY and LESSEE, or by CITY and mortgagee or beneficiary, or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct the default(s) or to pay the cost of correction performed by or at the direction of CITY; or
- (c) CITY may terminate this Lease as to the rights of LESSEE by assuming or causing the assumption of liability for any trust deed or mortgage. LESSEE shall assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition of early payoff of the related obligations by CITY. CITY may, as an alternative, substitute for the terminated LESSEE a new tenant reasonably satisfactory to the mortgagee or beneficiary. Any reasonable costs incurred by CITY in entering into a

new lease with the same terms and conditions as this Lease with the new tenant shall be the responsibility of the terminated LESSEE, and LESSEE shall reimburse CITY for any such costs.

Should the default(s) be noncurable by LESSEE, then any lender holding a beneficial interest in the leasehold, whose qualifications as an assignee have been approved by CITY, shall have the right to substitute itself in the place of LESSEE under this Lease and to assume all the obligations of LESSEE under this Lease. If the mortgagee or beneficiary gives notice in writing of its election to substitute itself within the thirty (30) day period after receiving written notice by CITY of the default, and the default, if curable, is cured by the mortgagee or beneficiary, then this Lease will not terminate pursuant to the default. In that event, CITY consents to the substitution and authorizes the mortgagee or beneficiary to perform under this Lease all the rights, privileges, and obligations of LESSEE, subject to cure of the default, if possible, by mortgagee or beneficiary and LESSEE shall assign all its interest in this Lease to mortgagee or beneficiary.

- (5) Abandonment by LESSEE. If LESSEE breaches the Lease and abandons the Premises, this Lease shall continue in effect as long as CITY does not terminate this Lease, and CITY may enforce all its rights and remedies under this Lease, including but not limited to the right to recover the rent as it becomes due, plus damages.
- (6) Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. CITY'S delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY'S acceptance of any rents is not a waiver of any default preceding the rent payment. The property constituting the Premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego. Any failure by the City Manager or CITY staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY shall at all times have the legal right to require the cure of any default when the default is discovered or when the City Council directs the City Manager to take action or require the cure of any default after the default is brought to the attention of the City Council.

SECTION 7: INSURANCE RISKS/SECURITY

7.1 Indemnity.

LESSEE shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established which arise out of or are in any manner directly or indirectly connected with this Lease or the development, occupancy, or use of the Premises, and all costs and expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that LESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, LESSEE shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.

7.2 Insurance.

- a. LESSEE shall acquire and maintain at all times during the Term of this Lease the following insurance at its sole expense:
 - (1) Commercial General Liability Insurance. Commercial general liability coverage with limits of not less than two million dollars (\$2,000,000) per occurrence. This policy shall cover all claims for property damage and/or personal or bodily injury, including death, suffered by any party or parties from acts or failures to act by CITY or LESSEE or by authorized representatives of CITY or LESSEE on or in connection with the use or operation of the Premises.
 - (2) Fire, Extended Coverage, and Vandalism Insurance. Fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover one hundred percent (100%) of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the leasehold in accordance with Section 5.2 Encumbrance of this Lease, the proceeds may be paid to the approved mortgagee or beneficiary if mortgagee or beneficiary has provided CITY with evidence that all proceeds shall be used for

repair and restoration of damaged or destroyed improvements on the Premises.

b. LESSEE'S responsibility to maintain the insurance also includes the following:

- (1) Additional Insured. All insurance policies, by separate endorsement, shall name CITY, its elected officials, officers, representatives, agents, and employees as additional insureds, protect CITY against legal costs in defending claims, and shall not terminate without sixty (60) days prior written notice to CITY.
- (2) Insurer Qualifications. All insurance required by this Lease must be provided by insurers licensed to do business in California. The insurer must be rated "A-, VI" or better by the AM Best Rating Guide and must be acceptable to CITY. Non-admitted or "surplus lines" carriers will be accepted if the carrier appears on the current California LESLI (List of Eligible Surplus Lines Insurers) list.
- (3) Effective Date of Policy. All policies shall be in effect on or before the Commencement Date, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the Premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement.
- (4) Evidence of Insurance. A copy of the insurance policy or insurance certificate along with any required endorsements shall be furnished to CITY prior to the Commencement Date and shall remain on file with CITY during the entire Term of this Lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s), along with any required endorsements, showing that a new or extended policy has been obtained which meets the terms of this Lease. All certificates and endorsements shall clearly identify the LESSEE, site location, and contract number.
- (5) Modification. CITY, at its discretion, may require the reasonable revision of amounts and coverages at any time during the Term of this Lease by giving LESSEE sixty (60) days prior written notice. CITY'S requirements shall be designed to assure protection from and against the extent of risk existing on the Premises. LESSEE shall obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this Lease.

- (6) Accident Reports. LESSEE shall report to CITY any accident causing more than Five Thousand Dollars (\$5,000) worth of property damage or any serious injury to persons on the Premises. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
- (7) Failure to Comply. If LESSEE fails or refuses to take out and maintain the required insurance, or fails to provide the proof of coverage, CITY may obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, name of the insurer and rate of interest. The reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY. Notwithstanding the preceding provisions of this subsection (7), if LESSEE fails or refuses to take out or maintain insurance as required by this Lease, or fails to provide the proof of insurance, CITY may declare this Lease in default without further notice to LESSEE, and CITY may exercise all available remedies in the event of a default.

(c) In lieu of the foregoing insurance requirements in sections (a) and (b), satisfactory evidence of self insurance may be provided by LESSEE and approved by CITY. No further proof of insurance is required unless changes are made to LESSEE's insurance status.

7.3 Waste, Damage or Destruction.

LESSEE shall give notice to CITY of any fire or any other damage that occurs on the Premises within ten (10) days of the fire or damage. LESSEE shall not commit or allow to be committed any waste or injury or any public or private nuisance. LESSEE shall keep the Premises clean and clear of refuse and obstructions, and dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the Premises is damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy, and sanitary, LESSEE shall make or cause to be made full repair of the damage and restore the Premises to the condition which existed prior to the damage; or, at CITY'S option, LESSEE shall clear and remove from the Premises all debris resulting from the damage and rebuild the Premises in accordance with plans and specifications previously submitted to CITY and approved in writing in order to replace in kind and scope the operation which existed prior to the damage, using for either purpose the insurance proceeds as set forth in Section 7.2 Insurance of this Lease. LESSEE shall commence preliminary steps toward performing

repairs, restoration, or replacement of the Premises within thirty (30) days of the occurrence of the fire or damage, and shall complete the required repairs, restoration, or replacement of the Premises within one hundred eighty (180) days.

SECTION 8: IMPROVEMENTS/ALTERATIONS/REPAIRS

8.1 Acceptance of Premises.

By signing this Lease, LESSEE represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises. LESSEE agrees it is relying solely on its independent inspections, tests, investigations, and observations in entering into this Lease. LESSEE acknowledges that the Premises are in the condition called for by this Lease that CITY has performed all work with respect to the Premises, and that LESSEE does not hold CITY responsible for any defects, whether apparent or latent, in the Premises. It is LESSEE'S responsibility to investigate the Premises for the presence of any "hazardous substances," as defined in Section 8.12 Hazardous Substances of this Lease, and LESSEE may perform such investigation, including any soil boring or other test. LESSEE shall notify CITY if LESSEE'S investigations indicate the presence of any hazardous substances on the Premises. If LESSEE fails to investigate the Premises for the presence of any hazardous substances, or fails to notify CITY of the presence of hazardous substances after its investigation, LESSEE waives any claims against CITY which may result from the presence of hazardous substances on the Premises.

8.2 Entry and Inspection.

CITY reserves and shall always have the right, but not the obligation, to enter the Premises for the purpose of viewing and ascertaining the condition of the Premises, or to protect its interests in the Premises, or to inspect the operations conducted on the Premises, upon reasonable notice. If entry or inspection by CITY discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may, after ten (10) days written notice to LESSEE, have any necessary maintenance work done at the expense of LESSEE, and LESSEE shall pay promptly any and all costs incurred by CITY in having the necessary maintenance work done in order to keep the Premises in a decent, safe, healthy, and sanitary condition. If at any time CITY determines that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may at its sole option, without additional notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. The bond shall be in an amount adequate in the opinion of CITY to correct the unsatisfactory condition. LESSEE shall pay the cost of the bond. The rights reserved in this section shall not create any

obligations on CITY or increase obligations elsewhere in this Lease imposed on CITY.

8.3 Maintenance.

LESSEE shall assume full responsibility and cost for the operation and maintenance of the Premises throughout the Term of this Lease. LESSEE shall make all repairs and replacements necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with all applicable laws. All applicable codes and standards of CITY, state and federal agencies shall be observed in all maintenance, repairs, and replacements on the Premises.

8.4 Improvements and Alterations.

LESSEE shall not construct any improvements, structures, or installations on the Premises, or make any alterations to the Premises without prior written approval of the City Manager. LESSEE shall not make major structural or architectural design alterations to approved improvements, structures, or installations on the Premises without prior written approval of the City Manager, which approval shall not be unreasonably withheld.

- a. Superior Interests. This Lease is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements, and rights of way pertaining to the Premises, whether or not of record. LESSEE shall obtain all licenses, permits, and agreements from such third parties as may be necessary or reasonably advisable to validate its use of the Premises, relative to any such superior interest. If LESSEE'S use of the Premises is or becomes inconsistent or incompatible with a preexisting, superior interest, LESSEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.
- b. Projects. LESSEE shall notify the City Manager of all improvement projects on the Premises and shall inform permitting authorities that the Premises are CITY-owned property.
- c. Repair and Restoration. These provisions shall not relieve LESSEE of any obligation under this Lease to maintain the Premises in a decent, safe, healthy and sanitary condition, including without limitation structural repair and restoration of damaged or worn improvements.
- d. Entire Installation. LESSEE represents and warrants that the Communications Equipment listed in Exhibit "C" – Equipment constitutes

the entire installation, which LESSEE shall update from time to time upon the request of the City Manager.

8.5 Utilities.

LESSEE shall order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the Premises. All utilities shall be installed underground.

8.6 Liens.

LESSEE shall at all times hold CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on or to the Premises and the costs of defending against claims, including reasonable attorney fees. If improvements, alterations, or repairs are made to the Premises by LESSEE or by any party other than CITY, and a lien or notice of lien is filed, LESSEE shall, within five (5) days of the filing, either: (a) take all actions necessary to record a valid release of lien; or (b) file with CITY a bond, cash or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.

8.7 Taxes.

LESSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE, or levied by reason of the business or other LESSEE activities related to the Premises, including without limitation any licenses or permits. LESSEE acknowledges that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on the leasehold interest. LESSEE shall pay all possessory interest taxes. LESSEE'S payment of taxes, fees and assessments shall not reduce any rent due CITY.

8.8 Signs.

LESSEE shall only post signs required by federal, state or local regulations, including without limitation safety signs required by OSHA, FAA or FCC. LESSEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising on the Premises without CITY'S prior written consent. If any unauthorized item is found on the Premises, LESSEE shall remove the item at its expense upon twenty-four (24) hours notice by CITY, or CITY may then enter the Premises and remove the item at LESSEE'S cost. LESSEE shall post a clearly marked sign at the Premises indicating LESSEE'S name and emergency telephone number.

8.9 Ownership of Improvements and Personal Property.

Any and all improvements, trade fixtures, structures, and installations or additions to the premises existing on the Commencement Date or constructed on the premises by LESSEE during the Term of this Lease shall at the expiration or earlier termination of this Lease be deemed to be part of the Premises and shall become, at CITY'S option, CITY'S property free of all liens and claims, except as otherwise provided in this Lease.

- a. If CITY elects not to assume ownership of all or any improvements, trade fixtures, structures, and installations, CITY shall notify LESSEE upon early termination of this Lease or one hundred eighty (180) days prior to the expiration of this Lease, and LESSEE shall remove the improvements, trade fixtures, structures and installations as directed by CITY at LESSEE'S sole cost on or before the expiration or earlier termination of this Lease. If LESSEE fails to remove any improvements, structures, and installations as directed, LESSEE shall pay CITY the full cost of any removal.
- b. LESSEE shall remove the Communications Equipment and any other LESSEE-owned machines, appliances, equipment (other than trade fixtures), and other items of personal property by the date of the expiration or earlier termination of this Lease. Any items which LESSEE fails to remove shall be considered abandoned and become CITY'S property free of all claims and liens, or CITY may, at its option, remove the items at LESSEE'S expense.
- c. If removal of any personal property by LESSEE results in damage to the remaining improvements on the Premises, LESSEE shall repair all damage at LESSEE'S expense.
- d. If the removal of any of LESSEE'S personal property by either CITY or LESSEE takes place after the expiration or earlier termination of this Lease, LESSEE shall pay rent to CITY at the rate in effect immediately prior to the expiration or earlier termination of this Lease until all of LESSEE'S property has been removed from the Premises.
- e. If LESSEE desires to dispose of any of its personal property used in the operation of the Premises upon the expiration or earlier termination of this Lease, then CITY shall have the first right to acquire or purchase the personal property.

8.10 Unavoidable Delay.

If the performance of any act required of CITY or LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental

delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform the act, the obligated party shall be excused from performing that act for the period equal to the period of the prevention or delay. This provision shall not apply to obligations to pay rent pursuant to this Lease. If LESSEE or CITY claims the existence of a delay, the party claiming the delay shall notify the other party in writing of the fact within ten (10) days after the beginning of the claimed delay.

8.11 Hazardous Substances.

- a. LESSEE shall not allow the installation or release of hazardous substances in, on, under or from the Premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State of California's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated in this Lease.
- b. If any release of a hazardous substance occurs, LESSEE shall pay all costs of remediation and removal of the hazardous substance in accordance with all applicable laws and rules and regulations of governmental authorities.
- c. LESSEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE'S development, use or maintenance of the Premises including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.
- d. If LESSEE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the Premises, LESSEE shall give written notice to CITY within three (3) days of receipt of the knowledge or cause for belief. If LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, LESSEE shall notify CITY immediately upon receipt of such knowledge or belief and shall take all actions necessary to alleviate the danger. LESSEE shall notify CITY immediately of any notice of violation received or initiation of environmental actions or private suits related to the Premises. LESSEE and LESSEE'S agents and contractors shall not store, utilize, or sell any hazardous substance on the Premises without CITY'S prior written consent.

- e. At any time within the twelve (12) months before the expiration, or upon earlier termination of this Lease, LESSEE, at CITY'S option, shall cause an environmental assessment of the Premises to be completed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at the sole cost and expense of LESSEE and shall establish what, if any, hazardous substances exist on, in, or under the Premises, and in what quantities. If any hazardous substances exist in quantities greater than that allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of these substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes, and estimates of the cost of such remediation or removal. LESSEE shall cause the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is achieved, and LESSEE shall pay all costs and expenses therefore.

8.12 Radio-Frequency Radiation.

LESSEE shall maintain radio-frequency radiation within the levels allowed by Federal Regulations stated in Section 1.1310 of CFR 47 and OET Bulletin 65. Any area casually accessible by the general public or by any worker at ground level shall be maintained below limits stated for General Population/Uncontrolled Exposure. Any areas discovered by LESSEE to exceed these federally mandated limits, shall be reported to the CITY. LESSEE shall not hold CITY responsible for radiation levels found to exceed these limits. Hazardous RF radiation levels may be encountered when climbing on existing antenna structures. Refer to FCC OET Bulletin 65. Any equipment installed on the Site may at times require shutdown to allow maintenance on antenna structures. LESSEE shall allow shutdown periods when required for this maintenance, provided CITY shall use reasonable efforts to ensure that these shutdowns do not occur during peak hours of operation. Protection of LESSEE'S employees performing service on buildings, roofs, air-conditioning equipment, water tanks, communications equipment, or any other maintenance work is a primary concern. Any areas in which these employees may be subjected to radiation levels that exceed the General Population/Uncontrolled limits must be clearly identified as required by CAL-OSHA. LESSEE shall provide CITY with written shutdown procedures, contact names, and telephone numbers. LESSEE shall notify CITY in writing of any changes to the shutdown procedures, contact names or telephone numbers within seven (7) days of the change.

8.13 Radio-Frequency Interference.

LESSEE warrants that all Communications Equipment installations, modifications, and maintenance shall not result in degraded performance or radio frequency interference to any existing authorized uses of the Site by fulfilling the requirements of Exhibit "D" - Interference Protection Requirements, as may be updated from time to time at the sole discretion of the City Manager.

8.14 Industry Standards.

LESSEE warrants that all Communications Equipment installations, modifications, and maintenance shall be performed in adherence to industry standards set by the "Standards and Guidelines for Communications Sites" Motorola R56© Manual, or any succeeding regulations or standards.

- a. LESSEE shall remove all trash and debris from the Premises at the end of each workday and upon completion of the project.
- b. Tower and structure climbing shall be done in compliance with all CAL-OSHA requirements.
- c. All transmitters shall have all necessary protection to eliminate any RF degradation of the receive signal to any other user on the site, such as cavity filtering and transmitter isolators.
- d. LESSEE'S installation or modification of equipment at sites used by the CITY'S Information Technology & Communications Division ("IT&C") must follow the additional requirements described in Exhibit "D" - Interference Protection Requirements, as may be updated from time to time at the sole discretion of the City Manager.

8.15 Site Access and Security.

LESSEE shall comply with the procedures described in Exhibit "E" - Water Department Site Security Access Procedures, as may be updated from time to time by the City Manager. LESSEE'S failure to comply with these procedures shall constitute a default by LESSEE.

SECTION 9: CITY POLICY IMPLEMENTATION PROVISIONS

9.1 CITY Approval.

The approval or consent of CITY, wherever required in this Lease, shall mean the written approval or consent of the City Manager of CITY unless otherwise specified, without need for further resolution by the City Council.

9.2 Nondiscrimination.

LESSEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE'S use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

9.3 Compliance with CITY'S Equal Opportunity Contracting Program.

LESSEE shall comply with City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated into this Lease. LESSEE, its sublessees and all of its subcontractors are individually responsible to abide by its contents. LESSEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE shall not discriminate against any employee or applicant for employment on any basis prohibited by law. On or before the Commencement Date, LESSEE shall submit a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that LESSEE will take to achieve the CITY'S commitment to equal employment opportunities. LESSEE and its sublessees shall insert the foregoing provisions in all contracts and subcontracts for any work covered by this Lease so that the provisions will be binding upon each contractor and subcontractor. Compliance with EEO provisions will be implemented, monitored, and reviewed by the CITY'S Equal Opportunity Contracting Program staff. LESSEE'S failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this Lease and debarment from participating in CITY leases and/or contracts for a period of not less than one (1) year.

9.4 Local Business and Employment.

LESSEE acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms in all CITY leases and contracts. LESSEE shall, to the extent legally possible, solicit applications for employment, and bids and proposals for contracts and subcontracts, for work associated with this Lease from local residents and firms as opportunities occur. LESSEE shall hire qualified local residents and firms whenever feasible.

9.5 CITY Employee Participation Policy.

This Lease may, at the sole option of CITY, be unilaterally and immediately terminated by CITY if LESSEE employs an individual who, within the twelve months immediately preceding the employment, did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the LESSEE. These provisions do not apply to members of the City Council.

9.6 Drug-free Workplace.

LESSEE shall be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- b. Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace.
 - (2) The LESSEE'S policy of maintaining a drug-free workplace.
 - (3) Any available drug counseling, rehabilitation, and employees assistance programs.
 - (4) The penalties that may be imposed upon employees for drug abuse violations.
- c. LESSEE shall include in each sublease agreement language which indicates the sublessee's agreement to abide by the provisions of a drug-free workplace. LESSEE and its sublessees shall be individually responsible for their own drug-free workplace programs.

9.7 Disabled Access Compliance.

LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with the 1990 Americans with Disabilities Act ("ADA") and Title 24 of the California Code of Regulations ("Building Code") as defined in Section 18910 of the California Health and Safety Code ("Title 24") and any other applicable federal, state, or local regulations hereafter enacted protecting the rights of people with disabilities.

9.8 Water Quality Assurances.

LESSEE shall comply with San Diego Municipal Code Article 3, Division 3: Stormwater Management and Discharge Control ("Code"), and employ "Best Management Practices" including a "Storm Water Pollution Prevention Plan" as those terms are defined by the Code (collectively, "Prevention Plan") and as approved by CITY under its Stormwater Management Program. Within the first ninety (90) days of the Term, LESSEE shall submit a Prevention Plan satisfactory to the City Manager that will control erosion and reduce the amount of "Pollutants," as defined by the Code, and other sediments discharged from the Premises. CITY may review the Prevention Plan periodically. Within ninety (90) days of written notice from CITY requesting an update of the Prevention Plan, LESSEE shall submit an updated Prevention Plan to the satisfaction of the City Manager. LESSEE shall implement all changes to the Prevention Plan as required by CITY and to ensure compliance with all applicable laws, ordinances, and regulations. LESSEE shall be solely responsible for informing its employees, contractors, subcontractors, agents and vendors of the Prevention Plan and assuring their compliance therewith.

SECTION 10: GENERAL PROVISIONS

10.1 Compliance with Law.

LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE'S sole expense. LESSEE shall comply with all notices issued by the City Manager or his authorized representative under the authority of all current or future laws, statutes, ordinances, or regulations.

