Metropolitan Transit System

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07-07-06 11:09 IN

Agenda

Joint Meeting of the Board of Directors for
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

July 13, 2006

9:00 a.m.

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

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

		ACTION RECOMMENDED
1.	Roll Call	
2.	Approval of Minutes - June 22, 2006	Approve
3.	Public Comments - Limited to five speakers with three minutes per speaker. Others will be heard after Board Discussion items. If you have a report to present, please give your copies to the Clerk of the Board.	
4.	MTS Coca-Cola Scholarship Awards	

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. MTS: LRV Paint and Body Rehabilitation Services — Approve
Action would authorize the Chief Executive Officer (CEO) to issue Work Order Nos. 06-04 and 06-05 to MTS Doc. No. L0744.0-06 with Carlos Guzman, Inc. for painting/body rehabilitation on eight U2 light rail vehicles (LRVs) and extraordinary body work services on LRVs on an as-needed basis.

7. MTS: Increased Authorization for Legal Services — Approve
Action would authorize the CEO to enter into contract amendments with Mark Barber of the law firm Wismar & Barber for legal services and ratify prior amendments entered into under the CEO's and/or previous General Manager's authority(ies).

8. MTS: Closed-Circuit Television (CCTV) System Contract Award — Approve
Action would authorize the CEO to execute a Standard Services Agreement with Electro Specialty Systems, Inc. for furnishing, installing, commissioning, and providing one-year warranty support for the CCTV system at the Bayfront/E Street, H Street, and Palomar Street Stations.

9. MTS: Increased Authorization for Legal Services — Approve
Action would authorize the CEO to enter into a contract amendment (MTS Doc. No. G0934.4-04) with R. Martin Bohl of the Law Offices of R. Martin Bohl, for legal services related to joint development projects.

10. MTS: Americans with Disabilities Act (ADA) Paratransit Vehicle Paint Scheme — Approve
Action would approve the modified branding scheme for the new ADA paratransit vehicles and authorize reallocating the savings to amenities that would enhance service quality/efficiency.

CLOSED SESSION

24. a. MTS: Conference with Real Property Negotiators Pursuant to California Government Code Section 54956.8;
Property: Grossmont Center Trolley Station Parking Lot at the Intersection of Grossmont Center Drive and Fletcher Parkway;
Agency Negotiators: R. Martin Bohl, Paul Jablonski, Tim Allison, and Tiffany Lorenzen;
Negotiating Parties: Fairfield Residential, LLC, JP Morgan Chase Bank, and Mass Mutual;
Under Negotiation: Instructions to Negotiators will Include Price and Terms of Payment.

Oral Report of Final Actions Taken in Closed Session

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

30. MTS: Update on the Status of the Grossmont Trolley Station Joint Development Project — Approve

That the Board of Directors: (1) receive an update from the CEO regarding the status of the Grossmont Trolley Station Joint Development Project; and (2) ratify the Executive Committee's approval or authorization of the following documents: (a) authorize the CEO to execute the Disposition and Development Agreement (DDA) and Ground Lease, in substantially the same format as provided to the Board; (b) approve the appraisal report; and (c) authorize the CEO to execute and sign any other documents necessary to complete the transaction, including the lenders' Estoppel Certificate and the Parcel Map.

31. MTS: Contract Services Fixed-Route Procurement Award — Approve

Action would authorize the CEO to execute a contract (MTS Doc. No. B0453.0-07) with Veolia Transportation, Inc. for the provision of fixed-route bus services in East County, Chula Vista, and South Bay, and regional express services.

REPORT ITEMS

45. MTS: Comprehensive Annual Financial (CAFR) Report for FY 2004 — Receive

Action would receive a report for information.

46. MTS: May 2006 Monthly Performance Indicators — Receive

Action would receive a report for information.

60. Chairman's Report — Possible Action

61. Chief Executive Officer's Report — Information

62. Board Member Communications

63. Additional Public Comments Not on the Agenda — Possible Action

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.

64. Next Meeting Date: July 27, 2007 (Proposed cancellation)
August 10, 2006

65. Adjournment

Submitted by: _____

Remove On: _____

Return to Submitter: _____
OR (Pick One)
Retain in Posting File: _____

Submitted by: D. Bridge

Remove On: 7/13/06

Return to Submitter: G. Williams

OR (Pick One)

Retain in Posting File: _____

METROPOLITAN TRANSIT DEVELOPMENT BOARD
ROLL CALL

MEETING OF (DATE): 7/13/06 CALL TO ORDER (TIME): 9:05 a.m.

RECESS: _____ RECONVENE: _____

CLOSED SESSION: 9:27 a.m. RECONVENE: 9:41 a.m.

ORDINANCES ADOPTED: _____ ADJOURN: 10:27 a.m.

BOARD MEMBER		(Alternate)		PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ATKINS	☑	(Vacant)	☐	9:11 a.m. during AI 3	
CLABBY	☑	(Selby)	☐		
EMERY	☐	(Cafagna)	☐		☑
EWIN	☑	(Jantz)	☐		
FAULCONER	☑	(Vacant)	☐	9:11 a.m. during AI 3	
HANSON-COX	☐	(Lewis)	☐		☑
MAIENSCHEIN	☑	(Vacant)	☐		
MATHIS	☑	(Vacant)	☐		
MCLEAN	☐	(Janney) (Rose)	☐ ☐		☑
MONROE	☑	(Tierney)	☐		
RINDONE	☑	(McCann)	☐		
ROBERTS	☑	(Cox)	☐	9:10 a.m. during AI 3	
RYAN	☐	(B. Jones)	☑		
YOUNG	☑	(Vacant)	☐		
ZARATE	☑	(Parra)	☐		

SIGNED BY THE OFFICE OF THE CLERK OF THE BOARD Gail A. Williams

CONFIRMED BY OFFICE OF THE GENERAL COUNSEL

Gail.Williams/Roll Call Sheets

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

June 22, 2006

MTS
1255 Imperial Avenue, Suite 1000, San Diego

MINUTES

1. Roll Call

Chairman Mathis called the meeting to order at 9:07 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Ms. Atkins moved to approve the minutes of the June 8, 2006, Board of Directors meeting. Mr. Young seconded the motion, and the vote was 8 to 0 in favor.

3. Public Comment

Mark Perino: Mr. Perino explained that the rerouting of buses to Amaya Station, a temporary measure being implemented as part of the Grossmont Trolley Station Joint Development Project, is causing problems with noise and traffic congestion. He explained the physical characteristics of the area and the specific noise and traffic problems that are occurring. He stated that the station is too small to accommodate the number of buses being routed through the station. He also stated that no environmental impact study was done and the neighborhood was not notified of the changes. Mr. Perino requested that the Board do the following: 1) take any actions to reduce noise created by this situation; (2) permanently station a supervisor at this location to ensure that operators are following company policies; (3) ask planners to investigate alternatives that would reduce the impact of these issues; (4) investigate using the other half of Grossmont Station to alleviate problems created at Amaya Station; and (5) notify the community. He also requested that the station be moved off Amaya Court. Chairman Mathis requested that Mr. Perino submit his comments in writing.

Donna Erickson: Ms. Erickson provided the Board with a handout and then requested that the Board rescind its approval of the FY 2007 Performance Incentive Program that provides bonuses to MTS employees. She stated that, in light of the recent service changes made during the Comprehensive Operational Analysis (COA), this program should not be approved. She discussed the impacts of the service changes on bus patrons and asked the Board to stand up for MTS customers. She requested that the Board restore some of the service cuts made during the COA; specifically, Route No. 25 as well as Route No. 14 to the Grantville Trolley Station stop.

Don Stillwell: Mr. Stillwell provided Board members with a map showing the current routing of Route Nos. 13 and 14 and reported that he has been working with school children to ensure

they can safely access the new service as it is currently routed. He stated that he is also trying to get parents of these children to appear before the Board to make comments on this matter.

CONSENT ITEMS

6. MTS: Microsoft Licensing Renewal (CIP 11162)

Recommend that the Board of Directors authorize the Chief Executive Officer (CEO) to enter into a three-year service agreement contract with Softchoice Government to provide software licensing renewal and allow participation under an existing state contract with the County of Riverside and Microsoft Corporation.

7. SDTC: Automated Trip Itinerary System Upgrade (OPS 960.6, CIP 10940)

Recommend that the Board of Directors authorize the Chief Operating Officer-Bus to execute a sole-source contract with Trapeze Software Group for an upgrade to the MTS Automated Trip Itinerary System.

8. MTS: Towing Contract Award (OPS 960.6)

Recommend that the Board of Directors authorize the CEO to execute a contract (in substantially the same form at Attachment A of the agenda item) with A to Z Enterprises, Inc. (DBA RoadOne Towing) for towing services for a 3-year period and two 1-year options (to be exercised at MTS's discretion) at a total contract amount not to exceed $351,375.

9. MTS: Americans With Disabilities Act (ADA) Complementary Paratransit Client Certification Services Contract – Option Years (OPS 920.5, PC 30127)

Recommend that the Board of Directors authorize the CEO to exercise both option years 1 and 2 that are allowable under the current contract (MTS Document No. B0394.1-03) with the Orthopaedic Hospital for ADA client certification services. The extension of the option period would run from July 1, 2006, through June 30, 2008 (MTS Doc. No. B0394.2-03, Attachment A of the agenda item).

10. SDTC: Fire-Suppression System Contract Award (CIP 11080)

Recommend that the Board of Directors authorize the Chief Operating Officer-Bus to execute a sole-source contract (in substantially the same form as Attachment A) with Transit Marketing Group, Inc. to upgrade the existing Amerex fire-suppression systems on 24 of SDTC's 1995 New Flyer C40HF (1400 series) buses for an amount not to exceed $51,918.48.

11. MTS: Transportation Development Act/State Transit Assistance Claims (FIN 310, PC 50601)

Recommend that the Board of Directors adopt Resolution Nos. 06-7, 06-8, 06-9, and 06-10 (Attachments A through D of the agenda item) approving Fiscal Year 2007 Transportation Development Act and State Transit Assistance claims.

Recommended Consent Items

Mr. Ewin moved to approve Consent Agenda Items No. 6, 7, 8, 9, 10, and 11. Ms. Atkins seconded the motion, and the vote was 11 to 0 in favor.

CLOSED SESSION:

24. Closed Session Items (ADM 122)

The Board convened to Closed Session at 9:20 a.m.

a. MTS: Conference With Real Property Negotiators Pursuant to Government Code Section 54956.8
Property: Grossmont Center Trolley Station Parking Lot at the intersection of Grossmont Center Drive and Fletcher Parkway
Agency Negotiators: R. Martin Bohl, Paul Jablonski, Tim Allison, and Tiffany Lorenzen,
Negotiating Parties: Fairfield Residential, LLC, JP Morgan Chase Bank, and Mass Mutual
Under Negotiation: Instructions to Negotiators will Include Price and Terms of Payment

The Board reconvened to Open Session at 9:56 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 from General Counsel and gave direction to agency negotiators. The City of La Mesa representative was present for this item -- the City of La Mesa is not a party to this item; therefore, no conflict of interest exists.

NOTICED PUBLIC HEARINGS

25. There were no Noticed Public Hearings

DISCUSSION ITEMS

30. MTS: Auditing Services Contract Award (FIN 320, PC 50601)

Mr. Cliff Telfer, MTS Interim Chief Financial Officer, reviewed the particulars of this contract. He reported that the recommended firm, Caporicci & Larson, is the current auditor for both MTS and SANDAG. He stated that there are efficiencies that result from having one firm audit both organizations since many transactions affect both agencies. Ms. Atkins indicated that the City of San Diego may be involved in litigation with Caporicci & Larson and, therefore, city representatives should probably recuse themselves from the vote on this item. Mr. Rindone stated that the City of Chula Vista does business with Caporicci & Larson so he would prefer to abstain from voting on this item. Ms. Lorenzen stated that Mr. Rindone could vote because this is not a case where there is a conflict of interest, but that it was his option to vote or not.

Mr. Jablonski stated that MTS's FY 2004 audit would be completed by the end of the day. He stated that the completion of this audit will provide Caporicci & Larson with the numbers they need to complete the FY 2005 audit, which should be done in 2½ to 3 weeks. He added that the completion of these audits addresses all of the Transportation Development Act (TDA) issues that have resulted from the incompletion of the audits. He added that MTS has already started its FY 2006 audit, which should be done by the close of the calendar year. He stated that this will put MTS back on its regular schedule for the completion of audits and related reports, and MTS will once again be in compliance with audit standards.

Action Taken

Mr. Monroe moved to authorize the CEO to execute a five-year contract with 3 one-year options (MTS Doc. No. G1013.0-07), in substantially the same form as attached (Attachment A of the agenda item), in an amount not to exceed $2,718,197, with Caporicci & Larson for auditing services. This amount would be for eight years assuming the three options years are exercised. Ms. Jillian Hanson-Cox seconded the motion, and the vote was 7 to 0 in favor with Mr. Rindone, Ms. Atkins, Mr. Maienschein, and Mr. Young abstaining and recusing themselves.

31. MTS: Repeal MTS Policy Nos. 7, 11, and 13 and Enact a Consolidated Procurement Policy (ADM 110.2, PC 50121)

Ms. Tiffany Lorenzen, MTS General Counsel, briefly summarized why changes are being recommended for Policy Nos. 7, 11, and 13. She stated that approval of these policies will ensure that all procurements are standardized and filtered through a consolidated procurement department under the direction of Mr. Kent Tsubakihara, SDTC Manager of Procurement. She added that provisions of Senate Bill 959 that pertain to procurement have been incorporated into the new policy (No. 52) as well as applicable portions of Policy Nos. 7, 11, and 13. She provided highlights of changes that were made to certain provisions pertaining to approval levels, the use of informal procurements, and the use of negotiated procurements. She added that Policy No. 7 would be repealed in its entirety because all of its provisions are being absorbed by Policy No. 52. She added that the remainder of the provisions in Policy Nos. 11 and 13 will be retained and the policies renamed, Construction Claims and Contractor Debarment and Conflicts of Interest Regarding Service Contracts, respectively. Ms. Lorenzen advised the Board that these changes will significantly streamline the procurement process and ensure that MTS is complying with all related procurement regulations.

Mr. Monroe spoke in favor of using negotiated procurements so that both price and quality are considered. He stated that MTS should look at "total lowest cost" for each procurement, which would take quality and warranty issues into consideration. Ms. Lorenzen stated that MTS can use a negotiated procurement process for everything except construction contracts, which are governed by state law, which mandates that contracts be awarded to the lowest responsive, responsible bidder. Mr. Jablonski stated that this type of procurement has saved and will save MTS millions of dollars because MTS can negotiate the price of the contract.

Action Taken

Mr. Monroe moved to (1) receive a report from General Counsel regarding the proposed consolidated procurement policy and provide direction to staff; and (2) repeal MTS Policy No. 7; (3) repeal Sections 11.1 through 11.8 of Policy No. 11, revise the remainder of Policy No. 11,

and rename the policy; (4) repeal Sections 13.1 through 13.8 of Policy No. 13, revise the remainder of Policy No. 13, and rename the policy; (5) enact Policy No. 52; (6) authorize General Counsel to change the reference from "MTDB" to "MTS" in Policy Nos. 1 through 51; and (7) authorize General Counsel to change any references to Policy Nos. 7, 11, and 13 to Policy 52, where appropriate, in all other MTS policies. Mr. Cafagna seconded the motion, and the vote was 12 to 0 in favor.

32. MTS: Update on the Status of the Grossmont Trolley Station Joint Development Project (LEG 460, PC 50787)

Chairman Mathis reported that there is no new information to present on this item.

Action Taken

Mr. Rindone moved to continue this item to the July 6, 2006, Executive Committee meeting. Mr. Ewin seconded the motion, and the vote was 12 to 0 in favor.

REPORT ITEMS

45. MTS: Operations Budget Status Report for April 2006 (FIN 310, PC 50601)

Mr. Larry Marinesi, MTS Budget Manager, provided a financial review for fiscal year 2006 through April 2006. In response to a question from Mr. Cafagna regarding page A11 of the agenda item, Mr. Marinesi explained that the 78 percent variance ($25,000) is just for the administration portion of the budget.

Action Taken

Ms. Atkins moved to receive the MTS Operations Budget status Report for April 2006. Ms. Zarate seconded the motion, and the vote was 11 to 0 in favor.

46. MTS: New Disadvantaged Business Enterprise (DBE) Race-Neutral Program (LEG 430, PC 50121)

Ms. Tiffany Lorenzen advised Board members that a revised agenda item had been placed at the table prior to the start of the meeting. Ms. Traci Bergthold, MTS Contracts Specialist, reviewed recent legal actions that have occurred that prompted Caltrans to conclude that there was a lack of evidence to continue with a race-conscious DBE Program. She stated that Caltrans, therefore, ordered that all federally funded subrecipients implement a race-neutral program. Ms. Bergthold stated that bidders will no longer be required to meet a DBE goal on federally funded contracts. She added that MTS instead will set DBE availability advisory percentages. She stated that, under the new program, contractors cannot not be eliminated from consideration and award of a contract because they are unable to meet advisory percentages. She added that, instead, MTS will encourage contractors to meet DBE availability advisory percentages. She also stated that MTS will now be submitting to the Federal Transit Administration (FTA) an Annual Anticipated DBE Participation Level (AADPL) instead of DBE goals.

Mr. Young asked if contractors who are economically disadvantaged or emerging businesses and who were previously under the previous program would be eligible to participate in the new

program. Ms. Bergthold stated that they will still be eligible, and Mr. Tsubakihara reported that MTS will still continue its outreach efforts in this regard. In response to other questions from Mr. Young, Ms. Bergthold reported that MTS uses a DBE consultant, Teresa Gonzales-White, to develop realistic DBE goals for contracts, and MTS will continue to use her to develop advisory percentages instead. Mr. Tsubakihara added that Ms. Gonzales-White is provided with a scope of work for each contract MTS lets and she determines the availability of DBE firms for that contract. He added that she refers DBE firms to MTS based on the Caltrans list of certified DBE firms. The Board was also informed of other ways that MTS identifies potential DBE bidders for contracts, including internally maintained bidder lists. Mr. Young was advised that Ms. Gonzales-White will be developing MTS's "goals", and Ms. Bergthold will be tracking MTS's performance against those goals.

In response to a question from Mr. Young, Ms. Lorenzen stated that she would research if MTS can set its own goals based upon economic criteria. Ms. Lorenzen also advised Mr. Young that MTS has always met or exceeded its DBE goals. She agreed to provide Mr. Young with previous Board agenda items that report on MTS's performance in reaching its DBE goals.

Mr. Monroe suggested that MTS join economic development organizations in order to make contacts that could lead to the recruitment of new DBE firms. Mr. Tsubakihara stated that MTS is a member of the San Diego Supplier Council, which has monthly meetings where companies make presentations on contracting opportunities with their organizations. He stated that MTS meets many contractors who come to those meetings seeking information on contracts that are being bid.

In response to a question from Mr. Ewin about the availability of information on MTS's bidding opportunities, Ms. Lorenzen reported that this information is available from a number of sources, and she has never had a bidder indicate that they couldn't find information on MTS contract opportunities. She stated that she gets between two to four calls per month from people who want to be added to MTS's bidder list. Mr. Jablonski stated that MTS's web site will be going through redesign soon and contract opportunities can be added to the site.

Mr. Young stated that a grass-roots effort is needed to get contractors to go through the Caltrans process to get certified as a DBE.

Action Taken

Ms. Zarate moved to receive a report on the history and implications of the new DBE Race-Neutral Program (Attachment A of the agenda item). Ms. Atkins seconded the motion, and the vote was 11 to 0 in favor.

47. MTS: April 2006 Monthly Performance Indicators (OPS 920.1, 960.5, 970.5, PC 50451)

Ms. Anika Smart, Associate Transportation Planner, reviewed the operating environment, ridership, on-time performance, mean distance between failures, collision accidents, and customer complaints for the period ending April 2006.

Mr. Monroe referred to the chart on system ridership at the top of page two of the Power Point presentation and asked how system ridership could be down for bus, trolley, and contract services, but up in total. Ms. Smart stated that she would make the necessary correction to this

information. Ms. Smart pointed out that, according to the chart on the bottom of that same page, the opening of the Green Line had very little impact on ridership on the Orange Line.

Mr. Monroe also asked if there should be a correlation between mean distance between failures and on-time performance. Mr. Jablonski responded that there is no significant correlation. Mr. Jablonski also reported that on-time performance appears to have declined for MTS bus. He stated that this decline has resulted from the new method that SDTC is using to track on-time performance. He stated that on-time performance is now being tracked for every trip, every time, using automated-vehicle-locator (AVL) technology. He stated that SDTC is still in the process of refining how this data is used and provided an example of an express bus driving on the I-15 corridor that arrives downtown early and is counted by the AVL system as not being on time. He added that this system monitors hundreds of thousands of time points each day. He advised the Board that this system will be used to monitor on-time performance by route, by operator, etc., which makes it a tremendous management tool. He felt that, as time goes on, on-time performance will show improvement.

In response to a question from Ms. Hanson-Cox, Mr. Peter Tereschuck, SDTI President-General Manager, reported that special service was not provided to Cox Arena because SDTI has the capacity to handle ridership to the arena with existing service levels. In response to a question from Mr. Monroe, Mr. Tereschuck stated that SDTI is still carrying about 14 to 15 percent of the gate for Padres games, but game attendance is down to the high teens/low twenties.

Action Taken

Mr. Ewin moved to receive this report for information. Ms. Hanson-Cox seconded the motion, and the vote was 11 to 0 in favor.

60. Chairman's Report

There was no Chairman's Report.

61. Chief Executive Officer's Report

APTA Rail Conference in New York: Mr. Jablonski stated that he, Mr. Mathis, Peter Tereschuck, and Conan Cheung recently attended this conference, which was the first time that APTA combined light rail transit with commuter rail. He stated that there was a number of interesting sessions including sessions on vehicle design, including conversion from high floor to low floor. He added that Mr. Cheung was invited to make a presentation on his participation in the ENO Transportation Foundation Study Mission, and there were presentations on innovative financing. He added that Siemens held a users group meeting and there were a number of informative and interesting tours.

Women In Transportation (WTS): Mr. Jablonski advised the Board that MTS received Employer of the Year Award at the recent WTS Annual Meeting. He stated that the award recognizes MTS for its efforts as they relate to promoting women, minorities, and general diversity. He stated that Ms. Hanson-Cox was present to help receive the award. He added that Mr. Gallegos, SANDAG Executive Director, received an Award for Pursuit of Transportation Excellence.

Catenary Incident: Mr. Jablonski reported at a car recently knocked over a pole to which a catenary line was attached. He stated that SDTI has been running a single-track operation through that location since the accident. He added that normal service should be restored early next week. He stated that the concrete base for the pole has to be repoured.

62. Board Member Communications

Trolley Rides: Mr. Rindone reported that he was riding the trolley when this accident occurred, and he was impressed with how communication was handled by trolley staff. He stated that they did an excellent job of notifying passengers regarding the delay caused by the accident. He expressed concern, however, that he has not seen many security officers on the trains since he started riding more. He also stated that he has noticed an increase in the number of vendors who are selling things at trolley stations, and this should not be allowed to continue. He suggested that staff discuss this with trolley security officers to ensure they are effective in carrying out their duties.

63. Additional Public Comments on Items Not on the Agenda

There were no additional public comments.

64. Next Meeting Date

The next regularly scheduled Board meeting is Thursday, July 13, 2006, at 9:00 a.m. in the same location.

65. Adjournment

Chairman Mathis adjourned the meeting at 10:59 a.m.

Chairperson
San Diego Metropolitan Transit System
Filed by:

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

Approved as to form:

Office of the General Counsel
San Diego Metropolitan Transit System

Attachment: A. Roll Call Sheet

gail.williams/minutes

METROPOLITAN TRANSIT DEVELOPMENT BOARD
ROLL CALL

MEETING OF (DATE): 6/22/06 CALL TO ORDER (TIME): 9:07 a.m.

RECESS: _____ RECONVENE: _____

CLOSED SESSION: 9:20 a.m. RECONVENE: 9:56 a.m.

ORDINANCES ADOPTED: _____ ADJOURN: 10:59 a.m.

BOARD MEMBER		(Alternate)		PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ATKINS	☑	(Vacant)	☐		
CLABBY	☐	(Selby)	☐		☑
EMERY	☐	(Cafagna)	☑	10:02 a.m. during AI 31	
EWIN	☑	(Jantz)	☐		
FAULCONER	☐	(Vacant)	☐		☑
HANSON-COX	☑	(Lewis)	☐		
MAIENSCHEIN	☑	(Vacant)	☐		
MATHIS	☑	(Vacant)	☐		
MCLEAN	☑	(Janney) (Rose)	☐ ☐		
MONROE	☑	(Tierney)	☐		
RINDONE	☑	(McCann)	☐		
ROBERTS	☐	(Cox)	☐		☑
RYAN	☐	(B. Jones)	☑	9:08 a.m. during AI 3	
YOUNG	☑	(Vacant)	☐		
ZARATE	☑	(Parra)	☐	9:08 a.m. during AI 3	

SIGNED BY THE OFFICE OF THE CLERK OF THE BOARD Gail A Williams

CONFIRMED BY OFFICE OF THE GENERAL COUNSEL Jeffrey Stevenson

Gail.Williams/Roll Call Sheets

8:55

Metropolitan Transit System

AGENDA ITEM NO. 3

REQUEST TO SPEAK FORM

ORDER REQUEST RECEIVED 1

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

1. INSTRUCTIONS

This Request to Speak form must be filled out and submitted in advance of the discussion of your item to the Clerk of the Board (please attach your written statement to this form). Communications on hearings and agenda items are generally limited to three (3) minutes per person unless the Board authorizes additional time. However, the Chairperson may limit comment to one or two minutes each if there are multiple requests to speak on a particular item. General public comments on items not on the agenda are limited to three (3) minutes. Please be brief and to the point. No yielding of time is allowed. Subjects of previous Hearings or agenda items may not again be addressed under General Public Comments.

Date 7-13-06

Name (PLEASE PRINT) Donna J. ERICKSON

Address 1814 Coolidge St. SD 92111

Telephone 858-277-2169

Organization Represented (if any)

Subject of your remarks: Sharing what "the people" in LV think & bonus prog. / global warming suggestion

Agenda Item Number on which you request to speak

Your comments are presenting a position of: SUPPORT ☐ OPPOSITION ☐

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

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

3. DISCUSSION OF AGENDA ITEMS

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

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

Public comment on matters not on the agenda will be limited to five (5) speakers with three (3) minutes each, under the Public Comment Agenda Item. Additional speakers will be heard at the end of the Board's Agenda.

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

Follow These Easy Steps to Fight Global Warming!

1. Recycle and buy minimally packed goods as much as possible.
2. Wash clothes in cold or warm water, not hot.
3. Install low-flow shower heads to use less water.
4. Run the dishwasher only when full and don't use heat to dry dishes.
5. Replace standard light bulbs with compact fluorescent bulbs.
6. Plug air leaks in windows and doors to increase energy efficiency.
7. Replace old appliances with energy-efficient models.
8. Walk, bike, carpool or use public transportation whenever possible.
9. Adjust your thermostat — lower in winter, higher in summer.
10. Share these simple steps with friends and family and increase awareness!

The freedom to speak our minds is a precious gift.

July 13, 2006 MTS Board Meeting

+ Behind Donna Erickson are over 1000 concerned Linda Vistans who have stated that they want the present Route 25 to stay as is....petitions, etc.

+ During the first part of July, Donna shared with 10% of them the MTS Board's decision to approve the unspecified, contingency-based Bonus Program totalling a figure nearly 70% of the initial COA subsidy savings from the bus route cuts - $550,000 versus $719,000

+ As a whole, the first words out of their mouths were, "THIS IS SICK!" followed by "What are they thinking?"
"Do they have any common sense?"
"A new scandal is developing!"
"If they have money to do this, then keep the current 25".
"How ridiculous not to have direct access to Sharp - we are so very close, only a couple of minutes away!"

+ Think about what "the people" are saying and ACT on their behalf.

+ Can I get an answer to previously asked questions?
WHAT IS THE PURPOSE OF THE MTS BOARD?
DOES YOUR CITY/COUNTY HAVE A BONUS PROGRAM LIKE THIS ONE?
IF NOT, WHY DOES MTS?

donna erickson + 1814 coolidge street, san diego 92111 + 858-277-2169

Metropolitan Transit System

AGENDA ITEM NO. 3

REQUEST TO SPEAK FORM

ORDER REQUEST RECEIVED 2

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

1. INSTRUCTIONS

This Request to Speak form must be filled out and submitted in advance of the discussion of your item to the Clerk of the Board (please attach your written statement to this form). Communications on hearings and agenda items are generally limited to three (3) minutes per person unless the Board authorizes additional time. However, the Chairperson may limit comment to one or two minutes each if there are multiple requests to speak on a particular item. General public comments on items not on the agenda are limited to three (3) minutes. Please be brief and to the point. No yielding of time is allowed. Subjects of previous Hearings or agenda items may not again be addressed under General Public Comments.

Date 7-13-2006

Name (PLEASE PRINT) DON STILLWELL

Address 6308 RANCHO MSN RD #173
SAN DIEGO, CA 92108

Telephone (619) 282-7760

Organization Represented (if any)

Subject of your remarks: SAFETY OF SCHOOL CHILDREN

Agenda Item Number on which you request to speak 3

Your comments are presenting a position of: SUPPORT ☐ OPPOSITION ☐

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

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

3. DISCUSSION OF AGENDA ITEMS

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

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

Public comment on matters not on the agenda will be limited to five (5) speakers with three (3) minutes each, under the Public Comment Agenda Item. Additional speakers will be heard at the end of the Board's Agenda.

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

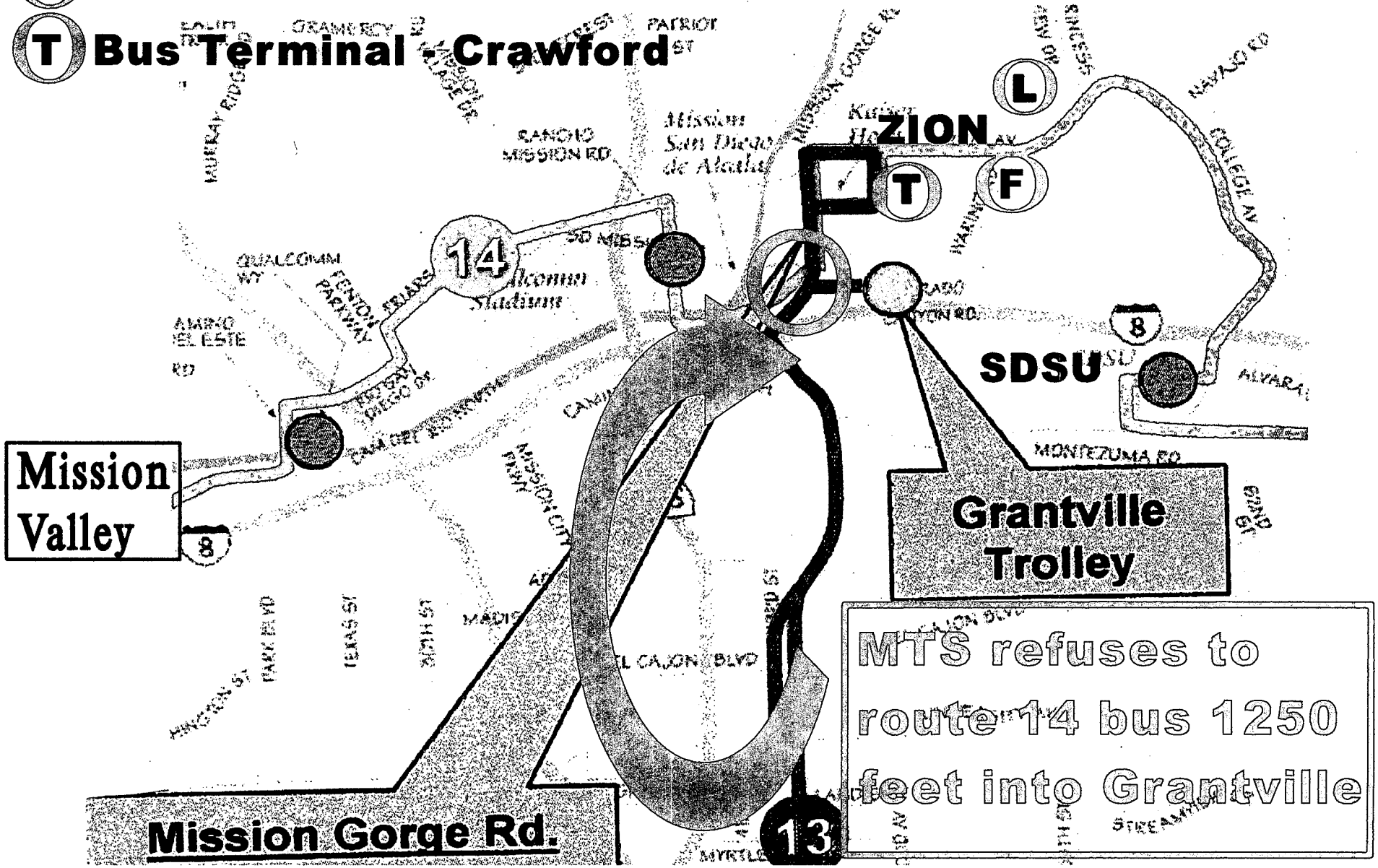
F Foster Elementary

L Lewis Middle School

T Bus Terminal - Crawford

Route 13 - Every 15 minutes

Route 14 - Every 30 minutes



2006 MTS • Coca-Cola
High School Scholarship Program

Hosted at Petco Park
June 15, 2006

The Winners

Rachelle Andrews, *La Jolla High School*
•
Julio Arias, *The Preuss School*
•
Raquel Brown, *James Madison High School*
•
Shan Brown, *Morse High School*
•
Sade Burrell, *Mount Miguel HS*
•
Keith Cross, *Palomar High School*
•
Megan Drummy, *Academy of Our Lady of Peace*
•
Raymond Flores, *University City High School*
•
Asha Gutierrez, *Garfield High School*

The Winners

Janelle Hardy, *Santana High School*

•

Iris Hernandez, *Science & Technology San Diego High*

•

Michael Kimani, *Helix Charter High School*

•

Jose Llamas, *Monte Vista High School*

•

Francisca Lopez, *SD High – Int'l Studies*

•

Jenny Mack, *Fallbrook High School*

•

Azalea Mincey, *Cortez Hill Academy*

•

Kristine Negado, *Samuel FB Morse High School*

•

Edgard Parra, *Southwest High School*

The Winners

Eric Renteria, *The Preuss School*

•

Donovan Rose, *Junipero Serra High School*

•

Maria Sanchez, *Mission Hills High School*

•

Daniel Schultheis, *High Tech High*

•

Kalpit Shah, *Scripps Ranch High School*

•

Melissa Solano, *Castle Park High School*

•

Praveen Subramani, *La Jolla High School*

•

Tracy Troung, *Mira Mesa High School*

•

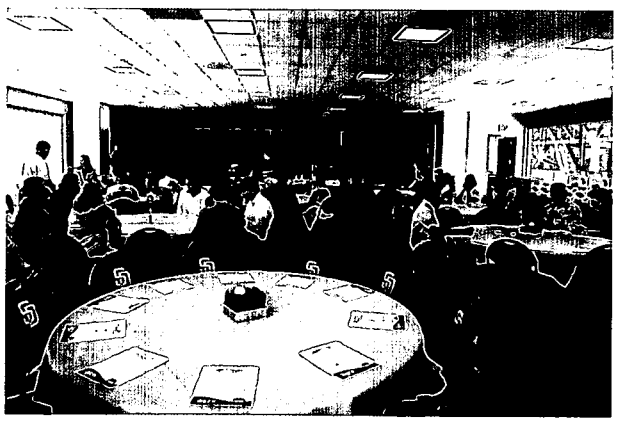
Jessica Tsai, *Westview*

•

Alejandro Villa, *Point Loma High School*

The Winners

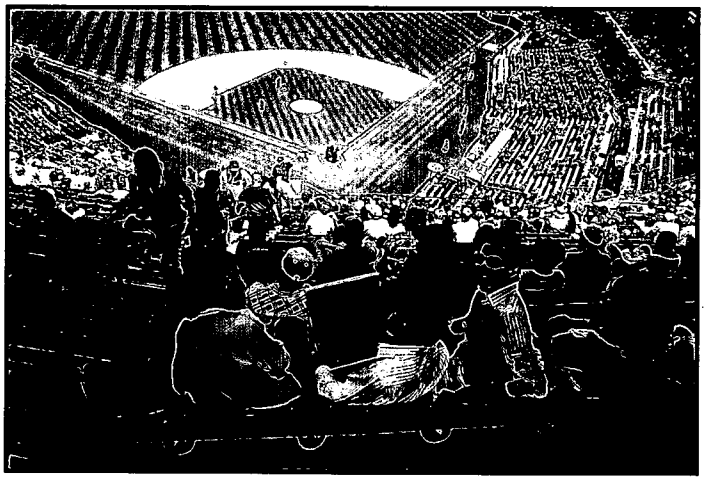
90 students and parents came to Petco Park to celebrate the High School Seniors' successes.



All 28 winners were also awarded a brand new Gateway laptop computer!

MTS

Congratulations!



MTS

Metropolitan Transit System

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

OPS 970.6 (PC 30102)

July 13, 2006

SUBJECT:

MTS: LRV PAINT AND BODY REHABILITATION SERVICES WORK ORDERS

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to issue Work Order Nos. 07-01 (Attachment A) and 07-02 (Attachment B) to MTS Doc. No. L0744.0-06 with Carlos Guzman, Inc. for painting/bodywork rehabilitation on eight U2 light rail vehicles (LRVs) and extraordinary bodywork services on LRVs, on an as-needed basis, for total cost not to exceed $308,000 and $175,000, respectively.

Budget Impact

The total cost of both work orders ($483,000) would come from FY 07 Capital Project LRV Paint and Bodywork Rehabilitation Services (WBS No. 11165-0800).

DISCUSSION:

In July 2004, the San Diego Association of Governments (SANDAG) awarded an LRV Paint and Bodywork Rehabilitation Services Contract (No. 5000259) to Carlos Guzman, Inc. The total contract was not to exceed $4,000,000 for a three-year base period with an option for two single-year extensions. The intent of the project was to issue individual work orders for a specific amount each year based on available capital funding with a total cost not to exceed $4,000,000. In the first and second years of the contract, 32 LRVs were painted under five separate work orders. In October 2006, the original contract from SANDAG was reassigned to MTS as the capital funding for the

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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.

project was included in the MTS budget. Work continued under the same contract at MTS until all FY 06 funds were used.

Two work orders are proposed for approval from the FY 07-approved capital funds. One is for painting and bodywork on eight additional LRVs to continue the ongoing process. The second work order is for extraordinary bodywork, which is out of scope under the other work order.

Many of the old U2 LRVs have extensive body corrosion requiring much more body-panel replacement work. In addition, many of the rusted areas were hidden by existing paint during the bid inspection and, as a result, the contract bid price did not reflect costs for those areas resulting in extra work and additional costs. These costs would be determined by inspecting each LRV after existing paint is removed and metal body is exposed. In the past, all LRVs with less body damage were completed first in order to expedite the painting process. The remaining cars were expected to cost more in extraordinary bodywork. Based on past experience, staff estimates that we could cover the painting and bodywork on the additional eight LRVs at a cost of $175,000.

Paul C. Jablonski
Chief Executive Officer

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

JULY13-06.6.LRVPAINTBODYREHAB.RDESAI

Attachments: A. Work Order No. 07-01 to MTS Doc. No. L0744.0-06
B. Work Order No. 07-02 to MTS Doc. No. L0744.0-06

Metropolitan Transit System

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

Att. A, AI 6, 7/13/06, OPS 970.6

July 13, 2006

DRAFT

MTS Doc. No. L0744.0-06
Work Order No. 07-02
OPS 970.6

Mr. Carlos Guzman
President
Carlos Guzman, Inc.
1619 East Creston Street
Signal Hill, CA 90755

Dear Mr. Guzman:

Subject: MTS DOC. NO. L0744.0-06, WORK ORDER NO. 07-02, LRV PAINT AND BODYWORK REHABILITATION SERVICES

This letter will serve as our agreement for services to be provided under the LRV Paint and Bodywork Rehabilitation Services Agreement as further described below.

SCOPE OF SERVICES

Provide LRV paint and bodywork services on up to eight Siemens U2 LRVs in accordance with the terms and conditions of the LRV Paint and Bodywork Services Agreement.

SCHEDULE

Technical specifications Part I, Item 1-3 (provision for completion time for each LRV) shall apply. All work under this work order shall be completed by February 28, 2007.

PAYMENT

Payment of $38,500, including all labor, materials, and taxes shall be made upon completion and acceptance of each Siemens U2 LRV by SDTI. The total cost for all eight U2 LRVs under this work order shall not exceed $308,000.

All other terms and conditions of the original LRV Paint and Bodywork Rehabilitation Services Agreement shall apply. If you agree with the above, please sign in the space provided below and return the document marked "Original" to Russ Desai at San Diego Trolley, Inc. The second copy is for your records.

Sincerely,

Paul C. Jablonski
Chief Executive Officer

JULY13-06.6.ATTA.L0744.06-06.07-02.RDESAI

Agreed:

_____
Carlos Guzman
Carlos Guzman, Inc.

Date: _____

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Metropolitan Transit System

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Att. B, AI 6, 7/13/06, OPS 970.6

DRAFT

July 13, 2006

MTS Doc. No. L0744.0-06
Work Order No. 07-01
OPS 970.6

Mr. Carlos Guzman
President
Carlos Guzman, Inc.
1619 East Creston Street
Signal Hill, CA 90755

Dear Mr. Guzman:

Subject: MTS DOC. NO. L0744.0-06, WORK ORDER NO. 07-01, LRV EXTRAORDINARY BODYWORK REPAIR SERVICES

This letter will serve as our agreement for services to be provided under the LRV Paint and Bodywork Rehabilitation Services Agreement as further described below.

SCOPE OF SERVICES

Provide extraordinary body repair services on light rail vehicles (LRVs) not included in other work orders. The contractor shall submit the extent of such work together with a cost estimate and additional time needed for each LRV to the San Diego Trolley, Inc. (SDTI) Project Manager for approval.

SCHEDULE

The contractor shall propose and submit the additional time required for such wok to the SDTI Project Manager for approval. Once approved, this extra time will be added to the original time allowed for regular work under the other work order.

PAYMENT

The contractor shall be paid an amount preapproved by the SDTI Project Manager for each LRV upon completion of work. The total cost for all LRVs needing such extra body repair work under this work order shall not exceed $175,000.00.

All other terms and conditions of the original LRV Paint and Body Rehabilitation Services Agreement shall apply. If you agree with the above, please sign below and return the document marked "Original" to Russ Desai at SDTI. The second copy is for your records.

Sincerely,

Paul C. Jablonski
Chief Executive Officer

Agreed:

_____
Carlos Guzman, President
Carlos Guzman, Inc.

JULY13-06.6.ATTB.L0744.06-06.07-01.RDESAI

Date: _____

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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. 7

Joint Meeting of the Board of Directors for
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

LEG 491 (PC 50633)

July 13, 2006

Subject:

MTS: INCREASED AUTHORIZATION FOR LEGAL SERVICES

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to enter into contract amendments with Mark Barber of the law firm Wismar & Barber (MTS Doc. No. G0750.11-02) for legal services, in substantially the same form as attached (Attachment A), and ratify prior amendments entered into under the CEO's and/or previous General Manager's authority(ies).

Budget Impact

Unknown at this time. Not to exceed $45,000 for Mark Barber. The legal services amount is included within the budget.

DISCUSSION:

On December 13, 2001, 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) staffs on an as-needed basis. MTS thereafter contracted with 26 local attorneys at an average of $25,000 per initial contract.

Pursuant to Board Policy No. 13 (Procurement of 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. Some attorneys have multiple cases that are or have proceeded to trial, and the total cost of their legal services will exceed $100,000.

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.

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Mark Barber is currently under contract for $435,000. Mr. Barber continues to maintain a large quantity of SDTC workers' compensation cases that are currently in process and moving toward resolution. Outstanding invoices for current and future services are anticipated to exceed current contract authority within the near term.

The CEO has approved prior amendments for these three contracts at the $100,000 authority level. Board ratification of the prior contracts/amendments is also requested.

Paul C. Jablonski
Chief Executive Officer

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

JULY13-06.7.LEGALSVCS.MBARBER.JDOW

Attachment: A. MTS Doc. No. G0750.11-02

Metropolitan Transit System

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

Att. A, AI 7, 7/13/06, LEG 491

July 13, 2006

DRAFT

MTS Doc. No. G0750.11-02
LEG 491 (PC 50633)

Mr. Mark Barber
Wismar & Barber
2727 Camino Del Rio South, Suite 220
San Diego, CA 92108-3740

Dear Mr. Barber:

Subject: AMENDMENT NO. 11 TO MTS DOCUMENT NO. G0750.0-02: WORKERS' COMPENSATION - LEGAL SERVICES

This letter will serve as Amendment No. 11 to MTS Document No. G0750.0-02.

PAYMENT

This contract amendment authorizes additional costs not to exceed $45,000 for the above-referenced legal services. The total value of this contract, including this amendment, is $435,000. Additional authorization is contingent upon MTS approval.

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

Sincerely,

Paul C. Jablonski
Chief Executive Officer

Accepted:

_____
Mark Barber
Wismar & Barber

Date: _____

JULY13-06.7.ATTA.G0750.11-02.BARBER.JDOW

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 the taxicab administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company.

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Metropolitan Transit System

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San Diego, CA 92101-7490
619.231.1466 FAX 619.234.3407

Agenda

Item No. 8

Joint Meeting of the Board of Directors for
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

OPS 970.6 (CIP 11166)

July 13, 2006

Subject:

MTS: CCTV SYSTEM CONTRACT AWARD

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute a Standard Services Agreement (in substantially the same form as Attachment A) with Electro Specialty Systems, Inc., for furnishing, installing, commissioning, and providing one year of warranty support for the closed-circuit television (CCTV) video surveillance systems for the Bayfront/E Street, H Street, and Palomar Street Stations, for total cost not to exceed $380,191.12.

Budget Impact

The total cost of $380,191.12 for CCTV systems for three Chula Vista stations would come from FY 06 Capital Improvement Program (CIP) No. 11166 (CCTV Surveillance Equipment). The City of Chula Vista is sharing 50% of the total cost, and its share will be transferred to MTS's CIP No. 11166.

DISCUSSION:

Late last year, MTS solicited bids for procuring, installing, integrating, and supporting CCTV video surveillance system at the Bayfront/E Street, H Street, and Palomar Street Stations and parking lots. All bids received in response were substantially higher than the budget available for the project. In addition, the lowest bidder, whose bid was

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$210,000 higher than MTS's budget, did not meet the requirements of completing a minimum of 50% of the work. As a result, all bids were rejected.

Early this year, the project specifications were revised. The most expensive component in previous specification was hard-wired connection between cameras and equipment cabinet components and associated construction work. Revised specifications included wireless connections between cameras and equipment cabinets eliminating the need for a majority of the construction work. A revised project was advertised for bids on May 15, 2006. Three bids were received on June 6, 2006 (see Attachment B, Bid Summary). The most responsive and responsible low bid was submitted by Electro Specialty Systems, Inc. Board approval is requested for award of this contract to Electro Specialty Systems, Inc.

Paul C. Jablonski
Chief Executive Officer

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

JULY13-06.8.CCTV.RDESAI

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

Metropolitan Transit System

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

Att. A, AI 8, 7/13/06, OPS 970.6

STANDARD SERVICES AGREEMENT

DRAFT

L0768.0-07
CONTRACT NUMBER

OPS 970.6 (PC 30102)
FILE NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2006, 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: Electro Specialty Systems, Inc.

Address: 9474 Chesapeake Drive, Suite 903
San Diego, CA 92123

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

Telephone: 858.571.7746

Authorized person to sign contracts: Dan Brault (Name) President (Title)

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

Furnish, install, commission, and provide one year of warranty support for the closed-circuit television (CCTV) video surveillance systems for the Bayfront/E Street, H Street, and Palomar Street Stations per the Technical Specifications and Plans in the Invitation for Bids dated May 15, 2006. This contract consists of the Standard Services Agreement, Standard Conditions Agreement, Standard Conditions Services, Technical Specifications, Cost Proposal, and Federal Requirements. The total value of this Agreement shall not exceed $380,191.12.

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
$380,191.12	11166-0800	FY 07

By: _____
Chief Financial Officer — Date

(__ total pages, each bearing contract number)

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BID SUMMARY

CLOSED-CIRCUIT TELEVISION (CCTV)
VIDEO SURVEILLANCE SYSTEM PROJECT

Bids due to SDTI: June 6, 2006 @ 2:00 p.m.

	Company Name	Total
1.	Electro Specialty Systems, Inc. 9474 Chesapeake Drive, Suite 903 San Diego, CA 92123	$380,191.12*
2.	Metro Video Systems, Inc. 1220 East Imperial Avenue El Segundo, CA 90245	$440,647.36
3.	National Security Works, Inc. 4440 Rainier Avenue, Suite 101 San Diego, CA 92120	$490,980.13**

*Responsive low bid
** Nonresponsive (did not complete required forms and proposal).

Russ Desai
Project Engineer

JULY13-06.8.ATTB.BIDSUMMARY.RDESAI

Metropolitan Transit System

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

Agenda

Item No. 9

LEG 490 (PC 50121)

Joint Meeting of the Board of Directors for
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

July 13, 2006

SUBJECT:

MTS: INCREASED AUTHORIZATION FOR LEGAL SERVICES

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to enter into a contract amendment (MTS Doc. No. G0934.4-04) with R. Martin Bohl of the Law Offices of R. Martin Bohl, for legal services related to joint development projects, in substantially the same form as attached (Attachment A).

Budget Impact

Not to exceed $150,000. *Outside counsel fees for joint development projects are paid with deposits from individual developers.*

DISCUSSION:

On December 13, 2001, the Board approved a list of qualified attorneys for general legal services and workers' compensation for use by MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) staffs on an as-needed basis. MTS thereafter contracted with 26 local attorneys at an average of $25,000 per initial contract.

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. Some attorneys have multiple cases that are or have proceeded to trial, and the total cost of their legal services will exceed the $100,000 CEO authority.

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Marty Bohl is currently under contract with the three agencies for $250,000. Mr. Bohl has been providing advice and counsel on the Morena Vista Project and is currently involved in negotiations for the Grossmont Trolley Station Joint Development Project. His fees are covered by deposits that MTS receives from the developers. There are nominal costs incurred to the Office of General Counsel's budget for outside legal services. Invoices for current services recently received exceed current contract authority due to the complexity of the negotiations on the Grossmont Trolley Station Joint Development Project.

At its September 22, 2005, and April 27, 2006, meetings, the Board approved contract amendments and ratified the previous $100,000 approved by the CEO. These additional services are necessary to complete the Grossmont Trolley Station Joint Development Project negotiations.

Paul C. Jablonski
Chief Executive Officer

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

JULY13-06.9.BOHLLEGAL SVCS.TLOREN

Attachment: A. Draft MTS Doc. No. G0934.4-04

Metropolitan Transit System

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San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

DRAFT

Att. A, AI 9, 7/13/06, LEG 490

July 13, 2006

MTS Doc. No. G0934.4-04
LEG 491 (PC 50121)

Mr. R. Martin Bohl
Law Offices of R. Martin Bohl
501 West Broadway, Suite 520
San Diego, CA 92101

Dear Mr. Bohl:

Subject: AMENDMENT NO. 4 TO MTS DOCUMENT NO. G0934.0-04; CONTRACT FOR LEGAL SERVICES FOR JOINT DEVELOPMENT PROJECTS

This shall serve as our agreement for professional services as further described below.

SCOPE OF SERVICES

Continue to provide joint development project legal services and advice to the Metropolitan Transit System (MTS), San Diego Trolley, Inc., and San Diego Transit Corporation, on an as-needed basis in the area of project development, at a base hourly rate of $300.00 for services rendered.

SCHEDULE

All work shall be completed by December 31, 2006, or upon completion of the Grossmont Trolley Station Joint Development Project, whichever is later.

PAYMENT

Payment shall be based on actual costs, not to exceed $150,000 without prior written approval from MTS. The total value of this contract, including this amendment, shall not exceed $400,000.

All previous conditions remain in effect. If you agree with the above, please sign and return the copy marked "original" to Traci Bergthold, Contracts Specialist at MTS. The remaining copy is for your records.

Sincerely,

Paul C. Jablonski
Chief Executive Officer

JULY13-06.9.ATTA.BOHLLEGALSVCS.TLOREN

Agreed:

_____
R. Martin Bohl
Law Offices of R. Martin Bohl

Date: _____

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 the 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.

Metropolitan Transit System

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

CIP 11418

July 13, 2006

SUBJECT:

MTS: AMERICANS WITH DISABILITIES ACT (ADA) PARATRANSIT VEHICLE PAINT SCHEME

RECOMMENDATION:

That the Board of Directors approve the modified branding scheme (Attachment A) for the new ADA paratransit vehicles and authorize reallocating the savings to amenities that would enhance service quality/efficiency.

Budget Impact

There would be no aggregate savings; however, the difference in cost per vehicle for the modified branding scheme is $2,250, which would lead to $157,500 that could be reallocated to vehicle amenities, including a regional communications system.

DISCUSSION:

At its meeting on February 23, 2006, the MTS Board authorized the purchase of 70 minibuses for ADA paratransit services and reviewed modified branding schemes. The intent of the branding schemes was to maintain the integrity of MTS's identity and allow MTS to redirect the savings into equipment that would ensure safer and more customer-oriented services for patrons with special needs. Further, in differentiating the branding scheme slightly from other services, ADA paratransit service would be distinguished from other general public services. (Attachment A provides a specification of the branding design.)

Regional Communications System (RCS) is MTS's radio communications provider for ADA Suburban Paratransit. MTS Access is on a separate system. The paint savings would allow the entire paratransit service to use one consistent communications system,

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.

which would enhance communications and allow dispatchers to expedite minute-by-minute decision making. Standardizing communications across the service would enhance productivity thereby reducing costs and increasing customer satisfaction.

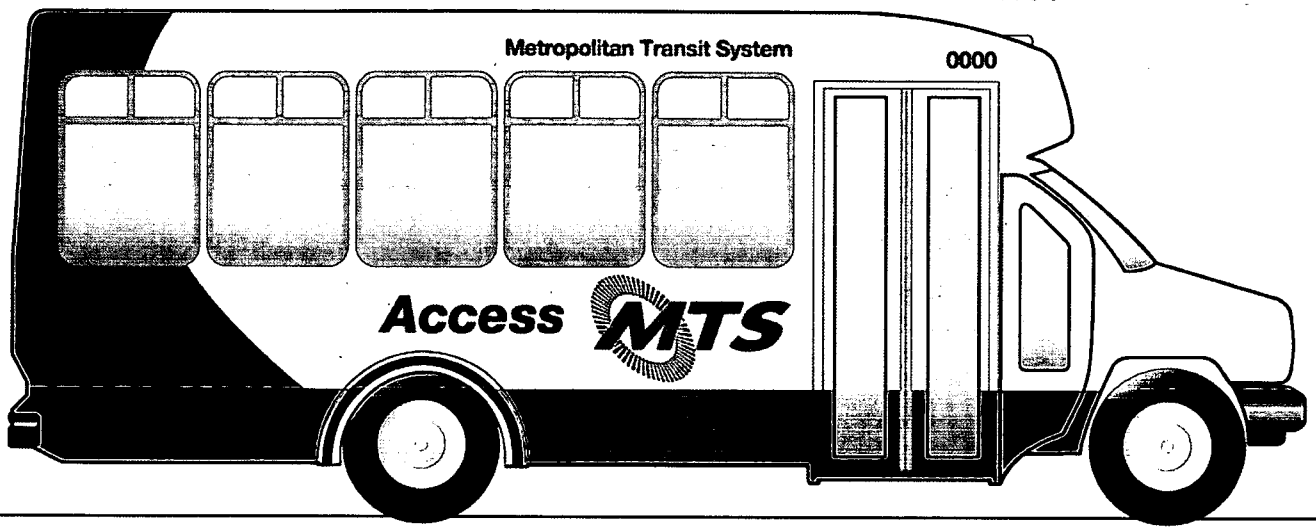
Savings realized after standardizing communications throughout our system could be redirected toward next year's order, which would complete full fleet replacement (70 vehicles this year and 50 vehicles next year).

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Susan Hafner, 619.595.3084, susan.hafner@sdmts.com

JULY13-06.10.PARATRANSITPAINTSCHEME.SHAFNER

Attachment: A. Type II Minibus Vehicle Specifications and Pricing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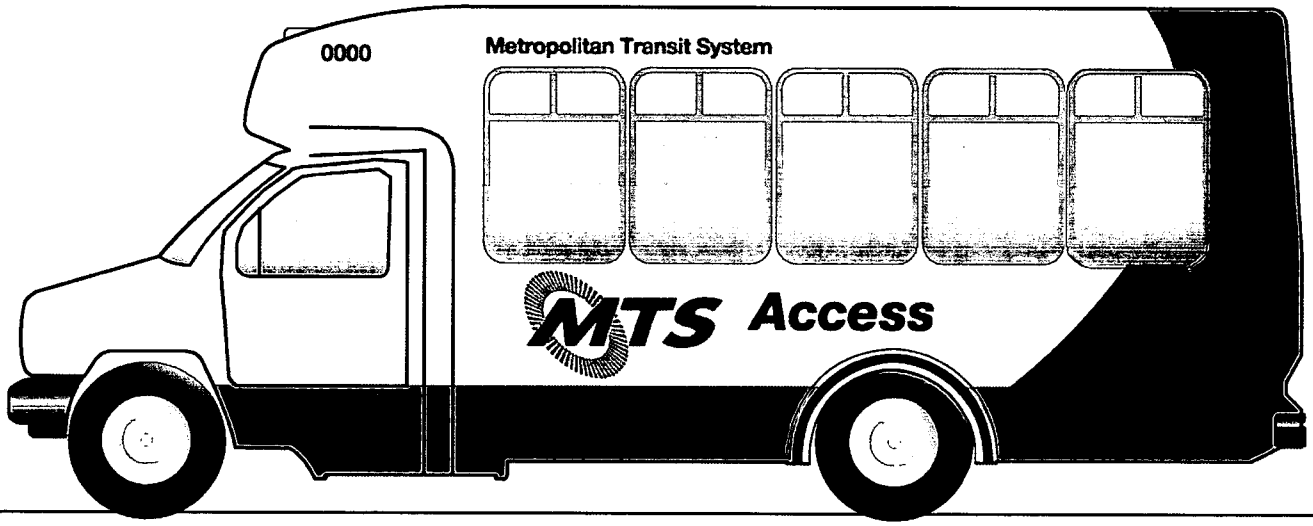
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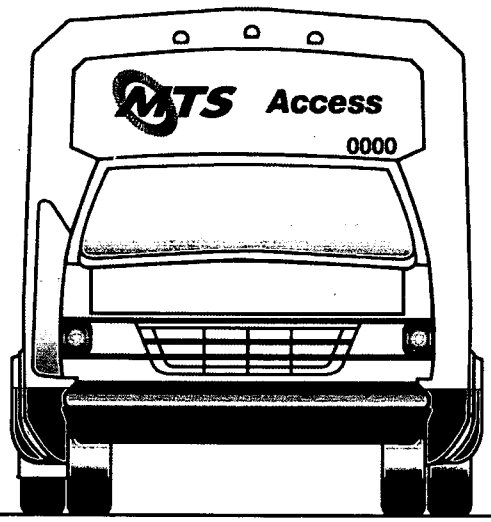
Metropolitan Transit System
MTS Access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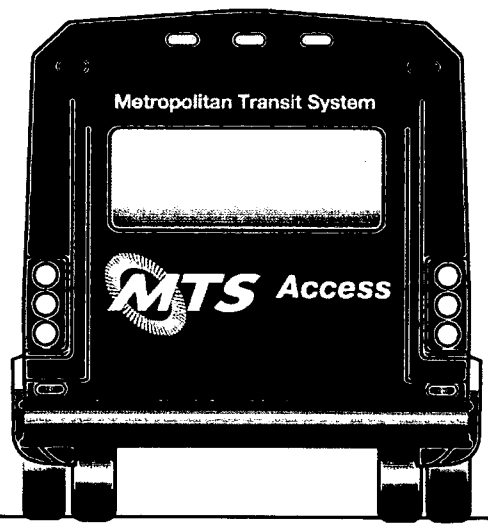
Metropolitan Transit System
MTS Access

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

LEG 460 (PC 50787)

July 13, 2006

SUBJECT:

MTS: UPDATE AND RATIFICATION OF ACTION TAKEN BY THE EXECUTIVE COMMITTEE ON THE GROSSMONT TROLLEY STATION JOINT DEVELOPMENT PROJECT

RECOMMENDATION:

That the Board of Directors:

1. receive an update from the Chief Executive Officer (CEO) regarding the status of the Grossmont Trolley Station Joint Development Project; and

2. ratify the Executive Committee's approval or authorization of the following documents:

   a. authorize the Chief Executive Officer (CEO) to execute the Disposition and Development Agreement (DDA) and Ground Lease, in substantially the same format as provided to the Board;

   b. approve the appraisal report; and

   c. authorize the CEO to execute and sign any other documents necessary to complete the transaction, including the lenders' Estoppel Certificate and the Parcel Map.

Budget Impact

Revenue generation is estimated at $381,285 beginning in year 1 of the Ground Lease with total revenue projection over the 99-year lease term at $635,278,000. The Net Present Value of the transaction is estimated to be $7,090,000.

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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.

Capital Project Funds. Capital project funds in the amount of $4.7 million are allocated for related station improvements, including $2 million in San Diego Association of Governments (SANDAG) Smart Growth grant funds awarded to the City of La Mesa and MTS, and $540,000 in local Transportation Development Act (TDA) funds contributed by the City of La Mesa.

DISCUSSION:

The purpose of this item is to update the Board of Directors on the status of the negotiations regarding the Grossmont Trolley Station Joint Development Project. In July 2003, the MTS Board entered into an Exclusive Negotiating Agreement (ENA) with the City of La Mesa and Fairfield to create a mixed-use, transit-oriented development project. Fairfield is proposing to develop 527 apartments over the existing parking lot at the Grossmont Transit Center Station. Eighty of these units would be made affordable to low- and moderate-income families. The project will also provide 2,800 square feet of ground-floor commercial space. The bus stop and trolley station would be retained on site along with planned pedestrian enhancements. The apartments would be built over two levels of structured parking. Approximately 600 exclusive parking spaces would be provided on the ground level of the parking structure oriented to the existing trolley station to replace the existing 600 surface parking spaces.

After several months of negotiations, MTS and Fairfield reached an agreement regarding the financial terms and conditions for the development of the Grossmont Transit Center Station and a long-term lease of the land thereafter. Those terms and conditions are memorialized into two documents—a DDA and a Ground Lease. The DDA and Ground Lease govern how the project will be designed and constructed and gives Fairfield a long-term lease for the project.

The economic terms include:

- Term of Ground Lease: 55-year lease term with one option to renew for 20 years and a second option to renew for 24 years. Total term of 99 years.

- Base Rent: $85,333 year 1; $170,667 year 2; $256,000 per year thereafter until year 30.

- Base Rent Commencement Date: Upon close of escrow.

- Overage Rent: 1.25 % of gross income commencing year 1 and completing in year 30.

- Appraisal Adjustment of Base Rent: Base rent is adjusted to 8% of the fair market value of the land based upon "mark-to-market" appraisal at the start of years 31, 56, and 76, capped at 6.5%, 8.0%, and 10% of gross income based upon appraisals at years 31, 56, and 81.

- Base Rent Escalation: Consumer Price Index adjustment every 5 years limited to 15% commencing in year 31.

Following a lengthy negotiation process, staff is pleased to announce that a final agreement has been reached between MTS, Fairfield, and Fairfield's lenders. At its meeting on July 6, 2006, the Executive Committee received an update from the General Counsel, and authorized the CEO to execute the DDA, Ground Lease, the Estoppel Certificate, and all other documents necessary to complete this transaction. The Executive Committee also approved the Appraisal Report. Staff is bringing this action to the Board for ratification. An oral report will be provided by the CEO during the meeting.

Paul C. Jablonski
Chief Executive Officer

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

JULY13-06.30.GROSSMONT.TLOREN

Attachments:
A. Document List
B. Final Draft of the Disposition and Development Agreement
C. Final Draft of the Ground Lease
D. Appraisal Report
E. Estoppel Certificate

} Due to volume - **Board Only**

Grossmont Joint Development Project
Residential Document Status List

	MTS			Fairfield			JPMorgan Chase/Mass Mutual			City of La Mesa			SANDAG			CCRT Properties			Cushman		
	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed
Disposition and Development Agreement	☑			☑																	
Ground Lease	☑			☑																	
Estoppel Certificate	☑						☑														
Purchase & Sale Agreement	☑									☑											
Maintenance Agreement	☑									☑											
ROE Permit for utilities	☑	☑	☑	☑	☑	☑															
ROE Permit for Box Culvert										☑			☑								
ROE Permit for Soil Bearings													☑						☑		
Public Project Design Agreement				☑									☑								
Amended Parking License	☑	☑														☑	☑				

Att. A, AI 30, 7/13/06, LEG 460

Grossmont Joint Development Project
Public Improvement Document Status List

	MTS/SD&AE			City of Santee			US Army Corps			City of La Mesa			SANDAG			AAA			Cushman		
	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed	Party	Mail	Executed
Purchase & Sale Agreement for Ped. Bridge Landing													☑						☑		
404 Permit							☑						☑								
Wetlands Mitigation Agreement				☑									☑								
Construction Contract													☑								
Easement for Channel encroach	☑									☑											
Easement for Channel encroach										☑						☑					
ROE Permit for Box Culvert										☑			☑								
ROE Permit for Soil Bearings													☑						☑		

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between

METROPOLITAN TRANSIT DEVELOPMENT BOARD

"Board"

and

FAIRFIELD GROSSMONT TROLLEY LLC

"Developer"

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT ("**Agreement**"), dated for reference purposes only as of _____, 2006, is entered into by and between the **METROPOLITAN TRANSIT DEVELOPMENT BOARD**, a California public agency also known as the Metropolitan Transit System (the "**Board**"), and **FAIRFIELD GROSSMONT TROLLEY LLC**, a Delaware limited liability company ("**Developer**"), with reference to the following facts:

A. Board is the owner of approximately 7.5 acres of real property in the City of La Mesa, County of San Diego, State of California, legally described on **Exhibit "A"** attached hereto (the "**Board Land**").

B. The City of La Mesa (the "**City**"), is the owner of a approximately one (1) acre of real property in the City of La Mesa, County of San Diego, State of California, immediately adjacent to the Board Land legally described on **Exhibit "B"** attached hereto ("**City Land**"). The Board is in negotiations with the City to acquire the City Land.

C. The Board Land and the City Land are located in the Fletcher Parkway Redevelopment Project Area under the jurisdiction of the La Mesa Community Redevelopment Agency ("**Agency**").

D. Board operates the Grossmont Trolley Station on land adjacent to the Board Land, as illustrated and designated on the "**Site Map**" which is attached to this Agreement as **Exhibit "C"** (the "**Trolley Station**").

E. Board, Developer and Agency previously entered into an Exclusive Negotiating Agreement for the Grossmont Station Transit-Oriented Development Project dated July 24, 2003, as extended by letter agreement dated January 15, 2004 as amended (the "**ENA**"). This Agreement is the "Board/Developer DDA" that is contemplated in Section 4.5 of the ENA. The term of the ENA was extended but has expired.

F. Developer and Agency are parties to an Affordable Housing Agreement dated September 27, 2005 (the "**Affordable Housing Agreement** "), entered into to provide the terms and conditions on which Agency will provide certain set aside housing funds to Developer and Developer will provide certain affordable units within the Project (as defined in **Section 103** below). Developer plans to seek an amendment of the Affordable Housing Agreement to address certain concerns of the Board and the Developer's lenders. The Board shall have the right to review and approve the amendment.

G. Developer has obtained City and Agency approval of certain entitlements for the development of the Project as described in **Section 211** below. One of the approvals obtained by Developer is Tentative Parcel Map TPM-04-03 which was approved by the City Council for the City in its Resolution No. 2005-108 adopted at its meeting on September 27, 2005 (the "**Tentative Parcel Map**") that would divide the Board Land and the City Land into four parcels, as shown on the Site

Map. Parcels 1 and 2 would be the site for the development of the Project, and Parcels 3 and 4 would include, among other things, an access easement for access to the Project and other properties.

NOW, THEREFORE, the Board and the Developer covenant and agree as follows:

I. [§ 100] SUBJECT OF AGREEMENT.

A. [§ 101] Purpose of the Agreement.

The purpose of this Agreement is to provide for the development of the Project on the Site (as defined in **Section 102** below) by the Developer and to provide the terms and conditions for the lease of the Site by the Board to the Developer.

The lease and development of the Site pursuant to this Agreement, and the fulfillment generally of this Agreement, are in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements. The Board has taken all actions required by applicable laws to enter into this Agreement.

B. [§ 102] The Site.

The "**Site**" shall mean Parcels 1 and 2 as shown on the Tentative Parcel Map.

A public road known as "Grossmont Centre Drive" crosses the Site. That portion of the Site located east of Grossmont Centre Drive is sometimes referred to herein as the "East Parcel" and that portion of the Site located west of Grossmont Centre Drive is sometimes referred to herein as the "West Parcel." The East Parcel and West Parcel are sometimes individually referred to as a "Parcel" and collectively as the "Parcels."

C. [§ 103] The Project.

The "**Project**" shall consist of the design, development and construction by Developer of a transit-oriented, moderate density, mixed-use project on the Site consisting of:

1. Residential components consisting of approximately five hundred twenty-seven (527) "for-rent" apartment units in three or four-level residential buildings over two (2) levels of structured parking (the "**Residential Area**"). Pursuant to the Affordable Housing Agreement, eighty (80) of those apartment units shall be restricted for use as low and moderate income rental units.

2. Approximately 2,800 square feet of ground floor retail space facing the Grossmont Trolley Station on the East Parcel (the "**Retail Area**").

3. Parking facilities consisting of approximately one thousand three hundred eighty-nine (1,389) parking spaces on-site in two (2) levels of structured parking on each Parcel, of which:

(a) the upper parking levels on both Parcels, comprising approximately seven hundred seven (707) parking spaces (of which 19 will be "tandem" spaces), will be exclusively used for the parking of the residents of the residential units constructed over that parking structure;

(b) approximately seventy-seven (77) parking spaces on the lower parking level of the East Parcel and five (5) parking spaces on the lower parking level of the West Parcel shall be provided as parking for residents of the Project and the employees of and visitors to the leasing offices of the Project; and

(c) six hundred (600) parking spaces on the lower parking level of the Parcels in an appropriate mix of disabled and standard size spaces as shown on the Designated Plans (defined below) approved by the Board (the "**Trolley Parking Facilities** ") shall be provided on site for the exclusive use of Board, for its bus and trolley park-and-ride patrons of the Grossmont Station and such other users and purposes as are described in the form of "**Ground Lease**" attached hereto as **Exhibit "D"**;

(collectively, the "**Parking Facilities**").

4. All demolition, site preparation, and all other on-site and off-site improvements which are required for the construction and operation of the Project.

The Project is more particularly described in the "**Scope of Development**" which is attached to this Agreement as **Exhibit "E"**. A **"Site Plan"** for the Project is attached as **Exhibit "F"**. The term "**Designated Plans**" shall mean all final plans and specifications for the Project that are listed in **Exhibit "G"** attached hereto. The Trolley Parking Facilities are shown on those Designated Plans that are marked with an asterisk on the list of Designated Plans. Developer shall design, develop and construct the Project at its sole cost and expense in accordance with the Scope of Development and the Designated Plans.

D. **[§ 104]** **Parties to the Agreement**.

1. **[§ 105]** **The Board**.

The "**Board**" is a California public agency organized and existing under the laws of the State of California. The principal office of the Board is located at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101-7490.

"Board" as used in this Agreement includes the Board and any assignee of or successor to its rights, powers and responsibilities.

2. **[§ 106]** **The Developer**.

The "**Developer**" is Fairfield Grossmont Trolley LLC, a Delaware limited liability company. The sole member of Developer is Fairfield California Housing Fund LLC, a Delaware

limited liability company ("**Fund**"). The manager of Developer and the member/manager of Fund is FF California Housing Fund LLC, a Delaware limited liability company ("**Manager**"). FF Properties, Inc., a Delaware corporation ("**FF Properties**") is the manager of Manager. The principal office of the Developer is 5510 Morehouse Drive, Suite 200, San Diego, California 92121.

Wherever the term "Developer" is used herein, such term shall include any permitted assignee or successor in interest as herein provided.

E. **[§ 107] Prohibition Against Change in Ownership and Control of Developer**.

1. The Developer represents and agrees that its lease of the Site, and its other undertakings pursuant to this Agreement, are and shall be used for the purpose of timely redevelopment of the Site and not for speculation in landholding. The Developer further recognizes that, in view of:

(a) The importance of the redevelopment of the Site to the general welfare of the community; and

(b) The fact that a change in ownership or control of the Developer, or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in ownership or with respect to the identity of the parties in control of the Developer or the degree thereof, is for practical purposes a transfer or disposition of the Site; and

(c) The fact that the Site is not to be leased (except in connection with the rental of the Residential Area and the Retail Area) or used for speculation, but only used for development and operation by the Developer in accordance with this Agreement; and

(d) The importance to the Board and the community of the standards for the development and the use, operation and maintenance of the Site and the subsequent rental of the Residential Area and the Retail Area;

that the qualifications and identity of the Developer are of particular concern to the community and the Board. The Developer further recognizes that it is because of such qualifications and identity that the Board is entering into this Agreement with the Developer. No voluntary or involuntary successor-in-interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

2. In light of the foregoing, and except as otherwise provided in this **Section 107**, the Developer, without the prior written approval of the Board, which approval may be given or withheld in the Board's sole discretion, shall not (i) assign or delegate all or any part of its rights and obligations under this Agreement; or (ii) effect any transaction which would result in any person or entity other than (a) Fairfield California Housing Fund LLC being the sole

member of Developer, (b) FF California Housing Fund LLC being the manager of Developer and the member/manager of Fund, or (c) FF Properties, Inc. being the manager of Manager.

3. This Agreement may be terminated by the Board pursuant to **Section 510** if there is any voluntary or involuntary assignment or transfer described in Subsection 1(b) above (of this **Section 107**) prior to the Close of Escrow where the Board's approval is required but has not been obtained.

4. The Developer shall promptly notify the Board of any and all changes whatsoever in the identity or degree of direct and indirect ownership of Developer and its members, partners or shareholders, of which it or any of its members, partners or shareholders have been notified or otherwise have knowledge or information.

5. Absent an express signed written agreement between the parties to the contrary, no assignment of any of the rights or obligations of Developer under this Agreement shall result in a novation or in any other way release Developer from its obligations under this Agreement. No consent by the Board to any assignment by Developer shall constitute a consent to any other assignment or commit the Board to provide its consent to any future assignment.

F. **[§ 108] Schedule of Performance.**

Developer and Board shall each use commercially reasonable efforts to satisfy the conditions to Closing and shall each perform its obligations under this Agreement strictly in accordance with the "**Schedule of Performance**" attached hereto as **Exhibit "H"** and incorporated herein.

II. **[§ 200] SITE DISPOSITION.**

A. **[§ 201] Lease of Site.**

1. The Board shall use reasonable efforts to enter into an agreement with the City to acquire the City Land, on such terms and conditions as the Board in its sole discretion deems fair and reasonable (a "**City Land Purchase Agreement**"). The Board shall use reasonable efforts to acquire the City Land pursuant to a City Land Purchase Agreement at or before Close of Escrow (defined below).

2. The Board agrees to lease to Developer the Site (excepting therefrom the Trolley Parking Facilities) and grant Developer a non-exclusive appurtenant easement for a term of years (the "**Access Easement**") for vehicular and pedestrian ingress and egress and for utilities over the area designated as the "Fire Lane and Access Easement" within Parcel 3 and Parcel 4 on the Parcel Map (the "**Access Easement Area**") in accordance with and subject to all the terms, covenants and conditions of this Agreement and subject to the terms, covenants and conditions of the Ground Lease. The leasehold interest in the Site (excepting the Trolley Parking Facilities) and Access Easement are collectively referred to herein as the "**Premises**". Developer agrees to lease the Premises from the Board, for development of the Project in accordance with and subject to all the terms, covenants and conditions of this Agreement and

subject to the terms, covenants and conditions of the Ground Lease. The "**Fundamental Business Terms**" of the Ground Lease are attached hereto as **Exhibit "I"** and incorporated herein.

3. The Commencement Date of the Ground Lease shall be the date that escrow closes and the Memorandum of Lease for the Ground Lease in the form attached as Exhibit J to the Ground Lease ("**Memorandum of Lease**") is recorded ("**Close of Escrow**"), and the parties shall insert that date, or authorize the Escrow Holder to insert that date, into the Ground Lease. The date scheduled for Close of Escrow (the "**Closing Date**") shall be a date mutually agreed by the parties, but shall not in any event be later than _____, 2006 *[insert date 90 days after full execution by the parties]*.

4. The Board shall convey to the Developer and the Developer shall accept the leasehold interest in the Site in the condition provided in **Section 202** hereof.

5. The Developer shall pay the first installment of Base Rent under the Ground Lease through Escrow, at Close of Escrow.

B. **[§ 202] Condition of the Site.**

1. Condition of Title.

(a) Existing Condition. Prior to entering into this Agreement, Developer has reviewed the preliminary title report ("**PTR**") issued by North American Title Company ("**Title Company**") under Order No. 7002106-23 and dated as of December 28, 2005, together with copies of all available written instruments creating exceptions to the title shown thereon. All exceptions to title shown in the PTR shall be "**Permitted Title Exceptions**" except for the following title exceptions shown on Schedule B of the PTR:

(1) Exception 7 (pipeline and access easement); the Title Company has agreed to delete this exception upon conveyance of the City Land to the Board;

(2) Exception 17 (the "**AAA Easement**");

(3) Exceptions 19 and 20 (the "**CCRT License Agreement**");

(4) Exception 21 (easement in favor of the Board); the Title Company has agreed to delete this exception upon conveyance of the City Land to the Board; and

(5) Exception 22 (matters disclosed by inspection); the Title Company has agreed to delete this exception upon receipt and review of the ALTA Survey.

(b) Elimination or Modification of Title Exceptions. Board agrees to reasonably cooperate and assist Developer in its investigations of the title exceptions and in the elimination of or modification to those title exceptions that interfere or may interfere with the development or use of the Project. The Board shall use reasonable efforts prior to the Closing Date to enter into amendments to the AAA Easement (the "**AAA Easement Amendment**") and the CCRT License Agreement (the "**CCRT License Agreement Amendment**") in forms reasonably acceptable to Developer. The AAA Easement Amendment and the CCRT License Agreement Amendment, if obtained by the Board in form reasonably acceptable to Developer, shall be Permitted Title Exceptions. Board's agreement to use reasonable efforts to enter into the AAA Easement Amendment and the CCRT License Agreement Amendment and to cooperate and assist Developer in resolving objectionable title exceptions shall not require Board to pay any money or incur any increased obligations or liabilities to resolve such title matters. Developer shall pay CCRT Properties, a California limited partnership ("**CCRT**"), the sum of One Hundred Thousand Dollars ($100,000) through Escrow at and conditioned upon Close of Escrow, to compensate CCRT for the amendment of the CCRT License Agreement (the "**CCRT License Agreement Amendment Fee**").

(c) Future Easements. The parties shall cooperate reasonably regarding the grant of non-exclusive easements for utility and access purposes within portions of the Access Road as may be required by the City or public utility to extend utility service to the Project or the Trolley Station and such other future easements which might be necessary or desirable for the operation of the Project or the Trolley Station. Developer has requested that Board grant utility easements: (i) to the City on the Final Map (defined in Section **202(3)** below) and (ii) to San Diego Gas & Electric Company ("**SDG&E**"), the City of San Diego and Helix Water District by separate instrument prior to recording of the Final Map (collectively the "**Proposed New Utility Easements**"). Board and Developer shall cooperate reasonably in the creation of the Proposed New Utility Easements; provided, however, that this obligation shall not require (iii) the Board to incur any substantial costs, obligations, or potential liability or substantially limit present or future transit operations for Proposed New Utility Easements serving the Project; nor (iv) the Developer to incur any substantial costs, obligations or potential liability for Proposed New Utility Easements serving the Trolley Station.

2. Physical Condition. The Site and all improvements thereon shall be conveyed in an "as is" condition, with no warranty, express or implied by the Board as to the condition of the soil (or water), its geology, or the presence of known or unknown faults or as to the condition of the improvements. It shall be the sole responsibility of the Developer, at the Developer's expense, to investigate and determine the soil (and water) condition of the Site (including improvements) and the suitability of the Site (including improvements) for the development to be constructed by the Developer. If the soil (or water) condition of the Site (including improvements), or any part thereof, is not in all respects entirely suitable for the use or uses to which the Site and improvements will be put, then it is the sole responsibility and obligation of the Developer to take such action as may be necessary to place the Site and

the soil (and water) condition thereof (including improvements) in all respects in a condition entirely suitable for the development of the Site.

3. Subdivision. Developer, at its sole expense, shall use its commercially reasonable efforts to process for approval by the City a final parcel map in substantially the form of **Exhibit "J"** attached (the "**Final Map**"), including without limitation payment of all City fees and the posting of all required bonds. The parties shall cooperate reasonably to cause the Final Map to be executed by all necessary parties (including the Board), submitted to the City Council for approval, and filed in the Office of the County Recorder of San Diego County at least three (3) Business Days before the Closing Date.

4. Relocation of Bus Operations.

(a) The Board has agreed, at Developer's request, to relocate all bus transit activities from the Trolley Station to the Amaya Station, a nearby transit station owned and operated by the Board (the "**Amaya Station**"), in order to accommodate the Developer's construction of the Project on the Parcels. The temporary closure of the bus transit activities at the Trolley Station is scheduled to commence on June 11, 2006. Developer shall deposit with Escrow Holder not later than the Closing Date the sum of $124,401.50, one-half of the estimated cost for two years of bus relocation, which shall be paid to Board through Escrow at Close of Escrow.

(b) Developer acknowledges that the relocation of the bus transit activities to the Amaya Station would likely cause damage to the asphalt at the Amaya Station. Developer has, at its sole cost and expense, reinforced the new path to be used by buses for ingress, stopping and egress at the Amaya Station (the "**New Bus Route**").

(c) During the period when the buses have been relocated to the Amaya Station at the request of the Developer, Developer shall, at its sole cost and expense, repair any damage to the New Bus Route which results from the use of the New Bus Route by the buses relocated from the Trolley Station, within five (5) Business Days following written request from the Board.

(d) Within thirty (30) days following the end of the relocation of buses to the Amaya Station, Developer shall, at its sole cost and expense, repair any damage to the New Bus Route which resulted from the bus relocation and apply a seal coat to restore the pavement of the New Bus Route to a condition not less than that existing at the Amaya Station prior to the relocation.

C. **[§ 203] Delivery of Completed Documents.**

Prior to the Closing Date, the Board and the Developer shall complete, execute, acknowledge (if required for recordation) and deliver into escrow the following documents:

1. The Ground Lease (in the form attached hereto as **Exhibit D**);

2. The Memorandum of Lease (in the form attached to the Ground Lease as Exhibit J);

3. All documents required for construction financing of the Project by Developer and approved by Board pursuant to **Section 212** below (**"Developer Construction Loan"**);

4. The Assignment of Construction Contract (as such term is defined in **Section 212(4)** below);

5. The Guaranty to Board from Fairfield Residential, LLC in the form of **Exhibit L**; and

6. Any other documents necessary for the disposition of the Site as contemplated in this Agreement.

D. **[§ 204] Closing.**

Close of Escrow (also referred to herein as **"Closing"**) shall be deemed to have occurred upon recording of the Memorandum of Lease. At Closing, the leasehold interest in the Premises shall be conveyed and possession of the Site shall be delivered to the Developer, and the Ground Lease shall commence.

E. **[§ 205] Conditions to Closing.**

Close of Escrow is subject to the following conditions:

1. **Developer Certification**. Prior to the Closing Date, the Developer shall certify in writing to the Board that:

(a) the Developer is ready, willing and able, in accordance with the terms and conditions of this Agreement, to perform in accordance with the Scope of Development;

(b) all conditions precedent to Closing of which the Developer is aware (including the delivery into escrow of documents to be deposited by Developer pursuant to **Section 203** hereof, the delivery to the Board of the documents and certifications to be deposited by Developer pursuant to **Section 212** hereof, and the performance of any other obligations of Developer as set forth in the Schedule of Performance which are scheduled to be performed before the Closing Date) have been fulfilled or waived by Developer;

(c) Developer has obtained all Required Land Use Approvals, the only condition to issuance by the City of all grading and building permits required for the development of the Project is the payment of applicable fees, and Developer will pay such fees and obtain all grading, building and other permits required for the development of the Project after Close of Escrow as specified in the Ground Lease;

(d) Developer's construction financing for the Project is in a position to fund and will fund at Close of Escrow; and

(e) that to the best of the Developer's knowledge, (i) the Developer is not in violation of any order or decree of any court of competent jurisdiction or, any governmental agency having jurisdiction, which if determined adversely to the interest of Developer or its respective owners, members or partners, could materially adversely affect the Developer's ability to construct, develop, operate and maintain the Project as set forth in this Agreement and the Ground Lease, and (ii) there are no pending or threatened judicial or administrative proceedings, which, if determined adversely to the interests of the Developer or its respective owners, members or partners, could materially adversely affect the Developer's ability to construct, develop, operate and maintain the Project as set forth in this Agreement and the Ground Lease.

The Developer's certification shall include, if requested by the Board not later than ten (10) days after the delivery thereof, evidence reasonably satisfactory to the Board that all contracts and commitments required by this Agreement to be procured or entered into by Developer are in full force and effect as of the time of such certification, or will be in full force and effect concurrent with the Closing.

2. **City Land**. The Board shall have acquired the City Land from the City.

3. **Final Map**. The Final Map, with any changes to the form of Final Map attached as **Exhibit "J"** as may have been proposed by Developer and approved by the Board, shall have been signed by the Board, approved by the City, and filed in the Office of the County Recorder of San Diego County.

4. **Condition of the Site**. There shall have been no material adverse change in the physical condition of the Site following the date of execution of this Agreement.

5. **Proceedings**. No legal or administrative proceeding, or moratorium, referendum, or other challenge that would adversely impact the Required Land Use Approvals or Developer's ability to construct and occupy the Project within the times set forth in the Performance Schedule shall have been filed.

6. **Deliveries**. All funds and documents described in **Sections 201, 202(4)(a), 203, 206, 207** and **213** have been delivered to Escrow Holder.

7. **CCRT License Agreement Amendment**.

(a) Board and CCRT Properties have executed, acknowledged, and caused to be recorded against the Parcels a CCRT License Agreement Amendment in form and content acceptable to the Board and Developer; and

(b) Escrow Holder has received the CCRT License Agreement Amendment Fee from Developer and is prepared to deliver the CCRT License Agreement Amendment Fee to CCRT upon Close of Escrow.

8. **AAA Easement Amendment**. Board and the Automobile Club of Southern California ("**AAA**") have entered into and recorded the AAA Easement Amendment in form and content acceptable to the Board and Developer.

9. **Proposed New Utility Easements**. Board shall have executed and recorded all Proposed New Utility Easements not dedicated on the Final Parcel Map in form and content acceptable to the Board and Developer, together with such joint use agreements or similar agreements between the Board and the utility companies as the Board may require for its protection.

10. **The Leasehold Title Policy**. Escrow Holder can procure the Leasehold Title Policy insuring title in conformity with **Section 208** of this Agreement.

11. **Designated Plans**. Board shall have approved the "Designated Plans" including, without limitation, the plans for the Trolley Parking Facilities and the mix of disabled and standard size spaces within the Trolley Parking Facilities.

12. **Financing and Project Commitments**. Developer shall have delivered to the Board all of the documents and certifications referred to in **Section 212** hereof, and the Board shall have issued all approvals required of the Board under **Section 212**.

13. **Reimbursement of Costs of Board's Consultants**. Developer shall have deposited into Escrow sums sufficient (in the reasonable determination of the Board) to reimburse the Board for the fees, costs and expenses of its outside consultants, outside counsel, and reimbursable staff time as described in **Section 213**.

14. **Developer Performance**. Prior to the Closing Date, the Board shall determine that (a) all conditions precedent to the Closing have been satisfied and performed, including without limitation, Developer's performance of any other obligations of Developer as set forth in this Agreement, including without limitation the Schedule of Performance or the Scope of Development, which are scheduled to be performed before the Closing Date; and (b) Developer has performed all of its material obligations under this Agreement and is not in material default under this Agreement.

15. **Board Performance**. Prior to the Closing Date, the Developer shall determine that (a) all conditions precedent to the Closing have been satisfied and performed, including without limitation, the Board's performance of any other obligations of the Board as set forth in this Agreement, including without limitation the Schedule of Performance or the Scope of Development, which are scheduled to be performed before the Closing Date; and (b) Board has performed all of its material obligations under this Agreement and is not in material default under this Agreement.

16. **Affordable Housing Agreement Amendment**. Developer and the Agency have entered into an amendment to the Affordable Housing Agreement in form and content

acceptable to the Board and Developer, and the Agency has, pursuant to the Affordable Housing Agreement, approved the form of the Ground Lease.

17. **Review of Fund Operating Agreement**. Board, though its designated representative(s), shall have reviewed the Fund Operating Agreement (as defined in the Ground Lease) and approved it for the sole purpose of confirming its appropriateness for use for the calculations of the Participation Amount as described in Section 803 of the Ground Lease.

18. **Waiver of Conditions Precedent**. The conditions precedent described in Subsections 4, 10 and 15 of this **Section 205** are for the sole benefit of Developer, and Developer unilaterally may waive any or all of such conditions. The conditions precedent described in Subsections 1, 13, 14 and 17 of this **Section 205** are for the sole benefit of the Board, and the Board unilaterally may waive any or all of such conditions. Except as otherwise expressly provided in this Agreement, any other closing conditions described in this Agreement may be waived only by written notice from both Developer and the Board to Escrow Holder and each other. Subject to the terms of this Agreement, Developer and Board shall use their reasonable efforts to satisfy all conditions to closing in accordance with the Schedule of Performance.

F. **[§ 206] Escrow and Escrow Instructions.**

1. The Board agrees to open an escrow for the purposes of this Agreement with North American Title Insurance Company or such other escrow company or escrow department of a title insurance company as may be acceptable to both the Board and the Developer (the "**Escrow Holder**"). This Agreement, together with escrow instructions and any supplemental escrow instructions mutually acceptable to the parties entered into by the parties consistent herewith (the "**Escrow Instructions**"), shall constitute the joint escrow instructions of the Board and the Developer with respect to the conveyance of the leasehold interest in the Site, and a duplicate original of all such documents shall be delivered to the Escrow Holder upon the opening of escrow.

2. The Board and the Developer shall provide such additional escrow instructions as shall be necessary and consistent with this Agreement. The Escrow Holder hereby is empowered to act under this Agreement and, upon indicating its acceptance of the provisions of this Section in writing, delivered to the Board and to the Developer within five (5) days after the opening of the escrow, shall carry out its duties as Escrow Holder hereunder.

3. The Board shall not pay any fees, charges or costs in connection with the Closing; Developer shall pay all such expenses.

4. The Developer shall pay into escrow to the Escrow Holder the following fees, charges and costs promptly after the Escrow Holder has notified the Board of the amount of such fees, charges and costs prior to the Closing Date:

(a) All: (i) escrow fees, (ii) city or county transfer, conveyance or documentary taxes or fees, and (iii) recording and notary fees; and

(b) The premium for the Leasehold Policy referred to in **Section 208** below and any lender's policy required in connection with the Developer's Construction Loan.

5. The Escrow Holder is authorized to:

(a) Pay, and charge the Developer, for any fees, charges and costs payable under this Section to third parties. Before such payments are made, the Escrow Holder shall notify the Board and the Developer of such fees, charges and costs;

(b) Deliver the Ground Lease and other documents (including those referred to in **Section 203** hereof) to the parties entitled thereto when the conditions of the escrow have been fulfilled by the Board and the Developer;

(c) If not previously recorded, record the Deed to the City Land, the Proposed New Utility Easements (and any associated joint use or similar agreements required by Board), the Final Map, the CCRT License Agreement Amendment, and the AAA Easement Amendment;

(d) Record the Memorandum of Lease and any instruments delivered through this escrow if necessary or proper to vest an enforceable leasehold interest in the Developer in accordance with the terms and provisions of this Agreement; and

(e) Do all things necessary and authorized to be done to fulfill this Agreement and the escrow instructions.

6. If the escrow is not in condition to permit the delivery of the Ground Lease, recordation of the documents listed in **Section 206(5)(c)** above (if not previously recorded), recordation of the Memorandum of Lease, and recordation of any documents in connection with any Developer Construction Loan by the Closing Date, either party who is not then in default hereunder may, in writing, terminate this Agreement as provided in **Sections 509** and **510** (including any cure period) and demand the return of its money, papers, documents, or real property. Thereupon all rights, liabilities, duties and obligations of the parties under this Agreement shall be determined as provided in **Sections 509-511** hereof. No termination or demand for return shall be recognized until ten (10) days after the Escrow Holder shall have mailed copies of such demand to the other party at the address of its principal place of business. Objections, if any, shall be raised by written notice to the Escrow Holder and to the other party within the 10-day period. If any objections are raised within the 10-day period, the Escrow Holder is authorized to hold all money, papers and documents until instructed by mutual agreement of the parties or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, the escrow shall be closed as soon as the conditions contained in this Agreement concerning the conveyance of the leasehold interest in the Site have been satisfied.

7. The Escrow Holder shall not be obligated to return any such money, papers or documents except as provided in Subsection 6 above, or upon the written instructions of both the Board and the Developer or until the party entitled thereto has been determined by a final decision of a court of competent jurisdiction.

8. Any amendment to the Escrow Instructions shall be in writing and signed by both the Board and the Developer. At the time of any amendment, the Escrow Holder shall agree to carry out its duties as Escrow Holder under such amendment.

9. All communications from the Escrow Holder to the Board or the Developer shall be directed to the addresses and in the manner established in **Section 601** of this Agreement for notices, demands and communications between the Board and the Developer.

10. The liability of the Escrow Holder under this Agreement is limited to performance of the obligations imposed upon it under this Agreement and the Escrow Instructions, and any supplemental escrow instructions delivered to and accepted by the Escrow Holder.

11. Each party hereto represents to the other that it has not authorized any broker or finder to act on its behalf in connection with this Agreement and that it has not dealt with any broker or finder purporting to act on behalf of any party. Each party hereto agrees to indemnify, defend and hold harmless the other party from and against any and all losses, liens, claims, judgments, liabilities, costs, expenses or damages (including reasonable attorneys' fees and court costs) of any kind or character arising out of or resulting from any agreement, arrangement or understanding alleged to have been made by such party or on its behalf with any broker or finder in connection with this Agreement or the transaction contemplated hereby. Notwithstanding anything to the contrary contained herein, this section shall survive the Closing or any termination of this Agreement.

G. **[§ 207] Deposit of Monies and Recordation of Documents.**

The parties hereto shall each deposit any monies required to close the escrow with the Escrow Holder prior to the Closing Date; provided that the Escrow Holder shall have notified the parties hereto in writing that the Ground Lease, the Memorandum of Lease and other documents referred to in **Section 203** hereof have been delivered to the Escrow Holder and that title is in the condition to be conveyed in conformity with the provisions of **Section 202** of this Agreement. The Escrow Holder shall cause the Title Company to deliver to the Developer a leasehold title insurance policy insuring title in conformity with **Section 208** of this Agreement, deliver to the parties fully executed duplicate originals of the Ground Lease, and record the Memorandum of Lease in the Official Records of the County Recorder for the County of San Diego. The Ground Lease shall not be recorded.

The parties agree to perform all acts necessary for recordation in sufficient time to close escrow in accordance with the provisions of this Agreement.

H. [§ 208] **Title Insurance.**

Concurrently with the recordation of the Memorandum of Lease and the delivery of the executed duplicate originals of the Ground Lease to the parties, Title Company or such other title insurance company approved by the Board and satisfactory to the Developer shall provide and deliver to the Developer a title insurance policy insuring that the leasehold title in the Site is vested in the Developer subject only to the Permitted Title Exceptions and all standard exceptions and exclusions from coverage set forth in the form of title policy ("**Leasehold Title Policy**"). The Leasehold Title Policy shall be in such amount as the Developer and the Title Company may agree. At Developer's option and sole cost, and provided that the Closing is not thereby delayed, Developer may obtain an ALTA extended coverage leasehold owners policy of title insurance, subject only to the Approved Title Exceptions and such exceptions and other matters as are revealed by or result from the ALTA survey. The Title Company shall provide the Board with a copy of the Leasehold Policy.

I. [§ 209] **Taxes and Assessments.**

Ad valorem taxes and assessments, if any, levied, assessed or imposed on the Site during any period prior to the Commencement Date of the Ground Lease shall be borne by the Board. Ad valorem taxes and assessments (including possessory interest taxes), if any, levied, assessed or imposed on the Site during any period commencing after the Commencement Date of the Ground Lease shall be borne by the Developer, pursuant to the Ground Lease.

J. [§ 210] **Occupants of the Site.**

The Site shall be conveyed free of any possession or right of possession except that of the Developer.

K. [§ 211] **Required Land Use Approvals.**

Developer, at its sole cost and expense, shall use its commercially reasonable efforts to obtain all approvals, permits and authorizations from governmental and quasi-governmental agencies and other parties required for the development of the Project, including without limitation the approvals listed on **Exhibit "K"** attached hereto and incorporated herein (the "**Required Land Use Approvals**"). Developer represents and warrants to the Board that: (1) Developer has obtained all of the Required Land Use Approvals other than the Final Map, and (2) the only condition to issuance by the City of all grading, building and other permits required for the development of the Project is the payment of applicable fees, which shall be paid after Close of Escrow as specified in the Ground Lease. The Developer's rights and obligations to lease the Site pursuant to this Agreement shall be subject to, and conditioned upon, the Developer's obtaining all the Required Land Use Approvals.

L. [§ 212] **Submission of Evidence of Financing and Project Commitments.**

The Developer shall report regularly as requested by the Board (but at least every three (3) months) on its progress in obtaining financing for the development on the Site. The reports may be oral, or shall be in writing if requested by the Board. The reports shall explain in reasonable detail

the sources and methods of financing sought, the status of obtaining the financing and the issues, if any, which must be resolved, and the pre-leasing activity which is required or has been achieved. The information in the reports shall remain confidential to the extent permitted by law, recognizing without limitation that they are subject to review by responsible officials, employees and contractors of the Board.

Not later than the times specified therefor in the Schedule of Performance, the Developer shall submit to the Board for approval, which approval shall not be unreasonably withheld, the following:

1. A current certified financial statement or statements covering the last two (2) years, or other financial statements or forms of financial confirmation, in such form reasonably satisfactory to the Board, evidencing the sources of capital sufficient to demonstrate that the Developer has adequate funds and is committing such funds to cover the construction costs and other costs the Developer is expected to incur in fulfilling the obligations of this Agreement.

2. Evidence satisfactory to the Board that the Developer has obtained the financing necessary for the acquisition and development of the Project in accordance with this Agreement. Such evidence of financing shall include the following, certified by the Developer to be true and correct copies thereof:

(a) A copy of the term sheet describing the details of the terms and conditions of the mortgage loan or loans obtained by the Developer (both for interim construction financing and take out financing if a condition of funding the construction loan) to assist in financing the construction of the Project;

(b) Construction loan commitments from Permitted Mortgagees (as defined in the Ground Lease) subject only to such conditions as may be approved by the Board;

(c) Copies of all proposed construction loan documents (e.g., notes, trust deeds, indentures, loan agreements, etc.) pertaining to the Project; and

(d) Evidence satisfactory to the Board of sources of equity capital sufficient to demonstrate that the Developer has adequate funds legally committed to cover the difference, if any, between construction cost minus financing authorized by mortgage loans, and evidence of Developer's financial ability to meet normally anticipated cost over-runs.

3. A copy of the contract between the Developer and the general contractor, FF Development L.P., a Delaware limited partnership, for the construction of improvements upon the Site. Such contract shall be submitted to Board for approval prior to execution and shall be deemed approved unless Board provides written notice to the Developer of disapproval within ten (10) working days of receipt. Such contract shall provide for the commencement of construction on the Site by dates certain, which dates shall be in conformance with this Agreement. Such contract shall contain retention provisions requiring withholding of a minimum of five percent (5%) of payments due to the general contractor and subcontractors

until the contractual obligations of such entities are fully completed. Such contract shall also contain, to the Board's reasonable satisfaction, adequate indemnification, insurance and other contractual provisions as may reasonably be required to protect the Board and any other provisions required by this Agreement to be contained in such contract, and shall be certified by the Developer to be a true and correct copy thereof. Without limiting the foregoing, the contract between the Developer and the general contractor shall be approved by the Board and executed by the Developer and the general contractor on or prior to the Closing Date. Developer shall also deliver to the Board, for the Board's information, copies of all contracts between the general contractor and all finish work subcontractors and all subcontractors whose work exceeds five percent (5%) of the total construction contract costs; provided, however, that the Board shall not have the right to approve such contracts.

4. An assignment by the Developer, in form and substance satisfactory to the Board, assigning to the Board as security for the Developer's performance under this Agreement, the interests of the Developer under the construction contract with the general contractor referred to in Subsection 3 of this Section (the "**Assignment of Construction Contract**") and all contracts with any architect other design professional who has prepared the construction plans, drawings and related documents for the Project (the "**Assignment of Design Contracts**"). It is understood and agreed that such assignments will be expressly subordinate to any assignment of such contracts required by a Permitted Mortgagee and shall authorize Developer to revise, supplement and/or terminate the construction contract and/or any design contract if and to the extent such revision, supplement or termination has been approved by a Permitted Mortgagee.

5. Evidence satisfactory to the Board that Developer has obtained, in form and substance acceptable to the Board, all Required Land Use Approvals and any other permits, approvals and authorizations of any type required for the design, development, construction, use and operation of the Project, other than grading and building permits and those inspections, certificates of occupancy and other approvals that are only available after construction has commenced or been completed.

6. Evidence satisfactory to the Board that Developer has obtained, in form and substance acceptable to the Board, all easements, encroachment agreements, licenses and other off-site rights required for the development, construction, use and operation of the Project, other than: (a) the CCRT License Agreement Amendment, (b) the AAA Easement Amendment, and (c) the Proposed New Utility Easements.

It is the purpose of this procedure to ensure to the satisfaction of the Board that the leasehold interest in the Site will not be conveyed unless and until Developer demonstrates that it has sufficient financing and development commitments to commence and complete the construction of all of the improvements to be constructed pursuant to this Agreement. Prior to the close of escrow, the Developer shall provide or cause to be provided to the Board any additional evidence reasonably required by the Board to establish that all items required under this Section are current and in full force and effect.

The Board shall approve all evidence, contracts and commitments required under this Section within the time established therefor in the Schedule of Performance except as otherwise set forth in this Section. Such approval shall not be unreasonably withheld. Any disapproval shall be given in writing with the specific reasons therefor. In the event the Board shall disapprove any evidence, contracts or commitments required under this Section, the Developer may revise and resubmit the same within thirty (30) days of receipt of the Board's written disapproval.

M. **[§ 213] Reimbursements by Developer.**

Developer shall reimburse the Board for the fees, costs and expenses of: (1) its outside consultants Keyser Marston Associates Inc. (in an amount not to exceed $5,000); (2) its outside counsel the Law Offices of R. Martin Bohl (in the actual amount of fees and costs incurred); and (3) reimbursable staff time for entry permits requested by Developer (in an amount not to exceed $20,000) for the Project. This obligation shall survive the Close of Escrow or the termination of this Agreement. Developer shall deposit with Escrow Holder on or before the Closing Date sums sufficient (in an amount reasonably documented and, to the extent not already incurred, reasonably estimated by the Board) to reimburse the Board for such fees, costs and expenses, which sums shall be paid to Board through Escrow at Close of Escrow. After Close of Escrow, if Board determines that the amount deposited was not sufficient to cover the costs described above, Developer shall reimburse the Board for such additional costs within thirty (30) days of the Board's written request together with reasonable evidence of such charges and payment. If after payment of such fees, costs and expenses, any balance of such deposits remains, such balance shall be refunded promptly to the Developer together with reasonable evidence of such charges and payment.

III. [§ 300] DEVELOPMENT OF SITE.

A. [§ 301] Development of Site.

1. [§ 302] Scope of Development.

The Developer shall develop the Site with the Project as provided in the Scope of Development.

2. **[§ 303] No Approved Drawings and Plans.** No final plans or drawings have been submitted to or approved by the Board.

3. [§ 304] Construction Plans, Drawings and Related Documents.

(a) The Developer shall prepare and submit to the Board for architectural and site planning review and written approval the construction plans, drawings and related documents described in **Exhibit "G"** as the **"Designated Plans"** at the times established in the Schedule of Performance, subject to extensions as are authorized herein or as mutually agreed to by the parties hereto. Developer shall also promptly provide Board upon request, for the Board's information (not approval), copies of all other plans,

drawings and related documents for the development of the Site, including any proposed changes therein.

(b) Board staff and the Developer shall hold regular progress meetings to coordinate the review of the Designated Plans and related documents by the Board. The Board and the Developer shall communicate and consult informally as frequently as is necessary to insure that the Designated Plans receive prompt and speedy consideration by the Board.

(c) If any revisions or corrections of plans approved by the Board shall be required by any government official, agency, department or bureau having jurisdiction, or any lending institution involved in financing, the Developer and the Board shall cooperate in efforts to obtain a waiver of such requirements or to develop a mutually acceptable and commercially reasonable alternative.

4. **[§ 305] Board Approval of Plans, Drawings and Related Documents.**

(a) The Board shall have the right of review (including, but not limited to, architectural review) and approval of the Designated Plans, including any proposed changes therein. Board shall not unreasonably withhold approval of the Designated Plans.

The Developer has retained Ark Architects, Inc. as the architect for the Project through construction completion, provided, however, that Developer may retain a substitute or additional architect if Board approves in writing, in advance of any substitution occurring prior to Close of Escrow.

The Board shall approve, conditionally approve, or disapprove the Designated Plans (and any proposed changes therein) within the times established in the Schedule of Performance. Any disapproval shall state in writing the reasons for disapproval and the steps which must be taken to achieve such approval. Subject to the succeeding paragraph, the Developer, upon receipt of a disapproval, shall revise such portions of the plans, drawings or related documents in a manner that satisfies the reasons for disapproval, and shall resubmit such revised portions to the Board as soon as possible after receipt of the notice of disapproval, but in no event more than thirty (30) calendar days after receipt of the notice of disapproval. The Board shall approve or disapprove such revised portions in the same manner and within the same time frame as provided in the Schedule of Performance for approval or disapproval of plans, drawings and related documents initially submitted to the Board.

If the Developer desires to make any substantial change in the Designated Plans after their approval by the Board, the Developer shall submit the proposed change to the Board for its approval. The Board shall approve, conditionally approve, or disapprove such proposed change as provided in this Section and in the same manner and within the same time period as provided in the Schedule of Performance for

approval or disapproval of plans, drawings and related documents initially submitted to the Board.

(b) The Board neither undertakes nor assumes nor shall it have any responsibility or duty to Developer or to any third party to review, inspect, supervise, pass judgment upon or inform Developer or any third party of any matter in connection with the development or construction of the Project, whether with respect to the quality, adequacy or suitability or the plans, any labor, service, equipment or material furnished to the Project, any person furnishing the same or otherwise. Developer and all third parties shall rely upon its or their own judgment with respect to such matters, neither Developer nor any third party is entitled to rely on any review, inspection, supervision, exercise of judgment or information supplied to the Developer or to any third party by the Board in connection with this Agreement.

The parties shall prepare and attach to the Ground Lease at Closing a schedule describing the plans, drawings, and related documents which have been approved by the Board.

5. **[§ 306] Cost of Construction.**

The entire cost of developing the Project and constructing all improvements on the Site shall be borne by the Developer. The Board and the Developer shall each pay the costs necessary to administer and carry out their respective responsibilities and obligations under this Agreement.

6. **[§ 307] Indemnification.**

To the fullest extent permitted by law, the Developer shall indemnify, protect, defend and hold harmless the Board and its officers, employees and agents, from and against all liability, loss, damage, costs, or expenses of any kind (including court costs and attorneys' fees) arising from or as a result of: (a) any and all challenges to this Agreement, the Project, or the related entitlements; and (b) any accident, injury, loss or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Board Land or the Amaya Station and which shall be directly or indirectly caused by any acts done thereon or any errors or omissions of the Developer, its agents, employees and contractors, or any of them, including but not limited to, claims of negligent or defective design or construction before Close of Escrow or termination of this Agreement, regardless of whether any such liability, loss, damage, costs, or expense occurs before or after Close of Escrow or termination of this Agreement. These indemnity obligations shall survive the expiration or termination of this Agreement. Developer's obligations under this Section exclude only claims, losses or liability which is due to the sole negligence or sole willful misconduct of Board or its officers, employees and agents.

7. [§ 308] **Local, State, and Federal Laws.**

The Developer shall comply with all applicable laws, including all applicable federal and state labor standards.

8. [§ 309] **City and Other Governmental Board Permits.**

Before commencement of any work or improvement upon the Board Land, the Developer shall secure or shall cause to be secured, any and all permits, approvals or certificates which may be required by the Board, the City or any other governmental agency with jurisdiction over the Board Land or over the construction, development or work contemplated under this Agreement. The Board shall cooperate with Developer and provide all proper assistance to the Developer in securing these permits and certificates and any other approvals required for the Project in order to meet the time periods set forth in the Schedule of Performance; provided that the Board shall not be required to incur any expense in connection with providing any such assistance.

9. [§ 310] **Taxes, Assessments, Encumbrances and Liens.**

The Developer shall not place or allow to be placed on the Board Land, or any portion thereof, any mortgage, trust deed, encumbrance or lien and the Developer shall remove, or shall have removed, any levy or attachment made on the Board Land, or any portion thereof, or shall assure the satisfaction thereof within a reasonable time. Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amounts of any encumbrance or lien, nor to limit the remedies available to the Developer with respect thereto, provided such contest does not subject the Board Land, or any portion thereof, to forfeiture or sale.

B. [§ 311] **Sale of Developer's Interest in the Project.**

Except as otherwise expressly provided in this Agreement, the Developer shall not under any circumstances be entitled to assign this Agreement or any of the rights herein, without the prior written consent of the Board, which may be granted or withheld in the sole and absolute discretion of Board.

If, contrary to the provisions of this Agreement, the Developer does assign this Agreement or any of the rights herein, or any change in the ownership or control of Developer in violation of **Section 107** occurs, in addition to all other legal and equitable remedies the Board may be entitled to, the Board shall be entitled to recover from Developer the total consideration received by Developer for such sale, transfer, conveyance or assignment. Said consideration shall belong and be paid immediately to the Board.

IV. [§ 400] USE OF THE BOARD LAND.

A. [§ 401] **Inspection of the Board Land.**

1. Developer has fully and independently inspected and assessed the condition of the Board Land and any other information deemed pertinent by Developer to its acquisition, use or development of the Board Land (including any title, survey, permits, approvals, laws, statutes, rules, ordinances and other governmental regulations or requirements applicable to the Board Land), and has approved the same in its sole discretion. Before the Close of Escrow, Developer shall have the continuing right to physically inspect, and to cause one or more engineers or other representatives of Developer to physically inspect, the Board Land without interfering with the Board's operation of the Board Land. Developer shall make such inspections in good faith and with due diligence. All inspection fees, appraisal fees, engineering fees and other expenses of any kind incurred by Developer relating to the inspection of the Board Land will be solely at Developer's expense. The Board shall cooperate reasonably with Developer in providing access to the Board Land for such inspections. The Board hereby reserves the right to have a representative present when Developer conducts any inspection of the Board Land. Prior to and as a condition to Developer making each physical inspection of the Board Land, Developer shall provide the Board with all of the following items reasonably in advance of such inspection (but in any case at least one (1) Business Day (defined in **Section 610** below) before such inspection): (a) reasonably detailed written notice of the proposed date, time and nature of such inspection, (b) evidence in a form reasonably acceptable to the Board that Developer has obtained and will maintain in force and effect insurance that is, in the Board's judgment, appropriate to cover any risks related to such inspection, and (c) evidence in a form reasonably acceptable to the Board that Developer has obtained all permits or other governmental approvals required for such inspection.

2. Developer shall indemnify, protect, defend (with counsel approved by the Board) and hold harmless the Board, its contractors and employees from and against any and all injuries, losses, liens, claims, judgments, liabilities, costs, expenses and damages (including reasonable attorneys' fees and court costs) sustained by or threatened which result from or arise out of any inspections of the Board Land or any other entry onto the Board Land by Developer, its contractors, employees, agents or representatives, however caused. Notwithstanding any provision herein to the contrary, the indemnity contained in the preceding sentence shall survive the Closing or the earlier termination of this Agreement.

3. Developer shall deliver to the Board, within five (5) Business Days after a request, copies of all studies, reports and similar information, including all supplements, addenda and updates of such information, regarding the physical condition of the Board Land (e.g., soils, geotechnical, hydrological, and environmental reports, studies, assessments and tests) obtained by Developer.

B. **[§ 402] Hazardous Substances.**

1. Developer shall not, without the Board's prior written consent, use, store, generate, dispose or otherwise allow any "**Hazardous Substances**" (as defined below) onto the Board Land.

2. Developer shall comply with all rules, laws and regulations relating to Hazardous Substances which Developer uses, stores or allows on the Board Land.

3. Developer shall not cause the unlawful release, deposit, discharge or disposal of any Hazardous Substances on or around the Board Land or permit the unlawful release, deposit, discharge or disposal of any Hazardous Substances on the Board Land.

4. No above or underground storage tanks shall be installed or maintained on the Board Land without Board's prior express written approval.

5. Developer shall be responsible for posting on the Board Land any signs required by any state, federal or local law, including, without limitation, Section 25249.6 of the California HEALTH AND SAFETY CODE and regulations promulgated pursuant thereto. Developer shall also complete and file any business response plans or inventories required by any state, federal or local law, including, without limitation, Chapter 695 of the California HEALTH AND SAFETY CODE and regulations promulgated pursuant thereto. Developer shall concurrently file a copy of any such business response plan or inventory with Board.

6. Developer shall defend, indemnify and hold harmless the Board and its officers, employees, and agents from any claims, liability, injury, damage, costs or expenses (including without limitation, attorneys' fees and the cost of any cleanup, testing, remediation, removal or disposal of Hazardous Substances) relating to or arising out of any Hazardous Substances released, deposited, discharged or disposed onto, under or around the Board Land by Developer, its contractors, employees or agents, or arising as a result of Developer's violation of the provisions of this Section. The obligations of this paragraph shall survive the expiration or termination of this Agreement.