10.2 Notices.

- a. Any notice required or permitted to be given under this Lease shall be in writing and may be served personally or sent by United States mail, postage prepaid, or reliable overnight courier, addressed to the parties as follows:

If to LESSEE:

MTS
Manager Real Estate Assets
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

If to CITY:

City of San Diego
Real Estate Assets Department
Attention: Real Estate Assets Director
1200 Third Avenue, Suite 1700, MS 51A
San Diego, CA 92101-4155

If to CITY'S Information, Technology and Communications Department:

City of San Diego
Information, Technology and Communications Department
Attention: Communications Division
Central Operations
1220 Caminito Centro
San Diego, CA 92102

or to any mortgagee, trustee, or beneficiary, as applicable, at the appropriate address designated in writing by that party.

- b. Any party entitled or required to receive notice under this Lease may by like notice designate a different address to which notices shall be sent.
- c. Notice shall be effective upon personal service or five (5) days after deposit in the U. S. mail.

10.3 Partial Invalidity.

If any term, covenant, condition, or provision of this Lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

10.4 Legal Fees.

If there is any litigation regarding this Lease, the prevailing party shall be entitled to an award of reasonable legal costs, including without limitation court costs and attorney fees.

10.5 Number and Gender.

Words of any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.

10.6 Captions.

The section headings, and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. The numbers of the paragraphs and pages of this Lease may not be consecutive. The lack of consecutive numbers shall have no effect on the enforceability of this Lease.

10.7 Entire Understanding.

This Lease contains the entire understanding of the parties. CITY and LESSEE, by signing this Lease, agree that there is no other written or oral understanding between them with respect to the Premises. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself. Each party to this Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease. The failure or refusal of any party to read the Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such actions.

10.8 Lease Modifications.

This Lease shall not be modified, altered or amended unless the modification, alteration or amendment is in writing and signed by all parties to this Lease.

10.9 Time is of Essence; Provisions Binding on Successors.

Time is of the essence of all of the terms, covenants, and conditions of this Lease. Except as otherwise provided in this Lease, all of the terms, covenants, and conditions of this Lease shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.

10.10 Authority.

Each individual executing this Lease on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Lease on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Lease is binding upon such person or entity in accordance with its terms. Each person executing this Lease on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to the City Manager that such authority is valid, and such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

10.11 Survival.

Any obligation which accrues under this Lease prior to its expiration or termination shall survive the expiration or earlier termination of this Lease.

10.12 Standard of Employees.

LESSEE and its employees shall at all times conduct themselves and the operations on the Premises in a creditable manner.

10.13 Cost Recovery.

CITY maintains a schedule of fees to be paid by LESSEE as an offset to administrative costs incurred for CITY staff services that are of benefit to LESSEE. CITY shall process service requests upon receipt of LESSEE'S payment of the applicable fee. The fee schedule, which is maintained by the City Clerk's Office, may be updated from time to time at the sole discretion of CITY.

10.14 Governing Law.

This Lease shall be governed, construed, and enforced in accordance with the laws of the State of California

10.15 Counterparts.

This Lease may be executed in any number of counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.16 Consents.

Date: _____

By: _____

Name: _____

Title: _____

APPROVED as to form and legality this _____ day of _____, 2008.

MICHAEL J. AGUIRRE, City Attorney

By: _____ John

H. Serrano, Deputy City Attorney

APPROVED as to form for LESSEE on this _____ day of _____, 2008.

By: _____

MTS Office of General Counsel

EXHIBIT A – Legal Description.

CATALINA STANDPIPE

That certain parcel designated as “City Reservoir” in the Subdivision of Vista de Mexico Tract, as shown on Map No. 1084, filed in the office of the Recorder of San Diego County, State of California, on September 4, 1907, said map being a subdivision of the westerly portion of Pueblo Lot 102 of the Pueblo Lands of the City of San Diego, State of California.

APN: 532-400-01

Street Address: 201 Catalina Boulevard, San Diego, CA 92106

EXHIBIT B – Site Plan/Location

Rohm ESB820 Equipment Shelter located easterly of the City's lattice antenna tower at Catalina Standpipe, described in Exhibit "A," and more particularly depicted in the drawing below:

EXHIBIT C – Equipment.

Rohm ESB820 Equipment Shelter - Serial No. RES00633

One (1) antenna on City tower

Exhibit D - Interference Protection Requirements - Information, Technology, and Communications Division Sites.

- a. Interference. Prior to the Commencement Date or at anytime during the Term of this Lease, LESSEE may be required to provide an intermodulation report ("Report") to CITY. This Report shall include the calculation parameters used to compile the Report, all intermodulation "hits," a brief description of the results of the intermodulation calculations; a list of possible interference situations that may result from the proposed Communications Equipment; transmission frequencies that are currently being operated at the Site, and similar or other relevant data from other permittees/lessees/users operating on-site. The information required to compile the Report, including intermodulation parameters and currently known transmission frequencies at the Site may be obtained from CITY'S Information Technology and Communications Division (IT&C). CITY is not responsible for any omitted data provided for the purpose of creating the Report. The Report shall be provided to IT&C, Senior Communications Engineer.
- b. City of San Diego Land Radio/Electronic Use "On The Air" Test Instructions and Procedures. For the purpose of confirming interference situations calculated by the Report and for the discovery of any other actual interference situations, on-premises, pre-installation or pre-use tests may be required. The tests will determine whether or not radio frequency interference or degraded performance will result to any existing authorized radio/electronic type uses at the Site.

Pre-installation or pre-use Testing

- (1) It will be the responsibility of the LESSEE to notify all permittees/lessees/users at the Site of the tests and details of the tests, at least fourteen (14) days in advance of the test. A listing of all permittees/lessees/users operating at the Site may be obtained from CITY and used to compile a notification list.
 - (a) The notification shall be in the form of a letter to each listed permittee/lessee/user giving a technical data summary of the test and shall specify the date and hour the test will start. The letter of notification shall request the permittees/lessees/users to have a qualified representative present for the test to observe for possible interference problems and with authority to sign an interference or noninterference certification on behalf of the permittee/lessee/user. Technical Data Summary and Test Results Certification sheets are included below.

- (b) A copy of these instructions, "City of San Diego Radio/Electronic Land Use On-The-Air Test Instructions and Procedures" shall be attached to each notification and it shall be noted in the notification letter.
 - (c) Notification to permittees/lessees/users shall be sent via U.S. Mail, pre-paid First-Class postage, certified return receipt requested or hand delivered.
 - (d) The notification letter to the IT&C Senior Communications Engineer shall include a list of all permittees/lessees/users notified.
- (2) Following the completion of the tests, LESSEE shall provide a letter to the IT&C Senior Communications Engineer stating the test results obtained from each permittee/lessee/user participating in the test and a list of those permittees/lessees/users who did not respond.
 - (3) If a notified permittee/lessee/user fails to send a qualified representative to observe and participate in the tests, it will be assumed by the CITY that the permittee/lessee/user has assured themselves that their operations will not be affected.
 - (4) It shall be the responsibility of LESSEE to make complete arrangements and conduct all tests in accordance with applicable Federal/FCC Rules and Regulations.

c. On-The-Air Tests - Technical Details

Pre-installation or pre-use on-the-air tests shall be conducted by the LESSEE under the following technical conditions:

- (1) The LESSEE'S transmitting and/or receiving equipment shall be of the type planned for final use at the Site.
 - (a) The transmitted RF power shall be the maximum to be used and authorized at the Site.
 - (b) On-the-air transmitter tests shall include the use of full allowable modulation.
 - (c) Antenna height(s), location(s) and type(s) shall be the same or comparable to the final installation plan.

- (2) Tests shall include on-the-air operation of all participating transmitter(s) and receiver(s) in all possible combinations with the LESSEE'S electronic equipment.
- (3) All tests will include testing with all frequencies planned for use by the LESSEE at the Site.

d. Radio Frequency Interference to City Radio Equipment

The radio equipment use proposed by the applicant shall not directly or indirectly result in degraded technical performance of the CITY'S existing radio equipment installed at the Site or used in the general area. Resulting degraded technical performance in this instance will include, but is not limited to:

- (1) Detectable or measurable received intermodulation
- (2) Audio distortion or noise
- (3) Receiver desensitization in excess of 3.0 dB with respect to 12dB SINAD test

e. Modifications to Equipment

LESSEE shall notify CITY prior to modifications to transmitting equipment that will change effective radiated power, transmitter frequency, transmitter modulation, or transmitter spurious and harmonic emissions. These modifications may require retest using this "On The Air" testing procedure and the newly proposed equipment.

f. Resulting Interference

Should an interference problem occur at the Site or in the nearby surrounding area as a result of LESSEE'S newly installed, retuned, or modified Communications Equipment, LESSEE shall be responsible for initiating mutually agreeable actions among the affected parties to mitigate or resolve the interference problem. CITY may recognize the right of prior authorized permittees/lessees/users and withhold approval or disallow use of a new, retuned, or modified installation pending settlement of the interference problems between LESSEE and other authorized users. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by LESSEE as a result of CITY withholding approval and LESSEE waives any claim for expense or loss which LESSEE might incur as a result of CITY withholding approval.

TECHNICAL DATA SUMMARY

One form to be completed per transmitter and supplied to all permittees/lessees/users operating at the facility.

DATE _____

LOCATION _____ APPLICANT _____

CALL SIGN _____ CONTACT NAME _____ PHONE _____

TRANSMITTER

RECEIVER

Manufacturer _____ Manufacturer _____

Model _____ Model _____

Emission _____

Radiated ERP _____ Watts

Transmit Frequency _____

Receiver Frequency _____

CTCSS or DCS

1. _____

1. _____

1. _____

2. _____

2. _____

2. _____

3. _____

3. _____

3. _____

4. _____

4. _____

4. _____

ANTENNA

TRANSMIT CAVITY

FILTER ISOLATOR

Make _____

Make _____

Make _____

Model/Type _____

Gain _____ dBd

Azimuth _____

REMARKS:

TEST RESULTS CERTIFICATION

Top section is to be completed and supplied to all permittees/lessees/users operating at the Site.
Bottom section is to be completed by each existing Site permittee/lessee/user after testing is finished.

SUBJECT: "On the air" interference testing

SITE LOCATION _____

FREQUENCY _____

DATE OF TEST _____

TIME OF TEST _____

PROPOSED TRANSMITTER OWNED BY _____

TEST PERFORMED BY _____

Permittee/Lessee/User:

"On-the-air" interference testing has been completed at the above stated Site location. A qualified representative was present for the test to observe for possible interference problems.

With regard to the above test, this is to certify that objectionable radio frequency interference did did not result during this test.

Details of interference: (if applicable)

Proposed technical resolution: (if applicable)

(Tenant)

(Tenant's Representative)

(Date)

EXHIBIT E – Water Department Site Security Access Procedures.

1. PURPOSE

To establish procedures that will be used to provide access to Water Department facilities for all telecommunication service providers.

2. AUTHORITY

- 2.1 Deputy Director, Water Operations Division
- 2.2 Real Estate Asset Department Lease Agreement for each specific property

3. DEFINITION

Access: the right, possibility, or means to entering or approach a place.

SCADA: Supervisory Control and Data Acquisition of the water distribution system through the use of sensors, telemetry, a staffed command center, and records storage.

SWIM: Sewer-Water-Infrastructure-Management; a computerized maintenance management system.

4. POLICY

Procedures listed below will be used to provide access to Water Department facilities for all telecommunication service providers.

Specific contract lease agreements with the telecommunication service providers may contain different requirements and restrictions regarding access to Water Department facilities. If the requirements within an existing agreement conflicts with the requirements herein, then the requirements within the lease agreement shall take precedence.

Non-emergency and emergency procedures are listed below and will be used.

5. RESPONSIBILITIES

- 5.1 System Operations, Water Operations Division
 - a. The Operations District Manager is responsible to provide direction and instruction to SCADA operators in order to ensure performance of the access procedure written below.

- b. The Reservoir/Plant/Pump Maintenance District Manager is responsible to provide direction and instruction to the Planner/Scheduler, and to field crews, in order to ensure performance of the access procedure written below.

5.2 Water Operations Division employees

- a. Employees of the water operations division shall forward requests for access to SCADA, according to the procedure below.

5.3 Real Estate Asset Department

- a. Employees of the Real Estate Asset Department shall forward requests for access to SCADA, according to the procedure below.

6. PROCEDURE

6.1 Non-Emergency Access Procedure

- a. Telecommunication service providers will be required to call the SCADA Operator, at (619)668-2025 at least two days in advance to schedule their required access. At the time of the request, the provider will give the SCADA Operator the following: 1) Location for access; 2) Date and start time; 3) Expected duration of access; 4) List of names of those employees who will be working at the site; and 5) Contact name and phone number to confirm information or reschedule access. The information given by the provider should be logged onto the Telecom Service Provider Access Form (see attached).
- b. The SCADA Operator will route the Telecom Service Provider Access Form via e-mail or fax, to the System Operations Planner/Scheduler. For after hours access the SCADA Operator will schedule the stand-by crew using the procedures #6.2a and #6.2b below.
- c. The Planner/Scheduler will issue a SWIM service request (SR) to assign a crew to escort and supervise the access. The Planner/Scheduler will provide the crew with the Telecom Service Provider Access Form authorizing visitor entry into the facility. The Planner/Scheduler has the discretion to verify the access request and refuse entry (Please note that access should only be denied if access request is not verified by contact).
- d. The dispatched crew shall verify all visitors against the Telecom Service Provider Access Form by checking for valid ID and company issued ID card. Only those employees listed on the Form should be allowed to access the facility.
- e. The dispatched crew shall complete the Telecom Service Provider Access Form and return it to the Planner/Scheduler following the completion of the access.

6.2 Emergency Access Procedure:

- a. Telecommunication service providers will be required to call the SCADA Operator, at (619)668-2025, to request emergency access. At the time of the request, the provider will give the SCADA Operator the information as required in #6.1a above. The information given by the provider should be logged onto the Telecom Service Provider Access Form (see attached). The SCADA Operator has the discretion to verify the access request and refuse entry (Please note that access should only be denied if access request is not verified by contact).
- b. The SCADA Operator will contact the Planner/Scheduler during normal working hours or dispatch a stand-by crew during non-normal working hours. During non-normal hours, the SCADA Operator will issue a SWIM service request (SR) to assign the stand-by crew to allow entry and to supervise the visitors. The SCADA Operator will provide the crew with the Telecom Service Provider Access Form authorizing visitor entry into the facility.
- c. The dispatched crew shall verify all visitors against the Telecom Service Provider Access Form by checking for valid ID and company issued ID card. Only those employees listed on the Form should be allowed to access the facility.
- d. The dispatched crew shall complete the Telecom Service Provider Access Form and return it to the Planner/Scheduler following the completion of the access.

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Metropolitan Transit System

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 370

October 16, 2008

SUBJECT:

MTS: GASB 45 ACTUARIAL VALUATION OF POSTEMPLOYMENT WELFARE
BENEFITS

RECOMMENDATION:

That the Board of Directors receive a report for information.

Budget Impact

None with this action.

DISCUSSION:

Attachment A is an actuarial valuation of postretirement welfare benefits prepared by Rael & Letson, Consultants and Actuaries, in compliance with the new requirements adopted by the Governmental Accounting Standards Board (GASB) in its Statement Nos. 43 and 45. Mr. Jim Whelpley of Rael & Letson will offer a presentation to explain the provisions of Statement Nos. 43 and 45; the new liabilities and related disclosures that are now required in the financial statements for FY 2008 and all subsequent years; his methods and assumptions for determining MTS's liability; and the funding options that are available to the agency. Neither GASB Statement No. 43 nor No. 45 requires funding of the agency's liability for postretirement welfare benefits.

The budget impact during the coming two years could range from \$0 to \$3,000,000 depending on several variables, including the structure of MTS health and welfare plans and Board decisions about funding the liability.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Linda Musengo, 619.557.4531, linda.musengo@sdmts.com

OCT16-08.46.GASB 45.LMUSENGO.doc



Attachment: A. Investment Report (Board only due to volume)

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.

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

RAEL & LETSON
CONSULTANTS AND ACTUARIES

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

AS OF JUNE 30, 2007

Att. A, AI 46, 10/16/08

AUGUST 2008

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

August 6, 2008

Ms. Linda Musengo
Finance Manager
Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490

Re: GASB 43/45 Actuarial Valuation of Postretirement Welfare Benefits as of June 30, 2007

Dear Ms. Musengo:

We are pleased to present the above captioned report. This report presents the disclosure items needed by the San Diego Metropolitan Transit System ("the Agency") for compliance with GASB 45 for fiscal year 2007/2008. It is based on active participant and eligible retiree data provided by the Agency and its administrators, and on the methods and assumptions detailed in Section II.

Please let us know if you need any further information regarding our findings.

Very truly yours,

RAEL & LETSON

By: Jim Whelpley, A.S.A., M.A.A.A. Jean C. Vergara, A.S.A., M.A.A.A.

cc: Gary Caporicci

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

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**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

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**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

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ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

INTRODUCTION AND ACTUARIAL CERTIFICATION

We have been retained by the San Diego Metropolitan Transit System ("the Agency") to conduct an actuarial valuation of the Agency's postretirement welfare benefit assets, liability, annual cost, and accrual status. Our report follows the requirements adopted by the Governmental Accounting Standards Board (GASB) in its Statement No. 43 "Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans" and Statement No. 45 "Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions." The required disclosure items are formatted as follows:

- **Section I** discusses the calculation of GASB 43/45 disclosure items and presents such items for the 2007/2008 financial statements in *Exhibit 1A*. This exhibit provides the Actuarial Accrued Liability and Funded Status as of June 30, 2007, the Annual Required Contribution (ARC) and Annual OPEB Cost for 2007/2008, and an estimated reconciliation of Net OPEB Obligation for 2007/2008.

A graph providing a thirty-year comparison of ARC and cashflow is in *Exhibit 1B*, with further cashflow detail presented as graphs in *Exhibit 1C* and tables in *Exhibit 1D*. Thirty-year projections of liability and assets are then shown as graphs in *Exhibit 1E* and tables in *Exhibit 1F*.

- **Section II** shows the demographic, economic, per-capita cost, and other assumptions used in the calculation of the postretirement welfare benefit liability.
- **Section III** summarizes the participant data used in the valuation.
- **Section IV** presents a summary of the principal provisions of the Plan valued.
- **Section V** contains answers to questions usually asked by auditors.

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

INTRODUCTION AND ACTUARIAL CERTIFICATION (CONTINUED)

Actuarial computations under GASB 43/45 are for purposes of fulfilling certain accounting requirements for public sector postretirement welfare benefit plans and their sponsoring employers. The calculations reported have been made on a basis consistent with our understanding of GASB 43/45. Determinations for purposes other than meeting the financial accounting requirements of GASB 43/45 may differ significantly from the results presented in this report.

The calculation of an accounting liability and annual cost does not, in and of itself, imply that there is any legal liability to provide the benefits valued. Nor is there any implication that the sponsor is required to implement a funding policy to satisfy the projected expense.

We, Jim Whelpley and Jean C. Vergara, are Consulting Actuaries for Rael & Letson. We are Associates of the Society of Actuaries and meet the Qualifications Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of our knowledge, this report is complete and accurate and in our opinion presents the information necessary to comply with GASB Statements 43 and 45. In addition, we have employed assumptions and methods that are consistent with those specified in the CalPERS OPEB Assumption Model and mandated for any valuation used to determine contributions to the California Employers' Retiree Benefit Trust.

Jim Whelpley, A.S.A., M.A.A.A.

Jean C. Vergara, A.S.A., M.A.A.A.

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
HIGHLIGHTS OF THE VALUATION

Exhibit 1A on pages 6-11 provides all the numbers needed for disclosure in the financial statement of the Plan (per GASB 43) and that of the sponsor (per GASB 45). *Exhibit 1A(i)* provides the numbers produced by employing a 4.50% discount rate. If the Agency were to irrevocably dedicate monies to fund retiree benefits, it would be allowed to apply a higher discount rate when valuing its liabilities. Specifically, a 7.75% discount could be used if the Agency were to adopt a policy of funding 100% of the Annual Required Contribution with the California Employees' Retiree Benefit Trust (as described in item 7 of Section V). *Exhibit 1A(ii)* therefore provides the alternative numbers produced by employing a 7.75% discount rate. Components of the exhibit are as follows:

Part A shows the counts for census data captured as of December 31, 2007 and used to determine the liability as of June 30, 2007. Note that "other fully eligible" participants are those active employees who have the minimum age and years of service needed to retire with the highest level of benefits as of the valuation date. Please see the tables and footnotes of Section III and item 1 of Section V for more detail on these counts.

Part B is the total present value of benefits, including both accrued and not-yet-accrued portions. If the Agency was extremely generous and wanted to ensure the benefit security of even its newest hires, it could informally allocate \$69.6 million of Agency assets towards retiree health benefits (or formally deposit \$36.7 million into an irrevocable trust) and all current actives and retirees (but not future new hires) would most likely be taken care of.

The accrued portion of the above is known as the Actuarial Accrued Liability (AAL), and is shown in **Part C** as \$50.2 million (or \$29.4 million using the alternative 7.75% discount rate). As described in the footnote on page 6, we used the "Entry Age Normal" cost method for this valuation. This is the same method employed for the CalPERS pension valuations and is the GASB-allowed method most often employed by public entities that fund benefits as a percent of payroll.

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
HIGHLIGHTS OF THE VALUATION (CONTINUED)

- **Part D** expresses the Plan's Funded Status as a ratio of assets to liability and as a ratio of unfunded liability to payroll. These will be used by the auditor to construct a historical "Schedule of Funding Progress" for the Plan's financial statement notes (per GASB 43).
- The "Annual Required Contribution" (ARC) in **Part E** has little practical value unless the Agency wishes to use it as a guide to make contributions to a dedicated trust fund (in which case the numbers in Exhibit 1A(ii) would be more applicable). The ARC will be used by the auditor to construct a historical "Schedule of Employer Contributions" for the Plan's financial statement notes (per GASB 43).
- **Part E** also shows how amounts are added and subtracted from the ARC to yield the Annual OPEB Cost, which the auditor will use to reconcile the Net OPEB Obligation in the Agency's financial statement notes (per GASB 45).
- **Part F** provides the reconciliation of Net OPEB Obligation (NOO) over the prior year (which doesn't apply in this first year of compliance) and an estimated reconciliation for the current year. That estimate cannot be finalized until the actual plan year 2007/2008 benefit payments and contributions are known. As mentioned above, the auditor will show the NOO reconciliation in the Agency's financial statement notes (per GASB 45).
- *Exhibit 1B* on page 12 shows a thirty-year projection of Agency outlays under the current pay-as-you-go funding, and compares them to outlays with a full ARC prefunding policy. Annual pay-as-you-go amounts begin at \$0.8 million, catch up to the 7.75% ARC at \$3.0 million in 2019/2020, reach the 4.50% ARC at \$4.0 million in 2023/2024, then start to level off at \$6.0 million by 2036/2037. Note that this reflects activity only for current retiree and active participants, not for anyone hired after the valuation date (per GASB requirements).

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

**SECTION I VALUATION RESULTS
HIGHLIGHTS OF THE VALUATION (CONTINUED)**

Exhibit 1C on pages 13-14 has two graphs of the first forty years of projected cashflow that underlie our liability calculations. The first graph shows that "gross" annual retiree welfare payments (i.e., benefits prior to offset by retiree contributions) are projected to rise from \$1.8 to \$7.5 million over the next 30 years, then decline towards zero as the last participants retire and die. The second graph reveals that "net" annual payments (i.e., Agency subsidies) rise over the same period from \$0.8 to \$6.0 million, which can be expressed as a rise in the Agency's share of gross benefits from 45% to 80%. This large increase in Agency share is mostly due to the effect of AB 2544 on MTS/Trolley benefits (the red layer of the cashflow graphs). For more detail on AB 2544 please see item 6 of Section V.

Exhibit 1D on pages 15-16 contains tables detailing cashflow activity for the first ten years and then every fifth year until 2046/2047. Within the first ten years there is little effect from future new hires, but (as explained in the first footnote on these pages) we still strongly advise caution when attempting to use this for the Agency's short-term financial planning.

Exhibits 1E and 1F on pages 17-20 are the graphical and tabular thirty-year projection of AAL (reflecting no new hires after the valuation date) and of the assets that would build up if the Agency were to adopt one of two funding policies:

- (i) In this scenario the retiree welfare assets remain in a subaccount of the Agency general fund, so that applicable liabilities are those calculated at a 4.50% discount. We have referred to these informally allocated assets as "virtual" assets because they would not be recognized in the official calculation of ARC. However, we can calculate a "virtual ARC" using virtual assets in place of GASB 43/45 irrevocable dedicated assets, and we have used that virtual ARC here as the annual contribution amount.
- (ii) Here the Agency contributes 100% of the GASB 43/45 ARC to the California Employees' Retiree Benefit Trust, so that applicable liabilities are those calculated at a 7.75% discount. Note that this is just one way in which the Agency could set a timetable for elimination of its unfunded postretirement welfare liability.

SAN DIEGO METROPOLITAN
TRANSIT SYSTEM

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
EXHIBIT 1A(i): SUMMARY OF VALUATION RESULTS
BASED ON 4.50% DISCOUNT RATE

	MIS/TROLEY	TRANSIT/NGMT	TRANSIT UNION	ALL GROUPS
A. Participant Count as of June 30, 2007¹				
• Current retirees and surviving spouses	24	53	141	218
• Other participants fully eligible for benefits	123	4	164	291
• Other participants not yet fully eligible for benefits	448	75	487	1,010
Total Count	595	132	792	1,519
B. Actuarial Present Value of Benefits (APVB) at June 30, 2007				
• Current retirees, spouses and dependents	\$ 2,734,800	\$ 10,778,200	\$ 4,458,800	\$ 17,971,800
• Other participants fully eligible for benefits	9,413,800	503,000	1,928,600	11,845,400
• Other participants not yet fully eligible for benefits	28,312,200	7,187,800	4,313,900	39,813,900
Total APVB	\$ 40,460,800	\$ 18,469,000	\$ 10,701,300	\$ 69,631,100
C. Actuarial Accrued Liability (AAL) at June 30, 2007				
• Current retirees, spouses and dependents	\$ 2,734,800	\$ 10,778,200	\$ 4,458,800	\$ 17,971,800
• Other participants fully eligible for benefits	7,654,100	501,200	1,779,800	9,935,100
• Other participants not yet fully eligible for benefits	13,301,300	6,069,400	2,885,200	22,255,900
Total AAL ²	\$ 23,690,200	\$ 17,348,800	\$ 9,123,800	\$ 50,162,800

¹ Results for this June 30, 2007 valuation were projected from a census captured as of December 31, 2007.

² AAL is the portion of APVB that is attributed to actives' service to date by the chosen actuarial cost method. GASB 43/45 allows for seven cost methods, including Projected Unit Credit (as required for corporate and multiemployer retiree welfare calculations) and Entry Age Normal (as commonly used for governmental pension calculations). For this valuation we have used the Entry Age Normal method, which spreads costs from hire to the expected retirement age. Note that the APVB and AAL shown above have been offset by projected retiree contributions. The gross AAL before such offset is \$73,403,600, of which 68% is due to Plan payments and 32% is due to retiree contributions. Also note that had we increased our assumed health care trend rates by one percent, the total AAL would have increased from \$50,162,800 to \$61,230,200.

SAN DIEGO METROPOLITAN
TRANSIT SYSTEM

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
EXHIBIT 1A(i): SUMMARY OF VALUATION RESULTS
BASED ON 4.50% DISCOUNT RATE (CONTINUED)

	MTS/TROLEY	TRANSIT MGMT	TRANSIT UNION	ALL GROUPS
D. Funded Status at June 30, 2007				
Actuarial Value of Assets	\$ 0	\$ 0	\$ 0	\$ 0
Unfunded Actuarial Accrued Liability (UAAL)	\$ 23,690,200	\$ 17,348,800	\$ 9,123,800	\$ 50,162,800
Funded Ratio	0%	0%	0%	0%
Covered Payroll ¹	\$ 27,321,800	\$ 4,846,700	\$ 31,088,600	\$ 63,257,100
UAAL as a Percentage of Covered Payroll	87%	358%	29%	79%
E. Annual Required Contribution (ARC) and Annual OPEB Cost (AOC) for 2007/2008²				
Normal Cost for 2007/2008	\$ 2,102,600	\$ 220,500	\$ 237,000	\$ 2,560,100
Amortization of UAAL as of June 30, 2007 ³	955,900	700,100	368,200	2,024,200
Total ARC for 2007/2008	\$ 3,058,500	\$ 920,600	\$ 605,200	\$ 4,584,300
Interest on June 30, 2007 Net OPEB Obligation (Amortization of June 30, 2007 NOO) ³	0	0	0	0
Total AOC for 2007/2008	\$ 3,058,500	\$ 920,600	\$ 605,200	\$ 4,584,300

¹ Covered payroll is as of June 30, 2007.

² Despite the name, there is no requirement to actually contribute the ARC or any other amount. Future plan financial statement notes must simply show a "Schedule of Employer Contributions" with the ARC and the percentage of it that was actually contributed (if any). The ARC calculated above is noted as being applicable to the year following the current valuation date, but if a new valuation is not performed next year then this same ARC may be considered applicable to each of the next two years. In this manner, the Schedule of Employer Contributions can show a continuous annual history of ARC and actual contribution amounts.

³ GASB 43/45 allows for an amortization method of either level dollar (as for a mortgage) or level percent of pay, period of up to 30 years (but no less than 10 years if the AAL decreases due to a new cost or asset value method), and basis of either rolling (no annual reduction in period) or static. The amortization used here is level percent of pay over a rolling 30 years.

SAN DIEGO METROPOLITAN
TRANSIT SYSTEM

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
EXHIBIT 1A(i): SUMMARY OF VALUATION RESULTS
BASED ON 4.50% DISCOUNT RATE (CONTINUED)

	MTS/STOLEY	TRANSIT MGMT	TRANSIT UNION	ALL GROUPS
F. Net OPEB Obligation (NOO) Actual Reconciliation over 2006/2007¹ and Estimated Reconciliation over 2007/2008				
NOO at June 30, 2006	N/A	N/A	N/A	N/A
(Benefit Payments paid outside of a trust in 2006/2007)	N/A	N/A	N/A	N/A
(Contributions to a trust in 2006/2007)	N/A	N/A	N/A	N/A
Annual OPEB Cost (AOC) for 2006/2007	N/A	N/A	N/A	N/A
NOO at June 30, 2007	\$ 0	\$ 0	\$ 0	\$ 0
(Estimated Benefit Payments paid outside of a trust in 2007/2008)	(82,900)	(439,500)	(303,800)	(826,200)
(Estimated Contributions to a trust in 2007/2008)	0	0	0	0
Annual OPEB Cost (AOC) for 2007/2008	3,058,500	920,600	605,200	4,584,300
Estimated NOO at June 30, 2008	\$ 2,975,600	\$ 481,100	\$ 301,400	\$ 3,758,100

¹ NOO is generally the cumulative excess of prior ARC over benefit payments (if unfunded) or trust contributions (if funded). In practice, before the ARC is added to the NOO each year it is adjusted to become the Annual OPEB Cost (AOC) by adding NOO interest and subtracting an NOO amortization. For this exhibit we have assumed that GASB 43/45 will be adopted for 2007/2008, so that NOO on the current valuation date is zero.

SAN DIEGO METROPOLITAN
TRANSIT SYSTEM

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
EXHIBIT 1A(ii): SUMMARY OF VALUATION RESULTS
BASED ON 7.75% DISCOUNT RATE

	MTS/TROLLEY	TRANSIT/NGMT	TRANSIT/UNION	ALL GROUPS
A. Participant Count as of June 30, 2007¹				
• Current retirees and surviving spouses	24	53	141	218
• Other participants fully eligible for benefits	123	4	164	291
• Other participants not yet fully eligible for benefits	<u>448</u>	<u>75</u>	<u>487</u>	<u>1,010</u>
Total Count	595	132	792	1,519
B. Actuarial Present Value of Benefits (APVB) at June 30, 2007				
• Current retirees, spouses and dependents	\$ 1,786,600	\$ 7,187,400	\$ 3,363,200	\$ 12,337,200
• Other participants fully eligible for benefits	5,240,700	309,500	1,277,300	6,827,500
• Other participants not yet fully eligible for benefits	<u>11,734,600</u>	<u>3,766,800</u>	<u>2,038,800</u>	<u>17,540,200</u>
Total APVB	\$ 18,761,900	\$ 11,263,700	\$ 6,679,300	\$ 36,704,900
C. Actuarial Accrued Liability (AAL) at June 30, 2007				
• Current retirees, spouses and dependents	\$ 1,786,600	\$ 7,187,400	\$ 3,363,200	\$ 12,337,200
• Other participants fully eligible for benefits	4,499,500	309,000	1,206,200	6,014,700
• Other participants not yet fully eligible for benefits	<u>6,232,100</u>	<u>3,327,200</u>	<u>1,512,200</u>	<u>11,071,500</u>
Total AAL ²	\$ 12,518,200	\$ 10,823,600	\$ 6,081,600	\$ 29,423,400

¹ Results for this June 30, 2007 valuation were projected from a census captured as of December 31, 2007.

² AAL is the portion of APVB that is attributed to actives' service to date by the chosen actuarial cost method. GASB 43/45 allows for seven cost methods, including Projected Unit Credit (as required for corporate and multiemployer retiree welfare calculations) and Entry Age Normal (as commonly used for governmental pension calculations). For this valuation we have used the Entry Age Normal method, which spreads costs from hire to the expected retirement age. Note that the APVB and AAL shown above have been offset by projected retiree contributions. The gross AAL before such offset is \$45,509,700, of which 65% is due to Plan payments and 35% is due to retiree contributions. Also note that had we increased our assumed health care trend rates by one percent, the total AAL would have increased from \$29,423,400 to \$34,480,400.

SAN DIEGO METROPOLITAN
TRANSIT SYSTEM

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
EXHIBIT 1A(ii): SUMMARY OF VALUATION RESULTS
BASED ON 7.75% DISCOUNT RATE (CONTINUED)

	MTS/ATROLLEY	TRANSIT MNGMT	TRANSIT UNION	ALL GROUPS
D. Funded Status at June 30, 2007				
Actuarial Value of Assets	\$ 0	\$ 0	\$ 0	\$ 0
Unfunded Actuarial Accrued Liability (UAAL)	\$ 12,518,200	\$ 10,823,600	\$ 6,081,600	\$ 29,423,400
Funded Ratio	0%	0%	0%	0%
Covered Payroll ¹	\$ 27,321,800	\$ 4,846,700	\$ 31,088,600	\$ 63,257,100
UAAL as a Percentage of Covered Payroll	46%	223%	20%	47%
E. Annual Required Contribution (ARC) and Annual OPEB Cost (AOC) for 2007/2008 ²				
Normal Cost for 2007/2008	\$ 980,900	\$ 103,500	\$ 113,700	\$ 1,198,100
Amortization of UAAL as of June 30, 2007 ³	751,700	650,000	365,200	1,766,900
Total ARC for 2007/2008	\$ 1,732,600	\$ 753,500	\$ 478,900	\$ 2,965,000
Interest on June 30, 2007 Net OPEB Obligation (Amortization of June 30, 2007 NOO) ³	0	0	0	0
Total AOC for 2007/2008	\$ 1,732,600	\$ 753,500	\$ 478,900	\$ 2,965,000

¹ Covered payroll is as of June 30, 2007.

² Despite the name, there is no requirement to actually contribute the ARC or any other amount. Future plan financial statement notes must simply show a "Schedule of Employer Contributions" with the ARC and the percentage of it that was actually contributed (if any). The ARC calculated above is noted as being applicable to the year following the current valuation date, but if a new valuation is not performed next year then this same ARC may be considered applicable to each of the next two years. In this manner, the Schedule of Employer Contributions can show a continuous annual history of ARC and actual contribution amounts.

³ GASB 43/45 allows for an amortization method of either level dollar (as for a mortgage) or level percent of pay, period of up to 30 years (but no less than 10 years if the AAL decreases due to a new cost or asset value method), and basis of either rolling (no annual reduction in period) or static. The amortization used here is level percent of pay over a rolling 30 years.

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SECTION I VALUATION RESULTS
EXHIBIT 1A(ii): SUMMARY OF VALUATION RESULTS
BASED ON 7.75% DISCOUNT RATE (CONTINUED)

	MTS/TROLEY	TRANSIT MGMT	TRANSIT UNION	ALL GROUPS
F. Net OPEB Obligation (NOO) Actual Reconciliation over 2006/2007¹ and Estimated Reconciliation over 2007/2008				
NOO at June 30, 2006	N/A	N/A	N/A	N/A
(Benefit Payments paid outside of a trust in 2006/2007)	N/A	N/A	N/A	N/A
(Contributions to a trust in 2006/2007)	N/A	N/A	N/A	N/A
Annual OPEB Cost (AOC) for 2006/2007	N/A	N/A	N/A	N/A
NOO at June 30, 2007	\$ 0	\$ 0	\$ 0	\$ 0
(Estimated Benefit Payments paid outside of a trust in 2007/2008)	0	0	0	0
(Estimated Contributions to a trust in 2007/2008)	(1,732,600)	(753,500)	(478,900)	(2,965,000)
Annual OPEB Cost (AOC) for 2007/2008	<u>1,732,600</u>	<u>753,500</u>	<u>478,900</u>	<u>2,965,000</u>
Estimated NOO at June 30, 2008	\$ 0	\$ 0	\$ 0	\$ 0

A-16

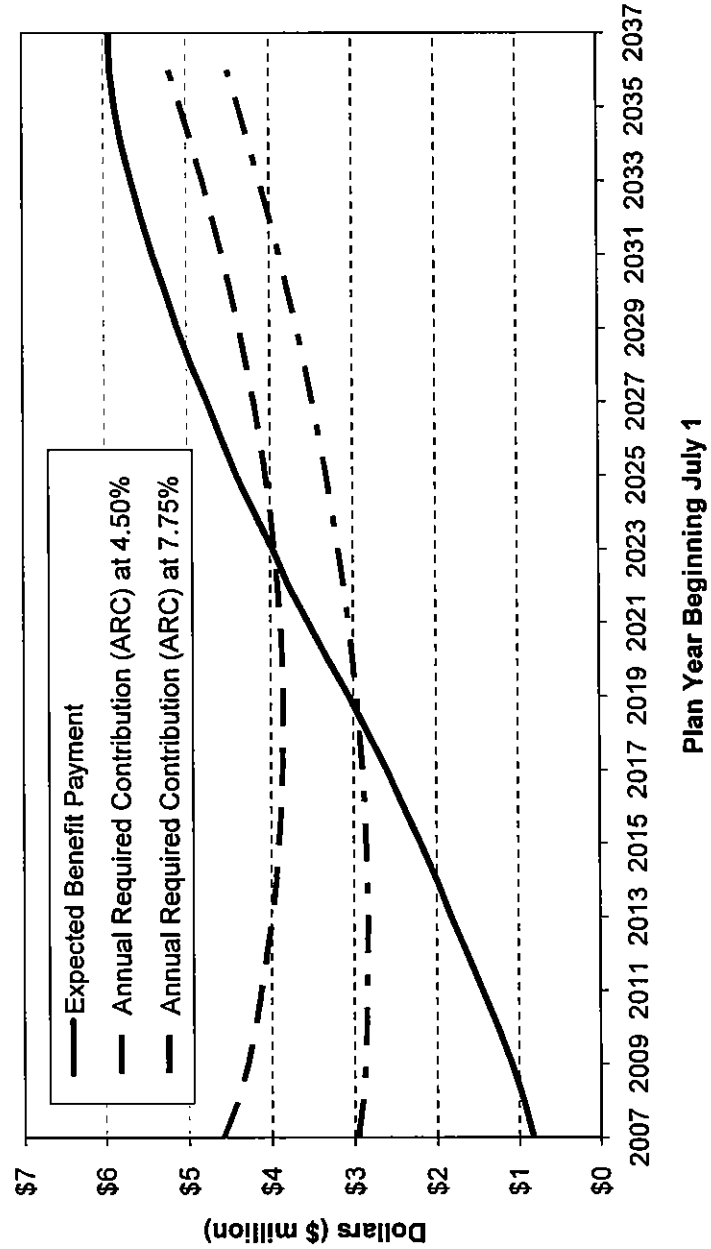
¹ NOO is generally the cumulative excess of prior ARC over benefit payments (if unfunded) or trust contributions (if funded). In practice, before the ARC is added to the NOO each year it is adjusted to become the Annual OPEB Cost (AOC) by adding NOO interest and subtracting an NOO amortization. For this exhibit we have assumed that GASB 43/45 will be adopted for 2007/2008, so that NOO on the current valuation date is zero.