7. Developer hereby releases the Board and its officers and employees from any claims, liability, injury, damage, costs or expenses (including without limitation, attorneys' fees and the cost of any cleanup, testing, remediation, removal or disposal of Hazardous Substances) relating to or arising out of any Hazardous Substances released, deposited, discharged or disposed onto, under or around the Board Land; provided, however, that this release shall not apply to any Hazardous Substances released, deposited, discharged or disposed onto, under or around the Board Land solely by Board or its officers or employees after the Close of Escrow. Developer agrees as to the matters released to waive the benefits of Section 1542 of the CIVIL CODE of the State of California, which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

_____ _____

Developer's Initials Board's Initials

The obligations of this paragraph shall survive the expiration or termination of this Agreement.

8. The term "**Hazardous Substances**", when used in this Agreement, shall mean any hazardous waste or hazardous substance as defined in any federal, state, or local statute, ordinance, rule, or regulation applicable to the property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Title 42 United States Code 9601-9662), the Resource Conservation and Recovery Act (Title 42 United States Code 6901-6992k), the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code 25300-25395), and the Hazardous Waste Control Law (California Health and Safety Code 25100-25250.25). "Hazardous Substances" shall also include asbestos or asbestos-containing materials, radon gas, and petroleum or petroleum fractions, whether or not defined as a hazardous waste or hazardous substance in any such statute, ordinance, rule, or regulation.

C. **[§ 403] Obligation to Refrain from Discrimination.**

There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin, ethnicity, disability, marital status, sex or sexual orientation, in connection with the construction of the Project or in the lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, or any part thereof, nor shall the Developer itself or any person claiming under or through the Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, or sublessees of the Site.

D. **[§ 404] Effect and Duration of Covenants.**

1. The covenants established herein shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Board, its successors and assigns, and any successor in interest to the Site or any part thereof.

2. The covenants contained in this Agreement shall remain in effect as follows:

(a) All indemnity and release obligations shall survive the termination of this Agreement.

(b) The obligations of Developer under Subsection (3) of **Section 401** shall survive the termination of this Agreement.

(c) All other covenants in this Agreement shall terminate upon the Close of Escrow.

3. The duties and obligations of the Lessee under the Ground Lease are separate and independent from the duties and obligations of the Developer under this Agreement, and a breach by the Developer under this Agreement shall not be deemed a breach under the Ground Lease. No (i) Transferee (as that term is defined in the Ground Lease) of the Lessee's interest under the Ground Lease, (ii) Permitted Mortgagee (as defined in the Ground Lease), (iii) tenant under a New Lease or its subsequent assignees, or (iv) a foreclosing Permitted Mortgagee

or its subsequent assignees, shall be responsible for any of the obligation of the Developer under this Agreement and no such party described in (i)-(iv) above shall be considered a "successor or assign" under this Agreement.

E. **[§ 405] Effect of Violation of the Terms and Provisions of this Agreement.**

The Board shall have the right in the event of any breach of the terms and provisions of this Agreement, to exercise all rights and remedies available at law, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches.

V. [§ 500] DEFAULTS, REMEDIES AND TERMINATION.

A. [§ 501] Defaults – General; Notice.

A failure or delay by any party to perform any term or provision of this Agreement shall constitute a default under this Agreement. The non-defaulting party shall give written notice of default to the defaulting party, specifying the default complained of and the actions required to cure the default. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default. A party shall be deemed in material default of this Agreement, and the party not in default shall have the remedies described below, if either: (1) a monetary default is not cured within ten (10) days after service of the notice of default; or (2) a non-monetary default is not cured within thirty (30) days after service of the notice of default; or (3) a non-monetary default which cannot reasonably be cured within thirty (30) days is not (a) commenced to be cured within thirty (30) days after service of the notice of default, (b) pursued diligently, and (c) cured promptly within a reasonable period of time after commencement of the cure.

Any failures or delays by a party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies, or deprive a party of its right to institute and maintain any actions or proceedings which are allowed by this Agreement.

B. [§ 502] Legal Actions.

1. [§ 503] Institution of Legal Actions.

Any legal actions must be instituted in the Superior Court of the County of San Diego, State of California, in any other appropriate court in that County, or in the Federal District Court for the Southern District of California.

2. [§ 504] Applicable Law.

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

3. [§ 505] **Acceptance of Service of Process.**

In the event that any legal action is commenced by the Board against the Developer, service of process on the Developer shall be made by personal service, or in such manner as may be provided by law, and shall be valid whether made within or without the State of California.

C. [§ 506] **Rights and Remedies are Cumulative.**

Except with respect to rights and remedies which are expressly declared to be exclusive in this Agreement, the rights and remedies of any non-defaulting party are cumulative and the exercise of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the defaulting party.

D. [§ 507] **Damages; Specific Performance.**

If a party defaults with regard to any of the provisions of this Agreement, after notice and opportunity to cure as provided in **Section 501** above; the defaulting party shall, except as otherwise expressly provided in this Agreement, be liable to the other party for damages caused by such default, and the non-defaulting party, at its option, may institute an action for specific performance of the terms of this Agreement, or exercise any other remedy or remedies which it may be entitled to.

E. [§ 508] **Remedies and Rights of Termination.**

1. [§ 509] **Termination by Developer.**

In addition to any other termination rights of Developer set forth in this Agreement, the Developer may terminate this Agreement, if :

(a) any of the conditions to Closing in **Section 205** for Developer's benefit are not satisfied or waived by Developer by the Closing Date; or

(b) the Board fails to execute and deliver the Ground Lease and deliver possession of the Site at Closing or fails to perform any of its other obligations under this Agreement (including any Attachment to this Agreement) within the time established therefor herein or in the Schedule of Performance.

2. [§ 510] **Termination by Board**.

In addition to any other termination rights of the Board set forth in this Agreement, but subject to the notice and cure provisions of **Section 501**, the Board at its option may terminate this Agreement if:

(a) the Developer assigns or attempts to assign this Agreement, or any rights herein, or makes or attempts to make any total or partial sale, transfer or conveyance

of the whole or any part of Developer's leasehold interest in the Site or the improvements thereon, except as permitted by this Agreement; or

(b) there is change in the ownership of the Developer, or with respect to the identity of the parties in control of the Developer, or the degree thereof contrary to the provisions of **Section 107** hereof; or

(c) the Developer fails to diligently pursue or to obtain and submit to the Board the Evidence of Financing and Project Commitments described in **Section 212** of this Agreement within the time established therefor in the Schedule of Performance; or

(d) the Developer fails to diligently pursue or to obtain and submit to the Board any Required Land Use Approval necessary for the construction of the improvements contemplated by this Agreement within the time established therefor in the Schedule of Performance; or

(e) the Developer fails to prepare, complete and submit to the Board, for its approval, the Designated Plans with the requirements set forth in the Scope of Development within the time established therefor in the Schedule of Performance; or

(f) the Developer fails to execute and deliver the Ground Lease within the time established therefor in the Schedule of Performance; or

(g) the Developer fails to perform any of its other obligations under this Agreement (including any Attachment to this Agreement) within the time established therefor herein or in the Schedule of Performance; or

(h) any of the conditions to Closing in **Section 205** for the Board's benefit are not satisfied or waived by the Board by the Closing Date; or

(i) the Developer fails to timely pay or reimburse the Board for any costs or expenses incurred by the Board with respect to the Site which are to be borne by the Developer under this Agreement; or

(j) the Developer fails to perform all of Developer's indemnity obligations to Board under this Agreement, including, but not limited to, those set forth in **Sections 307, 401**, and **402**.

3. **[§ 511]** **Effect of Termination.**

(a) No expiration or termination of this Agreement shall affect Developer's indemnity obligations to the Board under this Agreement, including, but not limited to, those set forth in **Sections 307, 401**, and **402**. The obligations of Developer under

Subsection (3) of **Section 401** and Developer's release under Subsection 7 of **Section 402** shall survive the termination of this Agreement.

(b) The deposits and payments made by the Developer under the ENA, this Agreement or separate agreement to reimburse the Board for the fees, costs and expenses of the Board's outside consultants, attorneys and reimbursable staff time shall be retained by the Board until the total amount of such fees, costs and expenses is determined and paid. Any balance of such deposits remaining (after payment of such fees, costs and expenses) shall be refunded promptly to the Developer.

VI. [§ 600] GENERAL PROVISIONS.

A. [§ 601] Notices, Demands, and Communications Between the Parties.

Unless otherwise specifically provided herein, all formal notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered upon personal delivery, or by Federal Express (or similar reputable express delivery service), or by telecopier transmission with verification of receipt and back-up copy mailed the same day, or as of the second Business Day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

For the Board:

Chief Executive Officer
Metropolitan Transit Development Board
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone: (619) 231-1466
Telecopier: (619) 234-3172

with copies to:

General Counsel
Metropolitan Transit Development Board
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone: (619) 557-4512
Telecopier: (619) 234-3172

and

R. Martin Bohl, Esq.
Law Offices of R. Martin Bohl
501 West Broadway, Suite 520
San Diego, California 92101
Telephone: (619) 446-0080
Telecopier: (619) 446-0090

For the Developer: Fairfield Grossmont Trolley LLC
Attn: Patrick J. Gavin, Vice President
5510 Morehouse Drive, Suite 200
San Diego, California 92121
Telephone: (858) 457-2123
Telecopier: (858) 457-8082

with a copy to:

Rutan & Tucker, LLP
Attn: Marcia A. Forsyth, Esq.
611 Anton Blvd., Suite 1400
Costa Mesa, California 92626
Telephone: (714) 641-3453
Telecopier: (714) 546-9035

Addresses for notice may be changed by written notice sent in the manner provided above.

B. **[§ 602] Conflicts of Interest.**

No member, official or employee of the Board shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he, or she is, directly or indirectly, interested.

C. **[§ 603] Warranty Against Payment of Consideration for Agreement.**

The Developer warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

D. **[§ 604] Nonliability of Board Officials and Employees.**

No member, official, or employee of the Board shall be personally liable to the Developer or any successor in interest, in the event of any default or breach by the Board or for any amount which may become due to the Developer or to its successor, or on any obligations under the terms of this Agreement.

E. **[§ 605] Enforced Delay; Extension of Time of Performance.**

In addition to specific provisions of this Agreement, delays in performance (other than the payment of money) by either party hereunder shall not be deemed to be a default where and to the extent that such delays in performance are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, Acts of God, acts of the public enemy, acts of terrorism, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, acts of the

other party, or any other causes beyond the control (and without the fault) of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if the party claiming such extension sends notice to the other party within thirty (30) days of knowledge of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the Board and the Developer.

F. **[§ 606] Inspection of Books and Records.**

The Board has the right at all reasonable times to inspect the books and records of the Developer pertaining to the Site and the Project as pertinent to the purposes of this Agreement.

G. **[§ 607] Approvals.**

Unless otherwise expressly provided herein, approvals required of the Board or the Developer shall not be unreasonably withheld and approval or disapproval shall be given within the time set forth in the Schedule of Performance or, if no time is given, within a reasonable time. Unless otherwise expressly provided herein, the Chief Executive Officer of the Board or his/her designee shall have the authority to issue all approvals and disapprovals on behalf of the Board required or allowed hereunder.

H. **[§ 608] Severability.**

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

I. **[§ 609] Gender, Number.**

Whenever the context requires, the use herein of (i) the neuter gender includes the masculine and the feminine, and (ii) the singular number includes the plural.

J. **[§ 610] Business Days.**

"**Business Day**" means a day that is not a Saturday, Sunday or federal bank holiday. If the last day for performance of an act falls upon a day that is not a Business Day, such last day shall be the next following regular Business Day.

K. **[§ 611] Captions.**

Captions in this Agreement are inserted for convenience of reference and do not define, describe or limit the scope or intent of this Agreement or any of its terms.

L. [§ 612] **Entire Agreement.**

This Agreement, together with any other written document referred to herein, embodies the entire agreement and understanding between the parties regarding the subject matter hereof, and any and all prior or contemporaneous oral or written representations, agreements, understandings or statements shall be of no force and effect.

M. [§ 613] **Recitals; Exhibits**.

Any recitals set forth above and any attached exhibits are incorporated by reference into this Agreement.

N. [§ 614] **Authority of Signatories**.

Each signatory and party hereto hereby warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all resolutions and/or other actions have been taken so as to enable said signatory to enter into this Agreement.

O. [§ 615] **Modifications**.

No modification, waiver or discharge of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver or discharge is or may be sought. Any material amendments to this Agreement must be approved by the Board's Board of Directors.

P. [§ 616] **Attorneys' Fees and Legal Expenses.**

Should any party hereto institute any action or proceeding in court or any arbitration or similar proceeding to enforce any provision hereof or for damages by reason of any alleged breach of any provision of this Agreement or for any other judicial remedy, the prevailing party(ies) shall be entitled to receive from the losing party(ies) all reasonable attorneys' fees and all court costs in connection with said proceedings.

Q. [§ 617] **Preparation of Agreement**.

No inference, assumption or presumption shall be drawn from the fact that a party or its attorney prepared or drafted this Agreement. It shall be conclusively presumed that both parties participated equally in the preparation and/or drafting of this Agreement.

R. [§ 618] **Counterparts**.

This Agreement may be executed in any number of counterparts, each of which shall be original and all of which shall constitute one and the same document.

S. **[§ 619] Certificates.**

At any time and from time to time, each party ("Responding Party") agrees to sign and deliver to the other party ("Requesting Party") within ten (10) days after receipt of written request therefor a statement certifying that (a) this Agreement is unmodified and in full force and effect (or, if such is not the case, so stating and setting forth any modifications), (b) that, to the Responding Party's knowledge, the Requesting Party is not in breach hereunder (or, if such is not the case, so stating and setting forth any alleged breaches), and (c) any other information reasonably related to the status of this Agreement. Such certification may be conclusively relied on by the Requesting Party, any equity investor of Developer, and any title insurance company insuring title to the Site.

T. **[§ 620] Successors and Assigns.**

Subject to the provisions of this Agreement restricting or prohibiting assignment, this Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective parties.

U. **[§ 621] Joint and Several Liability.**

If any party consists of more than one person or entity, the liability of each such person or entity signing this Agreement shall be joint and several.

V. **[§ 622] No Third Party Beneficiaries.**

This Agreement has been made and is made solely for the benefit of the Board and the Developer and their respective successors and permitted assigns. Nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement.

VII. [§ 700] **TIME FOR ACCEPTANCE OF AGREEMENT BY BOARD.**

Execution and delivery of this Agreement by the Developer to the Board shall be considered an offer by Developer to enter into this Agreement. If this Agreement is not authorized, executed and delivered by the Board within seven (7) days after the date of signature by the Developer, the offer to enter into this Agreement may be terminated by the Developer on written notice to the Board. The effective date of this Agreement (the "**Effective Date**") shall be the date this Agreement is fully executed by both Developer and the Board.

"Board"

Metropolitan Transit Development Board,
a California public agency also known as the
Metropolitan Transit System

By: _____
Paul Jablonski, Chief Executive Officer

APPROVED AS TO FORM:

By: _____
Tiffany L. Lorenzen
General Counsel

"Developer"

Fairfield Grossmont Trolley LLC,
a Delaware limited liability company

By: FF California Housing Fund LLC,
a Delaware limited liability company,
its Manager

By: FF Properties, Inc.,
a Delaware corporation,
its Manager

By: _____
Name: _____
Title: _____

[Developer to provide evidence of authority.]

Exhibit A

Legal Description of Board Land

[to be attached]

Exhibit B

Legal Description of City Land

[to be attached]

Exhibit C

Site Map

[to include depiction of Parcels 1, 2, 3 and 4 and the Trolley Station]

[to be attached]

Exhibit D

Ground Lease

[to be attached]

Exhibit E

Scope of Development

[to be attached]

Exhibit F

Site Plan

[to be attached]

Exhibit G

List of Designated Plans

[to be attached]

(Those plans showing mix of regular and handicapped parking spaces within the Trolley Parking Facilities are marked with an asterisk.) Designated Plans shall include the new "Access Road Improvement Plans."

Exhibit H

Schedule of Performance

[to be attached]

Exhibit I

Fundamental Business Terms

[to be attached]

Exhibit J

Draft Final Map

[to be attached]

Exhibit K

Required Land Use Approvals

- Tentative Parcel Map TPM-04-03 with excess right-of-way vacation and utility easements
- Site Development Plan DAB-04-05
- Special Permit SP-04-10 (for proposed height increase)
- Sewer Reimbursement Agreement between Developer and City for the cost of the Alvarado Trunk Sewer Main Replacement between Bus Court and Jackson Drive
- Design Review DRB-04-05
- Affordable Housing Agreement (as defined in recital F)
- Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
- Final Parcel Map _____ (to be approved)

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GROUND LEASE

by and between

THE METROPOLITAN TRANSIT DEVELOPMENT BOARD,

a California public agency also known as the Metropolitan Transit System

"Board"

and

FAIRFIELD GROSSMONT TROLLEY LLC,

a Delaware limited liability company

"Lessee"

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GROUND LEASE

THIS GROUND LEASE (**"Lease"**) is made as of _____, 2006 (the **"Effective Date"**) *[date of Close of Escrow under the DDA to be inserted by Escrow Holder]* by and between the **METROPOLITAN TRANSIT DEVELOPMENT BOARD**, a California public agency also known as the Metropolitan Transit System (the **"Board"**), and **FAIRFIELD GROSSMONT TROLLEY LLC**, a Delaware limited liability company (**"Lessee"**).

I. [§ 100] SUBJECT OF LEASE

A. [§ 101] Parties to the Lease

1. [§ 102] The Board

The **"Board"** is a California public agency organized and existing under the laws of the State of California. The principal office of the Board is located at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101-7490. "Board" as used in this Lease includes the Board and any assignee of or successor to its rights, powers and responsibilities. The Board owns certain real property located in the City of La Mesa (the "**City**"), State of California, legally described as Parcels 1, 2, 3 and 4 of Parcel Map _____ *[insert number after Map is filed]* according to the Map thereof (the "**Parcel Map**") filed in the Official Records of San Diego County, California, on _____, 2006 (the "**Board Land**").

2. [§ 103] Lessee

"Lessee" is FAIRFIELD GROSSMONT TROLLEY LLC, a Delaware limited liability company. The sole member of Lessee is Fairfield California Housing Fund LLC, a Delaware limited liability company (**"Fund"**). The manager of Lessee and the member/manager of Fund is FF California Housing Fund LLC, a Delaware limited liability company (**"FFCHF"**). FF Properties, Inc., a Delaware corporation (**"FF Properties"**) is the manager of FFCHF. The principal office of the Lessee and FFCHF is 5510 Morehouse Drive, Suite 200, San Diego, California 92101. The non-manager Member of Fund is California State Teachers Retirement System (**"CalSTRS"**). Wherever the term "Lessee" is used herein, such term shall also include any permitted assignee or successor in interest as herein provided.

B. [§ 104] The DDA

This Lease is made pursuant to and in accordance with that certain Disposition and Development Agreement between the Board and Lessee dated as of _____, 2006 (the **"DDA"**). This Lease was entered into at Close of Escrow under the DDA. Lessee's duties and obligations under this Lease are separate and independent from its duties and obligations under the DDA, and a breach by the Lessee under the DDA shall not be deemed a breach under this Lease.

C. [§ 105] **The Premises**

The "**Premises**" consist of the following interests in the Board Land:

1. A leasehold estate in Parcel 1 of the Parcel Map (the "**West Parcel**") and Parcel 2 of the Parcel Map (the "**East Parcel**"), excepting and reserving to the Board the easements defined in **Section 108(3)** below as the "**Exclusive Trolley Parking Easement**." The West Parcel and the East Parcel are collectively referred to in this Lease as the "**Parcels**"; and

2. A non-exclusive easement appurtenant to and for the benefit of the Parcels for purposes of vehicular and pedestrian ingress and egress and utilities for the "Project" (defined below) over that portion of Parcel 3 and Parcel 4 of the Parcel Map which was dedicated to the City on the Parcel Map as the "Fire Lane and Access Easement" (the "**Access Easement**"). The Access Easement is created by the Board's execution of this Lease and the Board's execution and recordation of the Memorandum of Lease described in **Section 1327** below, substantially concurrently with the Effective Date. The Access Easement shall be for a term of years commensurate with the term of this Lease.

Except as expressly provided to the contrary in this Lease, reference to the Parcels is to the described land exclusive of any improvements now or hereafter located on such land, notwithstanding that any such improvements may or shall be construed as affixed to and as constituting part of the real property, and without regard to whether ownership of the improvements is in Board or Lessee.

D. [§ 106] **The Project**

The purpose of this Lease is to provide for the lease of the Premises to Lessee and the development and operation on the Parcels by Lessee, at its sole cost and expense, of a transit-oriented, moderate density, mixed-use rental project consisting of:

1. Five hundred twenty-seven (527) multifamily rental apartment units (of which eighty (80) units will be "Affordable Units," as described in **Section 107** below) constructed above two-level parking structures;

2. Approximately 2,800 square feet of ground floor retail rental space;

3. Amenities and accommodations related to the Project, including, without limitation, clubhouses, swimming pools, and related facilities for the benefit of the residents of the Project;

4. Parking facilities consisting of approximately one thousand three hundred eighty-nine (1,389) parking spaces in the parking structures, including (a) approximately seven hundred seven (707) parking spaces (of which 19 will be "tandem" spaces) in the upper parking levels on both Parcels, for the exclusive use of residents and guests of the Project, (b) approximately seventy-seven (77) parking spaces on the lower parking level of the East Parcel and five (5) parking

spaces on the lower parking level of the West Parcel for the exclusive use of residents of the Project and the employees of and visitors to the leasing offices of the Project, and (c) six hundred (600) parking spaces in the Trolley Parking Facilities (defined in **Section 108(3)** below) for the exclusive use of Board, its bus and trolley park-and-ride patrons of the Grossmont Station and the Parking Licensees (defined in **Section 108(3)(d)** below); and

5. Extension of off-site sanitary sewer, electrical, water, storm drain, telephone, cable and gas facilities required to serve the improvements described in **Sections 106(1) - (4)** above.

(collectively, the "**Project**").

A "**Site Plan**" for the Project is attached hereto as **Exhibit B**. The improvements to be made by Lessee to the Parcels as part of the Project (the "**Improvements**"), are more particularly described and defined in **Section 400** below and in the Scope of Development attached hereto as **Exhibit C** and the "**Final Construction Drawings and Related Documents**" described on **Exhibit D** attached hereto. The "Project" shall include any subsequent construction on the Parcels following the construction of the Improvements.

E. **[§ 107]** **Affordable Housing Agreement**

The Lessee and the La Mesa Community Redevelopment Agency (the "**Agency**") have entered into an Affordable Housing Agreement {Grossmont Station Transit-Oriented Development Project} dated as of September 27, 2005, as amended by_____ dated _____, 2006 (as amended, the "**Affordable Housing Agreement**"). The Affordable Housing Agreement requires, among other things, that eighty (80) of the residential units constructed within the Project (the "**Affordable Units**") be rented to persons and families of very-low and moderate-income at affordable rent for a term of fifty five (55) years. An Agreement Containing Covenants Affecting Real Property in the form attached to the Affordable Housing Agreement as Exhibit "C" (the "**Affordable Covenant**") and a Leasehold Deed of Trust in the form attached to the Affordable Housing Agreement as Exhibit "D" (the "**AHA Deed of Trust**") will be executed by the Lessee and delivered to the Agency for recordation, substantially concurrently with the move-in of the first tenants to occupy the Affordable Units. The Board has reviewed and approved the Affordable Housing Agreement, and consents to the recording of the Affordable Covenant and the AHA Deed of Trust against Lessee's leasehold interest in the Premises. The Board agrees to execute and deliver an estoppel certificate in substantially the form attached to the Affordable Housing Agreement as Exhibit E (the "**AHA Estoppel Certificate**") within fifteen (15) days following Lessee's written request to do so, provided that such request from Lessee is accompanied by a copy of a permanent certificate of occupancy or equivalent for all units within the first residential building of the Project to be completed. The Board shall be entitled to revise the form of AHA Estoppel Certificate, if necessary, to include those revisions required to reflect the current state of facts, such as the status of this Lease and Lessee's performance hereunder. The Lessee agrees not to amend in a manner materially inconsistent with the rights of the Board under this Lease or terminate the Affordable Housing Agreement, the Affordable Covenant or the AHA Deed of Trust without the prior written consent of the Board.

F. [§ 108] **The Trolley Station and Trolley Parking**

1. **Trolley Station**. The Board owns and operates the Grossmont Trolley Station and trolley right-of-way (the "**Trolley Station**") adjacent to the Parcels as illustrated and designated on the Site Plan. Nothing in this Lease shall restrict or impair in any way the Board's rights or discretion to operate, use, transfer, close or redevelop the Trolley Station for such purposes as the Board determines from time to time in its sole discretion.

2. **Access Road.** A private road provides access from dedicated public streets to the Trolley Station, the Board Land, and the real property located east of the East Parcel more particularly described on **Exhibit A-4** attached (the "**Auto Club Property**"). The travel lanes of the private road are located on the Access Easement; however, contiguous roadway improvements including bus bays, handicapped parking and kiss and ride parking and curb and gutter are located on Parcel 3 and Parcel 4 of the Parcel Map adjacent to the Access Easement as shown on **Exhibit A-3** attached. The roadway improvements located on the Access Easement shall be referred to in this Lease as the "**Access Road.**"

3. **Trolley Parking Facilities.**

(a) **Trolley Parking**. The provision of parking for the Trolley Station on the Parcels and access to the Trolley Station from the Trolley Parking Facilities is material consideration to the Board for the Lease. At the commencement of the Lease, approximately six hundred (600) surface parking spaces for the park-and-ride patrons of the Trolley Station are located on the Parcels. These existing parking spaces will be removed in connection with the development of the Project and replaced by Lessee with trolley parking facilities consisting of: (i) six hundred (600) parking spaces in a mix of disabled and standard size spaces approved by the Board on the lower parking level of the parking structures of the Project; (ii) reasonable vehicular and pedestrian access approved by the Board between the Access Road and the trolley parking spaces; and (iii) separately metered utilities (other than fire sprinkler systems) in types and quantities approved by the Board, all as depicted on the Site Plan and described in the Final Construction Drawings and Related Documents. The planned Trolley Parking Facilities are depicted and further described on **Exhibit A-2** attached.

(b) **Temporary Trolley Parking.**

(1) Lessee shall phase its construction of the Project to allow for continuous (although reduced) parking on the Parcels for the Trolley Station during construction. Lessee shall begin with the construction of the parking garage on the West Parcel (the "**West Garage**"), in the manner described in the "**Trolley Parking Construction Phasing Plan**" attached as **Exhibit H**, and this **Section 108.**

(2) During the construction of the West Garage, Lessee shall leave in place on the East Parcel, at least two hundred thirty-eight (238) of the existing surface parking spaces (the "**Temporary Trolley Parking**"), for the exclusive use of the Board, the trolley patrons, the Parking Licensees and others to whom Board may grant parking rights. The Temporary Trolley

Parking will be located on that portion of the East Parcel depicted as "Trolley Parking (Existing Parking Lot)" on Phases I and II of the Trolley Parking Construction Phasing Plan (the "**Temporary Trolley Parking Area**"). The two hundred thirty-eight (238) parking space configuration for the Temporary Trolley Parking is preferred by the parties to provide an extra construction safety buffer between the Temporary Trolley Parking and the "**Construction Staging Area**" (defined in **Section 402(2)** below); however, if Board finds that its parking needs exceed two hundred thirty-eight (238) parking spaces, Board shall have the right, on not less than five (5) Business Days verbal notice to Lessee's construction manager, to require Lessee to move its construction fences inward (increasing the size of the Temporary Trolley Parking Area and reducing the size of the Construction Staging Area) to provide two hundred sixty-two (262) parking spaces of Temporary Trolley Parking as shown on the Trolley Parking Construction Phasing Plan.

(3) Lessee shall maintain the Temporary Trolley Parking Area free of construction materials and debris.

(4) Lessee's construction of the Project will eliminate access to the existing handicap parking spaces on the south side of the Access Easement. Lessee has agreed to construct 3 handicap parking spaces within 90 days after the Effective Date adjacent to the northwest end of the Temporary Trolley Parking Area at the location depicted on Phase 1 of the Construction Phasing Plans attached as **Exhibit H**. These temporary handicap spaces will be accessible until the West Garage Completion (defined below).

(5) Lessee shall not disturb the Temporary Trolley Parking Area until the West Garage is completed, ready for use and a temporary certificate of occupancy (or its equivalent) for the West Garage has been issued by the City (collectively "**West Garage Completion**"). After West Garage Completion, the Board's right to use the Temporary Trolley Parking Area shall end, and Lessee shall have full use of the East Parcel for the construction of the Project in accordance with this Lease.

(c) **West Garage Trolley Parking**. The lower parking level of the West Garage to be constructed by Lessee shall include three hundred twenty nine (329) parking spaces in the location and consisting of the mix of disabled and standard size spaces shown on the Final Construction Drawings and Related Documents ("**West Garage Trolley Parking Spaces**"). The West Garage Trolley Parking Spaces and area in which the West Garage Trolley Parking Spaces are located ("**West Garage Trolley Parking Area**") is depicted on the site plan of the ground floor of the Improvements to be constructed by Lessee on the Parcels attached hereto as **Exhibit "A-2"** ("**Ground Floor Site Plan**") From and after West Garage Completion, the West Garage Trolley Parking Area shall be for the exclusive use of the Board, the trolley patrons, the Parking Licensees and others to whom Board may grant rights throughout the term of this Lease, except as otherwise specifically provided in **Section 501(2)(b)** below.

(d) **East Garage Trolley Parking**. The lower parking level of the parking garage to be constructed by Lessee on the East Parcel ("**East Garage**") shall include two hundred seventy one (271) parking spaces in the location and consisting of the mix of disabled and standard size spaces shown on the Final Construction Drawings and Related Documents ("**East Garage**

Trolley Parking Spaces"). The East Garage Trolley Parking Spaces and the area in which the East Garage Trolley Parking Spaces are located are also depicted on the Ground Floor Site Plan. When the East Garage is completed, ready for use and a temporary certificate of occupancy (or its equivalent) for the East Garage has been issued by the City (collectively **"East Garage Completion"**), the East Garage Trolley Parking Area shall be for the exclusive use of the Board, the trolley patrons, the Parking Licensees and others to whom Board may grant rights, except as otherwise specifically provided in **Section 501(2)** below.

(e) **Trolley Parking Facilities Defined**. The term "**Trolley Parking Facilities**" when used in this Lease shall have the following meaning:

(1) From the Effective Date until the West Garage Completion, the "Trolley Parking Facilities" shall be limited to the Temporary Trolley Parking Area;

(2) After West Garage Completion and prior to the East Garage Completion, the "Trolley Parking Facilities" shall be limited to the West Garage Trolley Parking Area, and the **"Trolley Parking Access"** and **"Trolley Parking Utilities"** (as defined in **Sections 108(3)(g) and (h)** below) on the West Parcel.

(3) After East Garage Completion, the "Trolley Parking Facilities" shall include both the West Trolley Parking Area and the East Trolley Parking Area (collectively, the **"Trolley Parking Areas"**) and the Trolley Parking Access and Trolley Parking Utilities on the Parcels.

(4) The "Trolley Parking Areas" shall extend to and include the right to use the interior surfaces of all adjoining walls, floors and ceilings (including without limitation the right to paint and attach signs, partitions, walls, equipment, utilities, etc. to such adjoining walls, floors and ceilings , so long as no structural damage is caused to the Improvements), and the outlets of all utility installations serving the Trolley Parking Areas.

(5) The then existing physical boundaries of the Trolley Parking Areas, whether in its original state or reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in any plans, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plans and those of the building.

The Board shall at all times have the rights of access and utilities to, and support of, the Trolley Parking Areas. The Trolley Parking Areas shall not be part of the Premises.

(f) **Trolley Parking Access**. The term "**Trolley Parking Access**" shall mean the vehicular and pedestrian ingress and egress between the Access Road and the Trolley Parking Facilities to be provided by those driveways and walkways shown on the Final Construction Plans and Related Drawings to be constructed by Lessee on the Parcels as a part of the Improvements that are either (i) designated as "Trolley Parking Pedestrian Access" or "Trolley Parking Vehicular

Access" on the Ground Floor Site Plan; or (ii) contiguous to any of the West Trolley Parking Spaces or the East Trolley Parking Spaces within the West Garage or the East Garage, respectively.

(g) **Trolley Parking Utilities**. The term **"Trolley Parking Utilities"** shall mean the utilities serving the Trolley Parking Areas, including (i) those installed by Lessee pursuant to the Final Construction Drawings and Related Documents and (ii) any utilities subsequently installed by Board, at its sole expense, to serve the Trolley Parking Areas (provided that the Board shall be responsible at its sole expense for the repair of any damages to the Improvements caused by such installation).

(h) **Exclusive Trolley Parking Easement Defined**. The term **"Exclusive Trolley Parking Easement"** shall collectively mean the following easements reserved to the Board and excluded from the leasehold estate created by this Lease in the Parcels, which easements are reserved by the Board together with the right to transfer, assign or sublet all or any portion(s) of these easements in gross to others:

(1) an exclusive easement for parking on the Temporary Trolley Parking Area located on the East Parcel, until the West Garage Completion;

(2) an exclusive easement for the use of the West Garage Trolley Parking Area, from and after the West Garage Completion;

(3) an exclusive easement for the use of the East Garage Trolley Parking Area from and after the East Garage Completion;

(4) an exclusive easement for ingress and egress over the Trolley Parking Access on the West Parcel and the East Parcel, from and after the West Garage Completion and the East Garage Completion, respectively, subject only to the non-exclusive uses by Lessee described in **Section 501(2)(b)** below;

(5) a non-exclusive easement for utility purposes for the Trolley Parking Utilities on the West Parcel and the East Parcel (in the locations where such utilities are actually installed), from and after the West Garage Completion and the East Garage Completion, respectively; and

(6) a non-exclusive for the support of the Trolley Parking Areas.

The Exclusive Trolley Parking Easement is subject to the non-exclusive uses of the Trolley Parking Facilities by the Lessee described in **Section 501(2)(b)** below and the restrictions described in **Section 501(2)(e)** below.

(i) **Parking Licensees**. The Board previously granted licenses to park within the Board Land to certain licensees which are listed in **Exhibit E** attached hereto (the **"Parking Licensees"**), which licenses have been amended by the Board prior to the Effective Date to limit the rights of the Parking Licensees to the Exclusive Trolley Parking Easement. It is

anticipated that the Board may from time to time grant parking rights in the Trolley Parking Facilities to the Parking Licensees and other parties. All future grants of parking rights by the Board shall be limited to the Exclusive Trolley Parking Easement.

(j) **Outdoor Trolley Parking Spaces**. Board may elect from time to time to maintain outdoor parking spaces immediately south of the Access Road on Parcel 3 and Parcel 4 of the Parcel Map (the **"Outdoor Trolley Parking Spaces"**). Board shall at all times have exclusive control over the operation, management and use of any Outdoor Trolley Parking Spaces. Lessee shall have no rights whatsoever in any Outdoor Trolley Parking Spaces.

G. **[§ 109] Title**

Title to the leasehold estate created by this Lease was conveyed in the condition required by the DDA. The Board shall not at any time during the Term (defined below) of this Lease place any additional encumbrances against the Board Land (including without limitation any mortgages, deeds of trust, liens, leases, easements, licenses or other encumbrances) except for encumbrances which (a) are expressly made subject and subordinate to this Lease, the rights of Lessee and its subtenants and any current or future Permitted Mortgagees (defined below) hereunder, or (b) are expressly required or permitted by this Lease. Subject to **Section 802(2)** below, the parties shall cooperate reasonably regarding the grant of non-exclusive easements for utility and access purposes within portions of the Access Easement as may be required by the City or public utility to extend utility service to the Project or the Trolley Station and such other future easements which might be necessary or desirable for the operation of the Project or the Trolley Station provided the same do not materially adversely affect the operation of the Project or the Trolley Station.

H. **[§ 110] Condition of the Parcels**

1. **"AS IS" Condition**

The interests conveyed by this Lease in the Parcels, the Access Easement and all improvements thereon are conveyed in an "AS IS" condition, with no warranty, express or implied by the Board as to the condition of the soil (or water), its geology, or the presence of known or unknown faults or as to the condition of the improvements. It shall be the sole responsibility of Lessee, at Lessee's expense, to investigate and determine the soil (and water) condition of the Parcels and the Access Easement (including improvements) and the suitability of the Parcels and the Access Easement (including improvements) for the development to be constructed by Lessee. If the soil (or water) condition of the Parcels and the Access Easement (including improvements), or any part thereof, is not in all respects entirely suitable for the use or uses to which the Parcels and the Access Easement and improvements will be put, then it is the sole responsibility and obligation of Lessee to take such action as may be necessary to place the Parcels and the Access Easement and the soil (and water) condition thereof (including improvements) in all respects in a condition entirely suitable for the development of the Parcels and the Access Easement .

2. **Release**

Lessee hereby waives, releases, remises, acquits and forever discharges Board, its directors, officers, employees, and agents, successors and assigns, of and from any and all suits, causes of action, legal or administrative proceedings, claims, demands, actual damages, punitive damages, losses, costs, liabilities, interest, attorneys' fees and expenses of whatever kind and nature, in law or in equity, known or unknown, which Lessee shall or may have or acquire or possess in any way directly or indirectly connected with, based upon, or arising out of, (a) Board's use, maintenance, ownership and operation of the Board Land prior to the Effective Date of Lease; or (b) the condition (including structural fitness), status, quality, nature, contamination or environmental state of the Board Land as of the Effective Date. It is the intention of this Lease that any and all responsibilities and obligations of Board, and any and all rights or claims of Lessee against Board, its successors and assigns and affiliated entities, arising by virtue of the physical or environmental condition of the Board Land as of the Effective Date are by this release provision declared null and void and of no present or future effect as to such parties. Lessee agrees as to the matters released to waive the benefits of Section 1542 of the CIVIL CODE of the State of California, which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

_____ Lessee's Initials

_____ Board's Initials

II. [§ 200] LEASE OF THE PREMISES

A. [§ 201] Lease

For and in consideration of the rents, conditions, covenants and agreements set forth herein, Board hereby leases the Premises and grants the Access Easement to Lessee and Lessee does hereby take and lease the Premises from Board and accepts the grant of the Access Easement (which constitutes a part of the Premises), subject to the terms, covenants and conditions of this Lease.

B. [§ 202] Term of the Lease

The term of this Lease (the "**Term**") shall commence upon the Effective Date of Lease (defined below), and, if not sooner terminated as provided in this Lease, shall expire at midnight on the earlier of: (a) June 30, 2066, and (b) the last day of the calendar month immediately succeeding the fifty-fifth (55th) anniversary of the "**Affordable Occupancy Date**"(as hereafter defined). For example, if the Effective Date of Lease occurs on May 15, 2006, and the Affordable Occupancy Date occurs on June 10, 2009, then the last day of the Term would be June 30, 2064. The term "**Affordable Occupancy Date**" shall mean the date on which the certificate of occupancy or other document authorizing occupancy has been issued by the City for the last Affordable Unit. Within

thirty (30) days after the Affordable Occupancy Date occurs, Board and Lessee shall enter into an addendum to this Lease confirming such date and the corresponding date for expiration of the initial Term. Neither the failure nor refusal of either Board or Lessee to enter into said addendum shall in any manner impair this Lease or the effectiveness or enforceability of the matters intended to be confirmed by said addendum.

C. **[§ 203]** **Options to Extend Term**

Board hereby grants the Lessee an option to extend the Term for an additional twenty (20) years (the "**First Extended Term**") and, if the First Extended Term is timely and properly exercised by Lessee, an option to further extend the Term for a term ending on the 99th anniversary of the Effective Date (the "**Second Extended Term**"). The terms and conditions of the First Extended Term and the Second Extended Term, as applicable (either, an "**Extended Term**") shall be the same as set forth in the Lease, except (a) the "Base Rent" as defined in **Section 303** below shall be adjusted on the first day of each Extended Term as described in **Section 304** below; and (b) the obligation of the Lessee to pay "Overage Rent" (as defined in **Section 305** below) shall terminate upon commencement of the first Extended Term. In no event shall the term of this Lease, including all extensions, exceed ninety nine (99) years.

D. **[§ 204]** **Exercise of Option to Extend**

1. The options to extend provided for in **Section 203** shall be exercised only by an unconditional written notice from Lessee (the "**Exercise Notice**") received by Board no later than one (1) year before the expiration of the Term. If Board does not timely receive Lessee's Exercise Notice in accordance with the immediately preceding sentence, Lessee's option to extend the Term shall immediately lapse, and there shall be no further right to extend the Term. The options to extend the Term shall be exercisable by Lessee on the express condition that Lessee shall not be in breach or default under the Lease beyond the expiration of any applicable notice and cure period at the time of the delivery of the Exercise Notice. If Lessee is in breach or default under the Lease beyond the expiration of any applicable notice and cure period at the time of the delivery of the Exercise Notice, the Exercise Notice shall be totally ineffective. If Lessee is in breach or default under the Lease beyond the expiration of any applicable notice and cure period on the date the Extended Term is to commence, the Extended Term shall not commence and this Lease shall expire at the end of the current Term.

2. Notwithstanding the foregoing, Lessee may, by written notice delivered to Board no later than thirty (30) days after determination of the Fair Market Value of the Parcels pursuant to **Section 304(f)** below, give written notice of Lessee's election to revoke the Extension Notice for the Extended Term. If no written notice of revocation is delivered by Lessee to Board during such thirty (30) day period, then the right to revoke the Extension Notice shall expire and be of no further force or effect.

3. Lessee and Board shall execute an amendment to the Lease confirming the exercise of each Extended Term and the Base Rent payable during such Extended Term within forty-five (45) days following determination of the Base Rent for such Extended Term.

E. **[§ 205]** **Base Rent for Extended Term**

Within ten (10) days after receipt an Extension Notice from Lessee, the process to determine the Fair Market Value for the Parcels during the Extended Term shall be commenced and shall thereafter be completed in the time and manner provided in **Section 304(f)** below. Unless Lessee timely delivers a revocation of its Extension Notice, then the Term shall be extended to include the Extended Term for which the Extension Notice is delivered; and the Base Rent payable during such Extended Term shall be determined in accordance with **Section 304** below.

F. **[§ 206]** **Term**

The word "**Term**" when used in this Lease shall refer to the period identified in **Section 202** above, as extended by any Extended Term previously exercised as provided above.

III. **[§ 300]** **RENT**

A. **[§ 301]** **Manner of Payment**

Lessee covenants and agrees to pay Rent (defined below) as and when required by this Lease to Board, at Board's address set forth in **Section 102** hereof or at such place or to such person as Board may designate in writing by notice to Lessee from time to time, in such coin or currency of the United States as shall, at the time of payment, be legal tender for the payment of all debts, public or private. As used herein, **"Rent"** means all monetary amounts payable by Lessee under this Lease, including without limitation Base Rent, Overage Rent, the CCRT License Agreement Amendment Fee, Parking Loss Payments, the City Land Payment (as all such terms are defined below) and any sums payable in the event of a "Participation Event" pursuant to **Section 803**.

B. **[§ 302]** **Base Rent**

1. **[§ 303]** **Initial Base Rent**

Lessee shall pay to the Board, for each Lease Year (defined below) or portion thereof during the Term, in the manner and at the time provided herein, annual base rent in the following sums (**"Base Rent"**):

(a) $85,333.00 per annum for the first (1st) year of the Term, commencing on the Effective Date;

(b) $170,666.00 per annum for the second (2d) year of the Term, commencing on the first (1st) anniversary of the Effective Date;

(c) $256,000.00 per annum for the third (3rd) through thirtieth (30th) years of the Term, commencing on the second (2nd) anniversary of the Effective Date and continuing through the thirtieth (30th) anniversary of the Effective Date; and

(d) the amount determined as the Base Rent under **Section 304(b)** below, commencing on the thirtieth (30th) anniversary of the Effective Date and continuing throughout the remainder of the Term.

Base Rent shall be payable annually, in advance, beginning on the Effective Date and continuing on March 31 of each Lease Year (defined below) thereafter during the Term. As used herein, **"Lease Year"** means that period of twelve (12) consecutive months which begins on the Effective Date or an anniversary of the Effective Date and which falls within the Term, to and including the last day of the Term. Base Rent payable on the Effective Date shall be for the period ending on March 31 of the first Lease Year. Base Rent for any partial Lease Year during the Term shall be a pro rata portion of the installment then due, based upon a three hundred sixty five (365) day Lease Year. A hypothetical example of the payment of Base Rent for Lease Years in which two different base rental rates apply is attached as **Exhibit F-1**. Base Rent shall be subject to adjustment in accordance with the terms of **Section 304**.

2. **[§ 304]** **Adjustments to Base Rent**

(a) **Adjustment Dates**. Base Rent shall be adjusted on the following dates (each an"**Adjustment Date**") to the amounts described in Subsections (b), (c) and (d) below, as applicable:

(1) on the first (1st) day of the thirty-first (31st) full Lease Year ("**First Adjustment Date**");

(2) on the first day of the First Extended Term; and

(3) on the first day of the Second Extended Term.

In no event shall the adjusted Base Rent payable from and after any Adjustment Date be less than the annual Base Rent payable immediately prior to such Adjustment Date. If the adjustment to Base Rent has not been determined by the applicable Adjustment Date, then Lessee shall continue to pay Base Rent in the amount payable immediately prior to the Adjustment Date until determination of the adjustment, at which time any adjustment in the Base Rent resulting from the calculations made pursuant to this **Section 304** shall be made retroactively and paid within thirty (30) days after such determination.

(b) **Base Rent From First Adjustment Date Through End of the Initial Term**.

(1) **Initial Base Rent**. The initial Base Rent payable for the period commencing on the First Adjustment Date and continuing through the end of the initial Term shall be equal to the lesser of (i) eight percent (8%) of the Fair Market Value of the Parcels determined in accordance with **Section 304(f)** below; or (ii) six and one-half percent (6.5%) of the Gross Revenue (defined in **Section 310** below) from the Parcels for the Lease Year preceding the First Adjustment Date.

(2) **Cost of Living Adjustments**. The Base Rent payable as of the First Adjustment Date shall be adjusted on the fifth (5th) anniversary of the First Adjustment Date and every five (5) years thereafter during the balance of the initial Term (each, a "**COL Adjustment Date**") in accordance with the percentage increase, if any, in the cost of living determined in accordance with the provisions of **Subsection 304(e)** below (the "**Cost of Living Adjustment**"); provided that in no event will a Cost of Living Adjustment increase the Base Rent by more than fifteen percent (15%) of the amount of Base Rent payable immediately prior to the Cost of Living Adjustment.

(c) **Rent for First Extended Term**.

(1) **Initial Base Rent**. The initial Base Rent payable by Lessee during the First Extended Term shall be equal to the lesser of (i) eight percent (8%) of the Fair Market Value of the Parcels determined in accordance with **Section 304(f)** below; or (ii) eight percent (8%) of the Gross Revenue from the Parcels for the last year of the initial Term.

(2) **Cost of Living Adjustments**. The Base Rent payable upon commencement of the First Extended Term shall be adjusted on the fifth (5th) anniversary of the commencement of the First Extended Term and every five (5) years thereafter during the First Extended Term (each a "**COL Adjustment Date**") in accordance with **Section 304(e)** below; provided that in no event will a Cost of Living Adjustment increase the Base Rent by more than fifteen percent (15%) of the amount of Base Rent payable immediately prior to the Cost of Living Adjustment.

(d) **Rent for Second Extended Term**.

(1) **Initial Base Rent**. The initial Base Rent payable by Lessee during the Second Extended Term shall be equal to the lesser of (i) eight percent (8%) of the Fair Market Value of the Parcels determined in accordance with **Section 304(f)** below; or (ii) ten percent (10%) of the Gross Revenue from the Parcels for the last year of the First Extended Term.

(2) **Cost of Living Adjustments**. The Base Rent payable upon commencement of the Second Extended Term shall be adjusted on the fifth (5th) anniversary of the commencement of the Second Extended Term and every five (5) years thereafter during the Second Extended Term (each a "**COL Adjustment Date**") in accordance with **Section 304(e)** below; provided that in no event will a Cost of Living Adjustment increase the Base Rent by more than fifteen percent (15%) of the amount of Base Rent payable immediately prior to the Cost of Living Adjustment.

(e) **Cost of Living Adjustment Calculation**. The "Cost of Living Adjustment' shall increase the Base Rent payable from and after each COL Adjustment Date to reflect the percentage increase, if any, in the "Index" (as defined in **Section 1326** below) over the preceding five (5) year period by dividing (i) the monthly Index most recently published before the COL Adjustment Date for which the adjustment is being computed (the "**Current Index**") by the

amount of the Index published for the month which is five (5) years prior to the date of the Current Index.

(f) **Determination of Fair Market Value of the Parcels**

(1) **Definition of Fair Market Value of the Parcels.** "Fair Market Value of the Parcels" shall mean the price at which the Parcels would be sold for cash by a willing and knowledgeable seller not compelled to sell, to a willing and knowledgeable buyer not compelled to buy, if the Parcels were: (A) vacant; (B) unimproved, but with all off-site and on-site improvements required to put the Parcels in a "finished" condition ready for the construction of the Project in place; (C) unencumbered except for (i) the Board's exclusive right to use six hundred (600) parking spaces in one or more parking structures on the Parcels, and (ii) subject to the Affordable Covenant until such Affordable Covenant has expired by its terms; (D) free and clear of this Lease and all mortgages or deeds of trust; and (E) available for development for the "highest and best use" then permitted by this Lease. The costs of construction of six hundred (600) parking spaces for the Board's exclusive use shall not be considered in determining Fair Market Value of the Parcels.

(2) **Appraisal to Determine Fair Market Value.** The Fair Market Value of the Parcels shall be determined as follows:

a. Not earlier than nine (9) months and not later than six (6) months prior to an Adjustment Date, the parties shall each by written notice to the other appoint one (1) appraiser who is a licensed MAI Appraiser, or a member of the American Institute of Real Estate Appraisers or any successor thereto, or a member of the Society of Real Estate Appraisers, or any successor thereto, in each case with at least ten (10) years' full-time experience in San Diego County appraising commercial real estate and has performed appraisals of not less than three (3) facilities substantially similar to the Project in the five (5) years preceding the date on which the appraisal under this Lease is to be made. Each such appraiser shall determine the Fair Market Value of the Parcels based upon the factors enumerated in **Section 304 (f) (1)** above and complete and submit his or her written appraisal to Board and Lessee within sixty (60) days after the appointment of both such appraisers. If the higher appraised Fair Market Value of the Parcels in such two (2) appraisals is not more than one hundred ten percent (110%) of the lower appraised Fair Market Value of the Parcels, then the Fair Market Value of the Parcels shall be the average of the two (2) appraised rental values. If it is not, however, then the appraisers so named shall have fifteen (15) days to designate a third appraiser with similar qualifications. If the two appraisers are unable timely to agree on the third appraiser, then either Board or Lessee, by giving prior written notice to the other party, shall have thirty (30) days to request and obtain appointment of such a qualified appraiser by applying to the Superior Court of the State of California for the County of San Diego. The third appraiser, however selected, shall be a person who has not acted in any capacity for either party.

b. If a third appraiser is necessary, the third appraiser shall conduct an independent appraisal of the Parcels to determine the Fair Market Value of the Parcels based upon the factors enumerated in **Section 304 (f) (1)** above and complete and submit his or her written appraisal to Board and Lessee within sixty (60) days after his or her appointment. The Fair Market Value of the Parcels shall be the average of the two (2) of the three (3) appraised Fair Market

Values of the Parcels that are closest to each other. The Fair Market Value of the Parcels, determined in accordance with this Subsection, shall be conclusive and binding upon Board and Lessee.

c. When submitting his or her appraisal, each appraiser shall certify that: (i) he or she has personally inspected the Parcels and all properties used as comparisons; (ii) he or she has no past, present or contemplated future interest in the Improvements or the Parcels or the leasehold estate, or any part thereof; (iii) the compensation to be received by him or her from any source for making the appraisal is solely in accordance with this Lease; (iv) he or she has followed the instructions as set forth in Subsection (b); (v) neither the appraiser's employment to make the appraisal nor his or her compensation therefor is contingent upon reporting a predetermined value, or a value within a predetermined range of values; (vi) he or she is an appraiser who is a licensed MAI Appraiser, or a member of the American Institute of Real Estate Appraisers or any successor thereto, or a member of the Society of Real Estate Appraisers, or any successor thereto, in each case with at least ten (10) years' full-time experience in San Diego County appraising commercial real estate and has performed appraisals of not less than three (3) facilities substantially similar to the Project in the five (5) years preceding the date on which the appraisal to be made under this Lease is to be made; and (vii) the appraisal was prepared in conformity with the standards of professional practice common in the real estate appraisal industry.

d. Board and Lessee shall each pay the fee and expenses charged by its appraiser plus one-half (½) of the fee and expenses charged by the neutral third appraiser.

(g) **Base Rent Adjustment Examples**

Hypothetical examples of adjustments to Base Rent in accordance with the provisions of Subsections (a) and (b) are attached hereto as **Exhibits F-2** and **F-3**.

(h) **Retroactive Adjustment**. If the Fair Market Value of the Parcels or the applicable Gross Revenue from the Parcels has not been determined by the applicable Adjustment Date, then Lessee shall continue to pay annual Base Rent in effect for the prior Lease Year until such time as the Fair Market Value of the Parcels and the applicable Gross Revenue from the Parcels has been determined, at which time the adjustment in the Base Rent shall be made retroactively and paid within ten (10) days after such determination.

C. **[§ 305] Overage Rent**

Overage Rent shall be calculated and paid by Lessee to Board in accordance with Sections **306** through **311** below.

1. **[§ 306] Overage Rent**

On or before March 31 of the first calendar year following issuance of a certificate of occupancy or equivalent for the first residential unit within the Project, and continuing through

and including March 31 of the calendar year which includes the First Adjustment Date, Lessee shall pay to Board, as supplemental Rent (in addition to, and not in lieu of, Base Rent), an amount (the **"Overage Rent"**) equal to one and twenty-five hundredths percent (1.25%) of Gross Revenue from the Project for the previous calendar year. The Overage Rent payable for any partial calendar year immediately preceding the First Adjustment Date shall be paid to Board on or before the ninetieth (90th) day following the First Adjustment Date.

2. **[§ 307]** **Annual Statements and Payments**

On or before March 31 of the first calendar year following issuance of a certificate of occupancy or equivalent for the first residential unit within the Project, and continuing through and including March 31 of the calendar year which includes the First Adjustment Date, and within ninety (90) days following the First Adjustment Date, Lessee shall furnish to Board a statement duly certified by an authorized officer, partner or employee of Lessee setting forth in reasonable detail the Gross Revenue during the calendar year (or partial year) just concluded, reflecting the basis for the computation of the amount of Overage Rent (if any) due for such calendar year (or partial year) just concluded, and certifying that the accounting practices of Lessee, in terms of reasonableness and propriety, conform to generally accepted accounting principles consistently applied (an **"Overage Rent Statement"**). Each Overage Rent Statement shall be accompanied by the payment from Lessee to Board of any Overage Rent reflected in said statement as being due for such calendar or partial year. On or before the first (1st) day of January each year, Lessee shall submit to Board a revenue projection for the Project for such calendar year to assist Board in anticipating the amount of Overage Rent for such calendar year. Lessee shall act in good faith in preparing such projections; however, Lessee shall in no way be liable for the accuracy of such projections or for any damages incurred by Board resulting from Board's reliance on such projections, unless the same are occasioned by Lessee's gross negligence or willful misconduct.

3. **[§ 308]** **Board's Right to Audit**

Board shall have the right, at any time and from time to time upon reasonable notice to Lessee, and at Board's expense, to have an employee of the Board or a public or non-profit entity affiliated with the Board review and examine Lessee's records of Gross Revenue for any given period. In addition, Board shall have the right, at any time upon reasonable notice to Lessee and at Board's sole expense, to have Lessee's records of Gross Revenue for any given Lease Year audited by a disinterested, reputable firm of certified public accountants (compensated on an hourly basis) who are actively engaged in the practice of their profession and who are to be selected by Board. The following limitations shall apply to each such review and examination or audit: (a) any such review and examination or audit shall be conducted during normal business hours at the offices where such records are routinely maintained by Lessee; (b) a review and examination or audit shall be conducted not more than twice in any Lease Year; and (c) any review and examination or audit shall be conducted so as to minimize interference with Tenant's business operations, to the extent reasonably possible. If Board does not request an audit within five (5) years after receipt of Lessee's annual statement, then, except in any case where the Board reasonably suspects fraud or intentional misrepresentation of Gross Revenue, such statement shall be conclusively presumed to be accurate and Board shall have no right to require an audit with respect to the period covered by such

statement. If any deficiency in Lessee's payment of Overage Rent is established pursuant to said audit, Lessee shall within thirty (30) days thereafter pay to Board the amount of such deficiency together with interest thereon from the date same was originally due at the rate per annum equal to three percent (3%) plus the prime rate published in the western edition of the Wall Street Journal, but in no event more than the maximum interest rate permitted by law. If the statement of Gross Revenue forming the basis for the Overage Rent calculations previously made by Lessee to Board is less than the amount of Lessee's Gross Revenue as shown by Board's audit by four percent (4%) or more, then Lessee shall immediately pay to Board the cost of such audit, otherwise, the cost of such audit shall be paid by Board. If the statement of Gross Revenue forming the basis for the Overage Rent calculations previously made by Lessee to Board is greater than the amount of Lessee's Gross Revenue as shown by Board's audit and further shows that an overpayment of Overage Rent was made for the Lease Year so audited, then the amount of any overpayment shall be applied by Board against the next succeeding payments of Base Rent coming due.

4. **[§ 309]** **Retention of Records**

Lessee shall, for a period of at least five (5) years from the end of each Lease Year, keep safe and intact, at Lessee's address set forth in **Section 103** hereof or at Lessee's principal place of business in California, all of the records, books, accounts and other data which are regularly kept by Lessee in the ordinary course of its business to establish Lessee's Gross Revenue for that Lease Year, and shall upon reasonable notice make the same available to Board and Board's auditors, representatives or agents for examination to the extent provided in **Section 308** above.

5. **[§ 310]** **Gross Revenue**

As used herein, **"Gross Revenue"** shall mean all revenue of any kind or nature received by Lessee derived from the Parcels and the Improvements thereon for the Lease Year in question, including, without limitation (i) all revenue received from subtenants or licensees of the Parcels or the Improvements, and all interest earned on security deposits, provided such interest is retained by Lessee and not returned to any subtenant; (ii) all other revenues from or connected with the Parcels, all operations and Improvements thereon, including without limitation, deposits forfeited, cancellation fees, and any cost reimbursement of any kind received by Lessee in excess of the actual cost to Lessee; and (iii) proceeds of business interruption and similar insurance payable as a result of loss of revenues. Gross Revenue shall not include (A) security deposits and/or other deposits (or interest thereon which is payable to the tenant or becomes part of the deposit) until applied in payment of rents and/or other charges to be included in Gross Revenue, (B) proceeds of casualty insurance or condemnation awards; (C) proceeds from any sale or refinancing of any interest in the Premises or the Improvements; (D) reimbursement from subtenants or other parties for actual costs related to the operation of the Premises and the Improvements; (E) reimbursement from the Board, subtenants or other parties for actual costs related to the development, maintenance and operation of the Project; (F) repayments of loans made by Lessee, or refunds of fees, deposits or taxes paid by Lessee, (G) the "Affordable Housing Payment" from the Agency under the Affordable Housing Agreement; (H) late charges or interest; (I) reimbursements for non-sufficient fund charges by Banks on subtenants' checks; (J) settlements or payment in satisfaction of claims for damage to property, injury or death to persons, faulty construction or maintenance and, in the

case of security, cleaning and/or similar deposits, the retention of same to the extent used to pay for expenses incurred due to a subtenant's failure to surrender its premises in the condition required by its sublease; (K) real and/or personal property tax refunds; (L) judgment awards and settlement payments to the extent required to reimburse Lessee for its attorneys' fees and collection costs; and (M) repayments or refunds to Lessee of amounts previously paid by Lessee.

6. [§ 311] ***Intentionally Omitted***

D. [§ 312] **Additional Items of Supplemental Rent**

1. CCRT License Agreement Amendment Fee. Concurrently with the Effective Date, and as additional consideration for the Board entering into the Lease, Lessee has paid to the Board or its designee, the "CCRT License Agreement Amendment Fee" (as defined in the DDA) in the sum of $100,000.

2. Parking Loss Payments.

(a) Lessee shall have the right to reduce the number of parking spaces in the Trolley Parking Facilities to fewer than six hundred (600) parking spaces (but in no event fewer than five hundred ninety-one (591) parking spaces) in accordance with this **Section 312(2)**.

(b) To the extent that for any reason fewer than six hundred (600) spaces are provided to the Board in the Trolley Parking Facilities with the initial construction (or any reconstruction) of the Project, Lessee shall make annual "Parking Loss Payments" as described in **Section 312(2)(d)** below for the balance of the Term.

(c) Lessee shall have the right, from time to time, to reduce the number of parking spaces in the Trolley Parking Facilities to not fewer than five hundred ninety-one (591) parking spaces for a term of not less than one (1) year or multiples of one (1) year. Lessee may exercise such right by delivery of written notice to Board identifying the number of parking spaces within the Trolley Parking Facilities to be converted to use by the tenants of Lessee and the intended duration of such conversion (the "**Parking Conversion Term**"). The location of the converted parking spaces shall be subject to the mutual agreement of the parties, but it is intended that they would be located immediately adjacent to other parking spaces within Project used by the tenants of Lessee. Lessee shall be responsible, at its expense, for changing those signs and markings necessary to distinguish the converted parking spaces from the remaining parking spaces within the Trolley Parking Facilities.

(d) To the extent that the Trolley Parking Facilities include fewer than six hundred (600) spaces (either because of a permanent reduction pursuant to **Section 312(2)(b)** or because of Lessee's election pursuant to **Section 312(2)(c)**), Lessee shall pay to Board, as supplemental Rent, in readily available funds, annually, in advance, the sum of One Hundred Eighty Dollars ($180) per space per year, which sum shall be increased by one percent (1%) each year as illustrated on **Exhibit F-5** attached ("**Parking Loss Payments**"). Parking Loss Payments shall be payable beginning on the Effective Date and continuing on March 31 of each Lease Year thereafter

during the Term. Parking Loss Payments for any partial Lease Year during the Term shall be a pro rata portion of the installment then due, based upon a three hundred sixty five (365) day Lease Year.

(e) In no event shall the Trolley Parking Facilities include fewer than five hundred ninety-one (591) parking spaces.

3. City Land Payment Lessee shall pay to Board, as supplemental Rent, in readily available funds, a one time payment (the "**City Land Payment**") in the sum of Two Hundred Fifty Thousand Dollars ($250,000.00) which amount equals one-half (½) of the purchase price to be paid by the Board to the City to purchase fee title to those portions of the Parcels owned by the City immediately prior to the Effective Date. The City Land Payment shall be payable on the first to occur of the following: (a) within five (5) Business Days following delivery by the Board to the Lessee of the Certificate of Compliance pursuant to **Section 415**; or (b) the fifth (5th) anniversary of the Effective Date.

E. **[§ 313] Priority for Payment of Rent and Other Sums**

1. **[§ 314] Net Lease**

(a) Board and Lessee agree that Base Rent, Overage Rent, any supplemental Rent, the City Land Payment, and any and all other sums payable hereunder to or on behalf of Board, shall be paid without notice or demand, and without setoff, counterclaim, abatement, deferment, suspension or deduction. This is a net lease. Except as expressly provided to the contrary in this Lease, all costs incurred in the operation and maintenance of the Project shall be paid by Lessee.

(b) The obligations of Lessee hereunder shall be separate and independent covenants and agreements; the Base Rent, the Overage Rent and all other sums payable by Lessee hereunder shall continue to be payable in all events, and that the obligations of Lessee hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease. Notwithstanding anything to the contrary contained above, Lessee does retain a separate and independent right to sue Board.

(c) Lessee agrees that it will remain obligated under this Lease in accordance with its terms, and that it will not take any action to terminate, rescind or avoid this Lease, notwithstanding (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceeding affecting Board or its successors in interest; or (ii) any action with respect to this Lease which may be taken by any trustee or receiver of Board or its successors in interest or by any court in any such proceeding.

(d) Lessee waives all rights which may now or hereafter be conferred by law (i) to quit, terminate or surrender this Lease or the Premises or any part thereof; or (ii) to any abatement, suspension, deferment or reduction of the Base Rent, Overage Rent or any other sums payable under this Lease.

2. [§ 315] **Absolute Assignment of Gross Revenue**

In consideration of Board's obligations under this Lease, Lessee hereby assigns to Board the Gross Revenue of the Project. The assignment of Gross Revenue pursuant to this Section is intended and shall be construed as an absolute assignment and not merely a passing of a security interest. Such absolute assignment is and shall be subject to the conditional permission to collect Gross Revenue and make the payments described in **Section 316**, in the priority described in **Section 316**. It is understood and agreed that the assignment of Gross Revenue to the Board is expressly subordinate in all respects to any assignment (whether absolute, collateral, or otherwise) of the Gross Revenue of the Project to a Permitted Mortgagee.

3. [§ 316] **Priority for Payment**

Unless and until an Event of Default (as defined in **Section 1207** below) then exists, Lessee shall have permission to collect and obtain all Gross Revenue of the Project. Lessee shall use commercially reasonable efforts to collect and obtain all Gross Revenue, and shall have the right and obligation to use the Gross Revenue to pay to Board the Base Rent, Overage Rent, any supplemental Rent, and any and all other sums owed to Board under this Lease. After the payment of debt service, loan costs, and any other obligations which may be owed to a Permitted Mortgagee, any and all Base Rent, Overage Rent, any supplemental Rent and other sums payable to Board by Lessee under the provisions of this Lease shall have a first priority for payment from the Gross Revenue. All other expenses of Lessee related to the Parcels and the Improvements, including without limitation, all operating expenses and other expenses attributable to the operation, management, leasing, repair or renovation of the Parcels and the Improvements - other than amounts owed to a Permitted Mortgagee - shall be subordinate to the payments to Board of Base Rent, Overage Rent, any supplemental Rent, and any and all other sums owed to Board as required under this Lease.

F. [§ 317] **Additional Rent**

In addition to and not by way of limitation of Board's rights under specific provisions of this Lease, Board shall at all times have the right (at its sole election and without any obligation so to do) to advance on behalf of Lessee any amount payable under the terms hereof by Lessee, or to otherwise satisfy any of Lessee's obligations hereunder (except payment of monetary obligations which are owing directly to Board such as Base Rent), provided that (except in case of emergency calling for immediate payment) Board shall first have given Lessee no less than fifteen (15) days advance written notice of Board's intention to advance such amounts on behalf of Lessee. No advance by Board shall operate as a waiver of any of Board's rights under this Lease and Lessee shall remain fully responsible for the performance of its obligations under this Lease. Lessee's obligation to reimburse amounts advanced by Board pursuant to this Section shall constitute supplemental Rent under this Lease, shall be due and payable by Lessee to Board ten (10) days after Board makes written demand therefor, and shall bear interest from the date same was advanced at the rate per annum equal to the three percent (3%) plus the prime rate published in the western edition of the Wall Street Journal, but not to exceed the maximum rate for which the parties may lawfully contract, from the date of advance.

G. [§ 318] **Delinquency in Rent Payment; Collection of Rent**

1. The failure of Lessee to pay any installment of Rent (including without limitation, any estimated or final Overage Rent, or any supplemental Rent) by the due date shall constitute a default, subject to Lessee's rights to receive notice and cure such default as provided in **Section 1200** *et seq.* In the event Lessee fails to pay the applicable installment of Rent within ten (10) days after the due date, in addition to any other remedy provided by this Lease, Lessee shall pay to Board as a late charge an additional payment equal to five percent (5%) of such delinquent payment, and the amount due and unpaid shall bear interest at the annual rate of three percent (3%) over the prime rate published in the western edition of the Wall Street Journal on the due date, but not to exceed the maximum annual rate which may lawfully be charged and collected under applicable law on the delinquent obligation. Said interest shall accrue from the due date of the installment of Rent to the date the installment of Rent is received by Board. It is the intent of this provision that Board shall be compensated by such payment and interest for loss resulting from rent delinquency, including costs to Board for servicing the delinquent account.

2. In addition, in the event Lessee fails to pay any installment of Rent within ten (10) Business Days after the Board's Notice of Default (as defined in **Section 1207** below), Lessee shall immediately pay to the Board an additional payment equal to five percent (5%) of any delinquent Rent which gave rise to an Event of Default. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS ADDITIONAL PAYMENT WAS SEPARATELY NEGOTIATED AND IS FAIR CONSIDERATION FOR THE BOARD'S AGREEMENT TO DELAY EXERCISING ITS REMEDY OF TERMINATION OF THIS LEASE AS PROVIDED IN **SECTION 1208(1)(A)** BELOW IF A MONETARY EVENT OF DEFAULT SHOULD OCCUR.

_____ _____

Lessee's Initials Board's Initials

3. Any failure of Board to enforce the foregoing provisions of this **Section 318** in any instance shall not constitute a waiver of Board's right to enforce the same at any subsequent time.

4. In case of a default in payment of any part of the Rent, Board shall have the right to separate its cause of action to permit the institution of a separate suit only for the Overage Rent unable to be determined at the time suit is first brought, and neither the institution of such first suit nor the entry of judgment therein shall bar Board from bringing a subsequent suit against Lessee, for the amount of Overage Rent not capable of being determined at the time of the initial action, at such time as such Overage Rent may be determined.

H. [§ 319] **No Subsidy or Assistance**

Board agrees that nothing contained in this Lease constitutes financial assistance or a subsidy by Board to Lessee in connection with the Project and that the Rent and other consideration to be paid and obligations agreed to be performed by the Lessee under the Lease represents not less than the full fair market rental value of the Premises and full consideration for the Lease.

IV. [§ 400] DEVELOPMENT OF THE PARCELS

A. [§ 401] General

Lessee, at its sole cost and expense, shall construct or cause to be constructed the Project and all of the Improvements, in full conformity with this Lease, the Scope of Development, the "**Construction Schedule**" attached hereto as **Exhibit G**, and the Final Construction Drawings and Related Documents.

B. [§ 402] Certain Construction Issues

1. Relocation of Bus Operations

(a) The Board has agreed, at Lessee's request, to relocate all bus transit activities from the Trolley Station to the Amaya Station, a nearby location owned and operated by the Board (the "**Amaya Station**"), in order to accommodate the Lessee's initial construction of the Project on the Parcels. The temporary closure of the bus transit activities at the Trolley Station shall commence not later than thirty (30) days after Lessee's written notice of intent to proceed (the "**Relocation Notice**"), and continue for a period ending on the date specified in a written notice delivered by Lessee to the Board (the "**Relocation End Date**") which notice shall be delivered not later than sixty (60) days prior to the Relocation End Date identified in such notice.

(b) In consideration for such temporary closure of the bus transit activities at the Trolley Station , Lessee shall pay to Board, as additional Rent, in readily available funds, a fee of $2,392 for each week of bus relocation (the weekly "**Relocation Fee**") to reimburse the Board for the costs incurred by the Board in connection with such relocation of the bus stop from the Trolley Station to the Amaya Station. Lessee has requested that bus transit activities be relocated to the Amaya Station for a period of two (2) years. The estimated total cost for relocation for two (2) years is $248,803. Lessee shall deposit one-half of this estimated total cost for relocation ($124,401.50) with the Board on or before the Effective Date, and Lessee shall deposit with the Board the second half of this estimate ($124,401.50) one (1) year after the Effective Date. Lessee shall have the right to continue the bus transit relocation activities beyond two (2) years for additional weekly Relocation Fees by providing the Board thirty (30) days advance written notice accompanied by an additional deposit of weekly Relocation Fees sufficient to cover the requested extension of the bus relocation. If, after the bus relocation has ended, Lessee has deposited Relocation Fees with the Board for a period in excess of the actual period of bus relocation, Board shall promptly refund the excess amount deposited. If Lessee chooses to end the bus relocation before construction of the Project is complete, Lessee shall, at its sole expense, assure that its activities within or adjacent to the Premises do not interfere with bus access to the bus stops at the Trolley Station.

(c) Lessee acknowledges that the relocation of the bus transit activities to the Amaya Station would likely cause damage to the asphalt at the Amaya Station. Lessee has, at its sole cost and expense, reinforced and improved the new path to be used by buses for ingress, stopping and egress at the Amaya Station (the "**New Bus Route**"). During the period when the buses have been relocated to the Amaya Station at the request of the Lessee, Lessee shall, at its sole cost

and expense, repair any damage to the New Bus Route which results from the use of the New Bus Route by the buses relocated from the Trolley Station, within five (5) Business Days following written request from the Board. Within thirty (30) days following the end of the relocation of buses to the Amaya Station, Lessee shall, at its sole cost and expense, repair any damage to the New Bus Route which resulted from the bus relocation and apply a seal coat to restore the pavement of the New Bus Route to a condition not less than that existing at the Amaya Station prior to the relocation. Lessee shall not be responsible for damages at the Amaya Station to the extent caused by an extended period of bus relocation by the Board not requested by Lessee.

(d) Board does not plan to discontinue trolley operations at the Trolley Station during the construction of the Project. Board may continue, modify or temporarily discontinue trolley operations at the Trolley Station during the construction of the Project as Board may determine in its sole discretion.

2. *Intentionally Omitted.*

3. **Construction Staging Area**. During the construction of the West Parcel Garage, Lessee shall have the right to use a portion of the East Parcel (the "**Construction Staging Area**"), as shown on the Trolley Parking Construction Phasing Plan. Lessee shall not use the Construction Staging Area in any way that would present dangerous conditions in or otherwise unreasonably interfere with use of the Temporary Trolley Parking. The Construction Staging Area shall be separated from the Temporary Trolley Parking by a 6 foot moveable chain-link construction fence with fabric mesh on one side.

4. **Construction Period Access**. As shown on the Trolley Parking Construction Phasing Plan, at all times during construction of the Project, Lessee shall, at its sole cost and expense, provide at least the following access on and around the Project:

(a) Reasonable vehicular and pedestrian ingress and egress over the Access Road between Fletcher Drive and (i) the Temporary Trolley Parking (until West Garage Completion); (ii) the Trolley Parking Facilities (after West Garage Completion); and (iii) the Auto Club Property; and

(b) Reasonable pedestrian only ingress and egress between the Temporary Trolley Parking (until West Garage Completion) and the Trolley Parking Facilities (after West Garage Completion) to: (i) the Trolley Station; and (ii) the Auto Club Property.

In addition, Lessee shall not interfere with vehicular and pedestrian ingress and egress over Trolley Court between Fletcher Drive and the real property located west of the West Parcel more particularly described on **Exhibit A-5** attached (the "**CCRT Property**").

5. **Repair of Damage**.

(a) Lessee shall, at its sole expense, promptly repair, to a condition at least as good as the preexisting condition (except as otherwise specifically provided in **Section 402(5)(b)**

below), any and all damages caused to the Access Road, Parcel 3 and Parcel 4 of the Parcel Map, or the Trolley Station from the construction of the Project. Without limiting the generality of the foregoing, in connection with Lessee's installation of utilities within and near the Access Road (the "**Utility Work**"), Lessee shall provide a permanent backfill of each trench and other excavation resulting from the Utility Work in the form of slurry concrete and asphalt and in accordance with the Sewer Backfill Detail attached as **Exhibit D-2** and provide a smooth travel surface pending the permanent improvements to be made under **Section 402(5)(b)** or **Section 402(5)(c)** below.

(b) San Diego Association of Governments ("**SANDAG**") has allocated monies for the improvement of the Trolley Station on behalf of the Board. Such monies may be allocated by SANDAG to improvement of the existing Access Road which will provide joint access to the Trolley Station and the Project. In the event SANDAG elects to make improvements within the Access Easement, the Board agrees not to direct SANDAG to (i) perform any construction within the Access Easement prior to West Garage Completion (the current estimated date for West Garage Completion is 12 months after the Effective Date); or (ii) construct improvements other than in substantial accordance with the improvements for the Access Road identified in the plans for such work approved by Lessee, Board and SANDAG described in **Exhibit D-2** attached (the "**Access Road Improvement Plans**"); or (iii) commence construction of improvements within the Access Easement later than six (6) months prior to the estimated completion date for the last apartment building to be constructed by Lessee as a part of the Project ("**Building 3**"). The current estimated completion date for Building 3 is 39 months after the Effective Date.

(c) In the event that SANDAG does not start the improvements within the Access Easement at least 6 months prior to the estimated completion date of Building 3, then Lessee shall, at its sole expense, improve the Access Easement as a part of the Project in accordance with the Access Road Improvement Plans.

C. **[§ 403]** **Evidence of Financing and Project Commitments**

Lessee shall report regularly as requested by the Board on its financing for the development on the Parcels. The reports may be oral, or shall be in writing if requested by the Board. The reports shall explain in reasonable detail the status of the financing approved by the Board under the DDA, and the pre-leasing activity which has been achieved. The information in the reports shall remain confidential to the extent permitted by law, recognizing without limitation that the reports are subject to review by responsible officials and employees of the Board.

Lessee shall provide or cause to be provided to the Board any additional evidence reasonably required by the Board from time to time to establish that the following items are current and in full force and effect:

1. A current certified financial statement or statements covering the last two (2) years, or other financial statements or forms of financial confirmation, in such form reasonably satisfactory to the Board.

2. To the extent not previously provided, copies of the contracts between: (a) Lessee and the general contractor for the construction of improvements upon the Parcels (the "**General Construction Contract**"), and (b) the general contractor and all Major Subcontractors. ("**Major Subcontractors**" for purposes hereof shall be those subcontractors whose work exceeds five percent (5%) of the total construction contract costs.) Such contracts shall contain retention provisions requiring withholding of a minimum of five percent (5%) of payments due to the general contractor and subcontractors until the contractual obligations of such entities are fully completed as to any phase identified in such contract. Such contracts shall also contain, to the Board's reasonable satisfaction, adequate indemnification, insurance and other contractual provisions as may reasonably be required to protect the Board and any other provisions required by this Lease to be contained in such contracts, and shall be certified by Lessee to be true and correct copies thereof. Lessee shall duly perform and observe all of its obligations under the General Construction Contract.

3. If not previously provided, an assignment by Lessee, in form and substance reasonably satisfactory to the Board, assigning to the Board as security for Lessee's performance under this Lease, the interests of Lessee under the General Construction Contract. It is understood and agreed that such assignment will be expressly subordinate to any assignment of such contract required by a Permitted Mortgagee and shall include the Board's deemed approval of all amendments, change orders and terminations approved of the General Construction Contract by a Permitted Mortgagee so long as the contract terms regarding insurance, indemnification and retention required by this Lease or approved by the Board are not reduced.

4. To the extent not previously provided, evidence reasonably satisfactory to the Board that Lessee has obtained all "Required Land Use Approvals" (as defined in the DDA) and any other permits, approvals and authorizations of any type required for the design, development, construction, use and operation of the Project and that all such permits, approvals and authorizations remain in full force and effect.

5. To the extent not previously provided, evidence satisfactory to the Board that Lessee has obtained all easements, encroachment agreements, licenses and other off-site rights required for the development, construction, use and operation of the Project.

D. **[§ 404]** **Construction Plans, Drawings and Related Documents**

Lessee has prepared and the Board has approved the Final Construction Drawings and Related Documents for the Project, including all Improvements.

E. **[§ 405]** **Board Approval of Material Changes**

1. The Board shall have the right of review (including, but not limited to, architectural review) and approval of any "**Material Change**" (as hereinafter defined) in the Final Construction Drawings and Related Documents. If Lessee desires to make any Material Change in the Final Construction Drawings and Related Documents, Lessee shall submit the proposed change to the Board for its approval, which shall not be unreasonably withheld. The Board shall approve,

conditionally approve or disapprove such proposed change as provided in this Section and in the manner and within the time period provided in **Subsection 405(2)** below.

2. A "Material Change" shall mean any change to the Final Construction Drawings and Related Documents which (a) results in more than a Three Million Dollar ($3,000,000) change in the guaranteed maximum price ("**Guaranteed Maximum Price**") set forth in the approved general construction contract between Lessee and FF Development L.P. ("**General Contractor**") providing for the construction of the Improvements; (b) impacts the Trolley Parking Facilities or the Trolley Station in any material way; or (c) requires an amendment to any discretionary approval previously issued by the City for the Project. The Board shall respond to any request for approval of a Material Change within ten (10) Business Days after receipt of such request, and, if the Board fails to respond within such ten (10) Business Day period, such requested Material Change shall be deemed approved.

3. The Board neither undertakes nor assumes nor shall it have any responsibility or duty to Lessee or to any third party to review, inspect, supervise, pass judgment upon or inform Lessee or any third party of any matter in connection with the development or construction of the Project, whether with respect to the quality, adequacy or suitability or the plans, any labor, service, equipment or material furnished to the Project, any person furnishing the same or otherwise. Lessee and all third parties shall rely upon its or their own judgment with respect to such matters, neither Lessee nor any third party is entitled to rely on any review, inspection, supervision, exercise of judgment or information supplied to Lessee or to any third party by the Board in connection with this Lease.

F. **[§ 406]** **Cost of Construction**

The cost of developing the Parcels and constructing all improvements thereon shall be borne by Lessee. The Board and Lessee shall each pay the costs necessary to administer and carry out their respective responsibilities and obligations under this Lease.

G. **[§ 407]** **Construction Schedule**

1. Lessee shall begin construction of the Project within thirty (30) days following the Effective Date and shall use its diligent, good faith efforts to complete the construction of the Project no later than the fourth (4th) anniversary of the Effective Date, subject to extension for "Enforced Delay" (as defined in **Section 1209** below); provided, however, that Lessee shall not be in default of its construction obligations so long as Lessee (a) completes the construction of both parking garages of the Project no later than thirty-nine (39) months after the Effective Date and (b) completes the construction of the Project no later than fifty-seven (57) months after the Effective Date, subject in both cases to extension for "Enforced Delay." Such completion shall be evidenced by the issuance of certificates of occupancy (or equivalent) by the City for the respective improvements. Lessee shall have the right to request an extension of these time periods from the Board.

2. Lessee has prepared a construction schedule (the "**Construction Schedule**") which is attached hereto as **Exhibit G**, specifying the dates when the major elements and components of the work to be performed thereunder are currently scheduled for completion, looking to completion of the construction on or before the date specified above. In the event that any material change occurs in the Construction Schedule by reason of delay or otherwise, Lessee shall prepare a revised Construction Schedule and submit it to the Board within fifteen (15) days after Lessee first has confirmed the delay.

3. Not less than monthly, during periods of construction, Lessee shall submit to the Board a report summarizing the progress of construction, any change in the status of all necessary governmental approvals required in connection with the construction work, the status and degree of the completion of the work, and any confirmed delays under the Construction Schedule submitted to the Board pursuant to the preceding paragraph. The reports shall include a reasonable number of construction photographs taken since the last report submitted by Lessee.

H. **[§ 408]** **Indemnification; Insurance**

To the fullest extent permitted by law, Lessee shall indemnify, protect, defend and hold harmless the Board and its officers, employees and agents, from and against all liability, loss, damage, costs, or expenses of any kind (including court costs and attorneys' fees) arising from or as a result of any accident, injury, loss or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Parcels and which shall be directly or indirectly caused by any acts done thereon or any errors or omissions of Lessee, its agents, employees and contractors, or any of them, including but not limited to, claims of negligent or defective design or construction, regardless of whether any such liability occurs before or after issuance of the Certificate of Compliance. These indemnity obligations shall survive the expiration or termination of this Lease. Lessee's obligations under this Section exclude only claims, losses or liability which is due to the sole negligence or willful misconduct of Board or its officers, employees and agents.

During the period of construction on the Parcels and until such time as the Board has issued a final Certificate of Compliance under **Section 415** for all improvements to be constructed by Lessee pursuant to this Lease, Lessee shall have and maintain the insurance policies set forth in **Section 1002**. All policies, endorsements, certificates and binders shall be subject to approval by the Risk Manager of the Board.

I. **[§ 409]** **Antidiscrimination During Construction; Equal Opportunity**

Lessee, for itself and its successors and assigns agrees that in the construction of the improvements on the Parcels provided for in this Lease:

1. Lessee shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, national origin, ethnicity, disability, age, marital status, sex or sexual orientation. Lessee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, creed, national origin, ethnicity, disability, age, marital status, sex or sexual orientation.

Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of Lessee, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, creed, national origin, ethnicity, disability, age, marital status, sex or sexual orientation.

3. Lessee shall cause the foregoing provisions to be inserted in all contracts for any work covered by this Lease so that such provisions shall be binding upon each contractor and subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

J. [§ 410] Local, State, and Federal Laws

Lessee shall carry out the construction of the Improvements on the Parcels in conformity with all applicable laws, including all applicable federal and state labor standards. Board and Lessee do not believe that the Project is subject to prevailing wage requirements; however, Lessee shall cause its contractors to pay prevailing wages for the construction of the Project if and to the extent required by applicable law. Notwithstanding the foregoing, if formal written demand is made on Lessee for the payment of prevailing wage on the construction of the Project, and Lessee determines in its sole good faith discretion that it will be unable to resolve such demand in Lessee's favor, within a time period acceptable to Lessee or the Permitted Mortgagee funding construction of the Project, then Lessee, with the written consent of the Permitted Mortgagee shall have the right to terminate the Lease by delivery to the Board of a written notice of termination ("**Termination Notice**"); provided that Lessee restores the Parcels, at the sole cost and expense of Lessee, to a functional equivalent not less than that existing as of the Effective Date (the "**Restoration**"), no later than six (6) months following Lessee's delivery of the Termination Notice, which six (6) month period shall be extended by Enforced Delays. During the restoration, Lessee shall maintain parking spaces on the Parcels not less than that provided with the Temporary Trolley Parking. The plans and specifications for the Restoration shall be subject to the prior written approval of the Board, which approval will not be unreasonably withheld or delayed. Upon the lien free completion by Lessee of the Restoration and acceptance of the Restoration by the Board, the Lease and the rights and obligations of Lessee and the Board shall terminate and be of no further force or effect except for those sections of this Lease which provide that they will survive the expiration or termination of this Lease.

K. [§ 411] City and Other Governmental Board Permits

1. Before commencement of any work or improvement upon the Parcels, Lessee shall secure or shall cause to be secured, all Required Land Use Approvals any and all permits, approvals or certificates which may be required by the City or any other governmental agency with

jurisdiction over the Parcels or over the construction, development or work contemplated under this Lease.

2. Lessee shall obtain all City permits required for the complete construction and operation of both parking garages of the Project (including without limitation all grading, utilities and garage permits but excluding occupancy permits) within ten (10) days after the Effective Date and provide written notice and copies thereof to the Board.

3. Lessee shall obtain all City permits required for the complete construction and operation of each of the six apartment buildings of the Project (including without limitation all building permits but excluding occupancy permits) within one (1) year after the date shown in the Construction Schedule for the commencement of each such apartment building. Lessee shall pay to the Board a penalty of $100,000.00 for a failure to obtain the building permit for Buildings 4, 5 and 6 (on the West Parcel) within 12 months following the date set forth in the Construction Schedule for commencement of construction of Building 6, and Lessee shall pay to the Board the sum of $200,000.00 for a failure to obtain the building permit for Buildings 1, 2 and 3 (on the East Parcel) within 12 months following the date set forth in the Construction Schedule for commencement of construction of Building 1. Upon obtaining such permits, Lessee shall provide written notice and copies thereof to the Board.

4. The Board shall cooperate with Lessee and provide all proper assistance to Lessee in securing these permits and certificates and any other approvals required for the Project in order to meet the time periods set forth in the Construction Schedule; provided that the Board shall not be required to incur any expense in connection with providing any such assistance.

L. **[§ 412]** **Rights of Access**

For the purposes of assuring compliance with this Lease, representatives of the Board shall have the reasonable right of access to the Parcels without charges or fees and at normal construction hours during the period of construction for the purposes of this Lease, including, but not limited to, the inspection of the work being performed in constructing the Project. Such right to enter shall be subject to Board's compliance with all site control and safety procedures established by Lessee and/or the General Contractor. Such representatives of the Board shall be those who are so identified in writing by the Board. The Board hereby indemnifies Lessee and holds it harmless from any damage or liability caused solely by Board or its representatives and arising out of this right of access.

M. **[§ 413]** **Taxes, Assessments, Encumbrances and Liens**

Prior to recordation of a Certificate of Compliance for the Project pursuant to **Section 415** of this Lease, Lessee shall not place or allow to be placed on the Parcels, or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Ground Lease, and Lessee shall remove, or shall have removed, any levy or attachment made on the Parcels, or any portion thereof, or shall assure the satisfaction thereof within a reasonable time. Nothing herein contained shall be deemed to prohibit Lessee from contesting the validity or amounts of any tax, assessment, encumbrance or lien, nor to limit the remedies available to Lessee with respect thereto, provided

such contest does not subject the Parcels, or any portion thereof, to forfeiture or sale, as more fully set forth in **Section 611**.

N. **[§ 414]** **Sale of the Project**

Except as otherwise expressly provided in this Lease, Lessee shall not under any circumstances be entitled to sell any portion of its ownership interest in the Project prior to the issuance of a Certificate of Compliance by Board, without the prior written consent of the Board, which may be granted or withheld in the sole and absolute discretion of Board.

Following the issuance of a Certificate of Compliance, Lessee shall be entitled to sell its interest in any or all of the Project to the extent allowed and in accordance with the terms and provisions of **Section 800** *et seq.*

If, contrary to the provisions of this Lease, Lessee does assign this Lease or any of the rights herein, or does sell, transfer, convey or assign any portion of its ownership interest in the Project or any part of the Parcels or the improvements thereon, in addition to all other legal and equitable remedies the Board may be entitled to, the Board shall be entitled to recover from Lessee the total consideration received by Lessee for such sale, transfer, conveyance or assignment. Said consideration shall belong and be paid to the Board and until so paid the Board shall have a lien on Lessee's interest in the Parcels for such amount.

Nothing in this **Section 414** shall apply to, limit or restrict the assignment and conveyance of Lessee's right title and interest in the Lease and in the Project to a Permitted Mortgagee or its affiliate in connection with the realization by a Permitted Mortgagee on its security, whether by foreclosure or by deed/assignment in lieu of foreclosure, nor apply to, limit or restrict the assignment and conveyance of Lessee's interest in the Lease and in the Project by the Permitted Mortgagee or its affiliate following such foreclosure or deed/assignment in lieu of foreclosure.

O. **[§ 415]** **Certificate of Compliance**

Promptly after completion of all construction and development of the Project to be completed by Lessee upon the Parcels, and the completion of all construction and development of the Trolley Parking Facilities, and the repair any damages pursuant to **Section 402(4)**, all in compliance with the terms of this Lease, the Board shall furnish Lessee with a Certificate of Compliance upon written request therefor by Lessee. Such Certificate of Compliance shall be in such form as to permit it to be recorded in the Office of the County Recorder of San Diego County.

A Certificate of Compliance shall be, and shall so state, conclusive determination of satisfactory completion of the construction required by this Lease upon the Parcels and of full compliance with the terms hereof.

The Board shall not unreasonably withhold or delay any Certificate of Compliance. If the Board refuses or fails to furnish a Certificate of Compliance for the Parcels after written request from Lessee, the Board shall, within ten (10) days of the next regularly scheduled Board meeting after

such written request, provide Lessee with a written statement of the reasons the Board refused or failed to furnish a Certificate of Compliance. The statement shall also contain the Board's opinion of the action Lessee must take to obtain a Certificate of Compliance. If the reason for such refusal is confined to the immediate unavailability of specific items or materials for landscaping, the Board will issue its Certificate of Compliance upon the posting of a bond by Lessee with the Board in an amount representing a fair value of the work not yet completed.

Such Certificate of Compliance shall not constitute evidence of compliance with or satisfaction of any obligation of Lessee to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the improvements or any part thereof. Such Certificate of Compliance is not notice of completion as referred to in California CIVIL CODE Section 3093.

P. **[§ 416]** **Construction of Trolley Parking Facilities**.

Lessee, at its sole cost and expense, shall design, obtain all permits and entitlements for, and construct the Trolley Parking Facilities in accordance with the approved Final Construction Drawings and Related Documents in the time and manner provided for in **Section 407**. The Trolley Parking Facilities shall be constructed to a standard at least equivalent to the other parking provided for the Project.

V. [§ 500] USE OF THE PARCELS AND THE IMPROVEMENTS

A. [§ 501] Use of the Parcels and the Improvements

1. **Permitted Use**. Lessee shall have the right and Lessee covenants and agrees to develop the Parcels, make the Improvements and use the Premises, in accordance with the provisions of this Lease, for the operation of the Project (as defined in **Section 106** above) and for no other purposes.

2. **Operation, Management and Use of the Trolley Parking Facilities**.

(a) After West Garage Completion, Board shall at all times have exclusive use of (except as specifically noted below in **Section 501(2)(b)**) and control over the operation, management and use of the portion of the West Garage Trolley Parking Area. After East Garage Completion, Board shall at all times have exclusive use of (except as specifically noted below in **Section 501(2)(b)**) and control over the operation, management and use of all of the Trolley Parking Areas. Board shall at all times have the right to install signage, gates, security guards and other access control measures within the Trolley Parking Areas to restrict access to the persons authorized by the Board to enter the Trolley Parking Areas.

(b) Neither Lessee nor its subtenants nor any other residents or users of the Project nor their respective family members, employees, customers, contractors, agents, guests or invitees shall have any right to enter or use any part of the Trolley Parking Areas or the Outdoor Trolley Parking Spaces, except as specifically noted below in this **Section 501(2)(b)**. Notwithstanding the preceding sentence, Lessee, its tenants and other persons authorized by Lessee

to enter the Parcels shall have the non-exclusive right to use the following areas within or adjacent to the Trolley Parking Areas for the described purposes only:

(1) The pedestrian walkways that provide pedestrian ingress and egress between the Access Road and each of the following for pedestrian ingress and egress to the following: (A) the elevators and stairwells on each of the Parcels that extend from the ground floor of the parking garage to the Project (but not including any "move-in" activities by residents of the Project); and (B) those parking spaces on the ground floor of the parking garage on the East Parcel that are a part of the Project and not the Trolley Parking Areas ("**Project Ground Floor Parking Spaces**").

(2) The eastern most driveway ramp providing ingress and egress between the Access Road and the East Garage, to provide vehicular ingress and egress between the Access Road and the Project Ground Floor Parking Spaces; and

(3) The pedestrian walkways and the driveways within the ground floor of the parking garages for pedestrian and vehicular ingress and egress by Lessee's contractors, maintenance personnel and utility providers, as applicable, between the Access Road and the following: the machine rooms, elevator lobbies, electrical rooms, pool equipment rooms, trash compactors and multiple point of entry ("**MPOE**") rooms for fire safety, telephone, cable, low voltage and related facilities (collectively, the "**Maintenance and Utility Rooms**"), which ingress and egress shall be limited to access reasonably required for the operation, maintenance, repair and replacement by Lessee or the applicable utility provider of the equipment in the Maintenance and Utility Rooms.

(c) Lessee shall, at Lessee's expense, notify all of its subtenants of these restrictions on parking in the Trolley Parking Areas and the Outdoor Trolley Parking Spaces by (i) including a notice in a written addendum to its sublease (in a form approved by the Board), and (ii) including a notice in any periodic newsletters or other communications then sent by Lessee to its subtenants from time to time. Lessee shall, at Board's request and expense, cooperate reasonably with the Board's efforts to prevent Lessee's subtenants, any other residents or users of the Project, and their respective family members, employees, customers, contractors, agents, guests and invitees from parking in the Trolley Parking Areas and the Outdoor Trolley Parking Spaces.

(d) Lessee shall notify its retail subtenants that they do not have any parking rights included with their subleases but that they may lease parking spaces from the Board for their use. The Board agrees to make a reasonable number of parking spaces in the Trolley Parking Areas available to Lessee's retail subtenants for rent at a price and on terms as reasonably determined by the Board from time to time.

(e) Nothing in this Lease shall restrict or impair in any way the Board's rights or discretion to operate, manage, use, transfer, close or redevelop the Trolley Parking Areas for such purposes as the Board determines from time to time in its sole discretion; provided, however, that Board shall not change the use of the Trolley Parking Areas from parking uses to

another use which would materially adversely affect the operation, structural integrity, maintenance, access, value, marketability or desirability of the Project.

3. **Limitation on Access to Project by Trolley Patrons and Parking Licensees**. Neither the trolley patrons nor the parking licensees shall have any right to enter or use any part of the Parcels except for: (a) the Trolley Parking Areas; (b) all driveways, ramps, walkways and any stairways that extend between the Trolley Parking Areas and the Access Road; and (c) all exterior walkways on the ground levels of the Parcels. Board shall at all times have full rights for access and utilities to and support of the Trolley Parking Areas and to access the mechanical, electrical and MPOE rooms within the Project that serve the Trolley Parking Facilities. Lessee shall at all times have the right to install signage, gates, security guards and other access control measures to restrict access to all other portions of the Parcels to the tenants and other persons authorized by the Lessee to enter the Parcels. Board shall have the right, at its sole expense, to install and maintain on the Parcels along the Access Road and at the entrances to the Trolley Parking Areas exterior directional signage of reasonable size and design.

B. **[§ 502] Change in Use**.

1. Lessee shall have the right from time to time to request that the Board approve a change in use of the Parcels. The Board shall not unreasonably withhold its approval to such request, provided that the proposed new use is a transit-oriented and pedestrian-oriented development. It shall be reasonable for the Board to impose as a condition to its consent to a proposed change in use that this Lease be amended in such respects as the Board may reasonably require to address any new considerations brought about by the proposed new use of the Parcels, including, without limitation, an increase in the Rent payable under the Lease to reflect the increase, if any, in the Fair Market Value of the Parcels resulting from the change in permitted use. In no event shall Rent be decreased.

2. A condominium conversion of the Project shall be considered a change in use. Lessee shall not sell any residential or retail units as condominiums, or separately finance and encumber any residential or retail units, without the prior written consent of the Board, which consent may be withheld by the Board in its sole discretion. In connection with any such approval, the Board shall have the right to require an amendment to this Lease to compensate for the loss in Rent resulting from such sales. All costs incurred by Board to determine whether or not to approve a change in use (including any costs incurred by Board for the amendment of this Lease required by such request) shall be paid by Lessee.

C. **[§ 503] Management of the Parcels and the Improvements**

The Parcels and the Improvements (exclusive of the Trolley Parking Facilities) shall be managed or caused to be managed by Lessee in a prudent and businesslike manner. Board shall have the right of approval (which approval shall not be unreasonably withheld or delayed) over any prospective Operator of the Project or any part thereof at all times during the Term of this Lease. The term "**Operator**," as used in this Lease, shall mean a person, firm or other entity taking control of the management of the Project under an operating lease, management contract, license agreement,

or other similar arrangement, provided, however, the term "Operator" shall not include (a) an employee or an affiliate of Lessee; or (b) a property management company that serves under a property management contract so long as the manager is not granted rights typically reserved to an owner under a standard property management agreement for a project similar to the Project, such as a right to enter into leases or contracts for a term in excess of one (1) year, or to elect to make material capital expenditures for the repair, replacement or alteration of the Improvements, without the prior written consent of the Lessee. In determining reasonableness of withholding approval by Board, the experience and proven ability of the proposed Operator in the residential rental apartment business, consistent with the nature of the Improvements and the manner in which they are required to be operated by the terms of this Lease, shall be considered together with financial responsibility consistent with the financial obligations of such operation. If Lessee elects to manage and operate the Project with an Operator, the operating agreement between Lessee and the Operator shall be approved by Board (the "**Operating Agreement**"). Board's approval of the Operating Agreement shall not be unreasonably withheld.

Lessee further covenants and agrees as follows:

1. Lessee shall (a) diligently enforce the terms of the Operating Agreement with the Operator, including appropriate recourse to any remedies available to Lessee for material defaults under the Operating Agreement, (b) perform all acts and obligations and comply with all requirements under the Operating Agreement with the Operator required to be performed or complied with by Lessee so as to keep the Operating Agreement in full force and effect, and (c) not take or allow, by action or inaction of Lessee, any act, condition or circumstance that would violate the Operating Agreement with the Operator or excuse or prevent the Operator from fully performing and complying with the terms of the Operating Agreement. Clause (c) above shall not be construed to prohibit Lessee from terminating the Operating Agreement for material uncured default under the terms thereof, or as otherwise permitted thereunder for cause.

2. Board shall have the right, but no obligation, to cure, and any Operating Agreement between Lessee and the Operator shall expressly provide for Board to receive notice of and have the right to cure, any breach by or default of Lessee under the Operating Agreement, on behalf of and at the expense of Lessee during any period that Lessee is in default thereunder; provided that, except in case of an emergency requiring earlier action, Board shall give Lessee not less than fifteen (15) days prior written notice of Board's intent to cure on behalf of Lessee. The Operating Agreement shall further expressly provide that Board shall have a reasonable period of time (considering the nature of the default) to cure any default of Lessee, following the expiration of all periods (including any extensions of time and periods during which performance is waived) allowed for Lessee's cure of such default, in the event that Lessee has failed to cure. Lessee shall pay Board, as supplemental Rent hereunder, all amounts expended by Board in curing any such default, together with interest thereon accruing as of the date Board expends such amounts at a rate per annum equal to three percent (3%) plus the prime rate published in the current western edition of the Wall Street Journal as of the date of the expenditure, but in no event more than the maximum interest rate permitted by law.

3. Subject to the right of prior assignment to a Permitted Mortgagee (defined below) as security for a Permitted Mortgage (defined below), Lessee hereby assigns to Board, as security for the performance of the obligations of Lessee under this Lease, including, but not limited to, the provisions of this **Section 503**, all right, title and interest of Lessee in and to any Operating Agreement, if applicable; provided, however, that Board shall exercise no rights of Lessee pursuant to such assignment without first having effectively declared a default on the part of Lessee as provided in **Section 1207** of this Lease. Board shall be deemed to have approved an amendment or termination of an Operating Agreement that has been approved by a Permitted Mortgagee.

D. **[§ 504]** **Obligation to Refrain from Discrimination**

There shall be no discrimination against or segregation of any person, or group of persons, on account of sex, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Parcels or the Improvements, and Lessee itself or any person or entity claiming under or through it shall not establish or permit any such practice or practices of discrimination, or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Parcels or the Improvements.

E. **[§ 505]** **Form of Nondiscrimination and Nonsegregation Clauses**

All deeds, leases or contracts pertaining to the rental, sale or lease of the Premises, the Improvements, or any portion thereof, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. **In deeds:** "The grantee herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

2. **In leases:** "The lessee covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, and this lease is made and accepted upon and subject to the following conditions:

> There shall be no discrimination against or segregation of any person or group of persons on account of sex, marital status, race, color, creed, religion, national origin or ancestry, in the leasing, subleasing, transferring, use, or enjoyment of the land

herein leased nor shall the lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sublessees, subtenants or vendees in the land herein leased."

3. **In contracts:** "There shall be no discrimination against or segregation of, any person or group of persons on account of sex, marital status, race, color, creed, religion, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the land."

No such language is required to be included in the documents evidencing or securing a Permitted Mortgage.

F. **[§ 506]** **Rights of Access for Construction, Repair and Maintenance of the Trolley Parking Facilities**

The Board reserves the right to enter the Parcels or any part thereof at all reasonable times and with as little interference to other activities on the Parcels as possible for the purposes of maintenance, repair or service of any utilities or other facilities located on the Parcels which serve the Trolley Parking Facilities, including without limitation any utility improvements. Any such entry shall be made only after reasonable notice to Lessee, and the Board shall indemnify, defend and hold harmless Lessee from any claims or liabilities pertaining to any such entry or work. Any damage or injury to the Parcels or to the improvements thereon resulting from such entry shall be promptly repaired at the sole expense of the Board.

G. **[§ 507]** **Quiet Enjoyment**

Subject to **Sections 412** and **506**, the Board covenants and agrees that Lessee, by keeping and performing the covenants herein contained, shall at all times during the Term of this Lease peaceably and quietly have, hold and enjoy the Premises and the Improvements, without unreasonable hindrance or interruption by Board or Board's agents, or by any other person or persons lawfully claiming by, through or under Board.

VI. [§ 600] LAWS, UTILITIES AND TAXES

A. **[§ 601]** **Compliance With Laws**

1. Lessee shall, at its sole cost and expense, comply with and shall require any Operator of the Project and any occupants or sublessees of the Project (other than the Board and any users of the Trolley Parking Facilities) to comply with:

(a) All federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances (herein sometimes collectively referred to as **"law"**) affecting the Parcels or the Improvements thereon, or any part thereof, or the use thereof, including those which require the making of any structural, unforeseen or extraordinary changes to the Parcels or the Improvements, whether or not any such statutes, laws, rules, orders, regulations or ordinances which may be hereafter enacted were within the contemplation of the parties at the time of execution of this Lease, or involve a change of policy on the part of the governmental body enacting the same; and

(b) All rules, orders and regulations of the National Board of Fire Underwriters or other bodies exercising similar functions in connection with the prevention of fire or the correction of hazardous conditions which apply to the Parcels and the Improvements constructed thereon; provided, however, that nothing in this **Section 601** shall be construed to require Lessee to meet the standards of any future law which by its terms does not then apply to the Parcels, the Improvements thereon or the use, operation or occupancy thereof (for example, changes in building codes that apply prospectively and do not require alterations of existing structures).

B. **[§ 602]** **Utilities**

Lessee agrees to pay or cause to be paid, as and when they become due and payable, all charges for water, gas, light, heat, telephone, electricity, garbage, refuse and all other utility and communication services rendered or used on or about the Parcels or the Improvements (exclusive of the Trolley Parking Facilities) at all times during the Term of this Lease.

C. **[§ 603]** **Impositions (Including Taxes and Assessments)**

1. **[§ 604]** **Payment Generally**

Subject to the provisions of **Section 609** and other limitations in **Sections 600** through **611**, Lessee agrees to pay or cause to be paid, as and when they become due and payable, and before any fine, penalty, interest or cost may be added thereto, or become due or be imposed by operation of law for the nonpayment thereof, all taxes, assessments, franchises, excises, licenses and permit fees, and other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever which at any time during the Term of this Lease may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on: (a) the Parcels, the Improvements, or any part thereof; (b) the rent and income received by Lessee from subtenants, guests or others for the use or occupation of all or any part of the Parcels or the Improvements thereon; or (c) the transactions contemplated herein or any document to which Lessee is a party, creating or transferring an interest or estate in the Parcels. Notwithstanding the foregoing, the Board shall reasonably cooperate with the Lessee from time to time throughout the term of this Lease to apply for exemption of the Trolley

Parking Facilities from assessment and taxation. All such taxes, franchises, excises, licenses and permit fees, and other governmental levies and charges shall herein be referred to as **"Impositions"**, and any of the same shall herein be referred to as an Imposition. Any Imposition relating to a fiscal period of the taxing authority, a part of which period is included within the Term of this Lease and a part of which is included in a period of time before the Effective Date or after the expiration of the Term of this Lease, shall (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon, or become a lien upon the Parcels or the Improvements thereon, or shall become payable, during the Term of this Lease) be adjusted between Board and Lessee, and Lessee shall pay that portion of such Imposition relating to that part of such fiscal period occurring before the expiration of the Term of this Lease, and Board shall pay the remainder thereof, if any.

2. **[§ 605]** **Payment of Impositions in Installments**

If, by law, any Imposition may at the option of the payer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Lessee may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and, in such event, shall pay such installments as may become due during the Term of this Lease as the same become due and before any fine, penalty, further interest or cost may be added thereto; provided, however, that the amount of any installments of any such Imposition which will be the responsibility of Lessee pursuant to **Section 604** above, and which are to become due and payable after the expiration of the Term of this Lease, shall be deposited with Board for such payment on or before the date which is sixty (60) days prior to the date of such expiration; it being understood that installments payable for the period subsequent to the expiration of the Lease are not the responsibility of Lessee as provided in **Section 604**.

3. **[§ 606]** **Board Right to Cure**

Subject to the provisions of **Section 609**, if Lessee, in violation of the provisions of this Lease, shall fail to pay and to discharge any Imposition before its delinquency, Board may (but shall not be obligated to) pay or discharge it, and the amount paid by Board and the amount of all costs, expenses, interest and penalties connected therewith, including attorneys' fees, together with interest at an annual rate which is the lesser of three percent (3%) over the prime rate published in the western edition of the Wall Street Journal on the date payment is made by Board, or the highest annual rate which may lawfully be charged and collected under applicable law, from the date payment is made by Board, shall be deemed to be and shall be payable by Lessee as additional Rent and shall be paid to Board by Lessee on demand.

4. **[§ 607]** **Tax Receipts**

Lessee shall furnish to Board, on or before the date when any Imposition would become delinquent, official receipts of the appropriate taxing authority or other evidence satisfactory to Board evidencing payment thereof.

5. [§ 608] **Limits of Tax Liability**

The provisions of this Lease shall not be deemed to require Lessee to pay municipal, county, state or federal income or gross receipts or excess profits taxes assessed against Board, or municipal, county, state or federal capital levy, estate, succession, inheritance, gift, or transfer taxes of Board, or corporation franchise taxes imposed upon any corporate owner of the fee of the Parcels; except, however, that Lessee shall pay all taxes assessed by any governmental authority upon the value of the Lessee's possessory interest in the Parcels and the Improvements thereon or by virtue of any operation by Lessee conducted on or out of the Parcels and the Improvements. It is agreed that in the event the State of California or any taxing authority thereunder changes or modifies the system of taxing real estate so as to tax the rental income from real estate in lieu of or in substitution (in whole or in part) for the real estate taxes and so as to impose a liability upon Board for the amount of such tax, then Lessee shall be liable under this Lease for the payment of the taxes so imposed during the Term of this Lease, including any renewal thereof, to the same extent as though the alternative tax was a tax upon the value of the Parcels and the Improvements.

6. [§ 609] **Permitted Contests**

Lessee shall have the right to contest the validity or the amount in part or in full, of any Imposition which it is obligated to pay under the provisions of this Lease. Lessee agrees that all such proceedings shall be commenced within the period allowed by law after any contested item is imposed and shall be prosecuted to final adjudication with reasonable dispatch. Nothing herein shall be construed to limit or prevent Board from opposing any such contest which may be instituted by Lessee hereunder.

Lessee shall give Board prompt notice in writing of any such contest at least twenty (20) Business Days before any delinquency occurs if Lessee intends to withhold payment of the Imposition pending determination of the contest or at least twenty (20) Business Days before institution of any contest if Lessee intends to contest such Imposition subsequent to payment thereof. Lessee may only exercise its right to contest an Imposition hereunder while withholding payment thereof if (i) the subject legal proceedings shall operate to prevent the collection of the Imposition so contested, or the sale of the Parcels, the Improvements, or any part thereof, to satisfy the same, or (ii) if Lessee shall, prior to the date such Imposition is due and payable, have given such reasonable security as may be required by Board from time to time in order to insure the payment of such Imposition to prevent any sale, foreclosure or forfeiture of the Parcels, the Improvements, or any part thereof, by reason of such nonpayment. In the event of any such contest and the final determination thereof adversely to Lessee, Lessee shall, before any further fine, interest, penalty or cost may be added thereto for nonpayment thereof, pay fully and discharge the amounts involved in or affected by such contest, together with any penalties, fines, interest, costs and expenses that may have accrued thereon or that may result from any such contest by Lessee and, after such payment and discharge by Lessee, Board will promptly return to Lessee such security as Board shall have received in connection with such contest.

Any such proceedings to contest the validity or amount of any Imposition or to recover any Imposition paid by Lessee shall be prosecuted by Lessee at Lessee's sole cost and

expense; and Lessee shall indemnify, protect, defend and hold harmless Board against any and all claims, losses, liabilities, damages, costs or expenses of any kind, including, but not limited to, reasonable attorneys' fees and expenses, which may be imposed upon or incurred by Board in connection therewith.

7. **[§ 610]** **Notice of Possessory Interest; Payment of Taxes and Assessments on Value of Entire Property**

In accordance with California REVENUE AND TAXATION CODE §107.6(a), Board states that by entering into this Lease, a possessory interest subject to property taxes may be created. Lessee or any other party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interest.

Without limiting the foregoing, in the event the Parcels or the Improvements thereon, or any possessory interest therein, should at any time be subject to ad valorem taxes or assessments levied, assessed or imposed on such property, Lessee shall pay taxes and assessments upon the assessed value of the entire property, and not merely upon the assessed value of its leasehold interest; provided, however, that Lessee shall have no obligation to pay any ad valorem taxes or assessments levied, assessed or imposed on any possessory interest in the Trolley Parking Facilities.

D. **[§ 611]** **Other Liens**

Lessee shall not, directly or indirectly, create or permit to be created or to remain, and will promptly discharge, at its expense, any mortgage, lien, encumbrance or charge on or pledge of the Parcels, the Improvements or any part thereof, or Lessee's interest therein, or the Base Rent, Overage Rent, supplemental Rent or other sums payable by Lessee under this Lease, (including, but not limited to, the liens of mechanics, laborers, materialmen, suppliers or vendors for work or materials alleged to be done or furnished in connection with the Parcels, the Improvements, and any other improvements thereon), other than any Permitted Mortgage as is permitted pursuant to **Section 900** et seq., and other than liens or encumbrances created by Board in accordance with **Section 109**. Lessee shall notify Board promptly of any lien or encumbrance which has been created on or attached to the Parcels or the Improvements, or to Lessee's leasehold estate therein, whether by act of Lessee or otherwise, but other than such liens or encumbrances created by Board, and Lessee shall remove, or shall have removed, any lien, encumbrance, levy or attachment made on the Parcels, or any portion thereof, or shall assure the satisfaction thereof within a reasonable time. Nothing herein contained shall be deemed to prohibit Lessee from contesting in good faith the validity or amounts of any tax, assessment, encumbrance or lien, nor to limit the remedies available to Lessee with respect thereto, provided such contest does not subject the Parcels, or any portion thereof, to forfeiture or sale and Lessee posts a bond or other security in form and amount reasonably acceptable to the Board. The existence of any mechanic's, laborer's, materialmen's, supplier's or vendor's lien, or any right in respect thereof, shall not constitute a violation of this Section if payment is not yet due upon the contract or for the goods or services in respect of which any such lien has arisen.

Board shall not, directly or indirectly, create or permit to be created or to remain, and will promptly discharge, at its expense, any mortgage, lien, encumbrance, charge or pledge of the

Premises, which is or may be superior to Lessee's interest therein or the nonpayment of which would impair Lessee's rights therein, except as expressly required or permitted by **Section 109** above.