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AS OF JUNE 30, 2007

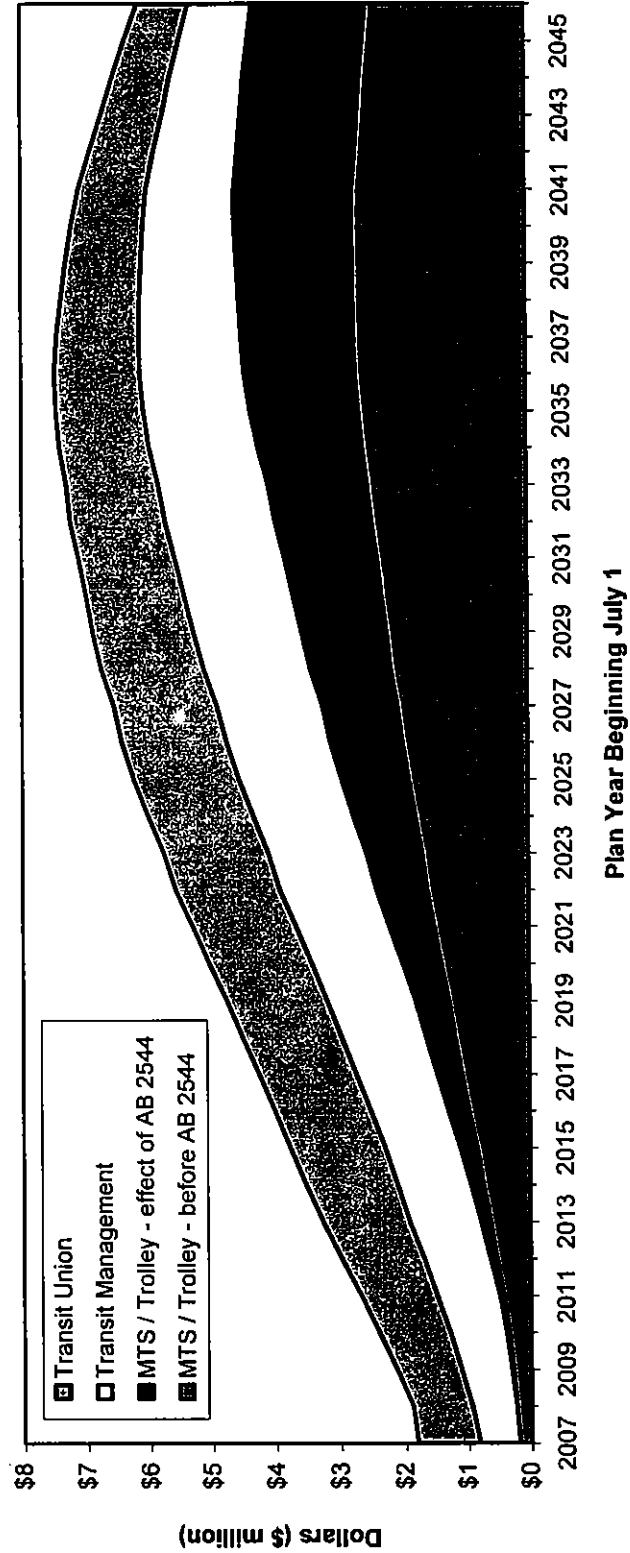
SECTION I VALUATION RESULTS
EXHIBIT 1B: PREFUNDING COMPARISON GRAPH

Pay-As-You-Go Versus Prefunding with GASB45 ARC



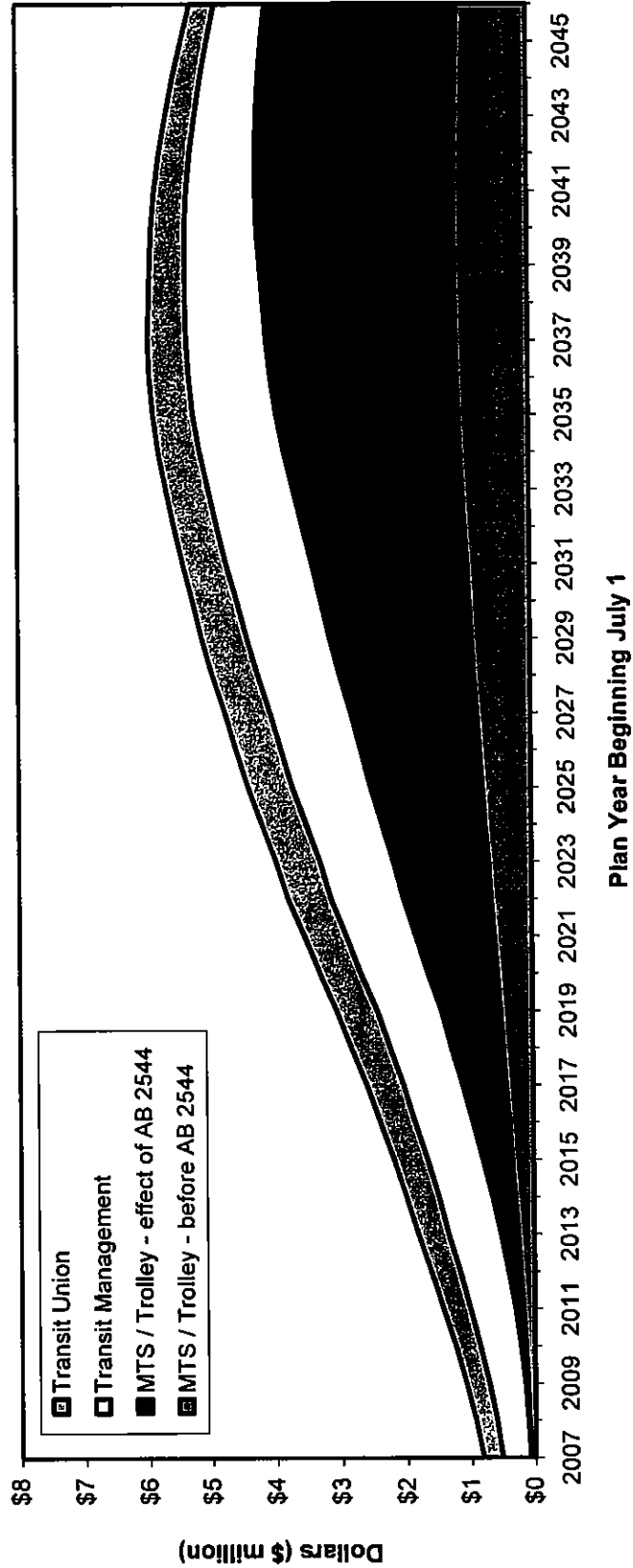
SECTION I VALUATION RESULTS
EXHIBIT 1C: PROJECTED CASHFLOW GRAPHS

Projected Gross Retiree Welfare Benefits
Split by Employee Group



SECTION I VALUATION RESULTS
EXHIBIT 1C: PROJECTED CASHFLOW GRAPHS (CONTINUED)

Projected Net Retiree Welfare Benefits
Split by Employee Group



ACTUARIAL VALUATION OF
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SECTION I VALUATION RESULTS
EXHIBIT 1D: PROJECTED CASHFLOW TABLES¹

Plan Year Beg. July 1,	Current Retiree Family Counts ²				Future Retiree Family Counts ²				Current + Future Retiree Family Counts ²			
	MTS / Trolley	Transit Mngmt	Transit Union	All Groups	MTS / Trolley	Transit Mngmt	Transit Union	All Groups	MTS / Trolley	Transit Mngmt	Transit Union	All Groups
2007	24	53	141	218	0	0	0	0	24	53	141	218
2008	24	52	134	210	5	3	8	16	29	55	142	226
2009	24	51	128	203	10	6	15	31	34	57	143	234
2010	23	51	122	196	18	8	21	47	41	59	143	243
2011	23	50	115	188	26	11	29	66	49	61	144	254
2012	23	49	109	181	36	14	36	86	59	63	145	267
2013	22	48	103	173	48	16	43	107	70	64	146	280
2014	22	47	97	166	59	18	49	126	81	65	146	292
2015	21	46	92	159	70	20	54	144	91	66	146	303
2016	21	45	86	152	81	21	60	162	102	66	146	314
2021	18	39	59	116	132	25	80	237	150	64	139	353
2026	14	33	37	84	166	25	85	276	180	58	122	360
2031	10	25	19	54	177	25	79	281	187	50	98	335
2036	6	17	9	32	168	22	63	253	174	39	72	285
2041	3	9	3	15	142	18	46	206	145	27	49	221
2046	1	4	1	6	108	12	29	149	109	16	30	155

¹ Because projected benefit payments are dependent upon many different assumptions about future claims, there can be a broad range of reasonable results. This illustration is based on a single "best estimate" set of assumptions used for our liability calculations and should be used with care when applied to financial planning. Small deviations between our best-estimate assumptions and actual experience (especially in regard to health care cost trend rates, retirement rates, and participation rates) could produce significantly different projected cash flows. Counts do not include spouses of living retirees (though spouse benefit amounts are included on the next page). "Current retirees" in any year are those remaining from the initial 618 present at the valuation date, while "future retirees" are those projected to retire after the valuation date.

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AS OF JUNE 30, 2007

**SECTION I VALUATION RESULTS
EXHIBIT 1D: PROJECTED CASHFLOW TABLES¹ (CONTINUED)**

Plan Year Beg. July 1,	Gross Retiree Welfare Benefits ²				Net Retiree Welfare Benefits ²				Agency's Share of Benefits ²			
	MTS / Trolley	Transit Mngmt	Transit Union	All Groups	MTS / Trolley	Transit Mngmt	Transit Union	All Groups	MTS / Trolley	Transit Mngmt	Transit Union	All Groups
2007	\$ 190,600	\$ 637,800	\$ 981,900	\$ 1,810,300	\$ 82,900	\$ 439,500	\$ 303,800	\$ 826,200	43%	69%	31%	46%
2008	245,100	703,600	945,600	1,894,300	114,500	497,400	331,400	943,300	47%	71%	35%	50%
2009	315,500	794,600	1,034,000	2,144,100	162,500	563,000	361,700	1,087,200	52%	71%	35%	51%
2010	401,400	890,300	1,121,700	2,413,400	227,100	634,500	391,300	1,252,900	57%	71%	35%	52%
2011	511,500	982,800	1,200,800	2,695,100	311,900	705,400	426,100	1,443,400	61%	72%	35%	54%
2012	654,900	1,045,500	1,288,700	2,989,100	416,600	752,200	460,800	1,629,600	64%	72%	36%	55%
2013	802,000	1,125,400	1,350,500	3,277,900	535,500	812,200	479,700	1,827,400	67%	72%	36%	56%
2014	956,400	1,160,800	1,420,900	3,538,100	661,400	836,700	502,700	2,000,800	69%	72%	35%	57%
2015	1,117,200	1,191,300	1,472,000	3,780,500	808,400	859,500	527,200	2,195,100	72%	72%	36%	58%
2016	1,303,000	1,227,200	1,485,700	4,015,900	966,800	886,100	548,700	2,401,600	74%	72%	37%	60%
2021	2,229,700	1,440,100	1,636,200	5,306,000	1,835,000	1,056,800	652,500	3,544,300	82%	73%	40%	67%
2026	3,122,400	1,623,300	1,676,400	6,422,100	2,660,300	1,214,400	712,100	4,586,800	85%	75%	42%	71%
2031	3,824,900	1,737,700	1,544,100	7,106,700	3,394,900	1,325,300	692,300	5,412,500	89%	76%	45%	76%
2036	4,448,400	1,662,000	1,360,800	7,471,200	4,014,100	1,282,500	628,400	5,925,000	90%	77%	46%	79%
2041	4,598,600	1,389,700	1,094,700	7,083,000	4,239,100	1,080,400	517,800	5,837,300	92%	78%	47%	82%
2046	4,312,700	1,001,600	820,700	6,135,000	4,070,700	782,500	398,300	5,251,500	94%	78%	49%	86%

¹ Because projected benefit payments are dependent upon many different assumptions about future claims, there can be a broad range of reasonable results. This illustration is based on a single "best estimate" set of assumptions used for our liability calculations and should be used with care when applied to financial planning. Small deviations between our best-estimate assumptions and actual experience (especially in regard to health care cost trend rates, retirement rates, and participation rates) could produce significantly different projected cash flows.

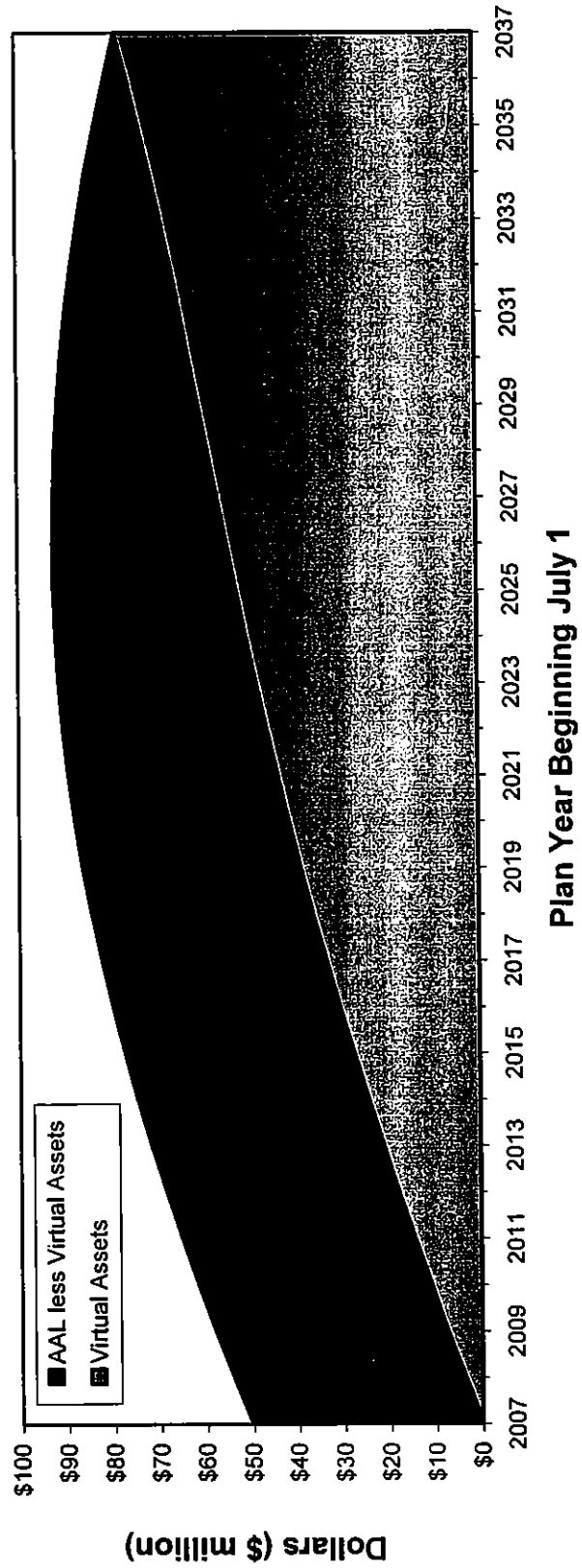
² Net Retiree Welfare Benefits are equal to the subsidized portion of Gross Retiree Welfare Benefits. Agency's Share of Benefits is then the ratio of Net over Gross Benefits..

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
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SECTION I VALUATION RESULTS
EXHIBIT 1E(i): PROJECTED LIABILITY GRAPH
BASED ON 4.50% DISCOUNT RATE

Projected Actuarial Accrued Liability (AAL) and
Virtual Assets at 4.50% Discount

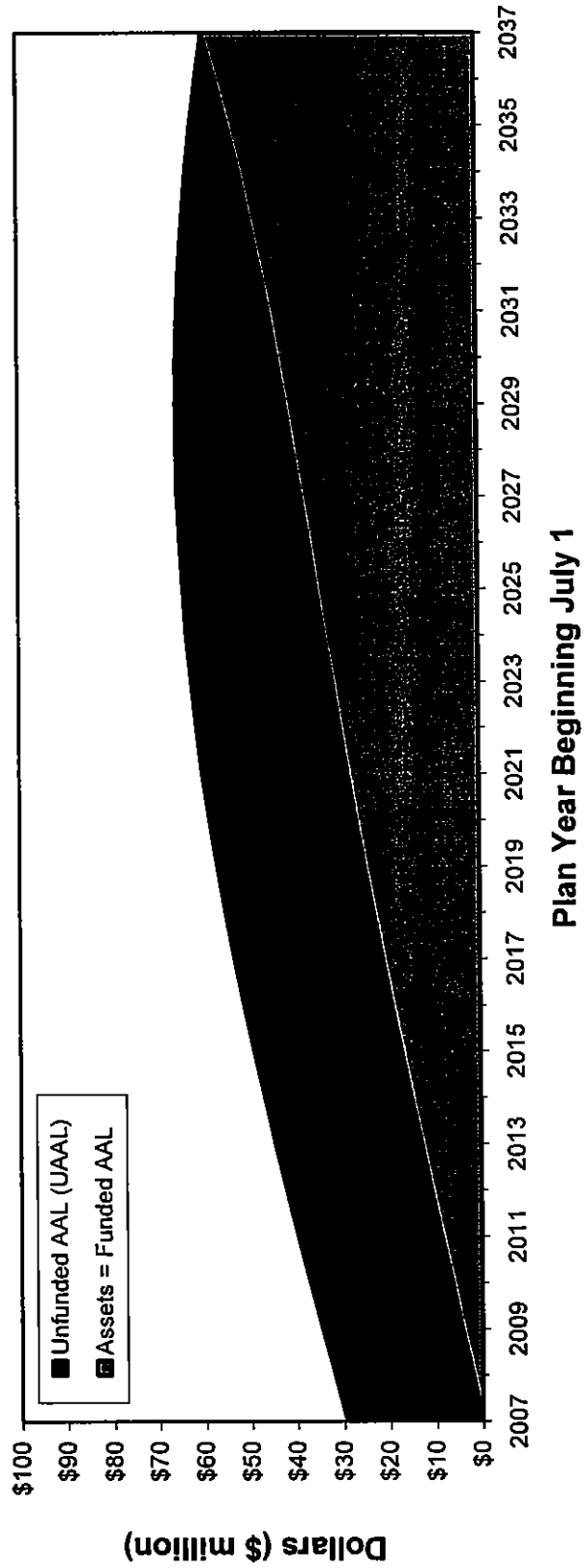


**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

**SECTION I VALUATION RESULTS
EXHIBIT 1E(ii): PROJECTED LIABILITY GRAPH
BASED ON 7.75% DISCOUNT RATE**

**Projected Actuarial Accrued Liability (AAL), Assets,
and Unfunded AAL (UAAL) at 7.75% Discount**



ACTUARIAL VALUATION OF POSTRETIREMENT WELFARE BENEFITS UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS EXHIBIT 1F(i): PROJECTED LIABILITY TABLE BASED ON 4.50% DISCOUNT RATE

Plan Year Beginning July 1,	Actuarial Accrued Liability (AAL)				Assets and Unfunded Liability		
	Benefit Payments	Normal Cost ¹	Interest Cost ²	AAL ³ at Beginning of Year	Annual Contribution = Virtual ARC ⁴	Virtual Assets ⁵ at Beginning of Year	AAL Less Virtual Assets at Beginning of Year
2007	\$ 826,200	\$ 2,560,100	\$ 2,295,800	\$ 50,162,800	\$ 4,584,300	\$ 0	\$ 50,162,800
2008	943,300	2,315,800	2,469,100	54,192,500	4,405,700	3,841,600	50,350,900
2009	1,087,200	2,122,300	2,634,600	58,034,100	4,280,100	7,553,900	50,480,200
2010	1,252,800	1,962,600	2,792,500	61,703,800	4,190,600	11,157,900	50,545,900
2011	1,443,400	1,818,900	2,942,700	65,206,100	4,119,300	14,663,200	50,542,900
2012	1,629,600	1,675,200	3,084,500	68,524,300	4,050,400	18,058,500	50,465,800
2013	1,827,500	1,532,400	3,218,000	71,654,400	3,984,800	21,345,700	50,308,700
2014	2,000,800	1,406,900	3,342,700	74,577,300	3,939,000	24,511,600	50,065,700
2015	2,195,100	1,292,300	3,459,600	77,326,100	3,906,600	27,596,000	49,730,100
2016	2,401,600	1,173,000	3,567,400	79,882,900	3,872,300	30,587,400	49,295,500
2021	3,544,300	710,800	3,954,800	89,286,700	3,878,200	43,919,800	45,366,900
2026	4,586,800	397,600	4,063,700	92,376,700	4,114,300	54,691,200	37,685,500
2031	5,412,500	206,700	3,906,300	89,382,300	4,567,900	64,538,000	24,844,300
2036	5,924,900	90,400	3,500,800	80,681,000	5,207,900	75,674,900	5,006,100
2037				78,347,300		78,347,300	0

¹ Normal Cost is the annual increase in AAL due to the additional year of service earned by active participants.

² Interest Cost is approximately a full year of 4.50% on AAL, plus a half-year of 4.50% on the excess of Normal Cost over Benefit Payments.

³ AAL plus Interest Cost plus Normal Cost minus Benefit Payments equals the next year's AAL.

⁴ Here we have assumed a contribution that is calculated using the same methodology as the GASB 43/45 Annual Required Contribution (ARC) except that it references "virtual" assets that have been informally set aside (but not irrevocably dedicated) to retiree welfare: Normal Cost plus an amortization of "AAL less virtual assets". For the amortization we used "static 30-year" level percent of pay (i.e., the initial \$2,024,200 was increased by 3.25% each year but otherwise not recalculated), whereas actual future valuations will use "rolling 30-year" (recalculating the amortization amount based on that year's new UAAL).

⁵ Next year's Assets are equal to current year Assets plus Contribution less Benefit Payments, with a year's interest adjustment on Assets and a half-year's interest on the other two items.

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AS OF JUNE 30, 2007

SECTION I VALUATION RESULTS
EXHIBIT 1F(III): PROJECTED LIABILITY TABLE
BASED ON 7.75% DISCOUNT RATE

Plan Year Beginning July 1,	Actuarial Accrued Liability (AAL)				Assets and Unfunded Liability		
	Benefit Payments	Normal Cost ¹	Interest Cost ²	AAL ³ at Beginning of Year	Annual Contribution = ARC ⁴	Assets ⁵ at Beginning of Year	UAAL ⁵ at Beginning of Year
2007	\$ 826,200	\$ 1,198,100	\$ 2,294,600	\$ 29,423,400	\$ 2,965,000	\$ 0	\$ 29,423,500
2008	943,300	1,080,100	2,492,200	32,089,900	2,904,400	2,220,200	29,869,700
2009	1,087,200	987,000	2,687,000	34,718,900	2,870,600	4,428,000	30,290,900
2010	1,252,800	910,400	2,878,100	37,305,700	2,855,200	6,622,400	30,683,300
2011	1,443,400	840,400	3,064,900	39,841,400	2,848,500	8,799,000	31,042,400
2012	1,629,600	767,600	3,245,600	42,303,300	2,840,900	10,939,500	31,363,800
2013	1,827,500	694,600	3,420,200	44,686,900	2,835,300	13,044,600	31,642,300
2014	2,000,800	632,400	3,588,500	46,974,200	2,842,700	15,101,700	31,872,500
2015	2,195,100	576,200	3,751,000	49,194,300	2,858,300	17,146,000	32,048,300
2016	2,401,600	516,400	3,906,100	51,326,400	2,872,700	19,163,200	32,163,200
2021	3,544,300	294,500	4,537,000	60,136,300	3,059,400	28,586,400	31,549,900
2026	4,586,800	153,700	4,858,900	64,869,100	3,398,000	36,839,400	28,029,700
2031	5,412,500	75,100	4,850,500	65,206,400	3,882,000	45,375,000	19,831,400
2036	5,924,900	30,900	4,493,000	60,866,700	4,498,000	56,563,200	4,303,500
2037				59,465,700		59,465,700	0

¹ Normal Cost is the annual increase in AAL due to the additional year of service earned by active participants.