VII. [§ 700] OWNERSHIP OF AND RESPONSIBILITY FOR IMPROVEMENTS AND PERSONAL PROPERTY

A. [§ 701] Ownership During Term

1. [§ 702] Improvements

All Improvements constructed on the Parcels by Lessee as permitted or required by this Lease shall, during the Term of this Lease, be and remain the property of Lessee, and Board shall not have title thereto; provided, however, that, except as otherwise provided in this Lease with respect to Damage and Destruction (**Section 708**), Eminent Domain (**Section 1100**) and Alterations (**Section 707**), Lessee shall have no right to waste, destroy, demolish or remove the Improvements; and provided further that Lessee's rights and powers with respect to the Improvements are subject to the terms and limitations of this Lease.

For purposes of this Lease, the Improvements shall include (without limitation) all of those building components, furnishings, fixtures and equipment necessary for operation of the basic building systems and parking facilities, such as, but not limited to, chillers, boilers, plumbing, sanitary fixtures and central air-cooling systems, security systems, electrical distribution systems, telephone, computer, fiber optic, and other cable systems that are affixed to the Parcels or Improvements so as to result in damage to the Improvements (not repaired by Lessee), or impairment of the use of the Improvements, upon removal thereof. Board and Lessee covenant for themselves and all persons claiming under or through them that the Improvements are real property.

2. [§ 703] Personal Property

All personal property located on the Parcels shall remain the property of Lessee, and Board shall not have title thereto. Personal property shall include all furnishings, fixtures and equipment which are not affixed to the Parcels or the Improvements thereon so as to result in damage to the Improvements, or impairment of the use of the Improvements, upon removal thereof.

B. [§ 704] Ownership at Termination

Lessee shall not be required or permitted to remove the Improvements at the expiration or sooner termination of the Term of this Lease. Lessee shall remove the personal property at the expiration or sooner termination of the Term of this Lease. Any personal property owned by Lessee and not removed by Lessee within thirty (30) days after expiration or sooner termination of the Lease, shall, at the election of Board, and without compensation to Lessee: (i) become Board's property, free and clear of all claims to or against them by Lessee or any third person, firm or entity; (ii) be disposed of or destroyed by Board; or (iii) at Lessee's cost and expense, be placed in storage on behalf of Lessee, for such time as Board shall deem appropriate or until reclaimed by Lessee, whichever is sooner. Upon termination of this Lease, whether by expiration of the Term or

otherwise, the Improvements on the Parcels shall, without compensation to Lessee, then become Board's property, free and clear of all claims to or against them by Lessee or any third person, firm or entity. Notwithstanding anything in this **Section 704** to the contrary, Lessee shall have no right to remove any Improvements, and Board shall not have the right to remove the same and shall not acquire title thereto, if Board enters into a new lease pursuant to **Section 902**. Lessee shall indemnify, defend, protect and hold harmless Board from and against any and all liability, loss, damage, cost or expense (including attorneys' fees and court costs) arising from any claims with respect to the ownership or any interest in the Improvements (except claims arising due to Board's actions) or from Board's exercise of the rights conferred by this **Section 704**.

C. **[§ 705] Maintenance and Repair of Improvements**

1. **Lessee's Maintenance of Improvements**. Subject to the provisions of this Lease concerning condemnation, alterations, damage and destruction, Lessee agrees to maintain or cause to be maintained in good order, repair and operation the Parcels and the Improvements, including all furnishings, fixtures and equipment of Lessee thereon or therein throughout the Term of this Lease without expense to Board, and to perform or cause to be performed all repairs and replacements necessary to maintain and preserve the Parcels and the Improvements, including furnishings, fixtures and equipment of Lessee, in a decent, safe and sanitary condition, in compliance with applicable laws, and equal in value, quality and use to the condition of the Improvements, including furnishings, fixtures and equipment of Lessee, as originally constructed or installed, reasonable wear and tear excepted; and Board shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Project. Lessee hereby expressly waives all right to make repairs at Board's expense under Sections 1941 and 1942 of the California CIVIL CODE, as either or both may from time to time be amended, replace or restated. Any subsidence of soil or soil condition causing damage or destruction to the Parcels or the Improvements shall be treated as a casualty in accordance with **Sections 708** and **709**. All landscaping required to be planted as part of the Project shall be maintained in a healthy condition.

2. **Maintenance and Repair of Trolley Parking Facilities.**

(a) Subject to the provisions of this Lease concerning condemnation, damage and destruction, Lessee agrees to provide janitorial services and to maintain (or cause to be maintained) the Trolley Parking Facilities in good order and repair throughout the Term of the Lease, and to perform or cause to be performed all repairs and replacements necessary to maintain and preserve the Trolley Parking Facilities in a decent, safe and sanitary condition, in compliance with applicable laws, and at least equivalent in value, quality and use to the condition of: (i) the Trolley Parking Facilities, as originally constructed or installed, reasonable wear and tear excepted, and (ii) the other parking facilities in the Project. Lessee agrees to retain the same independent contractor (or contractors) to maintain both the Trolley Parking Facilities and the parking facilities within the Project with the expectation that the Board and Lessee will each benefit from uniform maintenance standards and economies of scale.

(b) Lessee's obligations under **Section 705(2)(a)** shall include the structural elements of the Trolley Parking Facilities (including, without limitation, the foundation,

slab, columns, beams and parking decks above) (the "**Structural Elements of the Trolley Parking Facilities**"), all fire sprinkler systems and any other building systems shared by the Trolley Parking Facilities and the rest of the Project(the "**Shared Building Systems**"), and any repairs to or replacements of portions of the Trolley Parking Facilities that are the result of defects in the design or construction of the Trolley Parking Facilities ("**Construction Defects**").

(c) Board hereby grants to the Lessee, and the Lessee's agents and employees, a license to enter the Trolley Parking Facilities at all reasonable times for the purpose of maintaining, repairing and replacing the Trolley Parking Facilities. Such entry shall be at the sole risk and expense of the Lessee and the Lessee shall defend, indemnify and hold the Board harmless from all damages, liabilities, claims, costs and expenses resulting from Lessee's entering onto the Trolley Parking Facilities, except to the extent caused by the sole negligence or wilful misconduct of the Board or its officers, employees agents, trolley patrons and Parking Licensees.

(d) Notwithstanding **Section 705(2)(a)** above, the Board may elect by delivery of not less than sixty (60) days prior written notice to Lessee, to assume and take over the maintenance and repair of the Trolley Parking Facilities (other than Structural Elements of the Trolley Parking Facilities, Shared Building Systems, and Construction Defects, which shall all remain the responsibility of Lessee) as of the date specified in such written notice, in which case the Board shall cause the Trolley Parking Facilities (other than Structural Elements of the Trolley Parking Facilities, Shared Building Systems, and any Construction Defects) to be maintained and repaired in a decent, safe and sanitary condition, in compliance with applicable laws, at its sole cost and expense, from and after the date specified in such notice.

3. **Costs of Maintenance of Trolley Parking Facilities**.

(a) *[to be revised]* Except as provided in **Section 705(3)(c)** below, all costs incurred by Lessee to retain an independent contractor (or contractors) to maintain, repair and replace the Trolley Parking Facilities and the parking facilities of the Project shall be allocated among the parties in the same ratio as the number of parking spaces that are part of the Trolley Parking Facilities (600) bear to the total number of parking spaces in both the Project and the Trolley Parking Facilities (1389). These costs shall include the costs to require that such independent contractor maintain for the benefit of the Lessee and the Board as additional insureds, commercial general liability insurance to insure against any and all liability, loss, damage, cost or expenses arising from any claims with respect to the maintenance, repair and replacements of the Trolley Parking Facilities performed by such contractor, with liability limits of not less than Two Million Dollars ($2,000,000), Adjusted for Inflation. The Board's allocable share of such costs shall be referred to as the "**Trolley Parking Maintenance Costs**."

(b) Lessee shall be entitled to deduct the Trolley Parking Maintenance Costs for the previous calendar year from its annual payment of Base Rent. This deduction for Trolley Parking Maintenance Costs shall be the only offset or deduction from Rent allowed under this Lease for any purpose whatsoever. *[address offset for sharing of utility costs]*

(c) The Trolley Parking Maintenance Costs shall not include, and Lessee shall be solely responsible for, all costs and expenses of the maintenance, repair and replacement of: (i) the Structural Elements of the Trolley Parking Facilities; (ii) all Shared Building Systems; and (iii) any Construction Defects. No such expenses may be deducted from Overage Rent. However, the actual expenses incurred by the Lessee to repair damage to the Structural Portions of the Trolley Parking Facilities or Shared Building Systems caused by the Board, its officers, employees, agents or trolley patrons, licensees or other parties authorized by the Board to use the Trolley Parking Facilities shall be paid by the Board to the Lessee within thirty (30) days following presentation of written demand and reasonable supporting documentation. In such event, Lessee shall cooperate with the Board and share with the Board any information it may have about the party who caused such damage so that the Board may recover the costs from the responsible party.

(d) Within ninety (90) days after the end of each calendar year, Lessee shall provide the Board with a certified statement, together with supporting paid invoices and paid receipts and other materials setting forth the Trolley Parking Maintenance Costs. Lessee shall maintain separate books and records with respect to the these expenses, and the Board shall have the right to review and examine or to audit such separate books and records in accordance with the standards set forth in **Section 308** above.

4. **Maintenance and Repair of Access Road**

After issuance of the Certificate of Compliance for the Project, Board shall throughout the Term of the Lease and at the sole cost and expense of the Board maintain or cause to be maintained in good order and repair the Access Road and shall perform or cause to be performed all repairs and replacements necessary to maintain and preserve the Access Road in a decent, safe and sanitary condition, in compliance with applicable laws; provided, however, that Lessee shall throughout the Term of the Lease and at the sole cost and expense of Lessee maintain or cause to be maintained in good order and repair (a) any storm water control or water quality protection devices (including without limitation those currently referred to as "post-construction best management practices") required by the City or other governmental agency to be installed in or adjacent to the Parcels or the Access Road as a condition of approval or operation of the Project, and (b) any landscaping, irrigation, signage or lighting improvements located north of the north curb of the Access Road.

5. **Box Culvert**. An existing box culvert (the "**Box Culvert**") runs under both Parcels and collects storm drain water from the Alvarado Channel, the Parcels, the Trolley Station and other properties. The Project includes approximately ten (10) storm drain filtering boxes that intercept all surface run off from the roofs and other improvements comprising the Project and filters that water before it enters the Box Culvert. Lessee shall maintain the storm drain filtering devices serving the Project in good condition and repair. While portions of the Box Culvert are located underneath the Parcels, the Box Culvert does not constitute a portion of the Improvements or the Project. Lessee shall repair any damage to the Box Culvert caused by the construction of the Project; however, neither Lessee nor Board shall have any obligation to maintain the Box Culvert or the Alvarado Channel.

6. **Security**. The Board shall provide such security services for the Trolley Station, and the Trolley Parking Facilities as the Board may from time to time provide at the Board's other trolley stations; provided, however, that it is expressly understood that such security services shall be for the sole benefit of the Board, its employees and trolley patrons and not for Lessee, its investors, lenders, tenants, or the occupants and visitors of the Project. If the Board's interest in this Lease is transferred separately from the Trolley Station, the new lessor under this Lease shall provide security for the Trolley Parking Facilities at least comparable to that customarily provided for similar parking facilities; provided however, that it is expressly understood that such security services shall be for the sole benefit of the new lessor, its employees, customers and invitees and not for Lessee, its investors, lenders, tenants, or the occupants and visitors of the Project. Lessee and its tenants shall provide security for the Project at least comparable to that customarily provided for similar mixed-use developments; provided however, that it is expressly understood that such security services shall be for the sole benefit of the Lessee, its employees and tenants, and not for the Board or for trolley patrons or parking licensees.

D. [§ 706] **Waste**

Lessee shall not commit or suffer to be committed any voluntary or permissive waste of the Parcels or the Improvements, or any part thereof.

Lessee agrees to keep or cause to be kept the Parcels and the Improvements clean and clear of refuse and obstructions and to promptly dispose of all garbage, trash and rubbish.

E. [§ 707] **Additional Construction, Alterations and Repairs**

1. **General Construction Standards**

All additional construction after the issuance of the Certificate of Compliance, alteration or repair work permitted herein shall be accomplished expeditiously and diligently. Lessee shall pay (or cause to be paid) all costs and expenses associated therewith. Lessee shall take all reasonably necessary measures to minimize any damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected thereby. Lessee shall repair, at its own cost and expense, any and all damage caused by such work and shall restore the area upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the beginning of such work. Dust, noise and other effects of such work shall be controlled using the best accepted methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area.

2. **Board's Approval of Plans**

Board's rights of approval with respect to any construction work undertaken prior to Board's issuance of the Certificate of Compliance shall be governed by the provisions of **Section 400** *et seq.* Following completion of the construction of the Project pursuant to this Lease and issuance

of said Certificate of Compliance, any construction or remodeling undertaken by Lessee on the Parcels or the Improvements shall be governed by the following:

(a) Lessee shall have the right, following issuance of said Certificate of Compliance, without Board's consent (but subject to all other provisions of this Lease), to undertake any construction, reconstruction or alterations of the Project which will not (a) change the use of the Project to a non-permitted use; (b) materially reduce the value of the Improvements; (c) adversely affect the Trolley Parking Facilities, the Access Road or the Trolley Station; or (d) materially change the pre-existing location, design, height, bulk, architecture or exterior appearance (exclusive of color) of the Improvements on the Parcels. Without limiting the generality of the foregoing, any construction, reconstruction or alteration which would create an exterior building facade not conforming with the elements of the original construction for the Project shall be deemed "material" for the purposes of this Section.

(b) If Lessee at any time following issuance of said Certificate of Compliance desires to undertake any construction, reconstruction or remodeling on the Project which is not exempt from Board's approval as provided in Subsection (a) above (a "**Material Alteration**"), Lessee shall, prior to commencement of the Material Alteration, prepare or cause to be prepared, at its sole expense, and submit to Board for its review and written approval, preliminary plans for the Material Alteration showing, without limitation, scaled elevations, scaled floor plans, design concepts, dimensions, material selection, colors, signing (if any) and such additional information as is reasonably necessary for Board to make an informed decision on such submission. Board shall approve or disapprove such submitted preliminary plans within thirty (30) days of receipt of complete preliminary plans meeting the requirements of this Subsection, and such approval shall be in the reasonable discretion of Board. Failure of Board to specify any objection to such preliminary plans or make a proposal that would add to or change the preliminary plans within such 30-day period shall be deemed to be an approval. If the preliminary plans are approved by Board, Lessee shall prepare or cause to be prepared, at its sole cost and expense, and submit to Board for its review and written approval, final plans and specifications developed from the approved preliminary plans, which approval shall not be withheld, provided that the final plans and specifications are in conformity with the approved preliminary plans and are in compliance with existing building codes and other laws, regulations and ordinances. Board shall approve or disapprove the final plans and specifications within thirty (30) days of receipt of complete final plans and specifications. Failure of Board to specify any objection to such final plans and specifications or make a proposal that would add to or change the final plans and specifications within such 30-day period shall be deemed an approval.

(c) Each document submitted for Board's review pursuant to Subsection (b) above shall contain a cover page prominently listing the date mailed, the required return date and a statement to the effect that the document will be deemed approved by Board pursuant to Subsection (b) unless written objection thereto is given within the time period herein specified.

(d) No material changes to the approved plans and specifications for a Material Alteration shall be made without the prior written approval of Board, which approval shall not be unreasonably withheld or delayed.

3. **Use of Plans**

Any contracts entered into after the Effective Date of Lease for a Material Alteration with any architect, other design professional or any general contractor shall provide, in form and substance reasonably satisfactory to Board, for the assignment thereof to Board as security to Board for Lessee's performance hereunder, and Board shall be furnished with any such agreement, together with the further agreement of the parties thereto, that if this Lease is terminated due to Lessee's default, Board may use any plans and specifications to which Lessee is then entitled pursuant to any such contract without payment of any further sums to any party thereto. Board's rights to said contracts and plans shall be subordinate to those of a Permitted Mortgagee.

4. **Compliance With Construction Documents and Laws; Issuance of Permits**

All improvements on the Parcels shall be constructed in strict compliance with any construction documents approved by Board under this Lease and also in strict compliance with all applicable local, state and federal laws and regulations. Lessee shall have the sole responsibility for obtaining all necessary permits and shall make application for such permits, directly to the person or governmental agency having jurisdiction.

5. **Construction Safeguards**

Lessee shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by Lessee, all necessary safeguards for the protection of workers and the public.

6. **Conditions to Commencement of Material Alteration**

In no event shall Lessee commence any Material Alteration on the Parcels until the following conditions have been satisfied or waived by Board, in addition to other conditions and requirements imposed by this Lease:

(a) Board has approved Lessee's final plans and specifications for the Material Alteration or such final plans and specifications have been deemed approved pursuant to **Section 707(2)(b)** above;

(b) Lessee has obtained financing and equity capital necessary for the full payment of construction of the Material Alteration, together with any required operating capital;

(c) Lessee has obtained building permits and all other governmental approvals necessary for the construction of the Material Alteration; and

(d) Lessee has entered into complete and binding contracts with its contractor or contractors for the construction of the Material Alteration, which contracts have been approved by Board.

Lessee shall promptly provide the Board with such evidence as the Board may reasonably request that such conditions have been satisfied.

7. **Board's Cooperation**

Board shall cooperate with and assist Lessee in every reasonable way in Lessee's efforts to obtain all governmental consents, approvals, permits or variances which may be required for the performance of any construction permitted under the terms of this Lease. Such cooperation shall include, without limitation, Board's joinder in any application for any such consent, approval, permit or variance where joinder therein by the owner of the Parcels is required by law, but such cooperation shall not require Board to incur any costs in connection therewith.

8. **Rights of Access**

Representatives of Board shall have the reasonable right of access to the Parcels and any improvements thereon without charges or fees, at normal construction hours during the period of construction of any Material Alteration, for the purposes of ascertaining compliance with the terms of this Lease, including, but not limited to, the inspection of the construction work being performed, provided that such representatives shall be those who are so identified in writing by Board, shall be accompanied by Lessee's representatives if Lessee so desires, and shall comply with Lessee's contractor's reasonable rules for the construction site. Board shall indemnify Lessee and hold it harmless from any damage to the extent caused by the gross negligence or willful misconduct of Board or any representatives of Board during any inspection pursuant to this Subsection.

9. **Notice of Completion**

Upon completion of any construction, Lessee shall file or cause to be filed in the Official Records of the County of San Diego a Notice of Completion (the **"Notice of Completion"**) with respect to the improvements, and Lessee shall deliver to Board, at no cost to Board, two (2) sets of the final as-built plans and specifications of the Material Alteration.

10. **Protection of Board**

Nothing in this Lease shall be construed as constituting the consent of Board, expressed or implied, to the performance of any labor or the furnishing of any materials or any specific improvements, alterations of or repairs to the Parcels or the Improvements thereon, or any part thereof, by any contractor, subcontractor, laborer or materialman, nor as giving Lessee or any other person any right, power or authority to act as agent of or to contract for, or permit the rendering of, any services or the furnishing of any materials in such manner as would give rise to the filing of mechanics' liens or other claims against the fee of the Parcels or the Improvements thereon. Board shall have the right at all reasonable times to post, and keep posted, on the Parcels or the Improvements any notices which Board may deem necessary for the protection of Board and of the Parcels and the Improvements thereon from mechanics' liens or other claims. In addition, but subject to **Section 609** hereof, Lessee shall make, or cause to be made, prompt payment of all monies due

and legally owing to all persons doing any work or furnishing any materials or supplies to Lessee or any of its contractors or subcontractors in connection with the Parcels and the Improvements thereon.

F. **[§ 708]** **Damage or Destruction**

Lessee agrees to give notice to Board of any fire or other damage that may occur on the Parcels or the Improvements where the repair costs are estimated to exceed Two Million Dollars ($2,000,000) as "**Adjusted for Inflation**" for the prior Lease Year, such notice to be given within ten (10) days of such fire or damage. Subject to the provisions of **Section 709**, if the Improvements shall be damaged or destroyed by any casualty (i) where the cost of restoration will not exceed fifty percent (50%) of the full insurable value of the Improvements as defined in **Section 1003**; and (ii) which is required to be insured against by the terms of this Lease or is actually insured against; and (iii) where the net insurance proceeds for restoration or rebuilding are sufficient to restore the Improvements, then Lessee agrees to make full repair of said damage and to restore the Improvements to the condition which existed prior to said damage with such alterations or changes thereto as are required by then current building codes or are approved by Board, provided that Board shall not unreasonably withhold or delay such approval. If Board's approval is so required, Lessee shall submit plans and specifications related thereto for Board's reasonable approval. If the Improvements shall be damaged or destroyed by any casualty where the cost of restoration will exceed the amount referred to in clause (i) above or where the casualty is not required to be insured against by the terms of this Lease and is not actually insured against or where the net insurance proceeds for restoration are insufficient to restore the Improvements, Lessee shall have the election to (x) restore the Improvements in the same manner as provided above; or (y) if the damage or destruction is by reason of an uninsured casualty, place the remaining Improvements in a clean, attractive, safe condition (which shall include, without limitation, the demolition and removal from the Parcels of any portion of the Improvements which are not to be restored) and in compliance with all applicable laws and regulations and continue the Lease in effect without abatement or reduction of Rent payable under the Lease; or (z) terminate this Lease (unless termination is prohibited by Lessee's Permitted Mortgagee). Lessee shall deliver written notice to the Board no later than thirty (30) days following the settlement of the insurance proceeds but in any event within eighty (80) days from the damage notifying the Board of Lessee's election of the alternative described in clause (x), (y) or (z) in the preceding sentence. If Lessee fails to timely deliver to Board written notice of Lessee's election, then Lessee shall be presumed to have elected to continue the Lease and restore the Improvements to the extent of available insurance proceeds. If Lessee elects to terminate, Lessee shall comply with all of the following conditions:

1. Lessee shall pay to Board all Base Rent, prorated to the date of such termination, together with all Overage Rent payable to that same date, and any and all supplemental Rent and other sums then owed under this Lease to Board.

2. The net insurance proceeds shall be disbursed and applied as set forth in **Section 1006**.

3. Lessee shall deliver possession of the Parcels and remaining Improvements to Board and shall quitclaim to Board all right, title and interest in the Parcels and the remaining Improvements, if any.

As used herein, the term **"net insurance proceeds"** means the gross insurance proceeds paid by an insurer for loss or damage to the Improvements on the Parcels less any and all reasonable costs and expenses (including, but not limited to, reasonable attorneys' fees) incurred by Lessee to recover said proceeds. Lessee agrees promptly to commence and prosecute to completion the settlement of insurance proceeds with respect to any event of damage or destruction of the Improvements. "Net insurance proceeds" shall include (and not be reduced by) any insurance proceeds applied by a Permitted Mortgagee (or its agent) to the payment of obligations secured by a Permitted Mortgage.

Lessee agrees that preliminary steps toward performing repairs, restoration or replacement of the Improvements or portions thereof shall be commenced by Lessee within forty-five (45) days after settlement of insurance proceeds, but in any event within one hundred eighty (180) days after the event causing such damage or destruction and the required repairs, restoration or replacement shall be completed within a reasonable time thereafter.

Lessee agrees that, notwithstanding any other provision of this Lease, upon any event of damage or destruction to the Improvements, Lessee shall at its sole cost and expense (whether or not insurance proceeds are available therefor and whether or not Lessee terminates or intends to terminate this Lease but subject to reimbursement from insurance proceeds if and when available) immediately take such actions and undertake and complete such work as is necessary to assure the safe condition of the damaged Improvements pending the ultimate disposition of the Improvements. In any instance where Lessee may elect to terminate this Lease rather than restore the Improvements pursuant to this **Section 708** (or **709** below), if Lessee does not terminate this Lease, Lessee shall either restore the Improvements pursuant to subsection (x) of the applicable Section or place the remaining Improvements in a clean, attractive, safe condition pursuant to subsection (y) of the applicable Section, consistent with Lessee's election pursuant to this **Section 708** or **Section 709** below.

G. [§ 709] **Damage or Destruction During Final Years of Term**

Notwithstanding **Section 708** to the contrary, in the event of major damage or destruction (as defined in this Section) to the Improvements during the last seven (7) years of the Term of this Lease as the same may be extended as provided herein, Lessee shall have the election to (x) restore the Improvements as provided in **Section 708**, (y) if the damage or destruction is by reason of an uninsured casualty, place the remaining Improvements in a clean, attractive, safe condition (which shall include, without limitation, the demolition and removal from the Parcels of any portion of the Improvements which are not to be restored) and in compliance with all applicable laws and regulations and continue the Lease in effect without abatement or reduction in Rent; or (z) to terminate this Lease (unless termination is prohibited by Lessee's Permitted Mortgagee) provided Lessee complies with all of the following conditions:

1. Lessee shall give Board notice of termination as a result of such damage or destruction within forty-five (45) days after settlement of insurance proceeds, but in any event within one hundred eighty (180) days after the event causing such damage or destruction.

2. Lessee shall pay to Board all Base Rent, pro-rated to the date of such termination, together with all Overage Rent payable to that same date, and any and all supplemental Rent and other sums then owed under this Lease to Board.

3. The net insurance proceeds shall be disbursed and applied as set forth in **Section 1006**.

4. Lessee shall deliver possession of the Parcels and remaining Improvements to Board and shall quitclaim to Board all right, title and interest in the Parcels and the remaining Improvements, if any.

Major damage or destruction to the Improvements, as used in this Section, means such damage or destruction that the cost of restoration will exceed twenty-five percent (25%) of the full insurable value of the Improvements (as defined in **Section 1003**), which percentage amount shall be reduced monthly on a pro rata basis over the above-referenced seven (7) year period. For example, if the damage occurs three (3) years prior to the end of the Term, major damage or destruction shall mean the cost of restoration in excess of ten and seven tenths percent (10.7 %) of the full insurable value of the Improvements.

H. **[§ 710]** **Liens; Indemnification**

Lessee agrees to hold Board and the Parcels, the Access Easement and Improvements free and harmless, and indemnify Board against, all claims, liabilities, liens, damages, costs and expenses, for labor and materials in connection with all construction, repairs or alterations undertaken by or on behalf of Lessee on the Parcels, the Access Easement or the Improvements and the cost of defending against such claims, including reasonable attorneys' fees. Board shall have the right to post and maintain on the Parcels, the Access Easement and the Improvements any notices of non-responsibility provided for under applicable law.

I. **[§ 711]** **Environmental Requirements**

1. Lessee shall not, without the Board's prior written consent, use, store, generate, dispose or otherwise allow any "**Hazardous Substances**" (as defined below) in, on, under or around the Parcels, the Access Easement or the Improvements; provided, however, that the Board shall not unreasonably withhold its consent to Lessee's use and storage of Hazardous Substances which are reasonably necessary in connection with the construction, operation, maintenance or repair of the Project, such as reasonable and customary quantities of cleaners, pool chemicals, and fuel in vehicles used on the Parcels and the Access Road, products which are commonly and legally sold by retail stores, and materials commonly and legally used in construction materials for projects like the Project.

2. Lessee shall comply with all rules, laws and regulations relating to Hazardous Substances which Lessee uses, stores or allows in, on, or about the Parcels, the Access Easement or the Improvements.

3. Lessee shall not cause the unlawful release, deposit, discharge or disposal of any Hazardous Substances in, on, under or around the Parcels, the Access Easement or the Improvements.

4. Lessee shall not permit the unlawful release, deposit, discharge or disposal of any Hazardous Substances in, on, or under the Parcels, the Access Easement or the Improvements by its subtenants or any other residents or users of the Project or their respective invitees, agents, employees or contractors.

5. No above ground or underground storage tanks shall be installed on the Parcels without Board's prior express written approval, which may be withheld in the Board's sole and absolute discretion.

6. Lessee shall be responsible for posting on the Parcels and the Improvements (including the Trolley Parking Facilities) any signs required by any state, federal or local law, including, without limitation, Section 25249.6 of the California HEALTH AND SAFETY CODE and regulations promulgated pursuant thereto, but not including any such signs as may uniquely required for public parking in the Trolley Parking Facilities and not required for the balance of the Project. Lessee shall also complete and file any business response plans or inventories required by any state, federal or local law, including, without limitation, Chapter 695 of the California HEALTH AND SAFETY CODE and regulations promulgated pursuant thereto. Lessee shall concurrently file a copy of any such business response plan or inventory with Board.

7. Lessee shall promptly notify Board of any release of Hazardous Substances in, on, under or about the Parcels, the Access Easement or the Improvements of which Lessee obtains knowledge, and of the receipt of any pertinent notices or communications from any governmental authority. Lessee shall promptly remove any vehicles or equipment which may cause contamination in, on, under or about the Parcels, the Access Easement or the Improvements, and shall clean up any resulting contamination.

8. Lessee shall indemnify, defend, protect and hold harmless the Board and its officers, employees, and agents from any claims, liabilities, losses, injuries, damages, costs or expenses (including without limitation, attorneys' fees and the cost of any cleanup, testing, remediation, removal or disposal of Hazardous Substances) relating to or arising out of any Hazardous Substances released, deposited, discharged or disposed in, on, under or around the Parcels, the Access Easement or the Improvements, or any part thereof, by Lessee, its tenants, or their contractors, employees, agents or assigns or arising as a result of a violation of the provisions of this **Section 711**. The obligations of this Subsection 7 shall survive the expiration or earlier termination of this Lease.

9. Lessee hereby releases the Board and its officers and employees from any claims, liability, injury, damage, costs or expenses (including without limitation, attorneys' fees and the cost of any cleanup, testing, remediation, removal or disposal of Hazardous Substances) relating to or arising out of any Hazardous Substances released, deposited, discharged or disposed onto, under or around the Parcels, the Access Easement or the Improvements, excepting only any Hazardous Substance released, deposited, discharged or disposed onto, under or around the Parcels, the Access Easement or the Improvements solely by Board or its officers or employees after the Effective Date. The obligations of this paragraph shall survive the expiration or termination of this Lease.

Lessee agrees as to the matters released to waive the benefits of Section 1542 of the CIVIL CODE of the State of California, which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

_____ _____

Lessee's Initials Board's Initials

The obligations of this Subsection shall survive the expiration or earlier termination of this Lease.

10. The term "**Hazardous Substances**", when used in this Lease, shall mean any hazardous waste or hazardous substance as defined in any federal, state, or local statute, ordinance, rule, or regulation applicable to the property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Title 42 UNITED STATES CODE 9601-9662), the Resource Conservation and Recovery Act (Title 42 UNITED STATES CODE 6901-6992k), the Carpenter-Presley-Tanner Hazardous Substance Account Act (California HEALTH AND SAFETY CODE 25300-25395), and the Hazardous Waste Control Law (California HEALTH AND SAFETY CODE 25100-25250.25). "Hazardous Substances" shall also include asbestos or asbestos-containing materials, radon gas, petroleum or petroleum fractions, whether or not defined as a hazardous waste or hazardous substance in any such statute, ordinance, rule, or regulation.

VIII. [§ 800] ASSIGNMENT, SUBLETTING, TRANSFER

A. [§ 801] Definitions

1. **"Material Entity Interest Transfer"** means any direct or indirect transfer of or creation of any ownership interest in Lessee (or of any owner of an interest in Lessee) or change in proportion thereof, however described, by any method or means (other than such transfers or changes occasioned by the death or incapacity of any individual) which would (i) result in the change of a general partner, manager, controlling member or controlling shareholder of Lessee; or (ii) otherwise result in a change in the control of Lessee.

2. **"Lease Interest Transfer"** means any direct or indirect total or partial sublease (other than an **"Operating Sublease"**, as hereafter defined), assignment, sale, conveyance, or transfer in any other mode or form by Lessee of any rights or interest in the Lease, the Project, the Parcels or the Improvements, however described, by any method or means (other than such changes occasioned by the death or incapacity of any individual).

3. **"Operating Sublease"** means a sublease of this Lease to a party actually intending to occupy a residential or commercial unit on the Premises.

4. **"Transfer"** means a Lease Interest Transfer or a Material Entity Interest Transfer.

5. **"Transferee"** shall mean the recipient of a Lease Interest Transfer or a Material Entity Interest Transfer.

B. **[§ 802]** **Conditions for Transfer**

1. **Transfers Limited**

(a) Lessee shall not be entitled to make and shall not permit any Transfer except to the extent allowed and in accordance with the terms and provisions in this **Section 802**.

(b) Lessee shall not make or permit any Lease Interest Transfer without the prior written approval of Board, which approval shall not be unreasonably withheld or delayed if (i) the proposed Transferee or its management has sufficient experience in the development, operation and management of residential apartment projects comparable to the Project (or other use approved by the Board pursuant to **Section 502**), and (ii) the proposed Transferee is financially qualified to perform all the agreements, undertakings, and covenants of this Lease and all other agreements entered into by Lessee which relate to the development, management, operation, maintenance, and restoration of the Parcels and of the Improvements.

(c) Lessee shall not, without the prior written approval of Board, make or permit Material Entity Interest Transfer. The Board's approval of a Material Entity Interest Transfer shall not be unreasonably withheld or delayed if (iii) the proposed Transferee or its management has sufficient experience in the development, operation and management of residential apartment projects comparable to the Project (or other use approved by the Board pursuant to **Section 502**), (iv) after such transfer the Lessee would be financially qualified and to perform all the agreements, undertakings, and covenants of this Lease and all other agreements entered into by Lessee which relate to the development, management, operation, maintenance, and restoration of the Parcels and of the Improvements, and (v) the ownership structure resulting from the Entity Interest Transfer (including that of its constituent members, partners or shareholders) occurring prior to a "Participation Event" (as defined in **Section 803(1)** below) is not so complex or otherwise structured in a way as to circumvent or make the provisions of this Article VIII unreasonably difficult or burdensome to administer or enforce. Lessee shall have the right to change the manager of Lessee

from FFCHF to CalSTRS or another entity chosen by CalSTRS without the prior written approval of the Board.

(d) Lessee shall promptly notify Board of any and all changes whatsoever in the identity of the parties in ownership or control of Lessee or the degree thereof, of which it (or any of its partners, members, shareholders, or any of their officers or employees) have been notified or otherwise have knowledge or information. Any agreements and documents effectuating any Transfer shall be subject to the approval of Board in connection with its approval of the Transfer. Any entity formation agreements and documents related to a Transfer shall be subject to review by a representative of the Board (in a reasonable manner designed to preserve their confidentiality, which shall include the requirement of a confidentiality agreement in substantially the same form is required of Lessee's auditors as a condition to the review and audit of the books and records of the Lessee and the Fund) in connection with its approval of the Transfer. For purposes of administering the restrictions on Transfer, Lessee shall provide the Board with an annual certification, in such form and with such content as the Board may reasonably require, of all direct and indirect ownership interests in Lessee.

(e) To assist Board in determining whether or not the proposed Transferee is so qualified, Lessee shall furnish to Board at no expense to Board, prior to that Transfer, detailed and complete financial statements of the proposed Transferee, prepared by a certified public accountant reasonably satisfactory to Board, together with detailed and complete information about the business of the proposed Transferee, including its experience in operating residential apartment projects, the use to be made of the Parcels and the Improvements by the proposed Transferee, projections by the proposed Transferee of the sources of funds to be used to pay any indebtedness that the proposed Transferee will assume or take subject to, or agree to pay, in connection with the Transfer, and other claims on and requirements for those funds, together with any other information Board may reasonably require to assist Board in determining whether or not the proposed Transferee is so qualified. To the greatest extent permitted by law, if Lessee provides Board with any proprietary financial information relating to a proposed Transferee, Board shall not, without Lessee's prior written consent, disclose or make any such financial information available to the public.

(f) No later than twenty (20) Business Days following receipt by the Board of Lessee's written request for approval of a Transfer and the applicable information on such Transferee listed in **Section 802(i)(e)** above, the Board shall notify Lessee, in writing, that either (a) the Board approves the Transferee; or (b) the Board disapproves the Transferee and stating the Board's reasons for disapproval of the Transferee. If the Board fails to respond to Lessee within such twenty (20) Business Day period, the Board shall be deemed to have approved such Transfer.

(g) No Lease Interest Transfer shall be effective unless such Transferee agrees with Lessor in writing to assume the rights and obligations thereby transferred and to keep and perform all covenants, conditions and provisions of this Lease which are applicable to the rights acquired.

(h) Lessee shall not, without the prior written approval of Board, which Board may grant or withhold in its sole discretion, subdivide the Premises or the Improvements or

make any partial Transfer of Lessee's interest in this Lease, the Premises and the Improvements except as provided in the next sentence. Lessee shall have the right: (i) to enter into Operating Subleases for the sublease of residential units and retail space within the Improvements as expressly provided in this **Section 802**; and (ii) to request the Lease to be divided into two leases, one covering the East Parcel and one covering the West Parcel as provided in **Section 804** below. Any Transfer made contrary to the terms of this Section shall be null and void.

2. **Grant of Easements.** In addition, Board shall not unreasonably withhold approval of any easements to facilitate the operation of the Parcels or the Improvements consistent with the terms of this Lease. Board agrees that Lessee may grant such access, utility and other easements as are reasonably necessary to develop and operate the Project, and Board agrees to provide its written consent to such easements and to subject Board's fee interest thereto if required by the easement holder. Board further agrees to subject Board's fee interest thereto if required by the easement holder so long as: (a) the easement would not interfere with the use of the Trolley Station, the Trolley Parking Facilities or the Access Road, and (b) any potential costs, liabilities or affirmative obligations imposed by such easement which would extend beyond the Term of the Lease are approved by the Board in its sole discretion. Lessee hereby agrees to assume for the Term of the Lease and agrees to indemnify, protect, defend and hold the Board harmless from and against any costs, liabilities or affirmative obligations imposed by any such easement during the Term of the Lease.

3. **Exception for Permitted Mortgages**

The limitations on Transfer contained in this **Section 802** shall not be deemed to apply to or prevent, nor shall Board's approval be required under this Section in connection with the granting of any security interest or Permitted Mortgage expressly described in this Lease (it being understood that the granting of a Permitted Mortgage shall not be considered a Transfer pursuant to this **Section 802**, but shall be governed solely by the provisions of **Section 900**), nor the exercise by any Permitted Mortgagee of its right to foreclose its Permitted Mortgage by power of sale or judicial foreclosure or to acquire Lessee's leasehold interest by deed in lieu thereof; nor any Transfer of this Lease by a Permitted Mortgagee having acquired Lessee's interest in this Lease as a result of its rights under the Permitted Mortgage or under **Section 900**, or by any owner of the leasehold estate whose interest shall have been acquired by, through or under any Permitted Mortgage or shall have been derived immediately from any holder thereof, as provided in **Section 901**. Provided, however, that the limitations on Transfer contained in this **Section 802** shall apply to any Permitted Mortgagee which acquires its interest in the Parcels or Improvements other than by the exercise of its rights pursuant to the Permitted Mortgage or deed in lieu of foreclosure.

4. **Exception for Operating Subleases**

The limitations on Transfer contained in this **Section 802** shall not be deemed to apply to any Operating Sublease, and in connection therewith the approval of Board shall not be required, provided the following provisions are complied with:

(a) The term of any Operating Sublease shall not extend more than twelve (12) months in the case of a residential sublease or ten (10) years in the case on a non-residential sublease, and in no event beyond the Term of this Lease. No Operating Sublease may be entered into with a sublessee related to or affiliated with Lessee other than at a "market" rental rate and terms.

(b) Any and all subleases shall be subject and subordinate to this Lease, and any amendments hereto. Lessee's form of sublease shall be subject to Board approval, which shall not be unreasonably withheld.

(c) Each sublease shall contain provisions, in form and content reasonably satisfactory to Board:

(1) in the case of a non-residential sublease:

a. requiring the sublessee to execute and deliver upon demand, without charge therefor, such instruments in recordable form evidencing subordination of the sublease to this Lease as may be required by Board; and

b. providing that in the event of termination of the Lease for any reason, including, without limitation, a voluntary surrender by Lessee, or in the event of any re-entry or repossession of the premises by Board may, at its option, either (i) terminate the sublease or (ii) take over all of the right, title and interest of Lessee under the sublease, and sublessee's right of possession pursuant to the terms of the sublease shall not be disturbed, but nevertheless requiring that sublessee will in writing attorn to Board. The agreement of attornment shall provide, among other things, that (iii) Board shall not be (A) responsible to the sublessee under the sublease except for obligations accruing subsequent to the date of such attornment, (B) liable for any previous act or omission of Lessee under the sublease, (C) subject to any defense or offset previously accrued in favor of the sublessee against Lessee, (D) bound by any previous modification of the sublease made without Board's written consent, (E) be bound for any previous prepayment by Sublessee of more than one month's rent or any security deposits of sublessee except those actually received by Board, and (iv) the sublessee, in the event of the termination of this Lease, at Board's election will enter into a new lease with Board on the same terms and conditions as the existing sublease and for the balance of the term thereof;

(2) in the case of a residential sublease, including the following statements in the Operating Sublease:

> "This Lease is a sublease. Landlord leases the land beneath the Premises under a Ground Lease originally between the Metropolitan Transit Development Board as the lessor and Fairfield Grossmont Trolley LLC as the lessee. Landlord is the current holder of the lessee's interest under such Ground Lease. This Lease is subject to the Ground Lease."

(3) disclosing the proximity of the Trolley Station and Trolley Parking, requiring the subtenant assume the risk and annoyances of living near such activities and uses and waiving all claims against the Board and its officers and employees arising out of the Trolley Station and Trolley Parking; and

(4) clearly prohibiting parking in the Trolley Parking Facilities and Outdoor Trolley Parking Spaces.

(d) The Board agrees to enter into an agreement of subordination, recognition and non-disturbance ("**Non-Disturbance Agreement**") on a commercially reasonable form with the sublessee under each retail Operating Sublease that requires Lessee to deliver such a Non-Disturbance Agreement as a condition to entering into the retail Operating Sublease, so long as (i) the Operating Sublease satisfies the requirements of this **Section 802**; and (ii) both the Operating Sublease and the Non-Disturbance Agreement are on commercially reasonable terms and conditions. Lessee shall submit to the Board a copy of the proposed form of retail Operating Sublease and Non-Disturbance Agreement and reasonable documentation supporting the qualification of the Operating Sublease under clauses (i) and (ii) of the preceding sentence, along with Lessee's request to the Board to enter into the Non-Disturbance Agreement (collectively, the "**Recognition Request**"). The Board shall enter into each Non-Disturbance Agreement within fifteen (15) Business Days following receipt from Lessee of a complete Recognition Request, or respond in writing within such fifteen (15) Business Day period with any changes to the form of Non-Disturbance Agreement required for the Board's approval and execution.

(e) Lessee shall, promptly after written request from Board (but not more frequently than quarterly), provide written notice to Board of the name and mailing address of all sublessees and shall, on demand, permit Board to examine and copy each of the Operating Subleases.

(f) Lessee shall not accept, directly or indirectly, more than one month's prepaid rent from any sublessee; provided that such restriction shall not apply to cleaning, security or other deposits customarily collected by landlords of residential properties and retail properties, as applicable.

C. **[§ 803] Participation Amount**

1. **Payment of Share of FFCHF's Net Gain**.

Lessee shall pay to Board, in readily available funds, an amount equal to twenty percent (20%) of the "**Net Gain**", if any, (the "**Participation Amount**") realized by FFCHF, the original manager of the Fund, by reason of a "Participation Event". The term "**Participation Event**" shall mean any of the following (a) exclusive of an Operating Sublease or a Permitted Mortgage, an assignment, sale, conveyance or transfer of all or a portion (collectively, a "**Transfer**") of the rights and interests of Fairfield Grossmont Trolley LLC (the "**Original Lessee**") in this Lease and the Project; (b) a Transfer by FF of its interest relating, directly or indirectly, to the Lease and Project, including by way of a sale or transfer for consideration by FF of such interest to CalSTRS; or (c) the assignment, sale, conveyance or transfer of all or a portion of the Fund's 100% membership interest

in the Original Lessee (all of the foregoing that comprise subparagraphs (a), (b) and (c) are collectively referred to as a "**Fund Lease Transfer**"). A Participation Event shall also include direct or indirect transfer or creation of any ownership interest in the Fund which results in the reduction or elimination of FFCHF's membership interest in the Fund, other than a transfer or change without consideration among Related Entities of FFCHF or occasioned by the death or incapacity of any individual (an "**FFCHF Interest Transfer**"). In the event of a Fund Lease Transfer, the Participation Amount, if any, shall be payable by Lessee to the Board within not more than five (5) Business Days following the date or dates that FFCHF is first entitled to receive disbursements from the Fund which represent all or a part of FFCHF's Net Gain relating to the Lease and Project. In the event of a FFCHF Interest Transfer, the Participation Amount, if any, shall be payable by Lessee to the Board substantially concurrently with the Transfer of FFCHF's membership interest in the Fund.

2. **Determination of FFCHF's Net Gain**.

The term FFCHF's "Net Gain" means the amount, if any, by which "Proceeds from Sale" exceed the sum of the following: (a) "FFCHF's Basis"; plus (b) $5,000,000.00. The highlighted terms set forth in the preceding sentence shall have the following meanings:

(a) The term "**Proceeds from Sale**" means: (i) in the event of a Fund Lease Transfer, the amount which FFCHF is entitled to receive relating to the Project and the Lease from the Fund (or CalSTRS) under the Operating Agreement of the Fund dated _____, 200__(the "**Fund Operating Agreement**") as a result of the Fund Lease Transfer (and not by reason of services provided by FFCHF or its Related Entities to Fund or to the Lessee which are contemplated in and authorized by the Operating Agreement for the Fund), including any Proceeds from Sale which are required by the Fund Operating Agreement to be withheld from FFCHF pending determination of the success of other projects in which the Fund is then invested; and/or (ii) in the event of a FFCHF Interest Transfer, the total amount of money paid and the value of any other consideration received by FFCHF relating to the Lease and Project, including without limitation, FFCHF's share of any payoff, release or assumption of any indebtedness relating to the Lease and Project upon such Transfer of FFCHF's Membership Interests (to the extent FFCHF's Basis was increased by such indebtedness). Two examples of the calculation of Proceeds from Sale under the Fund Operating Agreement based on the hypothetical sale by the Original Lessee of all of its interest in the Lease and the Project, (one hypothetical with Cost Overruns and one without Cost Overruns) and the resulting Net Gain (referred to in the hypothetical as the "**Amount Available for Split**") and the resulting Participation Amount payable to the Board under each hypothetical is attached hereto as Exhibit I.

(b) "**FFCHF's Basis**" means an amount equal to the sum of the following:

(1) the amount of capital contributed by FFCHF to Fund in connection with the Project and the Lease that has not been returned to FFCHF at the time of the Participation Event ("**Unreturned Contributed Capital**"); plus

(2) an amount equal to interest on the Unreturned Contributed Capital at ten (10%) per annum, compounded quarterly (the "**Preferred Return**"); plus

(3) a sum ("**Net Cost Overruns**") representing any Cost Overrun (as defined in **Exhibit L** attached) which is paid by FFCHF relating to the Project and the Lease, not treated as a capital contribution or a loan to the Fund or its members, and not offset by Qualifying Cost Savings (as defined in **Exhibit L** attached); plus

(4) any indebtedness of FFCHF relating to the Project and the Lease to the extent such indebtedness is paid, released or assumed and included in the Proceeds from Sale.

3. **Statement of Participation Amount.**

(a) In the event of a Fund Lease Transfer, Lessee shall cause the certified public accountant then approved by CalSTRS (the "**Approved CPA**") for the audit of the books and records of Fund (currently, Ernst & Young) to certify to the Board, in writing (the "**Statement of Participation Amount**") the following: (i) the Proceeds from Sale; (ii) the Unreturned Contributed Capital; (iii) the Preferred Return; (iv) the Net Cost Overruns; if any; (v) the Net Gain, if any; (vi) if applicable, the "Participation Percentage" (as defined in Section 803(4) below; and (vii) the Participation Amount, if any, payable by Lessee to the Board by reason of such Fund Lease Transfer. Lessee shall grant authorization to a Qualified Auditor appointed by the Board to review and audit the work papers of the Approved CPA in preparing the Statement of Participation Amount, provided that (a) the Board delivers written notice of its intent to review the working papers of the Approved CPA and the name of the Qualified Auditor no later than thirty (30) days after the delivery to the Board of the Statement of Participation Amount signed by the Approved CPA; (b) the Qualified Auditor first enters into the same agreement of confidentiality that is required to be signed by the Approved CPA with the Fund as a condition to its review and audit of the books and records of the Fund; (c) such review is conducted not later than thirty (30) days following delivery by the Board of the written notice of its intent to cause a designated Qualified Auditor to review; and (d) such review is conducted at the sole expense of the Board unless the Qualified Auditor determines an error in the Statement of Participation Amount consisting of an understatement of the Participation Amount by more than 4%. In the event the review by the Qualified Auditor determines an overstatement or understatement of the Participation Amount from a Fund Lease Transfer, then the Lessee, in the event of an understatement, or the Board, in the event of an overstatement shall make the payment required to be made to the other party to reconcile the payment of the Participation Amount to the amount so determined on audit.

(b) In the event of a FFCHF Interest Transfer, FFCHF shall cause an officer of FFCHF to certify to Lessee, the Fund and the Board, in writing (also, a "**Statement of Participation Amount**") the following: (i) the Proceeds from Sale; (ii) the Unreturned Contributed Capital; (iii) the Preferred Return; (iv) the Net Cost Overruns; (v) the Net Gain; (vi) if applicable, the "Participation Percentage" (as defined in Section 803(4) below; and (vii) the Participation Amount, if any, payable by Lessee to the Board by reason of such FFCHF Interest Transfer. In the event of a FFCHF Interest Transfer, the Lessee shall cause FFCHF to allow the Board to cause a Qualified Auditor to review and audit FFCHF's books and records and FFCHF shall promptly provide Board such other information as Board may reasonably request for the purpose of verifying FFCHF's calculation of the Net Gain realized by FFCHF on its transfer of its interest in Fund;

provided that (a) the Board delivers written notice of its intent to review the FFCHF's books and records and the name of the Qualified Auditor no later than thirty (30) days after the delivery to the Board of the Statement of Participation Amount signed by the officer of FFCHF; (b) the Qualified Auditor first enters into the same agreement of confidentiality that is required to be signed by the Approved CPA with the FFCHF as a condition to its review and audit of the books and records of the FFCHF; (c) such review is conducted not later than thirty (30) days following delivery by the Board of the written notice of its intent to cause a designated Qualified Auditor to review; and (d) such review is conducted at the sole expense of the Board unless the Qualified Auditor determines an error in the Statement of Participation Amount consisting of an understatement of the Participation Amount by more than 4%. In the event the review by the Qualified Auditor determines an overstatement or understatement of the Participation Amount from an FFCHF Interest Transfer, then the Lessee, in the event of an understatement, or the Board, in the event of an overstatement shall make the payment required to be made to the other party to reconcile the payment of the corrected Participation Amount to the amount so determined on audit.

4. **Partial Transfers.**

In the event of a Fund Lease Transfer of less than all of the Original Lessee's interest in the Lease and the Project, or of less than all of the Fund's membership interest in the Original Lessee, or in the event of a FFCHF Interest Transfer of less than all of FFCHF's interest in the Fund (any of such transfers, a "**Partial Transfer**"), then the Statement of Participation Amount shall also identify the percentage of the Original Lessee' interest in the Lease or the Project being transferred, or the percentage of the Fund's membership interest in the Original Lessee being transferred, or the percentage of FFCHF's membership interest in the Fund being transferred, as applicable (any of the foregoing, a "**Participation Percentage**"). Notwithstanding anything to the contrary set forth above in this **Section 803**, in the event of a Partial Transfer, the Participation Amount, shall mean the amount, if any, by which (i) the Proceeds from Sale arising from such Partial Transfer, exceed (ii) the Participation Percentage multiplied by the sum of the following: (a) FFCHF's Basis; plus (b) $5,000,000. The initial percentage interest held by FFCHF in the Fund is 8% ("**Original FFCHF Percentage**"). The Participation Percentage in the event of a FFCHF Interest Transfer shall be equal to the membership interest in the Fund being transferred by FFCHF divided by the Original FFCHF Percentage.

5. **Termination of Participation**.

Any obligation of the Lessee to pay to Board a Participation Amount shall terminate and this Section 803 shall terminate and be of no further force or effect upon occurrence of either of the following:

(a) a Fund Lease Transfer that results in the assignment to a Transferee in which neither FFCHF nor a Related Entity to FFCHF holds a direct or indirect interest, of either (i) all of the Original Lessee's interest in the Lease and the Project; or (ii) all of the Fund's interest in the Original Lessee; and the payment to the Board of the Participation Amount, if any, owing by reason of such Fund Lease Transfer; or

(b) the conveyance by FFCHF of all membership interests of FFCHF and/or its Related Entities in the Fund and the payment to the Board of the Participation Amount, if any, owing by reason of such FFCHF Interest Transfer. Notwithstanding the foregoing, in the event that a FFCHF Interest Transfer results in FFCHF retaining not greater than a 1% interest in the Fund by reason of the designation of the Project as a "Core Project" (as defined in **Exhibit L** attached) under the Fund Operating Agreement, then FFCHF shall elect to treat the FFCHF Interest Transfer as a total transfer by written notice to the Board, so long as the Proceeds of Sale used to calculate Net Gain resulting from such FFCHF Interest Transfer are "grossed up" to an amount that corresponds to the amount that would have been paid to FFCHF for 100% of its interest relating to the Lease and the Project. Such increase in the Proceeds of Sale used to calculate Net Gain shall be equal to (1) the quotient obtained by dividing the membership interest in the Fund retained by FFCHF and/or its Related Entities, by the Original FFCHF Percentage; multiplied by (2) the actual Proceeds of Sale. For example, if the Project is designated as a "Core Project" under the Fund Operating Agreement and FFCHF transfers a 7% interest relating to the Lease and the Project for $6 Million in actual Proceeds of Sale and retains a 1% interest relating to the Lease and the Project (and does not receive any Proceeds of Sale related to such 1% retained), then the Proceeds of Sale used to compute the Participation Amount by reason of such FFCHF Interest Transfer shall be increased by $750,000 (1/8 x $6 Million), to a total of $6,750,000.

6. **Intent and Interpretation**. This **Section 803** is intended to allow the Board to share in twenty percent (20%) of the net profit in excess of Five Million Dollars ($5,000,000) achieved by FFCHF and/or its Related Entities as the result of any direct or indirect transfers of its interests in the Lease, the Project, Lessee, FFCHF and/or its Related Entities, and the language of this **Section 803** shall be interpreted liberally so as to achieve that intent.

D. **[§ 804] Separate Ground Leases for East Parcel and West Parcel**

1. Following issuance of the Certificate of Compliance, provided that no Event of Default exists, Lessee shall have the right and option, by written notice to the Board, to request that the Lease be separated into two ground leases, one for the East Parcel and one for the West Parcel (each a "**Parcel Ground Lease**" and collectively, the "**Parcel Ground Leases**". The Board agrees not to unreasonably withhold its approval of Lessee's request to divide this Ground Lease into the Parcel Ground Leases following issuance of the Certificate of Compliance, so long as (a) the legal fees and costs reasonably incurred by the Board to review and advise the Board on the replacement Parcel Ground Leases are reimbursed by the Lessee to the Board; and (b) the present value of the additional administrative costs reasonably anticipated by the Board to be incurred to administer two ground leases instead of one ground lease over the balance of the Term of the Lease is determined by the Board and paid by the Lessee to the Board upon the effective date of the separation of the Ground Lease into the two (2) Parcel Ground Leases.

2. Each of the Parcel Ground Leases shall be in the same form as this Lease, except for the following:

(a) Lessee shall be named as the lessee in each Parcel Ground Lease unless and until a Transferee has been identified by Lessee and approved by the Board for each Parcel Ground Lease.

(b) The term "Parcels" as used in this Lease shall be changed to "Parcel," and the term "Parcel" shall be defined as the East Parcel or the West Parcel, as applicable;

(c) The Base Rent payable under each of the Parcel Ground Leases shall be allocated 56.36% to the East Parcel and 43.64% the West Parcel, based on Lessee's pro-forma income for the two Parcels.

(d) The due date for each installment of Rent shall be the same under each Parcel Ground Lease and each accounting period provided for under the Ground Lease shall cover the same period under each Parcel Ground Lease; and

(e) The number of parking spaces which must be maintained by the Lessee under each Parcel Ground Lease as a part of the Trolley Parking Facilities, shall be the number of parking spaces actually located within the Trolley Parking Facilities located on the Parcel covered by the Ground Lease, provided that in no event will aggregate trolley parking spaces under the Parcel Ground Leases be less than six hundred (600) parking spaces.

There shall be no other changes to the terms of the Lease without the approval of both the Lessee and the Board. The Lessee shall prepare and present the proposed form of each Parcel Ground Lease concurrently with its written request to Board to enter into the Parcel Ground Leases in place of this Lease and each shall be black-lined to show how the Parcel Ground Lease varies in form and content from this Lease.

E. **[§ 805]** **Payment to Board for Processing Transfer**

All reasonable costs incurred by Board to determine whether or not to approve or otherwise process any proposed Transfer shall be paid by Lessee. With respect to each Transfer, Lessee shall deliver a retainer to Board in the sum of Ten Thousand Dollars ($10,000) as Adjusted for Inflation, prior to commencement of any action by Board, to be applied to the payment of Board's costs. There shall be no charge for the Board's General Counsel's time, but other Board staff time shall be charged under Board's full cost recovery program. The costs of Board for consultants or legal services required for considering or otherwise processing such Transfer shall be the actual sums billed to Board for such consulting or legal services. All such costs in excess of Ten Thousand Dollars ($10,000) as Adjusted for Inflation shall be paid within ten (10) days after delivery to Lessee of reasonable supporting documentation and written request therefor by Board. No approval by the Board shall be effective until all such costs are paid in full. The Board shall deliver to Lessee reasonable supporting documentation for its use of the retainer not later than forty-five(45) days after the outside date for the Board to respond to Lessee's request for approval of a Transfer. If such costs incurred by Board with respect to a Transfer equal less than Ten Thousand Dollars ($10,000) as Adjusted for Inflation, the balance shall be refunded promptly following the consummation of such

Transfer. This **Section 805** shall not apply to entity interest transfer which is not a Material Entity Interest Transfer

F. **[§ 806]** **Mediation-Arbitration**

1. IN THE EVENT OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS **ARTICLE VIII**, OR THE BREACH THEREOF, THE PARTIES AGREE FIRST TO TRY IN GOOD FAITH TO SETTLE THE DISPUTE BY MEDIATION UNDER THE COMMERCIAL MEDIATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), BEFORE RESORTING TO ARBITRATION. ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS ARTICLE VIII, OR BREACH THEREOF THAT IS NOT FULLY AND FINALLY RESOLVED BY MEDIATION WITHIN THIRTY (30) DAYS FROM DELIVERY FROM EITHER PARTY OF A REQUEST TO MEDIATE SHALL, AT THE WRITTEN REQUEST OF EITHER PARTY, BE RESOLVED BY ARBITRATION IN SAN DIEGO, CALIFORNIA, IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

2. ALL STATUTES OF LIMITATIONS WHICH WOULD OTHERWISE BE APPLICABLE SHALL APPLY TO ANY MEDIATION OR ARBITRATION PROCEEDING UNDER THIS **SECTION 806.** JUDGMENT UPON THE AWARD RENDERED MAY BE ENTERED IN ANY COURT HAVING JURISDICTION AND SHALL BE FINAL AND BINDING.

3. NO PROVISION OF, NOR THE EXERCISE OF ANY RIGHTS UNDER THIS **SECTION 806** SHALL LIMIT THE RIGHT OF ANY PARTY TO OBTAIN PROVISIONAL OR ANCILLARY REMEDIES SUCH AS INJUNCTIVE RELIEF, FROM A COURT HAVING JURISDICTION BEFORE, DURING, OR AFTER THE PENDENCY OF ANY ARBITRATION. THE INSTITUTION AND MAINTENANCE OF AN ACTION FOR JUDICIAL RELIEF OR PURSUIT OF PROVISIONAL OR ANCILLARY REMEDIES SHALL NOT CONSTITUTE A WAIVER OF THE RIGHT OF ANY PARTY, INCLUDING THE PLAINTIFF, TO SUBMIT THE DISPUTE TO ARBITRATION.

4. WHENEVER AN ARBITRATION IS REQUIRED, THE ARBITRATOR SHALL BE SELECTED IN ACCORDANCE WITH THIS **SECTION 806**. WITHIN TEN (10) DAYS AFTER WRITTEN NOTICE OF ANY DISPUTE IS GIVEN TO THE OTHER PARTY, THE PARTIES' SHALL ATTEMPT TO AGREE ON A SINGLE MUTUALLY ACCEPTABLE ARBITRATOR. IN THE EVENT THE PARTIES ARE UNABLE TO SO AGREE WITHIN SUCH TEN (10) DAY PERIOD, THE ARBITRATOR SHALL BE SELECTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION. THE DISPUTED MATTER SHALL BE HEARD BY THE ARBITRATOR OR REFEREE SO APPOINTED NO LATER THAN THIRTY (30) DAYS AFTER SUCH APPOINTMENT. THE ARBITRATOR SHALL APPLY CALIFORNIA LAW AND BE BOUND BY PRECEDENT AND STATUTORY RULES AS THOUGH THE ARBITRATOR WAS A

JUDGE SITTING IN A CALIFORNIA COURT. STATEMENTS OF ARBITRATION AWARDS SHALL BE IN WRITING. THE PARTIES SHALL BE ENTITLED IN ANY ARBITRATION HEREUNDER, TO SUCH RIGHTS OF DISCOVERY AS DETERMINED BY THE ARBITRATOR.

5. IN THE EVENT OF ANY DISPUTE GOVERNED BY THIS SECTION, EACH OF THE PARTIES SHALL PAY ALL OF ITS OWN EXPENSES, AND, SUBJECT TO THE AWARD OF THE ARBITRATOR, SHALL PAY AN EQUAL SHARE OF THE MEDIATOR'S OR THE ARBITRATOR'S FEES. THE ARBITRATOR SHALL HAVE THE POWER TO AWARD RECOVERY OF ALL COSTS AND FEES (INCLUDING ATTORNEYS' FEES, ADMINISTRATIVE FEES, ARBITRATORS' FEES, AND COURT COSTS) TO THE PREVAILING PARTY.

6. IN THE EVENT OF A CONFLICT BETWEEN THE PROVISIONS OF THIS ARTICLE AND THE AAA RULES, THE PROVISIONS OF THIS ARTICLE SHALL CONTROL.

7. IN THE EVENT OF A DISPUTE ARISING OUT OF THIS **ARTICLE VIII**, THERE SHALL BE NO DEFAULT RESPECTING THE SUBJECT MATTER OF THE DISPUTE UNTIL THE CONCLUSION OF THE DISPUTE, WHETHER BY AGREEMENT, IN THE EVENT OF MEDIATION, OR THE AWARD OF THE ARBITRATOR, IN THE EVENT OF ARBITRATION, AND IN EITHER CASE THE PARTIES SHALL, AFTER AGREEMENT OR AWARD, AS APPLICABLE, BE ENTITLED TO OPPORTUNITY TO CURE AS PROVIDED IN **SECTION 1207** BELOW. ALL INTEREST AND PENALTIES SHALL RUN FROM THE DATE PAYMENT WAS DUE.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARILY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

_____ Board's Initials

_____ Lessee's Initials

IX. [§ 900] MORTGAGES

A. [§ 901] Permitted Mortgages

Lessee shall have the right, at any time and from time to time during the Term of this Lease, to mortgage, pledge, deed in trust, assign rents, issues and profits, or collaterally assign its interest in this Lease and the Premises (and the subleases, Improvements, Trade Equipment and personal property), and to assign or pledge assignment of the same, as security for a debt for the construction, or interim or permanent financing of the Project. The holder of any such mortgage, pledge or other encumbrance, and the beneficiary of any such deed of trust or assignment shall be a **"Permitted Mortgagee"** and the mortgage, pledge, deed of trust, assignment or other instrument shall be a **"Permitted Mortgage,"** upon and subject to each and all of the following terms and conditions:

1. Before the issuance of the Certificate of Compliance, the principal amount of a Permitted Mortgage shall not exceed eighty-five percent (85%) of the fair market value of the Lessee's interests under this Lease and the Premises, including the subleases, Improvements, Trade Equipment and personal property. After the issuance of the Certificate of Compliance, the principal amount of a Permitted Mortgage shall not exceed ninety percent (90%) of the fair market value of the Lessee's interests under this Lease and the Premises, including the subleases, Improvements, Trade Equipment and personal property. The fair market value of Lessee's interests under this Lease shall be determined by an appraisal conducted on behalf of the proposed Permitted Mortgagee by a disinterested real estate appraiser having the qualifications for appraisers required by law and the proposed Permitted Mortgagee's underwriting criteria. The appraisal shall be delivered to the Board not later than the proposed effective date of the Permitted Mortgage. The applicable limit of the principal amount of a Permitted Mortgage (i.e., either 85% or 90%, as specified above) shall be referred to as the **"Maximum Loan to Value."**

2. A Permitted Mortgage shall cover (i) a pledge or assignment of an interest in Lessee, or (ii) all of Lessee's interest in the Lease, and the Premises, and may encumber the subleases, Improvements, the Trade Equipment, the personal property on the Premises, and the rents, issues and profits therefrom. A Permitted Mortgage shall cover no interest in any other property or secure any obligations not directly related to the construction or permanent financing of the Project (the foregoing is not intended to preclude the use of letters of credit or other security enhancements so long as such security enhancements secure no other obligations).

3. In no event shall any Permitted Mortgage apply to, or encumber in any way whatsoever, (a) the Board's fee title to the Board Land, or (b) any Base Rent, Overage Rent, any supplemental Rent, and any and all other sums payable hereunder to or on behalf of Board.

4. No such Permitted Mortgage shall be binding upon Board in the enforcement of its rights and remedies herein and by law provided, unless and until the proposed Permitted Mortgagee has delivered to the Board written notice of the proposed Permitted Mortgage, together with (a) such information as Board may reasonably require to establish that the proposed Permitted Mortgage and proposed Permitted Mortgagee meet the requirements of this Lease, and (b) the address of the Permitted Mortgagee to which notices may be sent. The Permitted Mortgagee shall

deliver to the Board a certified copy of the original Permitted Mortgage bearing the date and book and page of recordation thereof and a certified copy of the original note secured by such Permitted Mortgage as soon as they are available. In the event of a proposed assignment of a Permitted Mortgage, such assignment shall not be binding upon Board unless and until complies with the requirements set forth above in this **Section 901(4)**.

5. More than one Permitted Mortgage may be outstanding at any one time in connection with this Lease as long as the aggregate principal amount outstanding on all mortgages, deeds of trust, pledges of interests in Lessee, assignments and other liens on Lessee's interests (whether on not Permitted Mortgages) does not exceed the Maximum Loan to Value of the fair market value of the Lessee's interests under this Lease and the Premises, including the subleases, Improvements, Trade Equipment and personal property. In the event of any dispute among multiple Permitted Mortgagees, the Board shall have the right in all cases to respond only to the Permitted Mortgagee whose interest is most senior (as determined by any major national title company selected by the Board). Any conflicting instructions, requests or demands from a junior Permitted Mortgagee shall, at the Board's option, be null and void and of no force or effect. However, the Board shall accept the cure of a monetary default by Lessee tendered by a junior Permitted Mortgagee in a timely manner.

6. No Permitted Mortgage shall secure any non-monetary obligations which are not directly related to the Project, except for (a) those related to the financial condition, identity or organizational structure of the Lessee or its constituents or guarantors; and (b) those non-monetary obligations which are then typical to project-related financings and do not relate to any other project with which the Lessee may be involved.

7. The Board has consented to the recording of the AHA Deed of Trust against Lessee's leasehold interest in the Premises. Notwithstanding the requirements of this **Section 901**, the AHA Deed of Trust shall be a Permitted Mortgage and the Agency shall be a Permitted Mortgagee with respect to the AHA Deed of Trust.

8. A Permitted Mortgage shall contain provisions permitting the disposition and application of the insurance proceeds and condemnation awards in the manner provided in this Lease.

9. A Permitted Mortgage may only be originated by a lender with net worth, lending experience, underwriting practices reasonably acceptable to the Board who is duly licensed or registered with any regulatory agency having jurisdiction over its operation, and is not under any order or judgment of any court or administrative agency restricting or impairing its operation as a lender, and which is regularly engaged in real estate lending. Prior to issuance of the Certificate of Completion, an Institutional Lender (defined below) or syndicate of Institutional Lenders with a collective net worth in excess of Five Hundred Million Dollars ($500,000,000) Adjusted For Inflation shall be deemed to satisfy the above net worth, lending experience, and underwriting practices criteria; after issuance of the Certificate of Completion, an Institutional Lender or a syndicate of Institutional Lenders which either (a) has a collective net worth in excess of Five Hundred Million Dollars ($500,000,000) Adjusted For Inflation; or (b) services loans in excess of

Eight Billion Dollars ($8,000,000,000) Adjusted For Inflation, shall also be deemed to satisfy the above net worth, lending experience and underwriting practices criteria. As used herein, "**Institutional Lender**" means a bank, life or other insurance company, pension fund or pension fund advisor, real estate investment trust, conduit lender, securitization trust or other pooled mortgage vehicle, or other lender who regularly provides financing for commercial properties similar to the Project, or an entity formed by any of the foregoing parties for the purpose of originating commercial mortgage loans. The fact that a particular entity (or any affiliate of such entity) is a partner, member, or other investor in the then Lessee shall not preclude such entity from being an Institutional Lender and a Permitted Mortgagee provided that: (x) such entity has, in fact, made or acquired a bona fide loan to Lessee secured by a Permitted Mortgage; (y) such entity otherwise qualifies as an Institutional Lender and a Permitted Mortgagee; and (z) at the time such entity becomes a Permitted Mortgagee, no Event of Default exists, unless such Event of Default is simultaneously cured.

10. All rights acquired by said Permitted Mortgagee under said Permitted Mortgage shall be subject to each and all of the covenants, conditions and restrictions set forth in this Lease, and to all rights of Board thereunder, none of which covenants, conditions and restrictions is or shall be waived by Board by reason of the giving of such Permitted Mortgage (except as may be modified by an estoppel certificate or other similar instrument signed by the Board for the benefit of the Permitted Mortgagee). Notwithstanding any foreclosure of any such Permitted Mortgage, Lessee shall remain liable for the payment of the Base Rent, Overage Rent and supplemental Rent reserved in this Lease and the performance of all of the terms, covenants and conditions of this Lease which by the terms hereof are to be carried out and performed by Lessee.

11. The Permitted Mortgage (or agreement between the Board and the Permitted Mortgagee concerning a Permitted Mortgage) shall provide that the Permitted Mortgagee shall by registered or certified mail give notice to Board of the occurrence of any event of default under the Permitted Mortgage; provided, however, that the failure to do so shall have no adverse effect on the Permitted Mortgagee.

12. Lessee shall not enter into any Permitted Mortgage as permitted hereunder (or any extension, modification, change or amendment to any previously approved Permitted Mortgage) that would result in the Permitted Mortgage no longer meeting the standards listed above in this **Section 901**, without the prior written approval of Board. Board shall not unreasonably withhold its approval if such Permitted Mortgage (or modification thereof, if applicable) complies with each and all of the terms and conditions referred to in paragraphs 1 through 11, inclusive, of this **Section 901**, and is otherwise consistent with this Lease. Board agrees to approve or disapprove a proposed Permitted Mortgage (or modification thereof, if applicable) within fifteen (15) Business Days, and within the time, if any, provided for such approval in the Permitted Mortgage loan documents (provided that such documents allow Board a reasonable time to review the loan documents). In the event Board disapproves a matter, Board shall provide its objections in writing to Lessee, indicating the reason for its disapproval. Any approval by Board shall extend only to the documents and matters actually submitted to Board for review and approval. Once Board has approved a matter, Board shall not subsequently disapprove the same matter, but approval by Board of one matter shall not be construed to be approval of any other matter not specifically approved by Board.

All costs incurred by Board to determine whether or not to approve or to otherwise provide assistance to Lessee as may be reasonably necessary to close any proposed Permitted Mortgage shall be paid by Lessee. The determination of such costs, the procedure for payment thereof, and all other terms and conditions related thereto shall be as set forth in **Section 805** for a Transfer, and Lessee shall comply with **Section 805** as applicable to any Permitted Mortgage in like manner as to a Transfer. This paragraph shall not apply to the initial construction and permanent financing for the Project or the AHA Deed of Trust.

Notwithstanding anything in this Lease to the contrary, if Lessee encumbers its leasehold estate by way of a Permitted Mortgage as permitted herein, and should Board be advised in writing of the name and address of the Permitted Mortgagee as provided above, then this Lease shall not be terminated or canceled on account of any breach or default by Lessee in the performance of the terms, covenants or conditions hereof until Board shall have complied with the provisions of **Section 902** as to the Permitted Mortgagee's right to cure and to obtain a new lease.

B. **[§ 902] Rights and Obligations of Permitted Mortgagees**

If Lessee, or Lessee's successors or assigns, shall mortgage the leasehold interest herein demised in accordance with **Section 901**, then, as long as any such Permitted Mortgage shall remain unsatisfied of record, the following provisions shall apply:

1. Board will not accept a cancellation or surrender of, or modify, this Lease without the prior consent in writing of the Permitted Mortgagee. Board's right to terminate this Lease shall be subject to the rights of the Permitted Mortgagee as more specifically described in this Lease.

2. If a Permitted Mortgagee shall notify the Board its name and address in writing, no Notice of Default (as defined in **Section 1207(2)**) given by Board to Lessee shall be deemed to have been duly given unless and until a copy thereof has been mailed to the Permitted Mortgagee by registered or certified mail at the address registered with Board. Board shall send to each Permitted Mortgagee copies of all other notice provided by Board under this Lease; provided, however, that the failure to do so shall have no adverse effect on the Board's rights.

3. In the event Lessee shall be in default hereunder, the Permitted Mortgagee shall, within the period and otherwise as herein provided, have the right (but not the obligation) to remedy such default, or cause the same to be remedied, and Board shall accept such performance by or at the instigation of such Permitted Mortgagee as if the same had been done by Lessee. The Permitted Mortgagee shall have thirty (30) days after the expiration of any applicable cure period given to Lessee upon notice to Lessee to remedy the default or cause the same to be remedied. Such additional thirty (30) day period shall be extended if the default is other than the payment of money and such that it is not practicable to cure within such thirty (30) day period, if the Permitted Mortgagee commences such cure within said thirty (30) day period and diligently prosecutes such cure to completion. For purposes of the preceding sentence, if a Permitted Mortgagee elects to commence judicial or non-judicial foreclosure, the commencement of judicial or non-judicial foreclosure proceedings by the Permitted Mortgagee shall be deemed the commencement of a cure. Lessee hereby constitutes and appoints the Permitted Mortgagee Lessee's agent and attorney in fact

with full power, in Lessee's name, place and stead, and at Lessee's cost and expense, to enter upon the Parcels and the Improvements, and perform all acts required to be performed herein or in any sublease made hereunder by Lessee.

4. While any such Permitted Mortgage remains unsatisfied of record, and an event or events shall occur which shall entitle Board to terminate this Lease, and if before the expiration of thirty (30) days after the date of service of notice of termination under this Lease (a **"Notice of Termination"**) such Permitted Mortgagee shall have paid to Board all Base Rent, Overage Rent, supplemental Rent and other payments herein provided for then in default, and shall have complied or shall be engaged in complying with all other requirements of this Lease, if any, then in default, and with which such Permitted Mortgagee is capable of complying, Board shall not be entitled to terminate this Lease and any notice of termination theretofore given shall be void and of no effect.

5. In the event of the termination of this Lease prior to the natural expiration of the then current Term of this Lease for any reason, Board shall mail by registered or certified mail to the Permitted Mortgagee written Notice of Termination, together with a statement of any and all sums which would at that time be due under this Lease then known to Board. Such Permitted Mortgagee shall thereupon have the option to obtain a new lease in accordance with and upon the following terms and conditions:

(a) Upon the written request of the Permitted Mortgagee within sixty (60) days after service of the Notice of Termination, Board shall (i) enter into a new lease of the Parcels and the Improvements with such Permitted Mortgagee, or its designee, as provided in clause (b) of this subparagraph 5, and (ii) execute a quitclaim deed in favor of the Permitted Mortgagee with respect to the Improvements; it being understood that the Permitted Mortgagee shall hold title to the Improvements subject to the terms of the new lease referred to above.

(b) Such new lease shall be effective as of the date of termination of this Lease and shall be for the remainder of the Term of this Lease, at the Base Rent, Overage Rent, and supplemental Rent and upon the agreements, terms, covenants and conditions thereof. Any such new lease entered into with the Permitted Mortgagee shall have the same priority as this Lease and shall be prior to any lien or encumbrance on the fee interest. Concurrent with or before the execution of such new lease, the lessee named therein shall pay any and all sums which would at the time of the execution thereof be due under this Lease but for the termination as aforesaid, and shall fully otherwise remedy any existing defaults under this Lease which are reasonably susceptible of cure by such new lessee, and shall pay all expenses, including but not limited to, reasonable attorneys' fees, court costs and disbursements incurred by Board in connection with such defaults and termination, the recovery of possession of the Premises and the preparation, execution and delivery of such new lease; with respect to any default which cannot be cured by such lessee until it obtains possession, such lessee shall have a reasonable time after it obtains possession to cure such default.

(c) The provisions of this Subsection shall survive the termination, rejection or disaffirmance of this Lease and shall continue in full force and effect thereafter to the same extent as if this Subsection were a separate and independent contract made by the Board,

Lessee and such Permitted Mortgagee and, from the effective date of such termination, rejection or disaffirmance of this Lease to the date of execution and delivery of such new lease, such Permitted Mortgagee may use and enjoy the Premises without hindrance by Lessor or any person claiming by, through or under the Board.

6. If Board elects to terminate this Lease pursuant to any right of termination resulting from Lessee's being in default of any provision of this Lease, then any Permitted Mortgagee, in addition to all other rights herein granted such Permitted Mortgagee, shall have the right to be subrogated to any and all rights of Lessee with respect to curing of any default and shall also have the right to postpone and extend the specified date for termination of this Lease fixed by Board in a notice given pursuant to applicable provisions of this Lease, for a period of not more than six (6) months (subject to extension as provided below), provided such Permitted Mortgagee shall:

(a) concurrent with or before the Permitted Mortgagee gives Board notice of its exercise of the right to postpone or extend the specified date for termination of this Lease, cure all defaults which may be cured by the payment of a sum of money and undertake to cure any other existing default of Lessee, excepting the vacation or dismissal of any pending bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the then applicable bankruptcy act or other similar federal and state statutes or laws or other default not capable of being cured by the Permitted Mortgagee;

(b) continue to pay the Base Rent, Overage Rent, supplemental Rent, and all other sums payable hereunder to or on behalf of Board, and perform all other obligations of Lessee that are required pursuant to this Lease, during any extension period(s); and

(c) promptly thereafter initiate steps to acquire Lessee's interest in this Lease by foreclosure of its mortgage or otherwise.

Such right shall be exercised by the Permitted Mortgagee giving Board notice of the exercise of the same prior to the time of termination fixed in Board's Notice of Termination. If, before the date specified for the termination of this Lease as extended by such Permitted Mortgagee, (1) the Permitted Mortgagee shall have obtained possession, and if (2) an assumption in writing of performance and observance of covenants and conditions herein contained on Lessee's part to be performed shall be delivered to Board by the Permitted Mortgagee, then and in such event the default under this Lease shall be removed and the Lease shall not be canceled. If the Permitted Mortgagee is unable, after due diligence, to acquire Lessee's interest in this Lease within the first six (6) month extension period, the Permitted Mortgagee may obtain an additional six (6) month extension upon notice to Board prior to the expiration of the initial six (6) month extension.

7. Any payment to be made or action to be taken by a Permitted Mortgagee hereunder as a prerequisite to obtaining a new lease or keeping this Lease in effect shall be deemed properly to have been made or taken by the Permitted Mortgagee if such payment is made or action taken by a permitted nominee, agent or assignee of the right of such Permitted Mortgagee.

8. The parties hereto shall give the Permitted Mortgagee notice of any condemnation proceedings affecting the Parcels or the Improvements. The Permitted Mortgagee shall have the right to intervene and be made a party to any such condemnation proceedings and the parties hereto do hereby consent that the Permitted Mortgagee may be made such party or intervenor.

9. No Permitted Mortgagee nor any owner of the leasehold estate whose interest shall have been acquired by, through or under any Permitted Mortgage or shall have been derived immediately from any holder thereof shall become personally liable under the agreements, terms, covenants or conditions of this Lease unless and until such time as the Permitted Mortgagee or such owner becomes the owner of the leasehold estate and then only those liabilities which accrue during the period as it remains the owner of the leasehold estate. Upon any assignment of this Lease by the Permitted Mortgagee or any owner of the leasehold estate whose interest shall have been acquired by, through or under any Permitted Mortgage or shall have been derived immediately from any holder thereof, the assignor shall be relieved of any further liability which may accrue hereunder from and after the date of such assignment provided that the assignee shall execute and deliver to Board a recordable instrument of assumption wherein such assignee shall assume the rights and obligations of Lessee and agree to perform and observe all covenants and conditions and provisions in this Lease from and after the effective date of such assignment as they are applicable to Lessee.

10. Anything herein contained to the contrary notwithstanding, the provisions of this **Section 902** shall inure only to the benefit of the holder of a Permitted Mortgage.

11. The rights granted herein to a Permitted Mortgagee shall be enforceable by it. In the event any action or proceeding is brought to enforce or interpret the provisions hereof or to seek damages or performance or declare the rights of the parties hereto or such Permitted Mortgagee, the prevailing party including such Permitted Mortgagee, if prevailing, shall be entitled to reasonable attorneys' fees, costs and expenses.

12. Nothing herein contained shall require any Permitted Mortgagee or its designee as a condition of the exercise of any rights hereunder or in order to comply with the provisions of **Section 800** or as a condition of entering into the new lease provided for herein to cure any non-monetary default of Lessee not reasonably susceptible of being cured by such Leasehold Mortgagee or its designee.

13. The following defaults, if any, relating to the prior Lessee shall be deemed cured upon the acquisition of the leasehold interest by a Permitted Mortgagee (or assignee thereof): (i) attachment, execution or other judicial levy upon the leasehold estate hereunder, (ii) assignment of the leasehold estate hereunder for the direct or indirect benefit of creditors of said Lessee, (iii) judicial appointment of a receiver or similar officer to take possession of the leasehold estate hereunder or the Premises, (iv) filing any petition by, for or against Lessee under any chapter of the Federal Bankruptcy Act, or (v) any other default which is of such a nature as to not be reasonably curable by a Mortgagee or the transferee. Any such deemed cure shall be for the sole benefit of the Permitted Mortgagee (or assignee thereof); the prior Lessee shall not be released from any liability it may have for such matters.

C. [§ 903] *[intentionally omitted]*

D. [§ 904] **Completion of Construction**

Nothing contained in this Lease shall be deemed to permit or authorize such Permitted Mortgagee to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect the Improvements or construction already made) without first having expressly assumed the Lessee's obligations to the Lessor by written agreement satisfactory to the Lessor. The Lessor shall not unreasonably withhold approval of such assumption. The Permitted Mortgagee in that event must agree to complete the Improvements in the manner provided in this Lease, and submit evidence satisfactory to the Lessor that it has the qualifications and financial responsibility necessary to perform such obligations. Any such Permitted Mortgagee properly completing the Improvements shall be entitled, upon written request made to the Lessor, to a Certificate of Compliance in the manner provided in this Lease.

E. [§ 905] **Non-Merger**

There shall be no merger of this Lease, or of the leasehold estate created thereby, with the fee estate in and to the Parcels by reason of the fact that this Lease or the leasehold estate created thereby, or any interest in either thereof, may be held directly or indirectly by or for the account of any person who shall own the fee estate in and to the Parcels or any portion thereof, and no such merger shall occur unless and until all persons at the time having any interest in this Lease or the leasehold estate, including the Permitted Mortgagee and the holder of any mortgage upon the fee estate in and to the Parcels shall join in a written instrument effecting such merger.

F. [§ 906] **Board Cooperation**

Board covenants and agrees that it will act and fully cooperate with Lessee in connection with Lessee's right to grant a Permitted Mortgage as provided above. At the request of Lessee or any proposed or existing Permitted Mortgagee, Board shall promptly execute and deliver (a) any documents or instruments reasonably requested to evidence, acknowledge or perfect the rights of the Permitted Mortgagee as herein provided; and (b) a certificate of the type described in **Section 1322**. Any such certificate may be conclusively relied upon by any Permitted Mortgagee or Transferee of Lessee's interest in this Lease.

X. [§ 1000] INDEMNIFICATION AND INSURANCE

A. [§ 1001] **Indemnification and Release**

1. To the fullest extent permitted by law, Lessee shall indemnify, protect, defend and hold harmless the Board and its officers, employees and agents, from and against all liability, loss, damage, costs, or expenses of any kind (including attorneys' fees and costs of suit) arising from or as a result of any breach of this Lease by Lessee, any accident, injury, loss or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Parcels or the Access Easement and which shall be directly or indirectly caused by any acts done thereon or

any errors or omissions of Lessee, its agents, employees and contractors, or any of them, including but not limited to, claims of negligent or defective design or construction of the Project, regardless of whether any such liability occurs before or after issuance of the Certificate of Compliance, or arising out of or in connection with the use or occupancy of the Parcels, the Access Easement and the Improvements by Lessee or any other person under Lessee, or any nuisance made or suffered by Lessee thereon, or any failure by Lessee to keep the Parcels and the Improvements in a safe condition; and Lessee shall reimburse Board for all its costs and expenses (including reasonable attorneys' fees and costs of suit) incurred in connection with the defense of any such claims, and will hold all goods, materials, furnishings, fixtures, equipment, machinery and other property whatsoever on the Premises at the sole risk of Lessee and save Board harmless from any loss or damage thereto by any cause whatsoever. These indemnity obligations shall survive the expiration or earlier termination of this Lease. Notwithstanding anything to the contrary set forth in this **Section 1001**, this indemnity by Lessee specifically excludes all liability, loss, damage, costs and expenses of any kind (including attorneys' fees and costs of suit) arising from or as a result of any breach of this Lease by the Board, or any accident, injury, loss or damage caused to any person or property which is due to the sole negligence or willful misconduct of Board or its officers, employees and agents, or any person or entity authorized by the Board to use the Trolley Parking Facilities or the Access Easement or any part thereof, including without limitation the trolley patrons and the Parking Licensees.

2. Lessee hereby waives, releases, remises, acquits and forever discharges Board, its directors, officers, employees, and agents, successors and assigns, of and from any and all suits, causes of action, legal or administrative proceedings, claims, demands, actual damages, punitive damages, losses, costs, liabilities, interest, attorneys' fees and expenses of whatever kind and nature, in law or in equity, known or unknown, which Lessee shall or may have or acquire or possess in any way directly or indirectly connected with, based upon, or arising out of any accident, injury, loss or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Parcels or the Access Easement which is not caused by (a) a breach of this Lease by the Board or (b) the sole negligence or willful misconduct of Board or its officers or employees.

Lessee agrees as to the matters released to waive the benefits of Section 1542 of the CIVIL CODE of the State of California, which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

_____ _____

Lessee's Initials Board's Initials

B. **[§ 1002]** **Required Insurance**

During the Term of this Lease, Lessee at its sole cost and expense shall:

1. Keep or cause to be kept a policy or policies of insurance against loss or damage to the Improvements on the Parcels (including without limitation the Trolley Parking Facilities) resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies. All such policies shall be endorsed to include coverage for the costs of demolition of the Improvements and the clearing and restoration of the Parcels in the event of damage, destruction or condemnation if the Improvements are not fully restored. In addition, if Lessee carries coverage voluntarily for additional causes (such as earthquake, riot, civil commotion, or other), such coverage shall be treated in all respects as the policy or policies required to be kept under this Subparagraph 1, for so long as Lessee continues to voluntarily carry such coverage. All insurance hereunder shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the Improvements as defined in **Section 1003** (such value to include amounts spent for construction of the Improvements, architectural and engineering fees, and inspection and supervision).

2. Maintain or cause to be maintained public liability insurance naming Board and all entities controlling, controlled by or under common control with Board, together with their respective contractors, agents, officers, employees, invitees and licensees and such other parties as the Board may designate from time to time as additional insureds, to protect against loss from liability imposed by law as a result of the acts or omissions of Lessee, its agents, servants or employees for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever in, on or about the Parcels, the Access Easement or the Improvements; to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, as a result of the acts or omissions of Lessee, its agents, servants or employees alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of Lessee or under its control or direction arising from the use and occupancy by Lessee under the Lease of the Parcels, the Access Easement and the Improvements; and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from the acts or activities of Lessee under this Lease in connection with the Parcels, the Improvements, or Lessee or its sublessees, or any person acting for Lessee or under its control or direction.

Such public liability insurance shall also protect Board and such additional insureds against incurring any legal cost in defending claims for alleged loss insured under such policy. Such public liability insurance shall be maintained in full force and effect during the entire term of this Lease in an amount of at least Three Million Dollars ($3,000,000) Adjusted for Inflation, combined single limit, provided solely for the Project.

Lessee agrees that provisions of this paragraph as to public liability insurance shall not be construed to limit in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from Lessee's activities, or the activities of any other person or persons for which Lessee is otherwise responsible.

3. Maintain or cause to be maintained business or rental interruption insurance against loss of rental to Board due to a cause referred to in Subparagraph 1 above, in an amount equal to, and insuring against, any loss of Base Rent, and Overage Rent (as to Overage Rent, an

amount for each year up to the amount of Overage Rent paid for the Lease Year prior to the Lease Year in which the loss or damage occurs) by Board for a minimum of twelve (12) months.

4. Maintain or cause to be maintained workers' compensation insurance issued by an insurance carrier authorized under the laws of the State of California for workers' compensation and employer's liability under the Workers' Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Lessee in connection with the Parcels and the Improvements, and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of, any person incurring or suffering injury or death in connection with the Parcels and the Improvements, or the operation thereof by Lessee.

5. During the course of any alteration, construction or reconstruction, including, without limitation, during the period of the construction of the Improvements, builders risk insurance for the amount of the completed value on an all-risk form including "course of construction" coverage, (including earthquake and flood if required by any Permitted Mortgagee) insuring the interests of Board, Lessee and Permitted Mortgagee as their interests may appear. The Permitted Mortgagee shall be named as lender loss payee, and the Board and the Lessee shall be named as additional loss payees. The insurer shall waive all rights of subrogation against Board. Lessee shall also require its general contractor to carry such insurance.

6. Such other insurance (or other terms with respect to any insurance required pursuant to this **Section 1002**, including without limitation amounts of coverage or deductibles) on or in connection with the Project as the Board may reasonably require, which at the time is commonly obtained in connection with properties similar in type of building size, use and location to the Project.

C. **[§ 1003]** **Definition of "Full Insurable Value"**

The term **"full insurable value"**, as used in **Section 1002** and elsewhere in this Lease, shall mean the actual replacement cost excluding the cost of excavation, foundation and footings below the ground level of the Improvements. To ascertain the amount of coverage required, Lessee shall cause the full insurable value to be determined from time to time by appraisal by the insurer or by any appraiser mutually acceptable to Board and Lessee, not less often than once each three (3) years; except that no such appraisals shall be required if the policy is written on a "replacement cost" basis.

D. **[§ 1004]** **General Insurance Provisions**

1. All insurance provided for under **Section 1002** of this Lease shall be for the benefit of Lessee, Board (and as to the insurance provided for in Subsection 2 of **Section 1002** above, the additional insureds described therein) and any Permitted Mortgagee.

2. All insurance provided for under **Section 1002** shall be periodically reviewed by the parties for the purpose of mutually increasing or decreasing the minimum limits of such

insurance, from time to time, to amounts which may be reasonable and customary for similar facilities of like size and operation and in the same location as the Parcels.

3. All insurance provided for under **Section 1002** shall be effected under policies issued by insurers licensed or permitted to do business in the State of California and reasonably approved by Board. Board may not withhold approval of any insurer having a rating of A- XII (with stable outlook) or better in Best Insurance Guide, or if Best Insurance Guide is no longer in existence, a similar or comparable rating.

4. Any insurance required to be maintained by Lessee pursuant to **Section 1002** may be taken out under a blanket insurance policy or policies covering other premises or properties, and other named or additional insureds in addition to the parties hereto; provided, however, that any such policy or policies of blanket insurance, or supplemental written certification from the insurers under such policies, shall specify therein the amount of insurance allocated to the coverage required under **Section 1002** (except that no such allocation shall be required if coverage is provided on a "blanket limit" basis) and provided further, that in all other respects, any such blanket policy shall comply with the other provisions of **Section 1002.**

5. All certificates of insurance shall provide that such certificates and the policies related thereto shall not be canceled or materially changed without at least thirty (30) days' prior written notice to Board.

6. All insurance policies shall provide that there shall be no exclusion from coverage for cross liability among the named insureds.

7. Certificates of insurance and copies of each required policy and endorsement shall be deposited with Board together with appropriate evidence of payment of the current premiums therefor; and, at least thirty (30) days prior to expiration of any such policy, certificates of renewal policies be so deposited.

E. **[§ 1005]** **Failure to Maintain Insurance**

If Lessee fails or refuses to procure or maintain insurance as required by this Lease to be procured and maintained by Lessee, Board shall have the right, at Board's election, to procure and maintain the insurance described in **Section 1002** for the benefit of Lessee, Board and any Permitted Mortgagee. The premiums paid by Board shall be treated as supplemental Rent due from Lessee, to be paid on the first day of the month following the date on which the premiums were paid. Board shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s) which shall include Lessee, Board and any Permitted Mortgagee.

F. [§ 1006] **Disposition of Insurance Proceeds Resulting from Loss or Damage to Improvements**

All proceeds of insurance with respect to loss or damage to the Improvements to be maintained and repaired by Lessee during the term of this Lease shall be payable, under the provisions of the policy of insurance, jointly to Lessee and Board and, except as provided below, said proceeds shall constitute a trust fund to be used for the repair, restoration or reconstruction of the Improvements in accordance with the provisions of **Section 708** or **709.** To the extent that such proceeds exceed the cost of such repair, restoration or reconstruction, then such proceeds shall be divided as follows:

1. If the event causing loss or damage to the Improvements occurs on or prior to the thirtieth (30th) anniversary of the Effective Date of Lease, the entire amount by which such proceeds exceed the cost of such repair, restoration or reconstruction shall belong to Lessee.

2. If the event causing loss or damage to the Improvements occurs after the thirtieth (30th) anniversary of the Effective Date of Lease, the amount which shall belong to Lessee shall be the amount by which such proceeds exceed the cost of such repair, restoration or reconstruction, multiplied by a fraction: the numerator of the fraction shall be the number of years in the Lease Term, as the same may have been extended (if duly extended) minus the number of anniversaries of the Effective Date of Lease which have occurred prior to the event of loss or damage to the Improvements, and the denominator of the fraction shall be the number of years in the Lease Term, as the same may have been extended (if duly extended). The balance of such proceeds shall belong to Board. Provided, however, that within the period during which there is an outstanding Permitted Mortgage as described in **Section 900**, such proceeds shall be made payable jointly to the Permitted Mortgagee, if any, Lessee and Board and, except as provided below, shall be disposed of jointly by the parties as a trust fund to be applied to the repair, restoration and reconstruction of the damaged or destroyed Improvements. To the extent that such proceeds exceed the cost of such repair, restoration or reconstruction, then such proceeds shall be divided as follows:

(a) If the event causing loss or damage to the Improvements occurs on or prior to the thirtieth (30th) anniversary of the Effective Date of Lease, the entire amount by which such proceeds exceed the cost of such repair, restoration or reconstruction shall belong to Lessee and any Permitted Mortgagee as their respective interests may appear.

(b) If the event causing loss or damage to the Improvements occurs after the thirtieth (30th) anniversary of the Effective Date of Lease, the amount which shall belong to Lessee and any Permitted Mortgagee as their respective interests may appear shall be the amount by which such proceeds exceed the cost of such repair, restoration or reconstruction, multiplied by a fraction, the numerator of the fraction shall be the number of years in the Lease Term, as the same may have been extended (if duly extended) minus the number of anniversaries of the Effective Date of Lease which have occurred prior to the event causing loss or damage to the Improvements, and the denominator of the fraction shall be the number of years in the Lease Term, as the same may have been extended (if duly extended). The balance of such proceeds shall belong to Board.

3. Provided further, that within the period during which there is an outstanding Permitted Mortgage, as described in **Section 900**, at the request of any Permitted Mortgagee with respect to any particular casualty resulting in damage or destruction exceeding Fifty Thousand Dollars ($50,000) Adjusted for Inflation in the aggregate, such proceeds shall be payable to a bona fide institutional lender (**"Insurance Trustee"**), as trustee, selected by the Permitted Mortgagee and approved by Lessee and Board, which approval shall not be unreasonably withheld, to be disbursed as required by the provisions of this **Section 1006**. Subject to the terms of any Permitted Mortgage in effect at the time an Insurance Trustee is appointed, such Insurance Trustee is hereby made and constituted a trustee to hold such proceeds and to deposit such proceeds in its own banking department or elsewhere, at its sole discretion, and to pay out such proceeds as provided in this Lease. The Insurance Trustee shall not be obligated hereunder in any manner except to receive and pay out any money that is received by it as such trustee, together with such interest, if any, as is paid by the Insurance Trustee at the time upon like trusts of like amount. As between Board and Lessee, such interest on trust funds shall be deemed to be the income of and disbursed to the party entitled thereto in accordance with the terms of this Lease, to be held by the Insurance Trustee subject to the terms and conditions of the trust. The Insurance Trustee is authorized to retain from the trust fund a reasonable amount (approved by Board and Lessee) for its services in connection with the trust.

4. In the event this Lease is terminated by mutual agreement of Board and Lessee and the Permitted Mortgagee under any Permitted Mortgage, or as a result of Lessee's election to terminate this Lease as provided in **Section 708** or **709**, as the case may be, and the Improvements are not repaired, restored or reconstructed, the net insurance proceeds shall be made payable jointly to Lessee, Board and the Permitted Mortgagee of any outstanding Permitted Mortgage, if any, or the Insurance Trustee, if required, and shall be applied as follows:

(a) First, if there is an outstanding Permitted Mortgage, as allowed under **Section 900**, such proceeds shall be applied first to discharge the debt secured by the Permitted Mortgage.

(b) Then, remaining insurance proceeds, at the election of Board, which election shall be made within six (6) months after the parties mutually agree to terminate this Lease or Board receives notice of Lessee's election to terminate this Lease, as the case may be, shall be used either:

(1) To demolish the remaining Improvements and clear the Parcels to a neat and safe condition; or

(2) To remove the rubble from the damaged Improvements and leave the remaining damaged Improvements in a neat, clean and safe condition; or

(3) To remove the rubble and any portion of the damaged Improvements specified by Board from the remaining Improvements and leave the remaining Improvements in a neat, clean and safe condition.

To secure the performance of such work, that portion of such remaining insurance proceeds equal to one hundred fifteen percent (115%) of the estimated cost of the work described in clause (1), (2) or (3) of **Subsection 1006(4)(b)**, whichever shall be greater, shall be held by Board and Lessee jointly (and deposited in an interest bearing account, which interest shall belong to and be payable as it accrues and becomes available as provided in Subsection 3 below) and such funds shall be expended for the specified work when Board has made its election, after which the balance, if any, shall be paid as set forth in Subsection 3 below. The estimated cost of the work described in clauses (1), (2) and (3) above shall be determined by Board and Lessee each putting the work referred to in clauses (1), (2) and (3) out to bid to not less than four (4) reputable contractors licensed by the State of California, within sixty (60) days of the parties mutually agreeing to terminate this Lease or Board receiving notice of Lessee's election to terminate this Lease. The bids shall be for the cost of immediate construction and the contractors shall not be informed of the reasons for which the bids are being solicited. The job shall be open for bid for a period not to exceed thirty (30) days. The three (3) lowest of the four (4) bids obtained by the parties with respect to the work described in clauses (1), (2) and (3) separately shall be averaged and such averages shall be deemed the estimated cost of the work described in clauses (1), (2) and (3), respectively. The balance of any remaining insurance proceeds over and above the one hundred fifteen percent (115%) set aside shall be paid immediately as set forth in **Subsection 1006(6)** below.

(c) Then, any insurance proceeds remaining shall be paid as follows:

(1) If the event causing loss or damage to the Improvements occurs on or prior to the thirtieth (30^{th}) anniversary of the Effective Date of Lease, the entire amount by which such proceeds exceeds the allocations described in Subsections 1 and 2 above shall belong to Lessee.

(2) If the event causing loss or damage to the Improvements occurs after the thirtieth (30^{th}) anniversary of the Effective Date of Lease, the amount which shall belong to Lessee shall be the amount by which such proceeds exceeds the allocations described in Subsections 1 and 2 above, multiplied by a fraction: the numerator of the fraction shall be the number of years in the Lease Term, as the same may have been extended (if duly extended) minus the number of anniversaries of the Effective Date of Lease which have occurred prior to the event causing damage or loss to the Improvements, and the denominator of the fraction shall be the number of years in the Lease Term, as the same may have been extended (if duly extended). The balance of the proceeds shall belong to Board.

Lessee hereby waives any claim against Board for any loss covered by insurance of the type specified in **Section 1002**; only to the extent that such waiver is permitted under its policies of insurance and will not cause to be voided any coverage thereunder, and Lessee shall obtain from its insurance company or companies a waiver of any right of subrogation that it may have against Board.

XI. [§ 1100] EMINENT DOMAIN

In the event that the Premises or any part thereof is taken for public purposes by condemnation, or transferred under a threat of condemnation (a "Taking") , the Board and Lessee agree to the following:

1. If all of the Premises and Improvements are taken, the Lease shall terminate as of the effective date of any order for prejudgment possession, or the date title transfers to the condemning agency, whichever is earlier (the "**Date of Taking**").

2. If only a portion of the Premises is taken, then the Lessee may terminate the entire Lease, as provided for under Code of Civil Procedure Section 1265.130.

3. If only a portion of the Premises is taken, and if this Lease is not terminated pursuant to **Section 1100(2)** above, then:

(a) the Base Rent owed to the Board shall be reduced by multiplying the Base Rent in effect on the date of the Taking by a fraction, the numerator of which is the value of the Premises after the Taking, and the denominator of which is the value of the Premises before the Taking;

(b) this Lease shall terminate and end as to the portion of the Premises so taken as of the Date of Taking, but shall continue in full force and effect as to the portion of the Premises not so taken.

(c) Promptly after a partial Taking, at Lessee's expense and in the manner specified in provisions of this Lease relating to maintenance, repairs and alterations, Lessee shall restore the Improvements so as to place them in a condition suitable for the uses and purposes for which the Premises is leased subject to the provisions of this **Section 1100**. Lessee shall use its portion of the award to restore the Improvements in accordance with plans and specifications approved in writing by Board, which approval shall not be unreasonably withheld or delayed. In the event Lessee fails to restore the Improvements, Board may terminate this Lease pursuant to **Section 1210** of this Lease.

4. The Board and the Lessee shall cooperate reasonably and in good faith to maximize the overall amount of the award or compensation paid as a result of any taking of all or a portion of the Premises ("**Award**"). The Award shall be allocated proportionately between the Board and Lessee commensurate with the value of their respective interests in the taken Premises as follows:

(a) To Lessee:

(1) The "fair condemnation value" (defined as "fair market value" as that term is used under Code of Civil Procedure section 1263.320) of its leasehold estate at the time of the Taking, and subject to the Board's interests stated below; and

(2) The fair condemnation value of the Improvements, if any, at the time of the Taking, so long as not duplicative of the value of the leasehold estate, subject to the Board's reversionary interest in the Improvements; and

(3) Any "Severance Damages" (defined as Injury to the Remainder, under Code of Civil Procedure section 1263.420) attributable to the Improvements, subject to the Board's reversionary interest in the Improvements; and

(4) Any allocation to the Lessee applicable under subsection (c) below.

(b) To the Board:

(1) The present value, at the time of the Taking, of the Board's expected rental revenues over the remaining term of the Lease, provided, however, that in determining the expected rental revenues over the remaining term of the Lease, the provisions of **Sections 304(b)(1)(ii), 304(c)(1)(ii),** and **304(d)(1)(ii)** shall be disregarded, and the Base Rent shall be presumed to be eight percent (8%) of the fair condemnation value of the Parcels, but in assessing the fair condemnation value of the Parcels, such Parcels shall be presumed to be restricted to any uses permitted under the Lease at the time of the Taking, and

(2) The present value, at the time of the Taking, of the Board's reversionary interest in the Parcels and Improvements; and

(3) The fair condemnation value of the Exclusive Trolley Parking Easement; and

(4) Any Severance Damages attributable to the Parcels and the Board's reversionary interest in the Improvements; and

(5) Any allocation to the Lessor applicable under subsection (c) below.

(c) In the event that at the time of the Taking, the value of the Premises at its highest and best use "as though vacant" exceeds the value of the Premises "as improved", for apportionment purposes, any consideration of the value of the Parcels for purposes of this **Section 1100** shall be as though the Parcels are vacant and available for their highest and best use, and the value of the Parcels so valued will be allocated between the parties commensurate with the remaining time left under the Lease for Lessee's occupation of the Parcels. In such event, the Lessee's apportioned value of the Parcels "as though vacant" will be determined by multiplying the "as though vacant" value of the Parcels by a fraction, the numerator of which is the number of years remaining in the Lease Term at the time of Taking (including any extension options), and the denominator of which shall be all years of the Lease Term (Including any extension options).

(d) As used herein, the term "Award" excludes the following, and shall not be subject to allocation as between the Board and Lessee:

(1) Any amounts paid as relocation benefits under Government Code sections 7620, et seq., Title 25 California Code of Regulations Sections 6000, et seq., or any other applicable provision of state, federal, or local law, which benefits shall be the exclusive property of the party entitled to claim them;

(2) Any severance damage resulting from the taking of any property or property interest of the Board which is not a part of the Premises, or any damages for any compensable loss of business goodwill of the Board under Code of Civil Procedure section 1263.510, or any other applicable provision of state, federal, or local law, which damages shall be the exclusive property of the Board; and

(3) Any damages for Lessee's loss of business goodwill under Code of Civil Procedure section 1263.510, or any other applicable provision of state, federal, or local law, which damages shall be the exclusive property of the Lessee.

5. Notwithstanding the foregoing provisions of this Section, either party may, in its discretion and without affecting the validity and existence of this Lease, transfer its interests in the Premises in lieu of condemnation to any authority entitled to and having threatened to exercise the power of eminent domain. In the event of such transfer by a party, that party shall retain its right to recover from said condemning authority the award with respect to its interest in the Premises taken by the condemning authority in the manner provided in Subsection 4 above.

XII. [§ 1200] DEFAULTS, REMEDIES AND TERMINATION

A. [§ 1201] Defaults – General

Subject to the extensions of time set forth in **Section 1209**, failure or delay by either party to perform any term or provision of this Lease constitutes a default under this Lease. The party who fails or delays must promptly commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

In the event of any default, the injured party shall give written notice of default (**"Notice of Default"**) to the party in default, specifying the default complained of by the injured party. Failure or delay in giving Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Lease, any failures or delays by either party in asserting any rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of the right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

B. [§ 1202] **Legal Actions**

1. [§ 1203] **Institution of Legal Actions**

In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Lease following occurrence of an "Event of Default" (as defined in **Section 1207** below). Such legal actions must be instituted in the Superior Court of the County of San Diego, State of California, in any other appropriate court in that county, or in the Federal District Court in the Southern District of California.

2. [§ 1204] **Applicable Law**

The laws of the State of California shall govern the interpretation and enforcement of this Lease.

3. [§ 1205] **Acceptance of Service of Process**

In the event that any legal action is commenced by Board against the Lessee, service of process on Lessee shall be made by personal service upon the Lessee, or in such other manner as may be provided by law, and shall be valid whether made within or without the State of California.

C. [§ 1206] **Rights and Remedies are Cumulative**

Except with respect to rights and remedies which are expressly declared to be exclusive in this Lease, the rights and remedies of any non-defaulting party are cumulative and the exercise of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the defaulting party.

D. [§ 1207] **Events of Default**

1. The occurrence of any one or more of the following (after expiration of any applicable cure period as provided in **Section 1207(2)**) shall, at the sole option of Board, constitute an "**Event of Default**" under this Lease:

(a) a failure by Lessee to make any payment of Base Rent, Overage Rent, the City Land Payment, the Parking Loss Payments or the Participation Amount, on the date the payment is due, regardless of the reason for such failure;

(b) a failure by Lessee to make any payment of any monetary obligation under this Lease on other than those listed in **Section 1207(1)(a)** above on the date the payment is due;

(c) a failure by Lessee duly to perform and observe, or a violation or breach of, any other provision hereof not otherwise specifically mentioned in this **Section 1207(1)**;

(d) Lessee shall (i) voluntarily be adjudicated bankrupt or insolvent, (ii) seek or consent to the appointment of a receiver or trustee for itself or for the Premises, (iii) file a petition seeking relief under the bankruptcy or other similar laws of the United States, any state or any jurisdiction, (iv) make a general assignment for the benefit of creditors, or (v) be unable to pay its debts as they mature;

(e) a court shall enter an order, judgment or decree appointing, without the consent of Lessee, a receiver or trustee for it or for any of the Premises or approving a petition filed against Lessee which seeks relief under the bankruptcy or other similar laws of the United States, any state or any jurisdiction, and such order, judgment or decree shall remain undischarged or unstayed ninety (90) days after it is entered;

(f) the Premises shall have been abandoned;

(g) Lessee shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution; or

(h) the estate or interest of Lessee in any of the Premises shall be levied upon or attached in any proceeding and such estate or interest is about to be sold or transferred or such process shall not be stayed, vacated or discharged within ninety (90) days after it is made.

2. If the default consists of the failure to pay an amount under clause (a) of **Section 1207(1)**, the applicable cure period shall be ten (10) Business Days from the date on which notice of such failure (a "**Notice of Default**") is given. If the default consists of the failure to pay any other monetary obligation under clause (b) of **Section 1207(1)**, the applicable cure period shall be fifteen (15) Business Days from the date on which the Notice of Default is given. If the default consists of any other matter described under **Section 1207(1)**, the applicable cure period shall be thirty (30) days from the date on which the Notice of Default is given; however, if the default is curable but cannot reasonably be cured within such thirty (30) day period, the cure period shall be extended for the period reasonably required to cure the default, provided that Lessee shall commence to cure the default within the said thirty (30) day period and shall actively, diligently and in good faith proceed with and continue the curing of the default until it shall be fully cured.

3. In the event Lessee disputes the existence of a non-monetary Event of Default described in a Notice of Default (a "**Disputed Non-Monetary Default**"), Lessee may make demand for non-binding mediation by notifying the Board in writing, prior to expiration of the cure period specified in **Section 1207(2)** above. In such event, the Board and Lessee agree to participate in non-binding mediation administered by the AAA. In the event of any inconsistency between the AAA rules and these mediation provisions, these provisions shall supersede such rules. A single mediator shall be selected in accordance with the Rules of the AAA with knowledge of the subject matter of the Disputed Non-Monetary Default. The mediator shall be a qualified retired judge or other professional mediator with at least five (5) years mediation experience chosen from the panels

maintained by the AAA. In the event the parties cannot agree on a single mediator, each party shall select a mediator and those two mediators together shall select a mediator to conduct the mediation. The mediation shall be held within thirty (30) days of the date the demand for mediation is delivered by the Lessee to the Board. The mediation shall be considered settlement negotiations for the purpose of all state and federal rules protecting disclosures made during such conferences from later discovery or use in evidence. The parties hereto agree that the provisions of California Evidence Code Section 1152 shall apply to any mediation conducted hereunder. All conduct, statements, promises, offers, view and opinions, oral or written, made during the mediation by any party or a party's agent, employee or attorney shall not be subject to discovery or admissible for any purpose, including impeachment, in any litigation, arbitration or other proceeding involving the parties. The mediator's fees and costs shall be divided equally among the parties.

E. **[§ 1208]** **Remedies and Damages Upon Default**

1. If an Event of Default shall have occurred and is continuing, Board shall have the right, at its sole option, then or at any time thereafter, to exercise its remedies and to collect damages from Lessee in accordance with this **Section 1208**, subject in all events to applicable law, without demand upon or notice to Lessee except as otherwise provided in **Section 1207(2)** and this **Section 1208.**

(a) Board may give Lessee notice of Board's intention to terminate this Lease on a date specified in such notice. Upon such date, this Lease, the estate hereby granted and all rights of Lessee hereunder shall expire and terminate. Upon such termination, Lessee shall promptly surrender and deliver possession of the Premises to Board in accordance with **Section 1307**. If Lessee does not so surrender and deliver possession of the Premises, Board may re-enter and repossess the Premises, with or without legal process, by peaceably entering the Premises and changing locks or by summary proceedings, ejectment or any other lawful means or procedure. Upon or at any time after taking possession of the Premises, Board may, by peaceable means or legal process, remove any Persons or property therefrom. Board shall be under no liability for or by reason of any such entry, repossession or removal. Notwithstanding such entry or repossession, Board may collect the damages set forth in **Section 1208(3)**.

(1) HOWEVER, IN CONSIDERATION FOR LESSEE'S AGREEMENT UNDER **SECTION 318(2)** ABOVE TO PAY TO BOARD AN ADDITIONAL PAYMENT EQUAL TO FIVE PERCENT (5%) OF ANY DELINQUENT RENT WHICH GAVE RISE TO AN EVENT OF DEFAULT, BOARD AGREES NOT TO TERMINATE THIS LEASE FOR AN EVENT OF DEFAULT BECAUSE OF THE LESSEE'S FAILURE TO PAY RENT OR ANY OTHER MONETARY OBLIGATION (I.E., AN EVENT OF DEFAULT UNDER **SECTION 1207(1)(a)** OR **SECTION 1207(1) (b)**) UNTIL FORTY-FIVE (45) DAYS AFTER THE NOTICE OF DEFAULT.

_____ _____

Lessee's Initials Board's Initials

(2) In addition, if Lessee has timely demanded mediation of a Disputed Non-Monetary Default pursuant to **Section 1207(3)**, Board agrees not to terminate this Lease in the event of an alleged non-monetary Event of Default (i.e., an Event of Default under **Section 1207(1)(c)** through **Section 1207(1)(h)**, inclusive) unless: (A) Board has participated in a non-binding mediation of the alleged non-monetary Event of Default in accordance with the procedures set forth in **Section 1207(3)**, and (B) Lessee does not immediately after the conclusion of the mediation commence and diligently pursue to completion the cure of any Disputed Non-Monetary Default that is still alleged by the Board following conclusion of the mediation.

(b) After repossession of the Premises pursuant to **Section 1208 (1)(a)** above, Board shall have the right to relet any of the Premises to such Lessee or Lessees, for such term or terms, for such rent, on such conditions and for such uses as Board in its sole discretion may determine, and collect and receive any rents payable by reason of such reletting. Board may make such alterations in connection with such reletting as it may deem advisable in its sole discretion. Notwithstanding any such reletting, Board may collect the damages set forth in **Section 1208(3)**.

2. In addition to its other rights under this Lease, Board has the remedy described in California CIVIL CODE Section 1951.4 which provides substantially as follows: Board may continue the Lease in effect after Lessee's breach and abandonment and recover the Rent as it becomes due. In accordance with California CIVIL CODE Section 1951.4 (or any successor statute), Lessee acknowledges that in the event Lessee breaches this Lease and abandons the Premises, this Lease shall continue in effect for so long as Board does not terminate Lessee's right to possession, and Board may enforce all of its rights and remedies under this Lease, including the right to recover the Rent as it becomes due under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon initiative of Board to protect Board's interest under this Lease shall not constitute a termination of Lessee's right to possession.

3. If Board elects to terminate this Lease upon the occurrence of an Event of Default, Board may collect from Lessee damages computed in accordance with the following provisions in addition to Board's other remedies under this Lease:

(a) the worth at the time of award of any unpaid Rent which has been earned at the time of such termination; plus

(b) the worth at the time of award of the amount by which any unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided; plus

(c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; plus

(d) any other reasonable cost necessary to compensate Board for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom including, without limitation,

brokerage commissions, the cost of repairing and reletting the Premises and reasonable attorneys' fees; plus

(e) at Board's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable state law. Damages shall be due and payable from the date of termination.

For purposes of clauses (a) and (b) of this Section, the "worth at the time of award" shall be computed by adding interest at the maximum legal rate to the past due Rent. For the purposes of clause (c) of this **Section 1208(3)**, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

4. Board may elect not to terminate Lessee's right to possession of the Premises, in which event this Lease will continue in full force and effect as long as Board does not terminate Lessee's right to possession and Board may continue to enforce all of its rights and remedies under this Lease, including the right to collect all Rent as it becomes due. Board may elect to enter the Premises and relet them, or any part of them, to third parties for Lessee's account. Lessee shall be liable immediately to Board for all costs Board incurs in reletting the Premises, including, but not limited to, brokers' commissions, expenses of cleaning and remodeling the Premises required by the reletting, attorneys' fees and like costs. Reletting can be for a period shorter or longer than the remaining Term of this Lease and for the entire Premises or any portion thereof. Lessee shall pay to Board the Rent due under this Lease on the dates the Rent is due, less the Rent Board actually collects from any reletting. Except as provided in the preceding sentence, if Board relets the Premises or any portion thereof, such reletting shall not relieve Lessee of any obligation hereunder. Notwithstanding the above, no act by Board allowed by this **Section 1208(4)** shall terminate this Lease unless Board notifies Lessee in writing that Board elects to terminate this Lease.

5. Notwithstanding anything to the contrary herein contained, in lieu of or in addition to any of the foregoing remedies and damages, Board may exercise any remedies and collect any damages available to it at law or in equity. If Board is unable to obtain full satisfaction pursuant to the exercise of any remedy, it may pursue any other remedy which it has hereunder or at law or in equity.

6. If any Law shall validly limit the amount of any damages provided for herein to an amount which is less than the amount agreed to herein, Board shall be entitled to the maximum amount available under such Law.

7. No termination of this Lease, repossession or reletting of the Premises, exercise of any remedy or collection of any damages pursuant to this **Section 1208** shall relieve Lessee of any obligations which by their terms survive the expiration of the Term or earlier termination of this Lease.

8. WITH RESPECT TO ANY REMEDY OR PROCEEDING OF BOARD HEREUNDER, LESSEE WAIVES ANY RIGHT TO A TRIAL BY JURY. Lessee agrees that this

Lease constitutes a written consent to waiver of trial by jury pursuant to the provisions of California CODE OF CIVIL PROCEDURE Section 631 and Lessee does hereby appoint Board its true and lawful attorney-in-fact, which appointment is coupled with an interest, and Lessee does hereby authorize and empower Board, in the name, place and stead of Lessee, to file this Lease with the clerk or judge of any court of competent jurisdiction as statutory written consent to waiver of trial by jury.

9. Upon the occurrence of any Event of Default, Board shall have the right (but no obligation) to perform any act required of Lessee hereunder and, if performance of such act requires that Board enter the Premises, Board may enter the Premises for such purpose.

10. No failure of Board (i) to insist at any time upon the strict performance of any provision of this Lease or (ii) to exercise any option, right, power or remedy contained in this Lease shall be construed as a waiver, modification or relinquishment thereof. A receipt by Board of any sum in satisfaction of any monetary obligation with knowledge of the breach of any provision hereof shall not be deemed a waiver of such breach, and no waiver by Board of any provision hereof shall be deemed to have been made unless expressed in a writing signed by Board.

11. Lessee hereby waives and surrenders, for itself and all those claiming under it, including creditors of all kinds, (i) any right and privilege which it or any of them may have under any present or future Law to redeem any of the Premises or to have a continuance of this Lease after termination of this Lease or of Lessee's right of occupancy or possession pursuant to any court order or any provision hereof, and (ii) the benefits of any present or future Law which exempts property from liability for debt or for distress for rent.

12. Except as otherwise provided herein, all remedies are cumulative and concurrent and no remedy is exclusive of any other remedy. Each remedy may be exercised at any time an Event of Default has occurred and is continuing and may be exercised from time to time. No remedy shall be exhausted by any exercise thereof.

F. **[§ 1209]** **Enforced Delay in Performance for Causes Beyond Control of Party**

For the purposes of any of the provisions of this Lease, neither Board nor Lessee, as the case may be, nor any successor in interest (including, without limitation, Lessee's Permitted Mortgagee or any successor in interest of said Permitted Mortgagee), shall be considered in breach of, or default in, its obligations under this Lease (exclusive of any obligation to pay money) as a result of the enforced delay in the performance of such obligations due to causes beyond its reasonable control and without its fault or negligence, including, but not limited to any law, regulation, ordinance or order of any public Board, acts of public agencies, acts of God, acts of the public enemy, acts of the federal government, acts of the other party (including but not limited to delays in performing such other party's obligations pursuant to this Lease), fires, floods, epidemics, quarantine restrictions, strikes, labor disputes, a subcontractor walking off the job without excuse, freight embargoes, acts of terrorism, inability to obtain materials or supplies or unusually severe weather or delays of contractors or subcontractors due to such causes (any of the above, an **"Enforced Delay"**); it being the purpose and intent of this provision that in the event of the occurrence of any such Enforced

Delay, the time or times for performance of the obligations of Board or Lessee, as the case may be, shall be extended for the period of such Enforced Delay. The party seeking the benefit of the provision of this Section shall promptly notify the other party in writing of such Enforced Delay and of the causes thereof, the extension of time for performance shall run from thirty (30) days prior to the date on which such notice is given, but in no event earlier than the date of commencement of the cause.

G. [§ 1210] Non-Recourse as to Board

Anything contained herein to the contrary notwithstanding, any claim based on or with respect to any liability of the Board under this Lease shall be enforced only against the Parcels and the Board's interest in this Lease and not against any other assets, properties or funds of (i) the Board, (ii) any director, officer, general partner, shareholder, limited partner, beneficiary, employee or agent of the Board or any general partner of the Board or any of its general partners (or any legal representative, heir, estate, successor or assign of any thereof), (iii) any predecessor or successor partnership or corporation (or other entity) of the Board or any of its general partners, shareholders, officers, directors, employees or agents, either directly or through the Board or its general partners, shareholders, officers, directors, employees or agents or any predecessor or successor partnership or corporation (or other entity), or (iv) any person affiliated with any of the foregoing, or any director, officer, employee or agent of any thereof.

XIII. [§ 1300] GENERAL PROVISIONS

A. [§ 1301] Notices, Demands and Communications between the Parties

Unless otherwise specifically provided herein, all formal notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered upon personal delivery, or by Federal Express (or similar reputable express delivery service), or by telecopier transmission with verification of receipt and back-up copy mailed the same day, or as of the second Business Day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

For the Board:
Chief Executive Officer
Metropolitan Transit Development Board
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone: (619) 231-1466
Telecopier: (619) 234-3172

with copies to:

General Counsel
Metropolitan Transit Development Board
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone: (619) 557-4512
Telecopier: (619) 234-3172

and

R. Martin Bohl
Law Offices of R. Martin Bohl
501 West Broadway, Suite 520
San Diego, California 92101
Telephone: (619) 446-0080
Telecopier: (619) 446-0090

For the Lessee: Fairfield Grossmont Trolley LLC
c/o Fairfield Residential LLC
Attn: Christopher E. Hashioka
5510 Morehouse Drive, Suite 200
San Diego, California 92121
Telephone: (858) 457-2123
Telecopier: (858) 457-8082

with a copy to:

Rutan & Tucker, LLP
Attn: Marcia A. Forsyth, Esq.
611 Anton Blvd., Suite 1400
Costa Mesa, California 92626
Telephone: (714) 641-3453
Telecopier: (714) 546-9035

Addresses for notice may be changed by written notice sent in the manner provided above.

B. **[§ 1302]** **Time of Essence**

Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Lease.

C. **[§ 1303]** **Conflict of Interests**

No member, official or employee of the Board shall have any personal interest, direct or indirect, in this Lease nor shall any such member, official or employee participate in any decision

relating to the Lease which affects his or her personal interests or the interests of any corporation, partnership or association in which he, or she is, directly or indirectly, interested.

D. **[§ 1304]** **Warranty Against Payment of Consideration for Agreement.**

The Lessee warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Lease.

E. **[§ 1305]** **Nonliability of Board Officials and Employees**

No member, official or employee of Board shall be personally liable to Lessee, or any successor in interest to Lessee, in the event of any default or breach by Board or for any amount which may become due to Lessee or successor, or on any obligations under the terms of this Lease.

F. **[§ 1306]** **No Partnership**

Nothing contained in this Lease and no acts of Board or Lessee shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between Board and Lessee other than that of lessor and lessee.

G. **[§ 1307]** **Surrender of Property**

Upon the expiration or earlier termination of this Lease pursuant to the terms hereof, it shall be lawful for Board to re-enter and repossess the Parcels and the Improvements thereon without process of law, and Lessee, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver the Parcels and the Improvements thereon, peaceably to Board immediately upon such expiration or termination in good order, condition and repair, except for reasonable wear and tear, but subject, however to the provisions of **Section 1100** of this Lease regarding eminent domain and **Sections 708** and **709** of this Lease regarding damage and destruction.

H. **[§ 1308]** **Severability**

If any term, covenant, condition or provision of this Lease, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants. conditions or provisions of this Lease, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

I. **[§ 1309]** **Binding Effect**

Subject to the provisions of this Lease restricting or prohibiting assignment, this Lease, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

J. **[§ 1310]** **Captions**

The captions contained in this Lease are for convenience of reference and shall not be construed to limit or extend the meaning of any part of this Lease.

K. **[§ 1311]** **Entire Agreement**

This Lease, together with any other written document referred to herein, embody the entire agreement and understanding between the parties regarding the subject matter hereof, and any and all prior or contemporaneous oral or written representations, agreements, understandings or statements shall be of no force and effect.

L. **[§ 1312]** **Modifications**

No modification, waiver or discharge of this Lease shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver or discharge is or may be sought. Any amendments to this Lease must be approved by the Board's Board of Directors.

M. **[§ 1313]** **Approvals**

All consents or approvals to be given by Lessee or Board shall not be unreasonably withheld or delayed unless this Lease expressly provides for the discretion of the party in giving such consent or approval. Approval or disapproval shall be given within the time set forth in this Lease or, if no time is given, within fifteen (15) Business Days. Unless otherwise expressly provided herein, the Chief Executive Officer of the Board or his/her designee shall have the authority to issue all approvals and disapprovals on behalf of the Board required or allowed hereunder.

N. **[§ 1314]** **Inspection of Books and Records**

The Board has the right at all reasonable times to inspect the books and records of the Lessee pertaining to the Parcels, the Improvements and the Project as pertinent to the purposes of this Lease, subject to **Section 308** above.

O. **[§ 1315]** **Gender, Number**

Whenever the context requires, the use herein of (i) the neuter gender includes the masculine and the feminine, and (ii) the singular number includes the plural.

P. **[§ 1316]** **Business Days**

"**Business Day**" shall mean any day which is not a Saturday, Sunday or federal bank holiday. If the last day for performance of an act falls upon a day that is not a Business Day, such last day shall be the next following regular Business Day.

Q. [§ 1317] **Recitals; Exhibits; Attachments**

The recitals set forth above and all attached exhibits and attachments are incorporated by reference into this Lease as if fully set forth herein.

R. [§ 1318] **Authority of Signatories**

Each signatory and party hereto hereby warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Lease, and that all resolutions and other actions have been taken so as to enable said signatory to enter into this Lease.

S. [§ 1319] **Attorneys' Fees and Legal Expenses**

Should any party hereto institute any action or proceeding in court or any arbitration or similar proceeding to enforce any provision hereof or for damages by reason of any alleged breach of any provision of this Lease or for any other judicial remedy, the prevailing party(ies) shall be entitled to receive from the losing party(ies) all reasonable attorneys' fees and all court costs in connection with said proceedings.

T. [§ 1320] **Preparation of Lease**

No inference, assumption or presumption shall be drawn from the fact that a party or its attorney prepared or drafted this Lease. It shall be conclusively presumed that both parties participated equally in the preparation and drafting of this Lease.

U. [§ 1321] **Counterparts**

This Lease may be executed in any number of counterparts, each of which shall be original and all of which shall constitute one and the same document.

V. [§ 1322] **Certificates**

At any time and from time to time, each party (**"Responding Party"**) agrees to sign and deliver to the other party (**"Requesting Party"**) within ten (10) days after receipt of written request therefor a statement certifying that (a) this Lease is unmodified and in full force and effect (or, if such is not the case, so stating and setting forth any modifications), (b) that, to the Responding Party's knowledge, the Requesting Party is not in breach hereunder (or, if such is not the case, so stating and setting forth any alleged breaches), and (c) any other information reasonably related to the status of this Lease. Such certification may be conclusively relied on by the Requesting Party, any Permitted Mortgagee, any equity investor of Lessee, and any title insurance company insuring title to the Parcels. Board shall deliver a Ground Lessor's Estoppel and Consent in substantially the form of **Exhibit K** attached (**"Form of Estoppel"**) to any Permitted Mortgage; provided that (i) the Board shall be entitled to revise the Form of Estoppel, if necessary, to include those revisions required to reflect the current state of facts, such as the status of this Lease and Lessee's performance

hereunder; and (ii) the "Partial Completion Option" appearing in the Form of Estoppel shall not appear in any subsequent Ground Lessor's Estoppel and Consent.

W. **[§ 1323] Successors and Assigns**

Subject to the provisions of this Lease restricting or prohibiting assignment, this Lease shall be binding on and inure to the benefit of the successors and assigns of the respective parties.

X. **[§ 1324] Joint and Several Liability**

If any party consists of more than one person or entity, the liability of each such person or entity signing this Lease shall be joint and several.

Y. **[§ 1325] No Third Party Beneficiaries**

This Lease has been made and is made solely for the benefit of the Board and the Lessee and their respective successors and permitted assigns, and, to the extent provided herein, any Permitted Mortgagee. Nothing in this Lease is intended to confer any rights or remedies under or by reason of this Lease on any persons other than the parties to it, any Permitted Mortgagee, and their respective successors and permitted assigns. Nothing in this Lease is intended to relieve or discharge the obligation or liability of any third persons to any party to this Lease.

Z. **[§ 1326] Adjusted for Inflation**

Whenever this Lease provides for a dollar amount to be "Adjusted For Inflation," then upon the request of either Board or Lessee made not more frequently than every five (5) years during the Term (including any extension), the specified dollar amount shall be adjusted by the percentage increase in the Index (as defined below) published nearest preceding the Effective Date of this Lease and the date when the request for the adjustment was made; provided, however, that in no event shall such dollar amount be reduced below that originally specified in this Lease or as previously adjusted hereby.

"Index" means the "Consumer Price Index–All Urban Consumers–Los Angeles/Anaheim/ Riverside, California" compiled by the U.S. Department of Labor, Bureau of Labor Statistics, based on 1982-1984=100 (the "Base"). If the Base should hereafter be changed, then the new base shall be converted to the Base, and the base as so converted shall be used. If a substantial change is made in the Index, the revised Index shall be used, subject to such adjustments as may be reasonably required in order to make the revised Index comparable to the prior Index. If the Bureau of Labor Statistics ceases to publish the Index, then the successor or most nearly comparable Index, as mutually approved by the Board and Lessee (which approvals shall not be unreasonably withheld) shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

AA. **[§ 1327]** **Memorandum of Lease**

This Lease shall not be recorded. A Memorandum of this Lease, in the form of **Exhibit J** attached, was recorded at Close of Escrow by the Board and Lessee. Upon expiration or earlier termination of this Lease, Lessee shall execute, acknowledge and deliver to the Board for recording a quitclaim deed to the Board Land.

"Board"

Metropolitan Transit Development Board,
a California public agency also known as the
Metropolitan Transit System

By: _____
Paul Jablonski, Chief Executive Officer

APPROVED AS TO FORM:

By: _____
Tiffany L. Lorenzen
General Counsel

"Lessee"

Fairfield Grossmont Trolley LLC,
a Delaware limited liability company

By: FF California Housing Fund LLC,
a Delaware limited liability company,
its Manager

By: FF Properties, Inc.,
a Delaware corporation,
its Manager

By: _____
Name: _____
Title: _____

[Lessee to provide evidence of authority]

EXHIBITS

EXHIBIT A-1:	**Description of the Premises**
EXHIBIT A-2:	**Depiction of the Access Road and Access Easement**
EXHIBIT A-3:	**Description of the AAA Property**
EXHIBIT A-4:	**Description of the CCRT Property**
EXHIBIT B:	**Site Plan**
EXHIBIT C	**Scope of Development**
EXHIBIT D:	**Final Construction Plans and Drawings**
EXHIBIT D-1:	**Amaya Station Improvement Plans**
EXHIBIT D-2:	**Sewer Backfill Detail**
EXHIBIT E:	**List of Parking Licensees**
EXHIBIT F-1 - F-5:	**Rent Calculation Examples**
EXHIBIT G:	**Construction Schedule**
EXHIBIT H:	**Trolley Parking Construction Phasing Plan**
EXHIBIT I:	**Illustrations of Additional Rent Payable on Transfer Calculation**
EXHIBIT J:	**Memorandum of Lease**
EXHIBIT K:	**Form of Estoppel**
EXHIBIT L:	**Fund Operating Agreement Definitions**

Exhibit A-1

Legal Description of the Premises

That certain real property located in the City of La Mesa, County of San Diego, State of California described as follows:

Parcel A

Parcels 1 and 2 of Parcel Map _____ recorded in Book _____, Pages __ through __ inclusive, in the Official Records of San Diego County, California (the "Parcel Map"), excepting and reserving therefrom the "Exclusive Trolley Parking Easement" as defined in the Lease.

Parcel B

A non-exclusive easement for vehicular and pedestrian ingress and egress and for utilities over the area illustrated and designated within Parcel 3 and Parcel 4 on the Parcel Map as the "Fire and Access Easement," which non-exclusive easement is granted by the Board to the Lessee for a term of years commensurate with the term of the Lease and is appurtenant to and for the benefit of each of Parcels 1 and 2 of the Parcel Map.

Exhibit A-2

Depiction of the Access Road and Access Easement

[To be attached]

Exhibit A-3

Description of the AAA Property

[To be attached]

Exhibit A-4

Description of the CCRT Property

[To be attached]

Exhibit B

Site Plan

[To be attached]

(The "Trolley Station" and "Trolley Right of Way" are to be depicted on the Site Plan per **Section 107**)

Exhibit C

Scope of Development

[To be attached]

Exhibit D

Final Construction Plans and Drawings

[To be attached]

Exhibit D-1

Sewer Backfill Detail

[To be attached]

Exhibit D-2

Access Road Improvement Plans

[To be attached]

Exhibit E

List of Parking Licensees

[To be attached]

Exhibits F-1 - F-5

Rent Calculation Examples

[To be attached]

Exhibit G

Construction Schedule

[To be attached]

Exhibit H

Trolley Parking Construction Phasing Plan

[To be attached]

Exhibit I

Illustrations of Additional Rent Payable on Transfer Calculation

[To be attached]

Exhibit J

Form of Memorandum of Lease

Recording Requested By: When Recorded, Mail To: FAIRFIELD GROSSMONT TROLLEY LLC c/o Fairfield Residential LLC 5510 Morehouse Drive, Suite 200 San Diego, CA 92121 Attn: Patrick J. Gavin	

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE (this "Memorandum") is made and entered into as of the _____ day of _____, 2006 ("Effective Date"), *[date of Close of Escrow under the DDA to be inserted by Escrow Holder]*, between THE METROPOLITAN TRANSIT DEVELOPMENT BOARD, a California public agency also known as the Metropolitan Transit System (the "**Board**") and FAIRFIELD GROSSMONT TROLLEY LLC, a Delaware limited liability company ("**Lessee**").

1. **Lease of Premises**. Board hereby leases the Premises and grants the Access Easement to Lessee and Lessee does hereby take and lease the Premises from Board and accepts the grant of the Access Easement (which constitutes a part of the Premises) located in the City of La Mesa, County of San Diego, State of California, legally described on Exhibit "A" attached hereto and incorporated herein by reference (the "**Premises**") pursuant to and on the terms and provisions of that certain Ground Lease dated as of the Effective Date (the "**Lease**"). The provisions of the Lease are incorporated into this Memorandum by this reference as if set out in full herein.

2. **Initial Term**. The initial term of the lease shall commence on the Effective Date and shall expire at midnight on the earlier of: (a) June 30, 2066, and (b) fifty- five (55) years following the "Affordable Occupancy Date" (as hereinafter defined). The term "Affordable Occupancy Date" shall mean the date on which the certificate of occupancy or other document authorizing occupancy has been issued by the City of La Mesa (the "City") for the last "Affordable Unit" as such term is defined in the Affordable Housing Agreement {Grossmont Station Transit-Oriented Development Project} dated as of September 27, 2005 between Lessee and the City, as amended.

3. **Options to Extend Term.** Lessee has an option to extend the initial Term for an additional twenty (20) years (the "**First Extended Term**") and, if the First Extended Term is timely and properly exercised by Lessee, an option to further extend the Term for a term ending on the 99th anniversary of the Effective Date, all on the terms and conditions set forth in the Lease.

4. **Purpose of Memorandum**. This Memorandum is prepared and executed for the purpose of recordation and in no way modifies the terms and provisions of the Lease. In the event of any inconsistency between the terms of the Lease and the terms of this Memorandum, the terms of the Lease shall prevail.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Ground Lease as of the day and year first above written.

"**Board**"

Metropolitan Transit Development Board,
a California public agency also known as the
Metropolitan Transit System

By: _____
Paul Jablonski, Chief Executive Officer

APPROVED AS TO FORM:

By: _____
Tiffany L. Lorenzen
General Counsel

"**Lessee**"

Fairfield Grossmont Trolley LLC,
a Delaware limited liability company

By: Fairfield California Housing Fund LLC,
a Delaware limited liability company,
its Member

By: FF California Housing Fund LLC,
a Delaware limited liability
company, its Member/Manager

By: _____
Patrick J. Gavin, Vice President

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On _____, ____, before me, _____,
Notary Public in and for said State, personally appeared _____
_____
_____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On _____, ____, before me, _____,
Notary Public in and for said State, personally appeared _____
_____
_____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit K

Form of Estoppel

[To be attached]

Exhibit L

Fund Operating Agreement Definitions

[To be attached]

GROUND LEASE

To be provided.

COMPLETE APPRAISAL OF REAL PROPERTY

Grossmont Trolley Apartment Site
Southeast & Southwest corner of Fletcher Parkway and Grossmont Center Drive
La Mesa, San Diego County, California

In a Self-Contained Report

As of March 15, 2006

Prepared For:

Fairfield Residential
5510 Morehouse Drive, Suite 200
San Diego, CA 92121

Prepared By:

Cushman & Wakefield of California, Inc.
Valuation Advisory Services
1920 Main Street, Suite 600
Irvine, California 92614

C&W File ID#: 06-32001-9092

CUSHMAN & WAKEFIELD
Cushman & Wakefield of California, Inc.
1920 Main Street, Suite 600
Irvine, California 92614
(949) 474-4004 Tel
(949) 474-9792 Fax
www.cushwake.com

March 23, 2006

Mr. Jack Feehan
Grossmont Trolley Apartment Site
5510 Morehouse Drive, Suite 200
San Diego, CA 92121

Re: Complete Appraisal
In a Self Contained Report
Grossmont Trolley Apartment Site
SEC & SWC of Fletcher Parkway and Grossmont Center Drive
La Mesa, San Diego County, California

Dear Mr Feehan:

In fulfillment of our agreement as outlined in the Letter of Engagement, Cushman & Wakefield of California, Inc. is pleased to transmit our complete, self-contained appraisal report on the property referenced above.

The value opinion reported below is qualified by certain assumptions, limiting conditions, certifications, and definitions, which are set forth in the report. We particularly call your attention to the following extraordinary and hypothetical conditions:

Extraordinary Assumptions: This appraisal employs no extraordinary assumptions.

Hypothetical Conditions: This appraisal employs no hypothetical conditions

This report was prepared for Fairfield Residential LLC, herein referred to as "Client". In addition, the San Diego Metropolitan Transit Development Board (MTDB) is an intended user and may also rely upon this appraisal report. The appraisal report has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice The property was inspected by and the report was prepared by Neil A. Clark, MAI.

This appraisal employs the appropriate approaches to value in order to provide a reasonable estimate of land value for the fee simple and leased fee estate (subject to long-term ground lease). Based on our analysis and knowledge of the subject property type and relevant investor profiles, it is our opinion that all approaches would be considered meaningful in developing a credible value conclusion.

Based on our complete appraisal as defined by the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation, we have formed an opinion that the as is market value of the fee simple estate in the referenced property, subject to the attached assumptions, limiting conditions, certifications, and definitions, as of March 15, 2006, is:

THIRTEEN MILLION TWO HUNDRED THOUSAND DOLLARS
$13,200,000

Based on our complete appraisal as defined by the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation, we have formed an opinion that the market value of the leased fee estate in the referenced property, subject to the attached assumptions, limiting conditions, certifications, and definitions, as of March 15, 2006, is:

THIRTEEN MILLION FOUR HUNDRED THOUSAND DOLLARS
$13,400,000

It should be noted, the leased fee and fee simple value conclusions are similar; thus, the subject's ground lease terms are considered to be market supported and reasonable. The leased fee value reflects the discounted present value of the projected payments made during the ground lease term; the leased fee value represents a reasonable estimate of the total consideration paid which is considered not less than the fair market rent.

In our opinion, at our concluded estimate of value, it would have taken approximately six months to market the subject property and achieve a closed sale on the date of value. This is the subject's "exposure time", or retrospective marketing time. If placed on the market on the date of value, we estimate a marketing time of three to six months after the date of value to achieve a closed sale. This is the subject's "marketing time". However, the reader is cautioned that changes in market conditions could affect the subject's value during the prospective marketing period. The reasoning and data supporting our value opinions and marketing period estimate are included in the attached report.

This letter is invalid as an opinion of value if detached from the report, which contains the text, exhibits, and an *Addenda*.

Respectfully submitted,

CUSHMAN & WAKEFIELD OF CALIFORNIA, INC.
Valuation Advisory Services

Neil A. Clark

Neil A. Clark, MAI
Director
California Certified Appraiser No. AG002213

Property Name:	Grossmont Trolley Apartment Site
Location:	Southeast & Southwest corner of Fletcher Parkway and Grossmont Center Drive La Mesa, San Diego County, California
General Overview:	The property appraised consists of a planned 527 unit apartment development site on 7 7± acres of land. Project amenities include garage parking clubhouse, business & fitness center, pool, spa and controlled gate access.
Year Built:	Proposed (estimated completion 2008/09)
Assessor's Parcel Number:	490-270-23, 25, 39, 40
Interest Appraised:	Fee Simple and Leased Fee
Date of Value:	March 15, 2006
Date of Inspection:	March 15, 2006
Ownership:	San Diego Mass Transit District (leased fee); Fairfield Residential (leasehold interest subject to completion of planned improvements)
Land Area:	7.7 ± gross acres or 335,412 sf
2004/05 Property Taxes:	$420,102 (includes fixed assessments)
Zoning:	Multi-family Residential, City of San Diego
Highest and Best Use	
If Vacant:	Immediate multi-family residential development
As Proposed:	Immediate development for multi-family residential
Value Indicators:	
Fee Simple:	$13,200,000
Leased Fee:	$13,400,000
Fee Simple Value Conclusion:	**$13,200,000**
Leased Fee Value Conclusion:	**$13,400,000**
Estimated Exposure Period:	Three to six months
Assumptions and Limiting Conditions:	

1 All building areas are based upon review of site and floor plans provided by property manager. This appraisal assumes that these figures are accurate.

2. Please refer to the complete list of assumptions and limiting conditions included in this report.

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TROLLEY
SITE
Grossmont
Trolley Station
Grossmont
Hospital
Grossmont Center Dr
Theater
Property
Fletcher Parkway
Grossmont
Center
Mall
Jackson Dr
125
8

Identification of Property
The subject property represents a planned 527-unit luxury apartment complex. The property is situated at the corner of Fletcher Parkway and Grossmont Center Drive in the city of La Mesa, San Diego, California.

Property Ownership and Recent History
According to the public records, the subject property is currently vested in San Diego Mass Transit District. The property is planned to be leased to Fairfield Residential, LLC on a long-term ground lease for 55 years with additional options thereafter. To the best of our knowledge, the property is not currently listed for sale and there have been no other transfers of ownership during the past three years.

Purpose and Intended Use of the Appraisal
The purpose of this appraisal is to provide an estimate of the market value of the fee simple estate, which represents the *As-Is Value Estimate* in the referenced real property. In addition, we have estimated the leased fee estate (subject to a long-term ground lease). The intended use of the appraisal is to assist the client for internal asset review purposes.

This report was prepared for Fairfield Residential, LLC, herein referred to as "Client". As such, we agree that it may be relied upon by the client or MTDB (Metropolitan Transit Development Board). Otherwise, it may not be distributed to or relied upon by other persons or entities without written permission of Cushman & Wakefield of California, Inc.

Scope of the Appraisal
This is a complete appraisal which is being presented in a self-contained reporting format. A complete appraisal is one which meets all the requirements of the Uniform Standards of Professional Appraisal Practice for the development of an appraisal of real property. A self-contained reporting format fully describes the extent of the appraisal process including: the extent of describing the various regional and local influences upon the property's value; the extent of our physical inspection of the property; and the process of collecting, verifying, and analyzing the market data relied upon in this report. Summarized, the extent of the appraisal process included:

- Analysis of various state, regional, and local influences upon the subject property's market value.
- A review of the San Diego County and San Diego apartment markets.
- A complete inspection of the subject property and a review of proposed site and floor plans.
- Rely upon comparable apartment complex sales within the subject property's competitive submarket or among other similar areas for purposes of deriving an appropriate cap rate. developing a value estimate via the Sales Comparison Approach.
- Review of development costs, subject property proforma operating information including income and expense information and planned construction and occupancy schedule.
- Selection and analysis of comparable land sales in connection with estimating land value.
- Correlation of market derived income and expense information with the subject's proforma income and expenses for purposes of estimating net operating income.
- Development of value estimates via the Income Capitalization Approach, including the direct capitalization.
- Estimate a stabilized value via the Income Capitalization and Cost Approach in order to derive a residual land value

- Perform a discounted cash flow of the ground rent payments in order to estimate a leased fee value
- Reconciliation of a final value estimate based upon consideration of the quantity and quality of data within the approaches applied and upon the approach most likely to be applied by a typical investor.

Various sections of this report require additional discussion of the scope and extent of the processes applied here Where necessary and appropriate further explanation is provided throughout the report.

Date of Value and Property Inspection

The date of value of this report is March 15, 2006. The date the property was inspected by Neil A. Clark, MAI was on March 15, 2006 The term "date of value" is synonymous with the term "effective date of appraisal."

Property Rights Appraised
The property rights appraised are those of the fee simple and leased fee estate. Upon execution of the ground lease document, the subject property will be subject to a long-term ground lease.

Definitions of Value, Interest Appraised, and Other Pertinent Terms
The definition of market value taken from the Uniform Standards of Professional Appraisal Practice is as follows:

> The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit is this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
>
> 1. Buyer and seller are typically motivated;
> 2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
> 3. A reasonable time is allowed for exposure in the open market;
> 4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
> 5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Definitions of pertinent terms taken from the *Dictionary of Real Estate Appraisal*, Third Edition (1993), published by the American Institute of Real Estate Appraisers, are as follows:

> **Market Rent**
> The rental income that a property would most probably command in the open market; indicated by current rents paid and asked for comparable space as of the date of the appraisal.

Cash Equivalent
A price expressed in terms of cash, as distinguished from a price expressed totally or partly in terms of the face amounts of notes or other securities that cannot be sold at their face amounts

Exposure Time
Under Paragraph 3 of the Definition of Market Value, the value estimate presumes that "A reasonable time is allowed for exposure in the open market". Exposure time is defined as the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at the market value on the effective date of the appraisal. Exposure time is presumed to precede the effective date of the appraisal.

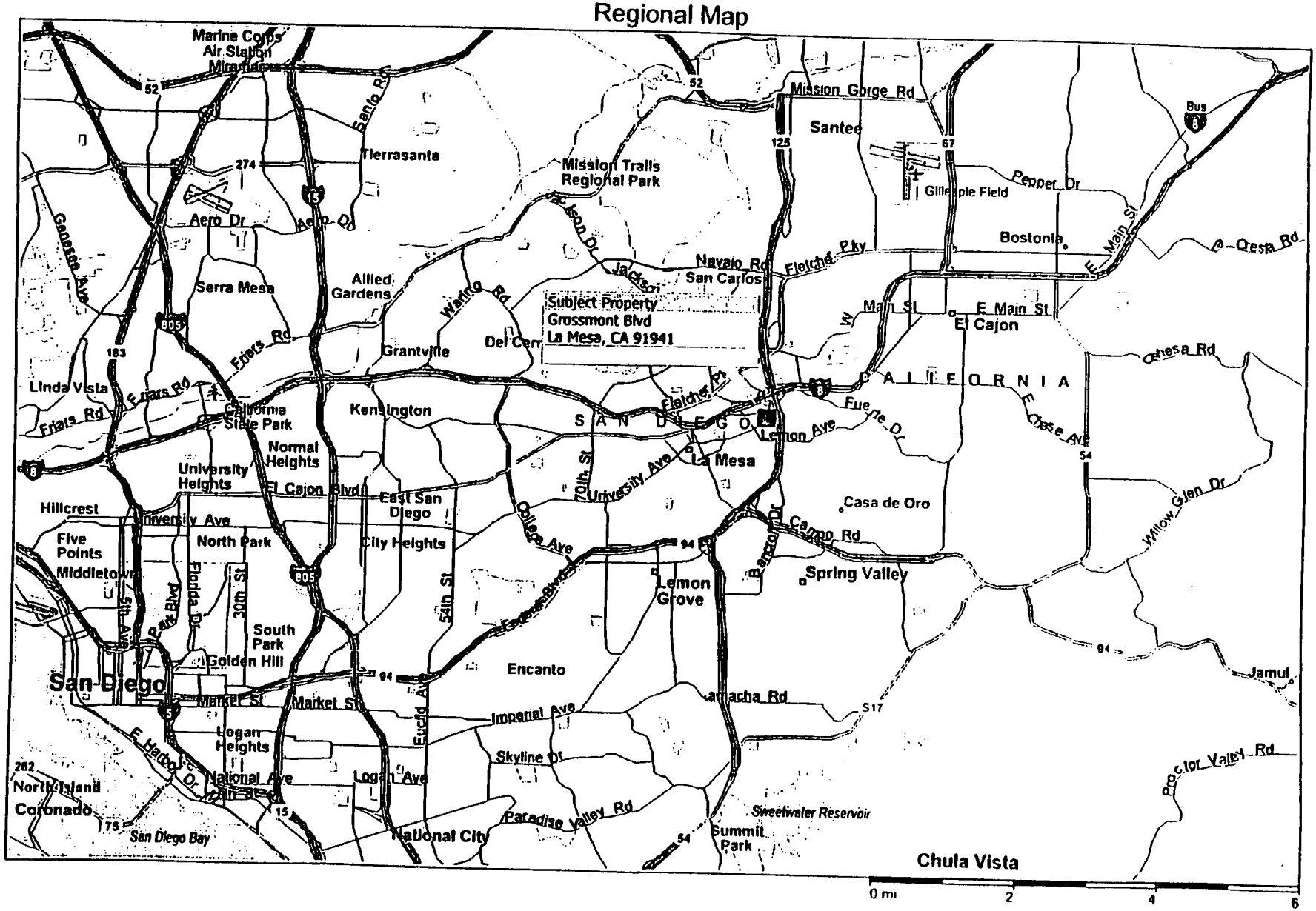
Marketing Time
Marketing time is, "an estimate of the time that might be required to sell a real property interest at the appraised value. It includes the time to market the property and achieve a closed sale. Marketing time is presumed to start on the effective date of the appraisal. (Marketing time is subsequent to the effective date of the appraisal and exposure time is presumed to precede the effective date of the appraisal.)

The estimate of marketing time uses some of the same data analyzed in the process of estimating reasonable exposure time. It is our opinion based on market conditions as of the date of value, and is not intended to be a prediction of a date of sale."

Legal Description
According to public records, the property is identified as:

The subject is referred to as assessor parcel numbers 490-270-23, 25, 39 & 40.

Regional Map



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The subject property is located in the City of La Mesa within San Diego County, California The following discussion of the locational influences on the subject's value is divided into state, county, and local analyses An apartment market analysis then follows this discussion.

California's Economy

California endured a deep recession between 1991 and 1993. Between 1994 and 1996, California's economy experienced a mild and uneven recovery. From 1997 to 2000 the state experienced a period of strong economic growth in almost every sector of its economy During the last few years, the national economy has slowed and major investment markets have incurred losses. These losses have been significant in the high technology and dot com industries; and less significant throughout the other segments of the economy.

During this time, California also faced an "energy crunch," with increasing energy prices and occasional blackouts As a result, economic growth slowed during 2001 Prior to the September 11th terrorist attacks, most economists expected that California would show a small rate of growth for the year. Most economic forecasts project modest economic growth, although some economists fear a national and global recession may be coming.

Recent employment trends have followed a pattern similar to California's general economic trends. Total employment has grown significantly since the 1991-1993 recession. As a result, the state's unemployment rate had dropped steadily from 1993 to 2000. The state's employment growth is threatened by a slower national economy, dot com mergers and bankruptcies, and a lack of energy supplies; although prior to September 11 most economists were forecasting only a mild, short term impact.

California's population grew by about six million during the 1980s and by nearly four million during the 1990s. Additionally, the state's gross product is larger than all but five nations. The state's gross product is larger than any other state and represents 13 percent of the U.S gross national product. Based on these trends, California's economy is expected to have a mildly positively influence on the subject's real estate demand during the rest of 2006, and beyond. However, it remains to be seen if negative national trends will override the state's positive influences.

California endured a deep recession between 1991 and 1993. Between 1994 and 1996, California's economy experienced a mild and uneven recovery. From 1997 to 2000 the state experienced a period of strong economic growth in almost every sector of its economy. During the last few years, the national economy has slowed and major investment markets have incurred losses. These losses have been significant in the high technology and dot com industries; and less significant throughout the other segments of the economy.

San Diego County

San Diego County is located in the southwesterly portion of the State of California, and is bounded on the north by the Counties of Orange and Riverside, on the east by Imperial County, on the south by Mexico, and on the west by the Pacific Ocean. San Diego County is comprised of 18 incorporated cities and 33 unincorporated communities, and covers an area of 4,255 square miles. Its topography is a broad coastal plan (where urbanization has occurred), with hills in the central portion and desert area to the east. The urbanized areas of the county enjoy a Mediterranean climate which is one of the finest in the country.

San Diego County's economy has experienced some slowing during the past 12 to 18 months, but is slowly rebounding and performing slightly better than the state. San Diego County

advantages versus the state include disproportionately high population growth, numerous tourist destinations, and innovative transportation systems. However, San Diego was unusually hard hit by financial institution failures, construction layoffs, and defense spending cuts during the 1990-93 recession. San Diego also has a reputation for comparatively high housing costs.

Population Characteristics: Already Large with Strong Projected Growth
San Diego County ranks second in population among California's 58 counties. The January 2000 population estimate for the county was 2,911,500 (per the California Department of Finance) The recent and projected population trends in the five largest counties in Southern California are listed below. The county's large and growing population base is a positive factor for future real estate demand.

SOUTHERN CALIFORNIA'S LARGEST COUNTIES' POPULATIONS

Rank	County	Population 1990-2007 1990	2002	2007	Increase	Percent Increase
1	Los Angeles	8,863,164	9,529,721	10,050,616	520,895	5.5%
2	San Diego	2,498,016	2,851,434	3,088,562	237,128	8.3%
3	Orange	2,410,556	2,783,874	2,956,625	172,751	6.2%
4	San Bernardino	1,418,380	1,671,618	1,795,564	123,946	7.4%
5	Riverside	1,170,413	1,600,822	1,748,602	147,780	9.2%
6	Ventura	669,016	746,434	793,674	47,240	6.3%

Source: Claritas Inc.

The County Transportation Network is Improving and Expanding
Transportation facilities in the county include a growing freeway network, an international airport, public bus services, Amtrak passenger rail service, several freight rail lines, and deep water ports. The county is contemplating relocating its main commercial airport and expanding it to provide international service. The county has immediate access to all major modes of transportation, which is a very positive factor for the county's real estate.

Like most of Southern California, San Diego County suffers from rush hour freeway congestion. However, compared to the state's other urbanized areas, rush hour commute times are low This is due to the county's well planned and expanding freeway network, and other unique transportation solutions.

The county's unique transportation facilities include "reversible flow" lanes within Interstate 15, an expansive and growing trolley system that is centered downtown, and proposed light rail commuter service to Los Angeles. The county's transportation network is considered to be a very positive factor for real estate demand.

County Employment
As of December 2005, the county's total civilian employment was 1,447,800. San Diego County has a lower unemployment rate than the state or nation. As of December 2005, the county unemployment rate was 3.6 percent versus 4.8 percent for California. The county's recent unemployment rates have remained low since the end of the recession. Overall, the county's employment picture is a positive factor for the county's real estate demand

County Commerce
In descending order of size, the county's economic base is anchored by manufacturing, defense spending, and tourism. Manufacturing industries are strong and benefiting from international trade The county is steadily diversifying away from defense-related industries, which were hard hit in the 1990-93 recession. San Diego County's tourism figures continue to provide a positive impact on the economy. Military spending is also a significant part of San Diego's economy. No significant bases are to be closed or realigned in San Diego County, which will help support

the present level of military spending Overall, the county's diversifying economic base is considered a positive factor for future real estate demand

County Education, Recreation and Culture
San Diego County is home to the San Diego campus of the University of California, San Diego State University, several junior colleges, and several private and specialized colleges. The county has over 175 public beaches, recreation centers and parks, as well as several public golf courses Outdoor activities are an integral part of the San Diego lifestyle.

Amusement centers such as the San Diego Zoo, San Diego Wild Animal Park and Sea World are also located in San Diego County Performing arts are available in downtown San Diego, civic centers, and private theaters throughout the county. The county is also home to museums, San Diego Jack Murphy Stadium, a sports arena, etc. The county's abundance of educational, recreational and cultural opportunities is a positive factor for real estate demand.

A Managed Growth County Political Environment
San Diego County residents have historically been viewed as pro-business, pro-growth and anti-tax. However, the county's rapid growth during the 1980s affected the county's political outlook. In the late 1980s, several slow growth initiatives were placed on county ballots. All were defeated, but a significant public sentiment remains for growth management. In general, residents have consistently resisted passing initiatives that could restrict growth to the point that it would be harmful to the county's economy. However, citizens often elect "slow growth" and "managed growth" county supervisors and city council members.

San Diego County imports the vast majority of its water from the Metropolitan Water District (MWD), which supplies much of Southern California. During the 1990-91 drought, the MWD considered delivery cutbacks. San Diego's County Water Authority urged conservation, but was not forced to restrict supplies. Future droughts could affect the county's economy. San Diego County has few natural sources of fresh water. However, the county is actively seeking alternative sources of water supplies. Overall, San Diego is less resistant to droughts than most urbanized areas of California.

Conclusion
Similar to California as a whole, San Diego County saw unprecedented drops in real estate values and market activity from 1990 to 1994. The degree of value decline varied by location and property type, but all real estate was affected. 1997 through early 2001 were positive years for the county's economy with continued positive overall economic conditions predicted for 2006. However, real estate demand will vary greatly by product type. Please refer to our market analysis section for a supply and demand analysis for the subject.

City of San Diego
The purpose of this section of the report is to *analyze those relevant influences which either favorably or adversely affect the subject property's market value*. Those aspects of the community's population, government, employment, and other social or economic influences which are relevant to the subject are referenced here.

San Diego County includes fewer than 20 incorporated cities. By virtue of its size and diversity, the city of San Diego dominates the county's commerce and culture. The city has about half of the county's population. The city is also geographically large, consisting of over 400 square miles.

San Diego has an estimated population of 1.2 million The city is ranked as the state's second most populated city. It is also the nation's sixth most populated city. The city's growth corridors are located to the north and east. The Pacific Ocean is to the west, and other incorporated cities are to the south. The city has ample land for future expansion.

The city is accessed by the county's three regional freeways: Interstate 5, Interstate 8, and Interstate 15. As a result, the city has good regional access characteristics. Local access is provided by numerous primary/secondary roads, the trolleys, bus services, local roads and freeways, etc which provide convenient access within the city. The future light rail system will serve the city's regional public transportation need along with Amtrak, both of which service downtown. Other transportation modes include air transportation via the San Diego International Airport, and freight transportation via the Southern Pacific Railroad. Overall, the city's transportation network is a positive factor for the subject real estate.

San Diego is a city of mixed land uses. Most of the city consists of public vacant uses The privately developed areas are mostly residential uses (20.7 percent of the city's area), with 10.1 percent devoted to agricultural uses. Industrial and commercial developments occupy 3.6 and 3.0 percent of the city, respectively. The city's concentrated industrial areas are north of downtown, in the submarkets Miramar and Kearny Mesa.

San Diego has a very diverse economic base. The largest segments are retail and wholesale trades, followed by professional services and manufacturing The San Diego Chamber of Commerce predicts that telecommunications, biotechnology, software development and electronics will be San Diego's leading industries over the next five years. Technology based firms are attracted to San Diego for its highly educated work force (25% of population hold undergraduate degrees), its advanced telecommunication infrastructure (75,000 miles of underground fiber optic cable), and research capabilities (five universities including the highly esteemed University of California San Diego (UCSD)).

In recent years, telecommunications has been San Diego's fastest growing industry. San Diego is the nation's second leading center of communications research and development. Over seventy telecommunication firms currently exist. A few of the firms include: Qualcomm, General Instruments and Datron Systems. Most of these firms are situated in Sorrento Valley, which is better known locally as the "Telecom Valley". The Sorrento Valley/Sorrento Mesa subareas are San Diego's premiere R&D locations which have the highest R&D property values.

San Diego is strategically located for international commerce. San Diego's proximity to Mexico and the Pacific Rim provides a distinct advantage to the region's economic activity. World Trade magazine indicated that the greater San Diego area is one of the top ten regions for international business. To promote international business a World Trade Center was recently opened in downtown San Diego to assist importers and exporters.

Additionally, the recent passages of NAFTA and GATT have propelled international trade in San Diego. Most notably, trade volume with Mexico has increased two-fold and is expected to continue increasing; this, in turn, increases economic and employment growth. International companies are realizing the benefits of nearby low cost labor available in Tijuana (Mexico's fourth largest city), and many have split operations in Mexico and the U.S. (San Diego) through the maquiladora program The result has been a strong demand for twin industrial facilities in

the Otay Mesa (San Diego, CA) area and Tijuana (Mexico). This has positively influenced the industrial real estate market in these areas.

Local and international businesses in San Diego benefit from a large pool of well educated workers. Over 25 percent of the population holds an undergraduate degree. This highly educated workforce earns a median income of about $50,000, which is significantly more than the national average San Diego business is well positioned for growth into the next millennium.

San Diego is also considered a tourist and business destination point The city has a new convention center, an international airport, the world famous San Diego Zoo, Sea World, a downtown commercial district, an old town area known as the gaslight district which offers boutique shopping and fine dining restaurants, numerous spas and resorts (e g. La Costa, Coronado, etc.), world class golf courses, miles of public beaches, etc.

Similar to the County as a whole, the City of San Diego has a managed growth political position. In November 1992, the city elected a "managed growth" mayor over a "slow growth" candidate in a close race. Several slow growth citizens' initiatives have been defeated in the last few years. The city council has enacted temporary growth caps in the past, although there are no caps in effect at present. In general, the city's council and planners review projects on an individual basis. Acceptably planned projects do receive permits, and the city will grant large projects "development agreements", to protect development rights over time.

City services include a typical public school system, police and fire services, etc. The city has several hospitals, five regional shopping malls and numerous shopping centers, and several first rate universities including the University of California San Diego. Overall, San Diego has a reputation as a large-sized, diverse, middle class city in San Diego County.

City of La Mesa

The purpose of this section of the report is to *analyze those relevant influences which either favorably or adversely affect the subject property's market value* Those aspects of the community's population, government, employment, and other social or economic influences which are relevant to the subject are referenced here

La Mesa has an estimated population of approximately 56,000 as of 2004. La Mesa is the ninth largest city in terms of population within San Diego County. The average rate of growth since 1991 has been approximately 1% per year; the population growth is somewhat limited due to the lack of land available for residential development. The City of San Diego is located to the north and west, El Cajon is situated to the east and Lemon Grove and other unincorporated communities are located to the south.

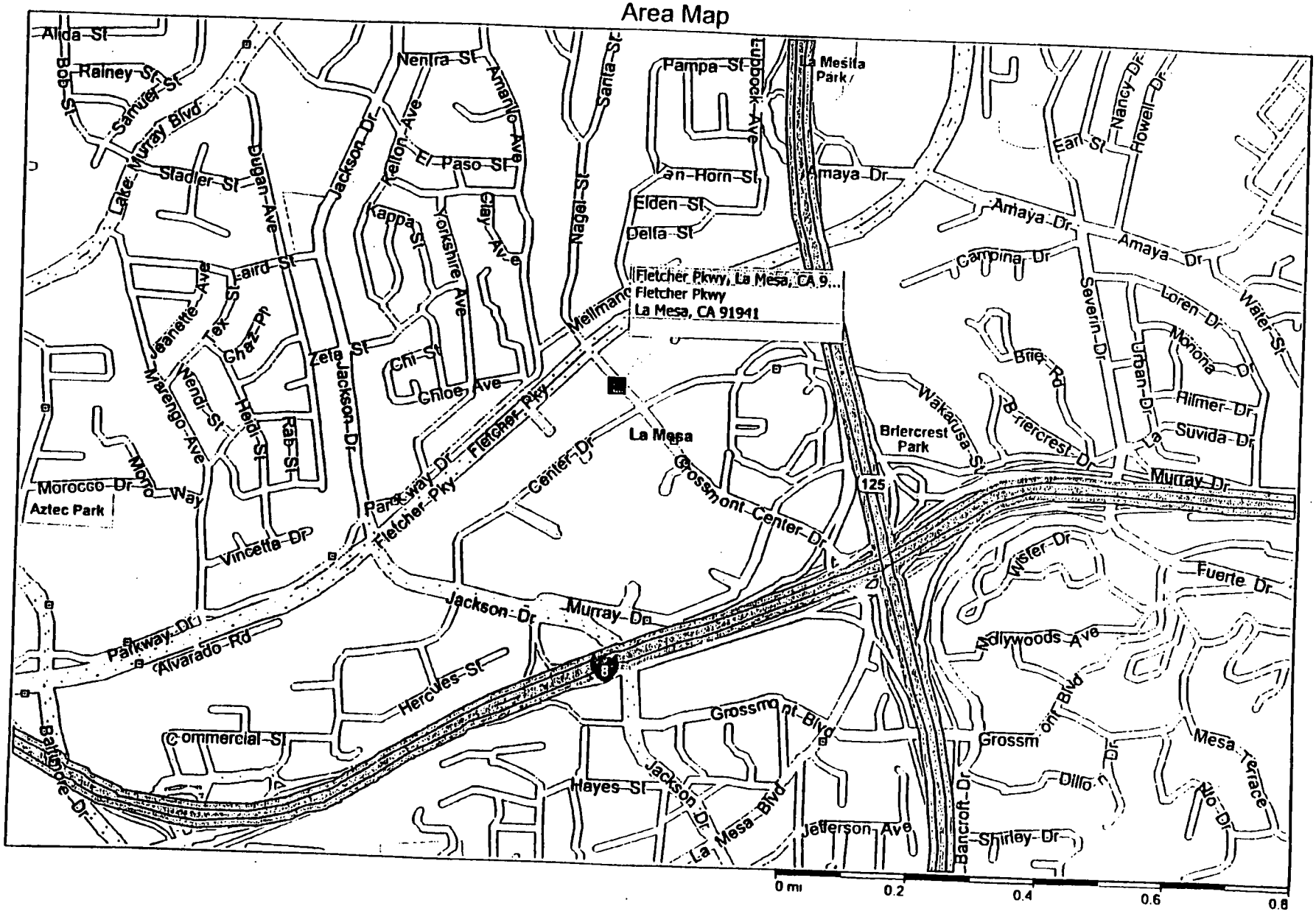
The city is accessed by Interstate 8 which represents one the county's three regional freeways: Interstate 5, Interstate 8, and Interstate 15. In addition, La Mesa is accessed by Highway 125. As a result, the city has good regional access characteristics. Local access is provided by numerous primary/secondary roads, the trolleys, bus services, local roads and freeways, etc. which provide convenient access within the city The Trolley light rail system also serves the city's regional public transportation and provides convenient access to San Diego State University, Mission Valley and Downtown San Diego. Other transportation modes within reasonable proximity include air transportation via the San Diego International Airport, and freight transportation via the Southern Pacific Railroad. Overall, the city's transportation network is a positive factor for the subject real estate.

City services include a typical public school system, police and fire services, etc. The city has nearby hospitals, regional shopping malls and numerous shopping centers In addition, several first rate universities are located within convenient proximity including the San Diego State University and Grossmont College Overall, La Mesa has a reputation as a medium-sized, diverse, middle class city in San Diego County.

Conclusion

The City of La Mesa is located in the eastern/central portion of San Diego County with access to major highways in the area; this is an important positive attribute which should continue to make this a desirable area over the foreseeable future In addition, the county has a significant residential population, with household and per capita income levels that are comparable or superior to the corresponding figures for the State of California Over the past several years, the employment base in San Diego County has changed as the aerospace/defense industry has downsized while the sectors of telecommunications, biotechnology, health care, and international trade have experienced significant new growth.

Area Map



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Neighborhood Influences

The subject property is located in the inland area of San Diego, in the City of La Mesa. The property is situated at the intersection of Fletcher Parkway and Grossmont Center Dirve, and can be found on both sides of the intersection (the southeast and southwest corners). The immediate neighborhood boundaries are generally defined by Dallas Street to the north, Interstate 8 to the south, the 125 Freeway to the east and Jackson Drive to the west.

This immediate area is comprised of mixed uses, primarily residential (single family, condominiums and apartments) with commercial and retail uses located along major arterial streets Immediately south of the subject site is Village Trolley Station and to the east is an office building. To the west is a retail property (theater) and to the north is generally older (well-maintained) multi and single family homes.

The subject area has convenient proximity to employment, shopping, services and recreational activities. Due to the close proximity to transportation linkages, the City of La Mesa is considered a desirable residential area Access to the subject area is considered good; the subject site is afforded good arterial street access and convenient proximity to freeways.

Relevant Factors

The key influencing factors relative to the subject property due to its locational attributes are as follows:

- The population within La Mesa and the subject's immediate area (five mile radius) is 55,079 people. Over the next five year period (through year 2009), population is projected to grow by 0.24 percent. This projected increase in population will favorably impact the subject property.

- The subject's location is considered to be good and improving within the area. It is situated in a central portion of San Diego County known as La Mesa. The subject site benefits from convenient access to employment centers and freeway access.

- The 2004 average household income within a five mile radius was $60,343. The average median household income level in the subject area (5 mile radius) was $46,968. The 2004 average household income within a five mile radius is projected to increase by 14.42% by 2009.

- In summary, the subject's immediate area represents a community with a mixture of residential and commercial uses with convenient proximity to employment, shopping, services and recreational amenities. Given the expected population, employment and income growth in the community, city and county, the subject's location is expected to be a good apartment location over the short and long term. Further, the continuing development of the area and demand for quality residential housing is anticipated to have a positive impact on the subject's immediate area over the next several years. Consequently, demand for a quality multi-family project in the subject's area is expected to remain strong.

Conclusion

The subject is situated in the City of La Mesa in San Diego County. The area's centralized location, together with a diversified employment base, has a significant role in the continued

commercial and residential development of the area. Convenient access to major highways in the area is an important positive attribute which should continue to make this a desirable area over the foreseeable future. The community is conveniently located to employment, shopping, services, and recreational facilities. Given the expected population, employment and income growth in the La Mesa and San Diego area, the subject's location is expected to be a good site for multi-family residential. Overall, demand for multi-family residential (apartments) in the area is expected to remain strong. The long-term trend of this neighborhood is considered to be positive.

Multi-Family Investor Demand

The subject property represents a planned 527 unit luxury apartment complex that is good in quality, design and appeal. Demand for such projects in San Diego County varies, depending upon location For those projects located near the coastal or centralized suburban areas there is significant investor demand. This demand is being generated by REITs, pension funds, insurance companies, and other institutional buyers. Depending upon demographics and construction date, large scale complexes (100+ units) in this category are selling at overall capitalization rates of from 5.0 to 6.0 percent and at discount rates of from to percent In addition to concern with the immediate cash flow potential of a property, typical investors for the subject property type are making long term investment forecasts in terms of making cash flow projections over a 5 or 10 year holding period. Institutional investors are primarily concerned with asset quality and long term income growth potential. Considering the subject is an existing good quality project, the subject property would more than likely sell to an institutional investor The subject's desirable apartment location is anticipated to generate strong resident and investor demand.

San Diego County Apartment Market

San Diego County's apartment market is remaining strong in several key areas including occupancy levels, rental rates, and demand for vacant land. This is particularly the case for larger complexes with coastal or downtown proximity and for projects in newly developed suburban areas. The subject property is located in the City of La Mesa which is considered a desirable area due to its location, pleasant climate, urban residential character, and close proximity to major employment centers and recreational areas. In order to analyze the long term trend within San Diego County's apartment market we reviewed information provided by San Diego County Apartment Association (SDCAA) and Real Facts (a market research company which provides quarterly apartment market surveys) The following information is based upon the SDCAA - Vacancy Survey.

San Diego County
Apartment Market Vacancy Levels: 1991 to 2005

Year	Vacancy
1991	7.36%
1992	4.88%
1993	5.50%
1994	5.87%
1995	4.96%
1996	4.0%
1997	3.8%
1998	3.4%
1999	2.0%
2000	1.6%
2001	2.0%
2002	2.8%
2003	3.1%
2004	5.4%
2005	5.2%

The data from the survey provides a clear indication of the strong market conditions and occupancy trends countywide. Our primary research indicates that, as noted previously, occupancy levels among key submarkets are improving substantially. In fact, some properties

in desirable areas like the La Jolla/University City, Mission Valley and the downtown submarkets have experienced strong tenant demand for available units. Most submarkets have also experienced strong demand and rising rents (albeit more moderate rent growth in the past 12 months). According to information obtained from Real Facts, a market research firm, the overall occupancy rate for 100+ unit apartment projects in the City of San Diego as of the 4th Quarter of 2005 was 94.8 percent based upon nearly 95,635 units surveyed The decrease in occupancy rates is primarily due to new apartment construction in the University City area, Mission Valley and Downtown San Diego

La Mesa Submarket

In order to assess current demand in the San Diego submarket we consulted the Real Facts December 2005 survey (which was referenced previously) and the San Diego County Apartment Association (SDCAA) The overall vacancy rates for the City of La Mesa are currently reported at approximately 3.3% as of the 4th Quarter of 2005. The rental rates have been steadily increased in the San Diego area during the past 12 to 24 months. Based upon our survey of properties, the average rental rates have increased 2 to 4 percent per year during the past two years. The overall occupancy rate and rental rate trend is a good indication of the overall demand within the subject market area.

Several important topics which relate directly to the subject. First, many of the rental projects in the area were constructed during the late 1970's and 1980's and represent well maintained projects, but are inferior in appeal and overall quality/construction Second, with limited new apartment development in the general market area, the occupancy rates for most of the apartment projects remain high with rental rates increasing modestly in the past year. Based on the current occupancy rates, it is evident that the subject's immediate submarket is in strong demand. As will be discussed later in the income capitalization approach, the subject project is anticipated to compete effectively with the above projects due to the subject's age, location, quality and project/unit amenities.

There is one new recently completed apartment project that is located a few miles away (City of San Diego) and is known as Canyon View Apartments (183 units built in 2002). Other rental properties in the market area include Mission Trails (208 unit built in 1987), Fletcher Hills (138 units built in 1973), Heatherwood Apartments (155 units built in 1970's) and Villages of La Mesa (384 units built in 1988/89). According to the City of La Mesa, the subject property is the only large apartment project that is currently planned (527 units) to be developed along the Trolley line. We are not aware of any other planned or proposed apartment projects (100+ units) that will directly or indirectly compete with the subject property. Given the limited remaining supply of multi-family land within the La Mesa area, demand exceeds the current supply. Overall, occupancy rates remain relatively high and demand for apartments within La Mesa is strong with increasing rent levels. Overall demand is considered to be strong in the near term.

Conclusion

As a whole San Diego County's apartment market has remained reasonably strong, particularly in desirable coastal or well located infill locations. Within these markets there is strong investment demand. As the county's economy slowly improves, most buyers are anticipating continued high occupancy rates and modestly increasing rents. The subject property should perform consistent with the market and generate strong tenant and investor demand

Site Description

Location:	The subject site is located at the southeast and southwest corner Fletcher Parkway, and Grossmont Center Drive (on both sides of Grossmont Center Drive). The site is located in the City of La Mesa, in San Diego, California
Shape:	Based upon a review of the site plan (included in the Addenda), the site is irregular in shape and considered to have good functional utility for multi-family uses
Area:	Based upon a review of public records, the entire subject site has a gross area of 7.7 acres.
Frontage:	Street frontage is good for a multi-family uses; the subject fronts Fletcher Parkway and is intersected by Grossmont Center Drive.
Topography/Terrain:	The site represents a mostly level site at (or near) street grade. The site is engineered with adequate sheet flow drainage.
Street Improvements:	The subject's street frontage and access benefit the property from a leasing standpoint by providing convenient access to Fletcher Parkway (east/west arterial road) that provides access to Grossmont Center Drive, and parallels the San Diego Interstate 8 Freeway. Street improvements include curb, gutter, and streetlights. Utilities are below ground. Fletcher Parkway provides three traffic lanes in each direction. Grossmont Center Drive provides two traffic lanes in each direction. The subject property is considered to have good ingress/egress.
Soil Conditions:	We did not receive or review a geotechnical or soil report. We assume that the soil's load-bearing capacity is sufficient to support the recently completed structures. We did not observe any evidence to the contrary during our physical inspection of the property. The site's drainage appears to be adequate.
Utilities and Services:	The site is adequately served with all public utilities available to the site
Land Use Restrictions:	We have not reviewed a title report for the subject property. Based upon our physical inspection, there does not appear to be any easements that would adversely affect the subject property; however, the determination of adverse easements or encroachments is a legal matter which is beyond the scope of this appraisal. We recommend that the appropriate

experts be consulted, as part of a business decision regarding the subject.

Flood Hazard:

According to the FEMA map, the subject is within flood zone X, Community Map No. 060292 Panel 1642F, dated July 2, 2002 Zone X is an area outside of the 100 and 500 year floodplains; flood insurance is available, but not required within this flood hazard zone.

Seismic Hazard:

The subject site is not located in a Special Study Zone as established by the Alquist-Priolo Geological Hazards Act. However, the entire Southern California region is prone to earthquakes; all properties are potentially subject to damage from an earthquake.

Hazardous Substances:

We observed no evidence of toxic or hazardous substances during our inspection of the site. We are not trained to perform technical environmental inspections and recommend the services of a qualified professional for this purpose.

Improvement Description

The subject improvements consist of a planned 527-unit luxury apartment complex. In summary, the subject consists of two and three-story buildings with garage parking. The 527-unit apartment complex includes one bedroom and two bedroom floor plans Onsite amenities include pool, spa, clubhouse, fitness center, business center, pool, spa and nicely landscaped grounds. Parking consists of 787 garage parking spaces In addition, the developer will build and provide an additional 595 garage parking spaces for public use with regard to the adjacent trolley station. The cost of the parking structure is the responsibility of the developer, but the maintenance of the parking structure is the responsibility of MTDB (mass transit district).

General Description

Year Built:	Proposed (estimated completion 2008/2009)
Unit Density:	Proposed for 68.44 units per acre
Unit Inventory:	The following unit inventory is based upon information provided by the property manager. A detail unit mix is included in the direct capitalization schedule (presented later in the report for analysis purposes and included in the Addenda).
Design Features and Functional Utility:	The subject's overall design and functional appeal is considered very good for this type of apartment complex. The project and unit features are comparable or superior to most competing projects within the area. The unit sizes are similar to most competing projects in the area. The overall project/unit design combined with a variety of unit types is well received within the market place.
Physical Condition:	The subject site represents an existing (surface) parking lot for the San Diego Trolley. The subject site is planned to be built with a 527 unit apartment project that will be in excellent condition upon completion of construction. Parking structures will be built for resident use and public use. Relative to most competing projects in the area, the subject project will be comparable or superior in condition, quality and appeal.

In the State of California, assessed property values may increase only 2 percent per year, with few exceptions. Events such as a transfer of ownership, or significant new construction will trigger a reassessment of the property. The county assessor usually accepts the sale price, or the cost of improvements, in calculating assessed value. Assessed values are usually poor indicators of actual market value, and are useful only to estimate effective tax rates.

The 2005/06 fiscal year is the most recent year for which the county has published assessed valuation and property tax information. According to a public records, the assessed value and taxes for the subject property are shown below.

Assessor Parcel Numbers	490-270-23, 25, 39 & 40
Assessed Land Value	$000
Assessed Improvements Value	$000
Total Assessed Value	$000
Tax Rate Area	02002
Published Tax Rate	1 03793%
Actual Taxes/Assessments	$000

It should be noted, the subject property is currently owned by a public (government) entity and consequently, does not pay real estate taxes. However, upon completion of the planned apartment project, real estate taxes will be assessed to the leasehold property owner.

Due to California's method of property taxation, tax rates generally vary between one percent and two percent of assessed value; but annual tax bills vary widely from property to property. The difference between the published tax rate and the effective tax rate is due to special assessments applied to the subject site. We have utilized the above tax rate in estimating the real estate taxes and our current stabilized value conclusion based upon a direct capitalization approach (presumes the improvements are complete with stabilized occupancy and income). The direct capitalization schedule is presented later in the report.

The definition of market value used in this report assumes a sale of the subject property. If the subject property was sold, it would be reassessed according to the county assessor's opinion of its market value, which is typically the sale price.

According to the City of La Mesa, the subject property is located within the Grossmont Specific Plan of CGD zone (General Commercial/Grossmont Specific Plan/Urban Design Overlay) The current zoning allow commercial and multi-residential developments with an orientation toward transit uses. The subject is considered to be a legally conforming use within the specific plan The subject represents a planned multi-family residential development

The planned improvements are considered to be conforming to all the development standards designated by the City of La Mesa The subject is considered to be in conformance with the current zoning ordinances and specific development requirements and variances; however, actual conformance is a legal matter. We have not received a legal opinion regarding the subject's conformance with the City's zoning ordinance.

Definition
According to the *Dictionary of Real Estate Appraisal*, Third Edition (1993), a publication of the Appraisal Institute, highest and best use is defined as:

> The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability

Physically Possible
The first test is what is physically possible. The site's size, shape, and soils condition are conducive to a wide variety of both residential and commercial land uses

Legally Permissible
The second test concerns permitted uses. Based upon the current zoning, development of the site is zoned for multi-family residential construction

Financial Feasibility and Maximal Productivity
The third and fourth tests are, respectively, what is feasible and what will produce the highest net return. The determination of financial feasibility is based on whether a land use would create a positive return to the land. The maximum productive use is that use which provides the highest return to the site, with lowest possible risk

As if Vacant
The subject is within a planned residential district and allows multi-family residential use. Thus, the long term development of the site is for multi-family use. Presently, the market conditions have improved over the past year and are considered strong Apartment occupancy rates are high and rent levels are increasing. Rent levels are considered to have increased sufficiently to support new construction. This is evidenced by the new apartment construction in the general market area. As a result of these factors new apartment construction is considered financially feasible at this time. Based upon other competing apartment projects within the immediate market area, the subject would likely represent a good quality construction with excellent project/unit amenities. The project would likely be built to a maximum density (typically ranging from 30 to 50 units per acre).

As Proposed
The subject property represents a proposed 527-unit apartment project (one and two bedroom units). The project is anticipated to be in excellent condition upon completion of construction. in good condition. The subject's unit mix and overall design is considered a positive factor and will benefit in marketing the units to prospective residents. The subject's specific location, age, condition, project/unit features and convenient location to the trolley station is a positive factor which is superior to many competing multi-family residential projects in the area. Given the current market conditions, the proposed improvements clearly contribute to site value and therefore represent the site's highest and best use. No changes or modifications are required; any additional value due to changes is not anticipated to exceed the corresponding costs.

Conclusion

The highest and best use of the site, as if vacant, is for immediate multi-family residential development The highest and best use of the property, as proposed, is for immediate development as a multi-family residential development.

Introduction
There are three approaches to value commonly applied in the appraisal of real estate These are the Cost, Sales Comparison and Income Capitalization Approaches In appraisal practice an approach is eliminated from consideration if it does not apply to the property being appraised. For example, the income approach is typically not applied in the appraisal of single family homes Each approach to value is described briefly below

Cost Approach
The Cost Approach is based upon the principle of substitution whereby an informed purchaser would pay no more for the subject than the cost to produce a substitute property with equivalent utility. This approach is particularly applicable when the property being appraised involves relatively new improvements which represent the highest and best use of the land; or when relatively unique or specialized improvements are located on the site, for which there exist few sales or leases of comparable properties

The first step in the Cost Approach is to estimate the subject's land value (at its highest and best use as if vacant) This is usually done through an analysis of comparable land sales The second step is to estimate the cost of all improvements. Improvement costs are then depreciated to reflect value loss from physical, functional, and external causes Land value and depreciated improvement costs are then added to indicate a total value.

Sales Comparison Approach
The Sales Comparison Approach relies upon review of comparable sales to derive an estimate of value for the property being appraised. Valuation is typically accomplished using a unit of comparison such as price per square foot, per unit, or gross rent multiplier. When possible, adjustments are applied to the units of comparison from an analysis of the comparable sales, and the adjusted unit of comparison is then used to yield a total value.

Income Capitalization Approach
This approach first determines the income producing capacity of a property by estimating market rent and then making deductions for vacancy and collection loss, operating expenses, and if appropriate capital reserves. Net operating income may be capitalized at an overall rate of return or by application of a discount rate or internal rate of return Direct capitalization relies upon an overall capitalization rate which is divided into the first year's anticipated net operating income to derive a value estimate. Discounted cash flow analysis applies a discount rate to periodic net operating income and the residual value to determine property value.

Reconciliation and Final Value Estimate
The valuation process is concluded by analyzing each approach to value used in the appraisal When more than one approach is used, each approach is judged based on its applicability, reliability, and the quantity and quality of its data A final value estimate is chosen that either corresponds to one of the approaches to value, or is a correlation of the approaches used in the appraisal

Applicable Approaches in this Appraisal
The subject represents a planned apartment project. We have utilized the appropriate approaches to value in order to estimate a reasonable fee simple land value and leased fee land value (subject to the pending ground lease document) Therefore, all three approaches to value have been utilized in this appraisal

Qualitative Comparison Methodology
Comparable land and improved sale comparisons in this report are primarily made on a ranking scale. Comparables are judged to be very superior, superior, slightly superior, very slightly superior, equivalent, very slightly inferior, slightly inferior, inferior or very inferior in various factors of comparison, versus the subject The comparables are then judged for overall comparability on the same scale, based on the indications from the various factors of comparison This ranking system well reflects the actions of market participants, who also analyze sales on this type of basis The exceptions to this ranking system occur when numerical adjustments are indicated directly from the sales; such as discounts for costs to achieve stabilized occupancy, premiums paid for below market financing, etc

Methodology
This approach is based on an analysis of the property's land value and physical replacement cost The principle of substitution (the underlying rationale of this approach) holds that no prudent person will pay more for a property than the price of a site and the cost of constructing, without undue delay, an equally desirable and useful property.

In the Cost Approach, we employed the following steps to reach an estimate of value:

1. Estimate land value as if vacant;
2. Estimate the improvements' replacement cost new, including indirect costs;
3. Estimate the necessary developer's overhead and profit for the type of property being appraised, including any profit on the land;
4. Add land value, replacement cost new, and profit to calculate the total cost new of the property;
5 Estimate accrued depreciation of the improvements, if any, from physical, functional, and/or external causes; and
6 Deduct accrued depreciation from the total cost new of the improvements to estimate the subject's value by the Cost Approach.

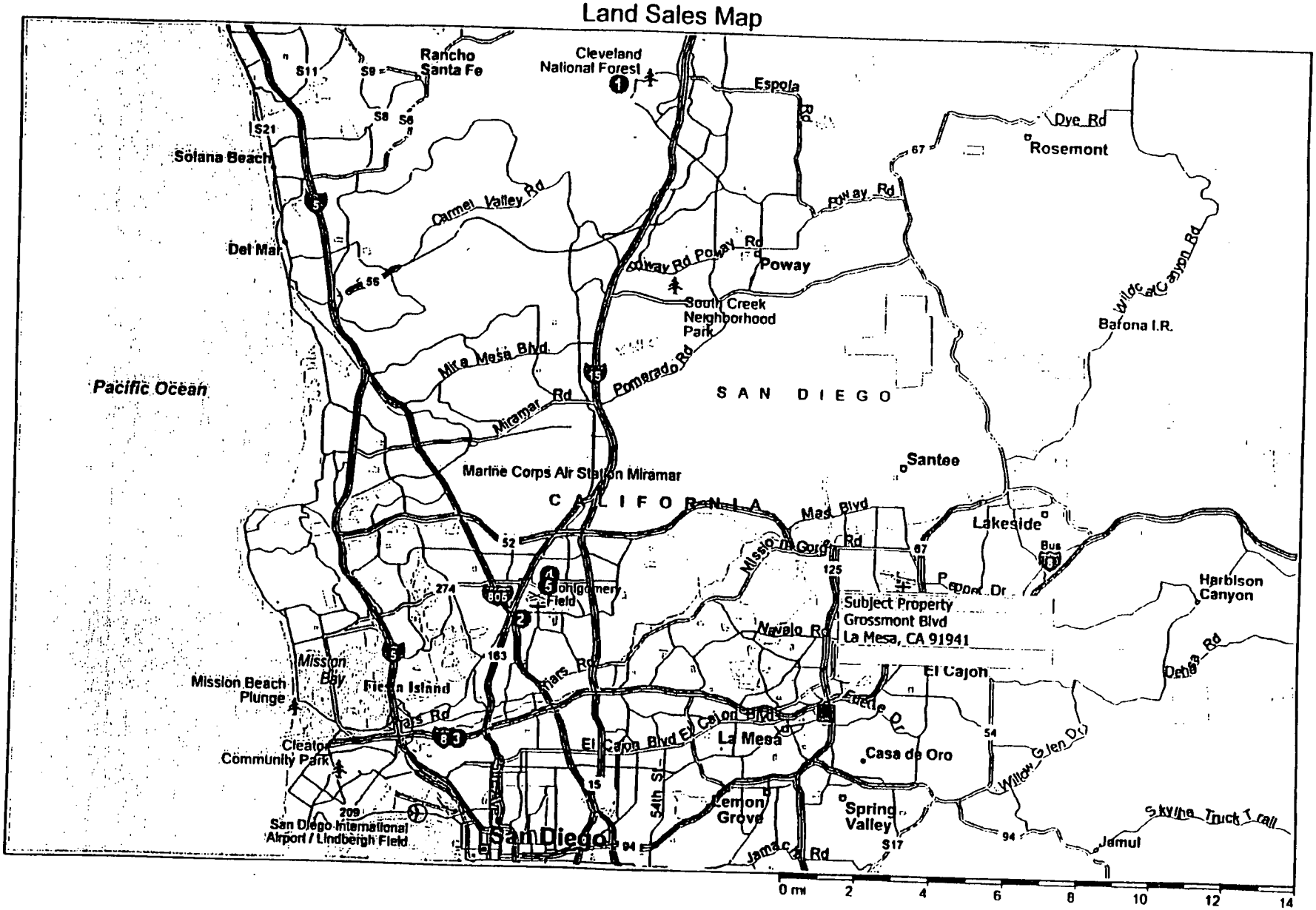
Land Valuation
We used the Sales Comparison Approach to estimate land value. This is the most direct and reliable method of estimating land value. In this method, we analyzed comparable land sales in the subject's area. Our value estimate was derived from prices of available and/or recently sold, similar sites. Primary emphasis in our selection of land sales was placed on comparability to the subject in size, location, zoning and date of sale.

In making comparisons we have considered any significant differences between the subject and the comparable properties. Our investigation of the comparable land sales indicates that the market uses the price per square foot and price per buildable unit as the basis of comparison We have therefore analyzed the comparable sales on these bases. On the following page is a summary of pertinent details of the sales we compared with the subject site, and a map showing their locations. The following pages include detailed data sheets which describe each sale. It should be noted, there have been very limited new apartment land sales within the past several years; thus, the following land sales are considered relevant to this analysis.

MULTI-FAMILY RESIDENTIAL LAND SALES SUMMARY

No.	Location	Sale Date	Land Area (AC) Density (U/AC)	Sale Price Total	 $/SF $/Unit
1	SWC of Rancho Bernardo Rd. & Dove Canyon Rd Poway	12/2005	23 (gross) 23.48	$21,370,500	$21.33 $39,575
2	3540 Aero Court San Diego	12/2004	6.01 (gross) 47.92	$6,916,544	$26.42 $24,015
3	1440 Hotel Circle North San Diego	7/2003	7.15 (gross) 48.95	$9,000,000	$28.90 $25,714
4	Paramount Drive w/o Kearny Spectrum Road, San Diego	1/2002	5.5 (gross) 21.8	$6,500,000	$27.13 $54,166
5	Paramount Drive w/o Kearny Spectrum Road, San Diego	11/2000	18.1 (gross) 24.75	$15,396,000	$19.53 $34,366

Land Sales Map



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Multi-Family Residential Land Sale No. 1

SITE IDENTIFICATION

Location:	Southwest corner of Rancho Bernardo Road & Dove Canyon Road Poway (unicorporated S.D. County), California
Assessor's Parcel No.:	678-241-07
Legal Description:	Tract 5323, map 15201
Thomas Guide:	1169-E3

SITE DESCRIPTION

Gross Area:	23 acres / 1,001,880± sf
Net Area:	23 acres
Shape:	Irregular
Topography at Sale:	Mostly level
Zoning at Sale:	C34, County
Off-sites at Sale:	All are to the site
Approvals at Sale:	540 approved units
Use at Sale:	Vacant site
Proposed Use/Density:	540 apartment units, as part of a master planned community.
Cost to Finish:	None, mass graded

SALE INFORMATION

Price:	$21,370,500
Sale Terms:	All cash to the seller
Contract Date:	December of 2004
Closing Date:	December 22, 2005
Recording Number:	1096518
Buyer:	The Reserve at 4S Ranch, LLC
Seller:	4S Kelwood General Partnership

VALUE INDICATORS

"As-Is" Price/Unit	$39,575
"As-Is" Price/SF:	$21.33
Finished Mass Graded Price/Unit:	$39,575
Finished Mass Graded Price/SF:	$21.33

VERIFICATION — Public Records & CoStar Comps Inc.

COMMENTS — This sale represents a recent transaction and is located within the master planned development known as 4S Ranch, near the city of Poway area. The site is planned to be developed with a luxury apartments.

Multi-Family Residential Land Sale No. 2

SITE IDENTIFICATION

Location:	3540 Aero Court San Diego, California
Assessor's Parcel No.:	N/Av.
Legal Description:	N/Av
Thomas Guide:	N/Av

SITE DESCRIPTION

Gross Area:	6.01 acres / 261,795 sf
Net Area:	6.01± acres
Shape:	Irregular
Topography at Sale:	Mostly level
Zoning at Sale:	Commercial
Off-sites at Sale:	All are to the site
Approvals at Sale:	Mixed-use (multi family & commercial)
Use at Sale:	Vacant site
Proposed Use/Density:	288 unit multi family development project with a 20,000 sf of commercial (47.92 units/acre)
Cost to Finish:	N/Av.

SALE INFORMATION

Price:	$6,916,544
Sale Terms:	All cash to the seller
Contract Date:	October of 2003
Closing Date:	December 15, 2004
Recording Number:	N/Av.
Buyer:	Fairfield Kearny Mesa, L.P.
Seller:	N/Av.

VALUE INDICATORS

"As-Is" Price/Unit	$24,015
"As-Is" Price/SF:	$26.42
Finished Mass Graded Price/Unit:	$24,015
Finished Mass Graded Price/SF:	$26.42

VERIFICATION — Wesley Espinoza - Buyer's Representative

COMMENTS — This sale represents a fairly recent sale transaction and is located adjacent the subject property in the Kearny Mesa area of San Diego. The property was in mass graded condition at the time of sale. The site has been approved for a 288-unit multi family development project that is currently proposed.

Multi-Family Residential Land Sale No. 3

SITE IDENTIFICATION

Location:	1440 Hotel Circle North San Diego, CA
Assessor's Parcel No :	437-360-08, 09, 10
Legal Description:	Tract MM0036
Thomas Guide:	1268-J4

SITE DESCRIPTION

Gross Area:	7.15 acres / 311,454 sf
Net Area:	7.15 acres
Shape:	Irregular
Topography at Sale:	Mostly level
Zoning at Sale:	Commercial, San Diego
Off-sites at Sale:	All to the site
Approvals at Sale:	Fully entitled
Use at Sale:	20,117 sf existing structure (tear down)
Proposed Use/Density:	350 unit apartment project
Cost to Finish:	N/Av.

SALE INFORMATION

Price:	$9,000,000
Sale Terms:	Cash to Seller
Contract Date:	April of 2003
Closing Date:	July 31, 2003
Recording Number:	0919887
Buyer:	ASN Presidio View (LLC) (et al)
Seller:	Handlery Hotels

VALUE INDICATORS

"As-Is" Price/Acre:	$1,258,741
Price/Unit	$25,714
"As-Is" Price/SF:	$28.90

VERIFICATION — Public Records / CoStar Comps

COMMENTS — The buyers plan to construct a 350-unit apartment complex. The site was purchased with an existing building structure that will be demolished upon commencement of construction and is in the Hotel Circle area of San Diego.

Multi-Family Residential Land Sale No. 4

SITE IDENTIFICATION

Location:	Kearny Spectrum Road west of Paramount Drive, San Diego
Assessor's Parcel No :	369-220-01 & 18
Legal Description:	N/Av
Thomas Guide:	1249-D2

SITE DESCRIPTION

Gross Area:	5.5 acres / 239,580 sf
Net Area:	5.5± acres
Shape:	Irregular
Topography at Sale:	Mostly level
Zoning at Sale:	Specific Plan (formerly M-1B)
Off-sites at Sale:	All are to the site
Approvals at Sale:	120 approved condominium units
Use at Sale:	Vacant site
Proposed Use/Density:	120 unit condominium project (22 units/acre)
Cost to Finish:	Minimal, mass graded

SALE INFORMATION

Price:	$6,500,000
Sale Terms:	All cash to the seller
Contract Date:	N/Av.
Closing Date:	January 2, 2002
Recording Number:	002020
Buyer:	Len-Spectrum LLC
Seller:	LNR Kearny Mesa, Inc. (Lennar Partners)

VALUE INDICATORS

"As-Is" Price/Unit	$54,166
"As-Is" Price/SF:	$27 13
Finished Mass Graded Price/Unit:	$54,166
Finished Mass Graded Price/SF:	$27 13

VERIFICATION — Greg Gallagher - Buyer's Representative

COMMENTS — This sale represents a fairly recent sale transaction and is located adjacent the subject property in the Kerany Mesa area of San Diego. The property was in mass graded condition at the time of sale The site has been approved for a 120-unit condominium project that is currently under construction

Multi-Family Residential Land Sale No. 5

SITE IDENTIFICATION

Location:	Paramount Drive west of Kearny Spectrum Road, San Diego
Assessor's Parcel No :	369-130-68 (portion of)
Legal Description:	Tract Map 18574 Parcel 5
Thomas Guide:	1249-D2

SITE DESCRIPTION

Gross Area:	18.1± acres / 788,436 sf
Net Area:	18.1± acres
Shape:	Mostly Rectangular
Topography at Sale:	Mostly level
Zoning at Sale:	Specific Plan (formerly M-1B)
Off-sites at Sale:	All are to the site
Approvals at Sale:	448 approved multi-family units
Use at Sale:	Vacant site
Proposed Use/Density:	448 unit apartment project (21 5 units/acre)
Cost to Finish:	Minimal, mass graded

SALE INFORMATION

Price:	$15,396,000
Sale Terms:	All cash to the seller
Contract Date:	October 1999
Closing Date:	November 21, 2000
Recording Number:	632742
Buyer:	Fairfield Spectum L. P.
Seller:	LNR Kearny Mesa, Inc. (Lennar Partners)

VALUE INDICATORS

"As-Is" Price/Acre:	$850,608
"As-Is" Price/Unit	$34,366
"As-Is" Price/SF:	$19.53
Finished Mass Graded Price/Acre:	$850,608
Finished Mass Graded Price/Unit:	$34,366
Finished Mass Graded Price/SF:	$19.53

VERIFICATION — Curt Stephenson - Seller's Representative

COMMENTS — This represents a fairly recent sale transaction and is located in the Kearny Mesa area of San Diego. The site was in mass grades condition and has been approved for a multi-family apartment project. The property has been improved with a luxury apartment project (Avion @ Spectrum).

Comparison Analysis
The first four factors of comparison discussed below are required to consider any variations of the sales from the conditions assumed in the definition of market value used in this appraisal. The factors of comparison which follow the first four account for locational and physical differences between the sales and the subject.

Property Rights Conveyed
This adjustment accounts for differences in the interest sold, between the sales and the subject. Partial interests are typically less valuable than fee interest, because fee interests are whole (not fractional), are easier to finance, etc.

All of the comparable multi-family residential land sales are equivalent to the subject in property right conveyed (fee simple).

Financing
This adjustment is made for properties which sold with financing terms that are not considered to be cash equivalent. A sale property which received advantageous financing would show a higher price per unit, and would therefore be superior in the respect.

All of the comparable multi-family residential land sales are equivalent to the subject in financing terms (cash equivalent).

Conditions of Sale
The conditions of sale adjustment is used to account for differences in buyer and seller motivations. For example, if a seller must quickly dispose of a property, its price would be lower than if the seller was typically motivated.

All of the comparable multi-family residential land sales are equivalent to the subject in conditions of sale (typically motivated) and no adjustment for conditions of sale is warranted.

Market Conditions (Time)
This adjustment category considers the differences in market conditions between the time of the comparable sale and the date of value. A comparable property, which sold during the times of better market conditions would show a high price per unit for a more current date of value.

Most of the comparables represent recent sale transactions and have occurred under generally similar market conditions. The market conditions have improved since 2000. Sale No. 1 represents a 2005 sale with minimal upward adjustment. Sale No. 2 represents a 2004 sale with some upward adjustment warranted. Sale No. 3 represents a 2003 sale with an upward adjustment required. An upward adjustment is required for Sale No. 4. Sale No. 5 represents an older (2000) sale that requires an upward adjustment.

Improvements
This adjustment is made for properties which sold with differing level of site improvements. These improvements may add to value (if they can provide interim income, etc.) or may detract from value (if they are costly to demolish and remove).

All of the comparable multi-family residential land sales represent finished (mass graded sites) and no adjustment is warranted.

Density
As a general rule, the higher the number of units per acre, the lower the price per unit. This is due to the economies of scale available to a dense property. The subject's density (units per net acre) equates to 68± units per acre and is much higher than all of the comparables The densities vary from approximately 22 to 48 with a measurable difference noted for most of the comparables Sale Nos 1, 4 and 5 are much lower in density ranging from approximately 22 to 25 units per acre (superior to the subject) and require a measurable downward adjustment. Sale Nos. 2 and 3 are lower in density ranging from 48 to 49 units per acre (superior to the subject) and a downward adjustment is warranted.

Size
This adjustment considers the size (measured by the number of proposed units or site area) of each sale. Larger developments have greater risk and typically sell for lower prices per unit than similar smaller developments Most of the sales are considered generally comparable in proposed unit size; thus, no adjustment is warranted.

Location
This category considers locational factors such as an area's reputation, the quality and desirability of surrounding improvements, proximity to employment centers or housing, and distance from local and regional transportation arteries.

Sale No. 1 is located in near the Poway and Rancho Bernardo area is generally comparable in location and view amenity. Sale Nos. 2, 4 and 5 are located in the Kearny Mesa and conveniently located to employment centers and generally considered similar in location overall. Sale No. 3 is located in Mission Valley and considered slightly superior in location and requires a slight downward adjustment.

Views
This category considers the difference in views between the comparables and the subject property. In general, properties with significant views are considered more desirable and show higher prices per unit. No measurable adjustment is warranted to the sales.

Zoning/Use
This adjustment is made for differences in allowable types of use between the comparable sales and the subject. Properties with many possible high intensity land uses are generally more valuable than sites restricted to a few low intensity uses.

Except for Sale No. 4, the comparable land sales are zoned for multi-family residential uses In general, this category does not consider one use to be superior or inferior to the other use because other factors (density, location, etc.) determine the use and value of each specific multi-family residential site. Most of the comparable multi-family residential land sales are generally equivalent to the subject in zoning/use. Even though Sale No. 4 allow for multi-family residential (apartments), the sites are planned to be developed with for-sale condominiums. Considering the current market conditions, it appears a premium was paid (at the time of sale) in order to develop the site for condominium development; consequently, a downward adjustment is warranted to Sale No. 4

Approvals
This adjustment is made for differences in the level of approvals and entitlements between the comparable sales and the subject. Generally, properties with approvals and entitlements are more valuable than properties without them. All of the comparable multi-family residential land

GROSSMONT TROLLEY APARTMENT SITE
QUALITATIVE COMPARISON GRID - COMPARABLE LAND SALES

Sale No.	L-1	L-2	L-3	L-4	L-5
Name/Location	SWC of Rancho Bernardo Rd. & Dove Canyon Rd. Poway	3540 Aero Court Sam Diego	140 Hotel Circle North San Diego	Paramount Drive w/o Kearny Spectrum Rd. San Diego	Paramount Drive w/o Kearny Spectrum Rd. San Diego
Date of Sale (COE)	12/05	12/04	7/03	1/02	11/00
Acreage (gross) Density (ur/ac)	23± 23.48	6.01± 47.92	7.15± 48.95	5.5 21.8	18.1± 24.75
Price Per Unit	**$39,575**	**$24,015**	**$25,714**	**$54,166**	**$34,366**
Property Rights	Similar	Similar	Similar	Similar	Similar
Financing	Similar	Similar	Similar	Similar	Similar
Conditions of Sale	Similar	Similar	Similar	Similar	Similar
Market Conditions	Slightly Inferior	Slightly Inferior	Inferior	Inferior	Inferior
Improvements/Offsites	Similar	Similar	Similar	Similar	Similar
Location/View	Similar	Similar	Slightly Superior	Similar	Similar
Density	Superior	Slightly Superior	Slightly Superior	Superior	Superior
Zoning/Use	Similar	Similar	Similar	Superior	Similar
Overall Rating (Qualitative)	**Superior**	**Similar**	**Similar**	**Superior**	**Superior**

sales are generally equivalent to the subject in approvals. Considering the current market conditions, Sale No. 4 requires a downward adjustment as it is approved for condominium development.

Off-Sites
The off-site adjustments are used to account for differences in public or private services (utilities, roads, etc.) available to a comparable sale versus the subject. Properties with all needed off-sites available at the property are generally more valuable than properties which lack off-site services

All of the comparable sales had street improvements completed and considered generally equivalent in off-sites.

Individual Adjustments and Overall Ratings
The individual comparisons and overall rating of each sale are summarized on the facing grid. The overall rating of each sale is a composite of all the individual factors of comparison. We have used the overall ratings and the prices indicated by the comparable sales in estimating a value for the subject as an improved.

Multi-Family Residential Land Value Conclusion
The market for entitled apartment land has improved considerably over the past several years. The more recent sales provide a good indication of current land values in the subject's location. Considering the subject's density (68 units/acre) and based upon discussions with major apartment developers, multi-family land in the subject's location would likely sale for $22,500 to $27,500 per unit in a finished (mass graded) condition. The sales provide a reasonable range in a per unit indication for the subject property. Most of the sales require an upward adjustment for market conditions, but a downward adjustment for overall density. An appropriate range of indicated values would be from approximately $22,500/unit to $27,500/unit. Overall, Sale Nos. 1, 2 and 3 are given the most weight. Considering the location of the subject site and overall density, a value indication toward the middle of this range is considered appropriate.

Based on our analysis, the subject's current density and the indications from the comparable sales, we have concluded at a subject land value of $25,000 per unit (in a mass graded condition). Applied to the subject's land area, the total indicated multi-family residential land value is:

527 units X $25,000/Unit = $13,175,000
Rounded: **$13,200,000**

Reviewing the developer's construction budget (included in the Addenda), the total project costs equate to $33,127,888 which includes a general contractor fee of $1,435,278. Some of the subject's construction costs were updated and adjusted to market pricing during construction; however, we have adjusted the total development costs upward by 5% percent to account for increasing construction costs which equates to $34,784,282 ($33,125,888 x 1.05). In addition, we have estimated a developer profit of 15% of total project costs of $5,217,642 or $5,200,000 rounded. Consequently, the total adjusted development costs (to reflect current market conditions) equates to $39,984,282 or $40,000,000 rounded. Based upon the subject's recent sale price of $68,000,000, the residual land value for the subject property equates to $28,000,000 or $271,845 per unit

Introduction - Improvement Valuation (Residual Land Value Analysis)
This analysis is based on the replacement cost method of improvement valuation. In the replacement cost analysis, the cost of creating a modern structure of equal utility to the subject is estimated; not the cost of reproducing a physical duplicate of the subject improvements. The estimation of the replacement cost of the subject's existing improvements includes both direct and indirect costs Our cost estimates are briefly described below, and detailed on the following Cost Approach Summary.

It should be noted, the gross building area has been estimated to be 490,934 sf (includes rentable area for apartments: 479,902 sf, combined clubhouse and retail space of 11,032 sf). The gross building area (GBA) includes the clubhouse and retail space. Consequently, the 490,934 sf (as discussed) has been utilized in this analysis and an appropriate psf cost basis was considered appropriate given the very good to excellent quality construction.

Base Costs
Our estimates of base costs are derived from the *Marshall Valuation Service Cost Estimation Manual*, as well as our experience with the costs of similar developments, The Marshall Valuation Service base costs include all direct costs for the base structure, the following direct costs:

1. Plans, specifications, and building permits, including engineer's and architect's fees;
2. Normal fees and interest on construction funds during the construction period;
3. Sales taxes on materials; and
4. Contractor's overhead and profit, including worker's compensation, fire and liability insurance, unemployment insurance, etc.

We used base costs for a good class D apartment building, as published in the cost manual in Section 12, page 14, published as of August, 2002 Appropriate adjustments for time and local multipliers were also made in accordance with the cost manual guidelines.

Other Costs
The published base costs do not include some indirect and all site improvement costs (sitework, landscaping, paved parking area, common area etc.). The site improvements costs have been estimated at $6.00 per square foot of site area (net acreage). This estimate is similar to the developer's estimate and is considered reasonable. Other costs of construction not contained in the base costs are explained and quantified below.

Property Taxes, Consulting, and Legal Costs
These costs are estimated based on our familiarity with similar developments. The cost for this category is estimated at 2.5 percent of total base costs. This category includes the cost of property taxes during construction and absorption, professional consulting fees, legal fees, etc. This cost is estimated on the chart.

Permanent Financing Fee
The permanent financing origination fee is estimated at 1.5 points of an estimated take-out loan. The loan amount is based on a 75 percent loan to value ratio applied to the subject's value shown in the Sales Comparison Approach in this report. This is a typical loan to value ratio offered by permanent lenders for the subject property type. This cost is estimated on the accompanying chart.

Construction Loan Interest During Absorption

COST APPROACH SUMMARY

Grossmont Trolley Apartments
La Mesa, San Diego, California

PROPERTY CHARACTERISTICS AND ASSUMPTIONS	
TYPE OF BUILDINGS IN *MARSHALL VALUATION SERVICE*	Class D Apartment Homes
QUALITY IN *MARSHALL VALUATION SERVICE*	Very Good
CONSTRUCTION TYPE	Wood frame & stucco
BUILDING AREA:	490,934 SF
SITE IMPROVEMENT AREA	335,412 SF
DEVELOPER'S PROFIT	10% of Replacement Cost Plus Land
PERCENT DEPRECIATED	0.0%

REPLACEMENT COST ANALYSIS				
REPLACEMENT COSTS IN *MARSHALL VALUATION SERVICE*		Unit Cost	Total	Per GBA
Base Replacement Cost New *(2)*		$110.00	$54,002,740	
Add for Sprinklers:		$1.50	$736,401	
Add for Retail Tenant Improvements: 2,744 sf		$25.00	$68,600	
Add for Garages: 787 spaces @ 350± sf		$42.00	$11,568,900	
Adjusted Replacement Cost New of Building			$66,376,641	
Current Cost Multiplier			1.09	
Local Multiplier			1.13	
Story Height Multiplier			1.00	
Area / Perimeter Multiplier			1.00	
Replacement Cost New			$81,756,109	$166.53
Indirect/Site Improvement Costs				
Property Taxes, Consulting, Legal Costs			$2,436,792	
Permanent Financing Fee			$1,327,500	
Construction Loan Interest During Absorption			$5,117,264	
Site Improvement Area	335,412 SF @	$7.50	$2,515,590	
Replacement Cost New of Site Improvements			$11,397,147	$23.22
TOTAL REPLACEMENT COST NEW			$93,153,255	$189.75
ADD: DEVELOPER'S PROFIT (INCLUDING LAND)			$10,635,326	
TOTAL DEVELOPMENT COSTS			$103,788,581	$211.41
LESS: ACCRUED DEPRECIATION			$0	
ADD: LAND VALUE:			$13,200,000	
VALUE BY THE COST APPROACH			$116,988,581	
ROUNDED			$117,000,000	$238.32

(1) Based on effective age of new and economic life of 50 years.
(2) Replacement costs obtained from Marshall Valuation Service Manual, Section 11, Page 14.

The subject's base costs include construction loan interest only during the construction period. We have separately estimated the interest during the lease-up period following completion of construction Our assumptions are based on typical construction loan structures and practices for properties similar to the subject.

We estimate a total construction loan equal to the previously estimated permanent loan amount. We estimate that a construction loan interest rate (which usually varies with the prime rate) would average 7.0 percent over the absorption period.

Total Direct and Indirect Costs
The total of our estimated direct and indirect costs is shown on the facing Cost Approach summary

Developer's Fees, Overhead, and Profit
Developer's fees, overhead, and profit are estimated at 10.0 percent of total direct costs plus land value This estimate is based on our familiarity with developer returns from similar developments The inclusion of an adequate profit in this approach completes our estimate of replacement cost (new), because developers require payment for their efforts and risk in the form of fees, overhead recovery, and profit. This cost is estimated as shown on the chart.

Depreciation
In appraisal theory, depreciation is a value loss from any cause. It is not to be confused with the accounting use of depreciation.

We have measured the subject's depreciation on an effective age/life basis. The physical age of the subject improvements is new. The effective age is estimated at 0 years. Our effective age estimate also considers that we have used a replacement cost analysis versus a reproduction cost analysis, and that our land value estimate reflects current market conditions. A typical effective life of improvements such as the subject is 50 years per our analysis of the *Marshall Valuation Service Cost Estimate Manual.*

The *Marshall Valuation Service's* depreciation tables show that a residential development with an effective age of 0 years and a typical life expectancy of 50 years is 0 percent depreciated. This percentage is a weighted average for both short- and long-lived components such as the building shell, mechanical systems, interior finishes, and site improvements.

Replacement Cost Conclusion (Residual Land Value)
As summarized on the accompanying page, the indicated value is $116,988,581 before rounding. The rounded value from the Replacement Cost estimate is $117,000,000. Thus, based upon the total development costs (including developer profit) of $103,788,581, the residual land value equates to $13,211,419 or $13,200,000 rounded.

In addition, the residual land value is supported by the direct capitalization schedule (current stabilized value) of $118,000,000 less the developer's total development costs which equates to approximately $13,000,000 rounded.

Methodology (Ground Lease Analysis)
The Income Approach is a method of converting the anticipated economic benefits of owning property into a value estimate through capitalization The principle of anticipation underlies this approach in that investors recognize the relationship between an asset's income and its value. In order to value the anticipated economic benefits of a particular property, potential income and expenses must be estimated, and the most appropriate capitalization method must be selected

The two most common methods of converting net income into value are direct capitalization and discounted cash-flow analysis. In direct capitalization, net operating income is divided by an overall rate, extracted from market sales, to indicate a value In the discounted cash-flow method, anticipated future net income streams and a reversionary value are discounted to an estimate of net present value at a chosen yield rate (internal rate of return). We have analyzed the pending ground lease in order to provide an estimate of the le Plus Override (Percentage Rent): Plus Override (Percentage Rent): ased fee estate.

Ground Lease/Disposition and Development Agreement
The term and conditions of the proposed development of the subject site are contained in a Disposition and Development Agreement (the DDA), between the Metropolitan Transit Development Board (the Board) and Fairfield Grossmont Trolley LLC (subject Developer). The DDA encumbers the gross site area for the subject, which is approximately 7.7 gross acres (3.3 acres + 4.4 acres). It should be noted, there is an affordability agreement which requires a certain number of units to be rented a below market rental rates. It is our understanding that any rental restriction is planned to be reimbursed by the City of La Mesa and/or Redevelopment Agency during the 55 year affordability term. Included in the Addenda is an excerpt of the ground lease document; however, the basic lease terms are as follows:

Year 1 base ground rent: $85,333/year; Year 2 base ground rent: $170,666/year and Years 3 to 30 base ground rent: $256,000/year

Plus Override (Percentage Rent): equates to 1.25% of effective gross income (from subject mixed-use development: apartments and commercial space)

Plus Miscellaneous Supplemental Rent: The lessee will pay (reimburse) the cost of mitigating an existing parking easement (estimated at $100,000) In addition, the lessee is responsible to pay to the MTDB, a one time payment of $250,000 (for a 50% share of the "City Land Payment") no later than the 5th anniversary of the effective date referenced in section (312) of the ground lease document.

Rent adjustment in Year 31 is based upon the lesser of the following: 8% of market value of fee simple land value or 6.5% or effective gross income from operations. The new annual ground rent will be escalated by cumulative CPI every 5 years until year 55. In year 56, the affordability agreement terminates.

Lastly, there is a profit participation agreement between Fairfield Residential (original developer) and the Metropolitan Transit Development Board (MTDB). This agreement provides for additional consideration to be paid to the MTDB by Fairfield Residential upon the completion and sale of the proposed apartments. The profit sharing agreement equates

to approximately 20% of the net gain (upon close of escrow of the completed apartments), after a specified return is recovered by Fairfield Residential

Discounted Cash Flow Analysis (Lease Fee)
Discounted cash flow analysis quantifies both the return on and return of an investment The return on the investment consists of the annual net income anticipated. Return of the investment is represented by the residual property value, or anticipated sale price at the end of the holding period. The major assumptions relied upon in this analysis are discussed below.

All market derived assumptions are based upon our surveys of competing projects, interviews with local brokers and appraisers, published survey data, and our experience in appraising other similar property types throughout the area

Software Program Used
The software program utilized is Excel.

Holding Period
A 55-year holding period is applied in this ground lease analysis. This is the holding period applied here.

Income Assumptions
All income (ground rent) assumptions are the same as those previously discussed (override or percentage rent is applied to EGI in the direct capitalization value estimate).

Vacancy/Collection Loss
No vacancy/collection loss allowance is applied to the ground rent.

Operating Expenses
The ground is considered a NNN lease with all property expenses to passed through and paid by the tenant (lessee).

Discounted cash flows typically incorporate a reserve replacement allowance for non-structural building components such as roofs and site improvements. The most recent Korpacz Survey reports a typical range of $150 to $400. We estimate an allowance here for the subject toward the lower end of the range at $200 per unit which is because of the subject's new construction and because some reserve items, such as painting and carpeting, are included in the repairs and maintenance budget or tenant turnover costs.

Growth Rates

Market Rent

As noted throughout this report, market conditions are improving both in terms of rental rate increases and occupancy levels. In our opinion there is the potential for continued market rent growth over the next several years. According to the Korpacz Survey, the average rent growth rate assumption is 2 18 percent while the Cushman & Wakefield survey estimates rent growth rate within a range of 2.0 percent to 4.0 percent. We estimate a market rent growth rate for the subject based upon review of the investor surveys and recent activity within the subject's competitive market. The rate applied is 3.0 percent

Expenses

The Korpacz Survey reports an average expense growth rate of 2.81 percent with the Cushman Survey reporting a range of 2.0 percent to 4.0 percent We have applied a 3.0 percent expense growth rate to all operating expenses except property taxes

Property Taxes

In accordance with California law (Proposition 13), the property tax growth rate is set at 2 percent per year.

Reversionary Capitalization Rate

This is the rate applied to the eleventh year's net operating income to determine a residual property value. Favorable and adverse investment attributes are discussed in the going-in capitalization rate estimate and are incorporated here. It is typical for investors to adjust a residual capitalization rate upward to reflect the uncertainty of future real estate market conditions. For example, the Korpacz Survey reports a terminal (or residual) OAR ranging from 5.0 to 9.0 percent with an average of 7.31 percent. Typically, the terminal cap rate is 50 to 100 basis points higher than the going-in rate assuming a typical holding period of 10 years.

Discount Rate

This is the rate used to convert projected net income to present value. It is also applied to arrive at the present value of the reversion at the end of the cash flow projection. Discount rates reflect investor expectations and incorporate adjustments for location, product quality, and tenancy as they affect cash flow. The Korpacz survey indicates an average discount rate of 8.97 percent with a range of 6.0 percent to 13.0 percent. The Cushman survey quotes a range of averages (representing highs and lows from the survey) of 8.0 percent to 12.0 percent. Considering the subject's age, condition, strong rental market conditions, a discount rate toward the lower end of the range is considered appropriate for the subject.

As noted previously, the subject is a proposed luxury apartment project located in La Mesa with relatively low vacancy rates and increasing rents. Since we are assuming a holding period of 55 years and that property value will comprise mostly land value at reversion, we have utilized a discount rate of 8.25 percent for the reversion. However, the annual ground rent is considered much safer; thus, we have utilized a much lower discount rate of 5.25% for the annual ground rent The lower discount applied to the annual ground rent is considered appropriate and reasonable. The discount rate for the reversionary land value is higher due to the higher uncertainty and future date (55 years later).

PRESENT VALUE ANALYSIS

Grossmont Trolley Apartments
Corner of Fletcher Parkway & Grossmont Center Road
La Mesa, California

Years	FISCAL YEAR BEGIN Sept. 1	TOTAL RENT/Yr.	Plus Override: (1.25% of EGI)	Plus: Misc.	NET OPERATING INCOME	Reversion Value
1	2006	$85,333	$128,408	$100,000	$313,741	$0
2	2007	$170,666	$132,260	$0	$302,926	$0
3	2008	$256,000	$136,228	$0	$392,228	$0
4	2009	$256,000	$140,315	$0	$396,315	$0
5	2010	$256,000	$144,524	$250,000	$650,524	$0
6	2011	$256,000	$148,860	$0	$404,860	$0
7	2012	$256,000	$153,326	$0	$409,326	$0
8	2013	$256,000	$157,926	$0	$413,926	$0
9	2014	$256,000	$162,663	$0	$418,663	$0
10	2015	$256,000	$167,543	$0	$423,543	$0
11	2016	$256,000	$172,569	$0	$428,569	$0
12	2017	$256,000	$177,747	$0	$433,747	$0
13	2018	$256,000	$183,079	$0	$439,079	$0
14	2019	$256,000	$188,571	$0	$444,571	$0
15	2020	$256,000	$194,228	$0	$450,228	$0
16	2021	$256,000	$200,055	$0	$456,055	$0
17	2022	$256,000	$206,057	$0	$462,057	$0
18	2023	$256,000	$212,239	$0	$468,239	$0
19	2024	$256,000	$218,606	$0	$474,606	$0
20	2025	$256,000	$225,164	$0	$481,164	$0
21	2026	$256,000	$231,919	$0	$487,919	$0
22	2027	$256,000	$238,877	$0	$494,877	$0
23	2028	$256,000	$246,043	$0	$502,043	$0
24	2029	$256,000	$253,424	$0	$509,424	$0
25	2030	$256,000	$261,027	$0	$517,027	$0
26	2031	$256,000	$268,858	$0	$524,858	$0
27	2032	$256,000	$276,923	$0	$532,923	$0
28	2033	$256,000	$285,231	$0	$541,231	$0
29	2034	$256,000	$293,788	$0	$549,788	$0
30	2035	$256,000	$302,602	$0	$558,602	$0
31	2036	$1,620,734	$0	$0	$1,620,734	$0
32	2037	$1,620,734	$0	$0	$1,620,734	$0
33	2038	$1,620,734	$0	$0	$1,620,734	$0
34	2039	$1,620,734	$0	$0	$1,620,734	$0
35	2040	$1,620,734	$0	$0	$1,620,734	$0
36	2041	$1,863,844	$0	$0	$1,863,844	$0
37	2042	$1,863,844	$0	$0	$1,863,844	$0
38	2043	$1,863,844	$0	$0	$1,863,844	$0
39	2044	$1,863,844	$0	$0	$1,863,844	$0
40	2045	$1,863,844	$0	$0	$1,863,844	$0
41	2046	$2,143,421	$0	$0	$2,143,421	$0
42	2047	$2,143,421	$0	$0	$2,143,421	$0
43	2048	$2,143,421	$0	$0	$2,143,421	$0
44	2049	$2,143,421	$0	$0	$2,143,421	$0
45	2050	$2,143,421	$0	$0	$2,143,421	$0
46	2051	$2,464,934	$0	$0	$2,464,934	$0
47	2052	$2,464,934	$0	$0	$2,464,934	$0
48	2053	$2,464,934	$0	$0	$2,464,934	$0
49	2054	$2,464,934	$0	$0	$2,464,934	$0
50	2055	$2,464,934	$0	$0	$2,464,934	$0
51	2056	$2,834,674	$0	$0	$2,834,674	$0
52	2057	$2,834,674	$0	$0	$2,834,674	$0
53	2058	$2,834,674	$0	$0	$2,834,674	$0
54	2059	$2,834,674	$0	$0	$2,834,674	$0
55	2060	$2,834,674	$0	$0	$2,834,674	$0
56	2066			$0	$2,834,674	$0
				Net Reversion:		$66,957,308

PRESENT VALUE ANALYSIS

Cash Flow Discount Rate	Reversion Discount Rate	Present Value
5.00%	8.00%	$14,363,386
5.25%	8.25%	$13,420,083
5.50%	8.50%	$12,561,833

Conclusion

The computer-generated cash flow incorporating the above assumptions is presented in the Addenda. Utilizing a 55-year holding period, the indicated leased fee value for the subject property, is $13,420,083 or rounded to **$13,400,000.** It should be noted, we have not included the profit sharing revenue estimate within our ground lease analysis due to the uncertainty of timing and subjectivity in estimating an appropriate amount; however, this unspecified revenue amount would have some impact and increase the leased fee value (depending upon the amount and future time period). In conclusion, the indicated leased fee value for the subject property, as of March 15, 2006, is **$13,400,000**.

Review of Approaches
The appropriate approaches to value are applied in this appraisal. The results of the approaches to value applied here are:

Sales Comparison Approach	$13,200,000
Income Capitalization Approach	
Ground Lease Analysis	$13,400,000

The Income Capitalization Approach is similar to the Cost Approach. Since the subject property represents a proposed multi-family residential project, the Cost Approach is considered very useful and a replacement cost estimate has been provided Based upon our estimate of current land value and development costs (including developers profit), the replacement cost estimate is considered reasonable.

The subject is an investment property that would most likely be analyzed on the basis of its income producing capacity. As such, the income approach is particularly relevant here. Within the income approach several items are particularly well supported by market evidence, including the concluded rental rates, vacancy, and capitalization rate. The individual line item expense estimates contained here are generally consistent with the estimates from the expense guideline reviewed Further, the total expense estimate is also within the range of the per unit expense levels reported among the comparable building sales. Accordingly, the income approach is well supported and is given the strong emphasis in our analysis.

Conclusion – Fee Simple Estate
Therefore, relying upon approaches to value, and incorporating the assumptions and limiting conditions enunciated throughout this report, our estimate of the as is fee simple value of the subject, as of the effective date of value, is:

THIRTEEN MILLION TWO HUNDRED THOUSAND DOLLARS
$13,200,000

Conclusion – Leased Fee Estate
Therefore, relying upon approaches to value, and incorporating the assumptions and limiting conditions enunciated throughout this report, our estimate of the as is fee simple value of the subject, as of the effective date of value, is:

THIRTEEN MILLION FOUR HUNDRED THOUSAND DOLLARS
$13,400,000

Exposure Period
As noted in the Apartment Market Analysis section of this appraisal, there is an active market for this property type. Such properties are typically selling within a period of from three to six months. For example, marketing periods among the previously reviewed comparable apartment complex sales range from three to six months for the properties actually reporting this information. Given the active market for this property type, we estimate that a reasonable exposure period for the subject could potentially be consummated in three months but would not exceed six months.

"Appraisal" means the appraisal report and opinion of value stated therein; or the letter opinion of value, to which these Assumptions and Limiting Conditions are annexed

"Property" means the subject of the Appraisal

"C&W" means Cushman & Wakefield, Inc. or its subsidiary which issued the Appraisal.

"Appraiser(s)" means the employee(s) of C&W who prepared and signed the Appraisal.