² Interest Cost is approximately a full year of 7.75% on AAL, plus a half-year of 7.75% on the excess of Normal Cost over Benefit Payments.

³ AAL plus Interest Cost plus Normal Cost minus Benefit Payments equals the next year's AAL.

⁴ Here we have assumed a contribution equal to the GASB 43/45 Annual Required Contribution (ARC), which equals Normal Cost plus an amortization of the UAAL. For the amortization we used "static 30-year" level percent of pay (i.e., the initial \$1,766,900 was increased by 3.25% each year but otherwise not recalculated), whereas actual future valuations will use "rolling 30-year" (recalculating the amortization amount based on that year's new UAAL).

⁵ Next year's Assets are equal to current year Assets plus Contribution less Benefit Payments, with a year's interest adjustment on Assets and a half-year's interest on the other two items.

ACTUARIAL VALUATION OF POSTRETIREMENT WELFARE BENEFITS UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION II ACTUARIAL ASSUMPTIONS AND METHODS GENERAL INFORMATION

The Actuarial Accrued Liability (AAL) is equal to that portion of the Actuarial Present Value of Benefits deemed to have been earned to date, calculated using the Entry Age Normal actuarial cost method. For active employees, this method spreads costs from hire age to expected age at retirement. For the amortizations of Unfunded AAL and Net OPEB Obligation we used the "level percentage of projected payroll" method over a rolling 30 years.

The AAL resulting from our calculations and shown in this report are contingent upon a variety of assumptions about future events. We have grouped our valuation assumptions into the four exhibits described below. Note that actual experience is likely to vary from these assumptions.

- Exhibit 2A: Demographic Assumptions – Mortality, turnover, disability, retirement, and other items that affect the number of people eligible to receive future retiree benefits and the type of coverage elected.
- Exhibit 2B: Economic Assumptions – Rates of discount, compensation increase (if applicable), and health care trend.
- Exhibit 2C: Per-Capita Cost Assumptions – Current benefit costs and expenses as determined by historical experience and by future expectations for the Plan.

- Exhibit 2D: Retiree Self-Pay Assumptions – Current and future retiree self-pay amounts (or percentages) that have been used to offset projected benefit costs.

The mortality, turnover, and disability tables in *Exhibit 2A* are sample rates of participants leaving the group for reasons other than retirement. For each 10,000 active male participants of age 40 and in their fourth year of service, we expect that in the next year the following decrements will occur.

	MTS / Trolley	Transit Mngmt	Transit Union
Deaths	8	9	21
Terminations	928	1,400	2,000
Disabilities	15	20	85

Upon attainment of the minimum age and service for benefits, turnover rates cut out and retirement rates begin. The complete retirement rate tables are shown in *Exhibit 2A*, with rates beginning at age 50 (or 53 for Transit) and attaining 100% by age 75 (or 70 for Transit). The plan selection and dependent assumptions at the end of *Exhibit 2A* are based on our study of the choices made by current actives and retirees.

ACTUARIAL VALUATION OF POSTRETIREMENT WELFARE BENEFITS UNDER GASB 43/45

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS GENERAL INFORMATION (CONTINUED)

At the beginning of *Exhibit 2B*, the discount rate of 4.50% is the expected long-term rate of return on Agency assets (i.e., with no prefunding), while 7.75% is the expected return for prefunding the full ARC with the California Employers' Retiree Benefit Trust (CERBT). The compensation increase rate of 3.25% is the maximum allowed by CERBT for calculating the amortization component of ARC. The remainder of the exhibit describes the anticipated future annual increases in per-capita benefit costs and operating expenses. Note that by 2018/2019 all increases have graded to the same ultimate rate of 5%, which reflects the expected long-term trend for the medical Consumer Price Index.

In *Exhibit 2C* we have set the "net claims relative value factor" for ages 55 to 59 at a value of 1.000. The factors at all other ages are expressed relative to that base value factor. For example, within Transit Union (*Exhibit 2C(iii)* on page 36) the Kaiser factor at ages 60 to 64 is 1.150, which means that expected costs at those ages are 15.0% higher than expected costs for ages 55 to 59. The "net claims multiplier" is then the annual per-capita cost or expense in Plan Year 2007/2008 (i.e., prior to the application of the trend rates detailed in *Exhibit 2B*) at the base age range of 55 to 59. In calculating this, we have considered the per-capita premium history and the demographics of the active and retiree groups. Dependent children costs were included with the adult figures.

Exhibit 2D describes how the retiree share of costs/expenses was reflected in 2007/2008 and future valuation years. In particular:

- **MTS/Trolley** retiree self-pays are actually dollar monthly amounts that vary by coverage tier and employee group, and which are now being forced by AB 2544 to increase at \$100 per year until reaching the higher level of active self-pays. (See item 6 of Section V for more detail on the effects of AB 2544.) In most cases this results in an ultimate plan subsidy of 80% to 100% of PEMHCA premium, which we have reflected in this valuation as a table of decreasing retiree self-pay percentages.

- **Transit Management** retiree self-pays are generally expressed as a percentage of COBRA premium, where such percentage varies by age, service, and coverage tier (single versus two-party). For this valuation we have reflected the proposed change in percentages effective July 1, 2008.

- **Transit Union** retiree self-pays are initially calculated using a policy of "100% non-Medicare cost, 50% Medicare cost", but are then capped at the active family composite cost. We therefore did not attempt to apply the 100%/50% policy, instead projecting the actual 2007/2008 dollar self-pays at benefit trend rates.

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2A(i): DEMOGRAPHIC ASSUMPTIONS – MTS / TROLLEY

MORTALITY: Rates are from the June 30, 2005 CalPERS pension valuation for non-industrial miscellaneous employers. Sample rates are as follows:

AGE	ACTIVE		HEALTHY RETIRED		DISABLED RETIRED	
	MALE RATE	FEMALE RATE	MALE RATE	FEMALE RATE	MALE RATE	FEMALE RATE
20	0.02%	0.01%	0.05%	0.03%	0.73%	0.52%
30	0.04	0.02	0.08	0.03	0.77	0.58
40	0.08	0.05	0.10	0.07	0.87	0.64
50	0.16	0.10	0.25	0.14	1.46	1.13
60	0.31	0.23	0.72	0.44	2.87	1.88
70	0.63	0.50	2.14	1.28	4.67	3.02
80	1.28	1.11	6.26	3.88	9.48	6.51

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UNDER GASB 43/45

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS

EXHIBIT 2A(i): DEMOGRAPHIC ASSUMPTIONS – MTS / TROLLEY (CONTINUED)

TURNOVER: Select and ultimate rates are from the June 30, 2005 CalPERS pension valuation for non-industrial miscellaneous employers. We used the sum of the rates for vested and non-vested turnover. Sample rates are as follows:

AGE	YEAR 1 RATE	YEAR 2 RATE	YEAR 3 RATE	YEAR 4 RATE	YEAR 26+ ULTIMATE RATE
20	17.60%	15.75%	13.90%	12.05%	2.59%
30	16.22	14.37	12.51	10.66	2.59
40	14.83	12.98	11.13	9.28	2.59
50	13.45	11.59	9.74	7.89	0.22
60	12.20	10.21	8.36	6.51	0.02

DISABILITY: Rates are from the June 30, 2005 CalPERS pension valuation for non-industrial miscellaneous employers. Sample rates are as follows:

AGE	MALE RATE	FEMALE RATE
20	0.01%	0.01%
30	0.02	0.04
40	0.15	0.16
50	0.37	0.35
60	0.55	0.39

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2A(i): DEMOGRAPHIC ASSUMPTIONS – MTS / TROLLEY (CONTINUED)

RETIREMENT: Rates are from the June 30, 2005 CalPERS pension valuation for non-industrial miscellaneous employers electing "2.7% at age 55" (for MTS) or "2.0% at age 55" (for Trolley)¹, except that Trolley rates have been rounded within each 10-year entry age bracket. Complete rates are as follows:

ATTAINED AGE	MTS		TROLLEY					ATTAINED AGE	MTS		TROLLEY				
	MALE RATE	FEMALE RATE	ENTRY AGE 15 - 24	ENTRY AGE 25 - 34	ENTRY AGE 35 - 44	ENTRY AGE 45 - 54	ENTRY AGE 55+		MALE RATE	FEMALE RATE	ENTRY AGE 15 - 24	ENTRY AGE 25 - 34	ENTRY AGE 35 - 44	ENTRY AGE 45 - 54	ENTRY AGE 55+
50	5.0%	7.0%	3.5%	2.5%	2.0%	1.5%	n/a	63	23.0%	20.0%	36.5%	35.5%	26.5%	19.0%	14.0%
51	2.0	5.0	3.0	2.0	1.5	1.0	n/a	64	16.0	14.0	26.5	26.0	19.5	14.0	10.5
52	3.0	5.0	3.0	2.5	1.5	1.0	n/a	65	27.0	27.0	54.5	49.0	38.0	27.5	19.5
53	3.0	6.0	4.0	3.0	2.0	1.5	n/a	66	15.0	16.0	44.5	30.5	24.5	18.0	12.5
54	4.0	6.0	5.5	4.0	3.0	2.0	n/a	67	13.0	16.0	52.0	31.5	26.0	19.0	13.0
55	9.0	10.0	13.5	10.5	7.5	5.5	n/a	68	13.0	12.0	55.0	25.0	21.0	15.5	10.5
56	7.0	8.0	11.0	9.0	6.5	4.5	n/a	69	10.0	14.0	64.5	29.5	25.5	19.0	13.0
57	8.0	7.0	12.0	10.0	7.5	5.0	n/a	70	100.0	100.0	74.0	35.0	31.0	23.0	15.5
58	8.0	10.0	13.5	11.5	8.5	6.0	n/a	71	100.0	100.0	78.0	26.5	24.5	18.0	12.0
59	10.0	9.0	14.5	12.5	9.5	6.5	n/a	72	100.0	100.0	86.0	29.5	28.0	20.5	13.5
60	17.0	13.0	20.5	18.0	13.5	9.5	7.0%	73	100.0	100.0	92.5	23.5	23.0	17.0	11.5
61	16.0	11.0	20.5	18.5	14.0	9.5	7.5	74	100.0	100.0	100.0	18.5	18.0	13.5	9.0
62	28.0	23.0	36.0	34.0	25.5	18.0	13.5	75+	100.0	100.0	100.0	100.0	100.0	100.0	100.0

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¹ Trolley Management employees are also in the "Public Agency Retirement Service (PARS) Retirement Enhancement Plan" to make up the missing 0.7% from CalPERS.

**ACTUARIAL VALUATION OF
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**SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2A(i): DEMOGRAPHIC ASSUMPTIONS – MTS / TROLLEY (CONTINUED)**

PARTICIPATION: As described in item 6 of Section V, AB 2544 has caused us to assume an increasing schedule of PEMHCA subsidy percentages. We expect that any increase in the plan's share of premium will be accompanied by a rise in the portion of new retirees electing plan coverage and covering their spouse, thus we have assumed an increasing schedule of retiree and spouse participation percentages. Complete rates by year of decrement are as follows. Note that the "spouse participation percentage" below is applied on top of the 75% "covered spouse assumption" described on the next page. Also note that the below rates were multiplied by 10% for actives currently waiving health coverage.

PLAN YEAR BEG. JULY 1,	Retiree Participation Percentage				Spouse Participation Percentage			
	Under 65 Initial Retirement Age		65 & Over Initial Retirement Age		Under 65 Initial Retirement Age		65 & Over Initial Retirement Age	
	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt
2007	70%	65%	40%	85%	80%	45%	60%	65%
2008	85	70	45	100	80	55	60	65
2009	90	75	50	100	90	65	55	65
2010	95	75	55	100	95	70	60	70
2011	100	80	60	100	100	75	60	70
2012	100	85	60	100	100	80	65	75
2013	100	85	65	100	100	85	70	75
2014	100	90	65	100	100	90	75	75
2015	100	90	70	100	100	95	75	75
2016	100	95	70	100	100	95	80	75
2017	100	95	75	100	100	95	80	75
2018	100	100	75	100	100	100	80	75
2019	100	100	80	100	100	100	85	75
2020	100	100	80	100	100	100	85	80
2021	100	100	85	100	100	100	85	80
2022+	100	100	85	100	100	100	85	80

**ACTUARIAL VALUATION OF
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**SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2A(i): DEMOGRAPHIC ASSUMPTIONS – MTS / TROLLEY (CONTINUED)**

Plan Selection at Retirement: Future retirees who elect coverage were assumed to select their retiree health providers in accordance with the following percentages. For comparative purposes, we are also showing the actual distributions of current actives and current retirees. Note that Blue Shield Net Value and PERS Select have no valuation date enrollment because they are new options as of January 1, 2008.

	Assumed Future Retirees	Actual Current Actives	Actual Current Retirees
Kaiser HMO	65%	75%	60%
Blue Shield Access Plus HMO	20	20	15
Blue Shield Net Value HMO	0	0	0
PERS Choice PPO ¹	12	5	20
PERS Select PPO	0	0	0
PERS Care PPO	<u>3</u>	<u>0</u>	<u>5</u>
	100%	100%	100%

Dependents: Demographic data was available for spouses of current retirees. For future retirees, 75% were assumed to cover a spouse, and husbands were assumed to be four years older than their wives.

Medicare Status: All retirees and their spouses were assumed to become Medicare-eligible at age 65. In addition, disabled members were assumed to become Medicare-eligible upon the second anniversary of their disablement.

¹ We assumed that out-of-state rates applied to all PERS Choice retirees.

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**SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2A(ii): DEMOGRAPHIC ASSUMPTIONS – TRANSIT**

MORTALITY: Rates are from the July 1, 2007 pension valuation of the *Retirement Plans of San Diego Transit Corporation*. In particular, nondisabled Management rates are from the 1994 GAM table (weighted as 50% male / 50% female), disabled Management rates are from the PBGC Mortality Table for Females Receiving Social Security, nondisabled Union rates are from the 1984 UP table, and disabled Union rates are from the PBGC Mortality Table for Members Not Receiving Social Security (weighted as 25% male / 75% female). Sample rates are as follows:

AGE	TRANSIT MANAGEMENT		
	ACTIVE	HEALTHY RETIRED	DISABLED RETIRED
20	0.04%	0.04%	2.63%
30	0.06	0.06	2.37
40	0.09	0.09	2.09
50	0.20	0.20	2.57
60	0.62	0.62	3.31
70	1.87	1.87	4.59
80	5.07	5.07	8.09

TRANSIT UNION		
ACTIVE	HEALTHY RETIRED	DISABLED RETIRED
0.13%	0.13%	0.04%
0.11	0.11	0.07
0.21	0.21	0.15
0.56	0.56	0.46
1.42	1.42	1.11
3.47	3.47	3.25
8.13	8.13	8.68

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2A(ii): DEMOGRAPHIC ASSUMPTIONS – TRANSIT (CONTINUED)

TURNOVER: Ten year select and ultimate rates are from the July 1, 2007 pension valuation of the *Retirement Plans of San Diego Transit Corporation*. Complete rates are as follows:

SERVICE YEAR	TRANSIT MANAGEMENT	TRANSIT UNION
1 – 2	25.00%	20.00%
3 – 4	14.00	20.00
5 – 10	8.00	7.00
11 +	1.30	5.00

DISABILITY: Incidence rates are from the July 1, 2007 pension valuation of the *Retirement Plans of San Diego Transit Corporation*. Complete rates are as follows:

AGE (all ages)	TRANSIT MANAGEMENT	TRANSIT UNION
	0.20%	0.85%

RETIREMENT: Rates are from the July 1, 2007 pension valuation of the *Retirement Plans of San Diego Transit Corporation*. Complete rates are as follows:

AGE	TRANSIT MANAGEMENT	TRANSIT UNION
53 – 54	15%	n/a
55 – 58	30	5%
59 – 61	30	10
62 – 64	60	30
65	60	55
66 – 69	60	30
70+	100	100

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2A(ii): DEMOGRAPHIC ASSUMPTIONS – TRANSIT (CONTINUED)

Participation: Among future retirees eligible for Plan benefits, 50% of Transit Management and 30% of Transit Union members were assumed to elect Plan participation at retirement.

Plan Selection at Retirement: Future Local 1309 retirees within Transit Union were assumed to elect dental as 40% indemnity, 45% prepaid, and 15% waive coverage. For all other benefit types within Management and Union there is only one benefit option.

Dependents: Demographic data was available for spouses of current retirees. For future retirees, 45% were assumed to cover a spouse (or 65% for Transit Union), and husbands were assumed to be three years older than their wives.

Medicare Status: All retirees and their spouses were assumed to become Medicare-eligible at age 65. In addition, disabled members were assumed to become Medicare-eligible upon the second anniversary of their disablement.

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2B(i): ECONOMIC ASSUMPTIONS – MTS / TROLLEY

DISCOUNT RATE: 4.50% per annum, if monies are not irrevocably dedicated for retiree benefits
7.75% per annum, if monies are irrevocably dedicated for retiree benefits

COMPENSATION INCREASE RATE: 3.25% per annum

TREND RATES:¹

PLAN YEAR BEG. JULY ¹	KAISER HMO		BLUE SHIELD ACCESS PLUS HMO		PERS CHOICE PPO ²		PERS CARE PPO	
	NON-MEDICARE	MEDICARE	NON-MEDICARE	MEDICARE	NON-MEDICARE	MEDICARE	NON-MEDICARE	MEDICARE
2007	8.55%	-1.70%	7.50%	3.40%	2.90%	1.05%	-1.30%	4.25%
2008	8.80	3.75	7.40	2.50	3.75	2.50	3.75	2.50
2009	9.25	5.00	9.25	5.00	7.25	5.00	7.25	5.00
2010	8.75	5.00	8.75	5.00	6.75	5.00	6.75	5.00
2011	8.25	5.00	8.25	5.00	6.25	5.00	6.25	5.00
2012	7.75	5.00	7.75	5.00	5.75	5.00	5.75	5.00
2013	7.25	5.00	7.25	5.00	5.25	5.00	5.25	5.00
2014	6.75	5.00	6.75	5.00	5.00	5.00	5.00	5.00
2015	6.25	5.00	6.25	5.00	5.00	5.00	5.00	5.00
2016	5.75	5.00	5.75	5.00	5.00	5.00	5.00	5.00
2017	5.25	5.00	5.25	5.00	5.00	5.00	5.00	5.00
2018+	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00

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¹ The trend shown for a particular year is the rate that must be applied to that year's cost to yield the next year's projected cost. Uneven trends in the first two plan years are due to the use of actual premiums through calendar 2009. Not shown are the rates for Blue Shield Net Value and PERS Select, as those plans were not effective until January 1, 2008.

² We assumed that out-of-state rates applied to all PERS Choice retirees.

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2B(ii): ECONOMIC ASSUMPTIONS – TRANSIT MANAGEMENT

DISCOUNT RATE: 4.50% per annum, if monies are not irrevocably dedicated for retiree benefits
7.75% per annum, if monies are irrevocably dedicated for retiree benefits

COMPENSATION INCREASE RATE: 3.25% per annum

TREND RATES:¹

PLAN YEAR BEG. JULY 1	MEDICAL	DRUG	DENTAL	VISION	EXPENSE	STOP-LOSS ²
2007	10.00%	12.00%	2.00%	5.00%	5.00%	0.00%
2008	9.00	11.00	2.00	5.00	5.00	9.00
2009	8.00	10.00	2.00	5.00	5.00	8.00
2010	7.00	9.00	2.00	5.00	5.00	7.00
2011	6.00	8.00	2.00	5.00	5.00	6.00
2012	5.00	7.00	2.00	5.00	5.00	5.00
2013	5.00	6.00	2.00	5.00	5.00	5.00
2014+	5.00	5.00	2.00	5.00	5.00	5.00

¹ The trend shown for a particular year is the rate that must be applied to that year's cost to yield the next year's projected cost.

² The initial zero trend for stop-loss reflects the actual premium renewal as of August 1, 2008.

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2B(iii): ECONOMIC ASSUMPTIONS – TRANSIT UNION

DISCOUNT RATE: 4.50% per annum, if monies are not irrevocably dedicated for retiree benefits
7.75% per annum, if monies are irrevocably dedicated for retiree benefits

COMPENSATION INCREASE RATE: 3.25% per annum

TREND RATES:¹

PLAN YEAR BEG. JULY 1	KAISER NON-MEDICARE FOR LOCAL 465	KAISER NON-MEDICARE FOR LOCAL 1309	KAISER MEDICARE FOR ALL LOCALS	INDEMNITY DENTAL FOR LOCAL 1309	PREPAID DENTAL FOR LOCAL 1309	ADMINISTRATIVE EXPENSE FOR ALL LOCALS
2007	9.50%	6.00%	3.00%	1.50%	1.50%	5.00%
2008	9.00	9.00	9.00	5.00	5.00	5.00
2009	8.50	8.50	8.50	5.00	5.00	5.00
2010	8.00	8.00	8.00	5.00	5.00	5.00
2011	7.50	7.50	7.50	5.00	5.00	5.00
2012	7.00	7.00	7.00	5.00	5.00	5.00
2013	6.50	6.50	6.50	5.00	5.00	5.00
2014	6.00	6.00	6.00	5.00	5.00	5.00
2015	5.50	5.50	5.50	5.00	5.00	5.00
2016+	5.00	5.00	5.00	5.00	5.00	5.00

¹ The trend shown for a particular year is the rate that must be applied to that year's cost to yield the next year's projected cost. Low trends in the first plan year reflect actual premium renewals as of March 1, 2008.