This appraisal is made subject to the following assumptions and limiting conditions:

1. No opinion is intended to be expressed and no responsibility is assumed for the legal description or for any matters which are legal in nature or require legal expertise or specialized knowledge beyond that of a real estate appraiser. Title to the Property is assumed to be good and marketable and the Property is assumed to be free and clear of all liens unless otherwise stated. No survey of the Property was undertaken.

2 The information contained in the Appraisal or upon which the Appraisal is based has been gathered from sources the Appraiser assumes to be reliable and accurate. Some of such information may have been provided by the owner of the Property. Neither the Appraisers nor C&W shall be responsible for the accuracy or completeness of such information, including the correctness of estimates, opinions, dimensions, sketches, exhibits and other factual matters provided to Appraiser by Manager, unless herein shall be as of the date stated in the Appraisal. The Appraisal and the opinion of value herein shall be as of the date stated in the Appraisal. Changes since that date in external and market factors or in the property itself can significantly affect property value.

3 The appraisal is to be used in whole and not in part. No part of the Appraisal shall be used in conjunction with any other appraisal. Possession of the Appraisal, or a copy thereof, does not carry with it the right of publication. Except as may be otherwise expressly stated in the letter of engagement to prepare the Appraisal, C&W does not permit use of the Appraisal by any person other than the party to whom it is addressed or for purposes other than those for which it was prepared. No part of the Appraisal or the identity of the Appraiser shall be conveyed to the public through advertising, public relations, news, sales or other media or used in any material without C&W's prior written consent. Reference to the Appraisal Institute or to the MAI designation is prohibited.

4 Except as may be otherwise stated in the letter of engagement, the Appraiser shall not be required to give testimony in any court or administrative proceedings relating to the Property or the Appraisal.

5. The Appraisal assumes (a) responsible ownership and competent management of the Property; (b) there are no hidden or unapparent conditions of the Property, subsoil or structures that render the Property more or less valuable (no responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them); (c) full compliance with all applicable federal, state and local zoning and environmental regulations and laws, unless noncompliance is stated, defined and considered in the Appraisal; and (d) all required licenses, certificates of occupancy and other governmental

consents have been or can be obtained and renewed for any use on which the value estimate contained in the Appraisal is based.

6 The physical condition of the improvements considered by the Appraisal is based on visual inspection by the Appraiser or other person identified in the Appraisal. Cushman & Wakefield shall assume no responsibility for the soundness of structural members nor for the condition of mechanical equipment, plumbing or electrical components

7 The projected potential gross income referred to in the Appraisal may be based on lease summaries provided by the owner or third parties. Where copies of leases are not provided, the Appraiser assumes no responsibility for the authenticity or completeness of lease information provided by others or the Manager. C&W suggests that legal advice be obtained regarding the interpretation of lease provisions and the contractual rights of parties.

8 The projections of income and expenses are not predictions of the future. Rather, they are the Appraiser's best estimates of current market thinking on future income and expenses. The Appraiser and C&W make no warranty or representation that these forecasts will materialize. The real estate market is constantly fluctuating and changing. It is not the Appraisers' task to predict or in any way warrant the conditions of a future real estate market; the Appraisers can only reflect what the investment community, as of the date of the Appraisal, envisions for the future in terms of rental rates, expenses, supply, and demand.

9. Unless otherwise stated in the Appraisal, the existence of potentially hazardous or toxic materials which may have been used in the construction or maintenance or operation of the improvements or may be located at or about the Property was not considered in arriving at the opinion of value stated in the Appraisal. These materials (such as formaldehyde foam insulation, asbestos insulation, various soil contaminants, and other potentially hazardous materials) may affect the value of the Property. The Appraisers are not qualified to detect such substances and C&W urges that an expert in this field be employed to determine the economic impact of these matters on the opinion of value stated in the Appraisal.

10 Unless otherwise stated in the appraisal, compliance with the requirements of the Americans With Disabilities Act of 1990 (ADA) has not been considered in arriving at the opinion of value stated in the appraisal. Failure to comply with the requirements of the ADA may negatively affect the value of the property. C&W recommends that an expert in this field be employed.

11. If the Appraisal is submitted to a lender or investor, such party should consider the Appraisal as one factor, along with its independent investment considerations and underwriting criteria, in its overall investment decision

12. The prospective market value estimate herein assumes no significant changes in the subject property nor in the market between the time of the inspection and analysis and the effective date of the appraisal.

We certify that, to the best of our knowledge and belief:

1 Neil A. Clark, MAI inspected the property and prepared the report.

2. The statements of fact contained in this report are true and correct

3. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions, and conclusions.

4 We have no present or prospective interest in the property that is the subject of this report, and we have no personal interest or bias with respect to the parties involved.

5. Our compensation or employment are not contingent on an action or event (such as the approval of a loan) resulting from the analyses, opinions, or conclusions in, or the use of, this report. The appraisal is not based on a requested minimum or specific estimated value.

6 Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Practice of the Appraisal Foundation

7. No one provided significant professional assistance to the persons signing this report

8. The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.

9. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

10. As of the date of this report, Neil A. Clark, MAI has completed the requirements of the continuing education program of the Appraisal Institute.

Neil A. Clark

Neil A. Clark, MAI
Associate Director
State Licensed Real Estate Appraiser
State of California No. AG002213

DIRECT CAPITALIZATION SCHEDULE

DEVELOPMENT BUDGET & PROFORMA

GROUND LEASE DOCUMENT (EXCERPT)

LEGAL DESCRIPTION

QUALIFICATIONS OF APPRAISER

Direct Capitalization Schedule

Stabilized Income and Expenses - Grossmont Trolley Apartments (Ph. 1 & 2)

Property Data:	No of Units			(PSF/Unit)	Annual Amount
Building Size (Units)			527		
Apartment Building Area (Gross SF)			479,902		
Income:					
Gross Potential Income - Market Units:			Monthly Rent		
Plan A1 (1 BD/1 BA): 616 sf (VL)	17	$	1,385	Unit*12	$ 282,540
Plan A1 (1 BD/1 BA): 616 sf (M)	25	$	1,385	Unit*12	$ 415,500
Plan A1 (1 BD/1 BA): 616 sf	17	$	1,385	Unit*12	$ 282,540
Plan A1A (1 BD/1 BA): 754 sf	10	$	1,510	Unit*12	$ 181,200
Plan A1B (1 BD/1 BA): 610 sf	4	$	1,380	Unit*12	$ 66,240
Plan A2 (1 BD/1 BA): 646 sf	70	$	1,415	Unit*12	$ 1,188,600
Plan A2A (1 BD/1 BA): 638 sf	4	$	1,410	Unit*12	$ 67,680
Plan A3 (1 BD/1 BA): 726 sf	118	$	1,490	Unit*12	$ 2,109,840
Plan A3A (1 BD/1 BA): 719 sf	14	$	1,485	Unit*12	$ 249,480
Plan B1 (2 BD/2 BA): 996 sf (VL)	15	$	1,755	Unit*12	$ 315,900
Plan B1 (2 BD/2 BA): 996 sf (M)	17	$	1,755	Unit*12	$ 358,020
Plan B1 (2 BD/2 BA): 996 sf	6	$	1,755	Unit*12	$ 126,360
Plan B2 (2 BD/2 BA): 1,048 sf (M)	6	$	1,810	Unit*12	$ 130,320
Plan B2 (2 BD/2 BA): 1,048 sf	44	$	1,810	Unit*12	$ 955,680
Plan B2A (2 BD/2 BA): 1,050 sf	12	$	1,810	Unit*12	$ 260,640
Plan B3 (2 BD/2 BA): 1,275 sf	24	$	2,025	Unit*12	$ 583,200
Plan B3A (2 BD/2 BA): 1,177 sf	13	$	1,925	Unit*12	$ 300,300
Plan B3B (2 BD/2 BA): 1,205 sf	3	$	1,960	Unit*12	$ 70,560
Plan B3C (2 BD/2 BA): 1,401 sf	8	$	2,100	Unit*12	$ 201,600
Plan B4 (2 BD/2 BA): 1,265 sf	100	$	2,015	Unit*12	$ 2,418,000
Total Gross Potential Income	527				$ 10,564,200
Vacancy/Collection Loss @ 5 0%					$ (528,210)
Employee/Model Units	0	$	-	Unit*12	-
Retail Income (2,744 sf)	2,744	$	1 5		46,922
Other Income		$	30		$ 189,720
Effective Gross Income					$ 10,272,632
Expenses:			Rate		
Real Estate Taxes - $104,810,734 @ 1.03793%					$ 1,087,862
Insurance		$	0 65	PSF	$ 310,261
Utilities		$	475	Unit	$ 250,325
Administrative		$	200	Unit	$ 105,400
Repairs & Maintenance		$	400	Unit	$ 210,800
Interior Cleaning (50% Turnover Per Year)		$	200	Unit	$ 52,700
Property Management - Offsite - 3.0% of EGI					$ 308,179
Payroll & Leasing - Onsite		$	1,100	Unit	$ 579,700
Advertising/Marketing		$	175	Unit	$ 92,225
Ground Rent		$	256,000	Year	$ 256,000
Ground Rent (1.25% of EGI)		$	128,408	Year	$ 128,408
MTDB Riembursement		$	-	Year	$ -
Reserve Allowance		$	200	Unit	$ 105,400
Total Expense					$ 3,487,260
Operating Expense Ratio				33.95%	
Expenses Per Unit				$ 6,617	
Net Operating Income					$ 6,785,372
Overall Capitalization Rate					5.75%
Capitalized Value Indication					$ 118,006,470
Rounded					$ 118,000,000

Development Budget & Proforma

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE EAST PHASE - ALTERRA - LA MESA, CA

[illegible] CST 13MAR1907 VERSION 07.12 8-YEARS CALENDAR

FINAL PROJECTION

SUMMARY OF CAPITALIZATION

EQUITY FUNDED DURING CONSTRUCTION LOAN PERIOD (7.87% OF COST)		$4,548,837
EQUITY FUNDED BEFORE CONSTRUCTION LOAN PERIOD (17.33% OF COST)		$10,275,317
TOTAL EQUITY (25.20% OF COST)		$14,824,054
CALSTRS SUBSCRIPTION LOAN (FUND MAY 2009, TAKEOUT FEB 2011)		$10,149,315
CALSTRS SUBSCRIPTION LOAN INTEREST @ 5.50%		$483,948
CALSTRS SUBSCRIPTION LOAN POINTS & FEES		$79,082
CONSTRUCTION LOAN (FUND MAY 2007, CONVERSION FEB 2010)		$44,472,189
LOAN-TO-COST RATIO (INCL INTEREST RESERVE)		73.00%
LOAN INTEREST @ 7.00% (TOTAL / FUNDED PRE-CONV)	$3,932,201 /	$3,733,788
LOAN POINTS (0.00%), FEES, AND CLOSING COSTS		$410,250
LOAN/PERM LOAN (INTEREST ONLY) (FUND FEB 2010, PAYOFF MAY 2012)		$44,472,189
LOAN-TO-COST RATIO		73.00%
LOAN INTEREST @ 7.00%		$729,947
ANNUAL DEBT SERVICE @ (1.20 DCR @ $4.37% STABILIZED NOI)		$3,113,852
LOAN PER UNIT		$149,736

PROPERTY AND BUILDING DESCRIPTION

DESCRIPTION: V/CODFRAMED, BUILT-UP ROOF ROOF, STUCCO SIDING EXTERIOR & FIRE SPRINKLERS IN A 3 STORY OVER PODIUM GARAGE BUILDING	
CONFIGURATION	
NUMBER OF UNITS	297
AVERAGE NET RENTABLE SQUARE FOOTAGE OF UNITS	948
TOTAL NET RENTABLE SQUARE FOOTAGE OF UNITS	271,450
GP LEASING / CLUBHOUSE AND RETAIL	6,742
GROSS SQUARE FOOTAGE	279,200
NUMBER OF RENTABLE BUILDINGS/FLOORS	8 / 3
NUMBER OF ACRES	4.4 ± GROSS
UNIT DENSITY PER ACRE	65.0 ± GROSS
UNIT MIX (15% AFFORDABLE)	1BR-194 (65%), 2BR-103 (35%)
POOLS / SPAS	1 / 1
PARKING STRUCTURE SPACES - PUBLIC	206
PARKING STRUCTURE SPACES - RESIDENTS	643
RETAIL	2,766 SF @ $1.00
CLUBHOUSE	3,976 SF
AVG. MARKET RENT PER UNIT / SQ. FT. UNFURNISHED	$1,873 / $1.93
AVG. AFFORDABLE RENT PER UNIT / SQ. FT. UNFURNISHED	$1,074 / $1.36
AVG. TOTAL RENT PER UNIT / SQ. FT. UNFURNISHED	$1,800 / $1.75

CAPITAL SOURCES

THROUGH LOAN CONVERSION FEB 2010

EQUITY TO FUND CONSTRUCTION	$14,824,054
CONSTRUCTION LOAN	44,472,189
CALSTRS SUBSCRIPTION LOAN	10,149,315
NET CONSTRUCTION LOAN PERIOD INCOME	284,183
TOTAL SOURCES	$79,829,731

CAPITAL USES

THROUGH LOAN CONVERSION FEB 2010

CONSTRUCTION COSTS		$59,298,223
WORKING CAPITAL FUNDING	$284,183	
LOAN RESERVE	$0	
TOTAL WORKING CAPITAL AND RESERVE		$284,183
REFUND OF CALSTRS SUBSCRIPTION LOAN		$6,149,315
TOTAL USES		$79,829,731

LOAN RESERVE

THROUGH LOAN CONVERSION FEB 2010

CONSTRUCTION LOAN	$44,472,189
LESS EXISTING CONSTRUCTION LOAN DRAW BALANCE	$4,472,189
TOTAL LOAN RESERVE	$0

CONSTRUCTION COST SUMMARY

CONSTRUCTION COST	TOTALS	PER UNIT	PER SQ. FT.
STARTUP COSTS	$267,994	$902	$1.00
LAND CLOSING AND DEVELOPMENTAL COSTS	$721,472	$2,429	$2.59
ARCHITECTURAL AND ENGINEERING	$2,983,799	$10,053	$10.72
BLDG PERMITS AND FEES	$2,596,986	$7,977	$9.30
OFFSITES	$2,435,294	$8,199	$8.57
CONSTRUCTION PERIOD PROPERTY TAXES	$427,179	$1,438	$1.54
TOTAL BONDS, INSURANCE & LEGAL	$2,798,814	$9,387	$10.03
CONSTRUCTION FINANCING COSTS	$485,259	$1,634	$1.74
OFFICE & MODEL FURNITURE AND MARKETING	$618,873	$2,057	$2.20
SOFT COST CONTINGENCY	$220,000	$740	$1.02
DEVELOPER FEE PD DURING CONSTRUCTION (80%)	$4,630,846	$15,600	$16.66
HARD COSTS	$38,119,388	$128,705	$140.69
GENERAL CONTRACTOR FEE	$2,349,978	$7,912	$8.44
LAND LEASE PAYMENTS	$432,819	$1,457	$1.55
CALSTRS SUBSCRIPTION LOAN POINTS & FEES	$79,082	$266	$0.27
CALSTRS SUBSCRIPTION LOAN INTEREST	$483,948	$1,630	$1.73
LMCRA AFFORDABLE UNITS SUBSIDY	($1,980,000)	($6,869)	($5.93)
DEVELOPER FEE PAID AT CLOSING	$149,241	$503	$0.53
LENDER ADMINISTRATIVE FEE	$14,850	$50	$0.05
CONSTRUCTION LOAN INTEREST RESERVE	$3,332,799	$11,219	$11.93
TOTAL CONSTRUCTION COST	$63,295,333	$213,111	$226.70
TOTAL CONSTRUCTION COST LESS INTEREST	$60,962,534	ROC:	0.81%
PPV OF LAND LEASE PAYMENTS @ 8.00%	$2,499,812	$8,249	$8.85

SCHEDULING AND TIMING

	MONTHS	MONTH/YEAR
LAND LEASE COMMENCEMENT	1	MAY 2009
CONSTRUCTION LOAN FUNDING	19	MAY 2007
1ST EQUITY INSTALLMENT (5 TOTAL)	10	FEB 2007
CONSTRUCTION STARTS	13	MAY 2007
FIRST DELIVERY (53 AVG MONTHLY)	22	MAR 2009
FIRST LEASE (35 AVG MONTHLY)	23	MAR 2009
FIRST RENT INCREASE (5.00%)	0	JAN 2007
LAST DELIVERY	40	AUG 2010
DURATION OF CONSTRUCTION	2 YRS, 4 MOS	07/07 to 08/10
CONSTRUCTION LOAN CONVERSION	32	FEB 2010
FULLY LEASED (99% LEASED)	41	JAN 2010
STABILIZED (95% OCCUPANCY, 283 UNITS)	42	FEB 2010
SALE DATE (NOI/.05 AT 4.25% CAP)	43	MAY 2010
HOLDING PERIOD (EQUITY THRU SALE)	3 YRS, 4 MOS	02/07 to 05/10
HOLDING PERIOD (LEASE START THRU SALE)	4 YRS, 1 MO	03/06 to 05/10

COMPUTATION OF WORKING CAPITAL

THROUGH LOAN CONVERSION FEB 2010

TOTAL LOAN DRAWS		$44,472,189
NET OF INCOME DURING CONSTRUCTION LOAN PERI	$1,987,382	
PLUS FUNDED STARTUP COSTS	$267,994	
PLUS INTEREST EARNINGS	1,870	
TOTAL CONSTRUCTION LOAN PERIOD INCOME	$1,856,422	
LESS INCOME TOWARD LOAN INTEREST (70%)	($1,292,251)	
NET CONSTRUCTION LOAN PERIOD INCOME		$284,183
PLUS EQUITY INVESTED DURING CONSTRUCTION		$10,839,954
MINUS TOTAL CONSTRUCTION COSTS		($59,298,223)
TOTAL WORKING CAPITAL		$284,183

SUMMARY OF CALSTRS RETURNS

SALE DATE		MAY 2010
SALE PRICE (4.25% CAP RATE)	997,537,483 CR	$327,398/UNIT
NET OPERATING INCOME AT SALE (TO BUYER)		$4,331,793
IRR		14.50%
CALSTRS PROFIT		$7,143,143
TOTAL PROCEEDS AT SALE TO CALSTRS		$16,737,457
CASH-ON CASH RETURN		2.29%
RETURN-ON-COSTS UNLEVERED		6.21%
RETURN-ON-COSTS LEVERED		7.99%

SUMMARY OF EQUITY CAPITALIZATION

	EQUITY
(1) CALSTRS (92.60%)	$13,636,129
(2) FAIRFIELD (0.00%)	1,188,024
(3) 2 PR 25% HOLDBACK (0.00%)	0
TOTAL EQUITY	$14,824,054
(1) CALSTRS PROFIT INTEREST	69.00%
(2) FAIRFIELD PROFIT INTEREST	30.00%
(3) 2 PR 25% HOLDBACK PROFIT INTEREST	10.00%
1ST LOOKBACK (1) 92% / (2) 8%	11.07%
2ND LOOKBACK (1) 75% / (2) 18.75% / (3) 6.25%	14.89%
3RD LOOKBACK (1) 69% / (2) 30.25% / (3) 0.75%	18.63%
EQUITY-TO-COST RATIO	25.00%

EQUITY INSTALLMENTS	(1)	(2)
1ST EQUITY INSTALLMENT FEB 2007	97,153,300	$822,617
2ND EQUITY INSTALLMENT MAY 2007	2,848,818	177,994
3RD EQUITY INSTALLMENT JUN 2007	410,711	$3,163
4TH EQUITY INSTALLMENT JUL 2007	782,227	$8,949
5TH EQUITY INSTALLMENT AUG 2007	735,176	$3,078

CST 13MAR1907 VERSION 07.12 8-YEARS CALENDAR FROM: 09/15/2006 09:37 AM

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

OPERATING INCOME AND EXPENSE

UNIT DESCRIPTION	UNITS	% OF TOTAL	UNIT SIZE	TOTAL SQ. FT.	BASE INCOME (UNTRENDED) MAY 2009 ANNUAL TOTAL	BASE INCOME (UNTRENDED) MAY 2009 MONTHLY TOTAL	BASE INCOME (UNTRENDED) MAY 2009 MONTHLY PER UNIT	BASE INCOME (UNTRENDED) MAY 2009 MONTHLY PER SQ. FT.	AT STABILIZATION (FEB 2010-JAN 2011) ANNUAL TOTAL	AT STABILIZATION (FEB 2010-JAN 2011) MONTHLY PRO FORMA	AT STABILIZATION (FEB 2010-JAN 2011) MONTHLY PER UNIT	AT STABILIZATION (FEB 2010-JAN 2011) MONTHLY PER SQ. FT.	AT SALE (MAY 2010-APR 2011) ANNUAL TOTAL	AT SALE (MAY 2010-APR 2011) MONTHLY STD LABOR	AT SALE (MAY 2010-APR 2011) MONTHLY PER UNIT	AT SALE (MAY 2010-APR 2011) MONTHLY PER SQ. FT.
1BR/1BA-A1-VL (MAX=$534-569 UTIL. ALLO	10	2.38%	616	6,160	$87,000	$7,250	$725	$1.18	$77,076	$6,423	$642	$1.04	$77,712	$6,476	$648	$1.05
1BR/1BA-A1-M (MAX=$1,304-1,500 UTIL. ALLC	15	3.57%	616	9,240	$236,000	$19,676	$1,323	$2.15	$211,128	$22,914	$1,386	$2.44	$273,324	$22,777	$1,518	$2.46
1BR/1BA-A1	4	1.19%	616	2,464	$60,000	$5,040	$1,260	$2.04	$78,876	$6,573	$1,576	$2.56	$78,156	$6,346	$1,537	$2.50
1BR/1BA-A1A	5	1.58%	754	3,770	$90,000	$7,500	$1,500	$1.99	$97,596	$8,133	$1,717	$2.28	$103,624	$8,652	$1,730	$2.29
1BR/1BA-A1B	4	1.19%	616	2,464	$68,340	$5,695	$1,399	$2.27	$75,360	$6,273	$1,569	$2.57	$78,912	$6,576	$1,532	$2.50
1BR/1BA-A2	32	10.77%	648	20,672	$540,000	$45,000	$1,406	$2.17	$617,928	$51,494	$1,609	$2.49	$622,692	$51,891	$1,622	$2.51
1BR/1BA-A2A	4	1.35%	638	2,552	$87,000	$7,250	$1,813	$2.84	$70,944	$5,912	$1,478	$2.32	$77,556	$6,463	$1,616	$2.53
1BR/1BA-A3	82	27.61%	738	59,532	$1,656,180	$138,015	$1,683	$2.28	$1,650,720	$136,894	$1,664	$2.23	$1,660,224	$140,018	$1,709	$2.35
1BR/1BA-A3A	9	2.69%	719	5,752	$142,800	$11,900	$1,322	$1.84	$152,868	$12,665	$1,650	$2.35	$167,388	$13,615	$1,772	$2.37
2BR/2BA-B1-VL (MAX=$713-867 UTIL. ALLO	9	2.69%	990	7,990	$93,000	$8,000	$1,400	$1.41	$88,318	$8,065	$712	$0.71	$88,668	$5,739	$717	$0.72
2BR/2BA-B1-M (MAX=$1,069-1,301 UTIL. ALLC	9	2.69%	990	7,990	$108,704	$9,892	$1,402	$1.41	$121,356	$10,100	$1,685	$1.69	$122,256	$10,190	$1,698	$1.70
2BR/2BA-B1-S (MAX=$1,300-1,537 UTIL. ALLC	9	2.69%	1,040	9,360	$108,704	$9,892	$1,402	$1.41	$121,356	$10,100	$1,685	$1.69	$122,256	$10,190	$1,698	$1.70
2BR/2BA-B2	10	6.85%	1,045	10,912	$112,800	$34,300	$1,810	$1.73	$469,128	$39,094	$2,238	$1.95	$472,932	$39,411	$2,074	$1.98
2BR/2BA-B2A	8	2.22%	1,080	8,300	$138,320	$11,526	$1,610	$1.72	$140,132	$12,348	$2,029	$1.96	$140,352	$12,446	$2,079	$1.98
2BR/2BA-B3	20	6.73%	1,275	25,500	$400,000	$48,000	$2,226	$1.49	$532,488	$44,040	$2,302	$1.91	$536,016	$44,613	$2,331	$1.92
2BR/2BA-B3A	2	0.67%	1,177	2,354	$48,000	$3,650	$1,925	$1.64	$53,514	$4,377	$2,189	$1.86	$53,844	$4,412	$2,206	$1.87
2BR/2BA-B3C	8	2.69%	1,481	11,280	$201,600	$16,800	$2,100	$1.80	$228,170	$19,000	$2,397	$1.70	$731,028	$18,269	$2,457	$1.72
2BR/2BA-B4	68	19.53%	1,288	73,370	$1,603,440	$133,670	$2,015	$1.59	$1,564,284	$132,857	$2,291	$1.81	$1,567,200	$133,914	$2,309	$1.83
GROSS APARTMENT MARKET RENT	297	100.00%	914	271,458	$3,792,726	$3,073,177	$1,035	$1.75	$3,482,148	$3,448,679	$1,819	$1.99	$3,674,872	$3,644,528	$1,834	$2.01
GROSS APARTMENT POTENTIAL RENT					$3,792,120	$3,073,177	$1,035	$1.75	$3,482,148	$3,448,778	$1,819	$1.99	$3,674,872	$3,644,528	$1,834	$2.01
APARTMENT VACANCY @ 4.70% (1)					($267,828)	($22,319)	(75)	($0.07)	($164,484)	($25,372)	(99)	($0.07)	($166,078)	($139,577)	(68)	($0.05)
NET APARTMENT RENTAL REVENUE					$3,494,298	$3,032,858	$1,020	$1.67	$3,317,664	$3,314,807	$1,734	$1.88	$3,227,730	$3,510,978	$1,748	$1.92
OTHER APARTMENT INCOME @ $30.00 PER UNIT LESS VACANCY FACTOR @ 4.70% (1)					$91,884	$7,657	$25	$0.05	$75,828	$9,469	$32	$0.04	$118,772	$9,731	$33	$0.05
NET TOTAL APARTMENT RENTAL REVENUE					$3,586,200	$3,401,330	$1,554	$1.70	$3,253,520	$3,324,698	$1,787	$1.84	$3,346,502	$3,520,709	$1,781	$1.96
RETAIL @ 2,744 @ $1.50 LESS VACANCY FACTOR @ 20.00% (1)					$39,540	$3,295	$1	$0.01	$65,000	$5,370	$1	$0.01	$49,308	$3,359	$1	$0.01
NET PROPERTY REVENUE					$3,525,715	$3,004,643	$1,555	$1.71	$3,320,520	$3,327,794	$1,778	$1.93	$3,344,810	$3,523,068	$1,782	$1.97

CST1504B 0407 VERSION 07.12 6-YEARS CALENDAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

OPERATING INCOME AND EXPENSE

EXPENSE RATE/CORE	BASE EXPENSES (UNTRENDED) MAY 2006 TOTAL	MONTHLY	PER UNIT ANNUALLY	PER SQ FT ANNUALLY	AT STABILIZATION FEB 2010-JAN 2011 TOTAL	MONTHLY	PER UNIT ANNUALLY	PER SQ FT ANNUALLY	AT SALE (MAY 2010-APR 2011) TOTAL	MONTHLY	PER UNIT ANNUALLY	PER SQ FT ANNUALLY
SALARIES	$328,700	$27,225	$1,100	$1.20	$360,825	$30,719	$1,241	$1.36	$371,370	$30,948	$1,250	$1.37
ADVERTISING	61,970	4,331	175	0.19	59,840	4,987	197	0.22	59,470	4,924	199	0.22
REPAIRS, MAINTENANCE, BUILDING SVCS & COMMON AREA MAINT.	149,500	12,375	500	0.55	167,571	13,963	564	0.62	168,054	14,067	568	0.62
GENERAL AND ADMINISTRATIVE	69,400	4,950	200	0.22	67,320	5,665	229	0.25	67,520	5,627	227	0.25
MANAGEMENT FEE	167,300	13,919	562	0.62	190,000	15,834	640	0.70	181,544	15,503	649	0.71
UTILITIES	141,075	11,760	475	0.52	159,105	13,254	536	0.59	160,256	13,363	540	0.59
SUBTOTAL VARIABLE OPERATING EXPENSES	$954,910	$74,570	$3,013	$3.30	$1,011,024	$84,272	$3,404	$3.74	$1,010,892	$84,091	$3,479	$3.70
INSURANCE	170,217	14,219	605	0.66	202,212	16,868	681	0.74	203,724	16,977	686	0.75
TOTAL PROPERTY TAXES	543,884	45,490	1,838	2.01	588,883	49,240	1,990	2.18	588,883	49,240	1,990	2.18
BASE LAND LEASE PAYMENTS (PAID IN ADVANCE)	144,373	12,023	486	0.53	144,373	12,023	486	0.53	144,373	12,023	486	0.53
LAND LEASE PREMIUM (1.25% OF NET PROPERTY REVENUE PAID IN ARREARS)	69,890	6,978	235	0.26	79,181	6,597	267	0.29	79,818	6,651	269	0.29
SUBTOTAL FIXED OPERATING EXPENSES	$930,979	$78,216	$3,163	$3.46	$1,018,837	$84,711	$3,424	$3.74	$1,016,880	$84,891	$3,431	$3.75
RESERVES FOR REPLACEMENT	89,450	8,950	288	0.32	97,970	8,165	330	0.36	97,324	8,027	327	0.36
TOTAL OPERATING EXPENSES	$1,975,340	$157,731	$6,376	$6.97	$2,094,581	$174,149	$7,042	$7.70	$2,104,096	$176,012	$7,087	$7.75
NET OPERATING INCOME (1)	$3,697,329	$309,611	$12,510	$13.67	$4,310,047	$373,298	$14,973	$16.53	$4,219,918	$349,669	$14,018	$15.47

RETURN ON COSTS:	6.31%	7.19%
TOTAL OPERATING EXPENSES AS A % OF NET PROPERTY REVENUE:	33.89%	23.07%
ESTIMATED ASSESSED VALUE FOR PROPERTY TAXES:	$92,373,573 OR $177,833 / UNIT	$58,929,979 OR $119 LEED / UNIT
		AT SALE (MAY 2010-APR 2011)
		7.22%
		32.97%
		$56,928,979 OR $101,860 / UNIT

UNIT MIX:	
MARKET-RATE UNIT MIX (232 64.05%)(% OF TOTAL UNITS / % OF UNIT TYPE):	1-BR: 184 (55.22%/79.31%); 2-BR: 123 (44.78%)
AFFORDABLE UNIT MIX (49 13.53%)(% OF TOTAL UNITS / % OF UNIT TYPE):	1-BR: 139 (48.08% / 84.76%); 2-BR: 113 (34.05% / 64.06%)
INFLATION OF APARTMENT RENTS:	1-BR: 25 (6.42% / 15.24%); 2-BR: 20 (5.73% / 15.94%)
AVG BASE OVERALL RENTS PER UNIT BY # OF BEDROOMS:	3% 1/07, 3.25% 2/08, 3.25% 1/09, 3.25% 1/10
AVG BASE MARKET RENTS PER UNIT BY # OF BEDROOMS:	1BR-$1,307
AVG BASE AFFORDABLE RENTS PER UNIT BY # OF BEDROOMS:	2BR-$1,489
AVG BASE OVERALL RENTS PER SQ. FT. BY # OF BEDROOMS:	1BR-$1,031
AVG BASE MARKET RENTS PER SQ. FT. BY # OF BEDROOMS:	1BR-$2.09/SF
AVG BASE AFFORDABLE RENTS PER SQ. FT. BY # OF BEDROOMS:	2BR-$2.09/SF
APARTMENT VACANCY RATE:	1BR-$1.66/SF
APARTMENT MOVE-IN CONCESSIONS (IN WEEKS):	4.76% 3/99
RETAIL VACANCY RATE:	3.39 5/08, 0 2/10
BASE LAND LEASE PAYMENTS (PAID IN ADVANCE):	2006 2009
LAND LEASE PREMIUM (AS A % OF NOI PAID IN ARREARS):	$48,091 PAID 1 EFFECTIVE 6/09, $96,183 PAID 6/MONTHLY EFFECTIVE 9/07, $144,273 PAID MONTHLY EFFECTIVE 6/08
NPV OF TOTAL LAND LEASE PAYMENTS (99 YEARS AT 6.00% / 6.00% / 10.00% DISCOUNT RAT	1.25% PAID 1 5/10
MANAGEMENT FEE:	$2,939,020 / $2,480,812 / $2,112,488 AND PER UNIT $9,905 / $8,366 / $7,112
EXPENSE INFLATORS:	2.25% OF TOTAL PROPERTY REVENUE
ANNUAL INFLATION OF ASSESSED PROPERTY VALUE IN JANUARY:	3% 1/07, 3% 1/08, 3% 1/09, 3% 1/10
AD VALOREM PROPERTY TAX RATES:	2.00%
	1.037300% @ 100.00% ASSESSMENT RATIO

(1) THE UNTRENDED NOI IS BASED ON RENTS AND EXPENSES AT THE DATE SPECIFIED AT THE TOP OF THE ABOVE 3 COLUMNS EXCEPT FOR PROPERTY TAXES. PROPERTY TAXES ARE BASED ON A STABILIZED ASSESSED VALUE IN FEB 2010 THAT ARE TRENDED APPROPRIATELY TO THE DATES SPECIFIED AT THE TOP OF THE COLUMNS. PROPERTY TAXES AT STABILIZATION AND SALE ON THIS PAGE DO NOT REFLECT PROJECTED ACTUAL TAXES THAT APPEAR ON THE CONSTRUCTION AND OPERATIONS SUMMARY BECAUSE TAXES DO NOT STABILIZE UNTIL FEB 2010 AND THE INTENT OF THIS PAGE IS TO ILLUSTRATE A "STABILIZED" NOI. TO SEE A MONTHLY OR ANNUAL NOI FOR ANY POINT IN TIME WITHIN THE SCOPE OF THIS PROJECTION, GO TO THE CONSTRUCTION AND OPERATIONS SUMMARY SHEET. VACANCY RATE, CONCESSIONS, LOSS TO LEASE RATE AND COLLECTION LOSS RATE ARE VALUES CONSIDERED TO BE "STABILIZED" AND DO NOT NECESSARILY REFLECT WHAT MIGHT BE IN PLACE AT PHYSICAL STABILIZATION AND SALE.

CST13SAB1207 VERSION 07.12 8-YEARS CALENDAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

SALE SUMMARY

COMPUTATION OF SALE PROCEEDS FOR SALE IN MAY 2011

NET OPERATING INCOME CAPITALIZATION RATES	6.00%	6.25%	6.50%
SALE PRICE PER UNIT	$331,474	$327,375	$323,457
ANNUAL NET OPERATING INCOME AT SALE TO SELLER (1)	$6,316,979	$6,148,878	$5,990,978
PLUS SELLER'S AD VALOREM PROPERTY TAXES	$58,836	$58,836	$58,836
LESS BUYER'S AD VALOREM PROPERTY TAXES (2)	($58,836)	($58,836)	($58,836)
ANNUAL NET OPERATING INCOME AT SALE TO BUYER	$6,316,979	$6,148,878	$5,990,978
DIVIDED BY THE CAPITALIZATION RATE	6.00%	6.25%	6.50%
EQUALS SALE PRICE	$105,282,978	$98,381,408	$92,169,815
PLUS PROPERTY TAX PRORATION TO SELLER	49,284	49,301	49,251
LESS SALES COMMISSION, TITLE, AND CLOSING COSTS @ $729,000 PLUS 1.00%	($324,290)	($309,337)	($297,478)
LESS 2008 PERM LOAN (INTEREST ONLY) PRINCIPAL PAYOFF	($44,472,169)	($44,472,169)	($44,472,169)
LESS MINI-PERM LOAN (INTEREST ONLY) ACCRUED INTEREST	($316,737)	($316,737)	($316,737)
SALE PROCEEDS AVAILABLE FOR DISTRIBUTION	$60,218,466	$53,331,466	$47,132,682
LESS UNPAID LENDER ADMINISTRATIVE FEE TO CONSTRUCTION LENDER	($100)	($100)	($100)
LESS CALSTRS 1ST TIER LOOKBACK @ 12.00% TO A 10.00% IRR TO CALSTRS	($17,000,000)	($17,000,000)	($17,000,000)
LESS FAIRFIELD 1ST TIER LOOKBACK @ 8.00% TO A 11.00% IRR TO CALSTRS	($1,581,920)	($1,581,920)	($1,581,920)
LESS CALSTRS 2ND TIER LOOKBACK @ 75.00% TO A 14.00% IRR TO CALSTRS	($1,033,500)	($1,033,500)	($160,300)
LESS FAIRFIELD 2ND TIER LOOKBACK @ 10.72% TO A 14.00% IRR TO CALSTRS	($13,997)	($13,997)	($17,997)
LESS FFR 25% HOLDBACK 2ND TIER LOOKBACK @ 0.25% TO A 14.00% IRR TO CALSTRS	($37,997)	($37,997)	($15,997)
LESS CALSTRS 3RD TIER LOOKBACK @ 66.00% TO A 10.00% IRR TO CALSTRS	($1,732,560)	($100,710)	$0
LESS FAIRFIELD 3RD TIER LOOKBACK @ 20.25% TO A 10.00% IRR TO CALSTRS	($102,823)	($6,571)	$0
LESS FFR 25% HOLDBACK 3RD TIER LOOKBACK @ 5.75% TO A 10.00% IRR TO CALSTRS	($23,875)	($2,017)	$0
NET PROCEEDS FROM SALE AVAILABLE FOR DISTRIBUTION	$0	$0	$0
SUMMARY OF SALE PROCEEDS TO FFR 25% HOLDBACK			
2ND TIER LOOKBACK SPLIT 0.25% TO A 14.00% IRR TO CALSTRS	$37,995	$37,995	$15,997
3RD TIER LOOKBACK SPLIT 5.75% TO A 10.00% IRR TO CALSTRS	$23,875	$2,017	$0
TOTAL SALE PROCEEDS TO FFR 25% HOLDBACK	$61,871	$40,012	$15,997
SUMMARY OF SALE PROCEEDS TO FAIRFIELD			
1ST TIER LOOKBACK SPLIT 8.00% TO A 11.00% IRR TO CALSTRS	$1,581,920	$1,581,920	$1,581,920
2ND TIER LOOKBACK SPLIT 10.72% TO A 14.00% IRR TO CALSTRS	$13,997	$13,997	$17,997
3RD TIER LOOKBACK SPLIT 20.25% TO A 10.00% IRR TO CALSTRS	$102,823	$6,571	$0
TOTAL SALE PROCEEDS TO FAIRFIELD	$1,697,932	$1,614,534	$1,599,917
SUMMARY OF SALE PROCEEDS TO CALSTRS			
1ST TIER LOOKBACK SPLIT 92.00% TO A 11.00% IRR TO CALSTRS	$17,000,000	$17,000,000	$17,000,000
2ND TIER LOOKBACK SPLIT 75.00% TO A 14.00% IRR TO CALSTRS	$1,033,500	$1,033,500	$160,300
3RD TIER LOOKBACK SPLIT 66.00% TO A 10.00% IRR TO CALSTRS	$1,732,560	$100,710	$0
TOTAL SALE PROCEEDS TO CALSTRS	$21,331,257	$18,737,417	$16,119,448

(1) THE TOTAL OF NOI TWELVE MONTHS INCLUSIVE FROM THE MONTH OF SALE.
(2) ANNUAL AD VALOREM PROPERTY TAXES THAT THE BUYER WILL GIVE BASED ON THE SALE PRICE GIVEN THE ASSESSMENT RATIO AND TAX RATE.

CASH RETURN TO CALSTRS

YEAR	EQUITY INVESTMENT	CASH FLOW	SALE PROCEEDS 6.00% CAP RATE	SALE PROCEEDS 6.25% CAP RATE	SALE PROCEEDS 6.50% CAP RATE
2009	($3,850,138)	0	0	0	0
2010	0	183,309	21,331,257	18,737,417	16,119,448
		PROFIT	$18,514,933	$17,917,143	$13,478,125
		IRR	16.63%	14.39%	11.79%

GROSS JOINT VENTURE PROFIT

	6.00% CAP RATE	6.25% CAP RATE	6.50% CAP RATE
SALE PROCEEDS AVAILABLE FOR DISTRIBUTION	$54,367,748	$51,393,575	$48,774,157
LESS TOTAL EQUITY INVESTED	($14,024,464)	($14,024,464)	($14,024,464)
LESS FEES & OTHER DEDUCTIONS AT SALE	($44,573)	($36,719)	($47,591)
PLUS CASH FLOW FROM OPERATIONS	1,947,815	1,947,815	1,947,815
JOINT VENTURE PROFIT	$39,946,772	$37,770,428	$35,651,527
JOINT VENTURE IRR	19.72%	18.87%	11.43%

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

CASH FLOW DISTRIBUTION SUMMARY

	[illegible]	2007	2008	2009	JAN 2010 THRU MAY 2010	TOTALS THRU SALE IN MAY 2010
GROSS APARTMENT MARKET RENT	$0	$0	$0	$4,183,555	$2,663,800	$6,847,355
GROSS APARTMENT POTENTIAL RENT	$0	$0	$0	$4,183,555	$2,663,800	$6,847,355
APARTMENT VACANCY @ 4.79%	0	0	0	($1,943,281)	($20,000)	($1,969,847)
APARTMENT MOVE-IN CONCESSIONS @ 0 WEEKS AT 0.00% TURNOVER RATE	0	0	0	($12,884)	($10,054)	($23,888)
NET APARTMENT RENTAL REVENUE	$0	$0	$0	$2,208,270	$2,536,889	$4,768,359
OTHER INCOME @ $30.00 PER UNIT LESS VACANCY FACTOR @ 4.79%	0	0	0	44,498	47,947	92,443
NET TOTAL APARTMENT RENTAL REVENUE	$0	$0	$0	$2,252,768	$2,604,827	$4,857,595
RETAIL @ 2,744 @ $1.50 LESS VACANCY FACTOR @ 20.00% (1)	0	0	0	13,172	18,453	29,627
NET PROPERTY REVENUE	$0	$0	$0	$2,265,938	$2,621,282	$4,887,220
TOTAL OPERATING EXPENSES	$0	$0	$18,804	$1,430,462	$806,689	$2,344,155
RESERVES FOR REPLACEMENT	0	0	0	0	22,344	22,344
NET OPERATING INCOME	$0	$0	($18,804)	$835,476	$1,792,259	$2,516,911
PLUS STARTUP EXPENSES FUNDED BY CONSTR FUNDS	0	0	19,804	369,480	0	387,284
PLUS INTEREST EARNINGS	0	100	0	909	1,874	2,883
PLUS MINI-PERM LOAN (INTEREST ONLY) FUNDING	0	0	0	0	44,472,188	44,472,188
CURRENT MONTH CASH FLOW BEFORE DEBT SERVICE	$0	$100	$0	$1,184,865	$46,178,143	$47,318,987
LESS CONSTRUCTION DEBT SVC (EXCL INTEREST RESERVE)	0	100	0	776,313	523,184	1,299,497
LESS MINI-PERM LOAN (INTEREST ONLY) DEBT SERVICE	0	0	0	0	461,826	461,826
LESS CONSTRUCTION LOAN PAYOFF	0	0	0	0	44,472,188	44,472,188
LESS FAIRFIELD DEF DEVELOPER FEE PAYMENTS	0	0	0	0	0	0
CURRENT MONTH CASH FLOW AVAILABLE FOR DISTRIBUTION	$0	$0	$0	$408,552	$719,353	$1,847,818
REMAINING CASH FLOW TO CALSTRS	0	0	0	0	963,806	963,806
REMAINING CASH FLOW TO FAIRFIELD	0	0	0	0	83,809	83,809
WORKING CAPITAL ACCOUNT BALANCE	$0	$0	$0	$328,353	$0	$0
TOTAL CASH FLOW TO CALSTRS	0	0	0	0	963,806	963,806
TOTAL CASH FLOW TO FAIRFIELD	0	0	0	0	83,809	83,809
TOTAL CASH FLOW DISTRIBUTIONS	$0	$0	$0	$0	$1,047,615	$1,047,615
TOTAL UNPAID FEES AND PREFERRED RETURNS OWED FROM SALE PROCEEDS	$0	($2,020)	($3,640)	($3,640)	$765	$765
CASH EQUITY INVESTMENT	0	13,838,139	13,838,139	13,838,139	13,838,139	13,838,139
CALSTRS CASH EQUITY INVESTMENT	0	1,183,824	1,183,824	1,183,824	1,183,824	1,183,824
FAIRFIELD CASH EQUITY INVESTMENT	$0	$14,021,964	$14,021,964	$14,021,964	$14,021,964	$14,021,964
TOTAL CASH EQUITY INVESTMENT						

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA
FINAL PROJECTION

HARD COST DETAIL

UNITS 297
GROSS SQUARE FOOTAGE 278,299
GENERAL CONTRACTOR FEE: 6.00%

COST DESCRIPTION	COST	COST PER UNIT	COST PER SQUARE FOOT	PERCENT OF HARD COSTS
APARTMENT HARD COSTS	$28,493,189	$95,857	$102.12	78.32%
PODIUM DECK PARKING-ATS (268 PARKING SPACES @ $12,488 EACH)	3,298,400	11,108	11.85	8.85%
PODIUM DECK PARKING-PFRES (448 PARKING SPACES @ $12,488 EACH)	5,518,000	18,578	19.83	14.82%
TOTAL HARD COSTS	$37,229,589	$125,342	$133.81	99.78%
PLUS SPECIAL PROJECT REQUIREMENTS				
DEMO EXISTING PARKING -CURBS, GUTTERS AND PAVING	$91,270	$307	$0.33	0.22%
RELOCATE 16" GASLINE & REMOVE ABANDONED 16" STEEL WATE	$45,813	$154	$0.16	0.11%
RELOCATE 12" SEWER AND REMOVE AND RELOCATE 84" CIPCI ST	$104,642	$357	$0.38	0.25%
REMOVE AND RELOCATE 18" RCP STORM DRAINS & 36" TELEPHO	$32,788	$110	$0.12	0.08%
CONSTRUCT RETAINING WALLS AT FLETCHER PKWY AND GROSS	$128,788	$434	$0.46	0.31%
CONSTRUCT SPECIAL BEAMS AND FOOTINGS AT GARAGES TO SP	$333,943	$1,788	$1.92	1.20%
OTHER	$258,719	$881	$0.93	0.84%
CONTINGENCY	$788,888	$2,318	$2.78	1.85%
TOTAL SPECIAL PROJECT REQUIREMENTS	$1,888,718	$6,363	$6.80	4.56%
PLUS GENERAL CONTRACTOR FEE	$2,248,978	$7,572	$8.44	5.68%
TOTAL HARD COST BUDGET	$41,483,288	$139,697	$149.08	100.00%

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, C/

FINAL PROJECTION

PERMITS, FEES AND OTHER SOFT COSTS DETAIL

LAND AND CLOSING COSTS	
LAND	
LAND LEGAL	$0
LAND TITLE/CLOSING	110,000
FAIRFIELD BROKER COMMISSION	25,000
OUTSIDE REAL ESTATE COMMISSION	0
TRANSFER & DOCUMENTATION FEES	84,535
LAND LETTER OF CREDIT	0
WATER & BOND	0
LAND OPTION PMT-REFUNDABLE	0
LAND OPTION PMT-NON-REFUNDABLE	0
LAND CONTRIBUTIONS	100,000
LAND LEASE PAYMENTS	140,882
TOTAL LAND AND CLOSING COSTS	472,818
	$810,246
OFFSITE IMPROVEMENTS	
GRADING	
ROCK REMOVAL	$1,557,840
UTILITIES	0
CURB & GUTTER	0
SOUND WALL	0
PAVING	0
SIDEWALKS	180,055
JOINT TRENCH	27,638
STREET LIGHTS	371,884
TRAFFIC SIGNALS	11,147
FENCING	54,737
LANDSCAPING	0
LIFT STATION	121,380
DEMOLITION	0
ENVIRONMENTAL MITIGATION	22,295
CONTRIBUTIONS-OFFSITES	0
REIMBURSABLES-OFFSITES	0
MISC.	0
CONTINGENCY	0
TOTAL OFFSITE IMPROVEMENTS	150,000
	$2,495,204
DEVELOPMENTAL COSTS	
APPRAISAL	
REZONING, PLATTING, & PREL ENGINEERING	$0
FEASIBILITY STUDIES	0
MARKET SURVEYS	2,264
ENGINEERING REVIEW/MISC	0
SOIL STUDIES	0
ENVIRONMENTAL STUDIES	33,730
ACOUSTICAL STUDIES	8,072
GEOPHYSICAL STUDIES	8,410
TOXICHAZARD STUDIES	0
ENVIRONMENTAL MITIGATION	2,819
TRAFFIC STUDY	70,000
BIOLOGICAL STUDIES	22,381
ALTA BOUNDARY SURVEY	8,143
CONCEPTUAL SITE PLAN	0
TOPO/TREE SURVEY	0
MISC	0
MISC	66,357
CONTINGENCY	0
TOTAL DEVELOPMENTAL COSTS	80,000
	$306,947
OFFICE/CLUBHOUSE/MODEL FURNISHINGS AND MARKETING	
SIGNAGE (6902-6904)	
PROMOTION (GRAPHICS, BROCHURES, ADVERTISING, ETC.) (6950-6954)	$20,367
LEASING OFFICE/CLUBHOUSE FURNISHINGS AND ACCESSORIES (6912-6932	75,000
POOL FURNITURE, BBQ GRILLS, ETC. (6905-6910)	240,000
FITNESS CENTER EQUIPMENT AND FURNISHINGS, ETC (6934-6936)	28,179
MODEL FURNISHINGS & BUILDING EXTRAS (6944-6946)	28,450
MAINTENANCE EQUIPMENT (6940-6942)	64,535
COMPUTERS	30,896
MISC.	56,257
STARTUP COSTS	0
TOTAL OFFICE/CLUBHOUSE/MODEL FURNISHINGS AND MARKETING	237,364
	$511,227

ARCHITECTURAL AND ENGINEERING	
CONCEPTUAL ARCHITECTURALS	$0
ARCHITECTURAL DESIGN	615,000
ARCHITECTURAL EXTRA SERVICES	25,000
ARCHITECTURAL REIMB	40,000
CIVIL ENGINEER	537,000
CIVIL ENGINEER EXTRA SERVICES	25,000
CIVIL ENGINEER REIMB	42,000
PLANNING CONSULTANT	12,000
PLANNING CONSULTANT EXTRA SERVICES	0
PLANNING CONSULTANT REIMB	0
LANDSCAPE DESIGN	190,000
LANDSCAPE DESIGN EXTRA SERVICES	10,000
LANDSCAPE DESIGN REIMB	10,000
SOILS ENGINEER	15,000
SOILS/CONCRETE TESTING	0
SED/EROSION CONTROL MONITORING	0
UTILITY CONSULTANT	17,200
UTILITY CONSULTANT EXTRA SERVICES	0
UTILITY CONSULTANT REIMB	0
STRUCTURAL ENGINEER	230,000
STRUCTURAL ENGINEER EXTRA SERVICES	10,000
STRUCTURAL ENGINEER REIMB	10,000
M.E.P. ENGINEER	160,000
M.E.P. ENGINEER REIMB	10,000
SURVEYING	97,000
FOUNDATION CONSULTANT	0
FOUNDATION CONSULTANT EXTRA SVCS	0
FOUNDATION CONSULTANT REIMB	0
MISC CONSULTANTS	0
SPEC & TECH	71,000
INSPECTING ARCHITECT	60,000
FINAL PLAT	30,000
GARAGE DESIGN	0
MISC. REIMBURSABLES	180,000
BLUEPRINTS	0
CONSTRUCTION STAKING	65,000
FINAL ALTA/AS BUILT	0
LEEDS STUDY	0
CONTINGENCY	2,500
TOTAL ARCHITECTURAL AND ENGINEERING	0
	$2,953,700
BONDS, INSURANCE, LEGAL AND ADMINISTRATION	
GRADING BOND	
SUBDIVISION IMPROVEMENT BOND	$0
LANDSCAPE BOND	0
COMPLETION/PERFORMANCE BOND	0
BONDS-MISC	35,000
INSURANCE-GENERAL LIABILITY	0
INSURANCE-BUILDERS' RISK	178,838
INSURANCE-FLOOD	$10,679
INSURANCE-H.O. WARRANTY	0
INSURANCE-OTHER	0
LEGAL-GENERAL	0
SALARIES-PROJECT MANAGER	80,000
SALARIES-CLERICAL	0
GENERAL & ADMINISTRATIVE COSTS	0
ORGANIZATIONAL LEGAL COSTS	60,000
START UP COSTS	25,000
TAX CREDIT INITIAL COMPLIANCE COSTS	0
CALSTRS PREF DURING CONSTRUCTION	0
TRANS MGMT FEE	0
RENT UP FEE	0
LENDER ADMINISTRATIVE FEE	0
ACCOUNTING SERVICES FEE	25,000
DEVELOPER FEE PAID AT CLOSING	25,000
PLACEMENT FEE	149,241
OWNER'S CONTINGENCY	0
MISC.	1,825,000
TOTAL BONDS, INSURANCE, LEGAL AND ADMINISTRATION	0
	$2,964,458

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

PERMITS, FEES AND OTHER SOFT COSTS DETAIL - CONTINUED

PERMITS AND FEES	
SITE REVIEW PLAN	
FDEP STORMWATER & NPDES PERMITS	$0
BUILDING PLAN REVIEW FEES	0
TDLR REVIEW FEE	0
C.O. FEES	0
WATER METER FEES	0
WATER SYSTEM CHARGES	12,224
SEWER SYSTEM CHARGES	0
PLAT REVIEW FEES	1,347,400
DEVELOPMENT PLAN FEE	0
PROPERTY DEVELOPMENT FEE	15,385
TENTATIVE MAP FEE	0
SPECIFIC PLAN AMENDMENT	0
CONDITIONAL USE PERMIT	0
PRECISE PLAN FEE	0
FINAL MAP PLAN CHECK	0
CONVERSION REV FEE	0
GRADING PLAN CHECK	0
IMPROVEMENT PLAN CHECK	19,494
IMPROVEMENT PLAN INSPECTION	66,962
LANDSCAPE PLAN CHECK	50,721
GRADING INSPECTION	4,358
STORM DRAINAGE FEE	12,900
LANDSCAPE INSPECTION	11,000
TORTOISE FEE/PUBLIC SAFETY FEE	0
PARK FEE	0
SCHOOL FEE	335,010
TRAFFIC FEE	635,340
SMIT FEE	16,907
SANITARY SEWER IMPACT FEE	2,042
WATER IMPACT FEE	0
WATER CONNECTION FEE	0
PLAN CHECK FEE	200
BUILDING PERMIT FEE	163,613
STREET LIGHT FEE	100,887
WATER MONITORING FEE	0
FLOOD HAZARD RV (TM)	0
FLOOD HAZARD RV (PM)	0
CAPITAL IMPROVEMENT FEE	0
PERMIT-MECHANICAL	0
PERMIT-SALES OFFICE	0
SEWER FEE-ASSESSMENT	0
SEWER FEE-FRONTAGE	0
SEWER FEE-FACILITIES	0
WATER FEE-CONSTRUCTION	0
WATER FEE-FRONTAGE	0
WATER FEE-CAP FACILITIES	0
WATER TREATMENT PLANT FEE	57,000
FACILITIES BENEFIT FEE	0
COMMUNITY FACILITIES DISTRICT	0
SWRRBMD PDD/EPA FEE	0
PERMIT-ELECTRICAL	0
PERMIT-ENCROACHMENT	36,765
PERMIT-FIRE SPRINKLERS	0
PERMIT-HVAC	74,110
PERMIT-IMPROVEMENTS	36,765
PERMIT-PLUMBING	34,129
PERMIT-ROOFING	22,930
PERMIT-SITE WALL	0
PERMIT-WALL	0
OCCUPANCY FEE	0
REIMBURSEMENT FROM CITY OF LA MESA FOR SEWER OFFSITES	0
RELOCATION OF BUS STOP	(1,347,400)
THEATER LICENSE AGREEMENT AMENDMENT	175,000
CONTINGENCY	88,567
TOTAL PERMITS AND FEES	325,000
	$2,143,978

REFUNDABLE HOOKUP FEES	
ELECTRICAL HOOKUP FEES	
REFUNDABLE FEES-ELECTRICAL	$137,510
GAS HOOKUP FEES	0
REFUNDABLE FEES-GAS	0
TELEPHONE HOOKUP FEES	0
REFUNDABLE FEES-TELEPHONE	0
CATV HOOKUP FEES	0
REFUNDABLE FEES-CATV	0
REFUNDABLE FEES-PLAN/MAINT	0
WATER HOOKUP FEES	0
REFUNDABLE FEES-WATER	0
MISC.	0
TOTAL REFUNDABLE HOOKUP FEES	0
	$137,510
EQUITY FINANCING COSTS	
MISC.	
MISC	$0
MISC.	0
TOTAL EQUITY FINANCING COSTS	0
	$0
LAND ACQUISITION FINANCING COSTS	
LAND LOAN POINTS @ 0.00% OF LAND LOAN	
LAND LOAN CLOSING AND LEGAL	$0
LAND LOAN TITLE INSURANCE	0
LAND LOAN DOCUMENTARY TAX	0
LAND LOAN LENDER APPRAISAL	0
LAND LOAN INTEREST	0
TOTAL LAND ACQUISITION FINANCING COSTS	0
	$0
CONSTRUCTION FINANCING COSTS EXCLUDING INTEREST	
CONSTRUCTION LOAN POINTS @ 0.00% OF CONSTRUCTION LOAN	
SUPPLEMENTAL DEVELOPMENT FEE	$480,350
CONSTRUCTION LOAN CLOSING AND LEGAL	0
CONSTRUCTION LOAN TITLE INSURANCE	80,000
CONSTRUCTION LOAN DOCUMENTARY TAX	30,000
CONSTRUCTION LENDER APPRAISAL	0
MISC.	5,000
TOTAL CONSTRUCTION FINANCING COSTS EXCLUDING INTEREST	0
	$595,350
CALSTRS SUBSCRIPTION LOAN COSTS	
CALSTRS SUBSCRIPTION LOAN POINTS @ 750/250.00% OF CALSTRS SUBSC	
CALSTRS SUBSCRIPTION LOAN CLOSING COSTS	$75,000
CALSTRS SUBSCRIPTION LOAN INTEREST	0
MEZZANINE LOAN POINTS @ 0.00% OF MEZZANINE LOAN	403,948
MEZZANINE LOAN CLOSING COSTS	0
MEZZANINE LOAN INTEREST	0
MEZZANINE LOAN PRINCIPAL REDUCTIONS	0
TOTAL CALSTRS SUBSCRIPTION LOAN COSTS	0
	$478,948
SEMI-PERM LOAN (INTEREST ONLY) COSTS EXCLUDING INTEREST	
MISC.	
MISC.	$0
TOTAL SEMI-PERM LOAN (INTEREST ONLY) COSTS EXCLUDING INTEREST	0
	$0
OTHER CONSTRUCTION PERIOD FEES AND COSTS	
CONSTRUCTION LOAN INTEREST RESERVE	$2,732,700
DEVELOPER FEE PD DURING CONSTRUCTION	1,030,846
SOFT COST CONTINGENCY	388,000
CONSTRUCTION PERIOD PROPERTY TAXES	427,178
LMIHA AFFORDABLE UNITS SUBSIDY	(1,882,947)
TOTAL OTHER CONSTRUCTION PERIOD FEES AND COSTS	$4,511,849

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

PROPERTY TAX DETAIL

(A) ASSESSMENT RATIO	100.00%
(B) TOTAL FULL CASH VALUE AD VALOREM TAX RATE	1.037634
	0.000000%
ANNUAL INFLATION OF ASSESSED TAX VALUE IN TAX LIEN MONTH	2.00%
TAX LIEN MONTH	JANUARY
TAX YEAR	JULY-JUNE
ANNUAL TAX INSTALLMENTS	1ST-DECEMBER 0.00%, 2ND-APRIL 0.00%
(C) ESTIMATED BASE ASSESSED VALUE IN 2005 (SEE NOTE 3 BELOW):	$52,893,573
TOTAL BASE ANNUAL AD VALOREM TAXES (A x B x C):	$548,884
TOTAL COSTS ON WHICH ASSESSED VALUE IS BASED:	$49,893,957
LAND CLOSING AND DEVELOPMENTAL COSTS	$256,045
ARCHITECTURAL AND ENGINEERING	$2,953,700
PERMITS AND FEES (EXCL OFFSITES AND HOOKUP FEES)	$2,142,866
TOTAL BONDS, INSURANCE & LEGAL	$2,780,814
HARD COSTS	$39,118,305
GENERAL CONTRACTOR FEE	$2,348,878
FURNISHINGS, EQUIPMENT, ETC	$479,318
FULL CASH VALUE AD VALOREM TAX/MILL RATE #1	1.037634

NOTES:
1. SUPPLEMENTAL TAX BILLS ARE ISSUED FOR CONSTRUCTION AS CONSTRUCTION IS COMPLETED BASED ON DELIVERIES
2. PROPERTY VALUE IS REASSESSED AT THE TIME OF SALE
3. STABILIZED ASSESSED VALUE FROM MONTH 48 TRENDED BACK TO BASE YEAR

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

BUILDERS RISK INSURANCE CALCULATION DETAIL

	PROJECTED	% OF PROJECTED	ADJUSTED BASIS
BUILDING VALUE:			
HARD COSTS:			
SPECIAL PROJECT REQUIREMENTS:	$37,228,589	100.00%	$37,228,589
OFFSITE IMPROVEMENTS:	1,889,719	100.00%	1,889,719
GENERAL CONTRACTOR FEE:	2,481,264	0.00%	0
TOTAL BUILDING VALUE:	2,349,678	0.00%	0
	$43,958,190	86.88%	$39,118,308
CONTENTS:			
LEASING OFFICE/CLUBHOUSE FURNISHINGS AND ACCESSORIES ($612-6937):			
POOL FURNITURE, BBQ GRILLS, ETC. ($908-8910):	240,000	100.00%	240,000
HI [illegible] EQUIPMENT AND FURNISHINGS, E.I.C. ($834-8939):	28,178	100.00%	28,178
MODEL FURNISHINGS & BUILDING EXTRAS ($944-8946):	39,440	100.00%	39,440
MAINTENANCE EQUIPMENT ($949-8947):	84,939	100.00%	84,939
COMPUTERS:	30,998	100.00%	30,998
TOTAL CONTENTS:	56,357	100.00%	56,357
	$479,916	100.00%	$479,916
SOFT COSTS:			
LAND CLOSING AND DEVELOPMENTAL COSTS:			
ARCHITECTURAL AND ENGINEERING:	$721,472	16.00%	$72,147
PERMITS AND FEES:	2,583,700	10.00%	258,370
CONSTRUCTION HOOKUP FEES:	2,142,596	20.00%	428,519
TOTAL BONDS, INSURANCE & LEGAL:	137,510	20.00%	27,502
STARTUP EXPENSES:	2,799,814	50.00%	1,399,407
LENDER ADMINISTRATIVE FEE:	287,364	0.00%	0
DEVELOPER FEE PAID AT CLOSING:	35,980	10.00%	3,807
CALSTRS SUBSCRIPTION LOAN:	948,241	15.00%	22,736
CONSTRUCTION FINANCING COSTS:	479,888	0.00%	0
CONSTRUCTION LOAN INTEREST RESERVE:	483,210	15.00%	72,780
CONSTRUCTION PERIOD PROPERTY TAXES:	3,732,780	100.00%	3,732,780
DEVELOPER FEE PD DURING CONSTRUCTION:	427,179	15.00%	64,077
SOFT COST CONTINGENCY:	1,000,648	0.00%	0
TOTAL SOFT COSTS:	285,008	50.00%	142,580
	$16,293,931	41.86%	$6,983,548
LAND AND CLOSING COST:	$432,819	0.00%	$0
TOTAL PROJECT COST:	$59,164,888	77.04%	$45,579,370
PLUS 1-YEAR STABILIZED NET PROPERTY REVENUE:	$5,575,718	75.00%	$4,181,787
TOTAL PROJECT VALUE INCLUDING 1-YEAR STABILIZED NET PROPERTY REVENUE:	$64,740,582	76.86%	$49,761,157

	PRIMARY	EXCESS	TOTALS
ANNUAL PREMIUM PER $100 TOTAL PROJECT VALUE:	$0.38	$0.04	$0.34
ANNUAL TAXES PER $100 TOTAL PROJECT VALUE:	$0.07	$0.02	$0.10
TOTAL GENERAL AND UMBRELLA LIABILITY INSURANCE PREMIUM PER $1,000 BUILDING VALUE:	N/A	N/A	$4.00

	PRIMARY	EXCESS	TOTALS
ANNUAL BRI PREMIUM:	$149,783	$19,984	169,187
ANNUAL BRI TAXES:	34,033	14,978	49,761
TOTAL ANNUAL BUILDERS RISK INSURANCE PREMIUM AND TAXES:	$184,116	$34,832	$218,948
# YEARS OF CONSTRUCTION (28 MONTHS):			2.33
TOTAL BUILDERS RISK INSURANCE PREMIUM AND TAXES:			$510,870
PLUS TOTAL GENERAL AND UMBRELLA LIABILITY INSURANCE:			178,035
TOTAL CONSTRUCTION INSURANCE AND TAXES:			$688,814
TOTAL CONSTRUCTION INSURANCE AND TAXES PER UNIT:			72,326
DEDUCTIBLE PER OCCURRENCE:			$100,000

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

OPERATING INSURANCE CALCULATION DETAIL

(1) TOTAL ANNUAL GENERAL LIABILITY PREMIUM:	$12,771
ANNUAL GENERAL LIABILITY RATE PER UNIT:	$43.00
(2) ANNUAL UMBRELLA PREMIUM:	$9,397
ANNUAL UMBRELLA RATE PER UNIT:	$31.00
BUILDING VALUE:	$39,119,308
CONTENTS VALUE:	479,516
RENTS VALUE	4,181,787
TOTAL INSURED VALUE:	$43,777,611
TOTAL INSURED VALUE: PER UNIT:	$147,899
ANNUAL PRIMARY/EXCESS PROPERTY RATE PER $100 OF TOTAL INSURED VALUE:	$0.35
(3) ANNUAL PRIMARY/EXCESS PROPERTY PREMIUM:	$151,033
ANNUAL BOILER & MACHINERY RATE PER $100 OF TOTAL INSURED VALUE:	$0.00
(4) ANNUAL BOILER & MACHINERY PREMIUM:	$1,781
ANNUAL ENVIRONMENTAL/POLLUTION RATE: PER UNIT	$15.00
(5) ANNUAL ENVIRONMENTAL/POLLUTION PREMIUM:	$4,456
TOTAL ANNUAL OPERATING INSURANCE (1 + 2 + 3 + 4 + 5):	$178,817
TOTAL ANNUAL OPERATING INSURANCE PER UNIT:	$603
TOTAL ANNUAL OPERATING INSURANCE PER BED:	$417
DEDUCTIBLE PER OCCURRENCE:	$100,000

CST136A01M07 VERSION 07 12 6-YEARS CALENDAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY

MONTH #													
CALENDAR MONTH/YEAR													TOTALS
UNITS DELIVERED													
CUMULATIVE UNITS DELIVERED													
NEW UNIT LEASES SIGNED													
UNIT MOVE-INS													
ECONOMIC UNIT OCCUPANCY													
ECONOMIC UNIT OCCUPANCY RATE													
PHYSICAL UNIT OCCUPANCY													
PHYSICAL UNIT OCCUPANCY RATE													
OPERATING INCOME													
GROSS APARTMENT MARKET RENT													
GROSS APARTMENT POTENTIAL RENT													
APARTMENT VACANCY @ 4.70%													
APARTMENT MOVE-IN CONCESSIONS @ 0 WEEKS AT 3.00% TURNOVER													
NET APARTMENT RENTAL REVENUE													
OTHER INCOME @ $50.00 PER UNIT LESS VACANCY FACTOR @ 4.70%													
NET TOTAL APARTMENT RENTAL REVENUE													
RETAIL @ 2,344 @ $1.50 LESS VACANCY FACTOR @ 35.00% (1)													
NET PROPERTY REVENUE													
OPERATING EXPENSES													
SALARIES													
ADVERTISING													
REPAIRS, MAINTENANCE, BUILDING SVC'S & COMMON AREA MAINT.													
GENERAL AND ADMINISTRATIVE													
MANAGEMENT FEE													
UTILITIES													
TOTAL, VARIABLE OPERATING EXPENSES													
INSURANCE													
PROPERTY TAXES													
SITE LAND LEASE PAYMENTS													
LAND LEASE PARTICIPATION IN REVENUE													
TOTAL FIXED OPERATING EXPENSES													
TOTAL OPERATING EXPENSES													
RESERVES FOR REPLACEMENT													
NET OPERATING INCOME													
CONSTRUCTION COSTS													
LAND LEASE PAYMENTS													
OFFSITE IMPROVEMENTS													
LAND CLOSING AND DEVELOPMENTAL COSTS													
ARCHITECTURAL AND ENGINEERING													
PERMITS AND FEES													
CONSTRUCTION HOOKUP FEES													
TOTAL BOND, INSURANCE & LEGAL													
LENDER ADMINISTRATIVE FEE													
DEVELOPER FEE PAID AT CLOSING													
OFFICE & MODEL FURNITURE, MARKETING & STARTUP EXPENSES													
CALSTRS SUBSCRIPTION LOAN													
CONSTRUCTION FINANCING COSTS													
CONSTRUCTION LOAN INTEREST RESERVE													
CONSTRUCTION PERIOD PROPERTY TAXES													
DEVELOPER FEE PD DURING CONSTRUCTION													
SOFT COST CONTINGENCY													
LUCRA AFFORDABLE UNITS SUBSIDY													
HARD COSTS													
GENERAL CONTRACTOR FEE													
TOTAL CONSTRUCTION COSTS													
CALSTRS SUBSCRIPTION LOAN DRAWS/(PAYOFF)													
EQUITY FUND DRAWS													
CONSTRUCTION LOAN DRAWS													
CUSTODY HOLDING ACCOUNT													
NET CONSTRUCTION (FINANCING)													

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

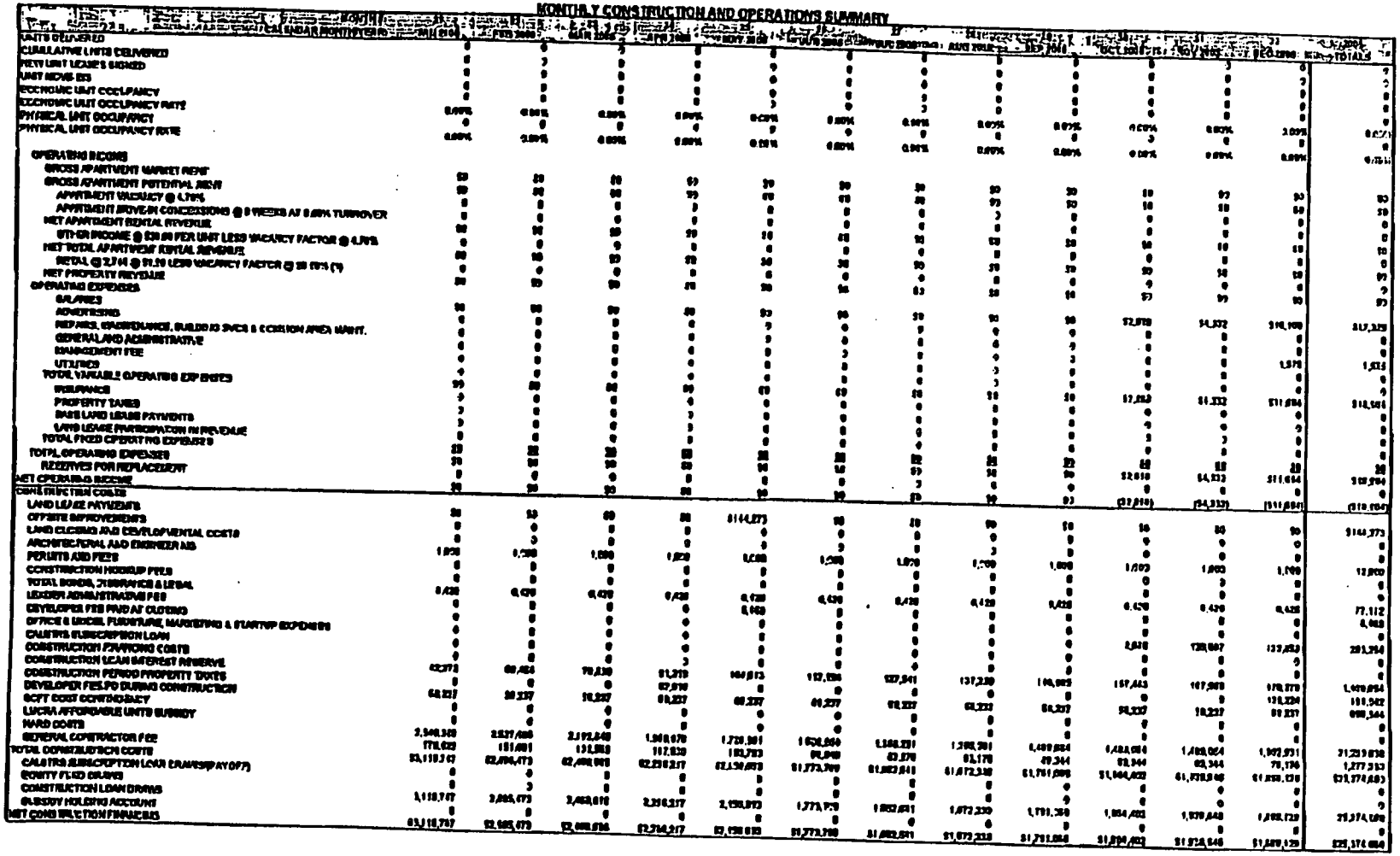
MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY

MULTI-FAMILY MONTHYEAR	1 JAN 2007	2 FEB 2007	3 MAR 2007	4 APR 2007	5 MAY 2007	6 JUN 2007	7 JUL 2007	8 AUG 2007	9 SEP 2007	10 OCT 2007	11 NOV 2007	12 DEC 2007	2007 TOTALS
UNITS DELIVERED	0	0	0	0	0	0	0	0	0	0	0	0	0
CUMULATIVE UNITS DELIVERED	0	0	0	0	0	0	0	0	0	0	0	0	0
NEW UNIT LEASES SIGNED	0	0	0	0	0	0	0	0	0	0	0	0	0
UNIT MOVE-INS	0	0	0	0	0	0	0	0	0	0	0	0	0
ECONOMIC UNIT OCCUPANCY	0	0	0	0	0	0	0	0	0	0	0	0	0
ECONOMIC UNIT OCCUPANCY RATE	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0
PHYSICAL UNIT OCCUPANCY	0	0	0	0	0	0	0	0	0	0	0	0	0
PHYSICAL UNIT OCCUPANCY RATE	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0
OPERATING INCOME													
GROSS APARTMENT MARKET RENT	0	0	0	0	0	0	0	0	0	0	0	0	0
GROSS APARTMENT POTENTIAL RENT	0	0	0	0	0	0	0	0	0	0	0	0	0
APARTMENT VACANCY @ 4.75%	0	0	0	0	0	0	0	0	0	0	0	0	0
APARTMENT MOVE-IN CONCESSIONS @ 0 WEEKS AT 0.00% TURNOVER	0	0	0	0	0	0	0	0	0	0	0	0	0
NET APARTMENT RENTAL REVENUE	0	0	0	0	0	0	0	0	0	0	0	0	0
OTHER INCOME @ $30.00 PER UNIT LESS VACANCY FACTOR @ 4.75%	0	0	0	0	0	0	0	0	0	0	0	0	0
NET TOTAL APARTMENT RENTAL REVENUE	0	0	0	0	0	0	0	0	0	0	0	0	0
RETAIL @ 2.7 K @ $1.50 LESS VACANCY FACTOR @ 30.00% (1)	0	0	0	0	0	0	0	0	0	0	0	0	0
NET PROPERTY REVENUE	0	0	0	0	0	0	0	0	0	0	0	0	0
OPERATING EXPENSES													
SALARIES	0	0	0	0	0	0	0	0	0	0	0	0	0
ADVERTISING	0	0	0	0	0	0	0	0	0	0	0	0	0
REPAIRS, MAINTENANCE, BUILDING SVCS & COMMON AREA MAINT.	0	0	0	0	0	0	0	0	0	0	0	0	0
GENERAL AND ADMINISTRATIVE	0	0	0	0	0	0	0	0	0	0	0	0	0
MANAGEMENT FEE	0	0	0	0	0	0	0	0	0	0	0	0	0
UTILITIES	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL VARIABLE OPERATING EXPENSES	0	0	0	0	0	0	0	0	0	0	0	0	0
INSURANCE	0	0	0	0	0	0	0	0	0	0	0	0	0
PROPERTY TAXES	0	0	0	0	0	0	0	0	0	0	0	0	0
BASE LAND LEASE PAYMENTS	0	0	0	0	0	0	0	0	0	0	0	0	0
LAND LEASE PARTICIPATION IN REVENUE	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL FIXED OPERATING EXPENSES	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL OPERATING EXPENSES	0	0	0	0	0	0	0	0	0	0	0	0	0
RESERVES FOR REPLACEMENT	0	0	0	0	0	0	0	0	0	0	0	0	0
NET OPERATING INCOME	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION COSTS													
LAND LEASE PAYMENTS	0	0	0	0	0	0	0	0	0	0	0	0	0
OFF SITE IMPROVEMENTS	0	0	0	0	0	0	0	0	0	0	0	0	0
LAND CLOSING AND DEVELOPMENTAL COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
ARCHITECTURAL AND ENGINEERING	0	0	0	0	0	0	0	0	0	0	0	0	0
PERMITS AND FEES	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION HOOKUP FEES	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL BONDS, INSURANCE & LEGAL	0	0	0	0	0	0	0	0	0	0	0	0	0
LENDER ADMINISTRATIVE FEE	0	0	0	0	0	0	0	0	0	0	0	0	0
DEVELOPER FEE PAID AT CLOSING	0	0	0	0	0	0	0	0	0	0	0	0	0
OFFICE & MODEL FURNITURE, MARKETING & STARTUP EXPENSES	0	0	0	0	0	0	0	0	0	0	0	0	0
CALSTRS SUBSCRIPTION LOAN	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION FINANCING COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION LOAN INTEREST RESERVE	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION PERIOD PROPERTY TAXES	0	0	0	0	0	0	0	0	0	0	0	0	0
DEVELOPER FEE PD DURING CONSTRUCTION	0	0	0	0	0	0	0	0	0	0	0	0	0
SOFT COST CONTINGENCY	0	0	0	0	0	0	0	0	0	0	0	0	0
LIHTC AFFORDABLE UNITS SUBSIDY	0	0	0	0	0	0	0	0	0	0	0	0	0
HARD COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
GENERAL CONTRACTOR FEE	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL CONSTRUCTION COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
CALSTRS SUBSCRIPTION LOAN CAPITAL(PAYOFF)	0	0	0	0	0	0	0	0	0	0	0	0	0
EQUITY FUND DRAWS	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION LOAN DRAWS	0	0	0	0	0	0	0	0	0	0	0	0	0
INTEREST HOLDING ACCOUNT	0	0	0	0	0	0	0	0	0	0	0	0	0
NET CONSTRUCTION FINANCING	0	0	0	0	0	0	0	0	0	0	0	0	0

FINAL CALBTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

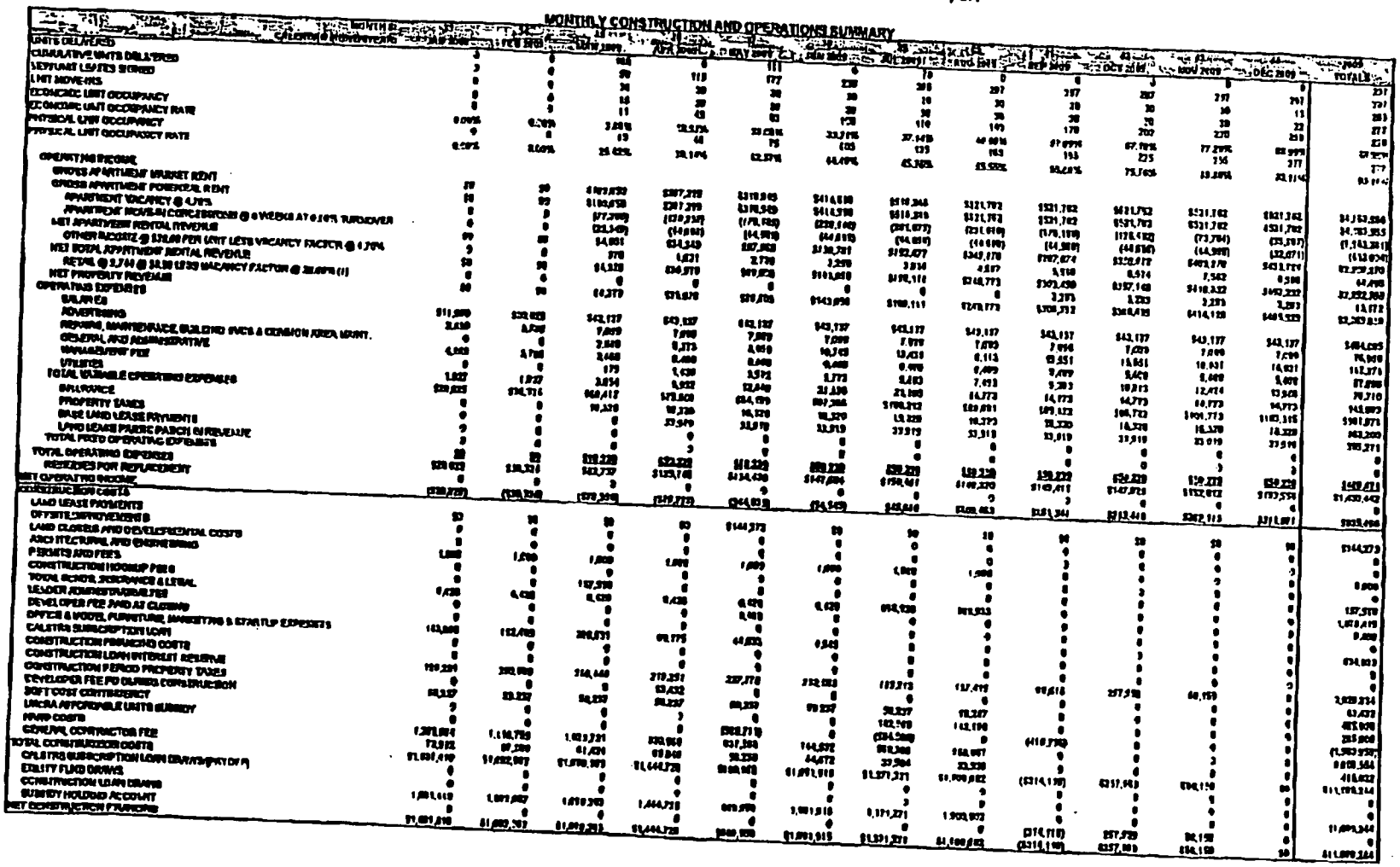
MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY



FINAL PROJECTION

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY



FINAL CALSTRS ANALYSIS

GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY

CALENDAR DEVELOPMENT MONTH	1	2	3	4	5	6	7	8	9	10	11	12	TOTALS
UNITS DELIVERED	0	0	0	0	0	0	0	0	0	0	0	0	0
CUMULATIVE UNITS DELIVERED	0	0	0	0	0	0	0	0	0	0	0	0	
NEW UNIT LEASES SIGNED	257	257	257	257	257	257	257	257	257	257	257	257	257
UNIT MOVE-INS	0	0	0	0	0	0	0	0	0	0	0	0	0
ECONOMIC UNIT OCCUPANCY	1	0	0	0	0	0	0	0	0	0	0	0	1
ECONOMIC UNIT OCCUPANCY RATE	0	0	0	0	0	0	0	0	0	0	0	0	0
PHYSICAL UNIT OCCUPANCY	0.41%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.13
PHYSICAL UNIT OCCUPANCY RATE	253	253	253	253	253	253	253	253	253	253	253	253	253
FINANCIAL UNIT OCCUPANCY RATE	0.39%	0.39%	0.39%	0.39%	0.39%	0.39%	0.39%	0.39%	0.39%	0.39%	0.39%	0.39%	15.23%
													APT
OPERATING INCOME													15.91%
GROSS APARTMENT MARKET RENT	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$6,054,640
GROSS APARTMENT POTENTIAL RENT	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$338,720	$6,054,640
APARTMENT VACANCY @ 4.70%	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(15,916)	(284,542)
APARTMENT MOVE-IN CONCESSIONS @ 0 WEEKS AT 0.00% TURNOVER	0	0	0	0	0	0	0	0	0	0	0	0	(10,654)
NET APARTMENT RENTAL REVENUE	$322,804	$322,804	$322,804	$322,804	$322,804	$322,804	$322,804	$322,804	$322,804	$322,804	$322,804	$322,804	$5,769,098
OTHER INCOME @ $30.78 PER UNIT LESS VACANCY FACTOR @ 4.70%	8,679	8,679	8,679	8,679	8,679	8,679	8,679	8,679	8,679	8,679	8,679	8,679	155,736
NET TOTAL APARTMENT RENTAL REVENUE	$331,483	$331,483	$331,483	$331,483	$331,483	$331,483	$331,483	$331,483	$331,483	$331,483	$331,483	$331,483	$5,924,834
RETAIL @ 2,744 @ $1.50 LESS VACANCY FACTOR @ 30.00% (1)	3,293	3,293	3,293	3,293	3,293	3,293	3,293	3,293	3,293	3,293	3,293	3,293	59,317
NET PROPERTY REVENUE	$334,777	$334,777	$334,777	$334,777	$334,777	$334,777	$334,777	$334,777	$334,777	$334,777	$334,777	$334,777	$5,984,151
OPERATING EXPENSES													
SALARIES	$39,642	$39,642	$39,642	$39,642	$39,642	$39,642	$39,642	$39,642	$39,642	$39,642	$39,642	$39,642	$711,564
ADVERTISING	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	87,750
PAYROLL MAINTENANCE, BUILDING SVCS & COMMON AREA MAINT.	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	180,000
GENERAL AND ADMINISTRATIVE	13,021	13,021	13,021	13,021	13,021	13,021	13,021	13,021	13,021	13,021	13,021	13,021	234,375
MANAGEMENT FEE	9,571	9,571	9,571	9,571	9,571	9,571	9,571	9,571	9,571	9,571	9,571	9,571	172,292
UTILITIES	5,417	5,417	5,417	5,417	5,417	5,417	5,417	5,417	5,417	5,417	5,417	5,417	97,500
TOTAL VARIABLE OPERATING EXPENSES	82,526	82,526	82,526	82,526	82,526	82,526	82,526	82,526	82,526	82,526	82,526	82,526	1,485,469
INSURANCE	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	180,000
PROPERTY TAXES	15,417	15,417	15,417	15,417	15,417	15,417	15,417	15,417	15,417	15,417	15,417	15,417	277,500
BASE LAND LEASE PAYMENTS	49,167	49,167	49,167	49,167	49,167	49,167	49,167	49,167	49,167	49,167	49,167	49,167	885,000
LAND LEASE PARTICIPATION IN REVENUE	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL FIXED OPERATING EXPENSES	74,583	74,583	74,583	74,583	74,583	74,583	74,583	74,583	74,583	74,583	74,583	74,583	1,342,500
TOTAL OPERATING EXPENSES	$157,109	$157,109	$157,109	$157,109	$157,109	$157,109	$157,109	$157,109	$157,109	$157,109	$157,109	$157,109	$2,827,969
RESERVES FOR REPLACEMENT	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$3,198,024
NET OPERATING INCOME	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION COSTS	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$177,668	$3,198,024
LAND LEASE PAYMENTS	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
OFFSITE IMPROVEMENTS	0	0	0	0	0	0	0	0	0	0	0	0	0
LAND CLOSING AND DEVELOPMENTAL COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
ARCHITECTURAL AND ENGINEERING	0	0	0	0	0	0	0	0	0	0	0	0	0
PERMITS AND FEES	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION MGMT FEES	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL BONDS, INSURANCE & LEGAL	0	0	0	0	0	0	0	0	0	0	0	0	0
LENDER ADMINISTRATIVE FEE	0	0	0	0	0	0	0	0	0	0	0	0	0
DEVELOPER FEE PAID AT CLOSING	0	0	0	0	0	0	0	0	0	0	0	0	0
OFFICE & MODEL FURNITURE, MARKETING & STARTUP EXPENSES	0	0	0	0	0	0	0	0	0	0	0	0	0
CALSTRS SUBSCRIPTION LOAN	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION FINANCING COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION LOAN INTEREST RESERVE	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION PERIOD PROPERTY TAXES	0	0	250,000	0	0	0	0	0	0	0	0	0	0
DEVELOPER FEE PD DURING CONSTRUCTION	0	0	0	0	0	0	0	0	0	0	0	0	0
SOFT COST CONTINGENCY	0	0	0	0	0	0	0	0	0	0	0	0	250,000
LIHTC/AFFORDABLE UNITS SUBSIDY	0	0	0	0	0	0	0	0	0	0	0	0	0
HARD COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
GENERAL CONTRACTOR FEE	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL CONSTRUCTION COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
CALSTRS SUBSCRIPTION LOAN DRAW/(PAYOFF)	$0	$0	($250,000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	0
EQUITY FUND DRAWS	0	0	0	0	0	0	0	0	0	0	0	0	$250,000
CONSTRUCTION LOAN DRAWS	0	0	0	0	0	0	0	0	0	0	0	0	0
SUBSIDY RESERVE ACCOUNT	0	0	250,000	0	0	0	0	0	0	0	0	0	0
NET CONSTRUCTION FINANCING	0	0	0	0	0	0	0	0	0	0	0	0	250,000
	$0	$0	($250,000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$250,000

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA
FINAL PROJECTION

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY

MONTH # / CALENDAR MONTH/YEAR	2006 TOTALS	2007 TOTALS	2008 TOTALS	2009 TOTALS	2010 TOTALS	5-YEAR TOTALS
UNITS DELIVERED	0	0	0	297	0	297
CUMULATIVE UNITS DELIVERED	0	0	0	297	297	297
NEW UNIT LEASES SIGNED	0	0	0	283	0	283
UNIT MOVE-INS	0	0	0	277	7	283
ECONOMIC UNIT OCCUPANCY	0	0	0	256	283	283
ECONOMIC UNIT OCCUPANCY RATE	0.00%	0.00%	0.00%	86.16%	95.29%	95.29%
PHYSICAL UNIT OCCUPANCY	0	0	0	277	283	283
PHYSICAL UNIT OCCUPANCY RATE	0.00%	0.00%	0.00%	93.11%	95.29%	95.29%
OPERATING INCOME						
GROSS APARTMENT MARKET RENT						
GROSS APARTMENT POTENTIAL RENT	$0	$0	$0	$4,163,556	$6,464,640	$10,628,196
APARTMENT VACANCY @ 4.70%	$0	$0	$0	$4,163,556	$6,464,640	$10,628,196
APARTMENT MOVE-IN CONCESSIONS @ 0 WEEKS AT 0.00% TURNOVER	0	0	0	(1,543,281)	(303,806)	(1,847,087)
NET APARTMENT RENTAL REVENUE	0	0	0	(412,004)	(10,056)	(422,060)
OTHER INCOME @ $30.80 PER UNIT LESS VACANCY FACTOR @ 4.70%	$0	$0	$0	$2,208,270	$6,150,780	$8,359,050
NET TOTAL APARTMENT RENTAL REVENUE	0	0	0	44,498	115,338	159,832
RETAIL @ 2,744 @ $1.20 LESS VACANCY FACTOR @ 20.00% (1)	$0	$0	$0	$2,252,768	$6,266,118	$8,518,882
NET PROPERTY REVENUE	0	0	0	13,172	39,912	53,084
OPERATING EXPENSES	$0	$0	$0	$2,265,939	$6,306,029	$8,571,968
SALARIES						
ADVERTISING	$0	$0	$17,329	$464,895	$567,704	$849,178
REPAIRS, MAINTENANCE, BUILDING SVCS & COMMON AREA MAINT.	0	0	0	78,508	58,500	135,408
GENERAL AND ADMINISTRATIVE	0	0	0	117,571	172,707	290,078
MANAGEMENT FEE	0	0	1,575	87,086	86,652	185,513
UTILITIES	0	0	0	70,710	188,185	259,966
TOTAL VARIABLE OPERATING EXPENSES	0	0	0	145,883	158,772	304,575
INSURANCE	$0	$0	$18,904	$981,971	$1,013,779	$1,994,595
PROPERTY TAXES	0	0	0	183,200	201,308	384,508
BASE LAND LEASE PAYMENTS	0	0	0	205,271	531,125	836,396
LAND LEASE PARTICIPATION IN REVENUE	0	0	0	0	144,273	144,273
TOTAL FIXED OPERATING EXPENSES	0	0	0	0	28,324	28,324
TOTAL OPERATING EXPENSES	$0	$0	$0	$958,471	$960,430	$1,373,901
RESERVES FOR REPLACEMENT	$0	$0	$18,904	$1,439,442	$1,918,150	$3,376,496
NET OPERATING INCOME	0	0	0	0	61,281	61,281
CONSTRUCTION COSTS	$0	$0	($18,904)	$826,496	$4,325,597	$5,147,189
LAND LEASE PAYMENTS						
OFFSITE IMPROVEMENTS	$48,891	$98,182	$144,273	$144,273	$0	$432,618
LAND CLOSING AND DEVELOPMENTAL COSTS	2,469,284	0	0	0	0	2,469,284
ARCHITECTURAL AND ENGINEERING	480,800	240,672	0	0	0	721,472
PERMITS AND FEES	2,631,700	12,000	12,000	8,000	0	2,563,700
CONSTRUCTION HOOKUP FEES	2,142,568	0	0	0	0	2,142,568
TOTAL BONDS, INSURANCE & LEGAL	0	0	0	137,510	0	137,510
LENDER ADMINISTRATIVE FEE	0	737,287	77,112	1,976,415	0	2,790,814
DEVELOPER FEE PAID AT CLOSING	0	0,000	0,000	0,000	0	25,389
OFFICE & MODEL FURNITURE, MARKETING & STARTUP EXPENSES	0	140,241	0	0	0	140,241
CALSTRS SUBSCRIPTION LOAN	0	0	283,254	634,983	0	888,237
CONSTRUCTION FINANCING COSTS	340,140	129,840	0	0	0	479,980
CONSTRUCTION LOAN INTEREST RESERVE	0	465,250	0	0	0	465,250
CONSTRUCTION PERIOD PROPERTY TAXES	0	62,206	1,408,854	2,020,834	250,693	3,732,788
DEVELOPER FEE PD DURING CONSTRUCTION	51,364	101,341	181,842	83,432	0	427,179
SOFT COST CONTINGENCY	0	465,998	698,844	465,008	0	1,630,848
LMCRA AFFORDABLE UNITS SUBSIDY	0	0	0	285,000	0	285,000
HARD COSTS	0	0	0	(9,683,955)	0	(9,683,955)
GENERAL CONTRACTOR FEE	1,899,718	8,952,997	21,293,938	8,980,634	0	39,118,388
TOTAL CONSTRUCTION COSTS	113,283	537,181	1,277,563	418,832	0	2,346,878
CALSTRS SUBSCRIPTION LOAN DRAWS/(PAYOFF)	$10,092,845	$11,977,781	$26,374,080	$11,600,244	$259,693	$59,298,223
EQUITY FUND DRAWS	10,092,845	(10,092,845)	0	0	0	0
CONSTRUCTION LOAN DRAWS	0	14,824,654	0	0	0	14,824,654
SUBSIDY HOLDING ACCOUNT	0	7,245,972	25,374,080	11,600,244	259,693	44,472,189
NET CONSTRUCTION FINANCING	0	0	0	0	0	0
	$10,092,845	$11,977,781	$26,374,080	$11,600,244	$259,693	$59,298,223

FINAL CALSTRS ANALYSIS

GROSSMONT TROLLEY SITE-EAST PHASE -ALTERRA - LA MESA, CA

FINAL PROJECTION

CALSTRS SUMMARY OF RETURNS FOR SALE IN MAY 2010

MONTH	CASH EQUITY-INVESTMENT	REMAINING CASH FLOW	TOTAL RETURN ON CASH (IRR CAP) BEFORE LOOKBACK	LOOKBACK @ 12.00% TO A-IRR (IRR CAP)	TOTAL AFTER LOOKBACK (IRR CAP)	LOOKBACK @ 13.00% TO A-IRR (IRR CAP)	TOTAL AFTER LOOKBACK TOO-CAPS	LOOKBACK @ 14.00% TO A-IRR (IRR CAP)	TOTAL AFTER LOOKBACK (IRR CAP)	TOTAL SALE PROCEEDS (6.00% CAP RATE)	TOTAL SALE PROCEEDS (5.50% CAP RATE)	TOTAL SALE PROCEEDS (5.00% CAP RATE)
Feb 2007	($9,453,200)	$0	($9,453,200)	$0	($9,453,200)	$0	($9,453,200)	$0	($9,453,200)	($9,453,200)	($9,453,200)	($9,453,200)
Mar 2007	0	0	0	0	0	0	0	0	0	0	0	0
Apr 2007	0	0	0	0	0	0	0	0	0	0	0	0
May 2007	(2,048,816)	0	(2,048,816)	0	(2,048,816)	0	(2,048,816)	0	(2,048,816)	(2,048,816)	(2,048,816)	(2,048,816)
Jun 2007	(610,711)	0	(610,711)	0	(610,711)	0	(610,711)	0	(610,711)	(610,711)	(610,711)	(610,711)
Jul 2007	(792,227)	0	(792,227)	0	(792,227)	0	(792,227)	0	(792,227)	(792,227)	(792,227)	(792,227)
Aug 2007	(735,176)	0	(735,176)	0	(735,176)	0	(735,176)	0	(735,176)	(735,176)	(735,176)	(735,176)
Sep 2007	0	0	0	0	0	0	0	0	0	0	0	0
Oct 2007	0	0	0	0	0	0	0	0	0	0	0	0
Nov 2007	0	0	0	0	0	0	0	0	0	0	0	0
Dec 2007	0	0	0	0	0	0	0	0	0	0	0	0
Jan 2008	0	0	0	0	0	0	0	0	0	0	0	0
Feb 2008	0	0	0	0	0	0	0	0	0	0	0	0
Mar 2008	0	0	0	0	0	0	0	0	0	0	0	0
Apr 2008	0	0	0	0	0	0	0	0	0	0	0	0
May 2008	0	0	0	0	0	0	0	0	0	0	0	0
Jun 2008	0	0	0	0	0	0	0	0	0	0	0	0
Jul 2008	0	0	0	0	0	0	0	0	0	0	0	0
Aug 2008	0	0	0	0	0	0	0	0	0	0	0	0
Sep 2008	0	0	0	0	0	0	0	0	0	0	0	0
Oct 2008	0	0	0	0	0	0	0	0	0	0	0	0
Nov 2008	0	0	0	0	0	0	0	0	0	0	0	0
Dec 2008	0	0	0	0	0	0	0	0	0	0	0	0
Jan 2009	0	0	0	0	0	0	0	0	0	0	0	0
Feb 2009	0	0	0	0	0	0	0	0	0	0	0	0
Mar 2009	0	0	0	0	0	0	0	0	0	0	0	0
Apr 2009	0	0	0	0	0	0	0	0	0	0	0	0
May 2009	0	0	0	0	0	0	0	0	0	0	0	0
Jun 2009	0	0	0	0	0	0	0	0	0	0	0	0
Jul 2009	0	0	0	0	0	0	0	0	0	0	0	0
Aug 2009	0	0	0	0	0	0	0	0	0	0	0	0
Sep 2009	0	0	0	0	0	0	0	0	0	0	0	0
Oct 2009	0	0	0	0	0	0	0	0	0	0	0	0
Nov 2009	0	0	0	0	0	0	0	0	0	0	0	0
Dec 2009	0	0	0	0	0	0	0	0	0	0	0	0
Jan 2010	0	0	0	0	0	0	0	0	0	0	0	0
Feb 2010	0	0	0	0	0	0	0	0	0	0	0	0
Mar 2010	0	857,747	857,747	0	857,747	0	857,747	0	857,747	857,747	857,747	857,747
Apr 2010	0	108,059	108,059	0	108,059	0	108,059	0	108,059	108,059	108,059	108,059
May 2010	0	0	0	17,982,083	17,982,083	1,035,589	19,017,672	149,795	19,787,467	21,331,257	19,787,467	18,159,449
TOTALS:	($13,639,130)	$965,806	($12,674,324)	$17,982,083	$5,307,758	$1,035,589	$6,343,348	$149,795	$7,113,143	$8,656,933	$7,113,143	$6,484,125
MONTHLY:			N/A		0.87%		1.18%		1.12%	1.31%	1.12%	0.98%
ANNUAL:			N/A		10.46%		13.97%		13.44%	15.75%	13.44%	10.89%
EFFECTIVE:			N/A		10.00%		14.00%		14.30%	16.93%	14.30%	11.35%

CSTSSA01M07 VERSION 07.12 6-YEARS CALETD.

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA WEST PHASE - LA MESA, CA

FINAL PROJECTION

SUMMARY OF CAPITALIZATION

EQUITY (23.00% OF COST)	$81,377,200
CALSTRS SUBSCRIPTION LOAN (FUND MAY 2008, TAKEOUT FEB 2007)	$11,377,200
CALSTRS SUBSCRIPTION LOAN INTEREST @ 5.40%	$450,822
CALSTRS SUBSCRIPTION LOAN POINTS & FEES	$69,528
CONSTRUCTION LOAN (FUND MAY 2008, CONVERSION OCT 2009)	$34,131,682
LOAN-TO-COST RATIO (INCL INTEREST RESERVE)	73.00%
LOAN INTEREST @ 6.91% (TOTAL / FUNDED RESERVE)	$3,183,779 / $3,834,483
LOAN POINTS (0.75%), FEES, AND CLOSING COSTS	$288,947
MINI-PERM LOAN (INTEREST ONLY) (FUND OCT 2009, PAYOFF MAY 2010)	$34,131,682
LOAN-TO-COST RATIO	73.00%
ANNUAL DEBT SERVICE (1.10 DCR @ 6.91% STABILIZED NOI)	$2,372,140
LOAN PER UNIT	$146,399

PROPERTY AND BUILDING DESCRIPTION

DESCRIPTION: WOOD FRAMED, BUILT-UP ROOF ROOF, STUCCO SIDING EXTERIOR & FIRE SPRINKLERS IN A 3 STORY OVER PODIUM GARAGE BUILDING	
CONFIGURATION	
NUMBER OF UNITS	230
AVERAGE NET RENTABLE SQUARE FOOTAGE OF UNITS	700
TOTAL NET RENTABLE SQUARE FOOTAGE OF UNITS	208,448
RP LEASING / CLUBHOUSE	4,700
GROSS SQUARE FOOTAGE	212,736
NUMBER OF RENTABLE BUILDINGS/FLOORS	3 / 3
NUMBER OF ACRES	3.3 ± GROSS
UNIT DENSITY PER ACRE	69.6 ± GROSS
UNIT MIX (15% AFFORDABLE)	104-115 53%, 230-115 57%
POOLS / SPAS	1 / 1
PARKING STRUCTURE SPACES - PUBLIC	333
PARKING STRUCTURE SPACES - RESIDENTS	342
AVG. MARKET RENT PER UNIT / SQ. FT. UNTRENDED	$1,881 / $1.84
AVG. AFFORDABLE RENT PER UNIT / SQ. FT. UNTRENDED	$1,083 / $0.78
AVG. TOTAL RENT PER UNIT / SQ. FT. UNTRENDED	$1,802 / $1.73

CAPITAL SOURCES

THROUGH LOAN CONVERSION OCT 2009

EQUITY	$81,377,200
CONSTRUCTION LOAN	34,131,682
CALSTRS SUBSCRIPTION LOAN	11,377,200
NET CONSTRUCTION LOAN PERIOD INCOME	287,990
TOTAL SOURCES	127,173,071

CAPITAL USES

THROUGH LOAN CONVERSION OCT 2009

CONSTRUCTION COSTS		$34,589,892
WORKING CAPITAL FUNDED	$287,990	
LOAN RESERVE	0	
TOTAL WORKING CAPITAL AND RESERVE		287,990
REFUND OF CALSTRS SUBSCRIPTION LOAN		11,377,200
TOTAL USES		127,173,071

LOAN RESERVE

THROUGH LOAN CONVERSION OCT 2009

CONSTRUCTION LOAN	$34,131,682
LESS ENDING CONSTRUCTION LOAN DRAW BALANCE	34,131,682
TOTAL LOAN RESERVE	$0

CONSTRUCTION COST SUMMARY

CONSTRUCTION COST	TOTAL	PER UNIT	PER SQ. FT.
STARTUP COSTS	$282,319	$489	$0.65
LAND CLOSING AND ENVIRONMENTAL COSTS	$570,295	$2,484	$2.69
ARCHITECTURAL AND ENGINEERING	$1,919,302	$8,345	$9.02
BLDG PERMITS AND FEES	$1,778,176	$7,710	$8.36
OFFSITES	$1,841,199	$8,008	$8.13
CONSTRUCTION PERIOD PROPERTY TAXES	$217,765	$947	$1.02
TOTAL BONDS, INSURANCE & LEGAL	$753,677	$3,259	$3.57
CONSTRUCTION FINANCING COSTS	$346,598	$1,506	$1.63
OFFICE & MODEL FURNITURE AND MARKETING	$644,127	$2,800	$3.09
SOFT COST CONTINGENCY	$329,908	$979	$1.09
DEVELOPER FEE PD DURING CONSTRUCTION (.00%)	$1,251,403	$5,441	$5.88
HARD COSTS	$23,898,287	$137,340	$108.50
GENERAL CONTRACTOR FEE	$1,695,422	$3,241	$3.81
LAND LEASE PAYMENTS	$220,453	$972	$1.05
CALSTRS SUBSCRIPTION LOAN POINTS & FEES	$89,329	$371	$0.40
CALSTRS SUBSCRIPTION LOAN INTEREST	$488,822	$2,099	$2.10
LMIHA AFFORDABLE UNITS SUBSIDY	($1,788,319)	($5,187)	($4.87)
DEVELOPER FEE PAID AT CLOSING	$112,722	$488	$0.53
LENDER ADMINISTRATIVE FEE	$19,898	$85	$0.09
CONSTRUCTION LOAN INTEREST RESERVE	$2,564,483	$11,100	$12.05
TOTAL CONSTRUCTION COST	$40,298,872	$167,944	$178.93
TOTAL CONSTRUCTION COST LESS INTEREST	$42,844,378	ROC:	0.20%
NPV OF LAND LEASE PAYMENTS @ 0.00%	$1,020,733	$9,364	$9.88

SCHEDULING AND TIMING

	MONTH #	MONTH/YEAR
LAND LEASE COMMENCEMENT	1	MAY 2008
CONSTRUCTION LOAN FUNDING	1	MAY 2008
EQUITY INSTALLMENT	10	FEB 2007
CONSTRUCTION STARTS	1	MAY 2008
FIRST DELIVERY (30 AVG MONTHLY)	23	FEB 2010
FIRST LEASE (20 AVG MONTHLY)	22	FEB 2010
FIRST RENT INCREASE (3.00%)	8	JAN 2007
LAST DELIVERY	26	AUG 2010
DURATION OF CONSTRUCTION	3 YRS, 4 MOS	05/08 to 08/10
CONSTRUCTION LOAN CONVERSION	36	OCT 2009
FULLY LEASED (210 LEASES)	39	OCT 2009
STABILIZED (95% OCCUPANCY, 219 UNITS)	31	NOV 2009
SALE DATE (20 LOAN AT 6.25% CAP)	60	MAY 2010
HOLDING PERIOD (EQUITY THRU SALE)	3 YRS, 4 MOS	05/07 to 05/10
HOLDING PERIOD (LEASE STAMP THRU SALE)	4 YRS, 1 MO	05/06 to 05/10

SUMMARY OF CALSTRS RETURNS

SALE DATE	MAY 2010
SALE PRICE (6.25% CAP RATE)	$90,934,440 OR $221.69/SQ.FT.
NET OPERATING INCOME AT SALE (TO BUYER)	$5,187,193
IRR	14.18%
CALSTRS PROFIT	$9,499,207
TOTAL PROCEEDS AT SALE TO CALSTRS	$14,439,154
CASH-ON-CASH RETURN	7.23%
RETURN-ON-COSTS UNTRENDED	9.13%
RETURN-ON-COSTS STABILIZED	8.70%

COMPUTATION OF WORKING CAPITAL

THROUGH LOAN CONVERSION OCT 2009

TOTAL LOAN DRAWS		$34,131,682
NET OP INCOME DURING CONSTRUCTION LOAN PERI	$549,773	
PLUS FUNDED STARTUP COSTS	282,330	
PLUS INTEREST EARNINGS	32	
TOTAL CONSTRUCTION LOAN PERIOD INCOME	$831,135	
LESS INCOME TOWARD LOAN INTEREST (.00%)	($543,511)	
NET CONSTRUCTION LOAN PERIOD INCOME		287,624
PLUS EQUITY INVESTED DURING CONSTRUCTION		11,377,200
MINUS TOTAL CONSTRUCTION COSTS		($45,898,832)
TOTAL WORKING CAPITAL		$287,990

SUMMARY OF EQUITY CAPITALIZATION

	EQUITY
(1) CALSTRS (23.00%)	$10,407,824
(2) FAIRFIELD (0.80%)	$68,176
(3) FPR 25% HOLDBACK (0.00%)	$0
TOTAL EQUITY	$11,377,200
(1) CALSTRS PROFIT INTEREST	40.00%
(2) FAIRFIELD PROFIT INTEREST	30.00%
(3) FPR 25% HOLDBACK PROFIT INTEREST	30.00%
1ST LOOKBACK (1) 23% / (2) 0%	11.07%
2ND LOOKBACK (1) 75% / (2) 10.75% / (3) 0.25%	14.00%
3RD LOOKBACK (1) 65% / (2) 28.25% / (3) 6.75%	18.00%
EQUITY-TO-COST RATIO	25.00%

EQUITY INSTALLMENTS	(1)	(2)
1ST EQUITY INSTALLMENT FEB 2007	$10,407,324	$969,176

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

OPERATING INCOME AND EXPENSE

UNIT DESCRIPTION	UNITS	% OF TOTAL	UNIT SIZE	TOTAL SQ. FT.	BASE INCOME (ANNUAL) TOTAL	BASE INCOME (MONTHLY) TOTAL	BASE INCOME (MONTHLY) PER UNIT	BASE INCOME (MONTHLY) PER SQ. FT.	AT STABILIZATION (NOV 2008-OCT 2009) (ANNUAL) TOTAL	AT STABILIZATION (NOV 2008-OCT 2009) (MONTHLY) TOTAL	AT STABILIZATION (NOV 2008-OCT 2009) (MONTHLY) PER UNIT	AT STABILIZATION (NOV 2008-OCT 2009) (MONTHLY) PER SQ. FT.	AT SALE (MAY 2010-APR 2011) (ANNUAL) TOTAL	AT SALE (MAY 2010-APR 2011) (MONTHLY) TOTAL	AT SALE (MAY 2010-APR 2011) (MONTHLY) PER UNIT	AT SALE (MAY 2010-APR 2011) (MONTHLY) PER SQ. FT.
1BR/1BA-A1-VL (MAX=$34,950 UTIL. ALLOC	7	3.09%	616	4,312	$47,600	$3,833	$545	$0.82	$51,840	$4,320	$617	$1.00	$54,300	$4,525	$646	$1.05
1BR/1BA-A1-M (MAX=$1,224,000 UTIL. ALLOC	18	8.85%	616	9,480	$68,000	$5,250	$1,315	$2.18	$73,870	$6,173	$1,447	$2.35	$82,270	$6,855	$1,918	$2.47
1BR/1BA-A1	13	5.85%	670	9,000	$78,000	$6,500	$1,500	$2.38	$79,992	$6,666	$1,513	$2.40	$87,000	$7,250	$1,567	$2.50
1BR/1BA-A1A	3	2.77%	730	2,770	$0,000	$7,500	$1,918	$2.63	$0,994	$8,247	$1,949	$2.70	$00,824	$8,852	$1,730	$2.79
1BR/1BA-A2	38	18.62%	648	24,540	$468,240	$39,770	$1,410	$2.18	$04,704	$50,732	$1,340	$2.30	$30,472	$61,021	$1,622	$2.51
1BR/1BA-A3	30	15.05%	720	20,110	$43,030	$3,649	$1,490	$2.05	$03,000	$0,250	$1,676	$2.24	$37,534	$61,472	$1,700	$2.35
1BR/1BA-A3A	0	3.01%	710	4,314	$00,020	$0,010	$1,405	$2.07	$0,704	$9,722	$1,622	$2.25	$22,533	$10,211	$1,702	$2.37
2BR/1BA-B1-VL (MAX=$783-$81 UTIL. ALLOC	7	3.04%	930	6,972	$2,004	$4,007	$00	$0.03	$7,032	$4,704	$00	$0.09	$0,254	$5,021	$717	$0.72
2BR/1BA-B1-M (MAX=$1,320-$47 UTIL. ALLC	10	4.70%	990	10,050	$05,024	$0,302	$1,402	$1.40	$03,072	$7,000	$1,010	$1.03	$20,104	$10,012	$1,990	$1.70
2BR/2BA-B1	0	3.07%	000	0,070	$00,300	$0,000	$1,700	$1.70	$00,024	$11,502	$1,017	$1.03	$44,004	$12,007	$2,011	$2.07
2BR/2BA-B2	25	10.07%	1,040	20,200	$43,000	$3,250	$1,010	$1.73	$03,122	$0,020	$1,977	$1.00	$22,204	$01,057	$2,074	$1.90
2BR/2BA-B2A	0	2.01%	1,000	0,000	$30,720	$0,000	$1,010	$1.72	$02,344	$0,002	$1,977	$1.00	$40,002	$12,440	$2,074	$1.00
2BR/2BA-B3	4	1.34%	1 175	0,700	$7,200	$0,100	$2,075	$1.01	$00,104	$0,047	$2,272	$1.73	$11,200	$0,203	$2,321	$1.02
2BR/2BA-B3A	11	4.70%	1,177	12,047	$54,000	$1,070	$2,025	$1.04	$07,000	$23,120	$2,103	$1.70	$01,704	$24,107	$2,200	$1.07
2BR/2BA-B3B	3	1.20%	1,205	3,015	$0,000	$0,000	$1,000	$1.03	$7,070	$0,423	$2,141	$1.70	$0,000	$0,720	$2,240	$1.00
2BR/2BA-B4	42	10.20%	0,210	00,100	$,010,000	$01,030	$2,010	$1.00	$,00,200	$02,020	$2,201	$1.74	$,103,044	$00,007	$2,300	$1.03
GROSS MARKET RENT	220	100.00%	900	200,444	$4,104,200	$300,100	$1,002	$1.30	$4,700,700	$300,000	$1,730	$1.02	$5,035,000	$410,005	$1,025	$2.01
GROSS POTENTIAL RENT					$4,104,200	$300,100	$1,002	$1.70	$4,700,307	$300,000	$1,730	$1.02	$5,035,000	$410,005	$1,025	$2.01
VACANCY @ 4.70% (1)					($00,340)	($7,000)	($0)	($0.00)	($00,000)	($0,007)	($07)	($0.00)	($00,472)	($10,105)	($00)	($0.00)
NET RENTAL REVENUE					$4,107,000	$300,004	$1,007	$1.00	$4,074,070	$300,100	$1,007	$1.00	$4,700,000	$300,000	$1,730	$1.02
OTHER INCOME @ $10.00 PER UNIT LESS VACANCY FACTOR @ 4.70% (1)					$0,000	$0,000	$0	$0.00	$0,000	$1,000	$0	$0.00	$0,000	$7,000	$0	$0.00
NET PROPERTY REVENUE					$4,000,000	$000,000	$1,000	$1.00	$4,000,000	$000,000	$1,000	$1.00	$4,000,000	$007,000	$1,000	$1.00

CST1SBA01MAY VERSION 07.12 6-YEARS CALENDAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

COMPUTATION OF SALE PROCEEDS FOR SALE IN MAY 2011

SALE SUMMARY

NET OPERATING INCOME CAPITALIZATION RATES	8.00%	8.25%	8.50%
SALE PRICE PER UNIT	$239,776	$231,926	$214,535
ANNUAL NET OPERATING INCOME AT SALE TO SELLER (1)	$8,887,654	$9,652,894	$9,683,614
PLUS SELLER'S AD VALOREM PROPERTY TAXES	864,139	864,139	864,139
LESS BUYER'S AD VALOREM PROPERTY TAXES (2)	($44,580)	($32,290)	($32,320)
ANNUAL NET OPERATING INCOME AT SALE TO BUYER	$9,707,373	$9,987,163	$10,294,693
DIVIDED BY THE CAPITALIZATION RATE	8.00%	8.25%	8.50%
EQUALS SALE PRICE	$121,342,171	$121,115,446	$121,100,791
PLUS PROPERTY TAX PRORATION TO SELLER	30,488	30,488	30,488
LESS SALES COMMISSION, TITLE, AND CLOSING COSTS @ $100,000 PLUS 1.00%	($822,824)	($810,384)	($801,007)
LESS MINI-PERM LOAN (INTEREST ONLY) PRINCIPAL PAYOFF	($84,131,000)	($84,131,000)	($84,131,000)
LESS MINI-PERM LOAN (INTEREST ONLY) ACCRUED INTEREST	($293,739)	($293,739)	($293,739)
SALE PROCEEDS AVAILABLE FOR DISTRIBUTION	$37,949,076	$35,917,307	$34,379,433
LESS LOAN AND LENDER ADMINISTRATIVE FEE TO CONSTRUCTION LENDER	($7,600)	($7,600)	($7,600)
LESS CALSTRS 1ST TIER LOOKBACK @ 82.00% TO A 11.00% IRR TO CALSTRS	($13,874,197)	($13,874,197)	($13,874,197)
LESS FAIRFIELD 1ST TIER LOOKBACK @ 8.00% TO A 11.00% IRR TO CALSTRS	($1,130,814)	($1,130,814)	($1,130,814)
LESS CALSTRS 2ND TIER LOOKBACK @ 73.00% TO A 14.00% IRR TO CALSTRS	($1,299,904)	($1,299,904)	($113,065)
LESS FAIRFIELD 2ND TIER LOOKBACK @ 18.75% TO A 14.00% IRR TO CALSTRS	($322,370)	($322,370)	($29,497)
LESS FFR 25% HOLDBACK 2ND TIER LOOKBACK @ 0.25% TO A 14.00% IRR TO CALSTRS	($187,458)	($187,458)	($9,888)
LESS CALSTRS 3RD TIER LOOKBACK @ 83.00% TO A 18.00% IRR TO CALSTRS	($1,748,923)	($71,923)	$0
LESS FAIRFIELD 3RD TIER LOOKBACK @ 25.25% TO A 18.00% IRR TO CALSTRS	($100,000)	($9,719)	$0
LESS FFR 25% HOLDBACK 3RD TIER LOOKBACK @ 8.75% TO A 18.00% IRR TO CALSTRS	($69,720)	($7,570)	$0
NET PROCEEDS FROM SALE AVAILABLE FOR DISTRIBUTION	$0	$0	$0
SUMMARY OF SALE PROCEEDS TO FFR 25% HOLDBACK			
2ND TIER LOOKBACK SPLIT 0.25% TO A 14.00% IRR TO CALSTRS	$187,453	$187,458	$9,488
3RD TIER LOOKBACK SPLIT 8.75 % TO A 18.00% IRR TO CALSTRS	$69,720	$7,570	$0
TOTAL SALE PROCEEDS TO FFR 25% HOLDBACK	$414,173	$195,028	$9,488
SUMMARY OF SALE PROCEEDS TO FAIRFIELD			
1ST TIER LOOKBACK SPLIT 8.00% TO A 11.00% IRR TO CALSTRS	$1,130,814	$1,130,814	$1,130,814
2ND TIER LOOKBACK SPLIT 18.75% TO A 14.00% IRR TO CALSTRS	$322,370	$322,370	$29,497
3RD TIER LOOKBACK SPLIT 25.25% TO A 18.00% IRR TO CALSTRS	$100,000	$9,719	$0
TOTAL SALE PROCEEDS TO FAIRFIELD	$1,553,183	$1,462,903	$1,160,311
SUMMARY OF SALE PROCEEDS TO CALSTRS			
1ST TIER LOOKBACK SPLIT 92.00% TO A 11.00% IRR TO CALSTRS	$13,874,197	$13,874,197	$13,072,397
2ND TIER LOOKBACK SPLIT 73.00% TO A 14.00% IRR TO CALSTRS	$1,299,904	$1,299,904	$113,065
3RD TIER LOOKBACK SPLIT 83.00% TO A 18.00% IRR TO CALSTRS	$1,748,923	$71,923	$0
TOTAL SALE PROCEEDS TO CALSTRS	$16,923,023	$15,246,024	$13,185,472

(1) THE TOTAL OF NOI FOR TWELVE MONTHS INCLUSIVE FROM THE MONTH OF SALE.
(2) ANNUAL AD VALOREM PROPERTY TAXES THAT THE BUYER WILL OWE BASED ON THE SALE PRICE GIVEN THE ASSESSMENT RATIO AND TAX RATE.