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2C(i): PER-CAPITA COST ASSUMPTIONS – MTS / TROLLEY

NET CLAIMS MULTIPLIERS (i.e., Plan Year 2007/2008 annual cost for relative value factor = 1.00) ¹

KAISER HMO	BLUE SHIELD ACCESS PLUS HMO	PERS CHOICE PPO ²	PERS CARE PPO
\$ 4,525	\$ 5,130	\$ 6,217	\$ 8,665

NET CLAIMS RELATIVE VALUE FACTORS

AGE	KAISER HMO	BLUE SHIELD ACCESS PLUS HMO	PERS CHOICE PPO ²	PERS CARE PPO
Under 30	1.000	1.000	1.000	1.000
30 – 39	1.000	1.000	1.000	1.000
40 – 49	1.000	1.000	1.000	1.000
50 – 54	1.000	1.000	1.000	1.000
55 – 59	1.000	1.000	1.000	1.000
60 – 64	1.000	1.000	1.000	1.000
65 – 69	0.747	0.772	0.677	0.538
70 – 74	0.747	0.772	0.677	0.538
75 – 79	0.747	0.772	0.677	0.538
80+	0.747	0.772	0.677	0.538

¹ Not shown are the costs for Blue Shield Net Value and PERS Select, as those plans were not effective until January 1, 2008.
² PERS Choice costs shown are those for out-of-state only, as no future retirees were assumed to elect the PERS Choice in-state plan.

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**SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2C(II): PER-CAPITA COST ASSUMPTIONS – TRANSIT MANAGEMENT**

NET CLAIMS MULTIPLIERS (i.e., Plan Year 2007/2008 annual cost for relative value factor = 1.00)

	MEDICAL	DRUG	DENTAL	VISION	EXPENSE ¹	STOP-LOSS ²
	\$ 4,412	\$ 1,385	\$ 427	\$ 56	\$ 581	\$ 1,623

NET CLAIMS RELATIVE VALUE FACTORS

AGE	MEDICAL	DRUG	DENTAL	VISION	EXPENSE	STOP-LOSS
Under 30	0.435	0.435	1.000	1.000	1.000	1.000
30 – 39	0.465	0.465	1.000	1.000	1.000	1.000
40 – 49	0.655	0.655	1.000	1.000	1.000	1.000
50 – 54	0.795	0.795	1.000	1.000	1.000	1.000
55 – 59	1.000	1.000	1.000	1.000	1.000	1.000
60 – 64	1.150	1.150	1.000	1.000	1.000	1.000
65 – 69	0.445	1.295	1.000	1.000	1.000	1.000
70 – 74	0.495	1.435	1.000	1.000	1.000	1.000
75 – 79	0.550	1.590	1.000	1.000	1.000	1.000
80+	0.645	1.865	1.000	1.000	1.000	1.000

¹ The expense multiplier applies only to retirees and surviving spouses (i.e., not to spouses of living retirees).

² The stop-loss cost for spouses (i.e., the excess of two-party over single premium) is \$1,659.

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AS OF JUNE 30, 2007

**SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2C(iii): PER-CAPITA COST ASSUMPTIONS – TRANSIT UNION**

NET CLAIMS MULTIPLIERS (i.e., Plan Year 2007/2008 annual cost for relative value factor = 1.00)

	KAISER FOR LOCAL 465	KAISER FOR LOCAL 1309	INDEMNITY DENTAL FOR LOCAL 1309 ¹	PREPAID DENTAL FOR LOCAL 1309 ¹	EXPENSE FOR LOCAL 465 ¹	EXPENSE FOR LOCAL 1309 ¹
	\$ 4,875	\$ 5,370	\$ 519	\$ 233	\$ 354	\$ 237

NET CLAIMS RELATIVE VALUE FACTORS

AGE	KAISER FOR LOCAL 465	KAISER FOR LOCAL 1309	INDEMNITY DENTAL FOR LOCAL 1309	PREPAID DENTAL FOR LOCAL 1309	EXPENSE FOR LOCAL 465	EXPENSE FOR LOCAL 1309
Under 30	0.435	0.435	1.000	1.000	1.000	1.000
30 – 39	0.465	0.465	1.000	1.000	1.000	1.000
40 – 49	0.655	0.655	1.000	1.000	1.000	1.000
50 – 54	0.795	0.795	1.000	1.000	1.000	1.000
55 – 59	1.000	1.000	1.000	1.000	1.000	1.000
60 – 64	1.150	1.150	1.000	1.000	1.000	1.000
65 – 69	0.526	0.457	1.000	1.000	1.000	1.000
70 – 74	0.526	0.457	1.000	1.000	1.000	1.000
75 – 79	0.526	0.457	1.000	1.000	1.000	1.000
80+	0.526	0.457	1.000	1.000	1.000	1.000

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¹ The dental and expense multipliers apply only to retirees and surviving spouses (i.e., not to spouses of living retirees).

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As described in item 6 of Section V, AB 2544 has caused us to assume an increasing schedule of PEMHCA subsidy percentages. These were reflected in the valuation by the *decreasing* schedules of retiree self-pay percentages shown below for each provider. Note that surviving spouses of deceased retirees are treated the same as single retirees in regards to required self-pays.

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AS OF JUNE 30, 2007

PLAN YEAR BEG. JULY 1,	BLUE SHIELD ACCESS PLUS Retiree Self-Pay Percentage						BLUE SHIELD ACCESS PLUS Spouse Self-Pay Percentage					
	Non-Medicare Ages			Medicare Ages			Non-Medicare Ages			Medicare Ages		
	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union
2007	50%	55%	85%	35%	40%	80%	65%	55%	95%	55%	40%	90%
2008	30	55	80	5	40	75	70	60	90	55	45	85
2009	15	45	75	0	25	65	70	55	85	60	40	80
2010	5	40	70	0	15	55	70	50	80	60	30	75
2011	0	35	65	0	5	50	70	50	80	55	20	70
2012	0	30	65	0	0	45	65	45	80	40	15	65
2013	0	25	60	0	0	35	60	45	75	35	10	60
2014	0	20	55	0	0	30	55	45	75	25	10	55
2015	0	15	55	0	0	20	50	45	70	20	10	50
2016	0	10	50	0	0	15	45	45	70	10	10	50
2017	0	5	45	0	0	10	45	50	65	5	10	45
2018	0	0	40	0	0	0	40	50	65	0	15	40
2019	0	0	40	0	0	0	40	50	65	0	15	35
2020	0	0	35	0	0	0	35	45	60	0	10	35
2021	0	0	30	0	0	0	35	45	60	0	5	30
2022+	0	0	30	0	0	0	35	45	60	0	0	30

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2D(i): RETIRE SELF-PAY ASSUMPTIONS – MTS / TROLLEY (CONTINUED)

PLAN YEAR BEG. JULY 1,	PERS CHOICE Retiree Self-Pay Percentage						PERS CHOICE Spouse Self-Pay Percentage					
	Non-Medicare Ages			Medicare Ages			Non-Medicare Ages			Medicare Ages		
	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union
2007	55%	65%	90%	35%	45%	85%	70%	65%	95%	55%	45%	90%
2008	40	60	85	10	40	75	70	65	90	60	45	85
2009	25	55	80	0	30	65	75	65	85	60	45	80
2010	15	50	75	0	20	60	70	60	85	55	40	75
2011	15	45	70	0	15	55	65	55	85	45	30	75
2012	15	40	70	0	5	50	55	55	80	30	25	70
2013	15	35	65	0	0	45	50	50	80	20	20	65
2014	15	30	65	0	0	40	40	45	75	5	15	65
2015	15	30	60	0	0	35	35	45	75	0	10	60
2016	15	25	55	0	0	30	35	40	75	0	5	60
2017	15	20	55	0	0	25	30	40	70	0	5	55
2018	15	15	50	0	0	20	30	40	70	0	5	50
2019	15	15	50	0	0	15	30	40	70	0	0	50
2020	15	15	45	0	0	10	30	35	65	0	0	45
2021	15	15	40	0	0	5	30	35	65	0	0	45
2022+	15	15	40	0	0	5	30	30	65	0	0	40

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS

EXHIBIT 2D(i): RETIRE SELF-PAY ASSUMPTIONS – MTS / TROLLEY (CONTINUED)

PLAN YEAR BEG. JULY 1,	PERS CARE Retiree Self-Pay Percentage						PERS CARE Spouse Self-Pay Percentage					
	Non-Medicare Ages			Medicare Ages			Non-Medicare Ages			Medicare Ages		
	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union	MTS	Trolley Mngmt	Trolley Union
2007	70%	75%	90%	45%	50%	85%	80%	75%	95%	60%	50%	90%
2008	55	65	90	20	40	80	80	75	95	65	55	90
2009	45	55	85	0	20	70	80	75	90	65	55	80
2010	35	45	80	0	0	65	80	75	90	65	55	80
2011	25	40	80	0	0	60	85	75	85	70	55	75
2012	20	30	75	0	0	55	85	75	85	70	55	75
2013	15	25	75	0	0	50	85	75	85	70	50	70
2014	10	20	75	0	0	50	85	75	85	70	50	70
2015	5	15	70	0	0	45	85	75	80	75	55	65
2016	0	15	70	0	0	40	85	75	80	70	55	65
2017	0	10	65	0	0	35	80	75	80	65	55	60
2018	0	5	65	0	0	30	80	80	80	60	60	60
2019	0	0	60	0	0	30	75	80	75	55	60	55
2020	0	0	60	0	0	25	75	80	75	55	60	55
2021	0	0	55	0	0	20	75	75	75	50	55	50
2022+	0	0	55	0	0	15	75	75	75	50	55	50

ACTUARIAL VALUATION OF POSTRETIREMENT WELFARE BENEFITS UNDER GASB 43/45

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SECTION II ACTUARIAL ASSUMPTIONS AND METHODS EXHIBIT 2D(ii): RETIRE SELF-PAY ASSUMPTIONS – TRANSIT MANAGEMENT

Retiree family self-pays are generally expressed as a percentage of COBRA premium, where such premium was \$5,147 per person per year within 2007/2008 and was assumed to increase at the same rate as medical trend for this valuation. The table of self-pay percentages changed from age-based to age- and-service-based effective July 1, 2008, as indicated below. Before July 1, 2008, the exception was that employees who retired prior to July 1, 2003 first paid 75% of COBRA rates while under age 65, then paid the stop-loss rates thereafter. That exception does not exist after July 1, 2008.

	Years of Service	Self-Pay as a Percentage of COBRA Premium				
		Retiree or Survivor of Under Age 55	Retiree or Survivor of Ages 55 to 59	Retiree or Survivor of Ages 60 to 64	Retiree of Age 65+ with Spouse of Age 65+	Retiree of Age 65+ with Spouse of Under Age 65
Prior to July 1, 2008	any	75.0%	50.0%	40.0%	25.0%	25.0%
Beginning July 1, 2008 for Retiree or Survivor	5 to 9	85.0	60.0	55.0	37.5	37.5
	10 to 14	85.0	60.0	55.0	37.5	37.5
	15 to 19	80.0	57.5	52.5	35.0	35.0
	20 to 24	75.0	55.0	50.0	35.0	35.0
	25 to 29	70.0	52.5	47.5	30.0	30.0
	30+	60.0	50.0	45.0	30.0	30.0
Beginning July 1, 2008 for Spouse	5 to 9	85.0	70.0	65.0	42.5	62.5
	10 to 14	85.0	70.0	65.0	42.5	62.5
	15 to 19	80.0	62.5	57.5	40.0	57.5
	20 to 24	75.0	55.0	50.0	40.0	52.5
	25 to 29	70.0	47.5	42.5	35.0	47.5
	30+	60.0	40.0	35.0	35.0	42.5

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
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**SECTION II ACTUARIAL ASSUMPTIONS AND METHODS
EXHIBIT 2D(iii): RETIRE SELF-PAY ASSUMPTIONS – TRANSIT UNION**

Retiree dental selfpays are calculated as a percentage of premium: 100% for non-Medicare and 50% for Medicare ages. Retiree medical self-pays are initially calculated every March first as the same percentages of tiered Kaiser retiree premium plus projected administrative cost, but are then capped by the *family composite* active Kaiser premium plus administrative cost. This sort of capping method results in a significant extra subsidy for dependents of non-Medicare retirees (i.e., it reduces the two-party non-Medicare medical self-pay from 100% to about 65% of costs). For this valuation we mixed the actual self-pays effective March 1, 2007 and March 1, 2008 to produce the annual 2007/2008 rates below, then projected those at the same increase rate as assumed benefit trend.

Retiree	Spouse	Local 465 Self-Pay in 2007/2008 (Kaiser only)	Local 1309 Self-Pay in 2007/2008		
			Kaiser	Indemnity Dental	Prepaid Dental
Non-Medicare	None Non-Medicare Medicare	\$ 5,332	\$ 6,002	\$ 519	\$ 233
Non-Medicare		7,884	7,572	519	233
Non-Medicare		6,616	7,230	519	233
Medicare	None Non-Medicare Medicare	1,468	1,348	\$ 260	\$ 117
Medicare		6,616	7,230	260	117
Medicare		2,752	9,810	260	117

SAN DIEGO METROPOLITAN
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ACTUARIAL VALUATION OF
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AS OF JUNE 30, 2007

SECTION III SUMMARY OF PARTICIPANT DATA

DISTRIBUTION OF ACTIVE PARTICIPANTS BY EMPLOYEE GROUP AND AGE AT JUNE 30, 2006¹

AGE GROUP	MTS / TROLLEY		TRANSIT MNGMT	TRANSIT UNION		ALL GROUPS
	MTS ²	TROLLEY MNGMT		LOCAL 465	LOCAL 1309	
					SUBTOTAL	
Under 20	0	0	0	3	0	3
20 - 24	2	1	0	7	6	13
25 - 29	18	2	1	8	13	21
30 - 34	15	5	3	12	24	36
35 - 39	15	12	7	11	44	55
40 - 44	7	13	8	21	63	84
45 - 49	15	19	19	36	87	123
50 - 54	18	16	23	26	109	135
55 - 59	12	8	15	27	94	121
60 - 64	3	9	3	14	38	52
65 - 69	2	1	0	3	5	8
70 & Over	0	0	0	0	0	0
Total	107	86	79	168	483	651
Average Age	42.7	47.3	49.2	46.6	48.9	48.3
Average Service Years	3.2	13.8	15.2	14.8	12.4	13.0
						10.9

¹ All census data was captured as of December 31, 2007, but the 58 actives hired within June to December 2007 were excluded from the valuation and from the counts above.

² See the first bullet of item 1 in Section V for information on the 165 MTS/Trolley actives who are currently waiving health coverage.

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ACTUARIAL VALUATION OF
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AS OF JUNE 30, 2007

SECTION III SUMMARY OF PARTICIPANT DATA (CONTINUED)

DISTRIBUTION OF CURRENT RETIREES BY EMPLOYEE GROUP AND AGE AT JUNE 30, 2006

AGE GROUP	MTS / TROLLEY		TRANSIT MNGMT ¹	TRANSIT UNION			ALL GROUPS
	MTS	TROLLEY MNGMT		LOCAL 465	LOCAL 1309	SUBTOTAL	
Under 50	0	0	0	0	0	0	1
50 - 54	2	0	0	0	2	2	4
55 - 59	0	4	16	1	20	21	42
60 - 64	2	4	15	0	24	24	48
65 - 69	1	3	9	2	29	31	44
70 - 74	2	0	4	3	27	30	36
75 - 79	1	0	3	3	8	11	15
80 & Over	0	0	6	4	18	22	28
Total	8	11	53	13	128	141	218

¹ Included with the Transit Management retiree count are three surviving spouses of deceased retirees.

ACTUARIAL VALUATION OF
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SECTION IV SUMMARY OF PRINCIPAL PLAN PROVISIONS
(i) MTS / TROLLEY

Retiree welfare eligibility requires receipt of pension payments from the California Public Employees' Retirement System (CalPERS), which itself requires at least age 50 (or disabled at any age) with at least 5 years of service. Employees must also have been eligible for active health coverage (by having six months of service) just prior to retirement, but actual active coverage or full-time status is not necessary.

The specific benefits available to retirees are three HMO's and three PPO's offered through the Public Employees' Medical and Hospital Care Act (PEMHCA). Coverage is for life, contingent on continued self-pays as described in Exhibit 2D(i).

Covered dependents of eligible retirees include legal spouses, domestic partners, unmarried children up until age 23, and older children who are wholly dependent on the retiree and incapable of self-support because of a mental or physical incapacity that existed prior to age 23. Surviving dependents of deceased retirees are covered for life, contingent on continued self-payments and regardless of pension form election. Surviving dependents of deceased actives have no benefits beyond COBRA.

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
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**SECTION IV SUMMARY OF PRINCIPAL PLAN PROVISIONS
(i) MTS / TROLLEY (CONTINUED)**

Non-Medicare Retiree HMO/PPO Plan Descriptions

	Kaiser HMO	Blue Shield HMO ¹	PERS Choice PPO ¹	PERS Care PPO
Calendar Year Deductible	none	none	\$500 / person, \$1000 / family	\$500 / person, \$1000 / family
Annual Out-of-Pocket Maximum (excluding drugs)	\$1500 per person, \$3000 per family	\$1500 per person, \$3000 per family	PPO: \$3000/pers or \$6000/fam, Non-PPO: none	PPO: \$2000/pers or \$4000/fam, Non-PPO: none
Lifetime Maximum	none	none	\$2 million per person	none
Hospital – Inpatient	fully covered	fully covered	80% PPO / 60% non-PPO covered	90/60% covered after \$250 deduct
Hospital – Outpatient	full after \$15 copay	fully covered	80/60% covered	80/60% covered
Physician Office Visits	full after \$15 copay	full after \$15 copay	PPO: full after \$20 copay, non-PPO: 60%	PPO: full after \$20 copay, non-PPO: 60%
Prescription Drugs – Retail	full after \$5/15 copay, 100-day limit	full after \$5/15/45 copay, 30-day limit	full after \$5/15/45 copay, 30-day limit	full after \$5/15/45 copay, 30-day limit
Prescription Drugs – Mail Order	full after \$5/15 copay, 100-day limit	full after \$10/25/75 copay, 90-day limit	full after \$10/25/75 copay, 90-day limit	full after \$10/25/75 copay, 90-day limit
Mental Health / Substance Abuse – Inpatient	fully covered	fully covered	80/60% covered up to 20 days/year	90/60% covered up to 30 days/year
Mental Health / Substance Abuse – Outpatient	full after copay of \$15 for indiv, \$7 MH or \$5 SA for group	full after \$20 MH or \$15 SA copay, up to 20 visits/year	80/60% covered up to 24 visits/year	90/60% covered up to 30 visits/year
MH/SA – Lifetime Maximum	none	none	\$12k on SA only	\$12k on SA only

¹ The Blue Shield "Access Plus" benefits shown are the same as for Blue Shield "Net Value". Likewise, the PERS Choice benefits shown are the same as for PERS Select.

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**SECTION IV SUMMARY OF PRINCIPAL PLAN PROVISIONS
(i) MTS / TROLLEY (CONTINUED)**

Medicare Retiree HMO/PPO Plan Descriptions

	Kaiser HMO	Blue Shield HMO¹	PERS Choice PPO¹	PERS Care PPO
Deductible & Lifetime Max	none	none	none	none
Annual Out-of-Pocket Maximum (excluding drugs)	\$1500 per person, \$3000 per family	none	none	none
Hospital	full except for \$10 outpatient copay	fully covered	fully covered	fully covered
Physician Office Visits	full after \$10 copay	full after \$10 copay	fully covered	fully covered
Prescription Drugs	(same as non-Medicare)	(same as non-Medicare)	(same as non-Medicare)	(same as non-Medicare)
MH/SA -- Inpatient	fully covered	fully covered	fully covered	fully covered
Mental Health / Substance Abuse -- Outpatient	full after copay of \$10 for individual or \$5 for group	full after \$20 MH or \$10 SA copay, up to 20 visits/year	fully covered	fully covered
Chiropractic	full after \$10 copay, up to 20 visits/year	full after \$10 copay	fully covered	fully covered
Hearing Aids (every 3 yrs)	100% up to \$1000	100% up to \$1000	80% covered	80% covered
Vision -- exam	full after \$10 copay	full after \$10 copay	100% up to \$35	100% up to \$35
Vision -- lenses & glasses	100% up to \$175 every 2 years	not covered	100% up to various limits	100% up to various limits

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¹ The Blue Shield "Access Plus" benefits shown are the same as for Blue Shield "Net Value". Likewise, the PERS Choice benefits shown are the same as for PERS Select.

ACTUARIAL VALUATION OF
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SECTION IV SUMMARY OF PRINCIPAL PLAN PROVISIONS
(ii) TRANSIT MANAGEMENT

Retiree welfare **eligibility** requires receipt of pension payments from the Retirement Plans of San Diego Transit Corporation, which itself requires at least age 53 (or disabled at any age) with at least 5 years of service. Employees must also have had full-time active health coverage just prior to retirement.

The specific **benefits** available to retirees are indemnity medical, drug, dental, and vision. Coverage for all benefit types is for life, contingent on continued self-pays as described in Exhibit 2D(ii).

Covered dependents of eligible retirees include legal spouses, domestic partners, unmarried children up until age 19, older children who are wholly dependent on the retiree and incapable of self-support because of a mental or physical incapacity that existed prior to age 19, and full-time student children up until age 25. Surviving dependents of deceased retirees are covered for life, contingent on continued self-payments and regardless of pension form election. Surviving dependents of deceased actives have no benefits beyond COBRA.

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
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**SECTION IV SUMMARY OF PRINCIPAL PLAN PROVISIONS
(ii) TRANSIT MANAGEMENT (CONTINUED)**

Retiree Benefit Plan Descriptions

	Medical/Drug
Deductible	\$250 per person or \$450 per family, per calendar year (not applicable to prescription drugs)
Out-of-Pocket Maximum	\$1200 per person or \$3000 per family, per calendar year
Lifetime Maximum	\$2 million per person
Plan Coinsurance	90% PPO, 70% non-PPO, except as follows:
Hospital	100% PPO, 70% non-PPO
Hearing Aids	80% up to \$1500 every five years
Chiropractic	90% PPO, 70% non-PPO, up to \$2000 per person per year
Mental Health	80% PPO, 60% non-PPO, up to 14 inpatient days and 26 outpatient visits per year
Prescription Drugs	100% after copay of \$8/15/24 retail (34-day limit), \$16/30/48 mail-order (90-day limit)

	Dental	Vision
Deductible	\$50 per person or \$150 per family (not applicable to preventative or orthodontia), per calendar year	None
Annual Maximum	\$2000 per person (except that Orthodontia has a Lifetime Maximum of \$2000 per person)	None
Plan Coinsurance	100% for preventative and diagnostic, otherwise as follows: Basic Restorative: 90% for panel provider, 80% other Major Restorative: 65% for panel provider, 60% other Orthodontia: 60% for panel provider, 50% other	100% up to the following annual limits: Exam: \$75 Frames: \$120 Lenses: \$60/\$75/\$100 for regular, \$200 for contacts

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SECTION IV SUMMARY OF PRINCIPAL PLAN PROVISIONS
(iii) TRANSIT UNION

Retiree welfare **eligibility** requires receipt of pension payments from the Retirement Plans of San Diego Transit Corporation, which itself requires at least age 55 (or disabled at any age) with at least 5 years of service. Employees must also have had full-time active health coverage just prior to retirement.

The specific **benefits** available to retirees are Kaiser HMO and an optional DHS dental benefit (indemnity or prepaid). Coverage for all benefit types is for life, contingent on continued self-pays as described in Exhibit 2D(iii).

Covered **dependents** of eligible retirees include legal spouses, domestic partners, unmarried children up until age 19, older children who are wholly dependent on the retiree and incapable of self-support because of a mental or physical incapacity that existed prior to age 19, and full-time student children up until age 23. Surviving dependents of deceased retirees or deceased actives have no benefits beyond COBRA.

**ACTUARIAL VALUATION OF
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AS OF JUNE 30, 2007

**SECTION IV SUMMARY OF PRINCIPAL PLAN PROVISIONS
(iii) TRANSIT UNION (CONTINUED)**

Retiree Benefit Plan Descriptions

Kaiser HMO	Local 465 – Non-Medicare	Local 465 – Medicare	Local 1309 – Non-Medicare	Local 1309 – Medicare
Deductible	none	none	none	none
Out-of-Pocket Maximum	varies by year	varies by year	varies by year	varies by year
Hospital	fully covered	fully covered	fully covered	fully covered
Physician Office Visits	full after \$15 copay	full after \$10 copay	full after \$20 copay	full after \$10 copay
Prescription Drugs	full after \$10/20 copay	full after \$10/10 copay	full after \$10/25 copay	full after \$10/20 copay
Mental Health – Inpatient	fully covered	fully covered	fully covered	fully covered
Mental Health – O/P	full after \$10 copay	full after \$10 copay	full after \$20 copay	full after \$10 copay
Substance Abuse	full after copay of \$10 for individual or \$5 for group	full after \$10 copay	full after copay of \$20 for individual or \$5 for group	full after \$10 copay
Vision (exam only)	full after \$10 copay	full after \$10 copay	full after \$20 copay	full after \$10 copay

DHS Dental	PPO Plan	Prepaid Plan
Deductible per cal year	\$50 / person or \$150 / family (n/a to preventative and ortho)	none
Annual Maximum	\$1000 per person (\$750 for Orthodontia)	varies by case and by adult versus child
Lifetime Maximum	none (except \$1500 for Orthodontia)	none (except \$500 for Periodontic)
Plan Coinsurance	100% for preventative and diagnostic, otherwise as follows:	100% for preventative and diagnostic, otherwise as follows:
Basic Restorative	90% for PPO, 70% for non-PPO	100% after certain copays
Major Restorative	60% for PPO, 40% for non-PPO	100% after certain copays
Orthodontia	50% for PPO, 50% for non-PPO	100% up to annual maximum

ACTUARIAL VALUATION OF
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AS OF JUNE 30, 2007

SECTION V NOTES TO AUDITOR

1. Included in the calculation are retirees in receipt of health benefits and active employees (who are potentially eligible for future retiree health benefits) with the following Agency subgroups:
 - **Metropolitlan Transit System (MTS)**, of which the two groups below are subsidiaries.
 - **San Diego Trolley Inc (SDTI)**, which is further split into Management versus Mechanics Union (IBEW Local 465). Since this group has the same benefit structure as MTS, we have combined them as "MTS/Trolley" for report exhibits. Note that Trolley Management is a closed group as of 2005, with all newly hired or promoted managers enrolled as MTS. Note that 165 (approximately 30%) of the active MTS/Trolley employees are currently declining health benefits. These participants were included in the valuation but with one-tenth the assumed future participation rate as other actives.
 - **San Diego Transit Corp (SDTC)**, which is further split into Management versus Mechanics Union (IBEW Local 465) versus Drivers Union (ATU Local 1309). Management here has a different benefit structure than Union, and so we have split the report exhibits between "Transit Management" and "Transit Union".
2. We used participant information furnished by the Agency and the Plan administrators. Data items were reviewed for reasonableness and consistency, but no audit was performed. Assumptions or estimates were made when data was not available. We are not aware of any errors or omissions in the data that would have a significant effect on the results presented. In particular, there were no participants reported with missing age or service information.
3. Our calculations were based on our understanding of the Plan from materials provided to us by the Agency and the Plan administrators.
4. We used claims experience, enrollment, and premium rate information provided by the Agency and the Plan administrators to perform the following analysis of per-capita costs.
 - For MTS/Trolley we used the actual PEMHCA rates effective January first of 2007, 2008, and 2009.
 - Transit Management costs and expenses were based on combined active/retiree experience for the three years ending December 31, 2007 (or the 44 months ending March 31, 2008 for medical and drug). Annual per-capita incurred costs were trended to fiscal year 2007/2008 and combined by taking a weighted average. Retiree medical and drug

ACTUARIAL VALUATION OF POSTRETIREMENT WELFARE BENEFITS UNDER GASB 43/45

AS OF JUNE 30, 2007

SECTION V NOTES TO THE AUDITOR (CONTINUED)

costs within five-year age groups were then estimated by applying standard utilization factors, an assumed Medicare effect at age 65, and the census counts as of the measurement date. The adult per-capita costs include a slight load to account for child dependent benefits.

For Transit Union we used the actual Kaiser and DHS rates effective March first of 2007 and 2008. Administrative expenses were based on combined active/retiree experience for the three years ending February 28, 2008. Annual per-capita expenses were trended to fiscal year 2007/2008 and combined by taking a weighted average.

5. Since MTS/Trolley medical benefits are provided through PEMHCA, we believe that this group's demographic characteristics do not materially affect the premium rate applied to all PEMHCA members. As such, we have not measured any implicit subsidies that may exist in the cost of covering MTS/Trolley non-Medicare retirees.

6. For MTS/Trolley participants, Plan subsidies of the PEMHCA premiums vary by employee subgroup, provider, and coverage tier. The subsidies for actives have been much higher than for retirees, but California Assembly Bill 2544 ("AB 2544") now requires that

retiree subsidies begin grading up to the active level, with active/retiree parity targeted for the twentieth year of PEMHCA participation: 2010 for MTS, 2019 for Trolley Management, and 2022 for Trolley Union. The only relief is that a given retiree monthly subsidy does not have to increase by more than \$100 per year.

We have assumed that MTS/Trolley complies with the AB 2544 increase schedule, resulting in a large set of projected retiree subsidy percentages that vary by provider, retiree versus spouse, non-Medicare versus Medicare age, and employee group. Many of these projections ultimately reach 100% of premium, and all are accompanied by increases in the assumed participation rate for future retirees, so that the aggregate increase in Plan benefit payments is dramatic. The following table shows MTS/Trolley GASB 45 items (in \$ millions) before and after reflection of AB 2544.

	Discount rate: AB 2544 effects:	4.50%		4.50%		7.75%		7.75%	
		before	after	before	after	before	after	before	after
APVB at June 30, 2007		\$ 12.6	\$ 40.5	\$ 12.6	\$ 40.5	\$ 6.3	\$ 18.8	\$ 6.3	\$ 18.8
AAL at June 30, 2007		7.7	23.7	7.7	23.7	4.3	12.5	4.3	12.5
Normal Cost for 2007/2008		0.7	2.1	0.7	2.1	0.3	1.0	0.3	1.0
ARC for 2007/2008		1.0	3.1	1.0	3.1	0.6	1.7	0.6	1.7

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
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AS OF JUNE 30, 2007

SECTION V NOTES TO THE AUDITOR (CONTINUED)

7. The California Employees' Retiree Benefit Trust (CERBT) is an IRC Section 115 trust maintained by CalPERS as a retiree welfare prefunding vehicle for any California public sector employer. Actuarial valuations to determine CERBT contributions must comply with the following CERBT-mandated assumptions and methods, and we have complied with all of them for the alternative ("7.75% discount rate") disclosures within this valuation.
- The AAL cost method must be **Entry Age Normal**. This is the GASB-allowed method that has been most often employed for public sector pension valuations.
 - The discount rate must be **7.75%**, which is the expected long-term rate of return on CERBT assets.
 - The UAAL amortization component of ARC must be calculated as a **level percent of pay** using an assumed compensation increase rate of no higher than **3.25%**.
 - The actuarial value of assets must be fourteen-fifteenths of expected value plus one-fifteenth of market value (but always within 20% of market value). This assumption will not apply until the Agency actually accumulates some CERBT assets.
8. The Plan's OPEB liability for other than postretirement welfare benefits (e.g., the COBRA liability) was determined to be de minimis.
9. We are not aware of any significant events subsequent to the valuation date that could materially affect the results presented.

ACTUARIAL VALUATION OF
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AS OF JUNE 30, 2007

APPENDIX A ACCOUNTING REQUIREMENTS

Transition to GASB 43/45

Previously (under GASB 12 and 26), public sponsors were only required to disclose the existence of any postretirement welfare benefit plans. No liability disclosure was needed unless they were already including such in their financial statements. This is now superseded by two related statements: GASB 43 (released in April 2004) applies to a funded plan's financial statement, while GASB 45 (released in August 2004) applies to a sponsoring employer's financial statement. The new rule requires an actuarial valuation of dedicated assets, liability, annual cost, and accrual status. Valuations may be performed every other year, except that annual valuations are required if there are any significant amendments or demographic shifts. This is similar to current public pension rules (GASB 25 for plans and GASB 27 for employers), except there's no minimum required funding. The biggest impact will therefore be on bond ratings.

The first year that a sponsoring employer's financial statement must comply with GASB 45 depends on the sponsor's annual revenue: first fiscal year beginning on or after December 15, 2006 if there is at least \$100 million in annual revenue (Phase 1), December 15, 2007 if there is \$10 million to \$99 million in annual revenue (Phase 2), or December 15, 2008 if there is less than \$10 million in annual revenue (Phase 3).

If the plan has a dedicated trust fund then its financial statement must comply with GASB 43 by one year prior to that described above for GASB 45, and in any case GASB 45 must be adopted by one year after the plan complies with GASB 43. Phase 1 sponsors with non-calendar fiscal years must therefore adopt GASB 45 by 2007/2008, but of course early compliance is encouraged.

The table on the next page shows that GASB 43/45 has greater flexibility than FASB 106 (allowing more cost methods and amortization periods) but results in the same or greater accrued liability. The discount rate assumption is long-term (a high trust rate if funded or low sponsor general asset rate if unfunded), so it won't need to be changed every year as for corporate or multiemployer calculations. There are also two favorable considerations given to small plans: those with less than 200 members may disclose only every three years, and those with less than 100 members may use simplified assumptions and methods. Note that the final GASB statements eliminated any exception in the case where retirees self-pay 100% of a mixed active/retiree premium. That is, GASB 43/45 disclosures must account for any implicit subsidy of the retirees by the actives.

**ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45**

AS OF JUNE 30, 2007

APPENDIX A ACCOUNTING REQUIREMENTS (CONTINUED)

Sector Comparisons of OPEB Accounting Terminology and Methods

	Corporate (FASB 106)	Multiemployer (SOP 92-6)	Public (GASB 43/45)
Accrued Liability	APBO (Accumulated Postretirement Benefit Obligation) = portion of each participant's APVB (Actuarial Present Value of Benefits) attributed to their service-to-date.	Benefit Obligation = same as APBO.	AAL (Actuarial Accrued Liability) = same as APBO. The excess of this over assets is the UAAL (Unfunded AAL).
Annual Cost	NPPBC (Net Periodic Postretirement Benefit Cost) = Normal Cost (portion of each participant's APVB attributed to their current service year), less the asset return, plus amortizations of initial unfunded liability and subsequent liability changes.	Not applicable.	ARC (Annual Required Contribution) = Normal Cost plus amortization of UAAL. <i>Note that despite the name, there is no requirement to actually contribute this or any other amount.</i>
Accrual Status	APBC (Accrued Postretirement Benefit Cost) = cumulative excess of prior NPPBC over benefit payments & contributions.	Not applicable.	NOO (Net OPEB Obligation) = same as APBC.
Allowable Cost Methods (for attributing APVB to service years)	Modified PUC (Projected Unit Credit) = uniform allocation from hire to date of full eligibility for benefits. Note that regular PUC allocates over a longer period: from hire to expected termination age.	Modified PUC.	From slowest to fastest funding (lowest to highest liability): PUC (modified or not), Aggregate, Frozen Attained Age, Frozen Entry Age, Attained Age, and Entry Age.
Allowable Amortization Methods and Periods	Level dollar method, generally over average future service years (or average future lifetime if mostly inactive). Immediate recognition allowed in certain circumstances.	Not applicable.	Level dollar or level percentage of pay method, over any period under 30 years (but minimum 10 years if there's a decrease due to new cost or asset value method).

ACTUARIAL VALUATION OF
POSTRETIREMENT WELFARE BENEFITS
UNDER GASB 43/45

AS OF JUNE 30, 2007

APPENDIX A ACCOUNTING REQUIREMENTS (CONTINUED)

Specific GASB 43 Requirements

The objective of this statement is to establish a uniform standard of measurement and financial reporting for postretirement welfare benefit plans (also known as Other Postemployment Benefit or OPEB plans) of governmental entities. The financial statement of a defined benefit OPEB plan of a governmental entity must include a reconciliation of net plan assets from beginning to end of the last plan year (with an asset breakdown shown at each point). The financial statement notes must then include the following:

- General description of benefit plan provisions, accounting methods, and any funding or reserve policy. Also needed here is a description of the covered group and the participant count as of the last valuation date.
- Summary of actuarial assumptions and methods, including discount rate, compensation increase rate, health trend rates, asset valuation method, actuarial cost method, and any amortization methods and periods.
- **Actuarial Accrued Liability (AAL)** as of the latest valuation date, noting the percentage of AAL covered by assets (the Funded Ratio) and the ratio of unfunded AAL to payroll.

- **Schedule of Funding Progress**, showing all elements of the previous bullet as of the latest valuation date, second most recent valuation date (if any), and third most recent valuation date (if any). As noted above, in most cases there will be valuations done every other year, so that this schedule will likewise show amounts for every other year.

- **Schedule of Employer Contributions**, showing the Annual Required Contribution (ARC) and the percentage of such amount that was actually contributed by the employer for the plan year of the financial statement and for every year back to that following the third most recent valuation date. Note that while each valuation produces an ARC applicable to the year following the valuation date, for the purpose of this schedule, one can apply the same ARC for two years in a row (or three years in the case of less than 200 members) in order to get a continuous annual history of ARC and actual contribution amounts. This and the prior schedule are actually to be presented as "Required Supplementary Information" (RSI) after the end of the statement notes.

APPENDIX A ACCOUNTING REQUIREMENTS (CONTINUED)

Specific GASB 45 Requirements

The objective of this statement is to improve the "faithfulness and usefulness" of OPEB-related disclosures in the financial statements of governmental entities. The financial statement of a governmental entity must include, for each of its defined benefit OPEB plans, all of the GASB 43 disclosure items plus the following additional note disclosures:

- Reconciliation of **Net OPEB Obligation** (NOO) from beginning to end of the last fiscal year. This will show how the prior NOO is first decreased by benefit payments (if unfunded) and contributions (if funded), then increased by the Annual OPEB Cost (AOC). If the beginning-of-year NOO is zero, then the AOC is simply equal to the ARC as calculated for the Schedule of Employer Contributions. Otherwise the AOC equals ARC plus interest on the initial NOO less an amortization of the initial NOO.
- Up to a three-year historical summary of fiscal year AOC, the percentage of AOC actually contributed in the fiscal year, and NOO as of the end of the fiscal year.



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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 970.11

October 16, 2008

SUBJECT:

MTS: SEMIANNUAL SECURITY REPORT (JANUARY THROUGH JUNE 2008)

RECOMMENDATION:

That the Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

Statistics related to security incidents concerning the transit system are compiled by staff based on reports generated by security personnel and Code Compliance inspectors. This information is augmented by reports from local police authorities and is then compiled, summarized, and submitted to the Board of Directors on a midyear and year-end basis. The semiannual report covers the period from January 1, 2008, through June 30, 2008.

Department of Homeland Security Grant Funds

FY 2005. In concert with the U.S. Department of Homeland Security, project funds totaling \$1.3 million are being used for improving security of the Newton Street train yard. At the end of 2007, MTS applied for and was granted an extension to complete the physical security enhancements. Improvements include security fencing, closed-



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 Lamon Grove, City of National City, City of Poway, City of San Diego, City of Santee, and the County of San Diego.

circuit television (CCTV), spike strips, and access control. Completion is scheduled for December 2008.

FY 2006. In November of 2006, the Governor's Office of Homeland Security received approval from the U.S. Department of Homeland Security for funding under the FY 06 Infrastructure Protection Program. Consequently, MTS was awarded \$563,000 for the rail division and \$682,500 for the bus division. For rail, the projects include enhanced security at four stations - America Plaza, Imperial Transfer Station, Old Town Transit Center, and San Diego State University. Bus projects include additional security at two of the critical bus yards - Imperial Avenue Division and Kearny Mesa Division. MTS is contributing 25% in additional funds toward each award. This project will be complete by the end of 2008.

FY 2007 - Training. In May 2007, the Governor's Office of Homeland Security received approval from the U.S. Department of Homeland Security for funding under the FY 07 Transit Security Grant Program. A total of \$55,071 was awarded to MTS with a requirement that the funds be used for security training related to terrorist attacks against rail and bus. The time period for this grant extends to June 2010.

FY 2007. Under a separate grant application, MTS requested \$1,285,000 with matching funds from MTS of \$400,000, in order to expand and enhance an existing program of installing onboard CCTV. This is a multiphase project that will ultimately allow MTS to remotely view all CCTV systems at stations and onboard light rail vehicles and busses from the MTS Operations Control Center (OCC). The funds will be used to retrofit 44 existing onboard CCTV busses with wireless remote viewing capability and install CCTV and wireless remote access on 60 light rail vehicles. The Grant Award Notification (GAN) letter has been received, and plans are underway to create an internal project management team. This grant extends to June 2010.

FY 2008. In March of 2008, MTS applied for an additional \$1,500,000, with matching funds from MTS of \$500,000, to continue the onboard CCTV program. The request was granted and MTS awaits the official GAN letter. Further, in May of this year MTS was informed by the Department of Homeland Security that a limited amount of additional funds was available. Staff subsequently submitted another grant application for \$150,000, with matching funds from MTS of \$50,000, to equip the Civic Center trolley station with CCTV and additional security fencing in the A and C rail yards.

Proposition 1B (State of California). In June of this year, the State of California, through the State Office of Homeland Security, awarded MTS \$2,700,000 for security improvements. The funds are a result of bonds approved by the California voters to be used for public transportation enhancements including security. This grant expires in March 2011, and the monies will be used to equip ten trolley stations with CCTV and complete the installation of onboard CCTV on the bus fleet.

Training

Training is a dynamic process in the Transit System Security Department with ongoing classes, seminars, guest speakers, written directives, and other coaching media. In the first half of 2008, several significant training presentations were completed.

In February, the University of Tennessee, in concert with the Department of Homeland Security, presented a course called "Transit-Oriented Screening of Passengers by Observational Techniques" (TO SPOT). The goal of the course was to teach behavioral assessment skills to frontline transit workers and specifically security personnel who

have frequent contact with the riding public. Approximately 100 Code Compliance and security staff attended the 2-day session.