CASH RETURN TO CALSTRS

YEAR	EQUITY INVESTMENT	CASH FLOW	SALE PROCEEDS 8.00% CAP RATE	SALE PROCEEDS 8.25% CAP RATE	SALE PROCEEDS 8.50% CAP RATE
2007	($9,467,814)	$0	$0	$0	$0
2008	$0	$67,547	$0	$0	$0
2009	$0	$79,972	$0	$0	$0
2010	$0	$12,884	$0	$0	$0
		PROFIT	$9,456,972	$9,438,972	$4,192,681
		XIRR	16.72%	16.19%	11.37%

GROSS JOINT VENTURE PROFIT

	8.00% CAP RATE	8.25% CAP RATE	8.50% CAP RATE
SALE PROCEEDS AVAILABLE FOR DISTRIBUTION	$37,934,153	$35,940,145	$34,353,378
LESS TOTAL EQUITY INVESTED	($11,377,288)	($11,377,288)	($11,377,288)
LESS FEES & OTHER DEDUCTIONS AT SALE	($89,078)	($33,847)	($8,481)
PLUS CASH FLOW FROM OPERATIONS	$1,399,142	$1,399,142	$1,399,142
JOINT VENTURE PROFIT	$27,866,978	$25,928,144	$24,356,829
JOINT VENTURE IRR	18.41%	14.89%	11.37%

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

OPERATING INCOME AND EXPENSE

EXPENSE CATEGORY	BASE EXPENSES (UNTRENDED) JAN 2006 TOTAL	MONTHLY	PER UNIT ANNUALLY	PER SQ.FT. ANNUALLY	AT STABILIZATION (NOV 2008-OCT 2009) TOTAL	MONTHLY	PER UNIT ANNUALLY	PER SQ.FT. ANNUALLY	AT SALE (MAY 2010-APR 2011) TOTAL	MONTHLY	PER UNIT ANNUALLY	PER SQ.FT. ANNUALLY
SALARIES	$253,000	$21,083	$1,199	$1.31	$270,112	$22,676	$1,196	$1.32	$287,592	$23,966	$1,350	$1.38
ADVERTISING	40,250	3,354	175	0.19	43,764	3,647	193	0.21	45,758	3,813	199	0.22
REPAIRS, MAINTENANCE, SUPPLIES SVCS & COMMON AREA MAINT.	115,000	9,583	500	0.55	125,052	10,421	548	0.60	130,738	10,894	569	0.63
GENERAL AND ADMINISTRATIVE	45,000	3,833	200	0.22	50,000	4,950	217	0.24	52,264	4,357	227	0.25
MANAGEMENT FEE	128,884	10,687	557	0.61	132,012	11,051	588	0.67	140,700	12,225	638	0.70
UTILITIES	109,250	9,104	475	0.52	110,000	9,000	517	0.57	124,188	10,349	540	0.60
SUBTOTAL VARIABLE OPERATING EXPENSES	$691,384	$57,674	$3,007	$3.30	$732,535	$62,753	$3,261	$3.61	$787,240	$65,604	$3,422	$3.78
INSURANCE	143,374	11,948	623	0.69	159,818	12,593	678	0.75	162,184	13,582	709	0.78
TOTAL PROPERTY TAXES	430,843	35,907	1,872	2.07	467,250	38,938	1,998	2.18	468,401	39,067	2,029	2.24
BASE LAND LEASE PAYMENTS (PAID IN ADVANCE)	111,727	9,311	486	0.54	111,727	9,311	486	0.54	111,727	9,311	486	0.54
LAND LEASE PREMIUM (1.25% OF NET PROPERTY REVENUE PAID IN ARREARS)	53,539	4,445	232	0.26	56,557	4,653	253	0.28	61,123	5,094	266	0.29
SUBTOTAL FIXED OPERATING EXPENSES	$739,529	$61,611	$3,214	$3.56	$795,158	$65,396	$3,406	$3.78	$809,362	$67,054	$3,489	$3.85
RESERVES FOR REPLACEMENT	46,875	3,823	200	0.22	50,000	4,166	217	0.24	52,264	4,357	227	0.25
TOTAL OPERATING EXPENSES	$1,477,834	$123,109	$6,421	$7.08	$1,577,693	$132,144	$6,884	$7.61	$1,647,866	$137,015	$7,138	$7.89
NET OPERATING INCOME (1)	$2,710,016	$225,793	$11,771	$13.00	$2,894,644	$239,837	$12,511	$13.95	$3,041,711	$253,143	$13,198	$14.58

RETURN ON COST:			
TOTAL OPERATING EXPENSES AS A % OF NET PROPERTY REVENUE:	6.10%	6.79%	7.94%
ESTIMATED ASSESSED VALUE FOR PROPERTY TAXES:	34.81%	34.81%	33.28%
	$41,513,133 OR $180,494 / UNIT	$44,934,810 OR $191,547 / UNIT	$44,935,711 OR $195,373 / UNIT

UNIT MIX:	
MARKET-RATE UNIT MIX (185 64.78%% OF TOTAL UNITS / % OF UNIT TYPE):	1-BR: 119 (64.03%) 2-BR: 115 (89.84%)
AFFORDABLE UNIT MIX (15 81.25%% OF TOTAL UNITS / % OF UNIT TYPE):	1-BR: 66 (42.31%) 2-BR: 87 (52.17% / 84.25%)
INFLATION OF RENTS:	1-BR: 17 (7.69% / 14.78%) 2-BR: 10 (7.83% / 15.75%)
AVG BASE OVERALL RENTS PER UNIT BY # OF BEDROOMS:	3% 1/07, 3.25% 1/08, 3.25% 1/09, 3.25% 1/10
AVG BASE MARKET RENTS PER UNIT BY # OF BEDROOMS:	1BR-$1,393
AVG BASE AFFORDABLE RENTS PER UNIT BY # OF BEDROOMS:	1BR-$1,448
AVG BASE OVERALL RENTS PER SQ. FT. BY # OF BEDROOMS:	1BR-$1,512
AVG BASE MARKET RENTS PER SQ. FT. BY # OF BEDROOMS:	1BR-$2.00/SF
AVG BASE AFFORDABLE RENTS PER SQ. FT. BY # OF BEDROOMS:	1BR-$2.12/SF
VACANCY RATE:	1BR-$1.64/SF
MOVE-IN CONCESSIONS (IN WEEKS):	4.70% 2/50
BASE LAND LEASE PAYMENTS (PAID IN ADVANCE):	3.3/ 2/50, 0 / 1/08
LAND LEASE PREMIUM (AS A % OF NOI PAID IN ARREARS):	$37,242 PAID 1 EFFECTIVE 5/09, $74,484 PAID MONTHLY EFFECTIVE 5/07, $111,727 PAID MONTHLY EFFECTIVE 5/08
NPV OF TOTAL LAND LEASE PAYMENTS (99 YEARS AT 8.00% / 9.00% / 10.00% DISCOUNT RAT	1.25% PAID 1.5/07
MANAGEMENT FEE:	$2,290,483 / $1,938,723 / $1,651,750 AND PER UNIT 99,959 / 38,194 / 97,332
EXPENSE INFLATOR:	3.00% OF TOTAL PROPERTY REVENUE
ANNUAL INFLATION OF ASSESSED PROPERTY VALUE IN JANUARY:	3% 1/07, 3% 1/08, 3% 1/09, 3% 1/10
AD VALOREM PROPERTY TAX RATE:	2.00%
	1.0370016 @ 100.00% ASSESSMENT RATIO

(1) THE UNTRENDED NOI IS BASED ON RENTS AND EXPENSES AT THE DATE SPECIFIED AT THE TOP OF THE ABOVE 3 COLUMNS EXCEPT FOR PROPERTY TAXES. PROPERTY TAXES ARE BASED ON A STABILIZED ASSESSED VALUE IN JAN 2009 THAT ARE TRENDED APPROPRIATELY TO THE DATES SPECIFIED AT THE TOP OF THE COLUMNS. VACANCY RATE, CONCESSIONS, LOSS TO LEASE RATE AND COLLECTION LOSS RATE ARE VALUES CONSIDERED TO BE "STABILIZED" AND DO NOT NECESSARILY REFLECT WHAT MIGHT BE IN PLACE AT PHYSICAL STABILIZATION AND SALE.

CSTSRA01M7 VERSION 07.01 8-YEARS CALENDAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

CASH FLOW DISTRIBUTION SUMMARY

	2006	2007	2008	2009	JAN 2010 THRU MAY 2010	TOTALS THRU SALE IN MAY 2010
GROSS MARKET RENT						
GROSS POTENTIAL RENT	$0	$0	$3,296,328	$4,623,088	$2,075,788	$10,195,191
VACANCY @ 4.70%	$0	$0	$3,744,328	$4,623,088	$2,073,788	$10,195,191
MOVE-IN CONCESSIONS @ 8 WEEKS AT 8.00% TURNOVER RATE	$0	$0	($77,570)	($126,778)	($7,889)	($301,417)
NET RENTAL REVENUE	$0	$0	($314,430)	$0	$0	($314,430)
OTHER INCOME @ $30.00 PER UNIT LESS VACANCY FACTOR @ 4.78%	$0	$0	$2,406,802	$4,534,292	$1,978,225	$9,363,319
NET TOTAL RENTAL REVENUE	$0	$0	$0,874	$0,646	$7,275	$174,896
NET PROPERTY REVENUE	$0	$0	$2,457,476	$4,604,922	$2,015,500	$9,187,998
TOTAL OPERATING EXPENSES	$0	$0	$2,457,476	$4,604,922	$2,015,500	$9,187,998
RESERVES FOR REPLACEMENT	$0	$20,414	$1,182,928	$1,478,934	$761,761	$3,457,972
NET OPERATING INCOME	$0	$0	$2,756	$0,256	$1,278	$4,034
PLUS STARTUP EXPENSES FUNDED BY CONSTR FUNDS	$0	($20,414)	$1,252,334	$2,140,732	$1,242,218	$5,615,012
PLUS INTEREST EARNINGS	$0	$20,414	$72,923	$0	$0	$93,339
PLUS MINI-PERM LOAN (INTEREST ONLY) FUNDING	$0	$0	$2	$0	$0	$2
CURRENT MONTH CASH FLOW BEFORE DEBT SERVICE	$0	$0	$4,131,802	$0	$0	$4,131,802
LESS CONSTRUCTION DEBT SVC (EXCL INTEREST RESERVE)	$0	$0	$55,988,914	$3,140,732	$1,242,218	$30,242,815
LESS MINI-PERM LOAN (INTEREST ONLY) DEBT SERVICE	$0	$0	$14,707	$0	$0	$14,707
LESS CONSTRUCTION LOAN PAYOFF	$0	$0	$83,309	$2,302,741	$22,233	$2,408,274
LESS FAIRFIELD DEV. DEVELOPER FEE PAYMENTS	$0	$0	$4,131,802	$0	$0	$4,131,802
CURRENT MONTH CASH FLOW AVAILABLE FOR DISTRIBUTION	$0	$0	$0	$0	$0	$0
REMAINING CASH FLOW TO CALSTRS	$0	$0	$421,347	$728,011	$319,884	$1,591,142
REMAINING CASH FLOW TO FAIRFIELD	$0	$0	$57,547	$78,972	$12,884	$1,471,313
WORKING CAPITAL ACCOUNT BALANCE	$0	$0	$3,700	$7,039	$7,188	$27,939
	$0	$0	$0	$0	$0	$0
TOTAL CASH FLOW TO CALSTRS	$0	$0	$57,547	$78,972	$12,884	$1,471,313
TOTAL CASH FLOW TO FAIRFIELD	$0	$0	$3,700	$7,039	$7,188	$27,939
TOTAL CASH FLOW DISTRIBUTION	$0	$0	$421,347	$728,011	$319,884	$1,591,142
TOTAL LOAN FEES AND PREFERRED RETURNS PAID FROM SALE PROCEEDS	($2,184)	($2,184)	($2,184)	$4,309	$7,830	$7,809
CASH EQUITY INVESTMENT						
CALSTRS CASH EQUITY INVESTMENT	$0	$0,487,334	$0,487,334	$0,487,334	$0,487,334	$0,487,334
FAIRFIELD CASH EQUITY INVESTMENT	$0	$10,178	$10,178	$10,178	$10,178	$10,178
TOTAL CASH EQUITY INVESTMENT	$0	$11,377,360	$11,377,360	$11,377,360	$11,377,360	$11,377,360

CST 1998/01/07 VERSION 97 12 6-YEARS CALENDAR

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA
FINAL PROJECTION

HARD COST DETAIL

UNITS 230
GROSS SQUARE FOOTAGE 212,734
GENERAL CONTRACTOR FEE: 6.00%

COST DESCRIPTION	COST	COST PER UNIT	COST PER SQUARE FOOT	PERCENT OF HARD COSTS
APARTMENT HARD COSTS				
PODIUM DECK PARKING-NTS (328 PARKING SPACES @ $12,400 EACH)	$21,874,529	$95,107	$102.83	72.44%
PODIUM DECK PARKING-FFRES (342 PARKING SPACES @ $12,400 EACH)	4,078,680	17,737	19.18	13.51%
TOTAL HARD COSTS	4,249,000	18,430	19.93	14.04%
	$30,194,929	$131,282	$141.94	99.97%
PLUS SPECIAL PROJECT REQUIREMENTS				
DEMO EXISTING PARKING -CURBS, GUTTERS AND PAVING	$70,647	$307	$0.33	0.24%
RELOCATE 10" GASLINE & REMOVE ABANDONED 16" STEEL WATER	735,324	3154	$0.17	0.11%
RELOCATE 12" SEWER AND REMOVE AND RELOCATE 24" CIPCI ST	181,836	3332	$0.30	0.24%
REMOVE AND RELOCATE 18" RCP STORM DRAINS & 36" TELEPHO	$34,814	$166	$0.13	0.07%
CONSTRUCT RETAINING WALLS AT FLETCHER PKWY AND CROSS	$99,737	3454	$0.47	0.36%
CONSTRUCT SPECIAL BEAMS AND FOOTINGS AT GARAGES TO SP	$413,462	$1,780	$1.94	1.23%
OTHER	$205,802	$901	$0.96	0.81%
CONTINGENCY	$463,200	$2,023	$2.19	1.79%
TOTAL SPECIAL PROJECT REQUIREMENTS	$1,599,450	$6,957	$6.99	4.97%
PLUS GENERAL CONTRACTOR FEE	$1,915,672	$8,241	$8.91	6.95%
TOTAL HARD COST BUDGET	$33,815,729	$146,938	$157.83	100.00%

CSTIS5A01/07 VERSION 07.12 5-YEARS CALENDAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

PERMITS, FEES AND OTHER SOFT COSTS DETAIL

LAND AND CLOSING COSTS	
LAND	
LAND LEGAL	$0
LAND TITLE/CLOSING	100,000
FAIRFIELD BROKER COMMISSION	29,000
OUTSIDE REAL ESTATE COMMISSION	0
TRANSFER & DOCUMENTATION FEES	69,465
LAND LETTER OF CREDIT	0
WATER & BOND	0
LAND OPTION PMT-REFUNDABLE	0
LAND OPTION PMT-NON-REFUNDABLE	0
LAND CONTRIBUTIONS	100,000
LAND LEASE PAYMENTS	109,108
TOTAL LAND AND CLOSING COSTS	221,493
	$423,058
OFFSITE IMPROVEMENTS	
GRADING	
ROCK REMOVAL	$1,214,180
UTILITIES	0
CURB & GUTTER	0
SOUND WALL	9,184
PAVING	0
SIDEWALKS	123,848
JOINT TRENCH	32,100
STREET LIGHTS	257,750
TRAFFIC SIGNALS	6,633
FENCING	49,104
LANDSCAPING	0
LIFT STATION	94,008
DEMOLITION	0
ENVIRONMENTAL MITIGATION	17,388
CONTRIBUTIONS-OFFSITES	0
REIMBURSABLES-OFFSITES	0
MISC.	0
CONTINGENCY	0
TOTAL OFFSITE IMPROVEMENTS	725,000
	$1,941,199
DEVELOPMENTAL COSTS	
APPRAISAL	
REZONING, PLATTING, & PRELIMINARY ENGINEERING	$0
FEASIBILITY STUDIES	0
MARKET SURVEYS	1,748
ENGINEERING REVIEW/MISC	0
SOIL STUDIES	0
ENVIRONMENTAL STUDIES	27,870
ACOUSTICAL STUDIES	3,928
GEOPHYSICAL STUDIES	4,190
TOXIC/HAZARD STUDIES	0
ENVIRONMENTAL MITIGATION	2,182
TRAFFIC STUDY	60,000
BIOLOGICAL STUDIES	17,239
ALTA BOUNDARY SURVEY	4,757
CONCEPTUAL SITE PLAN	0
TOPO/TREE SURVEY	0
MISC.	0
MISC	0
CONTINGENCY	0
TOTAL DEVELOPMENTAL COSTS	80,000
	$171,731
OFFICE/CLUBHOUSE/MODEL FURNISHINGS AND MARKETING	
SIGNAGE (8800-8804)	
PROMOTION (GRAPHICS, BROCHURES, ADVERTISING, ETC.) (8830-8834)	643,643
LEASING OFFICE/CLUBHOUSE FURNISHINGS AND ACCESSORIES (8812-8813)	75,000
POOL FURNITURE, BBQ GRILLS, ETC. (8808-8810)	240,000
FITNESS CENTER EQUIPMENT AND FURNISHINGS, ETC (8804-8806)	21,822
MODEL FURNISHINGS & BUILDING EXTRAS (8844-8848)	80,850
MAINTENANCE EQUIPMENT (8840-8842)	65,488
COMPUTERS	24,004
MISC.	43,843
STARTUP COSTS	0
TOTAL OFFICE/CLUBHOUSE/MODEL FURNISHINGS AND MARKETING	202,330
	$748,981

ARCHITECTURAL AND ENGINEERING	
CONCEPTUAL ARCHITECTURALS	
ARCHITECTURAL DESIGN	$0
ARCHITECTURAL EXTRA SERVICES	400,000
ARCHITECTURAL REIMB	25,000
CIVIL ENGINEER	40,000
CIVIL ENGINEER EXTRA SERVICES	524,000
CIVIL ENGINEER REIMB	15,000
PLANNING CONSULTANT	15,000
PLANNING CONSULTANT EXTRA SERVICES	5,000
PLANNING CONSULTANT REIMB	0
LANDSCAPE DESIGN	0
LANDSCAPE DESIGN EXTRA SERVICES	120,000
LANDSCAPE DESIGN REIMB	15,000
SOILS ENGINEER	10,000
SOILS/CONCRETE TESTING	60,000
SED/EROSION CONTROL MONITORING	0
UTILITY CONSULTANT	0
UTILITY CONSULTANT EXTRA SERVICES	12,600
UTILITY CONSULTANT REIMB	0
STRUCTURAL ENGINEER	0
STRUCTURAL ENGINEER EXTRA SERVICES	165,000
STRUCTURAL ENGINEER REIMB	8,000
M.E.P. ENGINEER	10,000
M.E.P. ENGINEER REIMB	75,000
SURVEYING	10,000
FOUNDATION CONSULTANT	70,000
FOUNDATION CONSULTANT EXTRA SVCS	0
FOUNDATION CONSULTANT REIMB	0
MISC CONSULTANTS	0
SPEC & TECH	63,000
INSPECTING ARCHITECT	35,000
FINAL PLAT	30,000
GARAGE DESIGN	0
MISC. REIMBURSABLES	120,000
BLUEPRINTS	0
CONSTRUCTION STAKING	60,000
FINAL ALTA/AS BUILT	0
LEEDS STUDY	0
CONTINGENCY	2,500
TOTAL ARCHITECTURAL AND ENGINEERING	0
	$1,919,500
BONDS, INSURANCE, LEGAL AND ADMINISTRATION	
GRADING BOND	
SUBDIVISION IMPROVEMENT BOND	$0
LANDSCAPE BOND	0
COMPLETION/PERFORMANCE BOND	0
BONDS-MISC	25,000
INSURANCE-GENERAL LIABILITY	0
INSURANCE-BUILDERS' RISK	145,319
INSURANCE-FLOOD	386,381
INSURANCE-H.O. WARRANTY	0
INSURANCE-OTHER	0
LEGAL-GENERAL	0
SALARIES-PROJECT MANAGER	80,000
SALARIES-CLERICAL	0
GENERAL & ADMINISTRATIVE COSTS	0
ORGANIZATIONAL LEGAL COSTS	50,000
START UP COSTS	25,000
TAX CREDIT INITIAL COMPLIANCE COSTS	0
CALSTRS PREP DURING CONSTRUCTION	0
TRANS MGMT FEE	0
RENT UP FEE	0
LENDER ADMINISTRATIVE FEE	0
ACCOUNTING SERVICES FEE	10,000
DEVELOPER FEE PAID AT CLOSING	25,000
PLACEMENT FEE	113,772
OWNER'S CONTINGENCY	0
MISC.	40,000
TOTAL BONDS, INSURANCE, LEGAL AND ADMINISTRATION	0
	$892,191

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

PERMITS, FEES AND OTHER SOFT COSTS DETAIL - CONTINUED

PERMITS AND FEES	
SITE REVIEW PLAN	
FDEP STORMWATER & NPDES PERMITS	$0
BUILDING PLAN REVIEW FEES	0
TOUR REVIEW FEE	0
C.O. FEES	0
WATER METER FEES	0
WATER SYSTEM CHARGES	0
SEWER SYSTEM CHARGES	0
PLAT REVIEW FEES	900,880
DEVELOPMENT PLAN FEE	0
PROPERTY DEVELOPMENT FEE	11,815
TENTATIVE MAP FEE	0
SPECIFIC PLAN AMENDMENT	0
CONDITIONAL USE PERMIT	0
PREQUAL PLAN FEE	0
FINAL MAP PLAN CHECK	0
CONVERSION REV FEE	0
GRADING PLAN CHECK	0
IMPROVEMENT PLAN CHECK	8,103
IMPROVEMENT PLAN INSPECTION	51,000
LANDSCAPE PLAN CHECK	30,279
GRADING INSPECTION	2,370
STORM DRAINAGE FEE	10,836
LANDSCAPE INSPECTION	9,181
TORTORIS FEE/PUBLIC SAFETY FEE	0
PARK FEE	0
SCHOOL FEE	350,000
TRAFFIC FEE	901,937
SMIT FEE	13,883
SANITARY SEWER IMPACT FEE	2,355
WATER IMPACT FEE	0
WATER CONNECTION FEE	0
PLAN CHECK FEE	0
BUILDING PERMIT FEE	138,838
STREET LIGHT FEE	140,487
WATER MONITORING FEE	0
FLOOD HAZARD RV (TM)	9,486
FLOOD HAZARD RV (PM)	0
CAPITAL IMPROVEMENT FEE	0
PERMIT-MECHANICAL	0
PERMIT-SALES OFFICE	0
SEWER FEE-ASSESSMENT	0
SEWER FEE-FRONTAGE	0
SEWER FEE-FACILITIES	0
WATER FEE-CONSTRUCTION	0
WATER FEE-FRONTAGE	0
WATER FEE-CAP FACILITIES	0
WATER TREATMENT PLANT FEE	44,880
FACILITIES BENEFIT FEE	0
COMMUNITY FACILITIES DISTRICT	0
SWIMMING POOL/SPA FEE	0
PERMIT-ELECTRICAL	0
PERMIT-ENCROACHMENT	30,767
PERMIT-FIRE SPRINKLERS	0
PERMIT-HVAC	67,362
PERMIT-IMPROVEMENTS	80,787
PERMIT-PLUMBING	8,257
PERMIT-ROOFING	16,668
PERMIT-SITE WALL	0
PERMIT-WALL	0
OCCUPANCY FEE	0
REIMBURSEMENT FROM CITY OF LA MESA FOR SEWER OFFSITES	0
RELOCATION OF BUS STOP	(650,000)
THEATER LICENSE AGREEMENT AMENDMENT	326,197
CONTINGENCY	43,843
TOTAL PERMITS AND FEES	320,000
	$3,669,346

REFUNDABLE HOOKUP FEES	
ELECTRICAL HOOKUP FEES	
REFUNDABLE FEES-ELECTRICAL	$125,625
GAS HOOKUP FEES	0
REFUNDABLE FEES-GAS	0
TELEPHONE HOOKUP FEES	0
REFUNDABLE FEES-TELEPHONE	0
CATV HOOKUP FEES	0
REFUNDABLE FEES-CATV	0
REFUNDABLE FEES-PLAN/MAINT	0
WATER HOOKUP FEES	0
REFUNDABLE FEES-WATER	0
MISC.	0
TOTAL REFUNDABLE HOOKUP FEES	0
	$125,625
EQUITY FINANCING COSTS	
MISC.	
MISC	$0
MISC.	0
TOTAL EQUITY FINANCING COSTS	0
	$0
LAND ACQUISITION FINANCING COSTS	
LAND LOAN POINTS @ 0.00% OF LAND LOAN	
LAND LOAN CLOSING AND LEGAL	$0
LAND LOAN TITLE INSURANCE	0
LAND LOAN DOCUMENTARY TAX	0
LAND LOAN LENDER APPRAISAL	0
LAND LOAN INTEREST	0
TOTAL LAND ACQUISITION FINANCING COSTS	0
	$0
CONSTRUCTION FINANCING COSTS EXCLUDING INTEREST	
CONSTRUCTION LOAN POINTS @ 0.70% OF CONSTRUCTION LOAN	$283,867
SUPPLEMENTAL DEVELOPMENT FEE	0
CONSTRUCTION LOAN CLOSING AND LEGAL	25,000
CONSTRUCTION LOAN TITLE INSURANCE	30,000
CONSTRUCTION LOAN DOCUMENTARY TAX	21,822
CONSTRUCTION LENDER APPRAISAL	3,491
MISC.	0
TOTAL CONSTRUCTION FINANCING COSTS EXCLUDING INTEREST	$349,200
CALSTRS SUBSCRIPTION LOAN COSTS	
CALSTRS SUBSCRIPTION LOAN POINTS @ $632000.00% OF CALSTRS SUBSC	$88,329
CALSTRS SUBSCRIPTION LOAN CLOSING COSTS	0
CALSTRS SUBSCRIPTION LOAN INTEREST	466,022
MEZZANINE LOAN POINTS @ 0.00% OF MEZZANINE LOAN	0
MEZZANINE LOAN CLOSING COSTS	0
MEZZANINE LOAN INTEREST	0
MEZZANINE LOAN PRINCIPAL REDUCTIONS	0
TOTAL CALSTRS SUBSCRIPTION LOAN COSTS	$554,351
MINI-PERM LOAN (INTEREST ONLY) COSTS EXCLUDING INTEREST	
MISC	
MISC.	$0
TOTAL MINI-PERM LOAN (INTEREST ONLY) COSTS EXCLUDING INTEREST	$0
OTHER CONSTRUCTION PERIOD FEES AND COSTS	
CONSTRUCTION LOAN INTEREST RESERVE	
DEVELOPER FEE PD DURING CONSTRUCTION	$2,934,403
SOFT COST CONTINGENCY	1,251,482
CONSTRUCTION PERIOD PROPERTY TAXES	276,000
LAIDRA AFFORDABLE UNITS SUBSIDY	217,755
TOTAL OTHER CONSTRUCTION PERIOD FEES AND COSTS	($3,193,311)
	$3,085,330

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FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

PROPERTY TAX DETAIL

(A) ASSESSMENT RATIO	100.00%
(B) TOTAL FULL CASH VALUE AD VALOREM TAX RATE	1.037813%
	0.000000%
ANNUAL INFLATION OF ASSESSED TAX VALUE IN TAX LIEN MONTH	2.00%
TAX LIEN MONTH	JANUARY
TAX YEAR	JULY-JUNE
ANNUAL TAX INSTALLMENTS	1ST-DECEMBER 0.00%, 2ND-APRIL 0.00%
(C) ESTIMATED BASE ASSESSED VALUE IN 2006 (SEE NOTE 3 BELOW):	$41,913,651
TOTAL BASE ANNUAL AD VALOREM TAXES (A x B x C):	$430,873
TOTAL COSTS ON WHICH ASSESSED VALUE IS BASED:	$39,411,307
LAND CLOSING AND DEVELOPMENTAL COSTS	$171,712
ARCHITECTURAL AND ENGINEERING	$1,919,300
PERMITS AND FEES (EXCL OFFSITES AND HOOKUP FEES)	$1,650,345
TOTAL BONDS, INSURANCE & LEGAL	$758,877
HARD COSTS	$31,580,367
GENERAL CONTRACTOR FEE	$1,893,422
FURNISHINGS, EQUIPMENT, ETC	$425,484
FULL CASH VALUE AD VALOREM TAX/MILL RATE #1	1.037813%

NOTES:
1. SUPPLEMENTAL TAX BILLS ARE ISSUED FOR CONSTRUCTION AS CONSTRUCTION IS COMPLETED BASED ON DELIVERIES
2. PROPERTY VALUE IS REASSESSED AT THE TIME OF SALE
3. STABILIZED ASSESSED VALUE FROM MONTH 33 TRENDED BACK TO BASE YEAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

BUILDERS RISK INSURANCE CALCULATION DETAIL

FINAL PROJECTION

	PROJECTED	% OF PROJECTED	ADJUSTED BASIS
BUILDING VALUE:			
HARD COSTS:	$30,194,929	100.00%	$30,194,929
SPECIAL PROJECT REQUIREMENTS:	1,395,438	100.00%	1,395,438
OFFSITE IMPROVEMENTS:	1,841,198	0.00%	0
GENERAL CONTRACTOR FEE:	1,998,422	0.00%	0
TOTAL BUILDING VALUE:	$35,428,988	89.17%	$31,590,367
CONTENTS:			
LEASING OFFICE/CLUBHOUSE FURNISHINGS AND ACCESSORIES (8812-8832):	240,000	100.00%	240,000
POOL FURNITURE, BBQ GRILLS, ETC. (8966-8810):	21,822	100.00%	21,822
FITNESS CENTER EQUIPMENT AND FURNISHINGS, ETC. (8934-8838):	30,660	100.00%	30,660
MODEL FURNISHINGS & BUILDING EXTRAS (8944-8948):	85,485	100.00%	85,485
MAINTENANCE EQUIPMENT (8840-8842):	24,004	100.00%	24,004
COMPUTERS:	43,813	100.00%	43,813
TOTAL CONTENTS:	$475,484	100.00%	$475,484
SOFT COSTS:			
LAND CLOSING AND DEVELOPMENTAL COSTS:	$571,285	10.00%	$57,129
ARCHITECTURAL AND ENGINEERING:	1,919,380	10.00%	191,938
PERMITS AND FEES:	1,650,345	20.00%	330,069
CONSTRUCTION HOOKUP FEES:	623,829	20.00%	24,788
TOTAL BONDS, INSURANCE & LEGAL:	758,877	50.00%	379,339
STARTUP EXPENSES:	202,339	0.00%	0
LENDER ADMINISTRATIVE FEE:	19,658	15.00%	2,949
DEVELOPER FEE PAID AT CLOSING:	113,772	15.00%	17,066
CALSTRS SUBSCRIPTION LOAN:	648,551	0.00%	0
CONSTRUCTION FINANCING COSTS:	348,300	15.00%	91,945
CONSTRUCTION LOAN INTEREST RESERVE:	2,584,483	100.00%	2,584,483
CONSTRUCTION PERIOD PROPERTY TAXES:	217,758	15.00%	32,663
DEVELOPER FEE PD DURING CONSTRUCTION:	1,251,492	0.00%	0
SOFT COST CONTINGENCY:	225,000	50.00%	112,500
TOTAL SOFT COSTS:	$9,914,234	36.30%	$3,595,518
LAND AND CLOSING COST:	$223,453	0.00%	$0
TOTAL PROJECT COST:	$45,390,159	78.43%	$35,661,369
PLUS 1-YEAR STABILIZED NET PROPERTY REVENUE:	$4,278,840	75.00%	$3,209,130
TOTAL PROJECT VALUE INCLUDING 1-YEAR STABILIZED NET PROPERTY REVENUE:	$49,668,999	78.14%	$38,801,499

	PRIMARY	EXCESS	TOTALS
ANNUAL PREMIUM PER $100 TOTAL PROJECT VALUE:	$0.30	$0.04	$0.34
ANNUAL TAXES PER $100 TOTAL PROJECT VALUE:	$0.07	$0.03	$0.10
TOTAL GENERAL AND UMBRELLA LIABILITY INSURANCE PREMIUM PER $1,000 BUILDING VALUE:	N/A	N/A	$4.00

	PRIMARY	EXCESS	TOTALS
ANNUAL BR PREMIUM:	$118,404	$19,621	138,025
ANNUAL BR TAXES:	27,381	11,640	39,021
TOTAL ANNUAL BUILDERS RISK INSURANCE PREMIUM AND TAXES:	$145,585	$27,181	$178,726
x YEARS OF CONSTRUCTION (28 MONTHS):			2.33
TOTAL BUILDERS RISK INSURANCE PREMIUM AND TAXES:			$388,381
PLUS TOTAL GENERAL AND UMBRELLA LIABILITY INSURANCE:			145,218
TOTAL CONSTRUCTION INSURANCE AND TAXES:			$543,477
TOTAL CONSTRUCTION INSURANCE AND TAXES PER UNIT:			$2,364
DEDUCTIBLE PER OCCURRENCE:			$100,000

CST13EA01M07 VERSION 07.12 8-YEARS CALENDAR

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

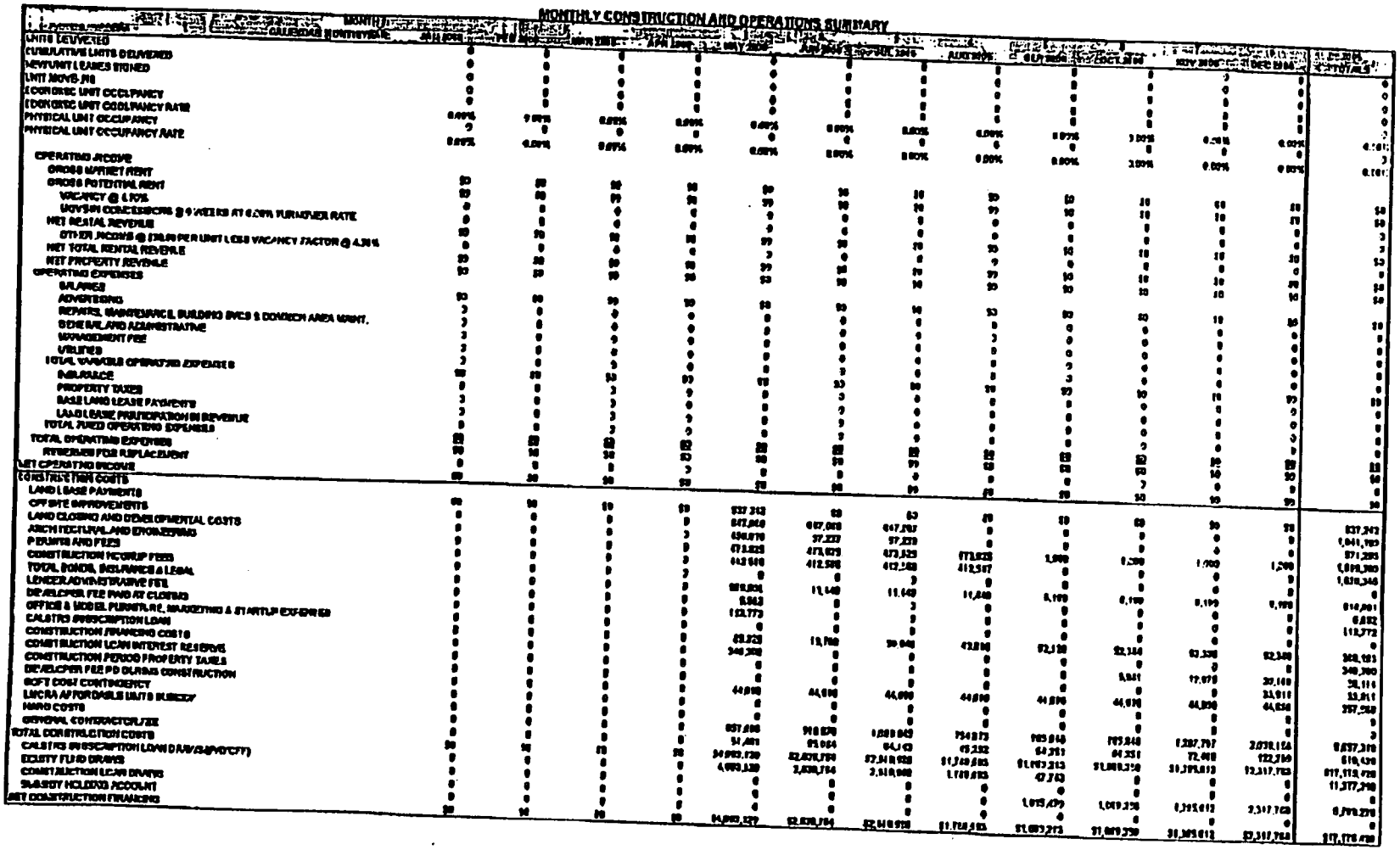
OPERATING INSURANCE CALCULATION DETAIL

(1) TOTAL ANNUAL GENERAL LIABILITY PREMIUM:	$3,896
ANNUAL GENERAL LIABILITY RATE PER UNIT:	643.00
(2) ANNUAL UMBRELLA PREMIUM:	$7,438
ANNUAL UMBRELLA RATE PER UNIT:	631.00
BUILDING VALUE:	$31,580,367
CONTENTS VALUE:	429,484
RENTS VALUE:	3,200,130
TOTAL INSURED VALUE:	$35,210,981
TOTAL INSURED VALUE: PER UNIT:	$153,113
ANNUAL PRIMARY/EXCESS PROPERTY RATE PER $100 OF TOTAL INSURED VALUE:	60.35
(3) ANNUAL PRIMARY/EXCESS PROPERTY PREMIUM:	$121,496
ANNUAL BOILER & MACHINERY RATE PER $100 OF TOTAL INSURED VALUE:	60.00
(4) ANNUAL BOILER & MACHINERY PREMIUM:	$1,499
ANNUAL ENVIRONMENTAL/POLLUTION RATE: PER UNIT:	$15.00
(5) ANNUAL ENVIRONMENTAL/POLLUTION PREMIUM:	$3,450
TOTAL ANNUAL OPERATING INSURANCE (1 + 2 + 3 + 4 + 5):	$143,774
TOTAL ANNUAL OPERATING INSURANCE PER UNIT:	$623
TOTAL ANNUAL OPERATING INSURANCE PER SED:	$418
DEDUCTIBLE PER OCCURRENCE:	$100,000

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY



FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

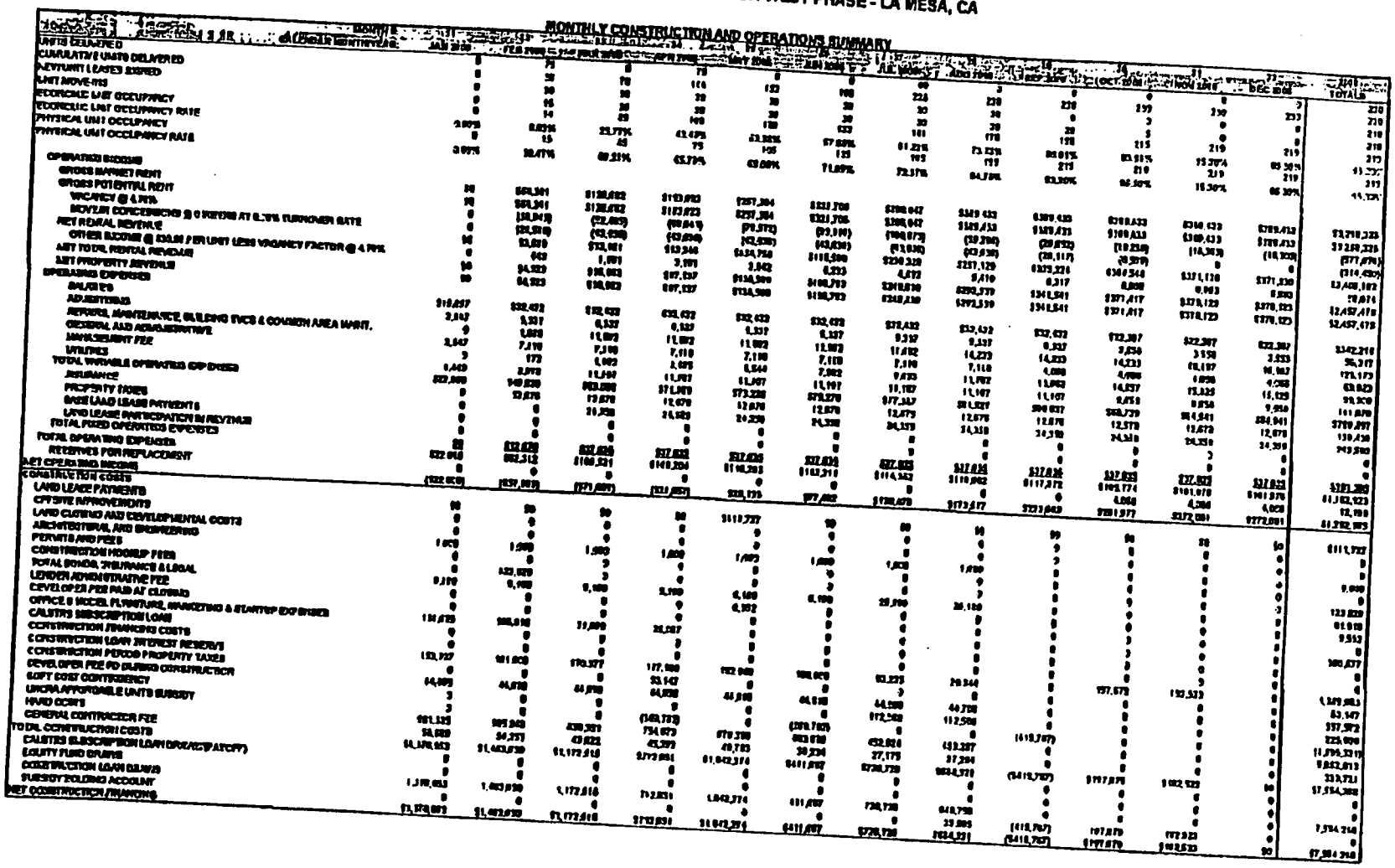
MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY

MONTH #	1	2	3	4	5	6	7	8	9	10	11	12	TOTALS
CALENDAR WEEK ENDING	JAN 2007	FEB 2007	MAR 2007	APR 2007	MAY 2007	JUN 2007	JUL 2007	AUG 2007	SEP 2007	OCT 2007	NOV 2007	DEC 2007	2007
UNITS DELIVERED													
CUMULATIVE UNITS DELIVERED													
NEW UNIT LEASES SIGNED													
UNIT MOVE INS													
ECONOMIC UNIT OCCUPANCY													
ECONOMIC UNIT OCCUPANCY RATE													
PHYSICAL UNIT OCCUPANCY													
PHYSICAL UNIT OCCUPANCY RATE													
OPERATING INCOME													
GROSS MARKET RENT													
GROSS POTENTIAL RENT													
VACANCY @ 4.79%													
STORE INCONCESSIONS @ 0 PERIODS AT 0.00% TURNOVER RATE													
NET RENTAL REVENUE													
OTHER INCOME @ $13.89 PER UNIT LESS VACANCY FACTOR @ 4.79%													
NET TOTAL RENTAL REVENUE													
NET PROPERTY REVENUE													
OPERATING EXPENSES													
SALARIES													
ADVERTISING													
REPAIR, MAINTENANCE, BUILDING SVCS & COMMON AREA MAINT.													
GENERAL AND ADMINISTRATIVE													
MANAGEMENT FEE													
UTILITIES													
TOTAL VARIABLE OPERATING EXPENSES													
INSURANCE													
PROPERTY TAXES													
BASE LAND LEASE PAYMENTS													
LAND LEASE PARTICIPATION TO REVENUE													
TOTAL FIXED OPERATING EXPENSES													
TOTAL OPERATING EXPENSES													
RESERVES FOR REPLACEMENT													
NET OPERATING INCOME													
CONSTRUCTION COSTS													
LAND LEASE PAYMENTS													
OFFSITE IMPROVEMENTS													
LAND CLOSING AND DEVELOPMENTAL COSTS													
ARCHITECTURAL AND ENGINEERING													
PERMITS AND FEES													
CONSTRUCTION MARKUP FEES													
TOTAL BONDS, INSURANCE & LEGAL													
LENDER ADMINISTRATIVE FEE													
DEVELOPER FEE PAID AT CLOSING													
OFFICE & MODEL FURNITURE, INVENTORY & STARTUP EXPENSES													
CALSTRS SUBSCRIPTION LOAN													
CONSTRUCTION FINANCING COSTS													
CONSTRUCTION LOAN INTEREST RESERVE													
CONSTRUCTION PERIOD PROPERTY TAXES													
DEVELOPER FEE PD DURING CONSTRUCTION													
SOFT COST CONTINGENCY													
LMIHA AFFORDABLE UNITS SUBSIDY													
HARD COSTS													
GENERAL CONTRACTOR FEE													
TOTAL CONSTRUCTION COSTS													
CALSTRS SUBSCRIPTION LOAN DRAW/(PAYOFF)													
EQUITY FUND DRAWS													
CONSTRUCTION LOAN DRAWS													
SUBSIDY HOLDING ACCOUNT													
NET CONSTRUCTION FINANCING													

FINAL PROJECTION

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY



FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

FINAL PROJECTION

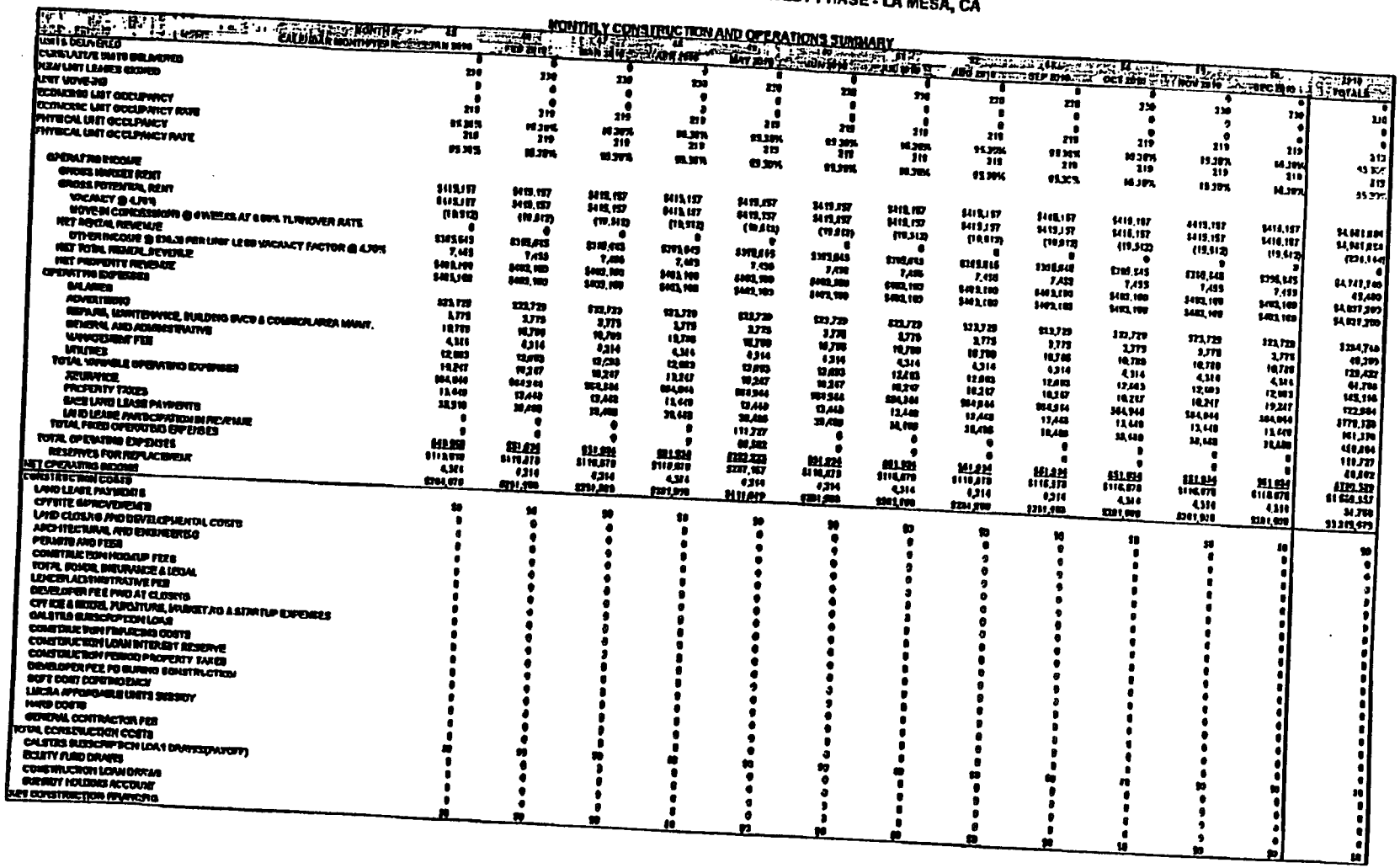
MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY

CALENDAR MONTH/YEAR	JAN 2005	FEB 2005	MAR 2005	APR 2005	MAY 2005	JUN 2005	JUL 2005	AUG 2005	SEP 2005	OCT 2005	NOV 2005	DEC 2005	TOTALS
UNITS DELIVERED	0	0	0	0	0	0	0	0	0	0	0	0	0
CUMULATIVE UNITS DELIVERED	230	230	230	230	230	230	230	230	230	230	230	230	230
NEW UNIT LEASES SIGNED	0	0	0	0	0	0	0	0	0	0	0	0	0
UNIT MOVE-INS	0	0	0	0	0	0	0	0	0	0	0	0	0
ECONOMIC UNIT OCCUPANCY	219	219	219	219	219	219	219	219	219	219	219	219	219
ECONOMIC UNIT OCCUPANCY RATE	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%
PHYSICAL UNIT OCCUPANCY	219	219	219	219	219	219	219	219	219	219	219	219	219
PHYSICAL UNIT OCCUPANCY RATE	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%
OPERATING INCOME													
GROSS MARKET RENT	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$5,904,000
GROSS POTENTIAL RENT	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$492,000	$5,904,000
VACANCY @ 4.79%	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($19,680)	($236,160)
MOVE-IN CONCESSIONS @ 0 PERIODS AT 0.00% TURNOVER RATE	0	0	0	0	0	0	0	0	0	0	0	0	0
NET RENTAL REVENUE	$472,320	$472,320	$472,320	$472,320	$472,320	$472,320	$472,320	$472,320	$472,320	$472,320	$472,320	$472,320	$5,667,840
OTHER INCOME @ $30.00 PER UNIT LESS VACANCY FACTOR @ 4.79%	7,220	7,220	7,220	7,220	7,220	7,220	7,220	7,220	7,220	7,220	7,220	7,220	86,640
NET TOTAL RENTAL REVENUE	$479,541	$479,541	$479,541	$479,541	$479,541	$479,541	$479,541	$479,541	$479,541	$479,541	$479,541	$479,541	$5,754,492
NET PROPERTY REVENUE	$308,411	$308,411	$308,411	$308,411	$308,411	$308,411	$308,411	$308,411	$308,411	$308,411	$308,411	$308,411	$3,700,932
OPERATING EXPENSES													
SALARIES	$23,830	$23,830	$23,830	$23,830	$23,830	$23,830	$23,830	$23,830	$23,830	$23,830	$23,830	$23,830	$285,960
ADVERTISING	3,646	3,646	3,646	3,646	3,646	3,646	3,646	3,646	3,646	3,646	3,646	3,646	43,752
REPAIRS, MAINTENANCE, BUILDING SVCS & COMMON AREA MAINT.	10,472	10,472	10,472	10,472	10,472	10,472	10,472	10,472	10,472	10,472	10,472	10,472	125,664
GENERAL AND ADMINISTRATIVE	8,786	8,786	8,786	8,786	8,786	8,786	8,786	8,786	8,786	8,786	8,786	8,786	105,432
MANAGEMENT FEE	15,610	15,610	15,610	15,610	15,610	15,610	15,610	15,610	15,610	15,610	15,610	15,610	187,320
UTILITIES	9,346	9,346	9,346	9,346	9,346	9,346	9,346	9,346	9,346	9,346	9,346	9,346	112,152
TOTAL VARIABLE OPERATING EXPENSES	$69,927	$69,927	$69,927	$69,927	$69,927	$69,927	$69,927	$69,927	$69,927	$69,927	$69,927	$69,927	$839,124
INSURANCE	13,758	13,758	13,758	13,758	13,758	13,758	13,758	13,758	13,758	13,758	13,758	13,758	165,096
PROPERTY TAXES	29,554	29,554	29,554	29,554	29,554	29,554	29,554	29,554	29,554	29,554	29,554	29,554	354,648
BASELAND LEASE PAYMENTS	0	0	0	0	0	0	0	0	0	0	0	0	0
LAND LEASE PARTICIPATION IN REVENUE	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL FIXED OPERATING EXPENSES	$43,312	$43,312	$43,312	$43,312	$43,312	$43,312	$43,312	$43,312	$43,312	$43,312	$43,312	$43,312	$519,744
TOTAL OPERATING EXPENSES	$113,239	$113,239	$113,239	$113,239	$113,239	$113,239	$113,239	$113,239	$113,239	$113,239	$113,239	$113,239	$1,358,868
RESERVES FOR REPLACEMENT	$4,166	$4,166	$4,166	$4,166	$4,166	$4,166	$4,166	$4,166	$4,166	$4,166	$4,166	$4,166	$49,992
NET OPERATING INCOME	$191,006	$191,006	$191,006	$191,006	$191,006	$191,006	$191,006	$191,006	$191,006	$191,006	$191,006	$191,006	$2,292,072
CONSTRUCTION COSTS													
LAND LEASE PAYMENTS	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
OFFSITE IMPROVEMENTS	0	0	0	0	0	0	0	0	0	0	0	0	0
LAND CLOSING AND DEVELOPMENTAL COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
ARCHITECTURAL AND ENGINEERING	0	0	0	0	0	0	0	0	0	0	0	0	0
PERMITS AND FEES	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION HOOKUP FEES	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL BONDS, INSURANCE & LEGAL	0	0	0	0	0	0	0	0	0	0	0	0	0
LENDER ADMINISTRATIVE FEE	0	0	0	0	0	0	0	0	0	0	0	0	0
DEVELOPER FEE PAID AT CLOSING	0	0	0	0	0	0	0	0	0	0	0	0	0
OFFICE & MODEL FURNITURE, MARKETING & STARTUP EXPENSES	0	0	0	0	0	0	0	0	0	0	0	0	0
CALSTRS SUBSCRIPTION LOAN	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION FINANCING COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION LOAN INTEREST RESERVE	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION PERIOD PROPERTY TAXES	0	0	0	0	0	0	0	0	0	0	0	0	0
DEVELOPER FEE PD DURING CONSTRUCTION	0	0	0	0	0	0	0	0	0	0	0	0	0
SOFT COST CONTINGENCY	0	0	0	0	0	0	0	0	0	0	0	0	0
UMRA AFFORDABLE UNITS SUBSIDY	0	0	0	0	0	0	0	0	0	0	0	0	0
HARD COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
GENERAL CONTRACTOR FEE	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL CONSTRUCTION COSTS	0	0	0	0	0	0	0	0	0	0	0	0	0
CALSTRS SUBSCRIPTION LOAN DRAWS(PAYDN)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
EQUITY FUND DRAWS	0	0	0	0	0	0	0	0	0	0	0	0	0
CONSTRUCTION LOAN DRAWS	0	0	0	0	0	0	0	0	0	0	0	0	0
SUBSIDY HOLDING ACCOUNT	0	0	0	0	0	0	0	0	0	0	0	0	0
NET CONSTRUCTION FINANCING	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

FINAL PROJECTION

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY



FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA
FINAL PROJECTION

MONTHLY CONSTRUCTION AND OPERATIONS SUMMARY

MONTH # / CALENDAR MONTH/YEAR	2006 TOTALS	2007 TOTALS	2008 TOTALS	2009 TOTALS	2010 TOTALS	4 YEAR TOTALS
UNITS DELIVERED	0	0	230	0	0	230
CUMULATIVE UNITS DELIVERED	0	0	230	230	230	230
NEW UNIT LEASES SIGNED	0	0	230	0	0	230
UNIT MOVE INS	0	0	219	0	0	219
ECONOMIC UNIT OCCUPANCY	0	0	219	0	0	219
ECONOMIC UNIT OCCUPANCY RATE	0.00%	0.00%	95.30%	95.30%	95.30%	95.30%
PHYSICAL UNIT OCCUPANCY	0	0	219	219	219	219
PHYSICAL UNIT OCCUPANCY RATE	0.00%	0.00%	95.30%	95.30%	95.30%	95.30%
OPERATING INCOME						
GROSS MARKET RENT						
GROSS POTENTIAL RENT	$0	$0	$3,298,328	$4,825,088	$4,581,884	$12,705,280
VACANCY @ 4.70%	$0	$0	$3,298,328	$4,825,088	$4,581,884	$12,705,280
MOVE-IN CONCESSIONS @ 0 WEEKS AT 0.00% TURNOVER RATE	0	0	(377,076)	(228,776)	(234,144)	(1,037,996)
NET RENTAL REVENUE	0	0	(314,450)	0	0	(314,450)
OTHER INCOME @ $30.00 PER UNIT LESS VACANCY FACTOR @ 4.70%	$0	$0	$2,406,802	$4,696,292	$4,747,740	$11,752,834
NET TOTAL RENTAL REVENUE	0	0	58,874	86,640	89,460	226,774
NET PROPERTY REVENUE	$0	$0	$2,457,476	$4,684,932	$4,837,200	$11,979,608
OPERATING EXPENSES	$0	$0	$2,457,476	$4,684,932	$4,837,200	$11,979,608
SALARIES						
ADVERTISING	$0	$21,715	$342,214	$278,450	$284,748	$925,133
REPAIRS, MAINTENANCE, BUILDING SVCS & COMMON AREA MAINT.	0	1,959	58,217	43,000	45,300	147,052
GENERAL AND ADMINISTRATIVE	0	0	123,173	125,014	125,432	373,269
MANAGEMENT FEE	0	4,737	68,823	59,258	51,768	175,684
UTILITIES	0	0	88,300	163,988	143,196	407,384
TOTAL VARIABLE OPERATING EXPENSES	0	1,457	111,070	119,378	122,984	354,917
INSURANCE	$0	$29,414	$778,697	$779,709	$778,328	$2,366,339
PROPERTY TAXES	0	0	139,436	158,672	161,376	457,484
BASE LAND LEASE PAYMENTS	0	0	243,590	418,107	456,884	1,117,581
LAND LEASE PARTICIPATION IN REVENUE	0	0	0	111,727	111,727	223,454
TOTAL FIXED OPERATING EXPENSES	0	0	0	39,718	59,562	99,280
TOTAL OPERATING EXPENSES	$0	$0	$382,026	$827,224	$709,578	$1,887,779
RESERVES FOR REPLACEMENT	$0	$29,414	$1,192,823	$1,483,824	$1,509,857	$4,776,118
NET OPERATING INCOME	0	0	12,196	59,250	51,768	114,222
CONSTRUCTION COSTS	$0	($29,414)	$1,252,356	$3,149,742	$3,215,975	$7,589,268
LAND LEASE PAYMENTS						
OFFSITE IMPROVEMENTS	$37,242	$74,484	$111,727	$0	$0	$223,453
LAND CLOSING AND DEVELOPMENTAL COSTS	1,941,199	0	0	0	0	1,941,199
ARCHITECTURAL AND ENGINEERING	571,285	0	0	0	0	571,285
PERMITS AND FEES	1,008,300	10,000	0,000	0	0	1,018,300
CONSTRUCTION HOOKUP FEES	1,630,345	0	0	0	0	1,630,345
TOTAL BONDS, INSURANCE & LEGAL	0	0	123,629	0	0	123,629
LENDER ADMINISTRATIVE FEE	614,681	62,280	81,510	0	0	758,677
DEVELOPER FEE PAID AT CLOSING	6,532	6,532	6,952	0	0	19,636
OFFICE & MODEL FURNITURE, MARKETING & STARTUP EXPENSES	113,772	0	0	0	0	113,772
CALSTRS SUBSCRIPTION LOAN	0	385,869	360,577	0	0	746,436
CONSTRUCTION FINANCING COSTS	388,193	157,158	0	0	0	545,351
CONSTRUCTION LOAN INTEREST RESERVE	348,300	0	0	0	0	348,300
CONSTRUCTION PERIOD PROPERTY TAXES	38,114	1,138,588	1,388,883	0	0	2,564,583
DEVELOPER FEE PD DURING CONSTRUCTION	33,818	130,668	53,447	0	0	217,758
SOFT COST CONTINGENCY	357,569	536,352	357,572	0	0	1,251,492
LMCRA AFFORDABLE UNITS SUBSIDY	0	0	225,000	0	0	225,000
HARD COSTS	0	0	(1,193,331)	0	0	(1,193,331)
GENERAL CONTRACTOR FEE	8,837,318	17,371,035	8,682,813	0	0	31,590,367
TOTAL CONSTRUCTION COSTS	818,436	1,038,252	338,721	0	0	1,895,472
CALSTRS SUBSCRIPTION LOAN DRAWS/(PAYOFF)	917,173,420	$28,778,098	$7,854,298	$0	$0	$45,910,892
EQUITY FUND DRAWS	11,377,200	(11,377,200)	0	0	0	0
CONSTRUCTION LOAN DRAWS	0	11,377,200	0	0	0	11,377,200
SUBSIDY HOLDING ACCOUNT	9,796,220	28,778,098	7,854,298	0	0	34,131,682
NET CONSTRUCTION FINANCING	0	0	0	0	0	0
	$17,173,420	$28,778,098	$7,854,298	$0	$0	$45,910,892

FINAL CALSTRS ANALYSIS
GROSSMONT TROLLEY SITE-PRAVADA-WEST PHASE - LA MESA, CA

CALSTRS SUMMARY OF RETURNS FOR SALE IN MAY 2010

FINAL PROJECTION

MONTH	CASH EQUITY INVESTMENT	REMAINING CASH FLOW	TOTAL RETURN ON CASH (INC. CAP) BEFORE LOOKBACK	LOOKBACK @ 12.00% I.R.R. (INCL. CAP)	TOTAL AFTER 12.00% I.R.R. LOOKBACK (INCL. CAP)	LOOKBACK @ 11.00% I.R.R. (INCL. CAP)	TOTAL AFTER 11.00% I.R.R. LOOKBACK (INCL. CAP)	LOOKBACK @ 10.00% I.R.R. (INCL. CAP)	TOTAL AFTER 10.00% I.R.R. LOOKBACK (INCL. CAP)	TOTAL SALE PROCEEDS @ 9.50% CAP RATE	TOTAL SALE PROCEEDS @ 9.25% CAP RATE	TOTAL SALE PROCEEDS @ 9.00% CAP RATE
Feb 2007	($10,467,024)	$0	($10,467,024)	$0	($10,467,024)	$0	($10,467,024)	$0	($10,467,024)	($10,467,024)	($10,467,024)	($10,467,024)
Mar 2007	0	0	0	0	0	0	0	0	0	0	0	0
Apr 2007	0	0	0	0	0	0	0	0	0	0	0	0
May 2007	0	0	0	0	0	0	0	0	0	0	0	0
Jun 2007	0	0	0	0	0	0	0	0	0	0	0	0
Jul 2007	0	0	0	0	0	0	0	0	0	0	0	0
Aug 2007	0	0	0	0	0	0	0	0	0	0	0	0
Sep 2007	0	0	0	0	0	0	0	0	0	0	0	0
Oct 2007	0	0	0	0	0	0	0	0	0	0	0	0
Nov 2007	0	0	0	0	0	0	0	0	0	0	0	0
Dec 2007	0	0	0	0	0	0	0	0	0	0	0	0
Jan 2008	0	0	0	0	0	0	0	0	0	0	0	0
Feb 2008	0	0	0	0	0	0	0	0	0	0	0	0
Mar 2008	0	0	0	0	0	0	0	0	0	0	0	0
Apr 2008	0	0	0	0	0	0	0	0	0	0	0	0
May 2008	0	0	0	0	0	0	0	0	0	0	0	0
Jun 2008	0	0	0	0	0	0	0	0	0	0	0	0
Jul 2008	0	0	0	0	0	0	0	0	0	0	0	0
Aug 2008	0	0	0	0	0	0	0	0	0	0	0	0
Sep 2008	0	0	0	0	0	0	0	0	0	0	0	0
Oct 2008	0	0	0	0	0	0	0	0	0	0	0	0
Nov 2008	0	284,591	284,591	0	284,591	0	284,591	0	284,591	284,591	284,591	284,591
Dec 2008	0	54,508	54,508	0	54,508	0	54,508	0	54,508	54,508	54,508	54,508
Jan 2009	0	68,450	68,450	0	68,450	0	68,450	0	68,450	68,450	68,450	68,450
Feb 2009	0	77,470	77,470	0	77,470	0	77,470	0	77,470	77,470	77,470	77,470
Mar 2009	0	67,195	67,195	0	67,195	0	67,195	0	67,195	67,195	67,195	67,195
Apr 2009	0	67,195	67,195	0	67,195	0	67,195	0	67,195	67,195	67,195	67,195
May 2009	0	0	0	0	0	0	0	0	0	0	0	0
Jun 2009	0	67,195	67,195	0	67,195	0	67,195	0	67,195	67,195	67,195	67,195
Jul 2009	0	70,787	70,787	0	70,787	0	70,787	0	70,787	70,787	70,787	70,787
Aug 2009	0	70,787	70,787	0	70,787	0	70,787	0	70,787	70,787	70,787	70,787
Sep 2009	0	70,787	70,787	0	70,787	0	70,787	0	70,787	70,787	70,787	70,787
Oct 2009	0	70,787	70,787	0	70,787	0	70,787	0	70,787	70,787	70,787	70,787
Nov 2009	0	70,787	70,787	0	70,787	0	70,787	0	70,787	70,787	70,787	70,787
Dec 2009	0	70,787	70,787	0	70,787	0	70,787	0	70,787	70,787	70,787	70,787
Jan 2010	0	80,221	80,221	0	80,221	0	80,221	0	80,221	80,221	80,221	80,221
Feb 2010	0	77,491	77,491	0	77,491	0	77,491	0	77,491	77,491	77,491	77,491
Mar 2010	0	77,491	77,491	0	77,491	0	77,491	0	77,491	77,491	77,491	77,491
Apr 2010	0	77,491	77,491	0	77,491	0	77,491	0	77,491	77,491	77,491	77,491
May 2010	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS:	($10,467,024)	$1,470,313	($8,996,711)	$13,074,507	$4,078,796	$1,289,504	$5,368,299	$71,183	$5,439,482	$5,439,482	$5,439,482	$5,439,482
MONTHLY:			-8.46%		6.87%		6.10%		1.11%	1.36%	1.11%	0.98%
ANNUAL:			-77.47%		19.68%		13.17%		13.32%	15.58%	13.32%	10.73%
EFFECTIVE:			-55.10%		12.00%		11.00%		14.18%	18.73%	14.18%	11.27%

CST136A01M07 VERSION 07.12 6-YEARS CALEND.

Ground Lease Document (Excerpt)

Legal Description

PROPERTY INFORMATION

1) Property: , LA MESA CA
APN: 490-270-23-00
County: SAN DIEGO, CA
MapPg/Grid: 1250-J7 Old Map: 55-D5
Census: 150.00 Tract #: 876
High School: GROSSMONT UN
Comm Coll: GROSSMONT CUYAMACA
Subdivision: LA MESA COLONY AMD
Owner: SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD
Mail:

Card#:
Prop Tax:
Tax Year: Delinq:
Tax Area: 05077
Elem School: LA MESA SPRING
Exemptions:

Use:
Total Value:
Land Value:
Imprv Value:
Taxable Val:
Assd Year:
% Improved:
Phone:
Owner Vest: / /

Owner Transfer = Rec Dt: Price: Doc#: Type:
Sale Dt:

SALE & FINANCE INFORMATION

	LAST SALE	PRIOR SALE
Recording/Sale Date:		
Sale Price/Type:		
Document #:		
Deed Type:		
1st Mtg Amt/Type:		
1st Mtg Rt/Type/Trm:	/ /	
1st Mtg Lender:		
2nd Mtg Amt/Type:		
2nd Mtg Rt/Type/Trm:	/ /	
Title Company:		
Seller:		
New Construction:		

Other Last Sale Info = # Parcels: Type 2: Pend:

SITE INFORMATION

Res. Units:
Comm Units:
Buildings:
Bldg Class:
Parking Sqft:
Park Spaces:
Garage Cap#:
Park Type:
Other Impvs:

County Use:
Zoning: CGD
Flood Panel:
Panel Date:
Flood Zone:
Sewer Type:
Water Type:

Acres: 4.37
Lot Area: 190,357.2
Lot Width:
Lot Depth:
Usable Lot:

Legal Blk/Bldg:
Legal Lot/Unit: 190
Site Influence:
Amenities:

Legal: D83-041437&PAR 145B D88-278301 IN ST CLSD&IN LOT 190& LOT 191 TR 876

IMPROVEMENTS

Bldg/Liv Area:
Gross Area:
Ground Flr:
Bsmnt Area:
$/SqFt:
Yrblt/Eff:
Stories:
Rooms:
Bedrooms:
Full/Half Bath:
Ttl Baths/Fixt:
Fireplace:
Pool:
Porch Type:
Patio Type:
Construct:
Foundation:
Ext Wall:
Roof Shape:
Roof Type:
Roof Matl:
Floor Type:
Floor Cover:
Heat Type:
Heat Fuel:
Air Cond:
Quality:
Condition:
Style:
Equipment:

Other Rms:

PROPERTY INFORMATION

1)	Property:	CUYAMACA AVE, LA MESA CA					
APN:	490-270-25-00			Card#:		Use:	
County:	SAN DIEGO, CA			Prop Tax:		Total Value:	
MapPg/Grid:	1251-A7	Old Map:	55-D5	Tax Year:	Delinq:	Land Value:	
Census:	150.00	Tract #:	876	Tax Area:	05079	Imprv Value:	
High School:	GROSSMONT UN			Elem School:	LA MESA SPRING	Taxable Val:	
Comm Coll:	GROSSMONT CUYAMACA			Exemptions:		Assd Year:	
Subdivision:	LA MESA COLONY AMD					% Improved:	
Owner:	SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD					Phone:	
Mail:						Owner Vest:	/ / CO

Owner Transfer = Rec Dt: Price: Doc#: Type:
Sale Dt:

SALE & FINANCE INFORMATION

	LAST SALE	PRIOR SALE
Recording/Sale Date:		
Sale Price/Type:		
Document #:		
Deed Type:		
1st Mtg Amt/Type:		
1st Mtg Rt/Type/Trm:	/ /	
1st Mtg Lender:		
2nd Mtg Amt/Type:		
2nd Mtg Rt/Type/Trm:	/ /	
Title Company:		
Seller:		
New Construction:		

Other Last Sale Info = # Parcels: Type 2: Pend:

SITE INFORMATION

# Res. Units:	County Use:		Acres:	
# Comm Units:	Zoning:		Lot Area:	
# Buildings:	Flood Panel:	0602921642F	Lot Width:	
Bldg Class:	Panel Date:	07/02/2002	Lot Depth:	
Parking Sqft:	Flood Zone:	X	Usable Lot:	
Park Spaces:	Sewer Type:			
Garage Cap#:	Water Type:			
Park Type:				
Other Impvs:				

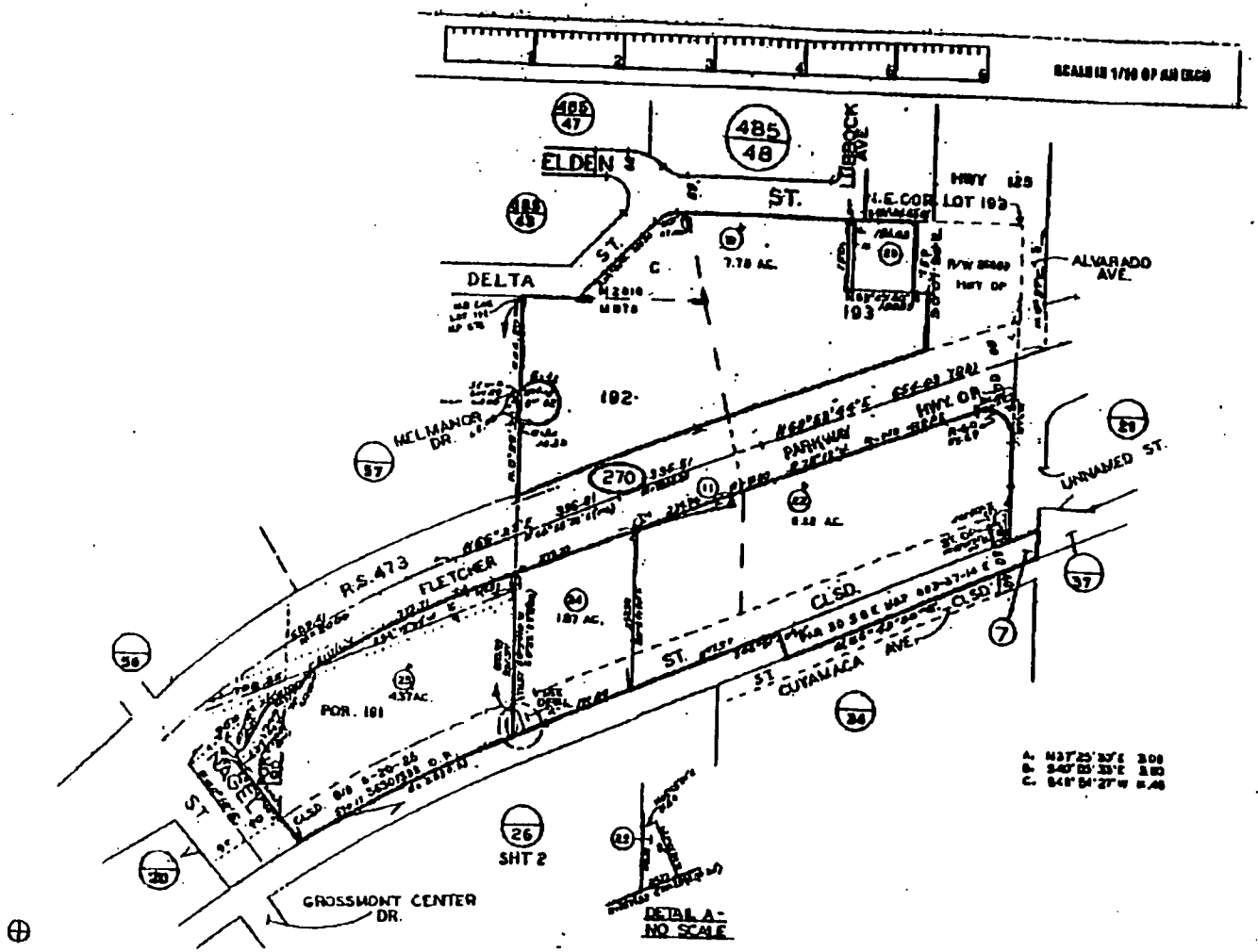
Legal Blk/Bldg: Site Influence:
Legal Lot/Unit: 192 Amenities:
Legal: DOC91-607355 IN ST CLSD ADJ TO LOT 192 TR 876

IMPROVEMENTS

Bldg/Liv Area:
Gross Area:
Ground Flr:
Bsmnt Area:
$/SqFt:
Yrblt/Eff:
Stories:
Rooms:
Bedrooms:
Full/Half Bath:
Tt Baths/Fixt:
Fireplace:
Pool:
Porch Type:
Patio Type:
Construct:
Foundation:
Ext Wall:
Roof Shape:
Roof Type:
Roof Matl:
Floor Type:
Floor Cover:
Heat Type:
Heat Fuel:
Air Cond:
Quality:
Condition:
Style:
Equipment:

Other Rms:

San Diego, CA, 2003-2008 - 480-270-25-00, Sheet 1 of



MAP 2810 LA MESA PARK HOMES UNIT NO. 1 RESUB
MAP 876 - LA MESA COLONY AMENDED
ROS 4750, 9896, 11432, 13582

AUG 8 8 1996

PROPERTY INFORMATION

1) Property: , LA MESA CA
APN: 490-200-39-00
County: SAN DIEGO, CA
MapPg/Grid: 1270-J1 Old Map: 55-D6
Census: 150.00 Tract #: 876
High School: GROSSMONT UN
Comm Coll: GROSSMONT CUYAMACA
Subdivision: LA MESA COLONY AMD
Owner: SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD
Mail:

Card#:
Prop Tax:
Tax Year: Delinq:
Tax Area: 05077
Elem School: LA MESA SPRING
Exemptions:

Use:
Total Value:
Land Value:
Imprv Value:
Taxable Val:
Assd Year:
% Improved:
Phone:
Owner Vest / /

Owner Transfer = Rec Dt: Price: Doc#: Type:
Sale Dt:

SALE & FINANCE INFORMATION

	LAST SALE	PRIOR SALE
Recording/Sale Date:		
Sale Price/Type:		
Document #:		
Deed Type:		
1st Mtg Amt/Type:		
1st Mtg Rt/Type/Trm:	/ /	
1st Mtg Lender:		
2nd Mtg Amt/Type:		
2nd Mtg Rt/Type/Trm:	/ /	
Title Company:		
Seller:		
New Construction:		

Other Last Sale Info = # Parcels: Type 2: Pend:

SITE INFORMATION

Res. Units:
Comm Units:
Buildings:
Bldg Class:
Parking Sqft:
Park Spaces:
Garage Cap#:
Park Type:
Other Impvs:

County Use:
Zoning: CGD
Flood Panel:
Panel Date:
Flood Zone:
Sewer Type:
Water Type:

Acres: 2.17
Lot Area: 94,525.2
Lot Width:
Lot Depth:
Usable Lot:

Legal Blk/Bldg:
Legal Lot/Unit: 190
Site Influence:
Amenities:
Legal: DOC83-041434&PAR 145A PER DOC88-278301 IN ST CLSD&IN LOT 190 TR 876

IMPROVEMENTS

Bldg/Liv Area:
Gross Area:
Ground Flr:
Bsmnt Area:
$/SqFt:
Yrblt/Eff:
Stories:
Rooms:
Bedrooms:
Full/Half Bath:
Ttl Baths/Fixt:
Fireplace:
Pool:
Porch Type:
Patio Type:
Construct:
Foundation:
Ext Wall:
Roof Shape:
Roof Type:
Roof Matl:
Floor Type:
Floor Cover:
Heat Type:
Heat Fuel:
Air Cond:
Quality:
Condition:
Style:
Equipment:

Other Rms:

PROPERTY INFORMATION

1) Property: FLETCHER PKWY, LA MESA CA 91942
APN: 490-200-40-00 Card#: Use:
County: SAN DIEGO, CA Prop Tax: Total Value:
MapPg/Grid: 1270-J1 Old Map: 55-D6 Tax Year: Delinq: Land Value:
Census: 150.00 Tract #: 876 Tax Area: 05077 Imprv Value:
High School: GROSSMONT UN Elem School: LA MESA SPRING Taxable Val:
Comm Coll: GROSSMONT CUYAMACA Exemptions: Assd Year:
Subdivision: LA MESA COLONY AMD % Improved:
Owner: SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD Phone:
Mail: Owner Vest / /
Owner Transfer = Rec Dt: Price: Doc#: Type:
Sale Dt:

SALE & FINANCE INFORMATION

	LAST SALE	PRIOR SALE
Recording/Sale Date:		
Sale Price/Type:		
Document #:		
Deed Type:		
1st Mtg Amt/Type:		
1st Mtg Rt/Type/Trm:	/ /	
1st Mtg Lender:		
2nd Mtg Amt/Type:		
2nd Mtg Rt/Type/Trm:	/ /	
Title Company:		
Seller:		
New Construction:		

Other Last Sale Info = # Parcels: Type 2: Pend:

SITE INFORMATION

Res. Units:
Comm Units:
Buildings:
Bldg Class:
Parking Sqft:
Park Spaces:
Garage Cap#:
Park Type:
Other Imprvs:

County Use:
Zoning:
Flood Panel: 0602921642F
Panel Date: 07/02/2002
Flood Zone: X
Sewer Type:
Water Type:

Acres: 1.12
Lot Area: 48,787.2
Lot Width:
Lot Depth:
Usable Lot:

Legal Blk/Bldg:
Legal Lot/Unit: 164
Site Influence:
Amenities:
Legal: (EX D90-613172&92-390400)DOCS83-041435&87-569207 IN LOT 164 TR 876

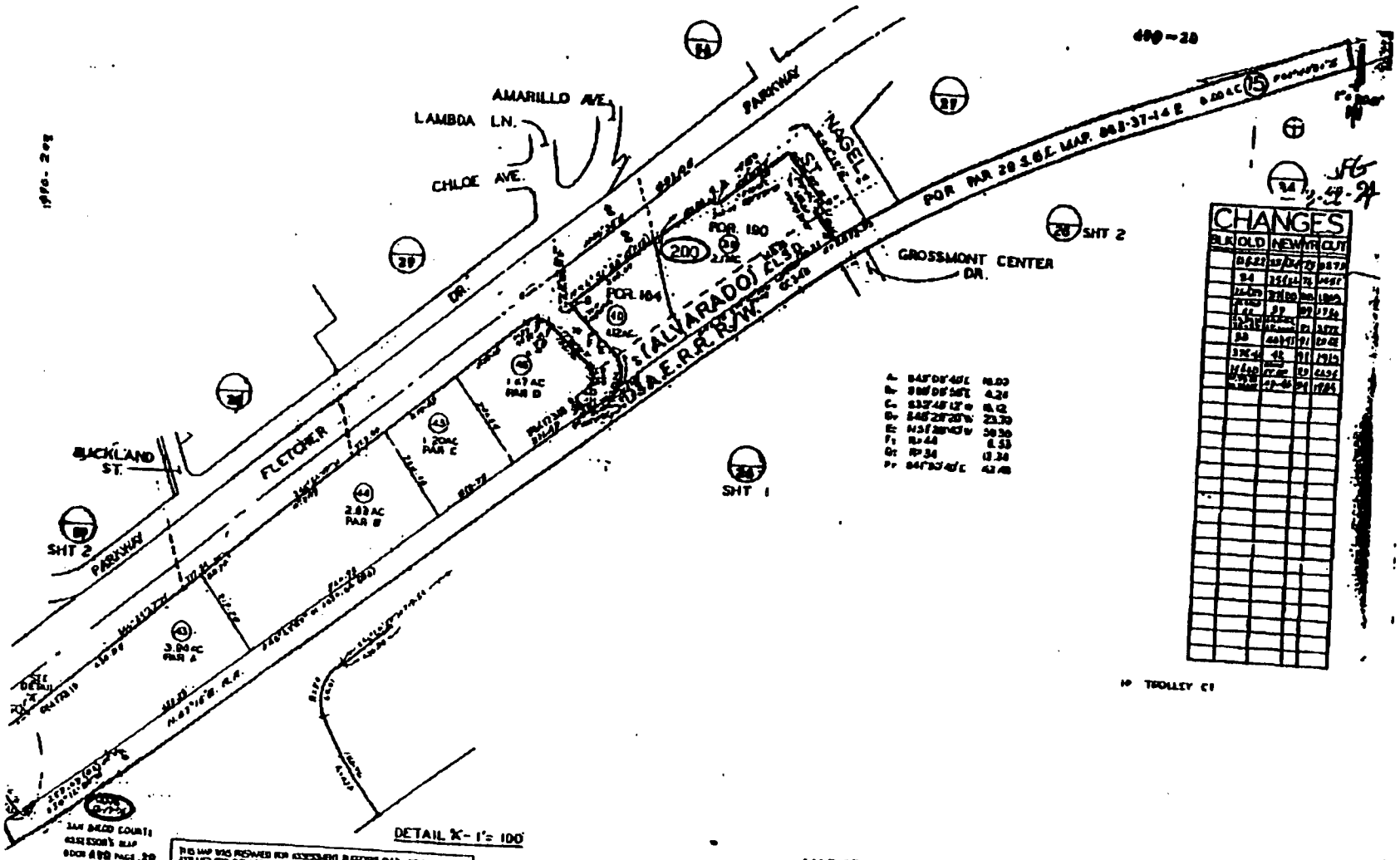
IMPROVEMENTS

Bldg/Liv Area:
Gross Area:
Ground Flr:
Bsmnt Area:
$/SqFt:
Yrblt/Eff:
Stories:
Rooms:
Bedrooms:
Full/Half Bath:
Ttl Baths/Fixt:
Fireplace:
Pool:
Porch Type:
Patio Type:
Construct:
Foundation:
Ext Wall:
Roof Shape:
Roof Type:
Roof Matl:
Floor Type:
Floor Cover:
Heat Type:
Heat Fuel:
Air Cond:
Quality:
Condition:
Style:
Equipment:

Other Rms:

San Diego, CA, 2005-2006 - 490-200-39-00, Shar

25



MAP 876 - LA MESA COLONY AMENDED
CC348 - RANCHO MISSION REFEREES PARTITION - POR LOT 19
ROS 1059, 2233, 7985, 9896, 11432

MAR 19 1991

Qualifications of Appraiser

Professional Qualifications

Neil A. Clark, MAI

Director, Valuation Services, Capital Markets Group

Mr Clark entered the real estate business in 1986 Employed from 1987 to 1992 as a residential and major loan (commercial) real estate appraiser by Home Federal Savings and Loan Association Employed from March 1992 to March 1995 as a real estate appraiser by Grubb & Ellis Company; became Assistant Vice President in 1993

Joined Cushman & Wakefield, Inc in March 1995, as a real estate appraiser, Orange County – Appraisal Division In 1996 he obtained his MAI professional from the Appraisal Institute In 2005 he became Director of the Orange County Valuation Services. In February of 2000, Mr. Clark distinguished himself by receiving the 1999 Service Excellence Award - Valuation Advisory Services (Pacific Southwest Region) for outstanding customer service to Cushman & Wakefield's clients. Cushman & Wakefield honors one person each year in the appraisal, brokerage and property management divisions for outstanding achievement in the pursuit of business performance excellence and total client satisfaction. Since 1998, Mr. Clark has cultivated existing clients and developed new client relationships that include national, regional and local lenders, pension funds, real estate developers and real advisory companies. In January 2002, was appointed to Cushman & Wakefield's National Multi-family Housing Group and continues to be a leader and top performer in this specialty practice Mr Clark continues to serve in his capacity as Associate Director and a member of the National Multi-family Housing Group. Current responsibilities include analyzing investment properties, writing full narrative appraisal reports and client development for his own production and other appraiser's within the Orange County Valuation Services Department

Experience

Appraisal and consulting assignments have included vacant land, multi-family properties, residential subdivisions, office buildings, shopping centers, industrial complexes, commercial properties, resort properties/golf courses and investment properties throughout the Western United States. Valuations have been made of proposed, partially completed, renovated and existing income-producing properties. Has testified as an expert witness in tax appeal matters in the State of California Also, served as arbiter in real estate matters including ground rent redetermination and equity settlement (i.e partnership) agreements Performed consulting assignments and market studies for various multi-family developers throughout Southern California.

Education

San Diego State University, California, Graduated 1979
Degree: Bachelor of Science, Accounting

CUSHMAN & WAKEFIELD.

Appraisal Education

Successfully completed all courses and experience requirements to qualify for the MAI designation Also, he has completed the requirements of the continuing education program of the Appraisal Institute.

Memberships, Licenses and Professional Affiliations

- Member, Appraisal Institute – MAI #10826
- Certified General Real Estate Appraiser, State of California #AG002213

Mr Clark is a Certified General Real Estate Appraiser, #AG002213, according to the Office of Real Estate Appraiser's for the State of California.

Special Awards

Mr. Clark was recipient of the 1999 Service Excellence Award - Valuation Advisory Services (Pacific Southwest Region) for outstanding customer service to Cushman & Wakefield's clients The award is presented to the valuation advisory professional that exemplifies outstanding business performance and customer service in achieving total client satisfaction

GROUND LESSOR'S CONSENT AND ESTOPPEL

This GROUND LESSOR'S CONSENT AND ESTOPPEL (the "**Estoppel**") is executed as of June ___, 2006 ("**Effective Date**"), by The Metropolitan Transit Development Board, a California public agency also known as the Metropolitan Transit System ("**Board**"), for the benefit of JPMorgan Chase Bank, N.A., a national banking association, as administration agent and lender, and Massachusetts Mutual Life Insurance Company, a Massachusetts corporation, as lender, (collectively and individually, "**Lender**") which is funding a loan (the "**Loan**") to Lessee in connection with the Assets (hereinafter defined).

RECITALS:

A. Lessee entered into that certain Ground Lease (the "**Lease**") dated as of June ___, 2006, a true and correct copy of which, as amended, is attached and marked **Attachment 1** pursuant to which Board leases to Lessee the premises (the "**Premises**") described on in the Lease. Capitalized terms in this Estoppel which are not defined herein have the same definition as provided in the Lease.

B. Board is the owner of the Board Land and Board's interest in the Lease.

C. Lessee is the owner of (i) the leasehold estate (the "**Leasehold**") created by the Lease, and (ii) certain easement rights granted in the Lease and (iii) the Improvements subject to the Board's reservation of the Exclusive Trolley Parking Easement defined in the Lease (collectively, the "**Assets**").

D. The execution and delivery of this Estoppel by Board is a condition to funding of the Loan.

Board certifies to and agrees with Lender as follows:

1. The copy of the Lease (together with all of its exhibits and amendments) attached hereto as **Attachment 1** is true, complete and correct and there are no other agreements between Board and Lessee pertaining to the Premises, except as described in **Attachment 2** attached hereto. There are no amendments, modifications or other alterations to the Lease, except as attached hereto as **Attachment 1**.

2. The Lease is in full force and effect. The term of the Lease commenced on June __, 2006 and expires on the earlier to occur of (i) last day of the calendar month immediately succeeding the 55th anniversary of the Affordable Occupancy Date (as defined in the Lease) or (ii) June 30, 2064. There are two (2) options to extend the term of the Lease, the first for a period of 20 years, and the second expiring on the 99th anniversary of the Effective Date (as defined in the Lease).

3. As of the effective date of this Estoppel, there exists no uncured Event of Default with respect to the Lease nor, to Board's knowledge, has any event occurred which with the giving of notice, the passage of time or failure to cure could constitute such an Event of Default.

4. Neither Board nor, to the best of Board's knowledge, Lessee has commenced any action against the other, or given or received any Notice of Default for any purpose, including, without limitation, terminating the Lease.

5. Lessee has not expressly waived any of its rights under the Lease.

6. Board has not consented to any sale, transfer, pledge or other encumbrance by Lessee of its interest pursuant to the Lease.

7. There are no actions, whether voluntary or otherwise, known by Board to be pending against Board under the bankruptcy laws of the United States or any state thereof.

8. Board is the current owner of the Board Land and is entitled to all of the rights of the Board pursuant to the Lease.

9. Board hereby acknowledges that (i) each of JPMorgan Chase Bank, N.A., and Massachusetts Mutual Life Insurance Company is a Permitted Mortgagee; and (ii) the Ground Leasehold Mortgage (as defined in Paragraph 10) is a Permitted Mortgage.

10. Board consents to (i) Lessee's grant of liens and security interests in favor of Lender in Lessee's interest in the Leasehold and in the Assets to secure the Loan; (ii) Lessee's collateral assignment to Lender of subleases affecting the Premises and the rents therefrom, which rents are included in the term "Gross Revenue" as defined in the Lease; (iii) the filing of (A) the Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement naming Lessee as "**Grantor**," and Lender as "**Beneficiary**" and (B) the Absolute Assignment of Rents and Security Deposits from Lessee as "**Assignor**" and Lender as "**Assignee**" (said documents collectively called the "**Ground Leasehold Mortgage**") delivered to Board. Board agrees that any interest that Board may have in the Assets, subleases, and rents, including Gross Revenue, as the case may be, whether granted pursuant to the Lease or by statute, shall be subordinate to the interest of any Permitted Mortgagee.

11. Notwithstanding the foregoing provisions, (i) this Estoppel is delivered with the understanding that the Ground Leasehold Mortgage and any other documents evidencing, securing or guaranteeing the Ground Leasehold Mortgage or executed in connection therewith (collectively, the "**Loan Documents**") and a memorandum of the Ground Lease will be filed of public record after the Lease and therefore, except as set forth in this Estoppel, the Loan Documents and the provisions thereof are subject to the Lease and the provisions thereof; (ii) except as expressly provided in this Estoppel, Board's execution shall not constitute a waiver of any Board's rights pursuant to the Lease; and (iii) Board's consent herein is subject to the Loan Documents creating no lien or other effect on Board's interest in the Premises and imposing no obligations or liabilities on Board.

12. a. If Lender exercises its rights to foreclose its lien granted in the Ground Leasehold Mortgage or elects to enter into a New Lease as provided in Section 902 of the Lease, notwithstanding provisions in the Lease to the contrary, Lender shall have the option, upon written notice to Board within thirty (30) days from the date Lender acquires title to the Leasehold, or the effective date of the New Lease (either, the "**Acquisition Date**") to either:

(i) perform, or cause to be performed, the complete construction of the Project in accordance with the Lease, provided Lender assumes the Lease as provided in Section 904 of the Lease (the "**Full Completion Option**"), or

(ii) postpone such complete construction and only perform the Partial Construction of the Project (defined below) (the "**Partial Completion Option**"), provided Lender shall not be entitled to hold title to the Leasehold any longer than the period allowed by 12 U.S.C. 29 or any successor to such statute (which statute shall be deemed to be applicable whether or not Lender is subject to such statute) and any other applicable laws and regulations.

b. If Lender elects the Partial Completion Option,

(i) Lender shall nevertheless have the obligation to:

a) complete construction of that portion of the Project consisting of the first floor of the West Garage and the first floor of the East Garage and certain other street, lighting, hardscape and landscape improvements all as specifically set forth on the plans and other descriptions of such improvements (the "**Partial Construction Plans**") identified in **Exhibit D attached** (collectively, "**Partial Construction of the Project**"), and

b) accomplish the West Garage Completion and the East Garage Completion, and

c) obtain from the City of La Mesa permanent certificates of occupancy for the first floor of the West Garage and the first floor of the East Garage.

(ii) If Lessee has previously constructed a portion of the apartment buildings within the Project, Lender shall have no obligation to complete or demolish such construction (except to the extent necessary to accomplish the West Garage Completion and the East Garage Completion), but may at its option perform such construction to reasonably prevent deterioration of such partially constructed buildings,

(iii) Lender shall pay Base Rent, Overage Rent (based on projected performance of the Project in accordance with the proforma attached hereto as Exhibit "C"), supplemental rent and any other Rent when due and shall comply with all of the other terms and conditions of the Lease;

(iv) Lender shall have the time period provided in Section 407 of the Lease to achieve Partial Completion of the Project, extended by (x) the period of time between the date that Lender commences its remedies against Lessee and the

Acquisition Date, and (y) such additional period of time that Board shall reasonably grant Lender upon its request in order to complete construction.

(v) Board shall have the right to use the West Garage and the East Garage in accordance with the terms of the Lease,

(vi) At any time prior to the date that Lender transfers title to the Leasehold to an unaffiliated third party, Lender may by written notice to Board elect to resume construction of the remainder of the Project in accordance with the Lease (provided Lender complies with Section 904 of the Lease), and complete construction within the time period provided in Section 407 of the Lease, extended by (x) the period of time between the date that Lender commences its remedies against Lessee and the Acquisition Date, (y) the period of time between the Acquisition Date and the date that Lessee elects to resume construction of the remainder of the Project, and (z) such additional period of time that Board shall reasonably grant Lender upon its request in order to complete construction, and

(vii) After the date Lender transfers title to the Leasehold to an unaffiliated third party, such unaffiliated third party shall perform, or cause to be performed, construction of the remainder of the Project in accordance with the Lease, and complete construction within the time period provided in Section 407 of the Lease, extended by (x) the period of time between the date that Lender commences its remedies against Lessee and the Acquisition Date (y) the period of time between the Acquisition Date and the date that Lender transfers title to such unaffiliated third party, and (z) such additional period of time that Board shall reasonably grant Lender upon its request in order to complete construction.

c. If Lender elects the Full Completion Option, Lender shall have the time period provided in Section 407 of the Lease to complete construction, extended by (x) the period of time between the date that Lender commences its remedies against Lessee and the Acquisition Date, and (y) such additional period of time that Board shall reasonably grant Lender upon its request in order to complete construction.

d. Notwithstanding anything to the contrary in this Estoppel, Lender's rights under this Section 12 shall inure only to the benefit of a "special purpose entity" subsidiary or similar affiliate of Lender but not to any other successor or assign of Lessee or any other Permitted Mortgagee.

13. The provisions of this Estoppel shall: (i) inure to the benefit of Lender, its successors and any assigns of the Ground Leasehold Mortgage; and (ii) be binding upon Board and its successors and assigns, including any subsequent owner ("**Subsequent Owner**") of the Premises or the rights of Board ("**Board Rights**") pursuant to the Lease. Board agrees to deliver a photocopy of this Estoppel to any Subsequent Owner prior to Subsequent Owner acquiring title to the Premises or the Board Rights. Upon Lender's written request from time to time, Board shall deliver to Lender or its designees, a written instrument, signed and acknowledged by

Board, which shall set forth the information contained in this Estoppel on a current basis, and provide the benefit of the terms of this Estoppel to Lender and its successors and assigns. The Board shall be entitled to revise the form of Estoppel, if necessary, to include those revisions required to reflect the current state of facts, such as the status of this Lease and Lessee's performance thereunder.

14. Board acknowledges that Lender is relying upon Board's statements and agreements herein made in funding the Loan.

15. Board and the person executing this Estoppel on behalf of Board, have the power and authority to execute this Estoppel and Board has obtained all of the consents or approvals necessary or desirable to effectuate the terms of this Estoppel.

16. Notices required to be delivered to a Permitted Mortgagee under the Lease shall be sent to Lender as follows:

JPMorgan Chase Bank, N.A.
Administrative Agent
1717 Main Street, 6th Floor,
Dallas, Texas 75201
Attn: Jeffrey H. Arrington
Re: Fairfield/Grossmont

With a copy to:

Patton Boggs LLP
2001 Ross Avenue, Suite 3000
Dallas, Texas 75201
Attn: Deborah C. Ryan

Massachusetts Mutual Life Insurance Company
c/o Babson Capital Management LLC
1500 Main Street, Suite 2800
Springfield, Massachusetts 01115
Attn: David Colangelo

With a copy to:

Massachusetts Mutual Life Insurance Company
c/o Babson Capital Management LLC
1500 Main Street, Suite 2800
Springfield, Massachusetts 01115
Attn: Vice President - Real Estate Law

17. Concurrently with the execution and delivery of any New Lease or Lender's acquisition of Lessee's interest in the Lease in accordance with the Loan Documents, Board shall assign to the tenant named therein all of its right, title and interest in and to moneys (including insurance proceeds and condemnation awards), if any, then held by or payable to Board which Lessee would have been entitled to receive but for the termination of the Lease, less any sums required to fully compensate Board for Lessee's default. Upon the execution of any New Lease, Board acknowledges that the tenant named therein shall be entitled to any rent received under any sublease in effect during the period from the date of termination of the Lease to the date of execution of such New Lease, less any sums required to fully compensate Board for Lessee's default. Effective upon the commencement of the term of any New Lease, all subleases shall be assigned and transferred to the tenant under the New Lease and Board shall cooperate and execute and deliver any documents reasonably required to accomplish the foregoing.

18. Nothing contained in this Estoppel shall enlarge or increase the rights or remedies available to Board to terminate the Lease prior to the expiration of the Term as provided therein. The provisions of this Estoppel are intended by the parties to benefit only the holders of the Ground Leasehold Mortgage.

19. Notwithstanding anything in this Estoppel or in the Lease to the contrary, including without limitation Sections 901(8), 1006 and 1100 of the Lease, in the event of any casualty to or condemnation of the Premises or any portion thereof during such time as any Ground Leasehold Mortgage shall remain unsatisfied, Lender shall be entitled to a) receive from the insurance company all insurance proceeds and/or condemnation awards (up to the amount of the indebtedness secured by the Ground Leasehold Mortgage) otherwise payable to Lessee and b) hold and apply such proceeds in accordance with the Ground Leasehold Mortgage (a copy of which provision is set forth in Exhibit "B").

20. This Estoppel, the covenants, terms and conditions hereof and the rights and obligations created hereby shall be binding upon and inure to the benefit of Board, Lender and their respective successors and assigns; provided, however, that notwithstanding anything to the contrary in this Estoppel, except as provided in Section 12.d of this Estoppel, no successor or assign of a Permitted Mortgagee shall have the rights of a Permitted Mortgagee unless that successor or assign meets the standards and requirements of Section 901 of the Lease.

21. To the extent of a conflict between the terms of this Estoppel and the Lease, this Estoppel shall control.

THE METROPOLITAN TRANSIT DEVELOPMENT BOARD,
a California public agency also known as the Metropolitan Transit System

By:_____
Name: _____
Title: _____

STATE OF CALIFORNIA §
§
COUNTY OF _____ §

This instrument was acknowledged before me on June ___, 2006 by _____, the _____ of The Metropolitan Transit Development Board, a California public agency also known as the Metropolitan Transit System, on behalf of said public agency.

[S E A L]

_____
Notary Public, State of California

My Commission Expires:

_____

_____
Printed Name of Notary Public

ATTACHMENT 1

Attachment 1 consists of the following:

1. Ground Lease between The Metropolitan Transit Development Board and Fairfield Grossmont Trolley, LLC, dated as of June ___, 2006.

ATTACHMENT 2

That certain Deposition and Development Agreement, by and between Metropolitan Transit Development Board and Fairfield Grossmont Trolley LLC dated _____, 2006, pertaining to the Premises.

EXHIBIT "A"

LEGAL DESCRIPTION

(To be attached)

EXHIBIT "B"

CASUALTY AND CONDEMNATION PROCEEDS

Capitalized terms used in this Exhibit "B" shall have the meaning assigned to such term in the Ground Leasehold Mortgage. Section references in this Exhibit "B" are references to sections in the Ground Leasehold Mortgage.

1. Proceeds for Casualty Loss.

(a) If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty, Borrower shall give immediate written notice to the insurance carrier and Administrative Agent. With respect to any such casualty loss for which Borrower has an insurance claim that exceeds _____ ($_____), Borrower hereby authorizes and empowers Administrative Agent, at Administrative Agent's option and in Administrative Agent's sole discretion as attorney-in-fact for Borrower, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Administrative Agent's expenses incurred in the collection of such proceeds; provided, however, that the foregoing authorization and empowerment of Administrative Agent to act as attorney-in-fact for Borrower shall not become effective until the occurrence and during the continuance of a Default or until such time as Borrower fails to diligently pursue the collection of such insurance proceeds in Administrative Agent's opinion. The foregoing appointment is irrevocable and continuing so long as the Commitments or Obligations remain outstanding, and such rights, powers and privileges shall be exclusive in Administrative Agent (for the benefit of Lenders), its successors and assigns.

(b) As sole loss payee on all policies of casualty insurance, Administrative Agent shall receive all insurance proceeds from any casualty loss, and shall hold the same in an interest-bearing account pending disposition in accordance with this Section 4.07(g) [of the Ground Leasehold Mortgage]. Borrower authorizes Administrative Agent to deduct from such insurance proceeds received by Administrative Agent all of Administrative Agent's costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in connection with the collection thereof (the remainder of such insurance proceeds being referred to herein as "Net Casualty Proceeds").

(c) Prior to Substantial Completion, the Net Casualty Proceeds from any casualty loss affecting the Mortgaged Property shall be treated as a Non-Interest Balancing Deposit and disbursed in accordance with the provisions of Section 2.05 hereof if within ninety (90) days after the applicable casualty loss, Borrower satisfies Administrative Agent that the construction can be completed by the Final Completion Date. Upon the occurrence and during the continuance of a Default or in the event Borrower is unable to satisfy the conditions set forth above by the required date, Administrative Agent, on behalf of Lenders, shall have the right (but not the obligation) to apply all Net Casualty Proceeds held by it to the payment of the Obligations.

(d) After Substantial Completion, Administrative Agent shall cause the Net Casualty Proceeds from any casualty loss affecting the Mortgaged Property to be disbursed for the cost of reconstruction of the Mortgaged Property if all of the following conditions are satisfied within

ninety (90) days after the applicable casualty loss: (A) Borrower satisfies Administrative Agent that the reconstruction can be completed within a reasonable period of time after such casualty loss (but in no event later than the Maturity Date) and that after giving effect to such reconstruction the Mortgaged Property will be restored to its condition immediately prior to the casualty loss; (B) Borrower satisfies Administrative Agent that the Net Casualty Proceeds are sufficient to pay all costs of reconstruction, and if insufficient, Borrower deposits with Administrative Agent additional funds to make up such insufficiency; (C) Borrower delivers to Administrative Agent all plans and specifications and construction contracts for the work of reconstruction and such plans and specifications and construction contracts are in form and content acceptable to Administrative Agent and with a contractor acceptable to Administrative Agent; and (D) the cost of the reconstruction, in Administrative Agent's reasonable discretion, does not exceed fifty percent (50%) of the insurable value of the Improvements. The disbursement of Net Casualty Proceeds pursuant to this clause (iv) shall be in accordance with customary disbursement procedures and shall not be available after the occurrence and during the continuance of a Default. Any Net Casualty Proceeds not required to reconstruct the Mortgaged Property shall be delivered to Borrower after expiration of the lien period for the work of reconstruction (or, at Borrower's option, after delivery of title insurance to Administrative Agent, for the benefit of Lenders, over such liens where the lien period has not so expired). Upon the occurrence and during the continuance of a Default or in the event Borrower is unable to satisfy the conditions set forth in subclauses (A) through (D) hereof by the required date, Administrative Agent, on behalf of Lenders, shall have the right (but not the obligation) to apply all Net Casualty Proceeds held by it to the payment of the Obligations. Borrower shall have the obligation to promptly and diligently complete the work of reconstruction necessitated by any casualty loss and restore the Mortgaged Property to the equivalent of its condition immediately prior to such casualty provided the applicable Net Casualty Proceeds are made available to Borrower for such purpose.

2. Proceeds for Condemnation.

Immediately upon receiving written notice of the institution or threatened institution of any proceeding for the condemnation of the Mortgaged Property or any part thereof, Borrower shall notify Administrative Agent of such fact. Borrower shall then file or defend its rights thereunder and prosecute the same with due diligence to its final disposition; provided, however, that Borrower shall not enter into any settlement of such proceeding without the prior approval of Administrative Agent. Administrative Agent shall be entitled, at its option, to appear in any such proceeding in its own name on behalf of Lenders, and upon the occurrence and during the continuation of a Default or if Borrower fails to diligently prosecute such proceeding, (a) Administrative Agent shall be entitled, at its option, to appear in and prosecute any such proceeding or to make any compromise or settlement in connection with such condemnation on behalf of Borrower, and (b) Borrower hereby irrevocably constitutes and appoints Administrative Agent as its attorney-in-fact, and such appointment is coupled with an interest, to commence, appear in and prosecute such action or proceeding or to make such compromise or settlement in connection with any such condemnation on its behalf. The foregoing appointment is irrevocable and continuing so long as the Commitments or Obligations remain outstanding, and such rights, powers and privileges shall be exclusive in Administrative Agent (for the benefit of Lenders), its successors and assigns. If the Mortgaged Property, or any material part thereof, is taken or materially diminished in value in connection with such condemnation, or if a consent settlement

is entered, by or under threat of such proceeding, the award or settlement payable to Borrower by virtue of its interest in the Mortgaged Property, shall be, and by these presents is, assigned, transferred and set over unto Administrative Agent for the benefit of Lenders. Any such award or settlement shall be first applied to reimburse Administrative Agent and Lenders for all costs and expenses, including reasonable attorneys' fees, incurred in connection with the collection of such award or settlement. The balance of such award or settlement (the "Net Condemnation Proceeds") shall be paid to Administrative Agent for the benefit of Lenders for application in the manner set forth in Section 4.07(g) as if such award or settlement constituted insurance proceeds from a casualty loss; provided, however, that Administrative Agent shall have no obligation to make Net Condemnation Proceeds available for construction or reconstruction of the Mortgaged Property (being the portion of the Mortgaged Property remaining after the taking or settlement in lieu of the threat thereof), unless Administrative Agent has determined that the Mortgaged Property (being the portion of the Mortgaged Property remaining after the taking or settlement in lieu of the threat thereof) as so constructed or reconstructed after giving effect to the condemnation would have a value that is no less than its value would have been had there been no such condemnation. Borrower shall have the obligation to promptly and diligently complete the work of reconstruction necessitated by any condemnation and restore the Mortgaged Property to the equivalent of its condition immediately prior to such condemnation (or if the initial construction of the Improvements is not substantially complete at the time of such condemnation, continue the construction of the Improvements in accordance with the terms hereof) provided the applicable Net Condemnation Proceeds are made available to Borrower for such purpose.

EXHIBIT "C"

PROFORMA

(To be attached)

Metropolitan Transit System

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

OPS 920.5 (PC 30103)

July 13, 2006

Subject:

MTS: CONTRACT SERVICES FIXED-ROUTE PROCUREMENT AWARD

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute a contract (in substantially the same format as Attachment A - MTS Doc. No. B0453.0-07) with Veolia Transportation, Inc. (Veolia) for the provision of fixed-route bus services in East County, Chula Vista, South Bay and regional express service for a 5½-year base period with 3 one-year options, in an amount not to exceed $234,551,353 for the initial 5½-year term of the contract. This would include purchased transportation mileage-based costs, performance surety costs, performance bonuses, fuel pass-through costs, and other miscellaneous pass-through costs as defined in the contract.

Budget Impact

The funding for this contract is included within the FY 07 budget. Funding and expenses for future years related to this contract are set through the annual MTS budget process.

DISCUSSION:

On March 24, 2006, MTS issued a Request for Proposals (RFP) to interested parties for the operation of contracted fixed-route bus services in parts of southern and eastern San Diego County for a 5½-year base term with 3 one-year option terms.

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.

MTS staff initiated the process with the belief that strategically combining a group of fixed-route services would produce potential economies of scale and cost-efficiencies not found in smaller individual service bids. Upon concurrence from the MTS Board, a single, unified bid package was developed (rather than four smaller service packages).

As part of this service agreement, MTS will provide 238 heavy-duty (35-foot and 40-foot) and midsized (29-foot and 32-foot) diesel and compressed natural gas-powered (CNG) transit buses, three major operations centers, maintenance depots, and fueling facilities. The proposers were required to provide 26 California-licensed heavy-duty over-the-road commuter express buses (40-foot and 45-foot) for the regional commuter express service. Services would be phased with implementation dates for service starts between January 2007 and July 2007. Additionally, this contract includes provisions for responsible wage and health benefits. As of today, the majority of contract employees are represented by the Amalgamated Transit Union (ATU) Local 1309. The recommended company has indicated that this representation would continue and is supported by the ATU (see Attachment B).

Process

Under new legislative authority, MTS was able to utilize a negotiated procurement process that maximized price and qualitative benefits. The process was initiated with an RFP issued on March 24, 2006. Three national firms responded to the RFP.

- Firm and Location

  Veolia Transportation, Inc.
  Silver Springs, Maryland

  First Transit, Inc.
  Cincinnati, Ohio

  Laidlaw Transit Services, Inc.
  Overland Park, Kansas

An evaluation committee ranked the proposals first by considering technical issues together without the price and then ranked them by price. As part of the process, a 10% bidding preference is provided for contractors who agree to retain existing employees. Each proposal was ranked in the areas of: (1) qualifications of the firm; (2) staffing, project organization and management plan; (3) work plan; and (4) cost and price.

The evaluation committee consisted of individuals from the City of Chula Vista and staff from MTS's Procurement, Finance, and Multimodal Operations Departments. The City of Chula Vista participated in this regional procurement as part of its practice to work cooperatively with MTS in finding cost-effective methods to providing transit services and strengthening the transit ties between MTS and the City of Chula Vista for the benefit of its residents.

This process resulted in the following average ranking compilation:

COMBINED AVERAGE SCORES

	VEOLIA	FIRST TRANSIT	LAIDLAW
Qualifications of Firm	21.5	17.5	17.0
Staffing, Project Organization, Management Plan	20.1	15.5	13.2
Work Plan	23.3	14.5	14.6
Cost and Price	25.0	18.0	16.0
Combined Average Score	89.9	65.5	60.8
Compliance with California Labor Code 4.6	10.0	10.0	10.0
TOTAL SCORE	**99.9**	**75.5**	**70.8**

After the ranking, all firms were interviewed on May 23, 2006. The negotiation committee is recommending that the MTS Board approve Veolia for contract award.

Proposal Highlights

Veolia received the highest overall rankings in virtually every area by the members of the committee. Veolia's proposal included a clear understanding of the Scope of Work with a high degree of innovation and a number of cost-saving alternatives based on economies of scale due to the size of the service package. Additionally, Veolia's proposal includes a highly experienced management team and the lowest overall cost.

A financial analysis of the elements of this contract has shown that MTS will save $7.1 million over the full 8½-year year term as compared to the existing contracts with a 3% cost-of-living escalator. Another comparison with other transit operators shows that MTS's cost per revenue mile would be among the lowest within its peer groups at $4.21 per unit. The review of all submittals also showed that Veolia's proposal was 7.8% less than the next closest price submittal. It is also important to note that 5.1% of this price reduction was attributable to the negotiations process.

Overall, Veolia's proposal was the best combination of operational innovation, experienced management, and financial strategy that MTS staff believes would provide the best qualitative service and cost savings for the region.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Susan J. Hafner, 619.595.3084, susan.hafner@sdmts.com

JULY13-06.31.FIXEDROUTEAWARD.SHAFNER

Attachments: A. Draft MTS Doc. No. B0453.0-07
B. Letter from ATU Local 1309 dated 4/2/06

Metropolitan Transit System

STANDARD SERVICES AGREEMENT

B0453.0-07
CONTRACT NUMBER
OPS 920.5, PC 30103
FILE NUMBER(S)

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

DRAFT

THIS AGREEMENT is entered into this _____ day of _____ 2006, 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: Veolia Transportation Services, Inc.

Address: 3131 Camino Del Rio North, Suite 305
San Diego, CA 92108

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

Telephone: 619.624.9274

Authorized person to sign contracts: Justin T. Augustine III (Name) Regional Vice President (Title)

The attached Standard Conditions are part of this agreement. The Contractor agrees to furnish to MTS services and materials, as follows: Provide fixed-route bus services at the following MTS locations and one Veolia-owned location:

- East County - 1213 North Johnson Avenue, El Cajon;
- Chula Vista Public Works Center - 1800 Maxwell Road, Chula Vista; and
- South Bay - 3650A Main Street, Chula Vista; and
- Commuter-express services at a Veolia-owned location.

Services to be provided as stipulated in MTS's Request for Proposals (RFP) for Fixed-Route Bus Services, MTS Doc. No. B0453.0-06, including Addendum Nos. 1 through 4; MTS's Responses to Questions/Clarifications; and in accordance with the Standard Services Agreement, Standard Conditions Services, Federal Requirements, Veolia Transportation Services, Inc.'s proposal dated 5/3/06, including options selected by MTS, and Veolia's Best and Final Offer (BAFO) dated 6/19/06. If there are inconsistencies between the RFP and Addendum, Responses to Approved Equals/Clarifications, Standard Services Agreement, and/or the Standard Conditions Services and Federal Requirements, the following order of precedence will govern the interpretation of this contract:

1. MTS's Fixed-Route Services RFP, Addendum Nos. 1 through 4, MTS's Responses to Questions/Clarifications, Veolia's proposal dated 5/3/06, including options selected by MTS, and Veolia's BAFO dated 6/19/06.
2. Standard Services Agreement, Standard Conditions Services, and Federal Requirements.

This contract shall remain in effect for one partial year and five full years with three 1-year options exercisable at MTS's sole discretion. Total expenditures of this contract (not including options) shall not exceed $234,551,353.

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
$234,551,353	South Central (PC 30103)	07-11

By: _____
Chief Financial Officer — Date

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 the 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.

MTS Contract Services Fixed-Route Bus Service
Cost Summary Projection

6/27/2006 11:39

NOTE: Actual amounts to be set annually during MTS annual budget process

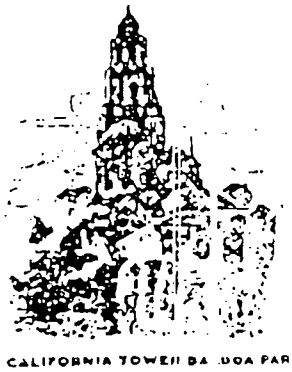
EXPENSE	Partial 1/02/07 6/30/07	7/01/07- 6/30/08	7/01/08- 6/30/09	7/01/09- 6/30/10	7/01/10- 6/30/11	7/01/11- 6/30/12	BASE YEAR TOTAL
Initial Start up Bonus (A)	$ 30,000	$ 80,000					$ 110,000
Performance Surety	$ 385	$ 10,000	$ 10,000	$ 10,000	$ 10,000	$ 10,000	$ 50,385
Variable Revenue Mile Cost	$ 6,534,779	$ 37,983,863	$ 39,105,329	$ 40,223,173	$ 41,433,361	$ 42,567,750	$ 207,848,255
RSMPH Adjustment (A)	$ -	$ 150,000	$ 285,000	$ 380,000	$ 475,000	$ 475,000	$ 1,765,000
Stand by Service Cost	$ 58,212	$ 514,879	$ 530,325	$ 546,235	$ 562,622	$ 579,500	$ 2,791,773
Performance Bonuses (A)	$ 185,000	$ 1,030,000	$ 1,070,000	$ 1,125,000	$ 1,155,000	$ 1,190,000	$ 5,755,000
Bus Stop Maintenance Cost	$ 9,854	$ 81,197	$ 83,633	$ 86,142	$ 88,726	$ 91,388	$ 440,940
Fuel: Estimated Pass Through (A)	$ 1,000,000	$ 2,265,000	$ 2,365,000	$ 2,490,000	$ 2,610,000	$ 2,735,000	$ 13,465,000
Other Pass Through Costs (A)	$ 200,000	$ 425,000	$ 425,000	$ 425,000	$ 425,000	$ 425,000	$ 2,325,000
Total Projected Costs	$ 8,018,230	$ 42,539,938	$ 43,874,287	$ 45,285,550	$ 46,759,710	$ 48,073,638	$ 234,551,353

EXPENSE	7/01/12- 6/30/13	7/01/13- 6/30/14	7/01/14- 6/30/15	OPTION PERIODS' TOTAL	ALL YEARS GRAND TOTAL
Initial Start up Bonus (A)				$ -	$ 110,000
Performance Surety	$ 10,000	$ 10,000	$ 10,000	$ 30,000	$ 80,385
Variable Revenue Mile Cost	$ 42,491,755	$ 43,768,231	$ 44,954,960	$131,214,946	$ 339,063,201
RSMPH Adjustment (A)	$ 500,000	$ 500,000	$ 600,000	$ 1,600,000	$ 3,365,000
Stand by Service Cost	$ 596,885	$ 614,791	$ 633,235	$ 1,844,911	$ 4,636,684
Performance Bonuses (A)	$ 1,225,000	$ 1,260,000	$ 1,300,000	$ 3,785,000	$ 9,540,000
Bus Stop Maintenance Cost	$ 94,130	$ 96,953	$ 99,862	$ 290,945	$ 731,885
Fuel: Estimated Pass Through (A)	$ 2,880,000	$ 3,015,000	$ 3,165,000	$ 9,060,000	$ 22,525,000
Other Pass Through Costs (A)	$ 425,000	$ 425,000	$ 425,000	$ 1,275,000	$ 3,600,000
Total Projected Costs	$ 48,222,769	$ 49,689,976	$ 51,188,057	$149,100,802	$ 383,652,155

NOTE: MTS pays CNG fuel supplier directly.

(A) Estimates projected by MTS

Veolia Cost	$ 344,512,155
Pass Through	$ 39,140,000
Total	$ 383,652,155
Check	$ -



San Diego Bus Drivers Union

A.F.L.-C.I.O.

Amalgamated Transit Union

LOCAL 1309
TEL 619-563-1309
FAX 619-281-9184

10393 SAN DIEGO MISSION ROAD
SUITE 205
SAN DIEGO, CALIF. 92108

April 2 , 2006

Ms. Su: an Hafner
Directo : of Multimodal Operations
Metrop olitan Transit System
1255 Ir perial Avenue, Suite 1000
San Di go, Ca. m 92101-7490

RE: Ci ntract Services Request For Proposals

Dear M s. Hafner:

Amalg mated Transit Union Local 1309 has represented all of the coach operators and maintenance employees at all ATC/VanCom properties in San Diego County since ATC/VanCom has operated contract service here, a period of well ov er fifteen (15) years. We have enjoyed a harmonious and mutually beneficial relationship for all those years as we dealt with many labor/management issues such as contract negotiations, grievances, insurance problems and pensio issues. We are currently working together to pass legislation that will level the playing field regarding meal and res periods so the visionary proposals of the Comprehensive Operational Analysis team can be smoothly adopted.

We ha e watched ATC/VanCom become Connex/ATC and, most recently, Veolia Transportation Services, Inc. While he names have changed, the management vision has remained intact. We have found Veolia to be a very profes ional and well run organization and have amicably resolved all issues that have presented themselves through the years without need of strife or the interruption of service. No matter what the issue, Veolia's management team has rec ognized the symbiotic roles labor and management play in this business. Their attitude has played a major role in establishing the foundation for our successful partnership and is the reason we have been working together so effecti ely for so long.

Our de alings with Veolia have shown them to be concerned about the well-being of their employees, their customers and th ir community. Veolia's management has treated Local 1309 with the greatest respect over the years while exhibiting professionalism when confronted with adversity. This is evidenced by the fact that there has never been a labor a tion or even a grievance carried through to an arbitration. The company handles all situations with equal care an d the entire Veolia staff has one common mission, to service their customers, their million-dollar cargo, in the best m nner possible.

The officers and members of Local 1309 fully support Veolia's bid to become the MTS contract service provider of choice Starting over with a new provider would not be in the best interest of MTS, our members or the bus-riding public

Should you wish to discuss this issue further, please do not hesitate to call.

Very t uly yours,

Steve Alcove
President/Business Agent
Amalgamated Transit Union – Local 1309
A.F.L.-C.I.O., C.L.C.

B-1

MTS: Contract Services Fixed Route Procurement Award

Susan Hafner
July 13, 2006
MTS Board Meeting

MTS Contract Services

- 9M annual miles
- 67,000 avg. weekday passengers
- 392 buses
- 65 fixed bus routes
- 834 employees

San Diego Contract Model

- MTS owned vehicles (Commuter Express exception)
- MTS owned facilities
- Private sector turn-key operator (employees)
- Defined performance standards
- Defined employee requirements
- Contractual incentives and penalties

Consolidated Approach

- Contracts due to expire FY07
- South Bay, East County, Commuter Express and Chula Vista Transit (operated from Chula Vista Public Works Facility) also included
- Bid together to maximize cost efficiencies
- Four other existing service contracts operated by three firms remain

Background

- Issued RFP March 24, 2006
- Held Pre-proposal Conference & Tour April 5-6, 2006
- Offers submitted May 5, 2006
- Received three proposals
  Veolia, First Transit, Laidlaw Transit

Negotiated Procurement

- Proposal review by Evaluation Committee
- Interviews and Negotiation phase
- Qualitative and Price considerations determine award

Proposal Evaluation

Criteria

- Qualifications of the Firm 25%
- Staffing/Project Organization 25%
- Work Plan 25%
- Cost 25%

Ranking of Firms

- Veolia 99.9%
- First Transit 75.5%
- Laidlaw 70.8%

(*Includes 10 points for California Labor Code 4.6)

Labor Provisions

- Contract includes provisions for responsible wage and health benefits
- All companies were compliant with California Labor Code 4.6 (Retention of workforce)
- Veolia has indicated that ATU Local 1309 would continue representing employees
- ATU President Steve Alcove has indicated support of Veolia

Commuter Express Vehicles

- Contractor to provide Express buses for five years (Vehicle specs included in negotiations)
- Option on year six for MTS to provide to allow BRT vehicle selection
- CARB air quality standards apply

Comparative Price Analysis

Agency	Cost/Rev.Mile
MTS	$4.21
Phoenix	$5.23
Las Vegas	$4.70
Denver	$4.70
Cobb Cty.	$4.78
LADOT	$4.75
Foothills	$6.32
OCTA	$4.22-$4.25

Cost Savings

- New contract estimated savings of $7.1M
- Veolia cost 7.8% less than the next closest price submittal
- Negotiated Procurement process produced 5.1% reduction

Recommendation

- Award Fixed Route Contract to Veolia Transportation Inc. for the provision of fixed route bus service for a 5 ½ year base period with 3 one year options in a amount not to exceed $234,551,353 for the initial 5 ½ year term of the contract.

Metropolitan Transit System

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

Agenda

Item No. 45

Joint Meeting of the Board of Directors for
Metropolitan Transit System,
San Diego Transit Corporation, and
San Diego Trolley, Inc.

FIN 300 (PC 50601)

July 13, 2006

SUBJECT:

MTS: COMPREHENSIVE ANNUAL FINANCIAL (CAFR) REPORT FOR FY 2004

RECOMMENDATION:

Action would receive a report for information.

DISCUSSION:

The Comprehensive Annual Financial Report (CAFR) (Attachment A) for MTS is required in order to receive funding from federal, state, and local agencies, and it is a requirement of various debt financing held by MTS as well as insurance coverage.

The CAFR comprises MTS's financial position as of June 30, 2004. While these financial statements are similar in format to those of previous years, there are differences. Additionally, important events that occurred during FY 2004 are reflected in these financial statements.

The most important difference is that San Diego Transit Corporation (SDTC), San Diego Trolley Inc. (SDTI), and the San Diego and Arizona Eastern (SD&AE) Railway Company are combined rather than separate entities (as was the case in FY 2003). This consolidation resulted from Senate Bill (SB) 1703 legislation, which combined the SDTC and SDTI Boards. In addition, it allows for a more comprehensive view of all of MTS's activities, particularly in proprietary funds (pages 39-41).

One important event that occurred during FY 2004 relevant to these statements was the split off with the San Diego Association of Governments (SANDAG) of assets and liabilities related to SB 1703. This significantly reduced both assets and liabilities in several funds and is most true in MTS's work in process area (due to the capital projects moved to SANDAG). The entire pass sales function was transferred to SANDAG.

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.

Another important event was the progress and related expenditures for Mission Valley East, which was moving ahead at full speed during FY 2004. This substantially increased the work in process that was left after the SANDAG split off.

The FY 2005 audit is in the final stages. MTS expects to have the MTS FY 2005 financial statements by mid-July. Staff will advise the Board of its status during the meeting. Upon issuance of the FY 2005 CAFR, staff will bring back a final recap of FY 2005 and a preliminary year-end recap of FY 2006 to the Board.

Paul C. Jablonski
Chief Executive Officer

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

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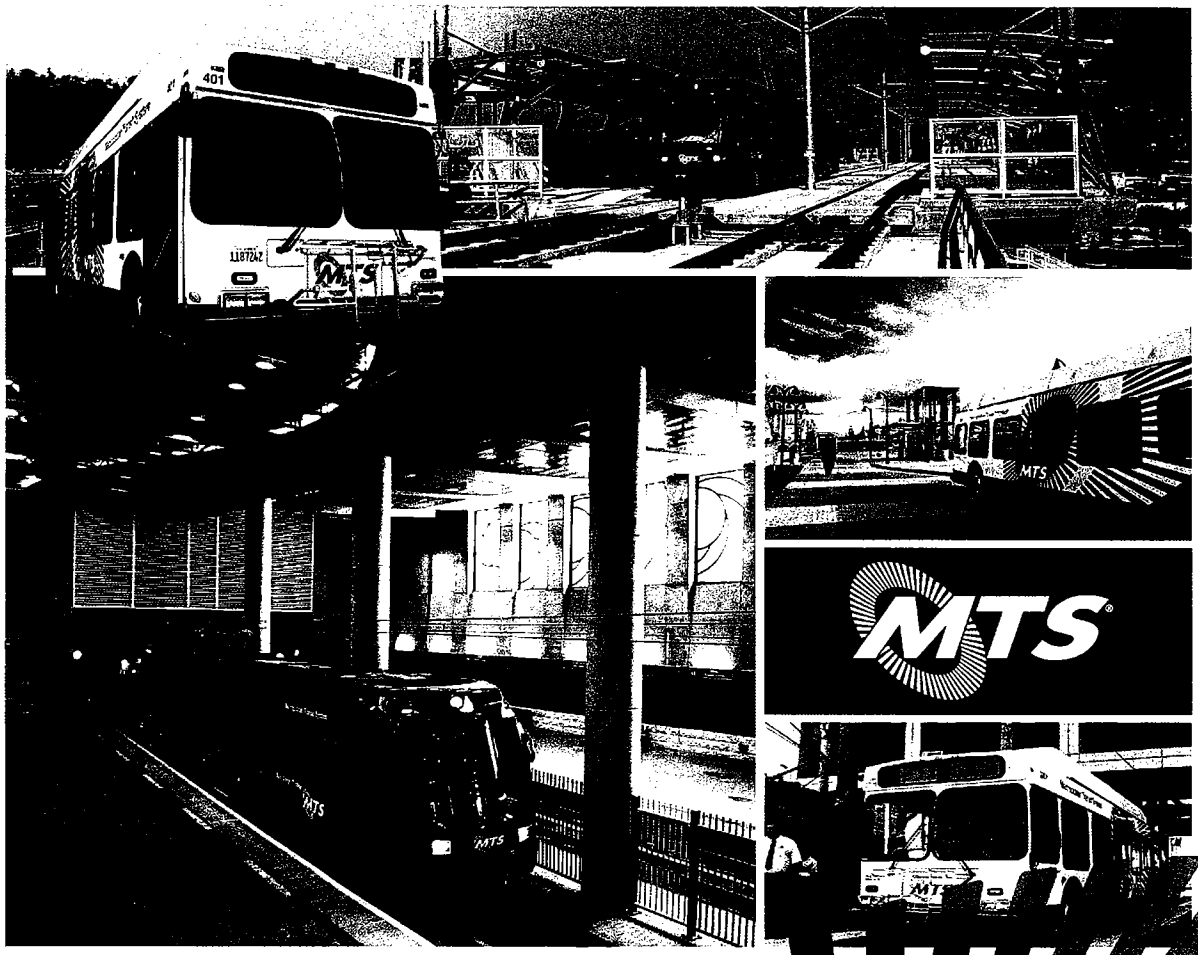
Attachment: A. FY 2004 CAFR **(Due to Volume - Board Only)**

COMPREHENSIVE

ANNUAL FINANCIAL REPORT



FOR THE FISCAL YEAR ENDED JUNE 30, 2006

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

SAN DIEGO, CALIFORNIA

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

SAN DIEGO, CALIFORNIA

Comprehensive Annual Financial Report

Year ended June 30, 2006

(With Independent Auditors' Report Thereon)

Prepared by Finance Department

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Comprehensive Annual Financial Report

Year ended June 30, 2006

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Comprehensive Annual Financial Report

Year ended June 30, 2006

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INTRODUCTORY

SECTION

Metropolitan Transit System

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

San Diego MetropolitanTransit System
Board of Directors and Transit Riders:

The comprehensive annual financial report of the San Diego Metropolitan Transit System (MTS) for the fiscal year ended June 30, 2006 is hereby submitted. Responsibility for both the accuracy of the data and the completeness and fairness of the presentation, including all disclosures, rests with management. Management of MTS is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of MTS are protected from loss, theft, or misuse, and to ensure that adequate accounting data are compiled to allow for the preparation of financial statements in conformity with generally accepted accounting principles in the United States of America (GAAP). The internal control structure is designed to provide reasonable, but not absolute, assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits requires estimates and judgments by management. As management, we assert that, to the best of our knowledge and belief, this financial report is complete and reliable in all material respects.

State statutes require an annual audit by independent certified public accountants. The firm of Caporicci & Larson has been retained to meet this requirement. The goal of the independent audit was to provide reasonable assurance that the financial statements of MTS for the fiscal year ended June 30, 2006 are free of material misstatement. The independent audit involved examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; assessing the accounting principles used and significant estimates made by management; and evaluating the overall financial statement presentation. The independent auditors concluded, based upon the audit, that there was a reasonable basis for rendering an unqualified opinion that MTS' financial statements for the fiscal year ended June 30, 2006 are fairly presented, in all material respects, in conformity with GAAP. The independent auditors' report is presented as the first component of the financial section of this report.

The independent audit was also designed to meet the requirements of a broader, federally mandated "Single Audit" to meet the special needs of federal grantor agencies. The standards governing Single Audit engagements require the independent auditor to report not only on the fair presentation of the financial statements, but also on the audited government's internal controls and compliance with legal requirements, with special emphasis on internal controls and legal requirements involving the administration of federal awards. The reports related specifically to the Single Audit are issued under separate cover.

MTS maintains budgetary controls, the objective of which is to ensure compliance with the provisions embodied in the annual appropriated budget approved by the board of directors. Activities of the General Fund, Special Revenue Funds, Debt Service Funds, and Capital Projects Fund are included in the annual appropriated budgets. Comprehensive multi-year financial plans, adopted when major projects are approved for the final design and construction phase, provide project-length budgetary control in the Capital Projects Fund. The portion of costs expected to be incurred on each project during the fiscal year is included in the annual operating budget. The level of budgetary control (that is, the level at which expenditures cannot legally exceed the appropriated amount) is established by line item within an individual fund. The Chief Executive Officer has the authority to transfer up to $25,000 between line items. MTS also maintains an encumbrance accounting system as one technique of

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 the 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.

accomplishing budgetary control. Encumbered amounts lapse at year-end. However, encumbrances are evaluated and may be reappropriated as part of the following year's budget.

GAAP require that management provide a narrative introduction, overview, and analysis to accompany the financial statements in the form of Management's Discussion and Analysis (MD&A). This letter of transmittal is designed to complement the MD&A and should be read in conjunction with it. The MD&A can be found immediately following the report of the independent auditors.

REPORTING ENTITY

The San Diego Metropolitan Transit System was created effective January 26, 1976 to provide the policy setting and overall management coordination of the public transportation system in the San Diego metropolitan service area. This service area encompasses approximately 2.19 million people residing in a 570 square mile area of San Diego County, including the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, Santee, and San Diego and the unincorporated area of the County of San Diego. A number of fixed-route operating entities provide the service and have banded together to form a federation of transit service providers called the Metropolitan Transit System (MTS). The purpose of the MTS is to provide coordinated routes, fares, and transfers among the different operating entities.

MTS' mission statement, adopted by the Board of Directors, is to enhance the personal mobility of San Diego metropolitan area residents and visitors by:

- Obtaining maximum benefit for every dollar spent.
- Being the community's major public transportation advocate.
- Increasing public transportation usage per capita.
- Taking a customer-oriented approach.
- Offering high-quality public transportation services.
- Responding to the community's socio-economic interests.

Effective January 1, 2003, Senate Bill 1703 (SB 1703) took effect which consolidated the planning, programming, project development, and construction activities of the San Diego Association of Governments (SANDAG), MTS, and North San Diego County Transit Development Board (NCTD) within SANDAG. The legislation called for an initial transfer of the planning and programming functions from MTS to SANDAG by July 1, 2003 and a subsequent transfer of the project development and construction functions by January 30, 2004. Now that the consolidation is complete, MTS' focus has shifted to transit service operations, as SANDAG, in its newly configured role, is responsible for all other facets of transportation planning, programming, and development. MTS has one voting member on the nine-member Transportation Committee within SANDAG. The Transportation Committee assumed the responsibility and decision-making for all transportation-related planning, programming, and development activities. In accordance with the legislation, the planning and programming functions were transferred to SANDAG on July 1, 2003, and the project development and construction activities were transferred to SANDAG on October 13, 2003.

MTS is effectively an umbrella agency. MTS owns the assets of San Diego Trolley, Inc. (SDTI) and San Diego Transit Corporation (SDTC), the area's two largest transit operators. These two transit units were formed under California law as not-for-profit public corporations and function as operating subsidiaries of MTS. SDTI and SDTC are considered component units and are blended component units for financial reporting purposes. SDTI operates three Light Rail Transit (LRT) routes, the Blue Line from the Mission San Diego Station to San Ysidro at the International Border, the Orange Line

from the Imperial and 12th Bayside Platform through Centre City and then east to Santee, and the Mission Valley Extension, known as the Green Line, which began service in July 2005. With this addition of 5.8 miles of track, SDTI now operates on a total of 54.3 miles of track. SDTC operates 29 routes with an active fleet of 274 buses.

The relationship between MTS and the transit operating subsidiaries, SDTI and SDTC, is formally established through operating agreements and MTS-adopted corporate policies. These agreements and corporate policies specify the roles and responsibilities of each of the organizations and outline the procedures in numerous functional areas including auditing and budgeting, fare setting, marketing and public information, revenue-producing advertising, service contracts, and programming of federal, state and local subsidies. The MTS Board of Directors has the policy-setting responsibility for the operation and development of MTS' transit operating subsidiaries as well as for the planning and approval of capital expenditures by or on behalf of these entities. The day-to-day operating functions, labor matters and maintenance of facilities are managed by the individual transit operators.

Starting in July of 2004 and continuing forward, MTS has begun to centralize and consolidate many functions within SDTI and SDTC. These include Planning, Human Resources, Finance, and Purchasing. This is a gradual process that has been on-going and will continue for some time.

In addition, MTS owns the San Diego and Arizona Eastern Railway Company (SD&AE), a not-for-profit railroad holding company entrusted with assets which include 108 miles of rail line and over 2,000 acres of property. MTS has a contract with the San Diego and Imperial Valley Railway Co. (SDIV) for the operation of freight rail services over the SD&AE rail line. MTS provides no subsidy to SDIV, but does receive a portion of its gross revenue. SD&AE is considered a component unit and a blended component unit for financial reporting purposes.

In addition to the bus routes operated by SDTC, MTS is financially accountable for the operation of certain other bus routes. MTS contracts with an outside party for the operation of these bus routes. The contracts require full operation and maintenance of the bus services. These contract services are accounted for in the Other Contracted Services Enterprise Fund for financial reporting purposes. Effective July 1, 2002, the responsibility for operating the County Transit System (CTS) was transferred from the County of San Diego to MTS. CTS operating services are combined with the Other Contracted Services Enterprise Fund for financial reporting purposes.

MTS also is financially accountable for the operation of Taxicab Administration services, which includes regulating the issuance of taxi and jitney service permits in the Cities of San Diego, El Cajon, Imperial Beach, Lemon Grove, National City, Poway, and Santee. Taxicab Administration is accounted for in an Enterprise Fund for financial reporting purposes.

The MTS Board of Directors is comprised of 15 members with four appointed from the San Diego City Council, one appointed from the San Diego County Board of Supervisors, one appointed from each city council of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee, and one elected by other Board members to serve as Chairman.

ECONOMIC CONDITION AND OUTLOOK

Operations

Historically, the San Diego region has enjoyed strong economic expansion, outpacing both the state and national economies. San Diego's gross regional product (GRP), the estimated total value of the regions' economy was estimated at $151.1 billion for FY 2005 (most recent estimate available). This was a growth of 6.6% percent, better than the state and national averages. MTS-area fixed-route

ridership increased during FY 2006. The opening of the Mission Valley East line in July 2005 has added a large component of daily ridership.

The principal local source of operating subsidy for MTS' transit programs is Transportation Development Act (TDA) funding. One-fourth percent of the local sales tax in each California County is dedicated to transportation purposes.

On a local level, area voters approved a one-half cent transportation sales tax in 1987, called TransNet. One-third of the sales tax proceeds is allocated for transit purposes which is further divided between MTS and North County Transit District (MTS' counterpart in North San Diego County) based on the proportion of the population within the area of each jurisdiction. Prior to FY 2004, 80% of the transit TransNet funds had to be used for expansion of the light rail system. The remaining 20% could be used for operations after funding a reduced price pass program for seniors, disabled, and youth, which is capped at $5.5 million. As a result of operating budget pressures, the ratio was changed in June 2003 so that up to 40% of the TransNet program can be used for operations (increased from 20%). The current TransNet sales tax expires in 2008. A reauthorization measure was approved by voters in November 2004 extending the TransNet sales tax for 40 additional years. This has removed a major potential funding problem that would have occurred in 2008 and beyond.

Major initiatives

With the changes brought about by SB 1703, the MTS focus is now clearly on operations rather than development. Specifically, this is providing quality, efficient, and reliable service to customers using resources to maximum effect. Two major challenges are to align operating costs with recurring revenues and rebuild the capital program in order to be able to replace aging infrastructure.

One of the tools MTS is currently using is a Comprehensive Operational Analysis (COA), the first in MTS history. The purpose of the COA is to assess its ridership and route structure on a comprehensive basis. This assessment is allowing MTS to better align its operations in all areas. The benefits are at least two fold. First it better matches riders with where they want to go offering opportunities for increased ridership and better service to customers and the larger community. Second, it acts as a priority guide for providing service. In doing so, various service levels can be effectively evaluated to coincide with available recurring revenues. Matching the proper service level to available recurring revenues eliminates structural deficits that have produced challenges for MTS for the last few years.

The Mission Valley East (MVE) LRT Line opened in July 2005. It extends 5.8 miles from Interstate 15 in Mission Valley to Baltimore Drive in La Mesa primarily along the I-8 corridor. It has added four stations and the first tunnel for MTS. In opening Mission Valley East, a new green line service was initiated, which consists of previous blue line stations from Old Town to Mission San Diego and the four new stations.

FINANCIAL MANAGEMENT

Pension Funds

MTS and SDTI contract with the California Public Employees Retirement System (PERS) to provide retirement plans for their employees. The employees of SDTC participate in the San Diego Transit Corporation Employee Retirement Plan, a single-employer public employee retirement plan.

Debt Administration

Capital Leases – MTS has two capitalized lease obligations with current year debt service of $450 thousand. One lease obligation is the result of a joint venture arrangement whereby the joint venture

issued certificates of participation (COPs), and MTS services the debt through lease payments. The other is a lease purchase agreement for the acquisition of telecommunications equipment.

On the COP issue which related to the construction of the MTS Tower, the rating, which was based on the strength of the joint venture and the primary lessor (the County of San Diego), was Aaa by Moody's Investors Service and AAA by Standard & Poor's Corporation.

Finance Obligations – MTS has four finance obligations. Total debt service for FY 06 was $14 million. Two finance obligations are the result of Light Rail Vehicle (LRV) sale/leaseback and lease/leaseback transactions. Proceeds from these transactions were placed into various investments that mature at values sufficient to cover all remaining obligations as well as amounts necessary to exercise the repurchase options where applicable. In addition, MTS issued Certificates of Participation to fund the automated fare collection project in 2003 and the regional transit management project in 2002.

Pension Obligation Bonds – MTS issued Taxable Pension Obligation Bonds in 2004 to reduce the unfunded liability in the SDTC retirement plan. This obligation is reported by SDTC.

Cash Management

To facilitate optimum management of MTS' resources, cash in all the individual funds is combined to form a pool of cash for short-term investment, except for restricted funds, which are generally held by outside custodians on behalf of capital projects and enterprise funds. MTS' funds are invested in accordance with its written policy which is consistent with the California Government Code 53600. MTS uses the services of an outside investment management firm to handle the daily investment activities. Further details of MTS' cash and investments at June 30, 2006 are set forth in Note 4 to the financial statements.

Risk Management

MTS (including Taxicab Administration, SD&AE, and Other Contracted Services), SDTI, and SDTC are protected against the adverse consequences of material or financial loss through a balanced program of risk retention and the purchase of commercial insurance. MTS, SDTI, and SDTC are insured for liability, property, and workers' compensation claims under a combined insurance program. Claims in excess of the various deductibles and self-insured retention amounts which range from $50,000 to $2,000,000 are insured with commercial carriers up to $75,000,000 for liability and up to $600,000,000 for property damage.

Acknowledgments

The preparation of this report was accomplished with the cooperation of MTS' management and staff. We express our appreciation to the staff members who contributed to the preparation of this report.

Respectfully submitted,

Paul Jablonski
Chief Executive Officer

Cliff Telfer
Chief Financial Officer

November 30, 2006

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Year ended June 30, 2006

BOARD OF DIRECTORS

Members	Board position (elected position)
Harry Mathis	Chairman, since 1/06
Jerry Rindone	Vice Chairman, since 7/91 (Councilmember, City of Chula Vista)
Toni Atkins	Board Member, since 12/02 (Deputy Mayor, City of San Diego)
Thomas E. Clabby	Board Member, since 6/96 (Councilmember, City of Lemon Grove)
Robert Emery	Chair, Pro Tem, since 7/85 (Councilmember, City of Poway)
Ernest Ewin	Board Member, since 03/05 (Councilmember, City of La Mesa)
Kevin Faulconer	Board Member, since 1/06 (Councilmember, City of San Diego)
Mark Lewis	Board Member, since 12/98 to 4/00, 12/02 (Mayor, City of El Cajon)
Brian Maienschein	Board Member, since 12/00 (Councilmember, City of San Diego)
Fred McLean	Board Member, since1/06, (Councilmember, City of Imperial Beach)
Phil Monroe	Board Member, since 4/02 (Councilmember, City of Coronado)
Ron Morrison	Board Member, since 6/04 (Councilmember, National City)
Ron Roberts	Board Member, since 12/89 (County Board of Supervisors)
Hal Ryan	Board Member, since 1/04 (Councilmember, City of Santee)
Tony Young	Board Member, since 1/05 (Councilmember, City of San Diego)

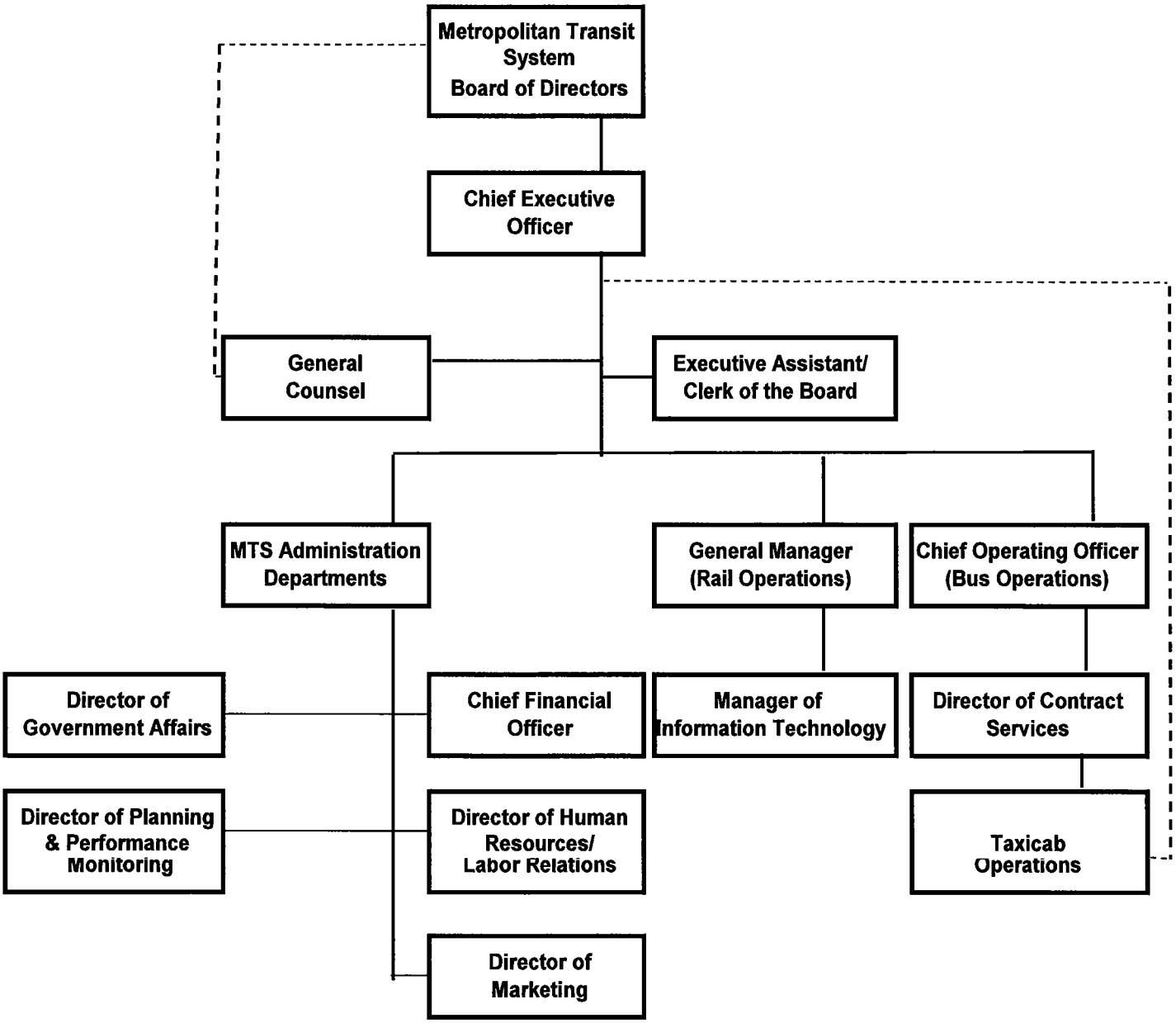
MTS MANAGEMENT

Staff	Position
Paul Jablonski	Chief Executive Officer, as of January 2004
Tiffany Lorenzen	General Counsel
Cliff Telfer	Chief Financial Officer
Claire Spielberg	Chief Operations Officer, Bus (SDTC)
Peter Tereschuck	President-General Manager, Rail (SDTI)
Conan Chung	Director, Planning and Performance Monitoring
Sharon Cooney	Director, Government Affairs and Community Relations
Susan Hafner	Director, Multimodal Operations City of San Diego
Robert Schupp	Director, Marketing and Communications
Jeff Stumbo	Director, Human Resources and Labor Relations

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Executive Level Organization Chart

Fiscal Year 2006



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FINANCIAL

SECTION

C&L
Caporicci & Larson
Certified Public Accountants

INDEPENDENT AUDITORS' REPORT

To the Board of Directors
of the San Diego Metropolitan Transit System
San Diego, California

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the San Diego Metropolitan Transit System (MTS), as of and for the year ended June 30, 2006, which collectively comprise MTS' basic financial statements as listed in the table of contents. These financial statements are the responsibility of MTS' management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards in the United States and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the basic financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of MTS as of June 30, 2006, and the respective changes in financial position and cash flows, where applicable, thereof for the year then ended in conformity with generally accepted accounting principles in the United States.

In accordance with *Government Auditing Standards,* we have also issued our report dated November 30, 2006, on our consideration of MTS' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

As described in Note 1 to the basic financial statements, MTS adopted the Governmental Accounting Standards Board Statements No. 44, *Economic Condition Reporting: the Statistical Section (an amendment of NCGA Statement 1),* No. 46, *Net Assets Restricted by Enabling Legislation (an amendment of GASB Statement No. 34),* and No. 47, *Accounting for Termination Benefits.*

The accompanying Required Supplementary Information, such as Management's Discussion and Analysis, Budgetary Information and Schedule of Funding Progress of Defined Pension Plans, as listed in the table of contents is not a required part of the basic financial statements but is supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the Required Supplementary Information. However, we did not audit the information and express no opinion on it.

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San Diego
4858 Mercury, Suite 106
San Diego, California 92111

To the Board of Directors
of the San Diego Metropolitan Transit System
San Diego, California

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise MTS' basic financial statements. The accompanying Supplementary Information is presented for purpose of additional analysis and is not a required part of the basic financial statements. The Supplementary Information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole. The Introductory and Statistical Sections have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on them.

Caporicci & Larson

San Diego, California
November 30, 2006

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Management's Discussion and Analysis

June 30, 2006

The following discussion and analysis of the financial performance of the San Diego Metropolitan Transit System (MTS) is intended to provide an overview of MTS' financial activities for the fiscal year ended June 30, 2006. This information should be used in conjunction with the Letter of Transmittal, which can be found on pages 1 through 6 of this report.

Financial Highlights

- Net assets, as reported in the statement of net assets, totaled $1,248 million as of June 30, 2006. Of this amount, $2.1 million is unrestricted. Total net assets decreased by $17.4 million.
- As of June 30, 2006, MTS' governmental funds reported combined ending fund balances of $182.5 million, a decrease of $5.3 million in comparison with an increase of $9.6 million the prior year. Of this amount, $4.1 million is unreserved.
- For the year ended June 30, 2006, the combined farebox recovery ratio (the measure of the ability to recover operating costs through fare revenue) for San Diego Trolley, Inc., San Diego Transit Corporation, and MTS Contracted Services was 37.0%, compared to 35.5% for the previous year. A number of factors have brought about this increase, principally increased ridership and lower operating costs at San Diego Transit Corporation.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to MTS' financial statements. MTS' financial statements comprise three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to financial statements. This report also contains other supplementary information in addition to the financial statements themselves.

Government-wide financial statements. The government-wide financial statements are designed to provide readers with a broad overview of MTS' finances, in a manner similar to a private-sector business.

The statement of net assets presents information on all of MTS' assets and liabilities, with the difference between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of MTS is improving or deteriorating.

The statement of activities presents information showing how the government's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., earned but unused vacation leave).

Both of the government-wide financial statements distinguish functions of MTS that are principally supported by grant revenue and subsidies *(governmental activities)* from other functions that are intended to recover all or a significant portion of their costs through user fees and charges *(business-type activities)*. The governmental activities of MTS include general government and transit operations funding. The business-type activities of MTS include transit services that are operated on a contracted basis with third parties and the taxicab regulatory function. In addition, the government-wide financial statements include not only MTS itself *(known as the primary government),* but also two legally separate transit operators and one legally separate freight railway, for which MTS is financially accountable: San Diego and Arizona Eastern Railway Company (SD&AE).

Fund financial statements. A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. MTS uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. All of the funds of MTS can be divided into two categories: governmental funds and proprietary funds.

Governmental funds. Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on *near-term inflows and outflows* of spendable resources, as well as on *balances of spendable resources available* at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for *governmental funds* with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between *governmental funds* and *governmental activities.*

MTS maintains five individual governmental funds. Information is presented separately in the governmental fund balance sheet and in the governmental fund statement of revenues, expenditures, and changes in fund balances for the General Fund, the Subsidy Pass-Through Special Revenue Fund, the TransNet Special Revenue Fund, the Capital Projects Fund, and the Debt Service Fund, all of which are considered to be major funds.

MTS adopts an annual appropriated budget for the General Fund, the Special Revenue Funds, and the Capital Projects Fund. A budgetary comparison statement has been provided for the General Fund and major Special Revenue Funds to demonstrate compliance with the budget.

Proprietary funds. *Enterprise funds* (a proprietary fund type) are used to report the same functions presented as *business-type activities* in the government-wide financial statements. MTS uses enterprise funds to account for its Taxicab Administration and Other Contracted Services, as well as SDTI, SDTC, and SD&AE

Proprietary funds provide the same type of information as the government-wide financial statements, only in more detail. The proprietary fund financial statements provide separate information for SDTI, SDTC, and Other Contracted Services, a major fund of MTS. Taxicab Administration and SD&AE are reported together as nonmajor proprietary funds of MTS. In addition, MTS prepares individual financial statements for SDTI and SDTC.

Notes to basic financial statements. The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

Other information. In addition to the financial statements and accompanying notes, this report also presents certain required supplementary information concerning MTS' progress in funding its obligation to provide pension benefits to its employees.

Government-Wide Financial Analysis

As noted earlier, net assets may serve over time as a useful indicator of a government's financial position. In the case of MTS, assets exceeded liabilities by $1,248 million at the close of the most recent fiscal year.

The largest portion of MTS' net assets reflects the investment in capital assets, net of related debt. Most of the investment in capital assets is comprised of trolley system assets, buses, and construction-in-progress totaling $119.5 million, of which the largest projects currently under construction are the Automated Fare Collection System and the San Ysidro Intermodal Transit Center (currently $31.2 million and $27.5 million respectively). The capital assets that are represented by the construction-in-progress will be used to provide services to citizens; consequently, these assets

are *not* available for future spending. In FY 2006 MTS transferred completed projects worth $483 million to SDTC, SDTI and Other Contracted Services Fund.

MTS has recorded prior period adjustments totaling $27,461,021 to properly state unearned revenue in Capital Projects and Debt Service Funds, and to properly state TransNet revenue in the TransNet Fund (see Note 15). SDTC has recorded a prior period adjustment totaling $704,362 to properly state the liability for compensated absences (see Note 15). All comparative schedules will be presented as restated by the prior period adjustment.

	Governmental Activities June 30, 2006	Governmental Activities (restated) June 30, 2005	Change
Current and other assets	$ 198,054,162	$ 257,977,676	$ (59,923,514)
Capital assets	154,290,529	615,618,669	(461,328,140)
Total assets	352,344,691	873,596,345	(521,251,654)
Long-term liabilities outstanding	173,812,181	220,449,815	(46,637,634)
Other liabilities	30,704,556	47,363,292	(16,658,736)
Total liabilities	204,516,737	267,813,107	(63,296,370)
Net assets (deficit):			
Invested in capital assets, net of related debt	111,959,506	420,667,651	(308,708,145)
Unrestricted	35,868,448	185,115,587	(149,247,139)
Total net assets	$ 147,827,954	$ 605,783,238	$ (457,955,284)

	Business-Type Activities June 30, 2006	Business-Type Activities (restated) June 30, 2005	Change
Current and other assets	$ 87,280,767	$ 94,064,838	$ (6,784,071)
Capital assets	1,134,242,639	695,486,022	438,756,617
Total assets	1,221,523,406	789,550,860	431,972,546
Long-term liabilities outstanding	95,630,429	97,828,047	(2,197,618)
Other liabilities	25,411,482	31,799,826	(6,388,344)
Total liabilities	121,041,911	129,627,873	(8,585,962)
Net assets (deficit):			
Invested in capital assets, net of related debt	1,134,242,639	695,486,022	438,756,617
Unrestricted	(33,761,144)	(35,563,034)	1,801,890
Total net assets	$ 1,100,481,495	$ 659,922,988	$ 440,558,507

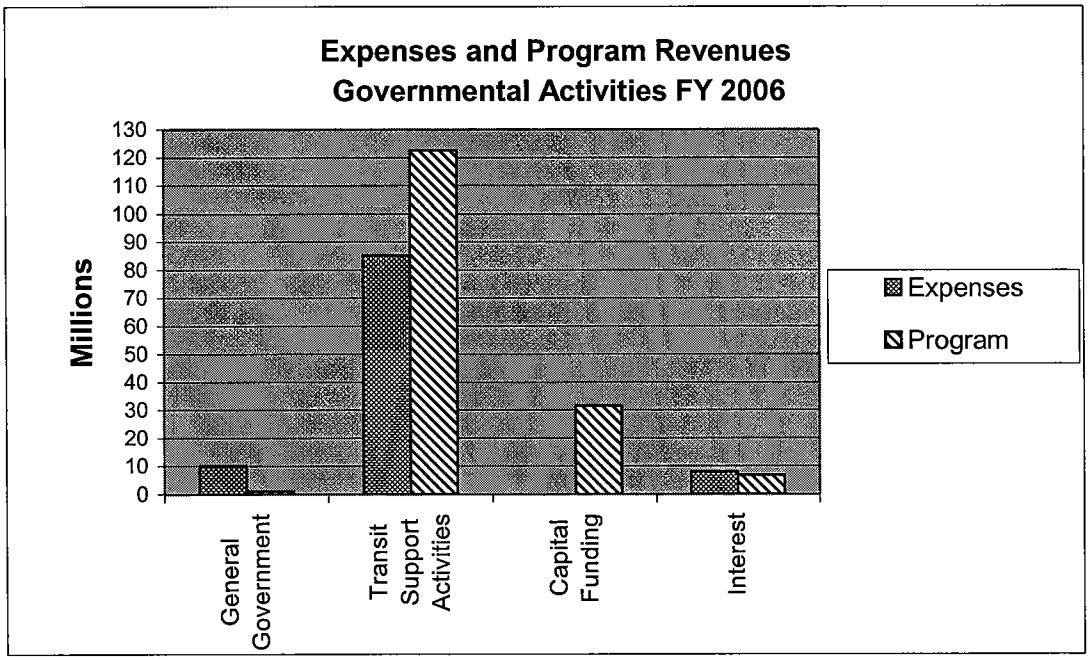
Governmental Activities. Governmental activities decreased MTS' net assets by $458 million. Key elements of this decrease are as follows:

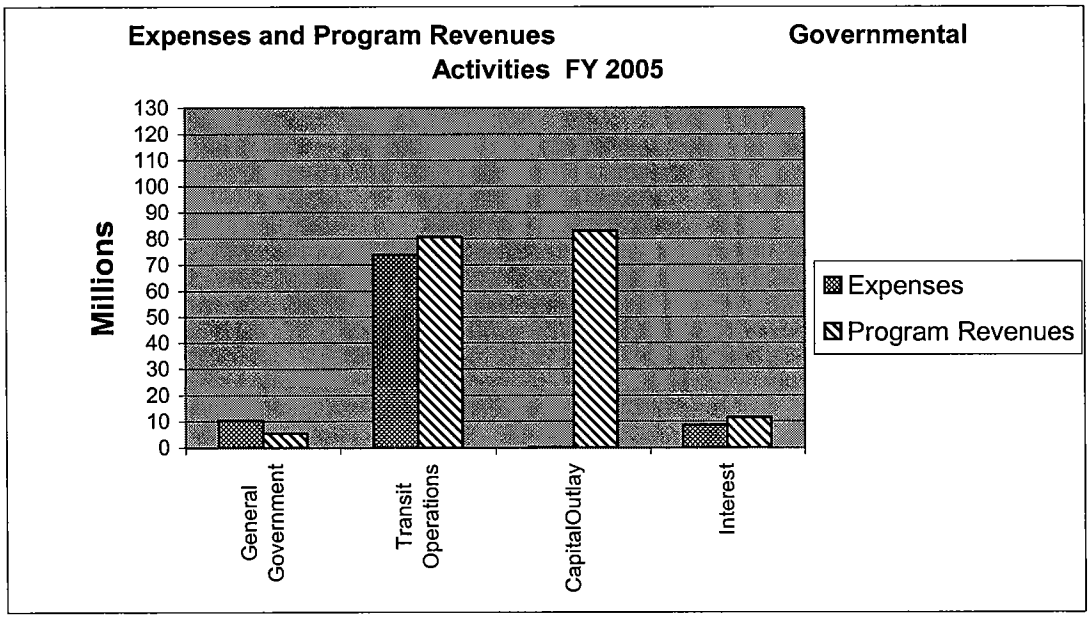
	2006 Governmental Activities	2005 Governmental Activities	Change
Revenues:			
Program revenues:			
Operating grants and contributions	$ 124,018,111	$ 86,270,079	$ 37,748,032
Capital grants and contributions	31,727,904	55,623,439	(23,895,535)
General revenues:			
Interest income	6,966,330	11,638,987	(4,672,657)
Indirect cost recovery	1,685,026	2,827,481	(1,142,455)
Total revenues	164,397,371	156,359,986	8,037,385
Expenses:			
General government	10,144,463	10,429,104	(284,641)
Transit operations funding	85,352,004	73,905,584	11,446,420
Transit capital funding	-	261,775	(261,775)
Misc office/other expense	34,502	-	34,502
Interest on long-term debt	8,136,111	8,669,729	(533,618)
Total expenses	103,667,080	93,266,192	10,400,888
Increase (decrease) in net assets before capital contributions and transfers	60,730,291	63,093,794	(2,363,503)
Capital contributions - SANDAG	895,826	946,278	(50,452)
Capital contributions - MTS	(483,169,381)	(21,679,153)	(461,490,228)
Transfers	(36,412,020)	(626,720)	(35,785,300)
Increase (decrease) in net assets	(457,955,284)	41,734,199	(499,689,483)
Net assets – Beginning of year as restated	605,783,238	564,049,039	41,734,199
Net assets – End of year	$ 147,827,954	$ 605,783,238	$ (457,955,284)

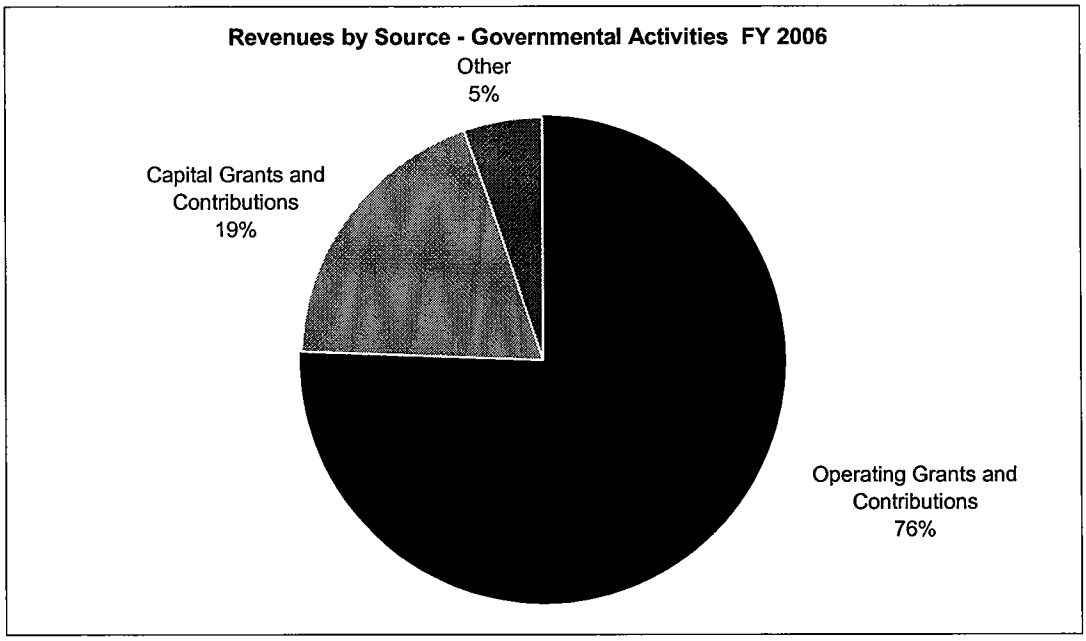
Capital and operating grants and contributions continue to be a major portion of the revenue used to fund transit operations and capital projects. Variances between FY 2006 and FY 2005 governmental activities are largely attributable to the $483 million contribution of completed capital projects to SDTC, SDTI and Other Contracted Services. The largest portion of this contribution, $481 million, consisted of the completed Mission Valley East project contributed to San Diego Trolley. In addition, there was a decrease in the current year subsidy for capital projects.

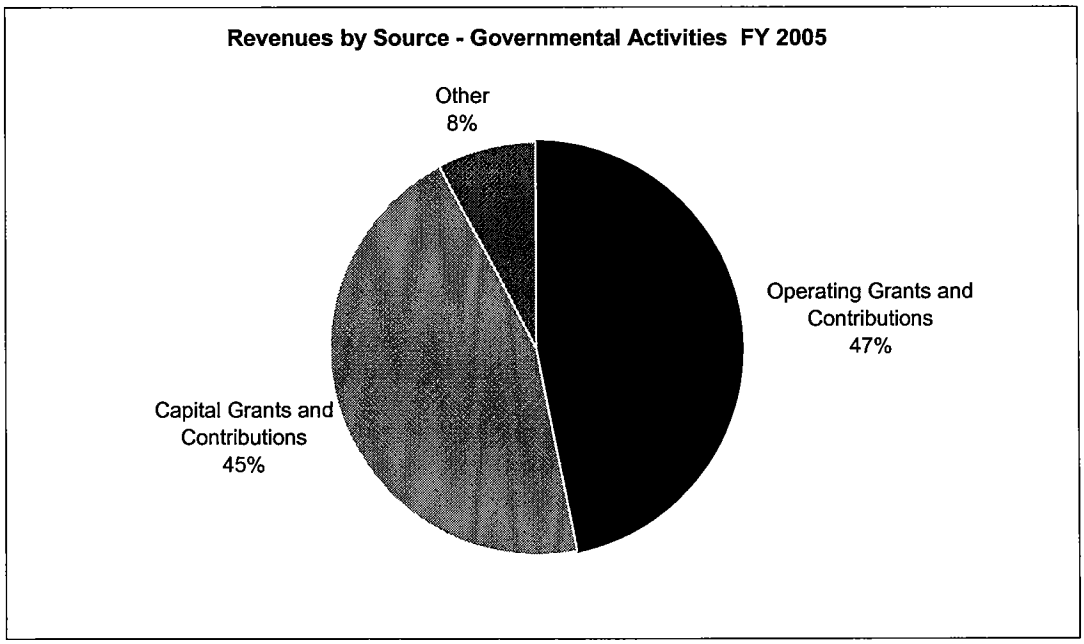
Variances between FY 2006 and 2005 business-type activities are due primarily to capital assets totaling $505 million contributed by MTS, SANDAG and others.

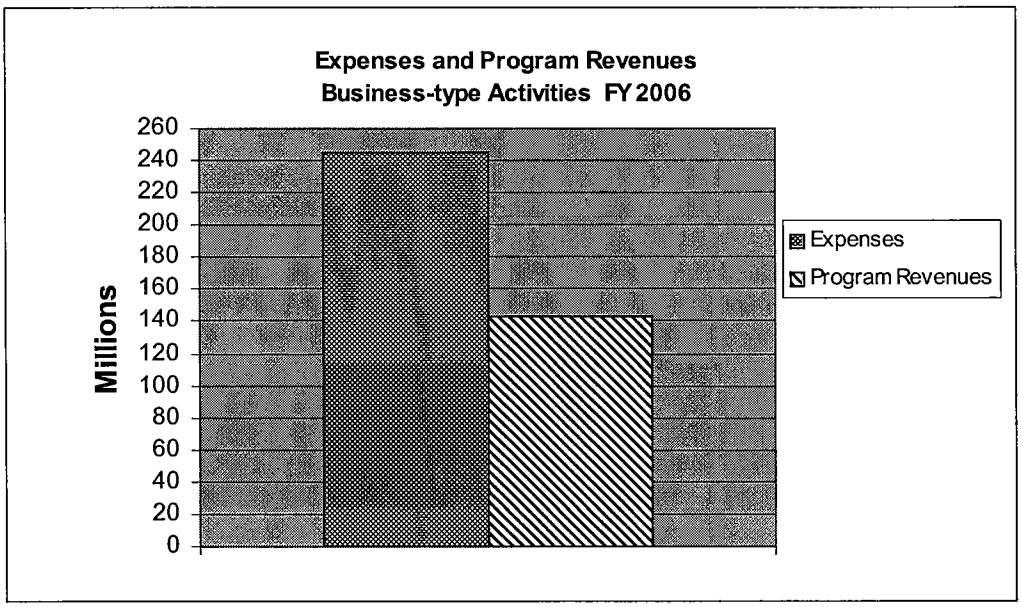
	2006	2005	
	Business-Type Activities	Business-Type Activities, as restated	Change
Revenues:			
Program revenues:			
Charges for services	$ 70,183,914	$ 66,055,549	$ 4,128,365
Operating grants and contributions	73,349,516	101,128,154	(27,778,638)
Total revenues	143,533,430	167,183,703	(23,650,273)
Expenses:			
Transportation	244,673,515	224,969,714	19,703,801
Total expenses	244,673,515	224,969,714	19,703,801
Increase (decrease) in net assets before capital contributions and transfers	(101,140,085)	(57,786,011)	(43,354,074)
Capital contributions-other	22,117,191	29,061,061	(6,943,870)
Capital contributions-MTS	483,169,381	21,679,153	461,490,228
Transfers	36,412,020	626,720	35,785,300
Increase in net assets	440,558,507	(6,419,077)	446,977,584
Net assets – beginning of year as restated	659,922,988	666,342,065	(6,419,077)
Net assets – end of year	$1,100,481,495	$ 659,922,988	$ 440,558,507

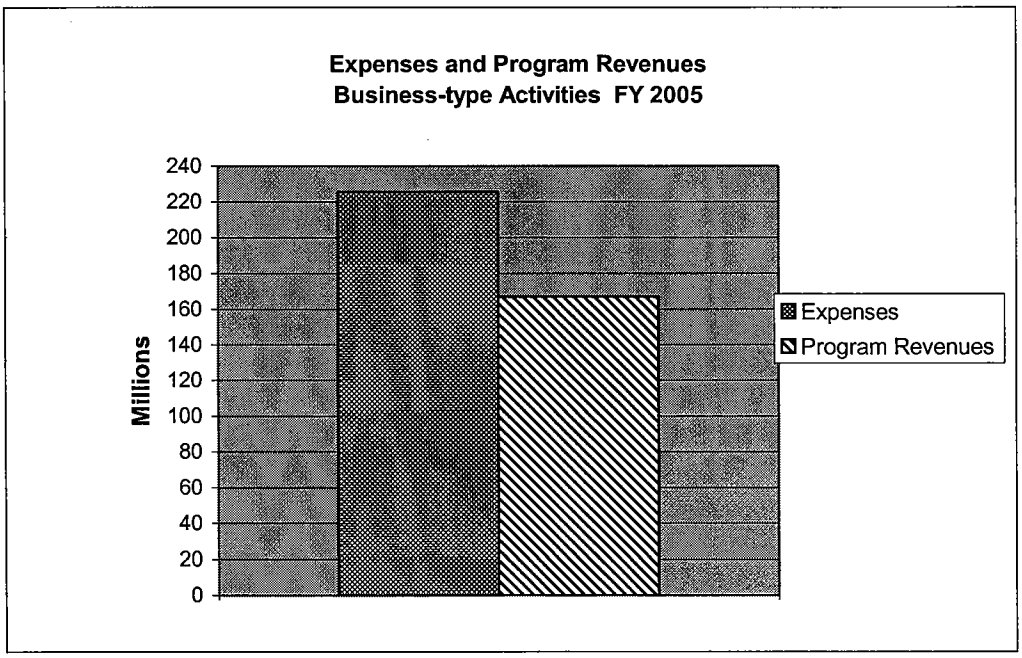

Expenses and Program Revenues
Governmental Activities FY 2006
Millions
130
120
110
100
90
80
70
60
50
40
30
20
10
0
General Government
Transit Support Activities
Capital Funding
Interest
Expenses
Program

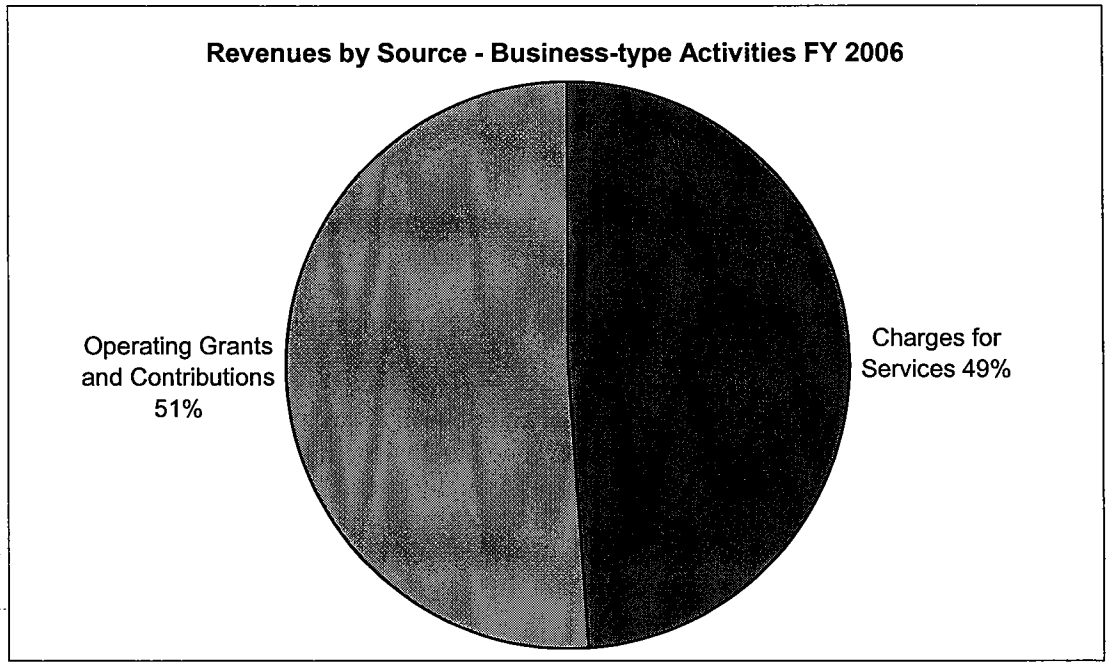

Expenses and Program Revenues Governmental Activities FY 2005
Millions
130
120
110
100
90
80
70
60
50
40
30
20
10
0
General Government
Transit Operations
CapitalOutlay
Interest
Expenses
Program Revenues

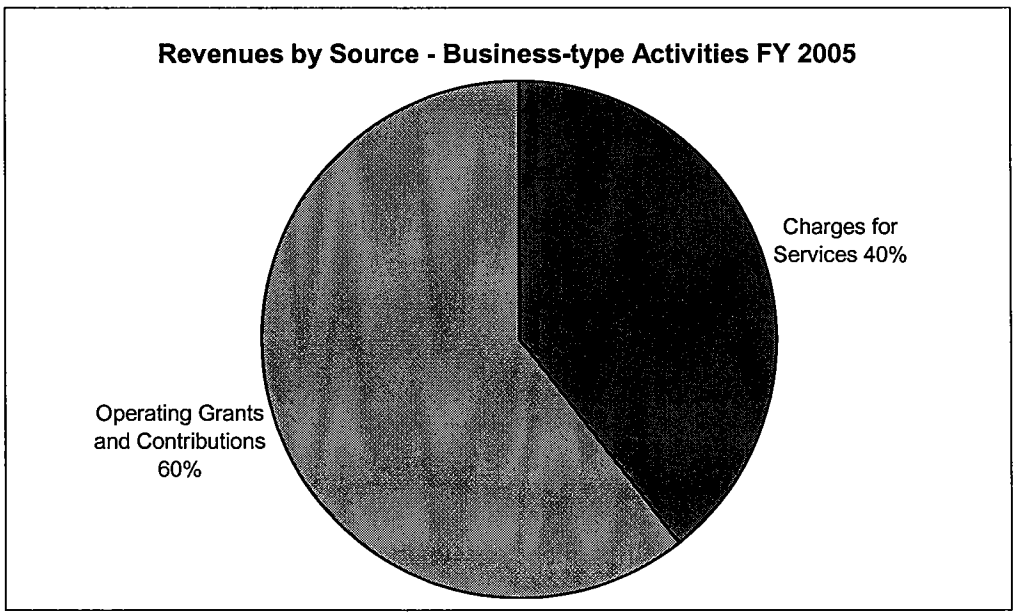

Revenues by Source - Governmental Activities FY 2006
Other
5%
Capital Grants and
Contributions
19%
Operating Grants and
Contributions
76%


Revenues by Source - Governmental Activities FY 2005
Other
8%
Operating Grants and
Contributions
47%
Capital Grants and
Contributions
45%


Expenses and Program Revenues
Business-type Activities FY 2006
Millions
260
240
220
200
180
160
140
120
100
80
60
40
20
0
Expenses
Program Revenues


Expenses and Program Revenues
Business-type Activities FY 2005
Millions
240
220
200
180
160
140
120
100
80
60
40
20
0
Expenses
Program Revenues


Revenues by Source - Business-type Activities FY 2006
Operating Grants and Contributions 51%
Charges for Services 49%


Revenues by Source - Business-type Activities FY 2005
Charges for Services 40%
Operating Grants and Contributions 60%

Financial Analysis of the Government's Funds

As noted earlier, MTS uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental funds. The focus of MTS' *governmental funds* is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing MTS' financing requirements. In particular, *unreserved fund balance* may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year. As of the end of the current fiscal year, MTS' governmental funds reported combined ending fund balances of $182.5 million, a decrease of 2.8% in comparison with the prior year, due largely to the timing of capital project expenses and funding.

The General Fund is the chief operating fund of MTS. At the end of each fiscal year, MTS transfers any excess funds in the General Fund to the Subsidy Pass-Through Special Revenue Fund where it is deposited in the MTS Contingency Reserve (part of unreserved fund balance of the Subsidy Pass-Through Special Revenue Fund). Therefore, at the end of the current year, there was no undesignated unreserved fund balance in the General Fund. Revenues were $1.9 million favorable to budget due to unbudgeted indirect cost recovery. Expenditures were $1.0 million unfavorable to budget largely due to higher than planned pension costs.

The fund balance of MTS' General Fund increased by $670,000.

The Subsidy Pass-Through Fund is a special revenue fund used to account for the subsidy funds collected on behalf of and passed through to component units. It is also used to account for the fund balance reserves maintained for capital replacement and other purposes. The Subsidy Pass-Through Fund has a total fund balance of $21.1 million of which $10,000 is considered reserved because of third-party legal restrictions. The remainder $21.1 million is unreserved, of which $4.3 million is designated by the MTS Board for specific uses. The net increase in the fund balance during the current year was $3.9 million, which has increased the contingency reserve. The funds were used during the current year for operating purposes and for the local match to federal capital grants.

The TransNet Fund is a special revenue fund used to account for the funds received pursuant to the one-half cent local sales tax increase resulting from the passage of Proposition A by area voters in 1987. The TransNet Fund has a total fund balance of $19.7 million, all of which is considered unreserved, designated. The net increase in the fund balance during the current year was $22.7 million.

The Capital Projects Fund is used to account for all the capital projects undertaken by MTS. The Capital Projects Fund has a total negative fund balance of $37.7 million. The net decrease in the fund balance during the current year was $27.9 million, attributable to refunding of TransNet funds advanced from SANDAG in prior years and the timing of expenditures and grant receipts.

The Debt Service Fund is used to account for all the debt service incurred by MTS. The ending fund balance was $178.4 million, all of which is restricted for debt service purposes and is therefore considered reserved. The net decrease in the fund balance during the current year was $4.6 million as a result of scheduled debt service payments partially offset by interest income earned on invested funds.

Proprietary funds. MTS' proprietary funds provide the same type of information found in the government-wide financial statements, but in more detail.

The net assets balance of the Other Contracted Services Fund is $34.6 million, most of which is invested in capital assets. The remainder $182,000 is unrestricted. The total decrease in net assets for Other Contracted Services is approximately $2.8 million attributable to $6.2 million depreciation expense for the current year partially offset by receipt of $3.7 million in contributed capital assets.

The net assets balance in SDTI is $1,024 million, $1,031 million of which is invested in capital assets and the remaining $(6.4) million deficit is unrestricted. The total increase in net assets for 2006 is approximately $450.7 million, attributable to receipt of $501 million in contributed capital assets partially offset by depreciation expense totaling $50 million in the current year.

The net assets balance in SDTC is $40.7 million, $68.6 million of which is invested in capital assets and the remaining $(27.9) million deficit is unrestricted. The total reduction in net assets for 2006 is approximately $7.3 million due to current year depreciation expense totaling $8.4 million partially offset by receipt of $704,000 in contributed capital assets and a $704,000 prior period adjustment.

The net assets balance in non-major funds is $904,000, $487,000 of which is invested in capital assets and the remaining $417,000 is unrestricted. The total increase in net assets for 2006 is $3,000.

General Fund Budgetary Highlights

Differences between the General Fund original budget and the final amended budget were $646,000 increase in appropriations, summarized as follows:

- $568,000 decrease in the credit for allocated overhead
- $169,000 increase in outside services
- $65,000 increase in other general administrative expense, partially offset by:
- $156,000 decrease in personnel expense

In addition, the final amended budget included a $65,000 increase in other income.

Capital Asset and Debt Administration

Capital assets. MTS' investment in capital assets for its governmental and business-type activities as of June 30, 2006 amounts to $1,289 million (net of accumulated depreciation). This investment in capital assets includes land, buildings, vehicles, equipment, and construction-in-progress. MTS' investment in capital assets for governmental activities decreased by 76% in the current year, attributable to contribution of completed Mission Valley East project to San Diego Trolley.

Major capital asset events during the current fiscal year included the following:

- The Mission Valley East project was substantially completed and $481 million was contributed to San Diego Trolley.
- Construction continued on the 12th Avenue improvements with $400,000 expended in the current fiscal year, bringing the total construction-in-progress for these projects to $10.2 million.
- Construction continued on the San Ysidro Intermodal Transportation Center with $1.2 million expended in the current fiscal year, bringing the total construction-in-progress for this project to $26 million.

- Completed capital projects totaling $20.3 million were transferred from SANDAG to MTS and its component units during FY 2006.

CAPITAL ASSETS
(Net of depreciation)

	2006		
	Governmental Activities	Business-Type Activities	Total
Land	$ 21,957,196	$ 167,054,480	$ 189,011,676
Buildings	10,137,914	788,134,138	798,272,052
Vehicles	16,938	175,157,913	175,174,851
Equip & other	2,703,323	3,896,108	6,599,431
Construction-in-progress	119,475,158	-	119,475,158
Total	$ 154,290,529	$ 1,134,242,639	$ 1,288,533,168

	2005		
	Governmental Activities	Business-Type Activities	Total
Land	$ 21,957,196	$ 167,054,480	$ 189,011,676
Buildings	7,023,910	332,264,054	339,287,964
Vehicles	44,028	190,952,732	190,996,760
Equipment	3,247,684	5,214,756	8,462,440
Construction-in-progress	583,345,851	-	583,345,851
Total	$ 615,618,669	$ 695,486,022	$ 1,311,104,691

Additional information on MTS' capital assets can be found in Note 5 to the financial statements.

Long-term debt. At the end of the current fiscal year, MTS has two capital lease obligations outstanding in the amounts of $8.5 million and $320,000. In addition, MTS has five finance obligations outstanding relating to one sale/leaseback transaction entered into in 1990, one lease/leaseback transaction entered into in 1995, certificates of participation issued in fiscal years 2003 and 2004, and Pension Obligation Bonds issued in fiscal year 2005, for a total obligation of $247.5 million. In connection with the lease/leaseback transactions, MTS placed funds on deposit, which, together with the interest earned on the deposits, will be sufficient to cover the amounts due under the finance obligations. The certificates of participation were issued in fiscal 2003 for $17.8 million to finance a regional transit management system to provide intelligent transportation system and radio communication services; and in fiscal 2004 for $32.9 million to finance the regional automated fare collection system project. The pension obligation bonds were issued in fiscal 2005 for $77.5 million to make a contribution to the SDTC retirement plan and reduce its unfunded liability.

Bond Ratings

Moody's Investor's service provided an intrinsic rating for the Regional Transit Management System certificates of participation at Aaa in 2002, for the Automated Fare Collection certificates of participation at Aaa in 2003, and for the

Pension Obligation Bonds at Aaa in 2004. Additional information on MTS' long-term debt can be found in Note 8 to the financial statements.

Requests for Information

This financial report is designed to provide a general overview of MTS' finances for all those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Chief Financial Officer, MTS, 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101.

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BASIC FINANCIAL STATEMENTS

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GOVERNMENT-WIDE FINANCIAL STATEMENTS

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Statement of Net Assets

June 30, 2006

Assets	Primary Government		
	Governmental Activities	Business - Type Activities	Total
Current assets:			
Cash and cash equivalents	$ 782,337	$ 6,924,826	$ 7,707,163
Investments	475,798	-	475,798
Accounts and other receivables	733,408	5,682,153	6,415,561
Accounts receivable from other governments	38,785,089	2,494,352	41,279,441
Internal balances	3,517,807	(3,517,807)	-
Materials and supplies inventory	-	6,830,241	6,830,241
Prepaid items and other assets	2,486,873	111,358	2,598,231
Total current assets	46,781,312	18,525,123	65,306,435
Restricted assets:			
Cash and certificates of deposit restricted for capital support	6,187,781	-	6,187,781
Investments restricted for debt service	144,519,137	-	144,519,137
Total restricted assets	150,706,918	-	150,706,918
Noncurrent assets:			
Bond issuance costs, net of accumulated amortization	565,932	1,120,006	1,685,938
Capital assets, net of accumulated depreciation	154,290,529	1,134,242,639	1,288,533,168
Net pension asset	-	67,635,638	67,635,638
Total noncurrent assets	154,856,461	1,202,998,283	1,357,854,744
Total assets	352,344,691	1,221,523,406	1,573,868,097

See accompanying notes to basic financial statements.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Statement of Net Assets (Continued)
June 30, 2006

	Primary Government		
Liabilities	**Governmental Activities**	**Business-Type Activities**	**Total**
Current liabilities:			
Accounts payable	2,986,801	8,427,452	11,414,253
Accrued expenses	303,008	5,188,676	5,491,684
Compensated absences payable, due within one year	299,484	6,486,995	6,786,479
Retentions payable	117,673	10,000	127,673
Long-term debt, due within one year	21,502,476	1,455,000	22,957,476
Accrued damage, injury, and employee claims, due within one year	202,000	2,736,197	2,938,197
Unearned revenue	5,293,114	1,107,162	6,400,276
Total current liabilities	30,704,556	25,411,482	56,116,038
Liabilities payable from restricted assets:			
Retentions payable	6,187,781	-	6,187,781
Long-term debt	144,519,137	-	144,519,137
Total liabilities payable from restricted assets	150,706,918	-	150,706,918
Noncurrent liabilities:			
Compensated absences payable, due in more than one year	337,716	4,882,626	5,220,342
Accrued damage, injury, and employee claims, due in more than one year	8,074,503	16,127,803	- 24,202,306
Long-term debt, due in more than one year	14,693,044	74,620,000	89,313,044
Total noncurrent liabilities	23,105,263	95,630,429	118,735,692
Total liabilities	204,516,737	121,041,911	325,558,648
Net Assets			
Invested in capital assets, net of related debt	111,959,506	1,134,242,639	1,246,202,145
Unrestricted (deficit)	35,868,448	(33,761,144)	2,107,304
Total net assets	$ 147,827,954	$1,100,481,495	$1,248,309,449

See accompanying notes to basic financial statements. 29

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Statement of Activities

Year Ended June 30, 2006

Functions/Programs	Expenses	Program Revenues: Charges for Services	Program Revenues: Operating Grants and Contributions	Program Revenues: Capital Grants and Contributions	Net (Expense) Revenue and Changes in Net Assets: Primary Government: Governmental Activities	Net (Expense) Revenue and Changes in Net Assets: Primary Government: Business-Type Activities	Net (Expense) Revenue and Changes in Net Assets: Primary Government: Total
Primary government:							
Governmental activities:							
General government	$ 10,144,463	$ -	$ 1,182,150	$ -	$ (8,962,313)	$ -	$ (8,962,313)
Transit operations funding	85,352,004	-	122,835,961	-	37,483,957	-	37,483,957
Transit capital funding	-	-	-	31,727,904	31,727,904	-	31,727,904
Misc office/other expense	34,502	-	-	-	(34,502)	-	(34,502)
Interest on long-term debt	8,136,111	-	-	-	(8,136,111)	-	(8,136,111)
Total governmental activities	103,667,080	-	124,018,111	31,727,904	52,078,935	-	52,078,935
Business-type activities:							
Other Contracted Services	60,542,066	17,382,224	248,150	-	-	(42,911,692)	(42,911,692)
San Diego Transit	78,085,401	23,146,993	46,945,114	-	-	(7,993,294)	(7,993,294)
San Diego Trolley	105,069,741	28,675,661	26,156,252	-	-	(50,237,828)	(50,237,828)
Other proprietary funds	976,307	979,036	-	-	-	2,729	2,729
Total business-type activities	244,673,515	70,183,914	73,349,516	-	-	(101,140,085)	(101,140,085)
Total primary government	$ 348,340,595	$ 70,183,914	$ 197,367,627	$ 31,727,904	52,078,935	(101,140,085)	(49,061,150)
General revenues:							
Interest income					6,966,330	-	6,966,330
Indirect cost recovery					1,685,026	-	1,685,026
Capital contributions - other					895,826	22,117,191	23,013,017
Transfers of capital assets - MTS					(483,169,381)	483,169,381	-
Transfers					(36,412,020)	36,412,020	-
Total general revenues, capital contributions, and transfers					(510,034,219)	541,698,592	31,664,373
Change in net assets					(457,955,284)	440,558,507	(17,396,777)
Net assets, beginning of year as restated (see Note 15)					605,783,238	659,922,988	1,265,706,226
Net assets, end of year					$ 147,827,954	$1,100,481,495	$1,248,309,449

See accompanying notes to basic financial statements.

FUND FINANCIAL STATEMENTS

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GOVERNMENTAL FUND FINANCIAL STATEMENTS

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Balance Sheet and Reconciliation of the Governmental Funds Balance Sheet to the Government-Wide Statement of Net Assets

Governmental Funds

June 30, 2006

	Major Funds					
Assets	**General Fund**	**Subsidy Pass-Through Fund**	**TransNet Fund**	**Capital Projects Fund**	**Debt Service Fund**	**Total Governmental Funds**
Cash and cash equivalents	$ 382,932	$ 399,405	$ -	$ -	$ -	$ 782,337
Investments	35	-	475,763	-	-	475,798
Cash and certificates of deposit restricted for capital support	-	-	-	6,187,781	-	6,187,781
Accounts and other receivables	646,494	41,104	901	1,345	43,563	733,407
Accounts receivable from other governments	59,916	29,313,673	-	9,411,500	-	38,785,089
Due from other funds	12,182,831	2,300,138	21,252,143	-	34,066,335	69,801,447
Prepaid items and other assets	2,387,183	-	-	-	-	2,387,183
Investments restricted for debt service	-	-	-	-	144,519,137	144,519,137
Total assets	$ 15,659,391	$ 32,054,320	$ 21,728,807	$ 15,600,626	$ 178,629,035	$ 263,672,179

See accompanying notes to basic financial statements.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Balance Sheet and Reconciliation of the Governmental Funds Balance Sheet to the Government-Wide Statement of Net Assets

Governmental Funds

June 30, 2006

Liabilities and fund balances	Major Funds: General Fund	Subsidy Pass-Through Fund	TransNet Fund	Capital Projects Fund	Debt Service Fund	Total Governmental Funds
Liabilities						
Accounts payable	$ 1,674,471	$ 34	$ -	$ 1,312,296	$ -	$ 2,986,801
Accrued liabilities	303,007	-	-	-	-	303,007
Retentions payable	-	-	-	6,305,454	-	6,305,454
Due to other funds	12,500,014	10,969,702	-	42,813,924	-	66,283,640
Deferred revenue	191,352	-	2,041,952	2,836,725	223,085	5,293,114
Total liabilities	14,668,844	10,969,736	2,041,952	53,268,399	223,085	81,172,016
Fund balances:						
Reserved for:						
Debt service	-		-	-	178,405,950	178,405,950
Taxicab Administration	-	10,899	-	-	-	10,899
Unreserved:						
Designated in General Fund	990,547	-	-	-	-	990,547
Designated in Special Revenue Funds	-	4,257,689	19,686,855	-	-	23,944,544
Undesignated in Special Revenue Funds	-	16,815,996	-	-	-	16,815,996
Undesignated in Capital Projects Fund	-	-	-	(37,667,773)	-	(37,667,773)
Total fund balances	990,547	21,084,584	19,686,855	(37,667,773)	178,405,950	182,500,163
Total liabilities and fund balances	$ 15,659,391	$ 32,054,320	$ 21,728,807	$ 15,600,626	$ 178,629,035	$ 263,672,179

Reconciliation of the Governmental Funds Balance Sheet to the Government-Wide Statement of Net Assets

Fund balances - total governmental funds	$ 182,500,163
Amounts reported for governmental activities in the statement of net assets are different because:	
Capital assets used in governmental activities are not financial resources and therefore are not reported in the funds.	154,290,529
Other long-term assets are not available to pay for current period expenditures and therefore are deferred in the funds.	665,622
Long-term liabilities, including debt payable, are not due and payable in the current period and therefore are not reported in the funds	(189,628,360)
Net assets of governmental activities	$ 147,827,954

See accompanying notes to basic financial statements.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Statement of Revenues, Expenditures, and Changes in Fund Balances
Governmental Funds
Year Ended June 30, 2006

	General Fund	Subsidy Pass-Through Fund	TransNet Fund	Capital Projects Fund	Debt Service Fund	Total Governmental Funds
Revenues:						
Federal funds	$ -	$ 37,803,640	$ -	$ 11,466,427	$ -	$ 49,270,067
Local TDA funds	-	76,086,231	-	-	-	76,086,231
STA funds	-	6,572,986	-	-	-	6,572,986
State funds	-	287,447	-	562,122	-	849,569
TransNet Funds	-	-	19,674,588	-	-	19,674,588
Other local subsidies	-	2,085,657	-	10,652	-	2,096,309
Other funds	1,182,150	-	-	14,115	-	1,196,265
Interest income	4,613	744,422	17,351	-	6,199,944	6,966,330
Indirect cost recovery	1,685,026	-	-	-	-	1,685,026
Total revenues	2,871,789	123,580,383	19,691,939	12,053,316	6,199,944	164,397,371
Expenditures:						
Current:						
General government:						
Personnel	10,827,530	-	-	-	-	10,827,530
Outside services	2,533,966	-	-	-	-	2,533,966
Allocated overhead	(6,946,173)	-	-	-	-	(6,946,173)
Materials and supplies	11,056	-	-	-	-	11,056
Energy	62,347					62,347
Insurance	523,828	-	-	-	-	523,828
General and administrative	493,433		9,703	2,752	66,805	572,693
Vehicle/facility lease	180,424	-	-	-	-	180,424
Interest	221,813	-	-	-	-	221,813
Transit operations funding	-	85,352,004	-	-	-	85,352,004
Debt service:						
Principal	-	-	-	-	14,493,119	14,493,119
Interest	-	-	-	-	8,113,899	8,113,899
Capital outlay:						
LRT extensions	-	-	-	10,462,914	-	10,462,914
Major LRT capital improvements	-	-	-	1,647,386	-	1,647,386
Major Bus capital improvements	-	-	-	4,515,558	-	4,515,558
Operations capital	-	-	-	703,831	-	703,831
Total expenditures	7,908,224	85,352,004	9,703	17,332,441	22,673,823	133,276,195
Excess (deficiency) of revenues over (under) expenditures	(5,036,435)	38,228,379	19,682,236	(5,279,125)	(16,473,879)	31,121,176
Other financing sources (uses):						
Transfers in	6,552,291	19,674,588	22,665,277	-	11,908,908	60,801,064
Transfers out	(846,165)	(54,027,054)	(19,674,588)	(22,665,277)	-	(97,213,084)
Total other financing sources (uses)	5,706,126	(34,352,466)	2,990,689	(22,665,277)	11,908,908	(36,412,020)
Net change in fund balances	669,691	3,875,913	22,672,925	(27,944,402)	(4,564,971)	(5,290,844)
Fund balances, beginning of year as restated (see Note 15)	320,856	17,208,671	(2,986,070)	(9,723,371)	182,970,921	187,791,007
Fund balances, end of year	$ 990,547	$ 21,084,584	$ 19,686,855	$ (37,667,773)	$ 178,405,950	$ 182,500,163

See accompanying notes to basic financial statements.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Reconciliation of the Statement of Revenues,
Expenditures, and Changes in Governmental Funds Fund Balances
to the Government-Wide Statement of Activities
Year Ended June 30, 2006

Amounts reported for governmental activities in the statement of activities are different because:

Net change in fund balances-total governmental funds	$ (5,290,844)
Governmental funds report capital outlays as expenditures. However, in the statement of activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. This is the amount by which capital outlays exceeded depreciation in the current period.	16,095,036
Transfer of capital projects including Mission Valley East and other miscellaneous projects	(483,169,381)
The issuance of long-term debt (e.g., bonds, leases) provides current financial resources to governmental funds, while the repayment of the principal of long-term debt consumes the current financial resources of governmental funds. Neither transaction, however, has any effect on net assets. Also, governmental funds report the effect of issuance costs, premiums, discounts, and similar items when debt is first issued, whereas these amounts are deferred and amortized in the statement of activities. This amount is the net effect of these differences in the treatment of long-term debt and related items.	14,470,907
Some expenses reported in the statement of activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds.	(61,002)
Change in net assets of governmental activities	$ (457,955,284)

See accompanying notes to basic financial statements.

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PROPRIETARY FUND FINANCIAL STATEMENTS

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Statement of Net Assets
Proprietary Funds
June 30, 2006

Assets	Business-Type Activities — Major funds: Other Contracted Services	San Diego Transit Corporation	San Diego Trolley Incorporated	Non-major funds	Totals
Current assets:					
Cash and cash equivalents	$ -	$ 4,425,883	$ 2,474,083	$ 24,860	$ 6,924,826
Accounts and other receivables	65,736	4,544,622	1,071,795	-	5,682,153
Accounts receivable from other governments	2,494,352	-	-	-	2,494,352
Due from other funds	3,482,332	3,063,413	4,065,135	515,163	11,126,043
Materials and supplies inventory	-	2,152,630	4,677,611	-	6,830,241
Prepaid expenses and other current assets	-	49,614	2,657	59,087	111,358
Total current assets	6,042,420	14,236,162	12,291,281	599,110	33,168,973
Noncurrent assets:					
Capital assets (net of accumulated depreciation)	34,433,350	68,587,437	1,030,734,888	486,964	1,134,242,639
Unamortized bond issuance cost	-	1,120,006	-	-	1,120,006
Net pension asset	-	67,635,638	-	-	67,635,638
Total noncurrent assets	34,433,350	137,343,081	1,030,734,888	486,964	1,202,998,283
Total assets	40,475,770	151,579,243	1,043,026,169	1,086,074	1,236,167,256
Liabilities					
Current liabilities:					
Accounts payable	4,730,062	2,729,900	927,496	39,994	8,427,452
Accrued expenses	-	2,600,483	2,588,193	-	5,188,676
Retentions payable	10,000	-	-	-	10,000
Due to other funds	12,862	5,608,145	8,880,824	142,019	14,643,850
Compensated absences payable, due within one year	-	4,125,197	2,361,798	-	6,486,995
Accrued damage, injury, and employee claims due within one year	-	2,083,262	652,935	-	2,736,197
Long-term debt, due within one year	-	1,455,000	-	-	1,455,000
Unearned revenue	1,107,162	-	-	-	1,107,162
Total current liabilities	5,860,086	18,601,987	15,411,246	182,013	40,055,332
Noncurrent liabilities:					
Compensated absences payable, due in more than one year	-	4,882,626	-	-	4,882,626
Accrued damage, injury, and employee claims, due within one year	-	12,823,738	3,304,065	-	16,127,803
Long-term debt, due in more than one year	-	74,620,000	-	-	74,620,000
Total noncurrent liabilities	-	92,326,364	3,304,065	-	95,630,429
Total liabilities	5,860,086	110,928,351	18,715,311	182,013	135,685,761
Net Assets					
Invested in capital assets, net of related debt	34,433,350	68,587,437	1,030,734,888	486,964	1,134,242,639
Unrestricted	182,334	(27,936,545)	(6,424,030)	417,097	(33,761,144)
Total net assets	$ 34,615,684	$ 40,650,892	$1,024,310,858	$ 904,061	$1,100,481,495

See accompanying notes to basic financial statements.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Statement of Revenues, Expenses, and Changes in Fund Net Assets
Proprietary Funds
Year Ended June 30, 2006

	Business-Type Activities				
	Major funds				
	Other Contracted Services	San Diego Transit Corporation	San Diego Trolley Incorporated	Non-major funds	Totals
Operating revenues:					
Passenger revenue	$ 17,382,224	$ 22,263,739	$ 27,933,766	$ -	$ 67,579,729
Advertising	-	764,224	-	74,439	838,663
Charter	-	30,940	-	-	30,940
Misc operating revenue	-	88,090	741,895	904,597	1,734,582
Total operating revenues	17,382,224	23,146,993	28,675,661	979,036	70,183,914
Operating expenses:					
Personnel costs	591,160	48,594,596	29,055,215	-	78,240,971
Outside services	44,780,498	1,605,510	8,789,239	-	55,175,247
Allocated overhead	803,464	3,182,101	2,704,860	-	6,690,425
Materials and supplies	621,367	4,060,923	3,464,448	-	8,146,738
Energy	7,349,170	8,397,223	8,496,047	-	24,242,440
Risk management	67,487	2,214,674	2,272,079	-	4,554,240
General & administrative	125,596	192,380	232,711	934,440	1,485,127
Vehicle/facility leases	48,353	49,393	-	-	97,746
Amortization of net pension asset	-	1,415,000	-	-	1,415,000
Depreciation	6,154,971	8,373,601	50,055,142	41,867	64,625,581
Total operating expenses	60,542,066	78,085,401	105,069,741	976,307	244,673,515
Operating income (loss)	(43,159,842)	(54,938,408)	(76,394,080)	2,729	(174,489,601)
Public support and nonoperating revenues:					
Federal revenue	-	15,000,000	12,787,588	-	27,787,588
Transportation Development Act (TDA) funds	-	18,131,664	6,592,144	-	24,723,808
State Transit Assistance (STA) funds	-	5,283,210	823,132	-	6,106,342
State revenue - other	137,375	-	-	-	137,375
TransNet funds	-	13,104,889	6,000,000	-	19,104,889
Other local subsidies	455,476	278,001	-	-	733,477
Investment income	-	129,054	-	-	129,054
Interest expense	-	(3,385,151)	-	-	(3,385,151)
Debt service costs	-	(135,087)	-	-	(135,087)
Amortization of bond issuance costs	-	(52,365)	-	-	(52,365)
Gain/(loss) on disposal of assets	(344,701)	(1,409,101)	(46,612)	-	(1,800,414)
Total public support and nonoperating revenues	248,150	46,945,114	26,156,252	-	73,349,516
Income (loss) before transfers and capital contributions	(42,911,692)	(7,993,294)	(50,237,828)	2,729	(101,140,085)
Transfer of capital assets	3,693,951	704,024	500,888,597	-	505,286,572
Transfers in	36,412,020	-	-	-	36,412,020
Change in net assets	(2,805,721)	(7,289,270)	450,650,769	2,729	440,558,507
Net assets, beginning of year as restated (see Note 15)	37,421,405	47,940,162	573,660,089	901,332	659,922,988
Net assets, end of year	$ 34,615,684	$ 40,650,892	$ 1,024,310,858	$ 904,061	$ 1,100,481,495

See accompanying notes to basic financial statements.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Statement of Cash Flows
Proprietary Funds
Year Ended June 30, 2006

	Business-Type Activities				
	Major funds				
	Other Contracted Services	San Diego Transit Corporation	San Diego Trolley Incorporated	Non-major funds	Totals
Cash flows from operating activities:					
Receipts from customers and users	$ 18,494,721	$ 25,952,463	$ 28,633,352	$ 788,110	$ 73,868,646
Payments to suppliers	(54,908,432)	(20,485,825)	(23,570,853)	(788,225)	(99,753,335)
Payments to employees	(591,160)	(49,845,277)	(27,911,264)	-	(78,347,701)
Payments for damage, injury, and employee claims	-	(2,657,691)	(2,509,687)	-	(5,167,378)
Net cash (used) by operating activities	(37,004,871)	(47,036,330)	(25,358,452)	(115)	(109,399,768)
Cash flows from noncapital financing activities:					
Transfers in	36,412,020	-	-	-	36,412,020
Public support funds received	592,851	48,418,803	26,915,959	-	75,927,613
Net cash provided by noncapital financing activities	37,004,871	48,418,803	26,915,959	-	112,339,633
Cash flows from capital and related financing activities:					
Proceeds from sale of capital assets	-	40,404	-	-	40,404
Net cash provided by capital and related financing activities	-	40,404	-	-	40,404
Cash flows from investing activities:					
Interest received on investments	-	129,054	-	-	129,054
Net increase (decrease) in cash and cash equivalents	-	1,551,931	1,557,507	(115)	3,109,323
Cash and cash equivalents, beginning of year	-	2,873,952	916,576	24,975	3,815,503
Cash and cash equivalents, end of year	$ -	$ 4,425,883	$ 2,474,083	$ 24,860	$ 6,924,826
Operating income (loss)	$ (43,159,842)	$ (54,938,408)	$ (76,394,080)	$ 2,729	$ (174,489,601)
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:					
Depreciation	6,154,971	8,373,601	50,055,142	41,867	64,625,581
Prior period adjustment	-	704,362	-	-	704,362
(Increase) decrease in:					
Accounts and other receivables	1,549,332	2,805,470	(42,309)	(190,926)	4,121,567
Due from other funds	1,443,551	-	-	-	1,443,551
Materials and supplies inventory	-	22,066	324,009	-	346,075
Prepaid expenses	-	(8,394)	(2,657)	-	(11,051)
Increase (decrease) in:					
Accounts payable	(1,112,497)	(1,340,030)	936,704	(664)	(1,516,487)
Accrued expenses	-	(97,866)	(371,335)	-	(469,201)
Compensated absences payable	-	(967,131)	(818,433)	146,879	(1,638,685)
Accrued damage, injury, and employee claims	-	(1,590,000)	306,773	-	(1,283,227)
Deferred revenue	(1,880,386)	-	647,734	-	(1,232,652)
Total adjustments	6,154,971	7,902,078	51,035,628	(2,844)	65,089,833
Net cash provided (used) by operating activities	$ (37,004,871)	$ (47,036,330)	$ (25,358,452)	$ (115)	$ (109,399,768)

Supplemental noncash disclosures:
During the year $500,888,597, $704,024, and $3,693,951 in capital assets were contributed by MTS and SANDAG to SDTI, SDTC and Other Contracted Services, respectively.

See accompanying notes to basic financial statements.

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NOTES TO BASIC FINANCIAL STATEMENTS

(1) Summary of Significant Accounting Policies

The accompanying basic financial statements of the San Diego Metropolitan Transit System (MTS) have been prepared in conformity with generally accepted accounting principles in the United States (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant of MTS' accounting policies are described below.

(a) Reporting Entity

MTS (formerly San Diego Metropolitan Transit Development Board) was formed on January 26, 1976 by passage of California Senate Bill 101 to plan, construct, and operate (or let contracts to operate) exclusive public mass transit guideways in the urbanized south coastal area of San Diego County. MTS has certain responsibilities for near-term transportation planning and administration of federal and state transportation funds within the area under its jurisdiction. The board of directors of MTS consists of 15 members composed of four appointees from the San Diego City Council, one appointee from each City Council of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee, and one appointee from the San Diego County Board of Supervisors and a chairman elected by the other 14 members.

On January 1, 2003, Senate Bill 1703 (SB 1703) became effective. SB 1703 required the consolidation of the planning and programming functions of the MTS and the North San Diego County Transit Development Board (NCTD) into the San Diego Association of Governments (SANDAG) in an initial transfer to take place prior to July 1, 2003. SB 1703 also required the consolidation of the project development and construction functions of MTS and NCTD into SANDAG in a subsequent transfer to take place prior to January 30, 2004. The initial transfer occurred on July 1, 2003, and the subsequent transfer occurred on October 13, 2003. With these actions, employees were transferred from MTS and NCTD to SANDAG, and certain planning, development, and construction functions were also transferred. As a result, MTS' activities in the future will be focused on operating the public transit system in the metropolitan area. In addition to the consolidation required by SB 1703, MTS dissolved the board of directors of San Diego Transit Corporation (SDTC) and board of directors of San Diego Trolley, Inc. (SDTI). MTS now acts in that capacity for all three agencies, MTS, SDTC, and SDTI. Beginning in FY 2004, SDTC and SDTI are presented as blended component units.

As required by GAAP, these basic financial statements present MTS and its legally separate component units, entities for which MTS is considered to be financially accountable. GASB Statement No. 14, *The Financial Reporting Entity,* discusses the criteria used to determine the reporting status of the primary government's component units. Because MTS appoints a majority of the component units' boards of directors, the boards are substantively the same, and MTS is able to impose its will on the component units, MTS presents blended component units. Blended component units, although legally separate entities, are, in substance, part of MTS' operations.

Included within the reporting entity as blended component units:

San Diego Transit Corporation: On July 1, 1985, MTS purchased the assets used by and acquired sole ownership of San Diego Transit Corporation (SDTC) from the City of San Diego for $1. SDTC has entered into an operating agreement with MTS to operate a public transportation bus system in the City of San Diego and certain regional routes within MTS' jurisdictions. MTS' approval of the agreement extension is scheduled for December, 2006. SDTC continues to provide local service to a number of

adjoining cities under pre-existing contracts. Purchases or construction of bus capital items are made by MTS with whom title remains, and are contributed to SDTC upon completion of a project or when individually purchased by MTS. SDTC's assets, liabilities, net assets, revenues, and expenses are included in MTS' financial statements as a blended component unit. This agency has the same governing board as MTS and provides services directly to the public. Individual financial statements can be obtained from SDTC's administrative offices at 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101.

San Diego Trolley, Inc.: San Diego Trolley, Inc. (SDTI) was organized by MTS in August 1980. SDTI was created to operate and maintain the Light Rail Transit (LRT) system pursuant to an operating agreement with MTS. MTS' approval of the agreement extension is scheduled for December, 2006. Purchases or construction of LRT capital items are made by MTS with whom title remains, and are contributed to SDTI upon completion of a project or when individually purchased by MTS. SDTI's assets, liabilities, net assets, revenues, and expenses are included in MTS' financial statements as a blended component unit. This agency has the same governing board as MTS and provides services directly to the public. Individual financial statements can be obtained from SDTI's administrative offices at 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101.

San Diego and Arizona Eastern Railway Company: MTS purchased the San Diego and Arizona Eastern Railway Company (SD&AE) in 1979. SDTI operates on a portion of the line and a private operator provides freight service on a portion of the line. Purchases of capital items are made by MTS with whom title remains, and are contributed to SD&AE when purchased by MTS. SD&AE's assets, liabilities, net assets, revenues, and expenses are included in MTS' financial statements as a blended component unit. This agency has a separate governing board, which is appointed by MTS. Separate financial statements are not available.

(b) Government-Wide and Fund Financial Statements

The Government-Wide Financial Statements (i.e., the statement of net assets and the statement of activities) report information on all of the activities of the primary government and its component units. Interfund activity, except for transfers and interfund receivables and payables, has been removed from these statements. Governmental activities, which normally are supported by intergovernmental revenues, are reported separately from business-type activities which rely, to a significant extent, on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Other items not properly included among program revenues are reported instead as general revenues.

Separate financial statements are provided for governmental funds and proprietary funds. Major individual governmental funds and individual proprietary funds are reported as separate columns in the fund financial statements.

(c) Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The Government-Wide Financial Statements are reported using the *"economic resources"* measurement focus and the accrual basis of accounting, as are the proprietary fund financial statements. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Grants and similar items are recognized as revenue as all eligibility requirements have been met.

Governmental Fund Financial Statements are reported using the *"current financial resources"* measurement focus and the modified-accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues, as listed below, are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within one year of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is due.

Interest associated with the current fiscal period is considered to be susceptible to accrual and so has been recognized as revenue of the current fiscal period. All other revenue items are considered to be measurable and available only when cash is received by MTS.

MTS receives funding primarily from the following revenue sources:

Fare Revenue

Passenger fares make up approximately 30 percent of the system's $240 million operating budget.

Other Operating Revenues

MTS receives a variety of operating revenues that are not received directly from passenger fares. The sources of these revenues are advertising, interest income, rental and land management income, income related to Taxicab administration, income from the SD&AE, and other miscellaneous income.

Non Operating Revenues

MTS receives subsidies that are derived from federal, state and local tax revenues. MTS does not levy or collect any tax funds, but receives allocated portions of tax funds through federal, state and local granting agencies.

Federal Transit Administration (FTA)

FTA revenues are funded by a federal gas tax and revenues of the federal general fund. MTS receives Section 5307 grants which are earmarked for capital assistance and preventive maintenance, and Congestion Management and Air Quality (CMAQ) funds intended to subsidize the first three years' operations of trolley line extensions.

Transportation Development Act (TDA)

TDA provides funding for public transit operators. This state fund is one quarter of a percent of the 7 ¾ percent sales tax assessed in the region. SANDAG is responsible for apportionment of these funds within the San Diego region.

State Transit Assistance (STA)

STA funding comes from the Public Transportation Act (PTA) which derives its revenue from the state sales tax on gasoline. These funds are designated as discretionary or formula. The former is appropriated by the legislature. The latter is a formula based upon population and fares generated.

Other State Revenue

Caltrans provides mitigation related funding for the Sorrento Valley and Poway areas.

MediCal provides further funding support specifically tied to several ADA Paratransit routes to aid patients in their transportation to medical appointments.

TransNet

TransNet funds are derived from the Proposition A one-half cent local transportation sales tax which was approved by area voters in November 1987. The ordinance, which was scheduled to expire in 2008, has been extended an additional forty years. The ordinance allocated one-third of the sales tax proceeds for transit purposes, which are further divided between MTS and North County Transit District (NCTD) based on the proportion of the population with the area of each jurisdiction. TransNet funds are also apportioned by SANDAG.

Other Local Subsidies

The City of San Diego provides Maintenance of Effort funds to aid ADA efforts.

SANDAG provides funding from Fasttrack tolls to operate the I-15 Inland Breeze services.

The Air Pollution Control District (APCD) provides support for the Sorrento Valley Coaster Connection.

MTS reports the following major governmental funds:

The General Fund is MTS' primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund. Revenues are primarily derived from FTA and local TDA funds. Expenditures are primarily expended for functions of the general government, transit planning, and transit support activities including marketing.

The special revenue Subsidy Pass-Through Fund accounts for the activities and the subsidy resources collected on behalf of and passed through to the component units. This fund also accounts for the fund balance reserves maintained for capital replacement and other purposes. Revenues are primarily derived from FTA, STA, and local TDA funds. Expenditures are primarily these federal, state, and local funds being passed through to component units and other transit operators.

The special revenue TransNet Fund accounts for the activities and resources received pursuant to the one-half cent local sales tax. These revenues are transferred to other funds, which are expended for rail capital, reduced-price monthly transit passes for seniors, the disabled, and youth, and subsidizing any reduction in federal and state operating funds. Remaining monies can be expended for service expansion and extensions.

The Capital Projects Fund accounts for the resources and the activities of MTS to provide for Light Rail Transit (LRT) extensions, major LRT/Bus capital improvements, and operations capital/replacement. Revenues are primarily derived from FTA and state capital grants and other local income for transit capital funding. Expenditures are expended for capital outlay including LRT extensions, major LRT capital improvements, major bus capital improvements, and operations capital.

The Debt Service Fund accounts for the resources accumulated and payments made for principal and interest on the long-term general obligation debt of MTS. Revenues are derived from interest earned on the restricted cash, cash equivalents, and investments accumulated for the payment of the debt service. Expenditures are payments for the debt service.

MTS reports the following major proprietary funds:

The Other Contracted Services Fund is an enterprise fund used to account for the operation of certain bus routes that have been competitively bid and are operated by MTS through contracts with outside parties. Revenues are primarily derived from passenger fare revenue and federal, state, and local operating grants. Expenses are primarily payments to contracted bus operators for the operation of certain bus routes. Effective July 1, 2002, the responsibility for operating the County Transit System (CTS) was transferred from the County of San Diego to MTS.

SDTI and SDTC are not-for-profit corporations that provide bus and LRT services. These agencies share governing boards with MTS and are, therefore, presented as blended component units in the Business-type activities section of the Statement of Net Assets and the Statement of Activities.

MTS reports the Taxicab Administration fund and SD&AE combined as nonmajor proprietary funds.

Private-sector standards of accounting and financial reporting issued prior to December 1, 1989 generally are followed in both the government-wide and proprietary fund financial statements to the extent that those standards do not conflict with or contradict guidance of the Governmental Accounting Standards Board. Governments also have the option of following subsequent private-sector guidance for their business-type activities and enterprise funds, subject to this same limitation. The government has elected not to follow subsequent private-sector guidance.

In the current year MTS has changed the manner of reporting subsidy revenue and transfers among funds. All subsidies for operations, excluding TransNet receipts, are now recorded as revenues only in the Subsidy Pass-through Fund, and are then transferred to other funds as appropriate. This has increased revenue in the Subsidy Pass-through Fund and increased transfer activity in other funds. TransNet funds are recorded as revenue in the TransNet Fund, and are then transferred to other funds as appropriate. Comparisons with prior year activity show offsetting variances in revenue and transfer line items. There has been no change in the manner of recording subsidies related to capital projects.

As a general rule, the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions to this general rule are lending/borrowing of pooled cash between the proprietary funds and various other functions of the government. Elimination of this lending/borrowing would distort the assets for governmental activities and business-type activities in the statement of net assets.

Proprietary funds are accounted for on the flow of "*economic resources*" measurement focus and use the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred. Proprietary funds include enterprise funds, which are used to account for those operations that are financed and operated in a manner similar to private business or where MTS has decided that the determination of revenues earned, costs incurred, and/or net income is necessary for management accountability.

Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of SDTI, SDTC and Other Contracted Services Enterprise Fund are charges to customers for public transportation services. The principal operating revenues of the Taxicab Administration Enterprise Fund, a non-major enterprise fund, are charges for the issuance of taxi and jitney service permits. The principal operating revenues for SD&AE, also reported as a non-major enterprise fund, are lease income and right of entry permit fees. Operating expenses for enterprise funds include the cost of services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

(d) Use of Restricted/Unrestricted Net Assets

When both restricted and unrestricted resources are available for use, it is MTS' policy to use restricted resources first, then unrestricted resources as they are needed.

(e) Budgets

Annual appropriated budgets are adopted for all governmental fund types. All annual appropriations lapse at year-end. Budgets are prepared on the modified accrual basis of accounting consistent with GAAP.

Encumbrances represent commitments related to unperformed contracts for goods or services. Encumbrance accounting, under which purchase orders, contracts, and other commitments for the expenditure of resources are recorded to reserve that portion of the applicable appropriation, is utilized in the governmental funds. Encumbrances lapse at year-end and may be re-appropriated in the following year.

(f) Cash, Cash Equivalents, and Investments

Investments of pooled cash consist primarily of bankers' acceptances, certificates of deposit, pooled investment funds, liquidity funds, governmental bonds, and commercial paper. Investments are stated at fair value which is based on quoted market price. Money market investments and participating interest earning investment contracts that have a remaining maturity at the time of purchase of one year or less are reported at amortized cost, which approximates fair value.

For purposes of the statement of cash flows, all highly liquid temporary investments purchased with a maturity of three months or less are considered cash equivalents.

In accordance with GASB Statement No. 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools,* investments were stated at fair value.

MTS participates in an investment pool managed by the State of California titled Local Agency Investment Fund (LAIF), which has invested a portion of the pool funds in structured notes and asset-backed securities. LAIF's investments are subject to credit risk with the full faith and credit of the State of California collateralizing these investments. In addition, these structured notes and assets-backed securities are subject to market risk and to change in interest rates. The reported value of the pool is the same as the fair value of the pool shares.