In April, an outside consultant presented a course called "Your Role as a Supervisor" to all Code Compliance regular and auxiliary supervisors. The primary goal of the class was to emphasize the important elements of being an effective supervisor in addition to the associated responsibilities.

Fare Evasion Rate – 1.50%

One hundred percent of passengers at randomly selected trolley stations and on trains passing through these stations were inspected for fare compliance.

During this reporting period, inspectors and officers contacted 99,731 passengers during 18 scheduled Special Enforcement Unit sweeps system wide. Of the passengers inspected, 1,500 passengers did not comply with the published fare structure. Statistics from these special fare evasion inspections indicate a fare evasion rate of only 1.50%.

Of the 1,500 who were not in fare compliance, 1,280 were issued citations and 220 were allowed to purchase an upgraded fare in order to meet compliance requirements. A total of \$456.00 in revenue was collected from patrons who were allowed to purchase or upgrade fares when found in noncompliance.

In addition to fare compliance, officers made arrests for quality-of-life violations, such as possession of alcohol and illegal substances.

Closed-Circuit Television (CCTV)

CCTV is a proven crime deterrent as well as a positive forensic tool in solving crimes and assisting law enforcement agencies. CCTV is presently functioning at 16 stations including:

1. 47th Street Station (5 cameras)
2. Fifth & C Street Station (8 cameras)
3. Alvarado Medical Center Station (5 cameras)
4. Amaya Drive Station (8 cameras)
5. Bayfront/E Street Station (10 cameras)
6. City College (6 cameras)
7. El Cajon Transit Center (2 cameras)
8. Euclid Avenue Station (8 cameras)
9. Fashion Valley Transit Center (5 cameras)
10. H Street Station (10 cameras)
11. Old Town Transit Center (12 cameras)
12. Palomar Street Station (8 cameras)
13. Qualcomm Stadium Station (16 cameras)
14. San Diego State University Transit Center (18 cameras)
15. San Ysidro Transit Center (19 cameras)
16. Spring Street Station (1 camera)

Most stations have a combination of fixed and pan-tilt-zoom (PTZ) cameras. The PTZ cameras have the capability of rotating to capture a wide-area view and can zoom/tilt to capture specific views. Fixed cameras are aimed at specific targets, such as platforms and heavily populated patron areas. All cameras record to a digital video recorder (DVR) and have the capability of retaining 15 days of recorded history. The Euclid

Avenue Station has a 30-day recording capacity. CCTV systems are viewed on monitors in the Operations Control Center that is staffed with security personnel during train-operating hours. San Diego State University is monitored on 24/7 basis at the on-campus security station.

During this reporting period, the A and C train yards came on-line with a new CCTV system consisting of 25 cameras, including two high-resolution cameras located at the north end of the train yard. This system was funded through Department of Homeland Security grants, and the total project will include other security enhancements scheduled to be completed by the end of 2008.

The entire CCTV system is widely used by MTS Transit Enforcement officers and various law enforcement agencies for evidentiary purposes. Some recent success stories include the following:

- In January, a security officer was assaulted by a patron at the SDSU Station. Video evidence resulted in the arrest of the suspect.
- Also in January, six subjects were arrested following the commission of robbery onboard a trolley near the Spring Street Station. Video evidence assisted La Mesa Police in the identification and subsequent arrest of the subjects.
- In February video footage shows three subjects breaking into a vehicle at the H Street Station. Chula Vista Police were called to the scene and arrested the perpetrators.
- In the same month, the theft of an iPod from a female patron was observed on video, and the suspect was later arrested by MTS security personnel.
- In April a robbery was committed. Seven subjects in the South Bay area were apprehended as a result of video identification supplied to law enforcement officers.

Outside Agency Collaborative Details

Resources were expended in the cleanup of transient camps on or near MTS property throughout this period. In collaboration with SANDAG and MTS, Transit Enforcement worked with police agencies to clean out camps of transients, trash, weapons, etc. Citations were issued for trespassing and illegal lodging and "No Trespassing" signs were posted.

Two Visual Intermodal Prevention and Response (VIPR) details were conducted this period during February and June. VIPR teams work with local security and law enforcement officials to supplement existing security resources, provide deterrent presence and detection capabilities, and introduce an element of unpredictability to disrupt potential terrorist planning activities.

Comprised of federal air marshals, surface transportation security inspectors, transportation security officers, behavior-detection officers, and explosives-detection canine teams, VIPR teams augment security at key transportation facilities in urban areas around the country.

Over the course of several months, the San Diego Police Narcotic's Unit worked a special detail in downtown San Diego. MTS provided free monthly passes so these officers could work undercover.

Copper Wire Thefts

The theft of copper wire from industrial users has reached epidemic proportions nationwide. Due to the easy access to exposed wire and the high scrap value (approximately \$2.00 per pound), MTS has been victimized on several occasions with the illegal removal of bond wire along the right-of-way. MTS security has been vigilant in its efforts to curtail the activity and in one notable case (which occurred in 2007), the perpetrator was caught in the act by an MTS undercover team and arrested. The prosecuting agency reported to MTS during this period that the defendant received a two-year prison sentence for the crime. This represents increased efforts by prosecuting organizations to vigorously pursue stiffer penalties in order to help reduce these crimes.

Canine Teams

In 2006, three explosive-detection canine teams were funded through a five-year Cooperative Agreement with the Transportation Security Administration (TSA). MTS currently deploys three teams.

Units responded to approximately 20 requests for searches of suspicious packages/objects during this period. Two units responded to a bomb threat received by the San Diego Sheriff's Department. MTS units assisted the San Diego Sheriff's in a search of a retail establishment.

Handlers continue to attend the quarterly bomb investigators meetings. These meetings are a fantastic opportunity for networking because of the widespread agency attendees and topics discussed are of great value. During this period, subjects discussed included Biotech Conference coverage, simulated explosives found in San Diego County, ordinance and device removal, newly developed chemical weapons, and training opportunities. A demonstration of a radio and video robotic system was presented in March.

One handler attended the annual International Association of Bomb Technicians and Investigators (IABTI) Conference in Kentucky in June. Michael Prendergast of TSA was in attendance and gave a class for the K9 teams on explosives contamination issues and improvised explosive device (IED) recognition. Other training included importance of K9 training records, K9/handler resumes, and working-dog fitness and nutrition. Dave Kontny, Senior Advisor National Canine Policy and Standards for Homeland Security, gave a presentation on Scientific Working Group on Dog and Orthogonal Detector Guidelines (SWGDOG.ORG), which is a forum aimed at addressing the broadly expressed need to improve the performance, reliability, and courtroom defensibility of detector dog teams. It is also charged with recommending best approaches to the use of detector dogs in conjunction with electronic-detection devices or so-called orthogonal detectors.

In addition to regularly scheduled internal training, MTS canine units partner with other agency's canine units for joint training on an ongoing basis. This period, MTS hosted training at the SDTI Stores Warehouse. In attendance were ICE/Customs, Harbor Police, and California Highway Patrol.

Also during this period, Harbor Police sponsored training at the cruise ship terminal on Harbor Drive. Over 20 K9 teams from 10 southern California agencies participated. The FBI provided odors for training that are not commonly available to these agencies.

In May, on behalf of MTS, Handler Parker and his K9 partner Grizwald attended the dedication ceremony of the San Diego County K9 Memorial at North County Humane Society & SPCA Dog Park in Oceanside for those canines killed in the line of duty.

Community Outreach

As a part of the Department's community relations effort, two canine teams presented the Operation Lifesaver Program to two groups at Palomar High School.

The first group of 30 students was from the Associated Student Body and was ages 15 to 19. The second group was comprised of about 20 students of the same age. Staff members from the MTS Marketing Department were also in attendance. A short presentation on trolley fares and facts was given, and bus and trolley schedules as well as safety brochures, pens, and bookmarks were provided. After explaining some basic bus and trolley safety information, the students were shown the "Don't Be that Kid" video.

Department representatives continue to regularly attend the Border Transportation Council and San Ysidro Community meetings to discuss relevant issues, such as criminal activity, enforcement strategies, gang activity, and other citizen concerns.

In May, representatives from a number of agencies attended the Bell Middle/Morse High Safe Passage meeting held at Morse High School.

Staff is involved with a variety of other cooperative-effort meetings including Binational Public Safety, South Bay Detectives, San Diego Police's Southern Division, and the Southern California Graffiti Task Force. These groups discuss common concerns including wildcatters, tips on completing vandalism reports for court, combating gang activity, resources, wrong-way entries into the U.S., copper theft, etc.

Swarm Enforcement

In order to maximize available resources in ways that afford the Department the most visibility to the riding public, the "Swarm" detail has continued on a limited basis. Operationally, Swarm is a rolling special enforcement unit with a specific purpose to enforce ordinances, monitor quality-of-life on trains and in stations, observe and report crimes (such as graffiti and vandalism), respond to patron complaints, and gather intelligence information relative to gang activity, potential problems, or any other conditions noted that may adversely affect the safe and secure operations throughout the system. This period, Swarm was affected by the implementation of the plainclothes details. Deep Blue Line (south) and shallow Orange Line have seen a diminished amount of crime due to this focus.

During the daily details in the months of January through June 2008, 259,236 patrons were contacted by Swarm units. There were a total of 2,221 persons in violation of MTS ordinances, and 1,675 were issued citations. Of the citations, 1,467 were for fare evasion. Including fare evasion citations and warnings, a .76% fare evasion rate was witnessed by this unit during the six-month period.

Transit Enforcement personnel were involved in nearly 3,200 additional contacts this period resulting in 1,700 arrests including smoking, alcoholic beverages, disregarding notices, render facility dangerous, jaywalking, skateboarding, warrants, false information, etc.

Board authority was received last fall to enforce California Vehicle Code 5204(a), failure to display current month and year tabs, and over 400 citations were issued to vehicles parked on MTS property during this period. Further, over 250 citations were issued for other vehicle code violations.

San Diego Trolley Inc.

San Diego Trolley, Inc. experienced 1,339 Part II arrests and 117 reports of Part I incidents during the first half of 2008. In the first six months of 2007, there were 945 Part II arrests and 79 reports of Part I incidents.

San Diego Transit Corporation

San Diego Transit Corporation experienced 58 Part II arrests and 8 reports of Part I incidents in the first six months of 2007. In the first half of 2008, there were 119 Part II arrests and 17 reports of Part I incidents.

Contract Transportation Services

MTS Contract Services experienced 17 Part II arrests and 1 report of Part I incidents for this period in 2007. In the same period in 2008, there were 33 Part II arrests and 8 reports of Part I incidents.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Bill Burke, 619.595.4947, Bill.Burke@sdmmts.com

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Attachments: A. Board FTA 405 Reports (January – June 2007 SDTI)
B. Board FTA 405 Reports (January - June 2008 SDTI)
C. Board FTA 405 Reports (January - June 2007 SDTC)
D. Board FTA 405 Reports (January - June 2008 SDTC)

<input type="checkbox"/> Form not applicable NTD ID <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> Form 005 Included		BOARD 405 REPORT		Required from transit agencies serving UZAs of 200,000 or more population.	
				Mode <input type="text"/> <input type="text"/> Type of Service <input type="text"/> <input type="text"/>	
Based on the Uniform Crime Reporting Handbook					
Security Items		In Vehicle		In Station	
Other Transit Prop.					
Location SDTI					
Part I Offenses (Reports)					
Violent Crime	Inc Inv	Arrests			
Homicide	1	0			
			Patrons 0	0	1
			Employees 0	0	0
			Others 0	0	0
Forcible rape	0	0			
			Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Robbery	20	10			
			Patrons 7	12	1
			Employees 0	0	0
			Others 0	0	0
Aggravated assault	10	3			
			Patrons 3	1	1
			Employees 0	0	0
			Others 3	4	0
Property Crime	Inc Inv	Arrests			
Burglary	0	0			
			0	0	0
Larceny/theft	37	3			
			Patrons 2	7	16
			Employees 0	0	1
			Others 0	6	6
Motor vehicle theft	11	0			
			Patrons 0	1	10
			Employees 0	0	0
			Others 0	0	0
Arson	0	0			
			0	0	0
Part II Offenses (Arrests)					
	Inc Inv	Arrests			
Other assaults	43	34	8	24	2
Vandalism	210	77	20	46	11
Sex offenses	7	3	1	2	0
Drug abuse violations	199	191	15	159	17
Driving under the influence	1	1	0	0	1
Drunkenness	120	119	27	82	10
Disorderly conduct	433	401	96	290	15
Trespassing	87	71	0	7	64
Fare evasion	11,589	10,259	7,436	2,821	2
Curfew & loitering laws	51	48	0	42	6
Total Transit Property Damage			\$ 69,190.41		
Internal Use Only					
Report Run Date		Report Run Time		Reporting Period	
09/18/2008		09:45:13AM		01/01/2007 To 06/30/2007	

<input type="checkbox"/> Form not applicable NTD ID <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> Form 005 Included			BOARD 405 REPORT			Required from transit agencies serving UZAs of 200,000 or more population.		
						Mode <input type="text"/>		
						Type of Service <input type="text"/>		
Based on the Uniform Crime Reporting Handbook								
Security Items			In Vehicle		In Station		Other Transit Prop.	
Location SDTI								
Part I Offenses (Reports)								
Violent Crime			Inc Inv		Arrests			
Homicide			0		0			
Forcible rape			0		0			
Robbery			38		18			
Aggravated assault			6		3			
Property Crime			Inc Inv		Arrests			
Burglary			0		0			
Larceny/theft			59		6			
Motor vehicle theft			14		0			
Arson			0		0			
Part II Offenses (Arrests)								
			Inc Inv		Arrests			
Other assaults			84		54			
Vandalism			182		37			
Sex offenses			15		6			
Drug abuse violations			187		192			
Driving under the influence			7		7			
Drunkenness			149		140			
Disorderly conduct			462		429			
Trespassing			442		373			
Fare evasion			10,643		9,770			
Curfew & loitering laws			110		101			
Total Transit Property Damage								
					\$ 15,476.31			
Internal Use Only								
Report Run Date			Report Run Time			Reporting Period		
09/18/2008			09:40:16AM			01/01/2008 To 06/30/2008		

<input type="checkbox"/> Form not applicable NTD ID 		BOARD 405 REPORT		Required from transit agencies serving UZAs of 200,000 or more population.	
<input type="checkbox"/> Form 005 Included				Mode 	
Based on the Uniform Crime Reporting Handbook					
Security Items		In Vehicle		In Station	
Other Transit Prop.					
Location SDTC					
Part I Offenses (Reports)					
Violent Crime	Inc Inv	Arrests			
Homicide	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Forcible rape	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Robbery	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Aggravated assault	7	4			
			Patrons	1	5
			Employees	2	0
			Others	3	1
Property Crime	Inc Inv	Arrests			
Burglary	0	0			
Larceny/theft	1	0			
			Patrons	1	0
			Employees	0	0
			Others	0	0
Motor vehicle theft	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Arson	0	0			
Part II Offenses (Arrests)	Inc Inv	Arrests			
Other assaults	8	3	2	1	0
Vandalism	11	3	1	2	0
Sex offenses	2	0	0	0	0
Drug abuse violations	28	28	0	13	15
Driving under the influence	0	0	0	0	0
Drunkenness	18	17	6	9	2
Disorderly conduct	22	7	1	5	1
Trespassing	0	0	0	0	0
Fare evasion	9	3	2	1	0
Curfew & loitering laws	0	0	0	0	0
Total Transit Property Damage			\$ 431.44		
Internal Use Only					
Report Run Date		Report Run Time		Reporting Period	
09/18/2008		09:45:13AM		01/01/2007 To 06/30/2007	

<input type="checkbox"/> Form not applicable NTD ID 		BOARD 405 REPORT		Required from transit agencies serving UZAs of 200,000 or more population.	
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Security Items		In Vehicle		In Station	
Other Transit Prop.					
Location SDTC					
Part I Offenses (Reports)					
Violent Crime	Inc Inv	Arrests			
Homicide	1	0			
			Patrons	0	1
			Employees	0	0
			Others	0	0
Forcible rape	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Robbery	7	2			
			Patrons	2	4
			Employees	0	0
			Others	0	1
Aggravated assault	5	4			
			Patrons	1	1
			Employees	1	0
			Others	1	1
Property Crime	Inc Inv	Arrests			
Burglary	0	0			
Larceny/theft	4	0			
			Patrons	3	1
			Employees	0	0
			Others	0	0
Motor vehicle theft	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Arson	0	0			
				0	0
Part II Offenses (Arrests)					
	Inc Inv	Arrests			
Other assaults	24	2		1	1
Vandalism	18	5		3	2
Sex offenses	5	0		0	0
Drug abuse violations	14	14		0	7
Driving under the influence	2	2		0	2
Drunkenness	22	22		9	12
Disorderly conduct	105	70		5	61
Trespassing	2	1		0	0
Fare evasion	33	25		2	23
Curfew & loitering laws	4	3		0	1
Total Transit Property Damage				\$ 1,548.15	
Internal Use Only					
Report Run Date		Report Run Time		Reporting Period	
09/18/2008		09:40:16AM		01/01/2008 To 06/30/2008	



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Agenda

Item No. 62

Chief Executive Officer's Report

ADM 121.7 (PC 50101)

October 16, 2008

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 September 16, 2008, through September 29, 2008.

[gail.williams/agenda item 62](#)



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB 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.

CONTRACTS - EXPENSE

Doc #	Organization	Subject	Amount	Day
L7035.0-09	SANDAG	ROE PERMIT TO ALLOW USE OF SABRE SPRINGS	\$0.00	9/18/200
G1101.1-07	NEW FLYER OF AMERICA	POSTPONEMENT DELIVERY OF GE35LFR	\$0.00	9/25/200
L0091.1-91	CCRT PROPERTIES	AMENDMENT TO LANDSCAPING AGREEMENT	\$0.00	9/25/200
L0842.1-08	COMSEC INCORPORATED	OLD TOWN SURVEILLANCE SYSTEM PROJECT	\$870.32	9/25/200
L0852.0-09	JEAN ISAACS SAN DIEGO DANCE TH	ROE PERMIT FOR TROLLEY DANCE 2005	\$0.00	9/25/200
YCO112.0-08	DANIEL TIRE SERVICE	TIRE PROCUREMENT FOR COMMERCIAL VEHICLE	\$60,000.00	9/25/200
G1024.1-07	SAN DIEGO SYMPHONY	07-07 PARTNERSHIP AGREEMENT	\$25,000.00	9/29/200
G1067.1-07	MCDUGAL LOVE ECKIS SMITH BOEH	LEGAL SERVICES GENERAL & TORT LIABILITY	\$40,000.00	9/29/200

PURCHASE ORDERS

DATE	Organization	Subject	AMOUNT
9/25/2008	DELL COMPUTER CORP	LAPTOP LATITUDE D830	\$2,275.14
9/25/2008	THE PINNACLE GROUP	HP RX2660 HP UX 4 CORE	\$44,351.80
9/25/2008	BORDEAUX PRINTERS INC	SEPT 08 POCKET GUIDE-TROLLEY	\$4,580.45
9/25/2008	ONTIRA	MAINTENANCE & SUPPORT RENEWAL	\$10,965.25
9/25/2008	INSTA WIN/3 STRIKES ACTIVATION	COCA COLA PLASTIC BOTTLES CONTEST	\$4,393.00
9/25/2008	SOFTCHOICE CORPORATION	LIEBERT GXT2-6000RT208 WITH BATTERY	\$9,181.66
9/25/2008	SAN DIEGO DAILY TRANSCRIPT	1/4 PAGE COLOR AD IN GOING GREEN	\$2,037.75
9/25/2008	SAN DIEGO CONVENTION CENTER	DELEGATE GUIDE 2009 & 2010	\$22,000.00
9/25/2008	USD VISTA	1/4 PAGE, BLACK AND WHITE ADS	\$1,584.00
9/25/2008	SAN DIEGAN	FULL-PAGE COLOR ADS 2009 EDITION	\$5,800.00
9/25/2008	COAST GRAPHICS	EMPLOYEE PASS LABELS 2009	\$2,791.16
9/25/2008	GROSSMONT COLLEGE	1/4 PAGE BLACK AND WHITE ADS	\$4,320.00
9/25/2008	PHONE SUPPLEMENTS	H101N ENCORE HEADSET BINAURAL	\$743.48
9/25/2008	ROYAL WHOLESALE ELECTRIC	SOFTWARE LICENSE OEM RS LINKS PER	\$1,074.27

WORK ORDERS

Doc #	Organization	Subject	Amount	Day
G1127.0-08.03.03	BUREAU VERITAS	AMEND TO GES MTS BUS WASHER KMD	\$2,292.00	9/18/2008
G1127.0-08.17	BUREAU VERITAS/BERRYMAN & HENI	GE SVCS FOR THE AMERICA PLAZA CCTV	\$42,761.00	9/18/2008

CONTRACTS - REVENUE

Doc #	Organization	Subject	Amount	Day
G1183.1-08	NABI	CHANGE TO REBUILD REQ'S OF ALL 26 EA BUS	(\$51,743.70)	9/22/2008
S200-08-341	PACIFIC SOUTHWEST RAILWAY MUSEUM	AGREEMENT OPERATION OF PASS EXCURSION	% REVENUE/MONTH	9/22/2008
S200-08-366	CCRT PROPERTIES	LEASE FOR PARKING SPACES UNDER JACKSON	(\$35,000.00)	9/25/2008