In accordance with GASB Statement No. 40, *Deposit and Investment Risk Disclosures (an amendment of GASB Statement No. 3*), certain disclosure requirements, if applicable for deposit and investment risk, are specified for the following areas:

- Interest Rate Risk
- Credit Risk
  - Overall
  - Custodial Credit Risk
  - Concentration of Credit Risk
- Foreign Currency Risk

(g) Interfund Transactions

Activities between funds that are representative of lending/borrowing arrangements outstanding at the end of the fiscal year are referred to as "due to/from other funds." Any residual balances outstanding between the governmental activities and business-type activities are reported in the Government-Wide Financial Statements as "internal balances." Transfers between funds relate to allocations of subsidy revenue from special revenue funds to other funds.

(h) Materials and Supplies Inventory

Business-Type inventories are valued at the weighted average unit cost. The costs of governmental fund type inventories are recorded as expenditures when purchased.

(i) Prepaid Items and Other Assets

Payments made to vendors for services that will benefit periods beyond June 30, 2006 are recorded as prepaid items in both government-wide and fund financial statements.

(j) Capital Assets

Capital assets, which include land and right-of-way, buildings and infrastructure assets, vehicles, and equipment, are reported in the applicable governmental or business-type activities columns in the government-wide financial statements and proprietary fund financial statements. Capital assets are defined by the government as assets with an initial, individual cost of more than $5,000. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at estimated fair market value at the date of donation.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend the asset's life are not capitalized. Major outlays for capital assets and improvements are recorded as expenditures of the governmental funds and as assets in the government-wide financial statements. Legal title of all SDTC property and equipment was transferred from the City of San Diego to MTS effective with MTS' purchase of SDTC on July 1, 1985. SDTC has recorded these assets at net book value in order to reflect SDTC's custodial accountability for the assets. Legal title of all County Transit System (CTS) property and equipment was transferred from the County of San Diego to MTS effective with MTS' acquisition of CTS on July 1, 2002. MTS has recorded these assets at net book value.

Under the operating agreements between MTS and SDTC and SDTI, SDTC and SDTI are required to pay a license fee to MTS for the use of certain capital assets. Due to SDTC's and SDTI's continued shortage of operating funds sufficient to cover recurring expenditures, the payment of these fees is considered remote, and therefore, these amounts were not recorded in the accompanying basic financial statements.

Buildings, vehicles, and equipment of the primary government, as well as the component units, are depreciated using the straight-line method over the following estimated useful lives:

Assets	Years
Buildings and improvements	20 to 40
Vehicles	5 to 30
Equipment	3 to 20

(k) Construction-in-Progress

Costs incurred for construction associated with the bus and LRT systems are expended in the governmental fund types of MTS and capitalized as construction-in-progress in the government-wide financial statements until such time as they are complete and operational. Upon completion, they are contributed to SDTC and SDTI to reflect their custodial accountability for the assets. Depreciation commences at the time of contribution. Assets acquired through capital leases are capitalized in the government-wide financial statements.

(l) Net Pension Assets

A pension asset is created when an employer pays into a retirement plan amounts in excess of its annual required contribution (ARC). The ARC is an actuarially calculated amount that is sufficient to fund future costs and extinguish any existing unfunded actuarial accrued liability (UAAL). In October 2004, MTS made a payment of $76,282,336 to SDTC Retirement Plan from the proceeds of the issuance of pension obligation bonds, of which $69,050,638 was to reduce SDTC's UAAL as calculated at that time. The prepaid Net Pension Asset will be amortized over the life of the bonds on a straight line basis.

(m) Compensated Absences

It is MTS' policy to permit employees to accumulate earned but unused personal leave time, which includes both vacation and sick pay benefits. All personal leave time is accrued when incurred in the government-wide and proprietary fund type financial statements. A liability for these amounts is reported in governmental funds only if they have matured.

(n) Long-Term Obligations

In the Government-Wide Financial Statements and in the Proprietary Fund Financial Statements, long-term obligations are reported as liabilities in the applicable statement of net assets. Debt premiums and discounts, as well as issuance costs, are deferred and amortized over the life of the debt using the straight-line method. Long-term debt is reported net of the applicable bond premium or discount. Debt issuance costs are reported as deferred charges and amortized over the term of the related debt.

In the fund financial statements, governmental fund types recognize debt premiums and discounts, as well as debt issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

(o) Fund Balances

In the fund financial statements, governmental funds report reservations of fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Designations of fund balance represent tentative plans for future use of financial resources.

(p) Refunding of Debt

Gains or losses occurring from advance refunding of debt of the governmental funds have been deferred and are being amortized into expense using the straight-line method over the original remaining life of the old debt or the life of the new debt, whichever is less.

(q) Use of Estimates

The preparation of the basic financial statements in conformity with generally accepted accounting principles in the United States requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenditures during the reported period. Actual results could differ from these estimates.

(r) Implementation of New GASB Pronouncements

In fiscal year 2006 MTS adopted new accounting standards in order to conform to the following Governmental Accounting Standards Board Statements:

- GASB Statement No. 44, *Economic Condition Reporting: The Statistical Section* – an amendment of NCGA Statement 1 (issued 5/04)
- GASB Statement No. 46, *Net Assets Restricted by Enabling Legislation*
- GASB Statement No. 47, *Accounting for Termination Benefits*

GASB Statement No. 44 amends the portions of NCGA Statement 1, *Governmental Accounting and Financial Reporting Principles*, which guide the preparation of the statistical section. The Statement improves the understandability and usefulness of statistical section information by addressing the comparability problems that have developed in practice and by adding information from the new financial reporting model for state and local governments required by Statement 34. MTS has elected to adopt GASB Statement No. 44 prospectively, and will present information for fiscal years 2006 and 2005.

GASB Statement No. 46 addresses selected issues and amends GASB Statement No. 34, *Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments*. The Statement enhances the usefulness and comparability of net asset information and clarifies the meaning of legal enforceability. The Statement also specified accounting and financial reporting requirements for restricted net assets.

GASB Statement No. 47 provides accounting guidance for state and local governmental employers regarding benefits (such as early-retirement incentives and severance benefits) provided to employees that are terminated. The Statement requires recognition of the cost of involuntary termination benefits in the period in which a government becomes obligated to provide benefits to terminated employees.

(2) Reconciliation of Government-Wide and Fund Financial Statements

(a) Explanation of Certain Differences Between the Governmental Fund Balance Sheet and the Government-Wide Statement of Net Assets

The governmental fund balance sheet includes a reconciliation between fund balance – total governmental funds and net assets – governmental activities as reported in the government-wide statement of net assets. One element of that reconciliation explains that "other long-term assets are not available to pay for current-period expenditures and therefore are deferred in the funds." The details of this $665,622 difference are as follows:

Prepaid interest	$ 99,690
Deferred issuance costs	565,932
Net adjustment to increase fund balance – total governmental funds to arrive at net assets – governmental activities	$ 665,622

Another element of that reconciliation explains that "long-term liabilities, including debt payable, are not due and payable in the current period and therefore are not reported in the funds." The details of this $(189,628,360) difference are as follows:

Compensated absences payable	$ (637,200)
Accrued damage, injury, and employee claims	(8,276,503)
Long-term debt	(180,281,339)
Premium of debt payable	(433,318)
Net adjustment to reduce fund balance – total governmental funds to arrive at net assets - governmental activities	$ (189,628,360)

(b) Explanation of Certain Differences Between the Governmental Fund Statement of Revenues, Expenditures, and Changes in Fund Balances and the Government-Wide Statement of Activities

The governmental fund statement of revenues, expenditures, and changes in fund balances includes a reconciliation between net changes in fund balances – total governmental funds and changes in net assets of governmental activities as reported in the government-wide statement of activities. One element of that reconciliation explains that, "governmental funds report capital outlays as expenditures. However, in the

statement of activities, the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense." The details of this $16,095,036 difference are as follows:

Contributed capital - SANDAG	$	895,826
Transit capital funding expense		17,374,447
Depreciation expense		(2,175,237)
Net adjustment to decrease net changes in fund balances – total governmental funds to arrive at changes in net assets – governmental activities	$	16,095,036

Another element of that reconciliation states that, "the issuance of long-term debt (e.g., bonds, leases) provides current financial resources to governmental funds, while the repayment of the principal of long-term debt consumes the current financial resources of governmental funds. Neither transaction, however, has any effect on net assets. Also, governmental funds report the effect of issuance costs, premiums, discounts, and similar items when debt is first issued, whereas these amounts are deferred and amortized in the statement of activities." The details of this $14,470,907 difference are as follows:

Interest expense	$	147,496
Principal repayment		14,493,119
Amortization expense – bond issuance costs		(169,708)
Net adjustment to increase net changes in fund balances – total governmental funds to arrive at changes in net assets – governmental activities	$	14,470,907

Another element of that reconciliation states that, "some expenses reported in the statement of activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds." The details of this $(61,002) difference are as follows:

Compensated absences	$	(98,002)
Damage, injury, and employee claims		37,000
Net adjustment to decrease net changes in fund balances – total governmental funds to arrive at changes in net assets – governmental activities	$	(61,002)

(3) Cash, Cash Equivalents, and Investments

A summary of cash and investments at June 30, 2006, was as follows:

	Governmental Activities	Business-Type Activities	Total
Cash and cash equivalents	$ 782,337	$ 6,924,826	$ 7,707,163
Investments	475,798	-	475,798
Cash and certificates of deposit restricted for capital support	6,187,781	-	6,187,781
Investments restricted for debt service	144,519,137	-	144,519,137
Total cash and investments	$ 151,965,053	$ 6,924,826	$ 158,889,879

Cash, cash equivalents, and investments consisted as follows on June 30, 2006:

Investment type	Fair value
Cash and equivalents:	
Demand deposits	$ 7,303,626
Retention Trust Account	6,187,781
State of California - Local Agency Investment Fund	403,536
Total cash and cash equivalents	$ 13,894,943
Investments:	
Money Market	13,911,852
U.S. Treasuries	24,911,858
U.S. Agencies	17,603,636
Bank Investment Contract	88,567,590
Total investments	$ 144,994,936
Total cash, cash equivalents, and investments	$ 158,889,879

At year end the carrying amount of demand deposits was $13,491,407 and the bank balance was $17,400,318, of which the total amount was collateralized or insured with securities held by the pledging financial institutions in MTS' name as discussed below.

MTS follows the practice of pooling cash and investments of all funds, except for funds required to be held by fiscal agents under the provisions of bond indentures.

Investments

Under the provisions of MTS' investment policy and in accordance with California Government Code, MTS is authorized to invest or deposit in the following:

- Securities of the U.S. Government, its agencies and instrumentalities
- Obligations of the State of California or any local agency within the state rated A or higher by Standard and Poor's Corporation or Moody's Investor Services, Inc.
- Repurchase agreements
- Bankers' acceptances
- Commercial paper rated A or higher by Standard and Poor's Corporation or Moody's Investor Services, Inc.
- Medium-term corporate notes rated A or higher by Standard and Poor's Corporation or Moody's Investor Services, Inc.
- Negotiable certificates of deposit
- Local Agency Investment Fund (LAIF) established by the State Treasurer
- San Diego County Pooled Money Fund
- Passbook savings or money market demand deposits with an FDIC, SIPC, or SAIF insured financial institution

Local Agency Investment Funds

MTS' investments with Local Agency Investment Fund (LAIF) at June 30, 2006, include a portion of the pool funds invested in Structured Notes and Asset-Backed Securities. These investments include the following:

- Structured Notes - debt securities (other than asset-backed securities) whose cash flow characteristics (coupon rate, redemption amount, or stated maturity) depend upon one or more indices and/or that have embedded forwards or options.
- Asset-Backed Securities - the bulk of which are mortgage-backed securities, entitle their purchasers to receive a share of the cash flows from a pool of assets such as principal and interest repayments from a pool of mortgages (such as CMO's) or credit card receivables.

LAIF is overseen by the Local Agency Investment Advisory Board, which consists of five members, in accordance with State statute.

As of June 30, 2006, MTS had $403,536 invested in LAIF which had invested 2.567% of the pool investment funds in Structured Notes and Asset-Backed Securities.

Interest Rate Risk

As a means of limiting its exposure to fair value losses arising from rising interest rates, MTS' investment policy limits investments to a maximum of five years unless otherwise approved by the Board. The investment instruments with maturities beyond five years are held for scheduled repayment of long-term debt. Maturities are scheduled to permit MTS to meet all projected obligations.

Credit Risk

MTS' investment policy limits investments in commercial paper and negotiable certificates of deposit to instruments rated A or better by Standard and Poor's or Moody's Investor Services, Inc. MTS' investments are rated by the nationally recognized statistical rating organizations as follows:

	Moody's	Standard and Poor's
Investment Pool		
State of California Local Agency Investment Fund	Not rated	Not rated
Money Market Account		
Highmark Money Market Account	AAA	AAA
Bank of New York	Not rated	Not rated
Government Obligations		
FHLMC	AAA	AAA
FNMA	AAA	AAA
US Government Securities		
U.S. Treasury Notes	AAA	AAA
U.S. Treasury Bonds	AAA	AAA
Resolution Funding Corporation Bonds	Not Rated	Not Rated
Investment Contract		
Rabobank Investment Contract	Not Rated	Not Rated

Concentration of Credit Risk

The investment policy limits the amount of the percentage of the portfolio that can be invested by the type of investment for certain types of investments. MTS is in compliance with investment type percentages of the total portfolio of the investment policy.

Custodial Credit Risk

Custodial credit risk for deposits is the risk that, in the event of the failure of a depository financial institution, a government will not be able to recover collateral securities that are in the possession of an outside party. The custodial credit risk for investments is the risk that, in the event of the failure of the broker or dealer to a transaction, a government will not be able to recover the value of its investments or collateral securities that are in the possession of another party. The California Government Code requires California banks and savings and loan associations to secure the MTS' cash deposits by pledging securities as collateral. This Code states that collateral pledged in this manner shall have the effect of perfecting a security interest in such collateral superior to those of a general creditor. Thus, collateral for cash deposits is considered to be held in MTS' name.

The market value of pledged securities must equal at least 110% of the MTS' cash deposits. California law also allows institutions to secure MTS deposits by pledging first trust deed mortgage notes having a value of 150% of the MTS' total cash deposits. MTS may waive collateral requirements for cash deposits which are fully insured up to $100,000 by the Federal Deposit Insurance Corporation. MTS, however, has not waived the collateralization requirements

Summary of investments to Maturity

Investments held by MTS grouped by maturity date at June 30, 2006, are shown below:

Maturity	
Current to one year	$ 27,986,126
One to two years	3,529,362
Two to five years	-
Five to ten years	24,911,858
Ten to twenty years	88,567,590
Total	$ 144,994,936

(4) Interfund Transactions

Due to and from other funds

MTS receives operating and capital assistance from federal, state, and local sources for the benefit of SDTC and SDTI. These funds are recorded as revenue in a special revenue fund and reported as expenditures when transferred to SDTC and SDTI. Expenses incurred for the benefit of other funds are recorded as interfund receivables and payables. Interfund receivable and payable balances, including amounts due from and to component units, at June 30, 2006 were as follows:

		Due from							
	Due to/from primary government and component units	General Fund	Subsidy Pass-Through Fund	Capital Projects Fund	Other Contracted Services	SDTC	SDTI	SD&AE	Total
Due to	General Fund	$ -	$ -	$ -	$ -	$3,302,007	$ 8,880,824	$ -	$ 12,182,831
	Subsidy Pass-Through Fund	-	-	-	-	2,300,138	-	-	2,300,138
	TransNet	12,236,969	4,128,945	4,886,229	-	-	-	-	21,252,143
	Contract Services	-	-	3,476,332	-	6,000	-	-	3,482,332
	Taxicab Administration	-	-	515,163	-	-	-	-	515,163
	Debt Service	-	-	33,924,316	-	-	-	142,019	34,066,335
	SDTC	253,062	2,805,511	-	4,840	-	-	-	3,063,413
	SDTI	9,983	4,035,246	11,884	8,022	-	-	-	4,065,135
	Total	$ 12,500,014	$ 10,969,702	$ 42,813,924	$ 12,862	$ 5,608,145	$ 8,880,824	$ 142,019	$ 80,927,490

Transfers In and Out

MTS receives operating and capital assistance from federal, state, and local sources for the benefit of other governmental funds. In FY 2006 MTS recorded all subsidy revenue in the Subsidy Pass-Through Fund and then transferred to other funds, including transfers totaling $36,412,020 recorded in the Contracted Services fund.

		Transfers out				
	Transfer description	General Fund	Subsidy Pass-Through Fund	TransNet Fund	Capital Projects Fund	Total
Transfer in	General Fund	$ -	$ 6,552,291	$ -	$ -	$ 6,552,291
	Subsidy Pass-Through Fund	-	-	19,674,588	-	19,674,588
	TransNet Fund				22,665,277	22,665,277
	Debt Service Fund	846,165	11,062,743	-		11,908,908
	Total primary government	846,165	17,615,034	19,674,588	22,665,277	60,801,064
	Contracted Services Fund	-	36,412,020	-	-	36,412,020
	Total business-type activities	-	36,412,020	-	-	36,412,020
	Net transfers	$ 846,165	$ 54,027,054	$ 19,674,588	$ 22,665,277	$ 97,213,084

(5) Capital Assets

MTS adopted GASB Statement No. 42, *Accounting and Financial Reporting of Impairment of Capital Assets and Insurance Recoveries*, in FY 2005, which has no impact on current year reporting.

A. Governmental Activities

A summary of changes in capital assets for governmental activities is as follows:

	Balance, July 1, 2005	Additions	Deletions	Balance, June 30, 2006
Capital assets, not depreciated:				
Land and right-of-way	$ 21,957,196	$ -	$ -	$ 21,957,196
Construction-in-progress	583,345,851	22,774,804	(486,645,497)	119,475,158
Total capital assets, not depreciated	605,303,047	22,774,804	(486,645,497)	141,432,354
Capital assets, depreciated:				
Buildings and structures	1,440,430	4,062,269	-	5,502,699
Non revenue vehicles	246,428	-	(30,026)	216,402
Equipment and other	294,688	-	-	294,688
Office equipment and furniture	1,319,147	651,636	(1,018,726)	952,057
Capital lease building	12,091,981	-	-	12,091,981
Computer equipment	4,302,865	-	-	4,302,865
Misc operations capital	-	36,921	-	36,921
Total capital assets, depreciated	19,695,539	4,750,826	(1,048,752)	23,397,613
Less accumulated depreciation for:				
Buildings and structures	(273,574)	(570,391)	-	(843,965)
Non-revenue vehicles	(202,398)	(27,090)	30,026	(199,462)
Equipment and other	(28,248)	(98,229)	-	(126,477)
Office equipment and furniture	(1,177,221)	(139,591)	985,690	(331,122)
Capital lease building	(6,234,927)	(377,874)	-	(6,612,801)
Computer equipment	(1,463,549)	(960,011)	-	(2,423,560)
Misc operations capital	-	(2,051)	-	(2,051)
Total accumulated depreciation	(9,379,917)	(2,175,237)	1,015,716	(10,539,438)
Total capital assets, depreciated, net	10,315,622	2,575,589	(33,036)	12,858,175
Governmental activities capital assets, net	$ 615,618,669	$ 25,350,393	$ (486,678,533)	$ 154,290,529

Depreciation expense in governmental activities for capital assets for the year ended June 30, 2006 was $2,175,237. MTS allocated the entire depreciation expense to general government. Disposals of construction-in-progress assets include $480,822,600 for the Mission Valley East project, which was completed in July 2005.

B. Business-Type Activities

A summary of changes in capital assets for Business-Type Activities is as follows:

	Balance, July 1, 2005	Additions	Deletions	Balance, June 30, 2006
Capital assets, not depreciated				
Land and right-of-way	$ 167,054,480	$ -	$ -	$ 167,054,480
Capital assets, depreciated:				
Buildings and structures	653,017,715	499,373,457	(695,130)	1,151,696,042
Vehicles and buses	342,317,021	5,759,347	(13,448,400)	334,627,968
Equipment and other	21,352,164	153,820	(4,432,302)	17,073,682
Total capital assets, depreciated	1,016,686,900	505,286,624	(18,575,832)	1,503,397,692
Less accumulated depreciation for:				
Buildings and structures	(320,753,661)	(43,503,373)	695,130	(363,561,904)
Vehicles and buses	(151,364,289)	(20,206,428)	12,100,662	(159,470,055)
Equipment and other	(16,137,408)	(915,780)	3,875,613	(13,177,575)
Total accumulated depreciation	(488,255,358)	(64,625,581)	16,671,406	(536,209,533)
Total capital assets, depreciated, net	528,431,542	440,661,043	(1,904,426)	967,188,159
Business-Type Activities – capital assets, net	$ 695,486,022	$ 440,661,043	$ (1,904,426)	$ 1,134,242,639

Depreciation expense in Business-Type Activities for capital assets for the year ended June 30, 2006 is composed of the following:

Other Contracted Services	$ 6,154,971
San Diego Transit Corporation	8,373,601
San Diego Trolley Inc.	50,055,142
Taxicab Administration	22,367
SD&AE	19,500
Total	$ 64,625,581

Capital asset additions totaling $505,286,624 were contributed by MTS, SANDAG, and others. The largest portion of the contribution is $480,822,600 for the completed Mission Valley East project.

C. Construction Commitments

Construction-in-progress is comprised of the following at June 30, 2006:

	Expended through June 30, 2006	Contractually Committed
Mission Valley E.	$ 11,889,192	$ 11,391,353
SYITC	27,497,243	1,684,481
Orange Line-Blue Line Connection	850,824	54,655
12th & Market Station Retrofit	8,838,438	694,750
12th Avenue Corridor Improvements	545,622	303,009
Regional Misc Oper Capital	4,752	82,150
Replace senior/disabled lift	3,631	-
Mills Building Rehab	47,723	23,147
Organizational desktops	42,551	14,162
Network Servers	48,532	10,816
LRV Body Rehab	498,842	1,027
CCTV Surveillance Equip	36,660	6,000
LRV Tires	10,130	348,469
San Ysidro Surveillance	8,583	16,000
MCS ADA Small Vehicles	17,776	4,511,461
Total MTS managed projects	50,340,499	19,141,480
Automated Fare Collection	31,174,775	-
SDTC Radio System Replacement	12,654,361	-
I-15 Bus Rapid Transit	11,315,478	-
SBMF Expansion	3,553,037	-
IAD Land Expansion	3,465,985	-
East County Bus Maintenance Facility	3,268,019	-
Nobel Drive Coaster Station Improvements	1,076,909	-
Gaslamp Station Improvements	537,775	-
Other projects	2,088,320	-
Total SANDAG managed projects	69,134,659	-
Total construction-in-progress	$ 119,475,158	$ 19,141,480

Additional costs related to the Mission Valley East project remain in Construction in Progress. These costs relate to accrucd liabilities and other expenses that are in process, and for which the total costs are not estimable at this time.

(6) Net Pension Asset

In August 2004, MTS issued the 2004 Taxable Pension Obligation Bonds to fund 85% of the SDTC's unfunded accrued actuarial liability (UAAL) and the normal cost reimbursement for the fiscal year 2006. As a result, the Pension Obligation Bonds of $77,490,000 were sold and $76,282,336 was deposited into the pension plan in October 2004. Of this amount $7,231,698 was funded for the current year contribution and $69,050,638 was funded for prior year unfunded accrued actuarial liability.

As of June 30, 2006, the Net Pension Asset amounted to $67,635,638. Current year amortization was $1,415,000.

(7) Revenue Anticipation Notes

In January 2005, MTS issued revenue anticipation notes totaling $13,161,676 to provide for operating cash need in FY 2005. The notes were general obligations of MTS and were payable from taxes, cash receipts, and other moneys of MTS. The notes paid interest at 2.0 % and were retired in January, 2006. Short-term activity for the year ended June 30, 2006 is summarized below.

	Balance at July 1, 2005	Proceeds	Repayment	Balance at June 30, 2006
Revenue Anticipation Notes	$ 13,161,676	$ -	$ (13,161,676)	$ -

(8) Long-Term Debt

A. Governmental Activities

The following is a summary of changes in long-term obligations for governmental activities for the year ended June 30, 2006:

	Balance at July 1, 2005	Additions and net increases	Reductions and net decreases	Balance at June 30, 2006	Amounts due within one year	Amounts due in more than one year
Governmental Activities:						
Long-term Debt						
Capitalized lease obligations	$ 8,940,118	$ 345,847	$ (449,942)	$ 8,836,023	$ 504,986	$ 8,331,037
Finance obligation	185,488,489	-	(14,043,173)	171,445,316	20,997,490	150,447,826
Deferred amounts for issuance premium	522,411	-	(89,093)	433,318	-	433,318
Total Long-term debt	194,951,018	345,847	(14,582,208)	180,714,657	21,502,476	159,212,181
Compensated absences payable	539,198	98,002	-	637,200	299,484	337,716
Accrued damage, injury, and employee claims	2,913,150	5,412,769	(49,416)	8,276,503	202,000	8,074,503
Governmental Activities long-term debt	$ 198,403,366	$ 5,856,618	$ (14,631,624)	$ 189,628,360	$ 22,003,960	$ 167,624,400

For governmental activities, compensated absences and damage claims liabilities are liquidated by the General Fund.

Capital Leases

The County of San Diego (the County) has a master lease agreement with the MTS Joint Powers Agency (Agency) for the lease of the MTS Tower building. MTS entered into a sublease agreement with the County for a portion (27.61%) of the MTS Tower building. The sublease is classified as a capital lease because 27.61% of the title transfers to MTS at the end of the County's master lease. The master lease terminates on November 1, 2086; however, the County has the option to terminate the agreement on November 1, 2041 and each tenth anniversary thereafter

In February 2006, MTS entered into a lease agreement with Toshiba America Information Systems for the acquisition of telecommunications equipment. The lease is classified as a capital lease because title will transfer to MTS when the lease terminates in January 2011.

The assets acquired through capital leases are as follows:

	Governmental Activities
Building – MTS Tower	$ 12,091,981
Toshiba telecommunications equipment	345,848
Less accumulated depreciation	(6,635,858)
Total	$ 5,801,971

The following is a summary of future minimum payments under capital leases as of June 30, 2006

	Tower lease payments	Toshiba equipmnet lease payments	Total lease payments
Year ending June 30:			
2007	$ 847,778	$ 76,820	$ 924,597
2008	847,750	76,820	924,570
2009	847,005	76,820	923,824
2010	843,070	76,820	919,890
2011	864,123	44,811	908,934
2012-2016	4,209,799	0	4,209,799
2017-2020	3,379,830	0	3,379,830
Total minimum lease payments	11,839,355	352,090	12,191,445
Less amount representing interest	(3,323,050)	(32,371)	(3,355,421)
Present value of minimum lease payments	$ 8,516,304	$ 319,719	$8,836,023

Finance Obligations

The following is a summary of changes in finance obligations for the year ended June 30, 2006:

	Balance at July 1, 2005	Additions and net increases	Reductions and net decreases	Balance at June 30, 2006	Amounts due within one year	Amounts due in more than one year
1990 LRV Sale/Leaseback	$ 15,878,727	$ -	$ (2,703,929)	$ 13,174,798	$ 9,351,404	$ 3,823,394
1995 LRV Lease/Leaseback	125,774,762	-	(999,244)	124,775,518	1,076,086	123,699,432
2002 San Diego Regional Transit Management System Project	10,985,000	-	(3,555,000)	7,430,000	3,660,000	3,770,000
2003 Regional Fare Collection Project	32,850,000	-	(6,785,000)	26,065,000	6,910,000	19,155,000
Total Finance Obligations	$ 185,488,489	$ -	$ (14,043,173)	$ 171,445,316	$ 20,997,490	$ 150,447,826

1990 LRV Sale/Leaseback – In fiscal year 1990, MTS entered into an agreement to sell 41 light rail vehicles (LRVs) and simultaneously entered into a lease agreement with the purchaser to lease them back. MTS received proceeds of approximately $52.3 million, of which it used approximately $46.4 million to prepay future lease payments. This prepayment amount covered lease payments into 2006. MTS invested $3,680,449 of the proceeds into government zero-coupon bonds. These bonds mature at values sufficient to cover all remaining lease payments due under the lease agreement as well as amounts necessary to exercise the repurchase options. On June 30, 1990, MTS exercised its option to repurchase the vehicles. As of June 30, 2006, the remaining future obligations total $13,174,798.

	Principal	Interest	Total
Year ending June 30:			
2007	$ 9,351,404	$ -	$ 9,351,404
2008	3,823,394	-	3,823,394
	$ 13,174,798	$ -	$ 13,174,798

1995 LRV Lease/Leaseback – In fiscal year 1996, MTS entered into a master lease to lease 52 light rail vehicles to an investor and then simultaneously entered into a sublease agreement to lease them back. MTS received prepayments of the master lease from the investor of approximately $102.7 million, of which it used approximately $90.7 million to place two investments which will be used to make the interest and principal payments on the finance obligation. MTS placed $78.8 million in a fixed rate deposit and invested $11.9 million in government zero-coupon bonds. The interest earned on the deposit, together with the principal amount of the deposit and the maturities of the zero-coupon bonds are sufficient to cover the amounts due under the finance obligation. As of June 30, 2006, the remaining future obligations total $124,775,518.

	Principal	Interest	Total
Year ending June 30:			
2007	$ 1,076,086	$ 6,518,871	$ 7,594,957
2008	1,158,836	6,432,956	7,591,792
2009	1,247,951	6,340,434	7,588,385
2010	1,343,918	6,240,797	7,584,715
2011	1,447,266	6,133,498	7,580,764
2012-2016	47,901,208	28,920,703	76,821,911
2017-2021	28,117,251	22,278,934	50,396,185
2022-2026	42,483,002	7,153,620	49,636,622
	$ 124,775,518	$ 90,019,813	$ 214,795,331

For the above lease transactions, MTS is obligated to insure and maintain the equipment. The lease agreements also provide for MTS' right to continued use and control of the equipment. For the 1990 LRV sale/leaseback and the 1995 LRV lease/leaseback, MTS also has agreed to indemnify the lessor from any taxes imposed by United States taxing authorities.

The LRVs acquired under the various finance obligations have been transferred to and are recorded by SDTI.

2002 San Diego Regional Transit Management System Project – In fiscal year 2003, MTS issued $17,485,000 of Certificates of Participation (COP) for governmental activities through the California Transit Finance Corporation for the purpose of financing a regional transit radio communications project. The COPs pay interest at rates ranging from 2 to 3 % and mature on December 1, 2007. As of June 30, 2006, the outstanding balance is $7,430,000.

	Principal	Interest	Total
Year ending June 30:			
2007	$3,660,000	$168,000	$3,828,000
2008	3,770,000	56,550	3,826,550
	$7,430,000	$224,550	$7,654,550

2003 Regional Fare Collection Project - In fiscal year 2004, MTS issued $32,850,000 of Certificates of Participation (COP) for governmental activities through the California Transit Finance Corporation for the purpose of financing a regional fare collection project. The COPs pay interest at rates ranging from 2 to 3.3 % and mature on November 1, 2009. As of June 30, 2006, the outstanding balance is $26,065,000.

Year ending June 30:	Principal	Interest	Total
2007	$ 6,910,000	$ 632,180	$ 7,542,180
2008	6,545,000	477,813	7,022,813
2009	6,710,000	295,350	7,005,350
2010	5,900,000	97,350	5,997,350
	$ 26,065,000	$ 1,502,693	$ 27,567,693

B. Business-Type Activities

The following is summary of long-term debt for the Business-Type Activities for the year ended June 30, 2006

	Balance at at July 1, 2005	Additions and net increases	Reductions and net decreases	Balance at June 30, 2006	Amounts due within one year	Amounts due in more than one year
San Diego Transit Corporation						
Pension Obligation Bonds	$ 77,490,000	$ -	$ (1,415,000)	$ 76,075,000	$ 1,455,000	$ 74,620,000
Compensated absences payable	9,974,954	-	(967,131)	9,007,823	4,125,197	4,882,626
Accrued damage, injury and employee claims	16,497,000	-	(1,590,000)	14,907,000	2,083,262	12,823,738
San Diego Transit Corporation long-term debt	$ 103,961,954	$ -	$ (3,972,131)	$ 99,989,823	$ 7,663,459	$ 92,326,364
San Diego Trolley, Inc.						
Compensated absences payable	$ 2,321,724	$ 40,074	$ -	$ 2,361,798	$ 2,361,798	$ -
Accrued damage, injury and employee claims	3,861,000	96,000	-	3,957,000	652,935	3,304,065
San Diego Trolley, Inc; long-term debt	$ 6,182,724	$ 136,074	$ -	$ 6,318,798	$ 3,014,733	$ 3,304,065
Total	$ 110,144,678	$ 136,074	$ (3,972,131)	$ 106,308,621	$ 10,678,192	$ 95,630,429
Reconciliation to Statement of Net Assets						
Bonds payable	$ 77,490,000	$ -	$ (1,415,000)	$ 76,075,000	$ 1,455,000	$ 74,620,000
Compensated absences	12,296,678	40,074	(967,131)	11,369,621	6,486,995	4,882,626
Accrued damage, injury, and employee claims	20,358,000	96,000	(1,590,000)	18,864,000	2,736,197	16,127,803
Business-Type Activities long-term debt	$ 110,144,678	$ 136,074	$ (3,972,131)	$ 106,308,621	$ 10,678,192	$ 95,630,429

Pension Obligation Bonds

In October 2004, MTS issued $77,490,000 of Taxable Pension Obligation Bonds (POBs) for the benefit of SDTC. The purpose of the bonds was to make contributions to the San Diego Transit Corporation Retirement Plan and reduce its unfunded liability. This is in essence a hedge versus the assumed investment rate of 8% used by the actuary to determine the Actuarial Accrued Liability. The proceeds less fees were invested into the retirement plan. The bonds are consisted of the following:

Series A Bonds of $38,690,000 are fixed rate bonds that mature in annual installments between 2006 and 2014 and bear an interest rate from 2.58% to 5.15% increasing progressively over the maturities. Interest is due and payable semi-annually on June 1 and December 1. Principal is due and payable on December 1.

Series B Bonds of $38,800,000 are variable rate bonds that mature in annual installments between 2024 to 2034. Interest is adjusted on a weekly basis indexed to London Interbank Borrowing Rate (Libor) and payable on a monthly basis. In August 2005, MTS entered into a seven year agreement with UBS investment bank to fix the interest at 4.424%. Under this agreement SDTC pays the variable Libor rate and UBS pays or bills for the difference from the fixed 4.424% rate.

At June 30, 2006, the outstanding balance of the Pension Obligation Bonds is $76,075,000.

Year ending June 30:	Principal	Interest	Total
2007	$ 1,455,000	$ 3,412,447	$ 4,867,447
2008	1,500,000	3,366,020	4,866,020
2009	1,555,000	3,313,432	4,868,432
2010	1,615,000	3,254,351	4,869,351
2011	1,685,000	3,188,891	4,873,891
2012-2016	9,605,000	14,632,537	24,237,537
2017-2021	12,195,000	12,004,384	24,199,384
2022-2026	15,665,000	8,542,122	24,207,122
2027-2031	19,900,000	4,608,933	24,508,933
2032-2034	10,900,000	584,536	11,484,536
	$ 76,075,000	$ 56,907,653	$ 132,982,653

(9) Risk Management

MTS (including SDTI, SDTC, SD&AE, Taxicab Administration and Other Contracted Services) are self-insured for liability claims under a combined insurance program to a maximum of $2,000,000 per occurrence. Amounts in excess of the self-insurance retention limits for public liability are covered by excess insurance by MTS through commercial insurance carriers up to $75,000,000. MTS, SDTI, and SDTC purchase all-risk (excluding earthquake) insurance coverage for property damage up to $600,000,000 per occurrence with deductibles ranging from $25,000 to $100,000, depending on the peril involved. In addition, MTS, SDTC, and SDTI are self-insured for costs arising from employee workers' compensation act benefit claims including employer's liability to a retained limit of $1,000,000 per occurrence. Amounts in excess of $1,000,000 are insured up to $2,000,000 per occurrence. SDTC and MTS are self-insured for unemployment claims. SDTC and SDTI have policies for crime coverage through commercial insurance.

Claims expenditures and liabilities in connection with these self-insurance programs are reported when it is probable that a loss has occurred and the amount of that loss can be reasonably estimated. These losses include an estimate of claims that have been incurred but not reported based upon past experience, modified for current trends and information. Claim payments up to $2,000,000 per incident were recorded as general and administrative expenses in the statements of revenues, expenses, and changes in net assets. Claim payments did not exceed insurance coverage in any of the past three years.

Fiscal year	Beginning of fiscal year	Current year claims and changes in estimates	Claim payments	End of fiscal year liability
MTS:				
2003 – 2004	$ 13,885,205	$ 11,724,554	$ (4,870,648)	$ 20,739,111
2004 – 2005	20,739,111	7,090,185	(4,558,146)	23,271,150
2005 – 2006	23,271,150	6,692,772	(2,823,419)	27,140,503

Following is summary of accrued damage injury, and employee claims for Governmental Activities and Business-Type Activities for fiscal year 2004-2006:

Accrued damage, injury, and employee claims	Governmental Activities	Business-Type Activities	Total
Current portion	$ 202,000	$ 2,736,197	$ 2,938,197
Non-current portion	8,074,503	16,127,803	24,202,306
Total	$ 8,276,503	$ 18,864,000	$ 27,140,503

MTS has established a policy to consolidate the minimum balances required in the liability claims reserve accounts of SDTC and SDTI to be held by MTS. The policy also established eligible uses for the MTS reserve account, which included the reimbursement to SDTC and SDTI of awards/settlements of individual liability claims for personal injury and/or property damage in excess of $300,000, but within the self-insurance retention at SDTC and SDTI. In connection with these self-insurance programs, liabilities for SDTC, SDTI and MTS were $27,140,503 and June 30, 2006.

At June 30, 2006, The Board designated $2,000,000 for the purposes of funding the future claims liabilities of MTS, SDTI, and SDTC. As a result, $990,547 of the General Fund balance and $1,009,453 of the Subsidy-Pass Through Fund are designated for payment of future claims liabilities.

(10) Contingencies

MTS, SDTC, and SDTI have been named in certain legal actions pending at June 30, 2006. While the outcome of these lawsuits is not presently determinable, in the opinion of management of MTS, SDTC, and SDTI, based in part on the advice of counsel, the resolution of these matters is not expected to have a material adverse effect on the financial position or results of operations of MTS, SDTC, or SDTI or is adequately covered by insurance. In addition, MTS has been named in a number of claims related to various construction projects. While the outcome of these claims is not presently determinable, MTS has recorded an estimated liability to reserve for a potential loss of $8,000,000.

Grant funds received by MTS are subject to audit and adjustment by the grantor agencies. Such audits could lead to requests for reimbursements to the grantor agencies for expenditures disallowed under the terms of the grant. The management of MTS believes that such disallowances, if any, will not be significant.

Federal arbitrage regulations require analysis of bonds more than five years old. Pursuant to these requirements, MTS will perform arbitrage analysis of its bonds in FY 2007. Management has determined that MTS' liability related to arbitrage, if any, is not material and has not recorded a liability in the current year.

During 1990 and 1995, MTS entered into sale/leaseback and lease/leaseback arrangements related to the acquisition of 52 trolley cars. This agreement provided tax benefits for the purchaser/lessor. Certain terms of the agreements call for repayment to the purchaser/lessor if the tax consequences of the agreement are lost or changed due to changes in the Internal Revenue Code. The amount of repayment is essentially the portion of the proceeds relating to the tax benefits lost by the purchaser/lessor. Subsequent changes in Internal Revenue Code may cause an amount to be repaid to the purchaser/lessor. No repayment has been requested to date, and the amount of any future request is not estimable at this time.

(11) Reserves

The reservations of fund balances of MTS' governmental funds at June 30, 2006 consist of:

	Reserved	Designated	Undesignated	Total fund balance
Major Governmental Funds:				
General Fund				
Insurance	$ -	$ 990,547	$ -	$ 990,547
Subsidy Pass-Through Special Revenue Fund:				
Billboard – San Diego	-	249,866	-	249,866
Billboard – Chula Vista	-	672,769	-	672,769
CCDC	-	922,692	-	922,692
Contingency	-	-	16,413,218	16,413,218
Insurance	-	1,009,453	-	1,009,453
Land management	-	-	402,778	402,778
MTS Building	-	493,988	-	493,988
SD&AE	-	908,921	-	908,921
Taxicab Administration capital replacement	10,899	-	-	10,899
TransNet Fund	-	19,686,855	-	19,686,855
Capital Projects Fund	-	-	(37,667,773)	(37,667,773)
Debt Service Fund	178,405,950	-	-	178,405,950
	$ 178,416,849	$ 24,935,091	$ (20,851,777)	$ 182,500,163

Board policy requires a minimum funding level of $2,000,000 in the insurance reserve. When this reserve falls below the minimum funding level, Board policy requires replenishment in the following budget cycle.

(12) Post-Employment Health Care Benefits

In 1992, pursuant to requirements of the state retirement system in which MTS participates, MTS adopted a policy to provide post-retirement health care benefits to all retired employees through the California Public Employees Retirement System. Contributions range from $123 to $230 monthly per employee, depending upon the number of dependents insured, and increase at an annual rate of 5% of the monthly contribution for active employees. The expenditure is recorded when paid. Total payments for the year ended June 30, 2006 were $18,155. There are eight retirees currently receiving post-employment health care benefits. SDTC provides post-retirement health care benefits to all retired employees through a self-insured program. Total payments for the year ended June 30, 2006 were $256,959 for 48 retirees. SDTI, through a separate agreement with California Public Employees Retirement System, provides post-retirement health care benefits to all retired employees. Total payments for the year ended June 30, 2006 were $29,224 for 15 retirees.

(13) Employee Retirement Systems

A. MTS and SDTI

Plan Description and Provisions

MTS' and SDTI's defined benefit pension plans provide retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. The plans are part of the

Public Agency portion of the California Public Employees Retirement System (PERS), an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating public entities within the State of California. A menu of benefit provisions as well as other requirements is established by State statutes within the Public Employees' Retirement Law. MTS and SDTI select optional benefit provisions from the benefit menu by contract with PERS and adopt those benefits through local ordinance. Copies of the PERS annual financial report may be obtained from the PERS Executive Office – 400 P Street, Sacramento, CA 95814.

Funding Policy

All employees working the equivalent of 1,000 hours per year are eligible to participate as members of PERS. MTS and SDTI employees are eligible to retire at age 50 with at least five years of service. Annual retirement benefits are determined based on age at retirement, the length of membership service, and the amount of earnings based on the highest 12 consecutive months average. PERS also provides death and disability benefits. PERS issues a separate comprehensive annual financial report.

The contribution requirements of the plan members are established by State statute and the employer contribution rate is established and may be amended by PERS. MTS and SDTI employees are required to make contributions equal to 7% of gross pay for employees who are not covered by Social Security and 7% of gross pay after the first $133.33 per month for employees who pay Social Security tax. MTS and SDTI are required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The actuarial methods and assumptions used are those adopted by the PERS Board of Administration. In 2006, MTS paid the entire employee contribution for all employees, and SDTI paid the entire employee contribution for management and supervisory employees who were hired before June 30, 1988. For management and supervisory employees hired after June 30, 1988, SDTI paid half the employee contribution until their third anniversary, after which SDTI pays their full contribution. Prior to January 1, 1992, SDTI paid half the employee contribution for non-managerial employees. As of January 1, 1992, the non-managerial employees pay the entire contribution.

Annual Pension Cost

For fiscal year 2006, MTS' and SDTI's annual required employer contributions were $1,266,643 and $2,313,877, respectively. The required contribution for fiscal year 2006 was determined as part of the June 30, 2004, actuarial valuation using the Entry Age Actuarial Cost Method with the contributions determined as a percent of pay. The actuarial assumptions included (a) 7.75% investment rate of return (net of administrative expenses); (b) projected salary increases from 3.25% to 14.45% depending on age, service, and type of employment; (c) 3.25% payroll growth adjustment; (d) 3.0% inflation adjustment; and (e) a merit scale varying by duration of employment coupled with an assumed annual inflation component of 3.0% and an annual production growth of 0.25%. The actuarial value of the assets of both plans was determined using a technique that smoothes the effect of short-term volatility in the market value of investments over a fifteen-year period depending on the size of investment gains and/or losses. MTS' and SDTI's initial unfunded actuarial accrued liability (or excess assets) is being amortized as a level percentage of projected payroll on a closed basis depending on the plan's date of entry. Subsequent gains and losses are amortized over variable periods depending on the events precipitating the gain or loss. The average remaining amortization period at June 30, 2005, the most recent valuation date, was 15 years for MTS and 27 years for SDTI.

Trend information for MTS (in 000s):

	Annual Required Contribution (ARC)	Actual Contribution	Percentage of APC Contributed
Fiscal year ended June 30:			
2004	$ -	$ -	100%
2005	653	653	100%
2006	1,267	1,267	100%

Trend information for SDTI (in 000s):

	Annual Required Contribution (ARC)	Actual Contribution	Percentage of APC Contributed
Fiscal year ended June 30:			
2004	$ 727	$ 727	100%
2005	2,015	2,015	100%
2006	2,314	2,314	100%

B. SDTC

Plan Description

The SDTC defined benefit pension plan provides retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. All of SDTC's full-time employees and certain part-time noncontract employees who have completed one year of service in which they have worked at least 1,000 hours of service, and certain part-time contract employees participate in the San Diego Transit Corporation Employee Retirement Plan (the Plan), a single-employer public employee retirement plan. SDTC issues a publicly available financial report that includes financial statements and required supplementary information for the Plan. The financial report may be obtained by writing to San Diego Transit Corporation, 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101

Funding Status and Progress

SDTC makes annual contributions equal to an actuarially computed amount that includes normal cost and an amount for the amortization of unfunded accrued liabilities. Participants of the Plan are not allowed to contribute to the Plan. The valuation method used to calculate the contribution for the Plan is the Entry Age Normal Actuarial Cost Method which is a projected benefit cost method.

According to this cost method, the normal cost for an employee is the level amount which would fund the projected benefit if it were paid annually from date of eligibility until retirement. The significant actuarial assumptions used to compute the actuarially determined contribution requirements included (a) 8.00% investment rate of return, (b) projected salary increase of 3.5% to 11% depending on age, service, and type of employment; (d) 3.5% inflation adjustment; and (e) cost of living adjustments up to 2% annually for certain Non-Contract members only. The actuarial value of the assets of the plan was determined using a

technique that smoothes the effect of short-term volatility in the market value of investments over a five-year period depending on the size of investment gains and/or losses. SDTC's initial unfunded actuarial accrued liability is being amortized as a level percentage of projected payroll on a open basis. Subsequent gains and losses are amortized over variable periods depending on the events precipitating the gain or loss. The average remaining amortization period at January 1, 2006, the most recent valuation date, was 30 years.

Annual Pension Cost

For fiscal year ended June 30, 2006, the annual pension cost of $3,825,590 for the pension plan was equal to SDTC's required and actual contributions. The required contribution was determined as part of the January 1, 2005 actuarial valuation using the entry age normal cost method. Following is the most recent data available.

Trend information for SDTC (in 000s):

	Annual Required Contribution (ARC)	Actual Contribution	Percentage of APC Contributed
Fiscal year ended June 30:			
2004	$ 6,018	$ 5,493	91%
2005	7,232	76,282	1055%
2006	3,826	3,826	100%

(14) Other Required Individual Fund Disclosures

SDTC and SDTI had unrestricted net deficits of $(27,936,545) and $(6,424,030) respectively, at June 30, 2006. The deficits are primarily a result of the timing difference between recognition of expenses on an accrual basis and when those expenses are funded by subsidy transfers. MTS expects that these deficits will be funded with future subsidies.

The Capital Projects Fund had a deficit fund balance of $(37,667,773) which is results from recording bond proceeds, which were intended to provide funding for certain capital projects, in the Debt Service Fund rather than the Capital Projects Fund, and from timing differences between project expenses and receipt of subsidy funding for those projects.

(15) Prior Period Adjustment

A. In FY 2005 SDTC reported compensated absences at an amount higher than was vested and due to employees. In the current year SDTC has recorded a prior period adjustment in the amount of $704,362.

	Beginning net assets as originally reported	Prior period adjustment to compensated absences	Beginning net assets as restated
Other contracted services fund	$ 37,421,405	$ -	$ 37,421,405
San Diego Transit Corporation	47,235,800	704,362	47,940,162
San Diego Trolley, Inc.	573,660,089	-	573,660,089
Non-major proprietary funds	901,332	-	901,332
Total proprietary funds	$ 659,218,626	$ 704,362	$ 659,922,988

B. In FY 2006 MTS has recorded prior period adjustments totaling $27,461,021 in governmental funds consisting of the following:

(1) In FY 2005 MTS reported unearned revenue at an amount that was lower than the actual amount. In the current year MTS has recorded a prior period adjustment in the amount of $461,021.

(2) In FY 2004 MTS received an advance of funds from SANDAG in anticipation of receiving TransNet funds at a later date. These funds were recorded as revenue rather than as a liability. In the current year MTS has recorded a prior period adjustment in the amount of $27,000,000.

	Beginning fund balance as originally reported	Prior period adjustments: Unearned revenue	Prior period adjustments: Advance payable	Beginning fund balance as restated
General fund	$ 320,856	$ -	$ -	$ 320,856
Subsidy pass-through fund	17,208,671	-	-	17,208,671
TransNet fund	24,013,930	-	(27,000,000)	(2,986,070)
Capital projects fund	(9,544,162)	(179,209)	-	(9,723,371)
Debt service fund	183,252,733	(281,812)	-	182,970,921
Total changes to governmental funds	$ 215,252,028	$ (461,021)	$(27,000,000)	$ 187,791,007

C. The combined effect of prior period adjustments as presented in the government-wide financial statements is summarized below:

	Beginning net assets as originally reported	Prior period adjustments	Beginning net assets as restated
Governmental activities	$ 633,244,259	$ (27,461,021)	$ 605,783,238
Business-type activities	659,218,626	704,362	659,922,988
Total primary government	$ 1,292,462,885	$ (26,756,659)	$ 1,265,706,226

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REQUIRED SUPPLEMENTARY INFORMATION

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Required Supplementary Information

For the year ended June 30, 2006

1. BUDGETARY INFORMATION

Legal Compliance – Budgets

MTS' budgets are prepared on the modified accrual basis of accounting consistent with GAAP. The following are MTS' procedures in establishing the annual budget:

1. In June of each year, the Director of Finance and Administration submits to the board of directors a proposed operating and capital projects budget for the following fiscal year.

2. Public hearings are conducted to obtain comments.

3. The budget is legally enacted through passage of a resolution.

The General Manager is authorized to transfer budgeted amounts up to $25,000 between line items without prior Board approval. However, all increases in the authorized budget and transfers of budgeted amounts greater than $25,000 must be approved in advance by MTS' Board. Expenditures may not exceed budgeted appropriations at the line item level which are detailed by object (i.e., personnel, insurance, rent, etc.). MTS made supplemental budget appropriations during the year as follows:

General Fund	$ 646,667
Subsidy Pass-Through Special Revenue Fund	$ (994,351)

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

General Fund

Schedule of Revenues, Expenditures and Changes in Fund Balances – Budget and Actual

Year Ended June 30, 2006

	Budgeted Amounts			
	Original	Final	Actual Amounts	Variance with Final Budget – Positive (Negative)
Revenues:				
Other income	$ 865,110	$ 930,110	$ 1,182,150	$ 252,040
Interest income	-	-	4,613	4,613
Indirect cost recovery	-	-	1,685,026	1,685,026
Total revenues	865,110	930,110	2,871,789	1,941,679
Expenditures:				
Current:				
General government:				
Personnel	8,172,959	8,017,373	10,827,530	(2,810,157)
Outside services	3,128,763	3,298,225	2,533,966	764,259
Allocated overhead	(7,513,863)	(6,946,172)	(6,946,173)	1
Materials and supplies	46,500	43,500	11,056	32,444
Energy	153,124	172,224	62,347	109,877
Insurance	729,739	729,739	523,828	205,911
General and administrative	1,515,058	1,564,058	493,433	1,070,625
Vehicle/facility lease	830	830	180,424	(179,594)
Interest			221,813	(221,813)
Total expenditures	6,233,110	6,879,777	7,908,224	(1,028,447)
Excess (deficiency) of revenues over (under) expenditures	(5,368,000)	(5,949,667)	(5,036,435)	913,232
Other financing sources (uses):				
Transfers in	5,368,000	5,949,667	6,552,291	602,624
Transfers out			(846,165)	(846,165)
Total other financing sources and uses	5,368,000	5,949,667	5,706,126	(243,541)
Net change in fund balances	$ -	$ -	669,691	$ 669,691
Fund balance, beginning of year			320,856	
Fund balance, end of year			$ 990,547	

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Subsidy Pass-Through Special Revenue Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances – Budget and Actual
Year Ended June 30, 2006

	Budgeted Amounts			
	Original	Final	Actual Amounts	Variance with Final Budget – Positive (Negative)
Revenues:				
Federal funds	$ 38,067,548	$ 37,833,186	$ 37,803,640	$ (29,546)
Local TDA funds	73,839,362	74,403,478	76,086,231	1,682,753
STA funds	6,572,986	6,572,986	6,572,986	-
State funds	544,543	544,543	287,447	(257,096)
Other local subsidies	2,049,512	2,030,947	2,085,657	54,710
Interest income	-	-	744,422	744,422
Total revenues	121,073,951	121,385,140	123,580,383	2,195,243
Expenditures:				
Current:				
Transit operations funding	86,215,271	85,220,920	85,352,004	(131,084)
Total expenditures	86,215,271	85,220,920	85,352,004	(131,084)
Excess (deficiency) of revenues over (under) expenditures	34,858,680	36,164,220	38,228,379	2,064,159
Other financing sources (uses):				
Transfers in	19,663,889	19,663,852	19,674,588	10,736
Transfers out	(54,522,569)	(55,828,072)	(54,027,054)	1,801,018
Total other financing sources and uses	(34,858,680)	(36,164,220)	(34,352,466)	1,811,754
Net change in fund balances	$ -	$ -	3,875,913	$ 3,875,913
Fund balance, beginning of year			17,208,671	
Fund balance, end of year			$ 21,084,584	

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

TransNet Special Revenue Fund

Schedule of Revenues, Expenditures and Changes in Fund Balances – Budget and Actual

Year Ended June 30, 2006

	Budgeted Amounts			
	Original	Final	Actual Amounts	Variance with Final Budget – Positive (Negative)
Revenues:				
TransNet funds	$ 19,663,889	$ 19,663,852	$ 19,674,588	$ 10,736
Interest income	-	-	17,351	17,351
Total revenues	19,663,889	19,663,852	19,691,939	28,087
Expenditures:				
Current:				
General and administrative	-	-	9,703	-
Total expenditures	-	-	9,703	-
Excess (deficiency) of revenues over (under) expenditures	19,663,889	19,663,852	19,682,236	28,087
Other financing sources (uses):				
Transfers in	-	-	22,665,277	-
Transfers out	(19,663,889)	(19,663,852)	(19,674,588)	(10,736)
Total other financing sources and uses	(19,663,889)	(19,663,852)	2,990,689	(10,736)
Net change in fund balances	$ -	$ -	22,672,925	$ 17,351
Fund balance, beginning of year, as restated (see Note 15)			(2,986,070)	
Fund balance, end of year			$ 19,686,855	

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Required Supplementary Information

For the year ended June 30, 2006

DEFINED PENSION PLAN

Schedule of Funding Progress

The following Schedule of Funding Progress shows the recent history of the actuarial value of assets, actuarial accrued liability, their relationship, and the relationship of the unfunded actuarial accrued liability to payroll. (Amounts in thousands of dollars).

MTS

Valuation date	Actuarial value of assets	Entry age normal accrued liability	Unfunded liability	Funded status	Annual covered payroll	UAAL as a % of payroll
6/30/03	456,062	515,421	59,359	88.5%	120,692	49.2%
6/30/04	580,961	681,517	100,556	85.2%	160,107	62.8%
6/30/05	729,557	872,347	142,790	83.6%	203,995	70.0%

Beginning with the 6/30/2003 valuation, CalPERS established a risk pool for cities and other government entities that have less than 100 active members. Actuarial valuation was performed with other participants within the same risk pool. Therefore, standalone information of the Schedule of the Funding Progress for MTS is not available.

SDTI

Valuation date	Actuarial value of assets	Entry age normal accrued liability	Unfunded liability	Funded status	Annual covered payroll	UAAL as a % of payroll
6/30/03	32,694	37,235	4,541	87.8%	16,827	27.0%
6/30/04	35,905	41,695	5,790	86.1%	17,749	32.6%
6/30/05	41,415	48,698	7,283	85.0%	19,917	36.6%

SDTC

Valuation date	Actuarial value of assets	Entry age normal accrued liability	Unfunded liability	Funded status	Annual covered payroll	UAAL as a % of payroll
1/1/2004	78,667	132,307	53,640	59.5%	36,237	148.0%
1/1/2005	152,877	162,879	10,002	93.9%	34,859	28.7%
1/1/2006	153,083	168,877	15,794	90.6%	34,959	45.2%

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SUPPLEMENTARY INFORMATION

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Non-major Proprietary Funds
Combining Statement of Cash Flows
Year Ended June 30, 2006

	Enterprise Funds		
	Taxicab Administration	San Diego & Arizona Eastern Railway	Totals
Cash flows from operating activities:			
Receipts from customers and users	$ 705,349	$ 82,761	$ 788,110
Payments to suppliers	(705,349)	(82,876)	(788,225)
Net cash provided (used) by operating activities	-	(115)	(115)
Net increase in cash and cash equivalents	-	(115)	(115)
Cash and cash equivalents, beginning of year	-	24,975	24,975
Cash and cash equivalents, end of year	$ -	24,860	24,860
Operating income (loss)	$ 166,170	(163,441)	2,729
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:			
Depreciation	22,367	19,500	41,867
(Increase) decrease in:			
Accounts and other receivables	(190,926)	-	(190,926)
Prepaid expenses	-	(664)	(664)
Increase (decrease) in:			
Accounts payable	2,389	144,490	146,879
Total adjustments	(166,170)	163,326	(2,844)
Net cash provided (used) by operating activities	$ -	$ (115)	$ (115)

STATISTICAL

SECTION

STATISTICAL SECTION

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Net Assets by Component
Last Two Fiscal Years
(accrual basis of accounting)

	Fiscal Year	
	2006	2005, as restated
Governmental activities		
Invested in capital assets, net of related debt	$ 111,959,506	$ 420,667,651
Unrestricted	35,868,448	185,115,587
Total governmental activities net assets	$ 147,827,954	$ 605,783,238
Business-type activities		
Invested in capital assets, net of related debt	$ 1,134,242,639	$ 695,486,022
Unrestricted	(33,761,144)	(35,563,034)
Total business-type activites net assets	$ 1,100,481,495	$ 659,922,988
Primary government		
Invested in capital assets, net of related debt	$ 1,246,202,145	$ 1,116,153,673
Unrestricted	2,107,304	149,552,553
Total primary government net assets	$ 1,248,309,449	$ 1,265,706,226

Offsetting changes in governmental activities and business-type activities net assets between 2005 and 2006 reflect the transfer of $483 million in capital assets, including the Mission Valley East project valued at $481 million, from MTS to SDTC and SDTI.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Changes in Net Assets
Last Two Fiscal Years
(accrual basis of accounting)

	Fiscal Year 2006	Fiscal Year 2005
Expenses:		
Governmental activities:		
General government	$ 10,144,463	$ 10,429,104
Transit operations funding	85,352,004	73,905,584
Transit capital funding	-	261,775
Misc office/other expense	34,502	-
Interest on long-term debt	8,136,111	8,669,729
Total governmental activities expenses	103,667,080	93,266,192
Business-type activities:		
Other Contracted Services	60,542,066	56,444,048
San Diego Transit	78,085,401	86,301,787
San Diego Trolley	105,069,741	81,963,639
Other proprietary funds	976,307	964,603
Total business-type activities expenses	244,673,515	225,674,077
Total primary government expenses	348,340,595	318,940,269
Program revenues:		
Governmental activities:		
Operating grants and contributions	124,018,111	86,270,079
Capital grants and contributions	31,727,904	83,084,460
Total governmental activities program revenues	155,746,015	169,354,539
Business-type activities:		
Charges for services	70,183,914	66,055,549
Operating grants and contributions	73,349,516	101,128,154
Total business-type activities program revenues	143,533,430	167,183,703
Total primary government program revenues	299,279,445	336,538,242
Net revenues (expenses):		
Governmental activities	52,078,935	76,088,347
Business-type activities	(101,140,085)	(58,490,374)
Total net revenues (expenses)	(49,061,150)	17,597,973
General revenues and other changes in net assets:		
Governmental activities:		
Interest income	6,966,330	11,638,987
Indirect cost recovery	1,685,026	2,827,481
Capital contributions - other	895,826	946,278
Transfers of capital assets - MTS	(483,169,381)	(21,679,153)
Transfers	(36,412,020)	(626,720)
Total governmental activities	(510,034,219)	(6,893,127)
Business-type activities:		
Capital contributions - other	22,117,191	29,061,061
Transfers of capital assets - MTS	483,169,381	21,679,153
Transfers	36,412,020	626,720
Total business-type activities	541,698,592	51,366,934
Total primary government	31,664,373	44,473,807
Changes in net assets:		
Governmental activities	(457,955,284)	69,195,220
Business-type activities	440,558,507	(7,123,440)
Total primary government	$ (17,396,777)	$ 62,071,780

Offsetting variances in operating grants and transfers are the result of a change in the manner of recording grant receipts in 2006.
The reduction in capital grants and contributions is related to the completion of the Mission Valley East project.
Business-type activities contributed capital assets includes the $483 million contributed by MTS and $22 million contributed by SANDAG and others. The $483 contribution from MTS includes $481 million for the completed Mission Valley East project.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Fund Balances of Governmental Funds

Last Two Fiscal Years

(modified accrual basis of accounting)

	2006	As restated 2005
General fund:		
Unreserved	$ 990,547	$ 320,856
Total general fund	$ 990,547	$ 320,856
All other governmental funds		
Reserved	$ 178,416,849	$ 182,981,419
Unreserved, reported in:		
Special revenue funds	40,760,540	14,212,103
Capital projects fund	(37,667,773)	(9,723,371)
Total all other governmental funds	$ 181,509,616	$ 187,470,151

Offsetting changes in Special Revenue and Capital Projects funds are related to interfund transfers recorded in 2006.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Changes in Fund Balances of Governmental Funds
Last Two Fiscal Years
(modified accrual basis of accounting)

	2006	2005
Revenues:		
Federal funds	$ 49,270,067	$ 109,231,192
Local TDA funds	76,086,231	36,790,082
STA funds	6,572,986	4,542,952
State funds	849,569	974,738
TransNet Funds	19,674,588	16,043,175
Other local subsidies	2,096,309	278,000
Other funds	1,196,265	1,494,400
Interest income	6,966,330	11,638,987
Indirect cost recovery	1,685,026	2,827,481
Total revenues	164,397,371	183,821,007
Expenditures:		
General government:	7,987,484	7,959,010
Transit support activities	85,352,004	73,905,584
Debt service:		
Principal	14,493,119	5,819,127
Interest	8,113,899	8,447,080
Capital outlay:	17,329,689	77,497,055
Total expenditures	133,276,195	173,627,856
Excess (deficiency) of revenues over (under) expenditures	31,121,176	10,193,151
Other financing sources (uses):		
Transfers in	60,801,064	22,172,167
Transfers out	(97,213,084)	(22,798,887)
Total other financing sources (uses)	(36,412,020)	(626,720)
Net change in fund balances	(5,290,844)	9,566,431
Fund balances, beginning of year	187,791,007	205,685,597
Prior period adjustments	-	(27,461,021)
Fund balances, as restated	187,791,007	178,224,576
Fund balances, end of year	$ 182,500,163	$ 187,791,007
Debt service as a percentage of noncapital expenditures	24.22%	17.43%

Reduction in Federal Funds reflects reduced capital funding associated with completion of the Mission Valley East project
Increase in TDA funds reflects a change in the method of recording revenue and transfers between funds

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Fare Structure

For the Fiscal Year Ended June 30, 2006

Bus Cash Fares		
Local	$	1.75
Urban		2.25
Express		2.50 - 4.00
Senior/Disabled		1.00
Airport Shuttle		2.25
Shuttles		1.00
Trolley Cash Fares		
Downtown		1.25
1 Station		1.50
2 Stations		1.75
3 Stations		2.00
4-10 Stations		2.25
11-19 Stations		2.50
20+ Stations		3.00
Senior/Disabled		1.00
Bus and Trolley Monthly Passes		
Local/Urban Bus/Express/Trolley		58.00
Express Bus (multi-zones)		64.00 - 84.00
Senior/Disabled Bus and Trolley		14.50
Youth Bus and Trolley		29.00

SOURCE:

Codified Ordinance No. 4, an ordinance establishing a Metropolitan Transit System fare pricing schedule, last amended January 15, 2004

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Component Units and Major Proprietary Fund
Farebox Recovery Percentage
Last Two Fiscal Years (in Percentages)

Fiscal Year Ended	San Diego Transit Corporation	San Diego Trolley Inc.	MTDB Contract Services
2005	27.34	54.25	31.97
2006	30.40	50.78	31.96

Source: Audited financial statements; calculated as passenger revenue (including monthly pass sales which are recorded as a transfer), divided by operating expenses.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
Ratios of Outstanding Debt by Type
Last two Fiscal Years

	Governmental Activities							Business-type Activities				
Year ended une 30	Capital Lease - Tower	Capital Lease- Equipment	1990 LRV Sale/ Leaseback	1995 LRV Lease/ Leaseback	Certificates of Participation 2002	Certificates of Participation 2003	Total Governmental Activities	Pension Obligation Bonds	Total Business-type Activities	Total Primary Government	Percentage of Personal Income	Debt per Capit
2005	8,940,118	-	15,878,727	125,774,762	10,985,000	32,850,000	194,428,607	77,490,000	77,490,000	271,918,607	0.54%	126
2006	8,516,304	319,719	13,174,798	124,775,518	7,430,000	26,065,000	180,281,339	76,075,000	76,075,000	256,356,339	0.52%	117

etails regarding MTS' outstanding debt can be found in the notes to the financial statements.
ITS issued pension obligation bonds in FY 2005 to fund 85% of SDTC's unfunded pension liability

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

OPS 920.1, 960.5, 970.5
(PC 50451)

July 13, 2006

SUBJECT:

MTS: MAY 2006 MONTHLY PERFORMANCE INDICATORS

RECOMMENDATION:

That the Board of Directors receive this report for information.

Budget Impact

None.

DISCUSSION:

Operating Environment

The following report is a summary of the MTS operational statistics for May 2006, month 11 of FY 2006. In May, there were 22 operational weekdays and 9 weekend days of service. Among the events in May were regular-season Padres baseball games for which MTS rail provided special-event service. Cinco de Mayo celebrations were held on May 5, which coincided with the Padres vs. Cubs game. Memorial Day was celebrated on May 29, and MTS services operated a Sunday schedule.

Service Statistics

The following are the relevant service statistics for May 2006 categorized by performance indicator. Charts based on the statistics are provided in Attachments A through D. It is important to note that the methods and definitions for each of the operations reported are still in the process of being revised as each agency previously collected data according to different standards. It is therefore not possible to firmly compare the performances among the agencies on any indicator.

- Service Effectiveness

  - In May, the MTS system carried 6,732,412 passengers, with 3,888,052 passengers traveling on buses and 2,844,360 passengers traveling on

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.

trolleys. The graph provides details of the ridership trends for each of the MTS bus components, and an additional graph details the ridership on MTS rail by route.

- Service Reliability

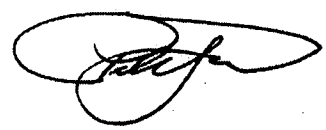
  - On-time Performance: MTS system on-time performance was calculated at 88.3%. MTS bus operations reported 71.9% of its May trips as on time from the Automated Vehicle Locator system; MTS Contract Services reported 85.10% of its trips as on time; and MTS rail reported 98.0% of its trips as on time. Though there is the same standard for reporting, each agency uses a different methodology to calculate on-time performance.

  - Mean Distance Between Failures (MDBF): The MDBF statistic reported was 31,117 miles for MTS bus operations and 9,977 miles for MTS Contract Services fixed-route services. There were no major failures on MTS rail; the MDBF reported was 721,946 car miles. The methodology and data-collection methods are still being reviewed and streamlined for this statistic to ensure consistency among operations.

- Quality of Service

  - Collision Accidents: MTS bus operations reported 3.64 collision accidents per 100,000 miles in May, and MTS Contract Services reported 1.45 accidents per 100,000 miles. MTS rail reported three collisions at a rate of 0.42 collisions per 100,000 miles. The methodology and data-collection methods are still being reviewed and streamlined for this statistic to ensure consistency among operations.

  - Customer Complaints: MTS bus operations reported 11.97 complaints per 100,000 passengers in May. The non-ADA services of MTS Contract Services reported 3.33 complaints per 100,000 passengers. There were 15 ADA complaints reported by MTS Contract Services, which represented 0.05% of total ADA ridership. The methodology and data-collection methods are still being reviewed and streamlined for this statistic to ensure consistency among operations. This statistic will eventually be reported through one consistent data source as the agency consolidation progresses.



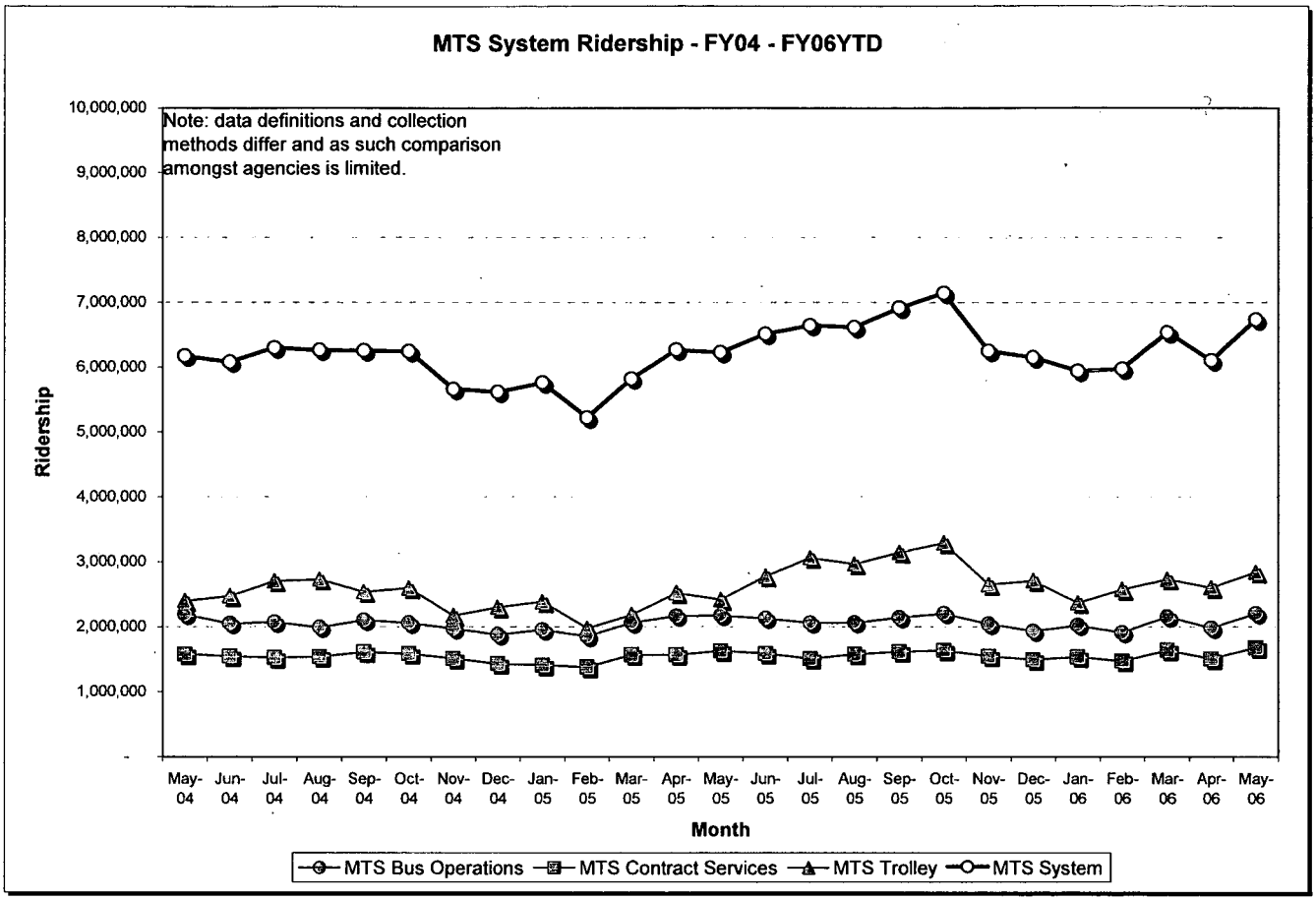
Paul C. Jablonski
Chief Executive Officer

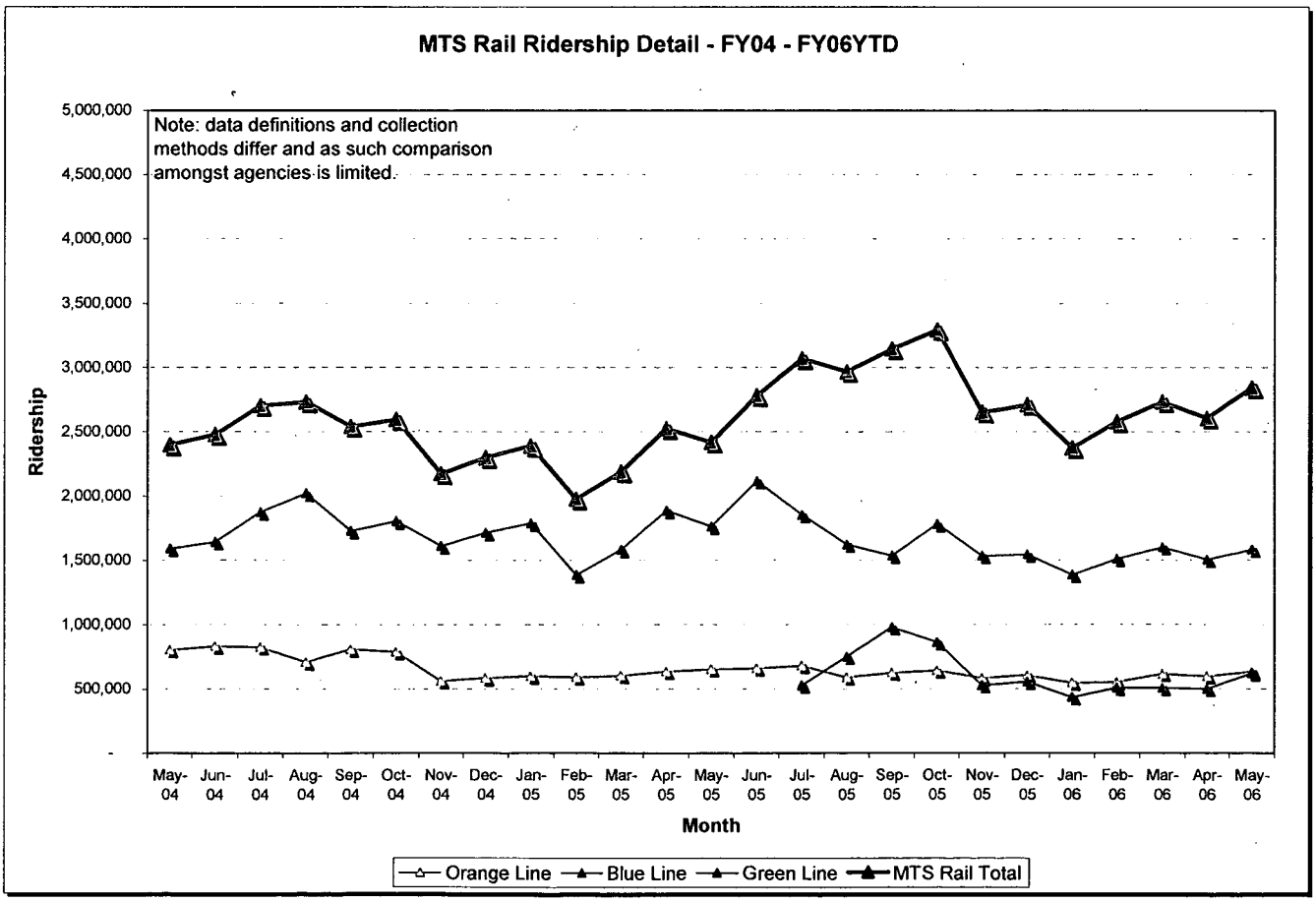
Key Staff Contact: Anika-Aduesa Smart, 619.595.4901, anika.smart@sdmts.com

JULY13-06.46.MAYPERFINDICATORS.ASMART

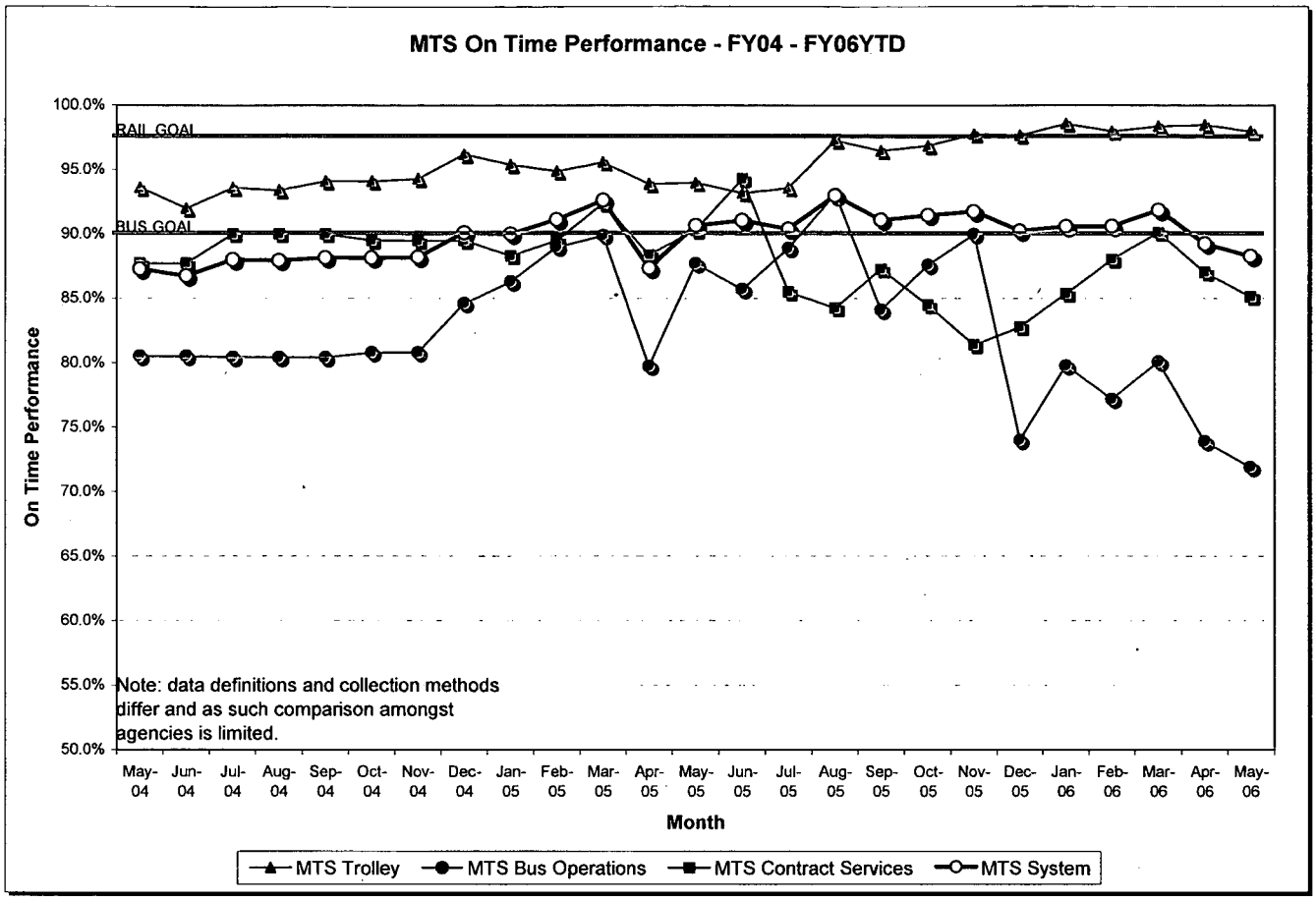
Attachments: A. MTS System Ridership (Bus, Rail, System), MTS Rail Ridership
B. On-Time Performance, MTS MDBF (Bus, Rail)
C. MTS Total Collision Accidents (Bus, Rail)
D. MTS Customer Complaints (Non-ADA Service)

RIDERSHIP

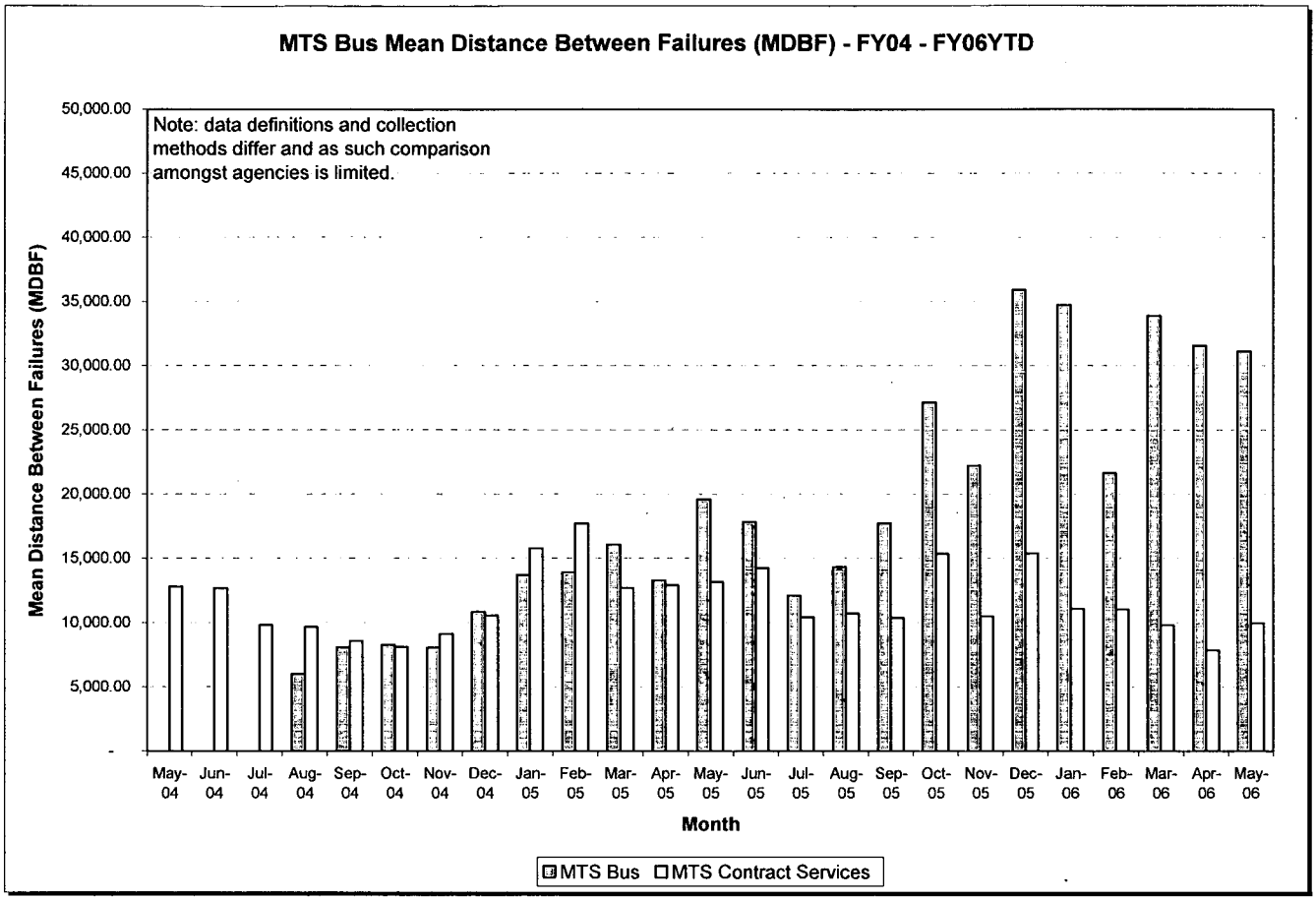

MTS System Ridership - FY04 - FY06YTD
Note: data definitions and collection methods differ and as such comparison amongst agencies is limited.
Ridership
10,000,000
9,000,000
8,000,000
7,000,000
6,000,000
5,000,000
4,000,000
3,000,000
2,000,000
1,000,000
-
May-04 Jun-04 Jul-04 Aug-04 Sep-04 Oct-04 Nov-04 Dec-04 Jan-05 Feb-05 Mar-05 Apr-05 May-05 Jun-05 Jul-05 Aug-05 Sep-05 Oct-05 Nov-05 Dec-05 Jan-06 Feb-06 Mar-06 Apr-06 May-06
Month
MTS Bus Operations
MTS Contract Services
MTS Trolley
MTS System

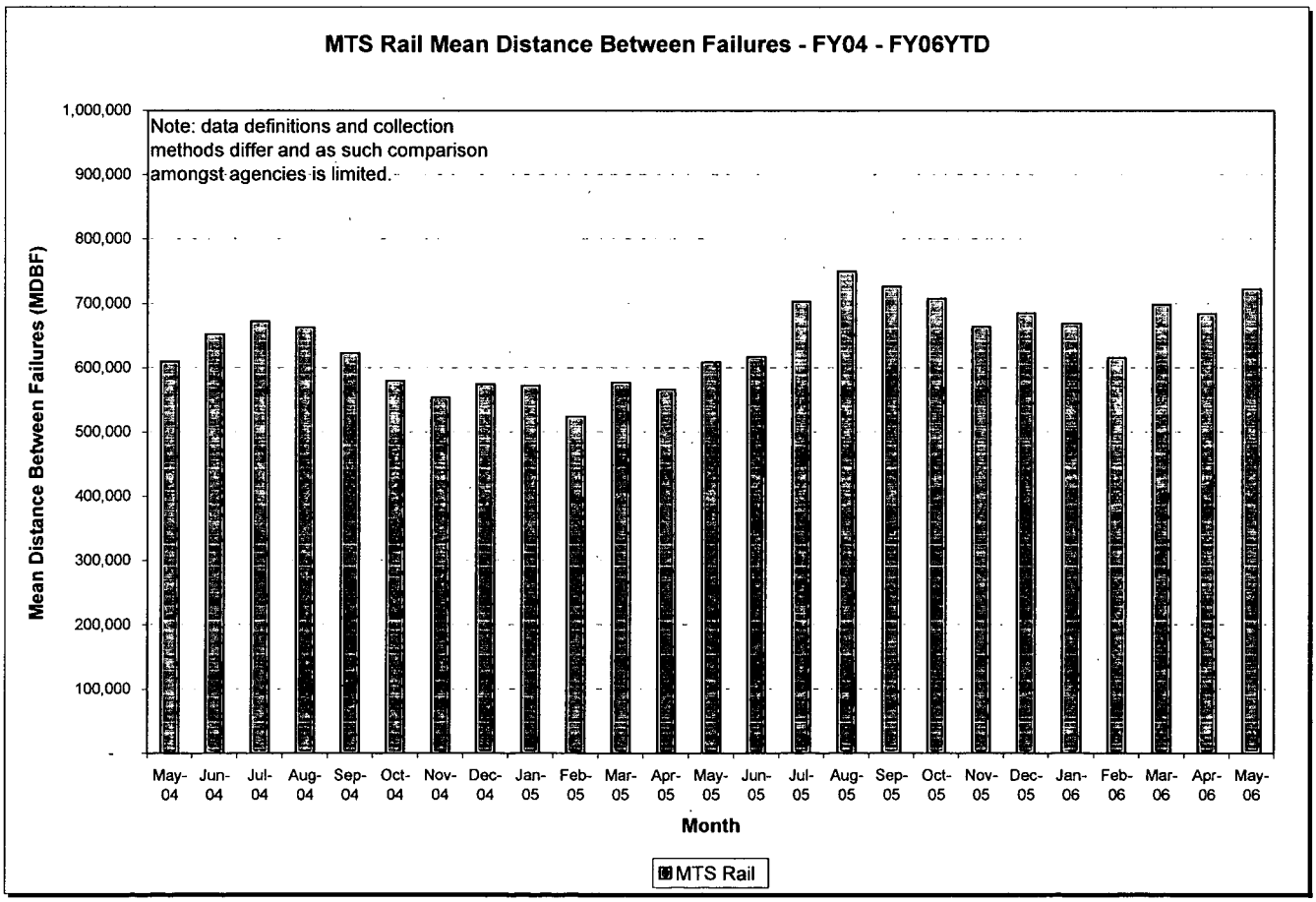

MTS Rail Ridership Detail - FY04 - FY06YTD
Note: data definitions and collection methods differ and as such comparison amongst agencies is limited.
Ridership
5,000,000
4,500,000
4,000,000
3,500,000
3,000,000
2,500,000
2,000,000
1,500,000
1,000,000
500,000
-
May-04 Jun-04 Jul-04 Aug-04 Sep-04 Oct-04 Nov-04 Dec-04 Jan-05 Feb-05 Mar-05 Apr-05 May-05 Jun-05 Jul-05 Aug-05 Sep-05 Oct-05 Nov-05 Dec-05 Jan-06 Feb-06 Mar-06 Apr-06 May-06
Month
Orange Line
Blue Line
Green Line
MTS Rail Total

ON TIME PERFORMANCE

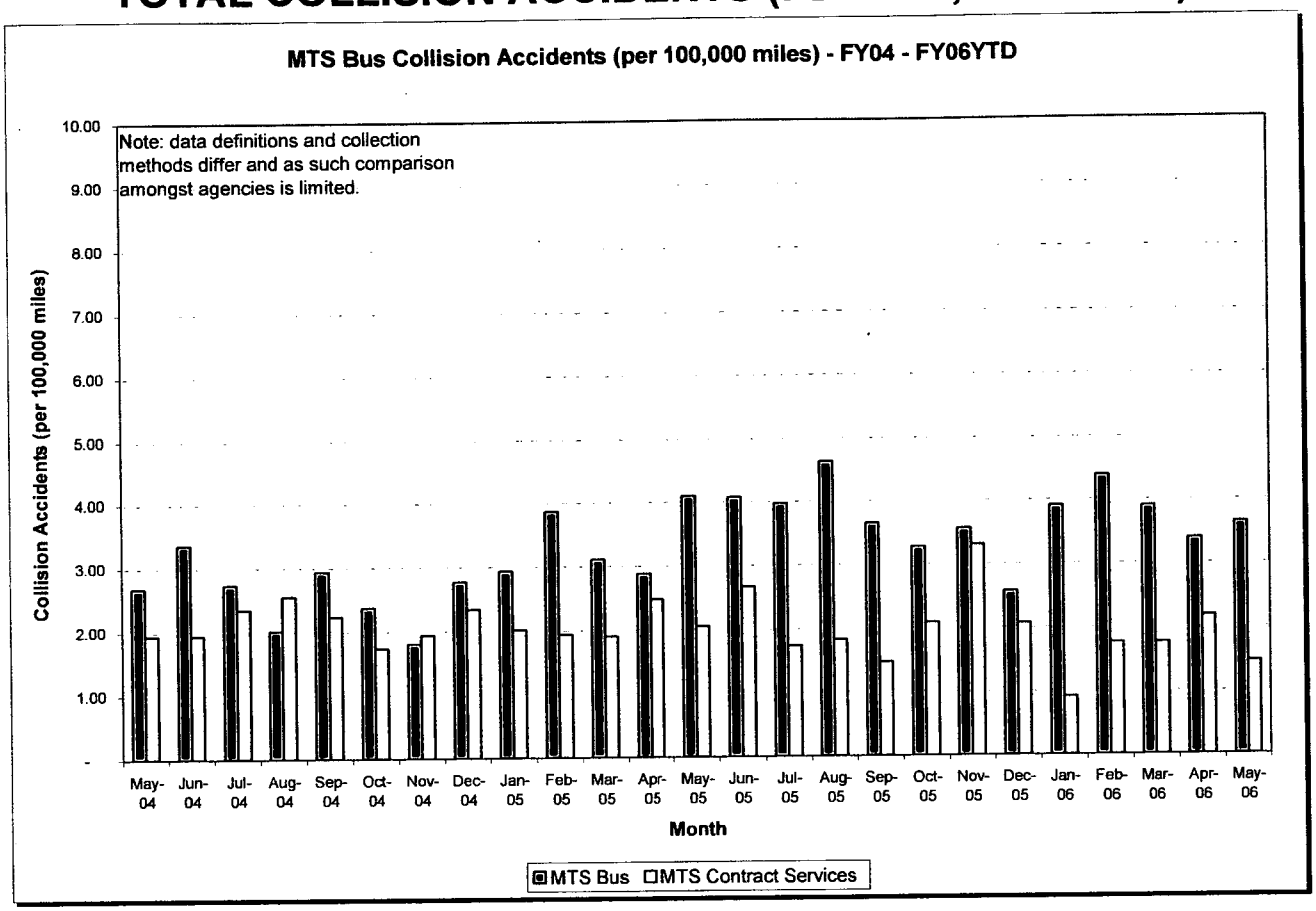


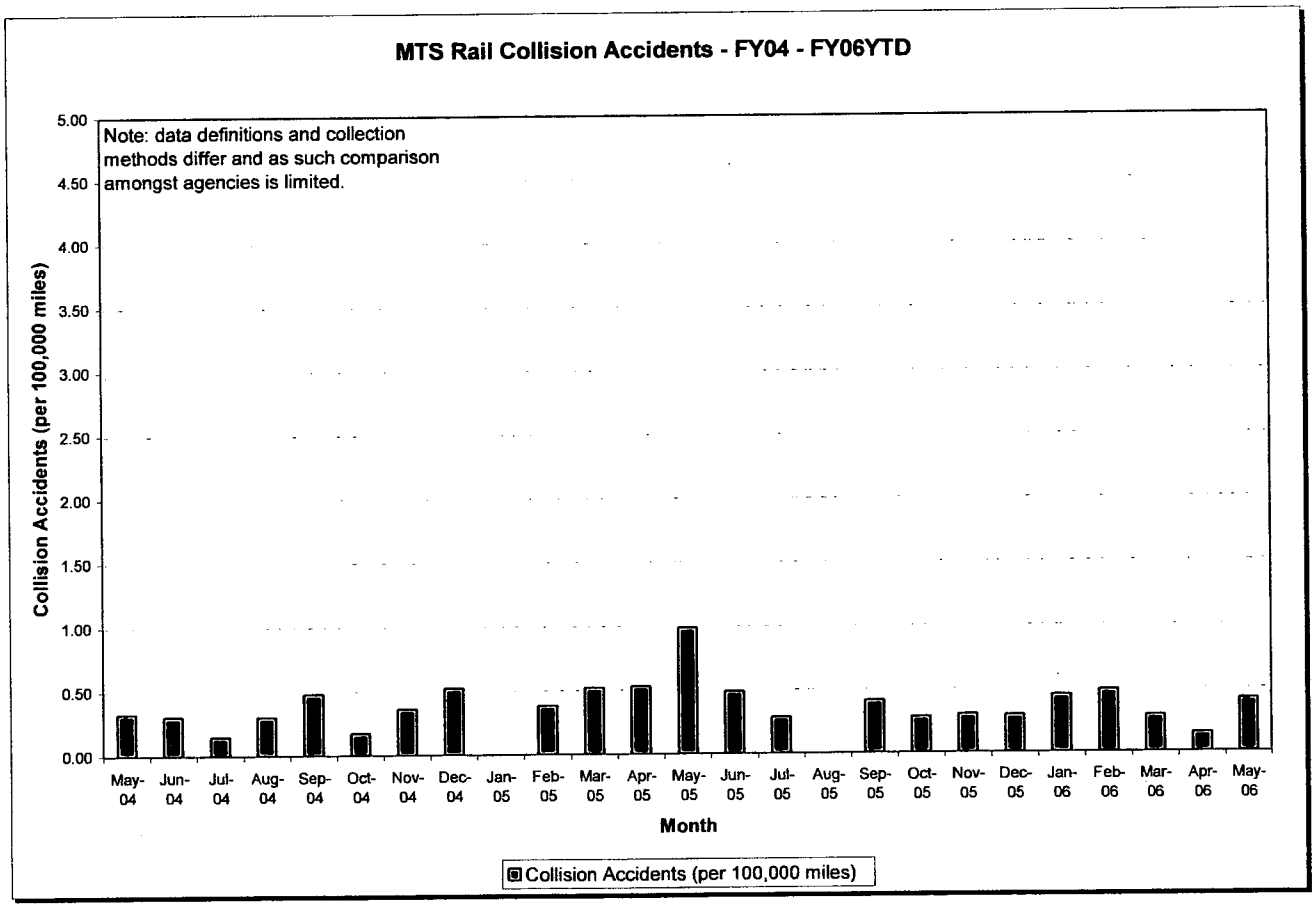
MEAN DISTANCE BETWEEN MECHANICAL FAILURES



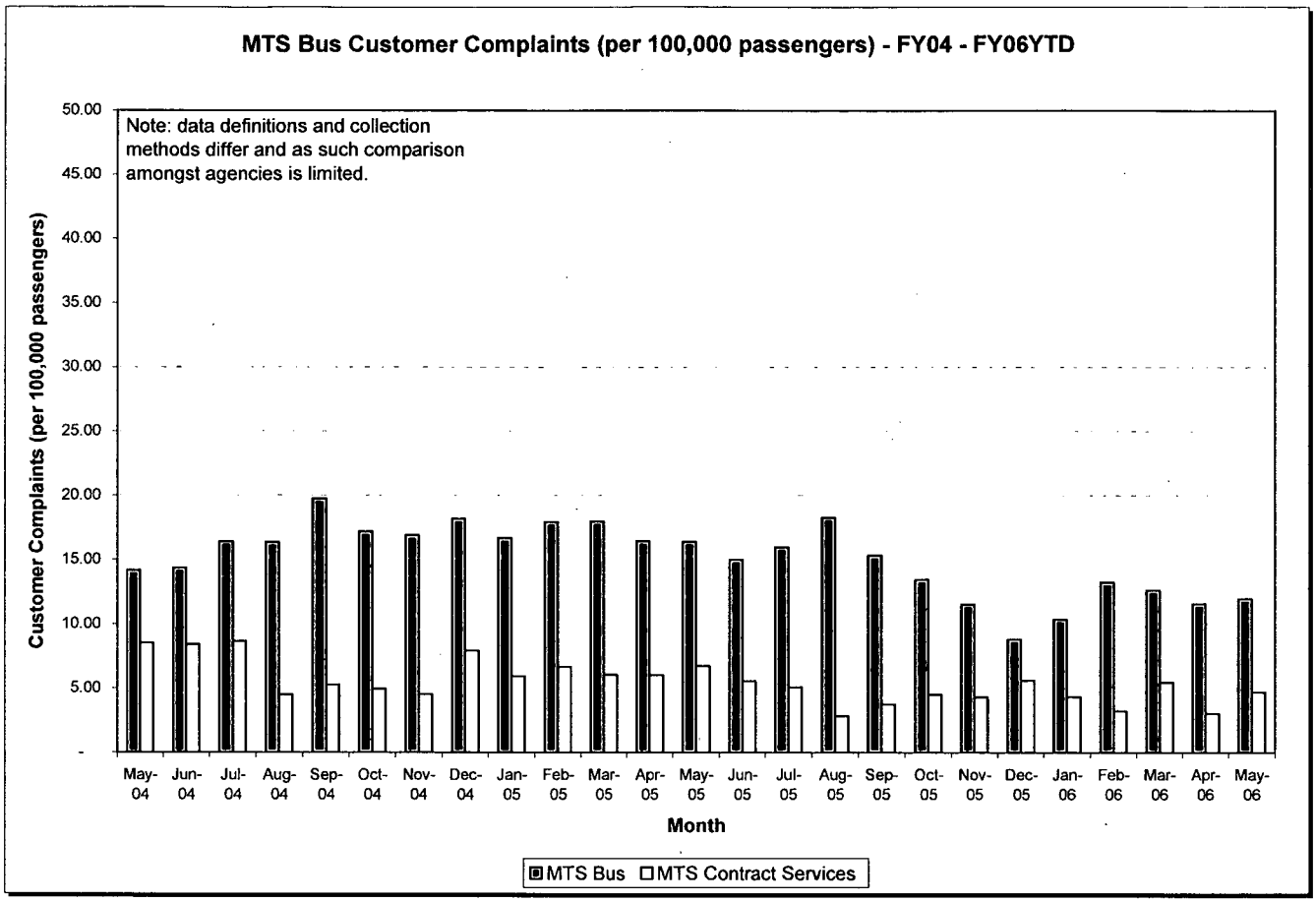


TOTAL COLLISION ACCIDENTS (PER 100,000 MILES)





CUSTOMER COMPLAINTS



Metropolitan Transit System

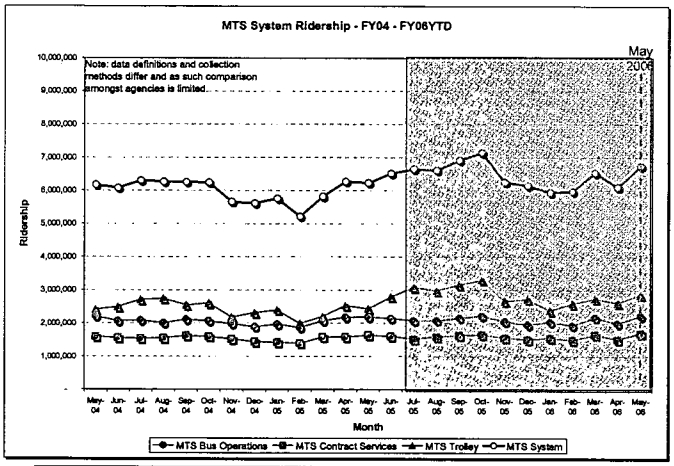
May 2006
Monthly Performance Indicators

July 13, 2006

Operating Environment

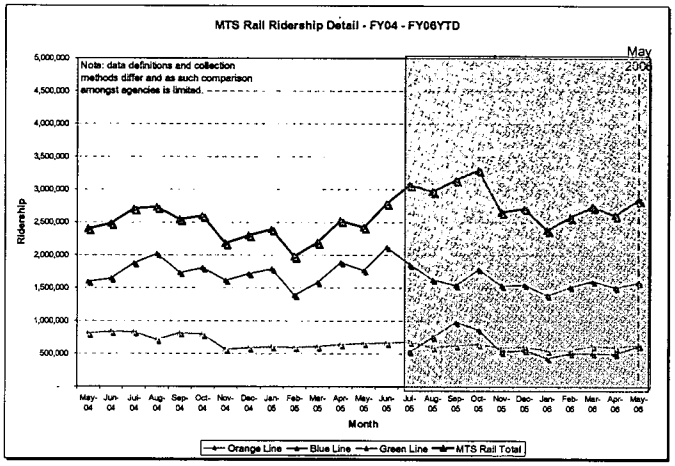
- **Twenty-two weekdays and nine weekend days**
- **No major impacts to operations**
- **Special Events**
  - Padres baseball games at Petco Park (MTS Rail provided special service)
  - Memorial Day – May 29th – Sunday schedule of service

System Ridership



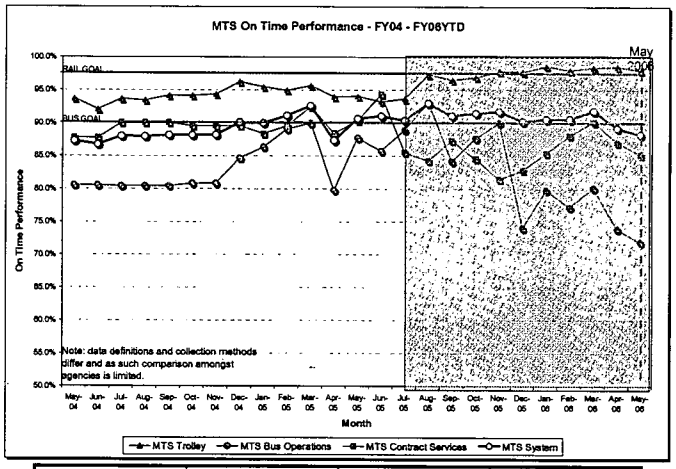
MTS Bus Ops	MTS CS	MTS Rail	MTS System
2,206,163	1,681,889	2,844,360	6,732,412

System Ridership



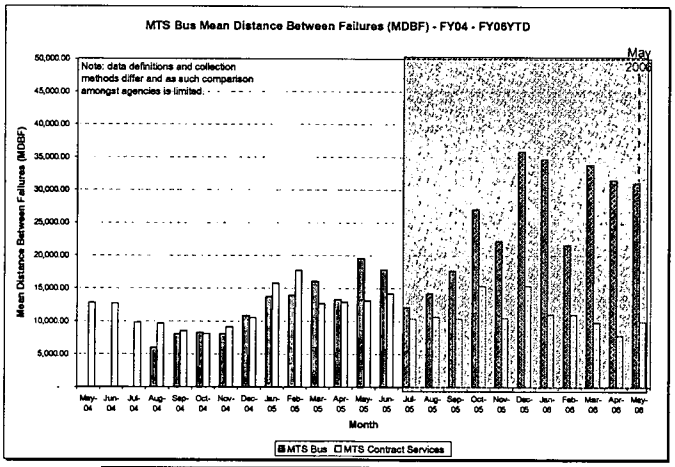
Blue Line	Orange Line	Green Line	MTS Rail
1,585,927	635,997	622,436	2,844,360

On Time Performance



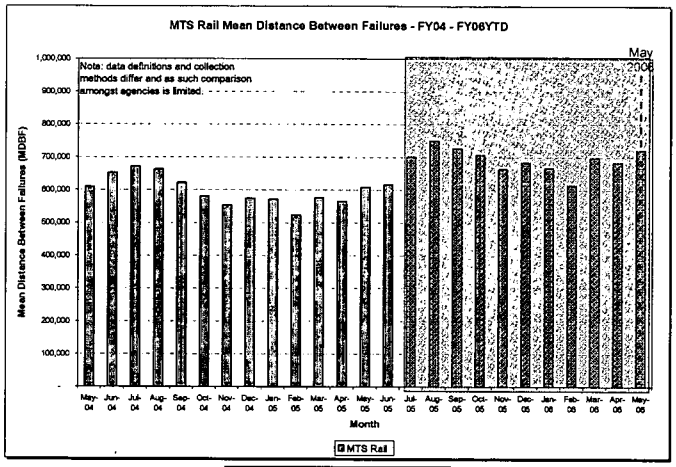
MTS Bus Ops	MTS CS	MTS Rail	MTS System
71.9%	85.1%	98.0%	88.3%

Mean Distance Between Failures - Bus

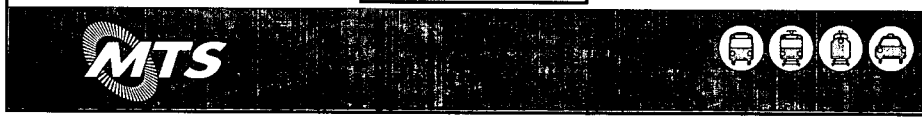


MTS Bus Ops	MTS CS
31,117	9,977

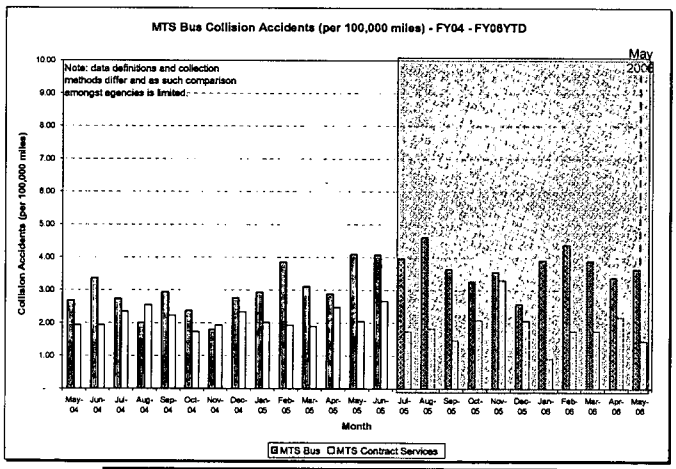
Mean Distance Between Failures - Rail



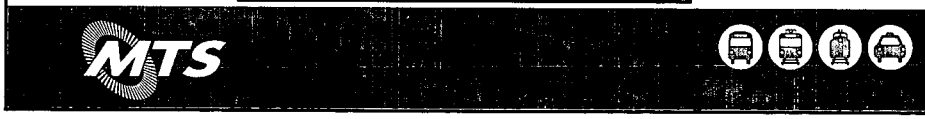
MTS Rail (car mi)
721,946



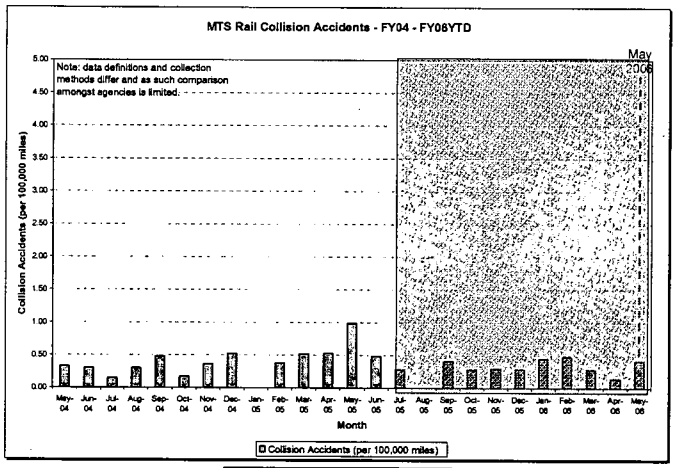
Collision Accidents - Bus



MTS Bus Ops	MTS CS
3.64	1.45

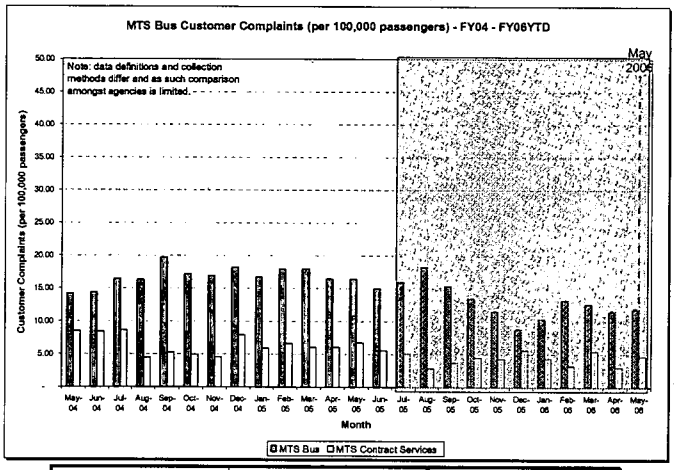


Collision Accidents - Rail

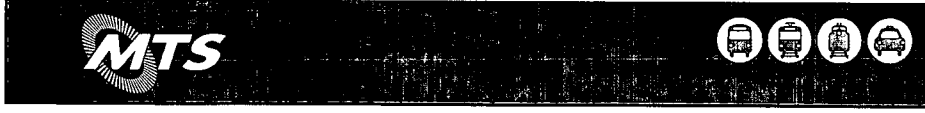


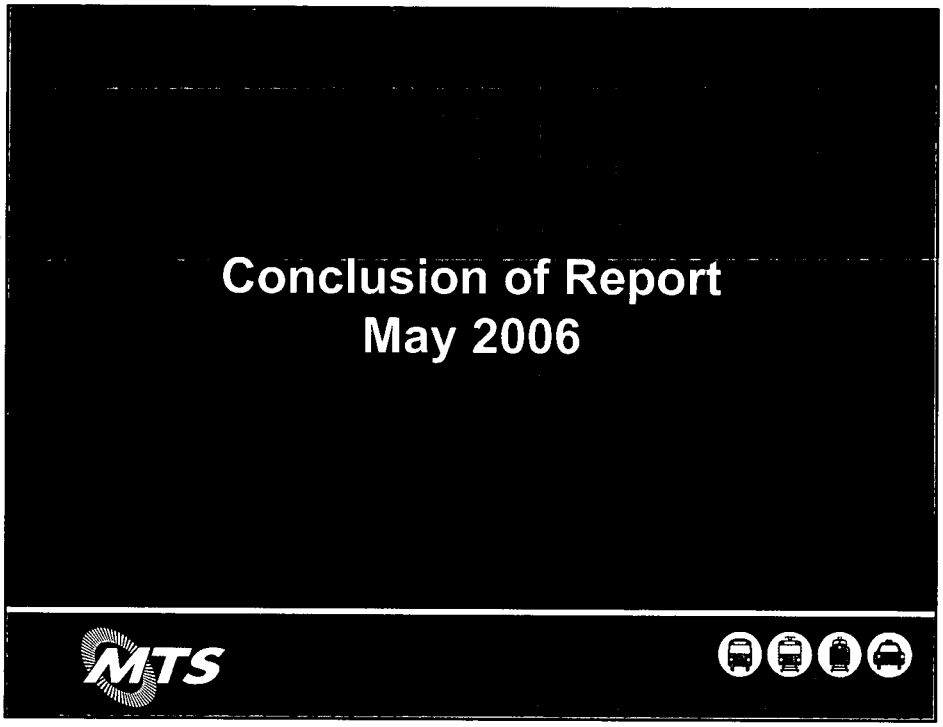
MTS Rail
0.42

Customer Complaints



MTS Bus Ops	MTS CS (Non-ADA)	MTS CS (ADA)
11.97	4.71	0.05%




Conclusion of Report
May 2006
MTS

Metropolitan Transit System

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

Agenda

Item No. 61

Chief Executive Officer's Report

ADM 121.7 (PC 50101)

July 13, 2006

Minor Contract Actions

- Aztec Janitorial Services for janitorial services for restrooms at the Fashion Valley Transit Center.
- Fleet Refinishing for the painting of six minibuses.
- MPAK Technologies for upgrades to the network server.
- Tech Depot for the purchase of two printers.
- Berryman & Henigar for the design of the San Ysidro Intermodal Transportation Center (SYITC) closed-circuit television (CCTV) system and for plan modifications for the Chula Vista CCTV system.
- HAR Construction Incorporated for construction services related to the SYITC Ticket Booth Project.
- Caporicci & Larson CPAs for audit services.
- City Chevrolet & Volkswagen for the purchase of two pickup trucks.
- Stacy & Witbeck for trackwork and systems services for the Mission Valley East Light Rail Transit extension.

Contract Matters

There are no contract matters to report.

gail.williams/agenda item 61

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.
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